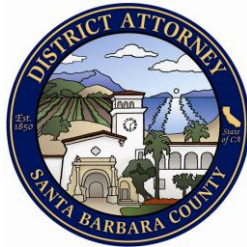


OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA

JOYCE E. DUDLEY
District Attorney



HILARY M. DOZER
Assistant District Attorney
J. GORDON AUCHINCLOSS
Chief Deputy District Attorney
KIMBRA MCCARTHY
Administrative Director

MAG M. NICOLA
Chief Deputy District Attorney
KELLY D. SCOTT
Chief Deputy District Attorney
DAVID M. SAUNDERS
Chief Investigator

December 13, 2013

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF BRIAN TACADENA BY A
LAW ENFORCEMENT OFFICER ON SEPTEMBER 1, 2013**

The Santa Barbara County District Attorney's Office has completed its review of the investigation by the Santa Barbara Police Department of the homicide of Brian Tacadena that occurred on September 1, 2013, in Santa Barbara, California.

The District Attorney finds the shooting was a justifiable homicide under Penal Code section 196(2).

It has also been determined that Tacadena was associated with a known criminal gang which may pose a risk to law enforcement officers and witnesses in this investigation. Therefore, the District Attorney carefully balanced the public's right to know the identity of certain witnesses and the involved law enforcement officers versus the threat of harm to those witnesses or officers. At this time it is too dangerous for the safety of those individuals to release their names because there are substantial concerns that there could be retaliation. The District Attorney may release the identity of the parties at a later time when it is determined that a threat no longer exists.

SUMMARY

On September 1, 2013, late in the evening, Brian Tacadena brandished a large military style knife with a nine inch blade while located near the area of De La Vina Street and Victoria Street in the City of Santa Barbara. Officer #1 was on routine patrol in the area when he observed Tacadena with the knife and reported the situation to dispatch. Officer #1 was driving a clearly marked police vehicle and wearing a full police uniform. Officer #1 issued multiple lawful orders to Tacadena to drop the knife. Tacadena acknowledged, yet ignored the warnings and continued to approach Officer #1 while brandishing the knife. Tacadena advanced on the officer and continuously refused to drop the weapon. Officer #1 fired five shots, in an effort to defend his life; Tacadena was struck once in the chest. Tacadena ultimately succumbed to this wound.

The District Attorney's role in reviewing this homicide is to determine whether the shooting of Brian Tacadena was lawful and to provide a detailed explanation to the public about the facts and the law in that regard. As stated in *Graham v. Connor* (1989) 490 U.S. 386, this process "requires careful attention to the fact and circumstances." Hence this analysis will give careful attention to both the facts and circumstances of the fatal shooting of Brian Tacadena.

SANTA BARBARA OFFICE
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
Fax (805) 568-2453

SANTA MARIA OFFICE
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7540
Fax (805) 346-7588

LOMPOC OFFICE
115 Civic Center Plaza
Lompoc, CA 93436
(805) 737-7760
Fax (805) 737-7732

PART I

STATEMENT OF FACTS

The information in this report is compiled from Santa Barbara Police Department Investigation 13-64816.

Based on the information obtained, it appears that Tacadena left Santa Jose, CA on September 1, 2013, via the Greyhound bus and arrived in Santa Barbara at approximately 7:00 p.m. that evening. Tacadena intended to stay with his sister in Santa Maria and visit his daughter in Goleta. During the time between 7:00 p.m. and 9:45 p.m. Tacadena's whereabouts are unknown. However, the toxicology report concluded that Tacadena had a large amount of methamphetamine in his system at the time of his death.

At 9:45 p.m., Tacadena was observed by a witness in the area of Castillo Street and Anapamu Street exhibiting strange behavior, acting aggressively "as if under the influence of a controlled substance." Tacadena was talking to himself and saying things like, "you motherfucker, now you did it."

At 10:00 p.m., Tacadena was observed by the same witness on Bath Street exhibiting strange behavior, such as ranting and raving. The witness called 911 to report Tacadena's conduct; officers responded but were unable to locate him at that time.

At 11:20 p.m., Tacadena was observed by a second witness in the area of Castillo Street and Victoria Street cursing and being "aggressive." The witness continued walking around the corner and then heard five gunshots.

At 11:25 p.m., Tacadena was observed by a third witness in the area of Victoria Street and Bath Street exhibiting strange behavior, such as looking in parked cars and into apartment windows. The witness was in fear for his safety.

The witness statements and toxicology report establish that prior to the contact with Officer #1; Tacadena was wandering the streets for approximately two hours exhibiting unusual behavior, while under the influence of a large amount of methamphetamine.

Alarming Behavior



At 11:27 p.m., Officer #1 observed Tacadena and reported to dispatch, “I’ll be diverted, 1300 De La Vina Street on a man with a knife, I have one at gunpoint. Can I get code three cover?” The term “code three cover” is used to describe an emergency request for other officers to respond to provide back-up with lights and sirens.

According to eyewitness accounts and video footage, at this point Officer #1 ordered Tacadena to stop and drop the knife. The distance between Tacadena and Officer #1 was approximately 66 feet at first contact. In response, Tacadena dropped the two bags he was carrying and started to advance toward Officer #1. Officer #1 again ordered Tacadena to drop the knife and warned that he would shoot Tacadena, if he did not comply. Tacadena responded by stating something to the effect of, “I know you will.” Officer #1 again ordered Tacadena to stop and drop the knife. Tacadena advanced on the officer an estimated 51 feet during this time. Officer #1 fired five rounds, one of which struck and killed Tacadena at a distance of approximately 12 to 15 feet.

At 11:28 p.m., Officer #1 reported to dispatch, “I have just shot one. I need code three cover, the knife has now been taken out of the suspect’s hand.”

This recitation of the facts is based upon the eyewitness accounts of this shooting, the location of the five shell casings found in the roadway, the location and directionality of blood spatter evidence on the ground, the location and directionality of bullet impact evidence at the scene, a surveillance video from across the street, the gunshot entrance wound to Tacadena's chest and the bullet recovered from Tacadena's body during autopsy. This evidence not only supports the number of rounds fired by Officer #1, but identifies the immediate area in which both he and Tacadena were standing at the time Officer #1 shot Tacadena.

BACKGROUND INFORMATION

Brian Phillip Tacadena was a forty-six year old male. Tacadena was approximately six feet tall and weighed approximately two hundred pounds at the time of his death. Tacadena had a criminal history dating back 31 years. Tacadena's criminal history included arrests for being under the influence of a controlled substance, resisting arrest, possession of deadly weapons, brandishing deadly weapons, felony batteries, assault with deadly weapons and parole violations. Tacadena has served numerous terms on probation and parole over several decades and at the time of this officer involved shooting Tacadena was on active probation in Santa Clara County. As recently as December of 2012, Tacadena was arrested in Santa Clara County for the unprovoked and aggressive confrontation with an unfamiliar citizen. Tacadena was in public, possessing a military style survival knife. Five months prior to this incident, Tacadena was arrested for being under the influence of methamphetamine. In that instance, it was reported that Tacadena became combative with officers and vigorously resisted arrest.

During this investigation multiple tattoos and other indicia, denoting Brian Tacadena's White Supremacist ideological beliefs were noted. Specifically, relevant was evidence of Tacadena's membership in the Nazi Low Rider gang. Members of the Nazi Low Rider Gang have been documented throughout the state in committing attacks on police officers.

Tacadena's history of drug use is also well documented. Tacadena has arrests for possessing, as well as being under the influence of controlled substances. At the time of this incident, he was on court ordered drug testing and a substance abuse treatment program. At the time of his death, Tacadena was found to be in possession of methamphetamine and a toxicology screening at autopsy later revealed the presence of methamphetamine in his system. Witnesses who encountered Tacadena within an hour and a half prior to the shooting, described Tacadena as acting in an unusual manner consistent with being under the influence of a controlled substance.

Tacadena had a history of mental health issues, supported by the fact that he was enrolled in mental health treatment court; was assigned to a mental health probation caseload; and had just moved out of a residential mental health treatment facility just prior to this incident. In addition, detectives located a text in which Tacadena used the word "suicidle" to describe why he was having difficulty getting into a program. Three and one half hours prior to the shooting, Tacadena sent his daughter a text stating, "I am dead."

WITNESS STATEMENTS

Confidential Witness (“Witness 1”)

Witness #1 is a female resident of Santa Barbara, who was walking her dog at approximately 9:45 p.m. on September 1, 2013. Witness #1 observed Tacadena in the area of Castillo Street and Anapamu Street exhibiting strange behavior, acting aggressively as if under the influence of a controlled substance. Tacadena was talking to himself and saying things like, “you motherfucker, now you did it.” At 10:00 p.m., Witness #1 observed Tacadena on Bath Street exhibiting strange behavior, such as ranting and raving. The witness called 911 to report Tacadena’s conduct, but officers were unable to locate him at that time. In the 911 call, Witness #1 described Tacadena and stated that the subject was “high on something, schizophrenic and really angry” and “having a fight with himself.”

Confidential Witness (“Witness 2”)

Witness #2 is a male who lives in the neighborhood of De La Vina Street and Victoria Street and was taking a walk to get some fresh air at approximately 11:30 p.m. on September 1, 2013. Witness #2 walked past Tacadena and observed him “being aggressive.” Witness #2 also heard Tacadena say, “motherfucker” to him as he passed. Witness #2 continued walking around the corner and then heard five gunshots.

Confidential Witness (“Witness 3”)

Witness #3 is a male who was being dropped off by his girlfriend near his home. At approximately 11:25 p.m., he observed Tacadena in the area of Victoria Street and Bath Street exhibiting strange behavior, such as looking in parked cars and up into people’s windows. The witness was in fear for his safety. Witness #3 said about a minute after seeing Tacadena he heard multiple gunshots and sirens.

Confidential Witness (“Witness 4”)

Witness #4 is a female who dropped off Witness #3 near his home. At approximately 11:25 p.m., she observed Tacadena in the area of Victoria Street and Bath Street exhibiting strange behavior, such as hiding behind cars and “ducking down.”

Confidential Witness (“Witness 5”)

Witness #5 is a male who lives in the second story of the building next to the crime scene. Witness #5 was awake in bed when he heard Officer #1 vehicle’s horn sound. Witness #5 looked out his window to see what was happening. Witness #5 saw Tacadena standing on the eastside sidewalk on De La Vina Street near the corner of Victoria Street. Witness #5 saw Officer #1 standing next to the driver’s side door of the patrol vehicle. Witness #5 then heard Officer #1 order Tacadena to, “Stop! Drop your knife!” At this point Witness #5 noticed that Officer #1 had his firearm drawn and pointed at Tacadena. Witness #5 saw that Tacadena was holding knife in his right hand. Witness #5 then

observed Tacadena turn towards Officer #1. Witness #5 then heard Officer #1 yell, "Put down your knife!" Witness #5 saw Tacadena ignore the command and begin to walk towards Officer #1 in a "consistent pace." Witness #5 now heard Officer #1 say, "Stop or I will shoot! Drop your knife!" Witness #5 heard Tacadena respond by saying, "Yea, I know you will" in what he described as a "calm but challenging voice." Witness #5 heard Officer #1 state, "I will fire! You stop now!" Witness #5 observed Tacadena continue to advance towards Officer #1 until he was in "a close proximity" to Officer #1 when he was shot. Witness #5 estimated four shots were fired. Witness #5 estimated the incident lasted 20 seconds in total. Witness #5 stated that he thought Tacadena was going to use the knife on the officer and that Officer #1's actions were appropriate.

Confidential Witness ("Witness 6")

Witness #6 is a male who lives in a building near the scene of the incident. Witness #6 stated that he was in bed but not asleep when he heard "beeps" from a police car. Several seconds later he heard someone say, "Drop the knife!" several times. Witness #6 then heard gunshots. Witness #6 looked out his window and observed Officer #1 on the sidewalk holding his gun. Witness #6 indicated that "the suspect seemed really close" to the officer.

Confidential Witness ("Witness 7")

Witness #7 is a female resident of the neighborhood that was in her backyard at the time of the incident. Witness #7 heard a male voice yell, "Drop the knife!" Witness #7 then heard a male voice respond and then four or more gunshots.

Confidential Witness ("Witness 8")

Witness #8 is a male who lives in the area and heard a voice outside his apartment. Witness #8 stated that he heard the voice say, "Drop the knife, drop the knife!" Then Witness #8 heard four gunshots and then sirens.

Confidential Witness ("Witness 9")

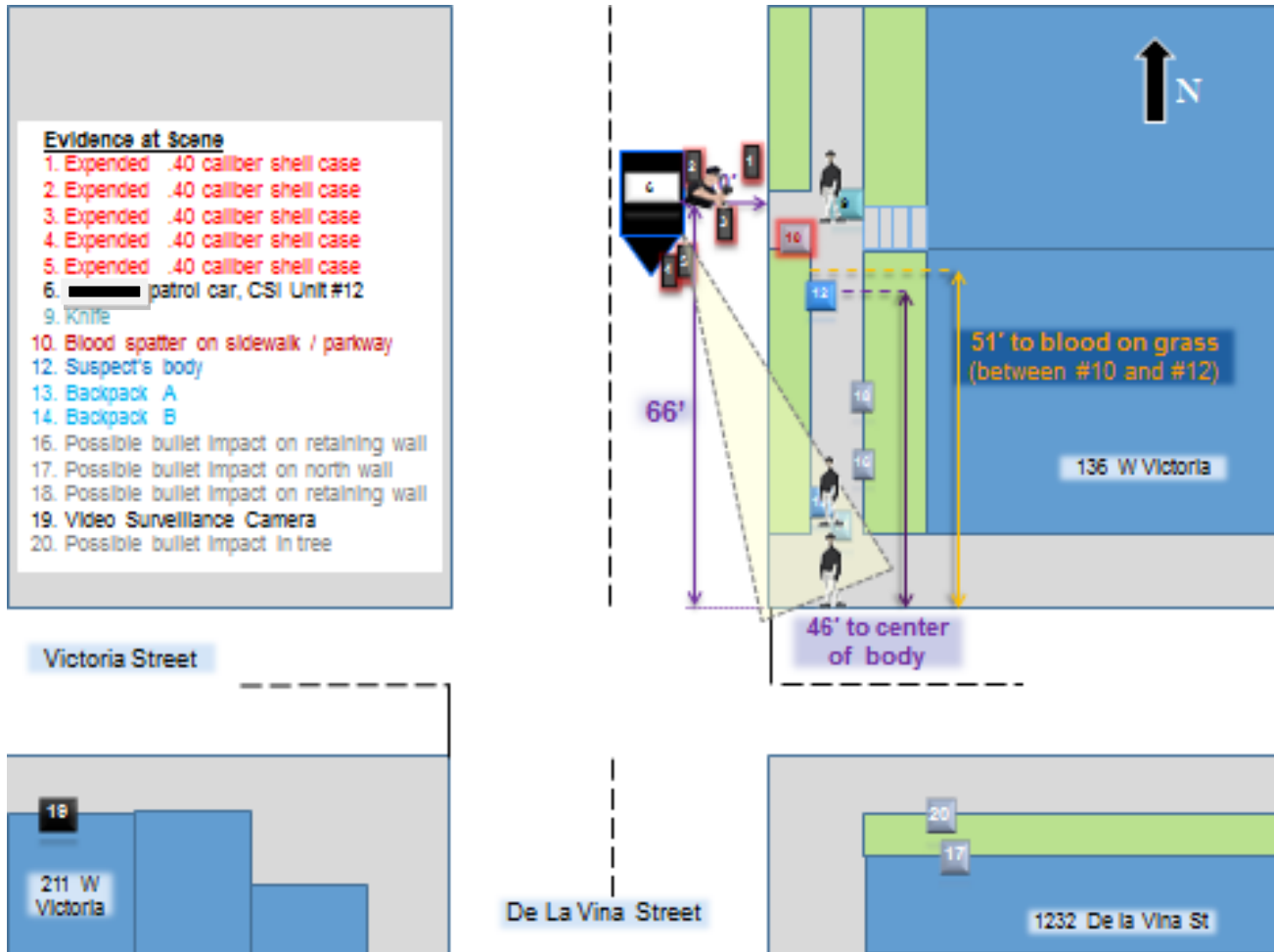
Witness #9 is a female who lives in the area and hear what sounded like a police officer say "Don't move!" Then Witness #9 heard three gunshots.

DOCUMENTARY AND PHYSICAL EVIDENCE

Forensic Documentation of Shooting Scene

The location of the shooting was the near the corner of De La Vina Street and Victoria Street. The decedent was shot on the sidewalk in front 1304 De La Vina Street. A total of five expended .40 caliber casings were located at the scene. The casings were located near Officer #1's patrol vehicle. At first contact the distance from Officer #1 to Tacadena was 66 feet. Tacadena's backpacks were recovered on the sidewalk near the corner of De La Vina Street and Victoria Street. The knife was located on the sidewalk 66 feet from the corner of De La Vina Street and Victoria Street, adjacent to

Officer #1's vehicle. The blood spatter on the grass was located approximately 12 to 15 feet from Officer #1's vehicle.



Review of Surveillance Video

Video from a business surveillance camera located on Victoria Street was obtained. The video captured a portion of the incident. There is no audio on the video. The video shows Officer #1's vehicle on De La Vina Street and Tacadena standing on the sidewalk. The video depicts Officer #1 stop his patrol vehicle and back up a substantial distance, creating distance between his vehicle and Tacadena. The surveillance video shows Officer #1 illuminate Tacadena with a spotlight. The video then shows Tacadena turn toward the officer, drop some objects and walk directly toward Officer #1 at a quick pace. The video does not depict the shooting.

In-car video: Officer 1

Officer #1's in-car video was not operational at the time of the incident. Officer #1 made a maintenance request for repairs on August 25, 2013. Attempts were made to repair the unit by SBPD Information Technologist. However, on September 1, 2013, the parts needed to repair the video unit

were ordered, but not received. An Administrative Analyst responded to the scene and confirmed that the in-car video was inoperable and no recordings were captured. Therefore, there is no in-car video recording from Officer #1's vehicle.

In-car video: Officer 2

Officer #2's in-car video captured Tacadena on the ground and Officer #1 waiting for a cover officer so that Tacadena could be secured. The video depicts officers arriving at the scene and handcuffing Tacadena while emergency medical personnel were in route.

The Weapon

The suspect's weapon was a 14 inch military style survival knife with a nine inch blade.



Secreted inside the handle of the weapon was .2 grams of methamphetamine.



The knife used by Tacadena on September 1, 2013 was very similar to the knife he had previously been arrested with in 2012.



Autopsy

On September 4, 2013, Dr. Robert Anthony performed an autopsy on Tacadena. The body was found to have sustained a single gunshot wound to the upper sternum region. Tacadena succumbed to the gunshot wound at the scene and was pronounced dead at 11:31 p.m. The cause of death was determined to be homicide with a significant condition noted of “Acute Methamphetamine Abuse.”

Dr. Anthony discovered one wound path with no exit wound. The wound track passed through the skin and soft tissue then passing through the peritoneum, severing the aorta. An x-ray revealed the bullet was lodged below the right scapula region. The bullets, as well as two fragments, were removed from the body.

Tacadena’s toxicology from the autopsy determined that he had methamphetamine present in his blood at 2000 ng/ml. Toxicology also determined that Tacadena had olanzapine in his blood, which is a drug used to treat schizophrenia and bipolar mania. The effects of a combination of antipsychotic medication and methamphetamine are difficult to predict.

Dr. Anthony determined that the cause of Tacadena’s death was a single gunshot wound of the chest.

Suspect Criminal History

Brian Tacadena has a criminal history extending over 31 years including: arrests for being under the influence of a controlled substance, possession for sale marijuana, possession for sale cocaine, possession for sale methamphetamine, possession of a deadly weapon, felon in possession of a firearm, resisting arrest, battery, spousal battery, brandishing, assault with a deadly weapon and numerous parole violations. Tacadena had been sentenced to prison on multiple occasions for these felony offenses. At the time of this incident, Tacadena was on active probation for being under the influence of a controlled substance and resisting arrest in Santa Clara County, CA on April 30, 2013. As of August 1, 2013, Tacadena was assigned to the Santa Clara County Mental Health Treatment Court and was ordered to take medication and register as a controlled substance offender. The following is a brief synopsis of relevant information found in those arrest reports.

- 1987 - Arresting officer identified a “SS” tattoo on the inside of Tacadena’s left bicep. Tacadena was 20 years old at this time (SBPD Case #87-83302).
- 1988 - Arrested for being in possession of over 200 bindles of cocaine (SBSO Case #88- 4370).
- 1990 - Arrested for punching his girlfriend in the face with a closed fist and ripping the phone out of the wall when she attempted to call 911 (SBPD Case #90-00001). Tacadena was arrested for head-butting his wife (a different woman) and attempting to chew through the phone cord when she attempted to call 911 (SBPD Case #90-23811).
- 1992 - Arrested for punching his wife in the face and then punching the windshield of her vehicle, causing it to crack (SBPD Case #92-14265).
- 1993 - Arrested for breaking a plate over his wife’s head (SBPD Case #93-7102). Later that same year, Tacadena was arrested for dragging his girlfriend (a third woman) out of her apartment and punching her in the face three times (SBPD Case #93-29453).
- 1995 - Arrested for being in possession of a loaded handgun and methamphetamine (SBPD Case #95-00664). Later that same year, Tacadena was arrested for being in possession of a dagger with a 4 ½ inch blade and told the arresting officer that he had previously been in prison, had been beaten up and needed the dagger for protection. Later that same year, Tacadena was again arrested for being in possession of a loaded handgun and methamphetamine (SBPD Case #95-6586).
- 2002 - Arrested on a parole violation while under the influence of methamphetamine.
- 2003 - Contacted while causing a disturbance in public and found to be under the influence of cocaine and methamphetamine (SBPD Case #03-3329). Later that same year, Tacadena was contacted while causing a disturbance in public and made threats of violence towards police officers (SBPD Case #03-30174).
- 2005 - Arrested for being in possession of a switchblade (SBPD Case#05-1928). Later that same year, Tacadena was contacted while confronting and challenging citizens in public. Tacadena was found to be in possession of a knife which he admitted to carrying for protection (SBSO Case #05-17587).
- 2009 - Contacted inside of a vehicle which contained marijuana, multiple bindles of prescription drugs, a dagger with a three inch blade, a dagger with a six inch blade, a ball peen hammer and “Support your local 81” (Hells Angels) indicia. Tacadena was found to be in possession of two additional knives and \$7,000.00 in cash on his person. When Tacadena was interviewed about the various Hells Angels articles found in the vehicle, he told officers that the Hells Angels were his “idols.” (MVPD Case #09-2370).
- 2011 - Arrested for being in possession of a stolen vehicle and methamphetamine (SCSO Case #11-220-0365B).

- 2012 - Arrested for possessing a military style survival knife with a six inch blade in public while aggressively confronting an occupied vehicle stopped at an intersection. The knife was in plain view. Tacadena complied with the responding officer's commands to drop the knife and prone out on the ground. Tacadena was found to be under the influence of methamphetamine at the time of the incident and told officers that he was "looking for a fight." Tacadena also told officers that he was schizophrenic, hearing voices which made him scared and that he was trying to protect himself. The arresting officer noted in his report that "Tacadena was armed with the knife with the intention of using it and would have used it on a person if the police did not arrive when they did." Officers later found methamphetamine inside of the hollowed out handle of the survival knife (SCPD Case #12-13394).
- 2013 - Contacted as a suspicious subject loitering and believed to be casing the area (SCPD Call #13-4205). Tacadena was arrested for being under the influence of methamphetamine while prowling. Tacadena told the arresting officer, "I'm a mess," and later at county jail became uncooperative and refused to follow officer's verbal commands. Tacadena adopted a "fighting stance," became "combative" and resisted "vigorously." During the struggle, Tacadena ignored officers' continuous requests to "stop resisting" and was "intent on resisting." The arresting officer noted that he was surprised by Tacadena's physical strength and believed that if Tacadena had succeeded at breaking free from their control holds, he would have injured officers (SCPD Case #13-4260).

Gang Affiliation

A major crimes investigator with nearly twenty years of experience and a court certified gang expert for both Santa Barbara and Ventura Counties in ideologically-based White Supremacist Criminal Street and Prison Gangs reviewed the gang material in this investigation. The detective concluded that Tacadena has multiple tattoos which denote his White Supremacist ideological beliefs and his prison gang connection. The "White Pride As I Low-Ride" tattoo across Tacadena's chest refers to the Nazi Low Riders Gang. This tattoo is a direct reference to this gang specifically and according to the gang expert would only be allowed for a member or associate seeking membership. There are two separate Nazi Runic 'Schutzstaffel 'SS' (Lightning Bolts) and five separate Nazi Swastika tattoos in seven separate areas on Tacadena's body. Lightning Bolts and Swastikas are traditionally tattoos which are earned for unprovoked attacks of violence against another race in prison in order to gain respect from a prison gang or potential membership. The detective obtained additional information that Tacadena was a Nazi Low Rider and that he associated with the gang while in prison. On Tacadena's left forearm, the detective noted a ribbon tattoo with symbols in it which resemble the "Elder Futhark" Nazi Runic alphabet mixed with English letters which resemble "NLR." The Nazi Low Riders were the primary prison "muscle" for the Aryan Brotherhood prison gang. Both the Nazi Low Riders and Aryan Brotherhood have a brutal reputation for violence, not only for unprovoked attacks on members of another race but towards law enforcement officers as well. It is well documented that members of the Nazi Low Riders have planned attacks on police officers in the past. While it is unclear whether Tacadena was an active member of the Nazi Low Riders based on his tattoos there is evidence of his current Nazi ideology. Specifically, Tacadena had recent photographs stored in his cell phone which depicted him wearing a baseball style hat with Nazi Low Rider markings (i.e. "Rider 4 Life" and

“Support 81”) under the bill of the cap. Tacadena was also wearing boots at the time of his death with Nazi symbols marked on the inside of the boots. The left boot had a Nazi “SS” Lightning Bolts drawn on the inside of the tongue and the right boot had a Nazi Swastika. The fact that Tacadena was wearing the boots and had recently worn the hat, as discussed above, evidence the likelihood of his contemporary support for the Nazi Low Rider gang.

PART II

LEGAL ANALYSIS AND CONCLUSION

Applicable Law

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicide which are lawful. The shooting of another person in self-defense or in the defense of others is justifiable and not unlawful. Penal Code section 196(2) defines justifiable homicide by public officers. “Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.” Under California law anyone, including a police officer, who is threatened with an attack that justifies the use of self-defense need not retreat. The person attacked may stand his ground and defend himself, if necessary, by deadly force, even if he might have more easily gained safety by flight. (See *People v. Newcomer* (1897) 118 Cal. 263, 273; *People v. Dawson* (1948) 88 Cal.App.2d 85, 95.)

A police officer may use deadly force where the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. *Graham v. Connor* (1989) 490 U.S. 386; *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334. In *Graham v. Conner* (1989) 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Id.*, at 396). Further the Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” (*Id.*, at 397). Moreover, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain and rapidly evolving-about the amount of force that is necessary in a particular situation.” (*Id.*, at 397-398). Under *Graham*, we must avoid substitution our personal notions of proper police procedure for the instantaneous decision of an officer at the scene. “We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347. *Graham’s* definition of reasonableness has been described as “comparatively generous to police in cases where potential danger, emergency conditions or other exigent circumstances are present” (*Roy v. Inhabitants of the City of Lewiston* (1st Cir. 1994) 42 F.3d 691) and also as giving police “...a fairly wide zone of protection in close cases.” *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.).

Edged Weapon Defense

This report generally describes the edged weapon defense and its application to provide context in this incident. The study of edge weapon defense was popularized through law enforcement academies and is taught in a variety of forms nationwide.¹ Studies on officer safety tactics have shown that when defending oneself from a suspect armed with a knife, a distance of 21 feet is necessary in order to effectively stop the threat of injury or death by that suspect. The Force Science Research Center (FSRC) suggests that no single rule can arbitrarily be used to determine when a particular level of force is lawful and recommended that the “21 foot rule” be valued as a “rough guideline illustrating the reactionary curve.” FSRC concluded that “relying upon OC or a Taser” for defeating an edged weapon attacker is “a serious mistake” and could be disastrous if ineffective; leaving very little time, if any, to transition to the firearm.

In this specific incident, Officer #1 gave himself a reactionary gap by reversing his patrol car away from the threat, immediately requesting for emergency assistance and attempting to peacefully resolve this incident through both verbal and visual tactics. In addition, Officer #1 did not advance towards Tacadena, but rather Tacadena aggressed upon Officer #1 to the point that Officer #1 felt he became an obvious threat to his safety.

Legal Analysis

Based upon this investigation, it appears that on September 1, 2013, Brian Tacadena had mental issues and was under the influence of a large quantity of methamphetamine (2000 ng/ml). Tacadena was alone and wandering the streets of Santa Barbara for several hours talking to himself. Tacadena was becoming increasingly angry and disoriented. NMS Labs studies have previously concluded that blood levels at 200 – 600 ng/ml of methamphetamine can cause the abuser to “exhibit violent and irrational behaviors” and “elicit restlessness, confusion and hallucinations.” The amount of methamphetamine in Tacadena’s system was 10 times higher than an “average” drug user.

Tacadena’s mental history and his last text messages indicated that he may have been suicidal. Several independent witnesses recounted his bizarre and aggressive demeanor in the hours just prior to his death. Prior to this shooting, 911 dispatch received a call about Tacadena and his disturbing behavior. Officer #1 was on routine patrol when he encountered Tacadena, a six foot tall, two hundred pound man, with a nine-inch knife in his hand.

The facts indicated that there was reasonable suspicion to justify a law enforcement contact of Tacadena by Officer #1 to further investigate why Tacadena was carrying a very large military style knife with a nine inch blade in his hand while walking in a residential neighborhood at night. Officer #1 backed up his vehicle intentionally when he contacted Tacadena to create a safe distance. Officer #1 exited his vehicle, drew his service weapon and radioed dispatch the details of his situation. Officer

¹ The “21 foot rule” originated from the Salt Lake City Police Department which conducted a study on how fast an attacker can close a distance of 21 feet and determined that the average was 1.5 seconds. The “21 foot rule” has been documented in numerous law enforcement publications as: *Tueller, Dennis* (March 1983), “How Close is Too Close?”, S.W.A.T. Magazine; *Ayoob, Massad* (October 1991), “Explaining the deadly force decision: the opportunity factor”, Shooting Industry; and *Young, Dan* “Handgun Drills, Standards, and Training”. Retrieved 2008-04-16.

#1 repeatedly ordered Tacadena to stop and drop the knife. However, Tacadena intentionally and aggressively advanced toward the officer. Within seconds Tacadena was within lunging distance for an edged weapon and Officer #1 was forced to fire his weapon in self-defense. All of the officer's actions were reasonable under the standard set forth in *Graham* based on the totality of the circumstances in this case.

Officer #1 was clearly identified as an on-duty police officer at the time he encountered Tacadena. Officer #1 was wearing a patrol uniform and driving a marked black and white patrol car. Also, the sound of the police vehicle air horn, Officer #1's illumination of Tacadena with the police vehicle spot light and his multiple, clearly audible, commands given at gunpoint, supports that Tacadena was aware that he was aggressing a police officer. In addition, numerous civilian witnesses in the area identified Officer #1 as a police officer driving a patrol car.

During the course of this investigation, detectives identified seven separate witnesses which heard a male yelling immediately prior to hearing the gunshots. Four of those witnesses specifically heard the male voice yelling, "drop the knife."

The evidence is also clear that Officer #1 shot five rounds during the incident. (1) During his public safety statement, Officer #1 stated that he fired approximately five rounds at Tacadena and then disarmed the knife from the suspect. (2) Detectives later identified seven separate witnesses that reported hearing five gunshots. (3) SBPD officers who carry department issued .40 caliber Smith & Wesson handguns often carry fifteen rounds of ammunition in each of their three magazines with an additional round already chambered in the firearm; for a total of forty-six rounds. Upon taking an inventory of Officer #1's firearm and three magazines after the shooting, detectives accounted for forty-one live rounds. (4) The five .40 caliber expended shell casings were found at the scene by investigators.

Through this investigation, detectives identified several possible motivating factors behind Tacadena's decision not to comply with Officer #1's commands and to assault a police officer with a knife; his propensity for violence, his association with a gang which encourages unprovoked attacks, his being under the influence of methamphetamine, and his mental health instability. Although the exact motivation behind Tacadena's assault with a deadly weapon upon Officer #1 will most likely never be known, Officer #1 was justified in his use of deadly force to stop the threat of death or great bodily injury directed at him by Tacadena.

CONCLUSION

It is the conclusion of the District Attorney that probable cause did exist to justify the arrest of Tacadena for two felonies at initial contact; Penal Code section 417.8 (Brandishing a Deadly Weapon in the Presence of a Police Officer) and Penal Code section 245(c) (Assault with a Deadly Weapon upon a Peace Officer). Based on the investigation by the Santa Barbara Police Department, applying the law as set forth in Penal Code section 196(2) and the cases cited *supra* in this report, I find that the officer acted reasonably in the use of deadly force; therefore, the shooting of Brian Tacadena is a justifiable homicide.