



# Office of the District Attorney Stanislaus County

**Birgit Fladager**  
District Attorney

**Assistant District Attorney**  
David P. Harris

**Chief Deputies**  
Annette Rees  
Marlisa Ferreira  
Stephen R. Robinson  
Jeffrey M. Laugero  
Jeff Mangar

**Bureau of Investigation**  
Chief Terry L. Seese

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## PRESS RELEASE

### **For Immediate Release**

Date: May 21, 2020

Re: Shooting by Officers Found to be Justified

### **For More Information Contact:**

John Goold, Public Information Liaison

Phone: (209) 525-5550

Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that, after a thorough review of all the relevant evidence gathered during the investigation of the officer-involved shooting that occurred on November 29, 2019, the shooting has been determined to be justified.

A copy of the letter provided to the Modesto Police Department is attached to this press release.

# # #



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Chief Terry L. Seese

May 19, 2020

Chief Galen Carroll  
Modesto Police Department  
600 10th Street  
Modesto, CA 95354

Re: Shooting of Raymond Lee

Dear Chief Carroll:

On November 29, 2019, Raymond Lee (DOB 9/5/65) was shot after pointing a gun at officers. Based upon a review of the submitted reports, witness statements, audio and video evidence, it is our conclusion that the use of force by the involved officers was legally justified. To explain this finding, I begin with a brief summary of the known facts:

## **FACTS**

On November 29, 2019 at about 1930 hours (7:30 p.m.), the Modesto Police Department (hereafter MPD) was contacted by a bail agent who requested their assistance in arresting a fugitive at the Motel 6. The police confirmed that the fugitive, Raymond Lee, had outstanding felony warrants totaling over \$75,000.00. Several officers from MPD met the bail agent across the street from the Motel 6.

The bail agent confirmed that Lee was in room #230. The agent stated that Lee was probably armed. The bail agent related that he was in text communication with someone who was with Lee and that person (hereafter third party) was passing along information to the bail agent by text messages. The third party relayed that Lee was threatening to kill the bail bond agent and the police if they attempted to arrest him. One text message also stated that Lee was threatening to kill the third party.

The MPD officers determined the best way to try and arrest Lee peacefully was to get him to come out of the motel room. The bail agent had a motel employee call the room and advise the room's occupants that their car had been broken into. The officers waited but no one left the room.

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The third party had arranged with the bail agent to get Lee into room #230 (a known location) and had given the agent a key to the room so that the arrest could be made. The third party was known to be in the room and did not leave after the ruse was tried. The prior statements made by Lee raised concerns about the need to get the third party out of the room. The MPD officers on-scene believed it was necessary to go to the room and make contact.

Several officers approached the door to room #230 and knocked and announced their presence. The officers waited and repeated the process. After a substantial delay, the on-scene sergeant attempted to use the provided room key to open the door. At the same time, the third party in the room opened the door and was told to step out. The officers asked the third party where Lee was and the third party replied he was in the bathroom.

All the officers near the room were wearing body cameras. None of the MPD officers entered the room; they yelled from the doorway for Lee to come out. Lee calmly walked out of the bathroom, looked at the officers and approached the bed in the room. The officers, all dressed in identifiable police uniforms, yelled for Lee to show his hands and not to reach for the bed. Lee ignored the commands while looking directly at the officers and began to lift the bed mattress up at the corner nearest him. Lee reached under the mattress with his other hand. Lee pulled a black handgun from under the mattress and raised it into plain view as the officers continued to yell commands. Lee then, very rapidly, pointed the gun directly at the officers in the doorway. Two of the officers with unobstructed views shot Lee. Lee dropped the gun onto the bed and collapsed on the floor.

Lee was secured, the gun was recovered and medical assistance summoned. Lee did not survive. Pursuant to the county protocol, the scene was processed and an investigation commenced. An examination of the gun revealed that it was a BB gun without an orange tip. A photograph of the gun, as it landed on the bed in the room is provided to document what the officers saw in Lee's hand that night.



At autopsy, Lee was found to have amphetamine, a high level of methamphetamine, codeine, morphine and 6-MAM (6-Monoacetylmorphine; an intermediate metabolite between heroin and morphine) in his system.

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## LAW

Any application of deadly force is unlawful unless it is either justified or excused. The use of force by a peace officer is governed by the Fourth Amendment. As the U.S. Supreme Court has said:

“The ‘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.... With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: ‘Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers,’ [citation] violates the Fourth Amendment. The 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.”

Graham v. Connor, (1989) 490 U.S. 386, at p. 396-397.

Peace officers have rights by virtue of their need to enforce the laws that differ from the ordinary citizen. Some of these rights are codified in Penal Code §835a which states:

“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. ¶ A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

One court in reviewing a similar situation stated:

“A police officer’s use of deadly force is reasonable if ‘ ‘ ‘the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.’ [Citations.]’ [Citation.]’ [Citation.] ‘ ‘ ‘Thus, ‘an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.’ ’ ’ ’” (Brown, supra, 171 Cal.App.4th at p. 528, 89 Cal.Rptr.3d 801, citations omitted.)” Lopez v. City of Los Angeles, (2011) 196 Cal. App. 4th 675, 686

The reasonableness standard mentioned in Lopez is the same standard required for self-defense/defense of others, and as said by another court:

“Justification does not depend on the existence of actual danger but on appearances. [Citations.] ... He [defendant] may act upon such appearances with safety; and if without fault or carelessness he is misled concerning them, and defends himself correctly according to what he supposes the facts to be, his act is justifiable, though the facts were in truth otherwise, and though he was mistaken in his judgment as to such actual necessity at such time and really had no occasion for the use of extreme measures.” People v. Jackson, (1965) 233 Cal. App. 2d 639, 642.

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## CONCLUSION

Based on the law, several facts cannot be in dispute: 1) Lee was a wanted fugitive who had jumped bail; 2) Lee had stated he would attempt to use force to prevent being arrested; 3) Lee had what appeared to be a gun, and 4) Lee failed to surrender to the lawful authority of the police. Under the above facts, Lee had an obligation to surrender but pulled out and pointed what appeared to be a gun and this act was met with force. The only legal question then is whether a reasonable officer under the same circumstance would have acted in the same fashion. Both officers that discharged their weapons felt that they were justified and the on-scene supervising sergeant (who did not fire as he had moved the third party out of the line of fire) felt that Lee had provoked the act. Therefore, all of the legal elements of self-defense are present making this shooting justified. This office views the matter as closed and no further action need be taken.

Very truly yours,

BIRGIT FLADAGER  
District Attorney

*David P. Harris*

David P. Harris  
Assistant District Attorney

cc: Off. Cameron Irinaga  
Off. Jeffrey Brandon

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