



# BUTTE COUNTY DISTRICT ATTORNEY



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October 26, 2017

Sheriff Kory L. Honea  
Butte County Sheriff's Office

**RE: Butte County Sheriff's Deputy Matt Calkins and the August 22, 2017 shooting of Mark Aaron Jensen (DOB: 03/09/1961) – BCSO #C17-15860 / BCDA #1700313**

Dear Sheriff Honea,

On August 21, 2017, Butte County Code Enforcement officers responded to 1954 Durham-Dayton Highway in the Durham area in response to a complaint the residential property located there was out of compliance with Butte County Marijuana Cultivation ordinances. The code enforcement officers, finding no one at home at the time of their afternoon visit, left a Violation Notice posted on the front door of the residence. Later that evening, **Mark Jensen**, 56, a resident of that address, began calling the work cell phone number (posted with the notice on the door) of one of the code enforcement officers and left ten threatening and profane voice mail messages for the officer. The next morning (August 22, 2017), the officer listened to the messages and reported them to the Butte County Sheriff's Office. A sheriff's deputy was assigned to investigate the threatening calls, called Jensen's cell phone and left a voice-mail message mid-morning for Jensen to call the Sheriff's Office. This prompted Jensen to begin calling the Sheriff's dispatch center and deliver five profane and threatening messages. Jensen also called the front desk phone of the Code Enforcement offices and delivered more threatening messages. Most of the messages conveyed Jensen's desire for either Code Enforcement or Sheriff's Deputies to come to his residence as he was ready ("locked and loaded") for them and they "should bring a body bag." Later that afternoon contact was made with Jensen's wife who stated her husband was sitting on their front porch with guns. She was encouraged to and did leave the residence with Jensen's adult disabled daughter and met with sheriff's deputies who were gathering in Durham to serve an arrest warrant just signed by a local judge for Threatening a Public Official. In the meantime at approximately 4:30 p.m. a local citizen, by coincidence, pulled to the side of the road in front of Jensen's driveway to answer a text message. The citizen reported Jensen hit her car with something and when she looked up, Jensen was standing near the passenger side of her car pointing a long gun directly at her and demanding she leave. She did and reported the incident to the Sheriff's Office. The Sheriff's Office initiated a SWAT call-out and began to establish a perimeter around the 1954 Durham-Dayton Highway residence. A BCSO armored rescue vehicle (BearCat) was deployed with a specially-trained Crisis Negotiation Team and parked in the driveway of the Jensen residence. The CNT used the BearCat public address system to try to talk with Jensen, who had been seen by SWAT perimeter deputies to have been moving around inside the residence. After approximately 20 minutes with

no response to their attempted communication, the CNT and BearCat left to go back to Durham to regroup and plan a different course of action. After they left, a nearby SWAT surveillance-sniper team consisting of Deputy Matt Calkins and Sgt. Jack Storne noted Jensen came out of his residence with a handgun and went out onto the roadway in front. The deputy and sergeant were lying prone behind their scoped rifles to surveil and provide protection under a tree to the east of Jensen. Deputy Calkins saw Jenkins raise his handgun and wave it above his head as if looking for and challenging officers. It was at this time Deputy Calkins said he had to move his body to maintain a view of Jenkins through his rifle scope. Deputy Calkins stated Jensen's attention was immediately drawn to his and Sgt. Storne's position and Jenkins pointed his handgun directly at Deputy Calkins. Deputy Calkins fired his rifle. Jenkins was struck in the right chest and killed by Deputy Calkin's shot.

Immediately after the shooting, the Butte County Officer Involved Shooting Protocol was instituted and the Butte County Officer Involved Shooting/Critical Incident Protocol Team was activated and began its extensive investigation that night. As you know, the objective of the team's investigation is not an administrative investigation to determine whether there was a violation of your departmental policy nor is it a critique of any involved deputies' tactics. Its purpose is to determine whether there was any criminal liability on the part of any involved deputy. The investigation, as was done here, was accomplished by uninvolved, professional investigators from separate agencies to supply a complete, unbiased and uncompromised investigation to be reviewed by my office.

That review has been completed. As noted, the investigation was extensive and included interviews of all involved officers; photos and forensic processing of the crime scene; forensic recreations of the crime scene; analysis of the autopsy; and blood toxicology. Additionally interviews of Jensen's family members, neighbors, acquaintances and local citizens who interacted with him were conducted.

In summary, a finding of criminal liability on the part of Deputy Calkins could only be found if it could be established beyond a reasonable doubt he did not act in reasonable self-defense or defense of others. Under the law of self-defense, a good faith reasonable belief in the necessity of the use of force, even if mistaken, would defeat the prosecution's burden of proof of beyond a reasonable doubt. In other words, before a criminal case could be brought against the deputy, the evidence must show the deputy did not reasonably believe he needed to defend against the deadly force presented by Jensen's actions. In fact, the evidence reviewed weighed substantially toward supporting Deputy Calkin's belief in the necessity of self-defense as reasonable. Additionally Deputy Calkin's belief in the necessity of defense for not only himself but also for Sgt. Storne was not unreasonable. Therefore no criminal case could be brought against Deputy Matt Calkins.

## **FACTS**

On August 17, 2017, Butte County Code Enforcement, a division of the Butte County Development Services Department, received a completed marijuana complaint form on the county's confidential website, which allows citizens to anonymously report violations of the

county's marijuana growing ordinances. The complaint noted the residence at 1954 Durham-Dayton Highway was growing between 12 and 20 over-six-foot-tall marijuana plants in the outside backyard.<sup>1</sup> The complainant noted the plants were visible from the Durham-Dayton Highway as they were growing above the backyard fence line.

Code Enforcement personnel commenced a parcel search of the residence address and determined it belonged to Mark Jensen and was approximately a quarter-acre in size. This would be a violation of the county's marijuana growing ordinances as outdoor growing of marijuana is not allowed on residential parcels under a half-acre size. The reported grow would also be in violation of the code which required any marijuana plants be concealed fully behind approved fencing. Finally, no cultivation of any marijuana is allowed under the county code within 1000 feet of a park, and the residence was approximately 680 feet from Durham Park.

On Monday, August 22, 2017, two code enforcement officers drove by the 1954 Durham-Dayton Highway address on their way to lunch and could see marijuana plants growing over the top of the backyard fence. They returned to the residence at approximately 1:30 p.m., but a vehicle they had seen in the driveway on their earlier drive by was gone and no one answered the door. They left a violation notice entitled "72-Hour Notice to Abate Ordinance Violation" taped to the front door of the residence along with a business card which had the work cellphone number of one of the officers. The officers then left the residence.

Sometime later that afternoon, Jensen and his wife returned to the residence, saw the notice and took down the growing marijuana plants, which were taken from the residence by an unidentified truck and sedan.

Approximately 7 p.m. Jensen called Butte County Board of Supervisor member Steve Lambert. Jensen directed several profanities toward Supervisor Lambert, angrily complaining about the marijuana violation posting at Jensen's residence by the county Code Enforcement officers. Jensen told Supervisor Lambert "if he (Lambert) sent his dogs for him (Jensen), they better bring body bags."

At 7:01 p.m., the first of ten phone calls with voicemails to the work cell phone of the Code Enforcement officer who left his business card was recorded on the officer's cell phone. The officer had left the cell phone at his work station. The calls obscenely threatened if the officer wanted to "show your face around my house again, you better have your body bag . . ." Further calls of a similar very angry, taunting ("I'm waiting for you in my driveway"), and crude nature continued to be left on the cell phone's voicemail system at 7:08 p.m., 7:58 p.m., 8:07 p.m., 8:19 p.m., 8:56 p.m., and 11:35 p.m.

The voicemail messages continued into the next morning, August 22, 2017, starting at 6:15 a.m., 6:31 a.m., and 6:43 a.m. – again referencing body bags and standing and waiting in the driveway.

At 8:01 a.m. Jensen called the Code Enforcement officer's cell phone. The officer, having

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<sup>1</sup> It was later discovered by CSI investigators counting holes and marijuana root balls there had been 16 marijuana plants growing in the backyard of the residence.

returned to work, answered the call as “code enforcement.” Jensen let loose a string of threatening profanities and told the officer to bring a body bag with him. The officer tried to talk but Jensen hung up.

The officer and his Code Enforcement supervisor reported the threatening nature of the live call and the voice mails to the Butte County Sheriff’s Office approximately 9:00 a.m. and the sheriff’s office began an investigation.

At approximately 10:20 a.m., Jensen called the front desk of the Development Services Department and again let loose a series of vulgar epithets and threats before hanging up without waiting for a reply.

At approximately 10:40 a.m., the sheriff’s deputy assigned to investigate Jensen’s threatening calls placed a call to Jensen’s cell phone number (the number captured on the Code Enforcement voice mail list), but no one answered. The deputy left a message on the phone’s voice mail asking Jensen to call the sheriff’s office.

At 10:53 a.m., Jensen called the sheriff’s dispatch emergency line and, in the same profanity-laced tirade familiar to the above calls, told the sheriff’s office to “bring on your f\*\*king cops, and bring your body bags, because I’m standing in my driveway and I’m f\*\*king waiting for you!” When the dispatcher attempted to get his name, Jensen hung up.

At 1:14 p.m., Jensen again called the sheriff’s dispatch emergency line and loudly and vulgarly threatened he was waiting for them in his driveway and then hung up.

At 1:20 p.m., Jensen called back to the sheriff’s dispatch emergency line and after identifying himself and his address, demanded in racist and sexist language the sheriff’s office come to his residence as he “was standing in my driveway waiting for you!” After a dispatcher asked if he had any weapons, Jensen hung up without replying.

Jensen then turned his attention back to the Code Enforcement office, and made a series of ten familiar short vulgar, nasty, threatening calls to either the Development Services main line or the Code Enforcement line at 1:20 p.m., 1:25 p.m., 1:26 p.m., 1:28 p.m., 1:30 p.m., 1:41 p.m., 1:45 p.m., 1:55 p.m., 1:56 p.m. and 1:56 p.m.

At 1:59 p.m., Jensen called back to the sheriff’s dispatch 911 line and after stating his address, again profanely taunting officers to come to his residence as he was “standing in my driveway and I’m locked and loaded” and then hung up.

At 2:38 p.m., Jensen made the last of his profane calls to the sheriff’s dispatch emergency line, again taunting officers to come as he was locked and loaded and standing in his driveway.

At approximately 2:39 p.m., Supervisor Steve Lambert, after a board of supervisors’ meeting that day, checked voice mails on his office phone and found threatening, vulgar voice mails from Jensen from the early morning hours. He called Jensen’s number and Jensen’s wife answered the phone<sup>2</sup> and told Supervisor Lambert that Jensen was sitting on their residence front porch holding a rifle. She then handed the phone to Jensen who told Supervisor Lambert to “send your

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<sup>2</sup> Investigators later found the Jensen residence had no landline and the family shared a single cell phone.

dogs over here, they will all leave in body bags.” Jensen then hung up.

Supervisor Lambert immediately called Jensen back<sup>3</sup> and again the phone was answered by the wife, who told Supervisor Lambert that Jensen now had his handgun<sup>4</sup>, her handgun<sup>5</sup> as well as the rifle<sup>6</sup> out on the front porch. She also told Supervisor Lambert she didn't feel threatened but she was concerned Jensen's 26-year-old autistic daughter was due to be dropped off soon by her adult day program bus. She said she was concerned the bus driver would not drop the daughter off if the driver saw Jensen on the porch with guns and this could cause Jensen to get upset and shoot at the driver.

Supervisor Lambert called the sheriff's office and gave them the above information.

At 2:45 p.m., Jensen's wife called Supervisor Lambert to let him know the daughter was home and safe and so was the bus driver. She asked Supervisor Lambert if she should leave the residence with the daughter. Supervisor Lambert suggested she should and she should call when she was safely out. Jensen's wife said she would go to a local bar in Durham and she would call when she arrived. Supervisor Lambert immediately contacted the sheriff's office and informed them of the new developments.

At 2:50 p.m., Jensen's wife called Supervisor Lambert back and informed him she and the daughter had left the house without incident and were at the local Durham bar.

Sheriff's deputies in the meantime had obtained an arrest warrant from a Superior Court Judge in the amount of \$250,000 on an allegation of a violation of Penal Code section 71 – Threatening a Public Official – based on his threats to Code Enforcement officials and the sheriff's office.

Deputies started to formulate plans to take Jensen into custody on the warrant and an incident command post was started at the Veteran's Memorial Hall in Durham. Sheriff's detectives were dispatched to meet with Jensen's wife at the Durham bar and took her to the Veteran's Memorial Hall incident command center to interview her at approximately 3:27 p.m.

The detectives' interview with Jensen's wife confirmed Jensen was sitting on the front porch of their residence with his Glock semi-automatic pistol, her .22 caliber pistol and a rifle. She noted her husband had a decidedly anti-government point of view and recently had been in a “dark, downward spiral” with his level of paranoia and anger increasing. She noted his general opinion was the government was composed of “all a\*\*holes and is screwing us all.” She said Jensen screamed at the television every morning about what a group of “idiots” the media was and he was generally upset the rest of the day. She revealed the day before, her husband had picked her up from her work in the early afternoon and when they returned to the residence shortly after 1:30 p.m. he found the notice of marijuana violation taped to their front door. She said her husband went “crazy” and became very, very angry. She noted they had grown marijuana for a number of years (without a medical recommendation) and used the marijuana recreationally and

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<sup>3</sup> Supervisor Lambert knew Jensen's cell phone number from previous contacts, including Jensen's runs against Lambert for the 4<sup>th</sup> District Supervisor's seat in 2008 and 2016.

<sup>4</sup> Later determined to be a .45 caliber Glock semi-automatic pistol.

<sup>5</sup> Later determined to be a .22 caliber Sig Sauer semi-automatic pistol.

<sup>6</sup> Later determined to be a 30-06 caliber Springfield bolt-action rifle

to treat the autistic daughter. She suggested to Jensen they cut down and remove the marijuana, which they did. But Jensen's anger increased and she noted earlier this day when he came to pick her up from her work he sped home, flipping people off, and when they got home he got on the phone and was yelling and cussing at people on the phone. She said he was "posing" with the guns on the porch and when Supervisor Lambert called, she decided, at Lambert's suggestion, to quickly and quietly leave the residence with the daughter. She said as she and the daughter were leaving she just told Jensen she would "see him later."

As the detectives gathered the above information, Deputy Matt Calkins was tasked along with other deputies to see if they could determine if Jensen was still on his porch. Approximately 3:40 p.m. Deputy Calkins drove an unmarked vehicle by the 1954 Durham-Dayton Highway residence. He could see a male subject matching Jensen's description sitting on the front porch of the residence, but because of a large hedge in front of the house and the speed of his drive-by (deputies did not want Jensen to know they were in the area), he could not determine if the subject was armed.

At the incident command center, plans were being formulated to surround and surveil the Jensen residence with available deputies to see if they could confirm he was remaining at this residence. The only vehicle available to the Jensen family was taken by his wife and was at the veteran's hall, so deputies felt they would move slowly and covertly so as not to cause Jensen to come off his porch.

At approximately 4:36 p.m. these plans were suddenly interrupted when the sheriff's dispatch line received a 911 call from a 56-year-old local female who stated she had just had a gun pointed at her while she was on the Durham-Dayton Highway by a man described as matching the known current description of Jensen. Dispatchers had her drive to the veteran's hall in Durham to be debriefed by deputies there.

The woman said at approximately 4:32 p.m. she was driving west on Durham-Dayton Highway west of Durham Park when she received a text from a friend and pulled to the right shoulder of the road to text back. She described the location as near a large hedge and in front of a driveway to a residence.<sup>7</sup> She said she had her head down texting when she heard a loud bang hit the passenger side of her car. She looked up and saw a man (which she described as matching the description of Jensen then known by the deputies, including clothing)<sup>8</sup> approximately 10 feet away in the residence's driveway, holding a long gun in both hands, and aiming it directly at her. The man yelled at her to, "Get off my property!" She said she floored the accelerator of her still running car and drove rapidly west down Durham-Dayton highway. She stopped some distance down the road and called 911.

Sheriff's deputies said this assault upon this random citizen immediately changed their low-key containment approach as it appeared Jensen was now acting on his threats and was an imminent public safety threat to the surrounding neighborhood. It was decided to elevate their plans and

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<sup>7</sup> She was later taken by protocol investigators back to the location which was confirmed as being in front of the Jensen residence's driveway.

<sup>8</sup> She was later shown a photo of Jensen by protocol investigators and confirmed it was Jensen she saw that day.

call out the Sheriff's Special Weapons and Tactics (SWAT) team and Crisis Negotiation Team (CNT) to deal with the now elevated threat.

At approximately 4:49 p.m., the SWAT and CNT teams were called out and directed to report to the incident command center at the Veteran's Memorial Hall in Durham. Shortly thereafter at 4:53 p.m. the sheriff's dispatch center began calling Jensen's surrounding neighbors and advising them to evacuate their homes. And at 5:07 p.m. deputies and the California Highway Patrol shut down Durham-Dayton Highway on each side to the Jensen residence – at Jones Avenue on the west and Lott Road on the east. For the next approximately one hour, SWAT and CNT members gathered at the incident command center and gathered resources and intelligence on Jensen and his residence. This included sending SWAT team members out to surround the Jensen residence to the rear (north) and east sides.

At approximately 6:07 p.m., the SWAT sniper-surveillance team, consisting of Deputy Calkins and Sgt. Jack Storne set up an observation site under a walnut tree approximately 128 yards to the east of the Jensen residence to observe the front and east sides of the residence and to provide protection for the public and SWAT and CNT team members planning to approach the residence in the sheriff's armored rescue vehicle (BearCat). While at that position, Deputy Calkins texted a photo of the view from his rifle scope of the front of the Jensen residence to the SWAT commander at the incident command center to be used in the planning of an approach to the residence should Jensen still be at the residence.

At approximately 6:28 p.m. Deputy Calkins and Sgt. Storne saw Jensen open the front door of the residence, retrieve an unknown item on the front porch and go back in the residence.

At approximately 6:40 p.m., a SWAT sergeant posted in the orchard toward the rear (north) of the Jensen residence, reported he saw Jensen moving in the backyard of the residence.

At 6:44 p.m., the BearCat arrived at residence carrying ten SWAT and CNT members and parked in the driveway facing the residence. It had been decided the lead negotiator would be a long-time female sheriff's dispatcher, who had an autistic child of her own, in an effort to build rapport with Jensen.<sup>9</sup> The dispatcher/negotiator began to talk to Jensen through the BearCat's public address system.<sup>10</sup> She first announced they were from the Butte County Sheriff's Office and not from Code Enforcement and called for Jensen by name to come out. She acknowledged she knew Jensen had removed the marijuana from the backyard per the county code. She continued with a steady stream of dialogue, using her extensive CNT training, attempting to connect with Jensen on human level. She emphasized she needed him to come out, she knew he was upset with Code Enforcement, she wasn't Code Enforcement and there was nothing at that point they couldn't try to work through. She told Jensen she knew he had an autistic child and that she also had an autistic child and knew the family stresses that could bring and could empathize with his situation. She noted his daughter was out of her home, and therefore out of

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<sup>9</sup> Additionally, since Jensen was angry with a male Code Enforcement Officer, it was thought a female voice might deescalate his anger.

<sup>10</sup> This approach had been chosen as the Jensen residence had no landline and Jensen was without the family cell phone as it had been taken from the home by Jensen's wife when she left the residence earlier in the afternoon.

her comfort zone and the daughter needed to get back into the familiar surroundings of her own home. Having heard no response, she asked if he could hear her to please turn on the porch light. There was no response.<sup>11</sup> There were also some attempts to rouse Jensen by sounding the siren on the BearCat. Still no response. The dispatcher/negotiator continued her attempted communication with Jensen for approximately 20 minutes with no response. The SWAT commander at that point decided to break off contact and return to the incident command center to formulate new plans. The dispatcher/negotiator told Jensen they were leaving to give him some respite and to please think about what had been said. The BearCat then left approximately 7:07 p.m.

The BearCat arrived back at the incident command center at the Veteran's Memorial Hall at approximately 7:10 p.m. and a plan to use the county's EOD robot to deliver a phone to Jensen through a window or door of the residence was then begun to be formulated along with an alternative plan to introduce tear gas into the residence to flush out Jensen.

In the meantime, SWAT personnel to the north of the residence at approximately 7:18 p.m. could see Jensen moving about the living room through the residence's large rear window. They could see him crouched down looking out the residence's front window and pacing inside the residence. At approximately 7:23 p.m. they could see Jensen walk into the backyard, walk in the area for about a minute, then return inside the house.

At approximately 7:25 p.m., Deputy Calkins and Sgt. Storne, in prone positions behind their rifles under the walnut tree, saw Jensen come out the front door briefly holding something in his hand, but then returned inside. At approximately 7:27 p.m. they saw him come out the front door again and move into the front yard. They both could see through their respective rifle scopes that Jenkins was holding a black semi-automatic pistol in his hand. Jensen continued through the front yard and toward Durham-Dayton Highway at the front of his residence. Deputy Calkins briefly lost sight of Jensen as he disappeared behind a large hedge in front of the house. Sgt. Storne, who had been watching Jensen's movements in the front of the residence through his rifle scope, at this point also lost sight of Jensen as he could not track his rifle scope further to his left because of the walnut tree to his left.

Deputy Calkins, however, was to the left of the walnut tree and he was able to continue to track Jensen's movement past the front hedge out onto the pavement of the highway. At approximately 7:28 p.m., Deputy Calkins saw Jenkins near the center of the highway look up and down the highway and gesture with both arms to his sides moving up and down – a gesture, according to the deputy, consistent with asking "Where are you?" Jensen also waived a black semi-automatic handgun above his head in his right hand in a challenging manner. Deputy Calkins then saw Jenkins turn toward and move to the east looking directly at the Sheriff's and CHP patrol vehicles blocking Durham-Dayton Highway at its intersection with Lott Road – approximately a third of a mile away. The vehicles had their overhead emergency lights on. By looking in that direction, Jensen's line of sight was just above and slightly to the right of Deputy Calkins' and

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<sup>11</sup> Surrounding SWAT personnel could clearly hear this conversation from their positions to the north and east of the Jensen residence and reported this to the SWAT commander in the BearCat.

Sgt. Storne's position under the tree.

As Jensen had been moving out to and on the roadway, Deputy Calkins was still in a prone position under the tree and had been keeping Jensen centered in his rifle scope. But because the barrel of his rifle rested on a bi-pod, it necessitated the deputy to pivot the rear of his rifle to his right. This caused the deputy's body to contort and as Jensen moved more, the deputy had to move his legs to maintain a scope sight.

According to the Deputy Calkins, it was at this moment Jensen took his gaze from looking at the easterly patrol vehicles and looked directly at the deputy. The deputy's leg movement had caught Jensen's eye, he looked directly at the deputy's position and raised his right hand and pointed the gun he held at the deputy's position.

Deputy Calkins said he felt Jensen had spotted Calkins' movement as he and Sgt. Storne were now in the sunlight as the westerly sun had dipped under the canopy of their walnut tree and illuminated their position. (Previously they had been in the tree's shadow.) The deputy told protocol investigators, that given Jensen's hostile and threatening actions, he was afraid Jensen was going to fire upon his and his sergeant's position. He noted he felt either he or the sergeant would be killed either by directly fired or ground-skipped rounds from Jensen's semi-automatic pistol. He aimed center mass at Jensen and pulled the trigger on his .308 caliber rifle.

Deputy Calkins saw Jensen immediately go down to the pavement and radioed to sheriff's dispatch at approximately 7:29 p.m. that he had shot his weapon. He exclaimed to Sgt. Storne immediately after the shot: "He saw me! I was looking down the barrel of that f\*\*king gun!"

Sgt. Storne told investigators that just before Calkins' shot he looked around the walnut tree and could see with his unaided eye that Jensen was on the roadway, gesturing with his hands up and down, and then he raise his right hand (with what he assumed was the pistol he saw earlier in the same hand) and point at he and Calkins.

In the meantime, the SWAT and CNT teams at the incident command center had earlier monitored the radio traffic from the scene that Jensen had finally come out of the residence. They had loaded back into the BearCat and had started back to 1954 Durham-Dayton Highway to assist officers at the scene when they heard the radio report Calkins had shot his weapon. They continued on to the scene and arrived within two to three minutes after the shot.

Upon arrival, they saw Jensen face down in the street with his arms under his chest and a pistol in his right hand near his face. His finger was on the trigger. SWAT team members per their cautionary training wished to know if Jensen was unconscious or perhaps just lying in wait. A team member threw a "flash bang" grenade near Jensen's prone body to see if the device's intense light and sound would elicit a reaction. It did not and another team member moved forward and kicked the pistol from his hand. As the .45 caliber Glock semi-automatic pistol slid across the pavement, the slide opened into a locked position and a live bullet which had been in the chamber was ejected. Other SWAT team members moved forward and handcuffed Jensen behind his back.

A medical doctor and paramedic, who were part of the SWAT team and followed the BearCat to the scene, joined other team members when they approached and handcuffed Jensen. They

immediately rolled Jensen onto his back and began to check for a pulse and found none. They cut his shirt off and found a gunshot wound to his upper right chest. They applied a chest seal bandage to the wound and again checked for signs of life. Finding none, they called for additional nearby ambulance team members to run a cardiac monitor. No heart activity was noted and they declared Jensen dead at the scene shortly after 7:36 p.m.

Found in his pocket was a car key fob and a Glock .45 caliber semi-automatic magazine loaded with ten live cartridges.

SWAT team members then went into Jensen's residence and checked it and the backyard for other persons. They found none but did find the living room furniture had been overturned and piled in such a way that it appeared Jensen wished to funnel any entering officers to a narrow choke point. This would have given a tactical advantage to Jensen should he had been hiding in the living room.

At 7:41 p.m. the Butte County Officer Involved Shooting protocol was instituted and the protocol team was paged out.

Protocol team crime scene investigators found Jensen's .45 caliber Glock in the roadway where it had been kicked along with the ejected live .45 caliber cartridge. Inside the Glock pistol was another live cartridge partially in the firing chamber and a magazine containing eight live cartridges.

Inside the residence, in the master bedroom, was found a loaded .22 caliber Sig Sauer semi-automatic pistol and a loaded 30-06 caliber Springfield bolt-action scoped rifle. Numerous boxes of ammunition were also found in the house.

In the backyard, holes and root balls consistent with the remains of 16 growing marijuana plants were found.<sup>12</sup>

### **AUTOPSY/TOXICOLOGY**

A forensic autopsy of Jensen's body was performed by the Sacramento County Coroner's Office. The cause of death was a high-powered projectile which entered the right upper chest and traveled generally in a level trajectory from right front to left back. There was no exit wound as the projectile shattered inside the chest into several pieces of shrapnel shredding the lungs, heart, and liver, and impacted the spine.

A toxicology was performed on Jensen's blood and a moderate level of marijuana was found in addition to a .22 percent blood alcohol level.

### **CONCLUSIONS**

Later discussions with Jensen's wife confirmed Jensen was in a highly agitated frame of mind

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<sup>12</sup> In a later interview with Jensen's wife, she believed they were only growing nine marijuana plants.

the day before and the day of his death. She indicated he had recently been experiencing more dark moods in the recent weeks. The notice to remove his backyard marijuana triggered some deep seated resentments against the government. These resentments were evidenced in his recorded calls to Code Enforcement and the Sheriff's Office. These were loud, angry, vile, profane and threatening. Repeated references to being "locked and loaded" and "bring a body bag" showed evidence of a mind bent on violence against any officers of the government.

The involved sheriff's deputies moved in a slow, patient and deliberate manner to avoid a confrontation with Jensen. Even after the SWAT call-out, necessitated by the increased level of threat demonstrated by Jensen's attack upon the coincidental texting motorist, the response was again slow and measured, with a CNT-centered plan to try and get Jensen to surrender peacefully.

However despite these efforts to communicate with Jensen it appeared his non-communication was fueled by a steadily increasing alcohol blood level and a desire to lure officers into the trap he had set up in his living room. When that failed and the BearCat left his driveway, Jensen apparently decided to take his anger and rage into the street. His gesturing with his arms and hands as if to communicate – "Where are you!?" – and his further challenge to any nearby officers by waiving a fully loaded semi-automatic pistol above his head, demonstrated a mind set on violence.

That violence nearly was unleashed when he saw Deputy Calkins move his legs and Jensen aimed his pistol directly at the deputy.

Deputy Calkins' statement that he saw the gun aimed directly at him was corroborated by the trajectory of the deputy's bullet into Jensen's body – i.e. it was consistent with Jensen stepping forward on a right foot, exposing the right side of the body as the right arm was pointing at the deputy. Sgt. Storne also saw the pistol aimed in his and Calkins' direction albeit he did not have the magnified view Deputy Calkins did.

Sgt. Storne's additional statement that Deputy Calkins immediately and spontaneously exclaimed Jensen was pointing the gun directly at him further gives evidence to Calkins' belief.

As noted above, a finding of criminal liability on the part of Deputy Calkins could only be found if there was proof beyond a reasonable doubt the deputy's belief, that he and Sgt. Storne were in imminent danger of great bodily harm, was unreasonable. Given Jensen's angry threats, assaultive conduct on the motorist, threatening conduct on the street and pointing his gun at Deputy Calkins, any conclusion Deputy Calkins' belief was unreasonable would not be sustainable.

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As always I thank the Butte County Officer Involved Shooting/Critical Incident Protocol Team for their excellent, professional and unbiased investigation into this case.

Yours very truly,

Michael L. Ramsey  
District Attorney

Cc: Butte County Officer Involved Shooting/Critical Incident Protocol Team