

**MEMORANDUM****SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit

**TO: Albert Nájera**  
**Chief of Police****DATE: December 10, 2007****REF: PSU 12-03****ATTN: Steve Segura, Deputy Chief**  
**Office of the Chief****Rick Braziel, Deputy Chief** *[Signature]*  
**Office of Operations and Investigations****Scott LaCosse, Captain** *[Signature]*  
**Office of the Chief**  
**Internal Affairs Division****FROM: Bob McCloskey, Sergeant**  
**Internal Affairs Division**  
**Professional Standards Unit****RE: Shooting Review Disposition #2007-05**

A shooting review was held on Wednesday, November 29, 2007. All findings were made with the concurrence of the Acting Deputy Chief, Office of Operations and Investigations. Those in attendance were:

**DEPUTY CHIEFS****Michael McCarthy (Acting)****CAPTAINS****John Parker****Darrell Fong****Ken Bernard****LIEUTENANTS****Tom Sweeney****Steve Campas****Mark Sakauye****Gina Haynes****Cara Westin****Bill Beermann****Kevin Gardner****David Peletta****Stephen Quinn****Don Rehm****Virgil Brown****Eugene Reese****Floyd Harvey****James Beezley****Kathy Lester****ADDITIONAL ATTENDEES****Sgt Bob McCloskey****Sgt Paul Martinson****Sgt Michael Carrasco****Sgt Dru Donet****Sgt Hugh McGee****Sgt Monty Maxwell****Sgt Kirk Campbell****Ofc Mark Hefner****Ofc Jason Bassett****Ofc Roman Murietta****John Green****Francine Tournour (OPSA)**

The following is the recommendation for the shooting:

**Appropriate / Justified -**      **Yes**  
**Within Policy -**                      **Yes**  
**Training Issues -**                    **None**

**Officer(s) involved:**  
Officer Darin Miller #0867

**Presenter**  
Sgt Paul Martinson

**Division Commander**  
Capt. D. Fong

**Summary:**

On October 31, 2007, at approximately 2300 hrs, suspect (Matthew Rosatelli) entered the Rite Aid Store at 1115 Alhambra Blvd. Suspect Rosatelli asked the Pharmacist Assistant (victim [REDACTED] FW25) for a prescription order that was called in from his doctor. The suspect waited around inside the store for approximately one hour before he left. A short time later, suspect Rosatelli returned to the store wearing a different shirt. Suspect Rosatelli approached the Pharmacy counter and punched victim [REDACTED] in the face. Suspect Rosatelli then jumped over the Pharmacy counter-door and began attacking Pharmacy employees. Suspect Rosatelli was seen on store video physically attacking an additional victim ([REDACTED] MW63) while holding a large knife in his hand. Suspect Rosatelli 'head-butted' victim [REDACTED] which caused his head to bleed.

At 2348 hrs, SPD Communications received several 911 calls of a robbery in progress (211P) at the Rite Aid Store. At 2351 hours, Officer Darin Miller and his partner, Officer [REDACTED], arrived on scene. As officers approached the Pharmacy, they observed victim [REDACTED] lying on the ground bleeding from the head. As both officers continued inside the 'Employee Area' of the Pharmacy, they confronted suspect Rosatelli. Suspect Rosatelli was observed holding victim [REDACTED] around the neck while holding a large knife to her throat. Victim [REDACTED] appeared terrified, and officers ordered suspect Rosatelli to drop the knife. Suspect Rosatelli refused to drop the knife or comply with officers' commands. Both officers stated that the look on suspect Rosatelli's face made them believe that suspect Rosatelli was going to stab victim [REDACTED]. Officer Miller pulled the hammer back on his weapon (single-action) as he was trained to do for a precision shot, and continued to order suspect Rosatelli to release victim [REDACTED].

At 2352 hrs, after suspect Rosatelli moved his head from behind victim [REDACTED], Officer Miller fired one shot striking suspect Rosatelli in the face. Suspect Rosatelli fell backwards to the ground and dropped the knife. Officers were able to handcuff suspect Rosatelli and rendered medical aid at that time. No additional injuries were sustained by victim [REDACTED].

Upon interviewing suspect Rosatelli at the hospital, he admitted that he wanted the Police to shoot him. Suspect Rosatelli had attempted suicide in the past, and he brought the knife to the Pharmacy with the intent to force the Police to shoot him. Homicide investigators served a search warrant on suspect Rosatelli's residence and they located a diary/notebook containing detailed plans on how suspect Rosatelli planned to carry out the above events. Suspect Rosatelli survived his injuries, and was later booked into the Sacramento Main Jail for 209 PC, 664/211 PC, 245(a)(1) PC, 236 PC, and 243(d) PC. Officers Miller and [REDACTED] were uninjured from the incident.

**Recommendations:**

None



OFFICE OF THE  
**DISTRICT ATTORNEY**

SACRAMENTO COUNTY

**JAN SCULLY**  
DISTRICT ATTORNEY

**CYNTHIA G. BESEMER**  
CHIEF DEPUTY

**ALBERT LOCHER**  
ASSISTANT DISTRICT ATTORNEY

February 22, 2008

Rick Braziel, Chief of Police  
Sacramento Police Department  
5770 Freeport Boulevard, Suite 100  
Sacramento, CA 95822

RE: Officer-Involved Shooting, Case No. 07-373197

Shooting Officer: Darrin Miller #867

Person Shot: Matthew Rosatelli  
(D.O.B. 6/20/83, [REDACTED])

Dear Chief Braziel:

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above referenced officer involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We address only whether or not there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Matthew Rosatelli. For the reasons set forth below, we concluded that the shooting was lawful.

Written reports and other documentary items were reviewed. These consisted of: Sacramento Police Department reports, video and audio recordings, photographs, and reports by District Attorney Investigators.

**FACTUAL SUMMARY:**

On October 31, 2007, at 11:51 p.m., Officers Darrin Miller #867 and [REDACTED] responded to a call of a robbery-in-progress at the Rite Aid store located at 1125 Alhambra Boulevard.

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**SPECIAL INVESTIGATIONS**

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While en route, the dispatch call was updated indicating that the suspect was armed with a knife and was holding an employee hostage in the pharmacy department.

During an interview with investigators, Officer Miller stated that he entered the Rite Aid and headed directly to the pharmacy. Once arriving near the pharmacy, Officer Miller saw two men inside the pharmacy section. He also saw one male sitting outside the pharmacy bleeding from an injury to his head. Officer Miller and Officer [REDACTED] immediately entered the pharmacy and saw a white male, matching the suspect's description. The suspect, later identified as Matthew Rosatelli, had a female victim, [REDACTED] pulled close to him in a choke hold with a large knife up against her neck. Officer Miller pointed his pistol at Rosatelli and told him to drop the knife. Rosatelli did not comply with Officer Miller's command. Instead, Rosatelli started to move [REDACTED] to the back of the pharmacy while keeping the knife pointed directly at her throat. Officer Miller stated that he thought Rosatelli was going to stab and possibly kill [REDACTED] if he was successful in moving her to the back of the pharmacy. Because of the imminent danger to [REDACTED], Officer Miller fired one shot at Rosatelli, hitting him in the face. Rosatelli dropped the knife, let go of [REDACTED] and fell to the ground. Officer Miller grabbed [REDACTED] and had her leave the pharmacy, and then attended to Rosatelli's injury.

After the shooting, officers interviewed [REDACTED] the pharmacy technician. [REDACTED] indicated that earlier in the evening Matthew Rosatelli entered the Rite Aid pharmacy to check on his prescription and was asked to wait a few minutes by [REDACTED]. A few minutes later, Rosatelli went back to the counter and handed [REDACTED] a piece of paper with his phone number on it so that he wouldn't have to wait at the store any longer. As soon as [REDACTED] looked at the paper, Rosatelli hit her on the head. He then jumped over the pharmacy counter and ran towards the back of the pharmacy. The suspect then grabbed the pharmacist, [REDACTED] head butted him, and began to fight with him. After a brief struggle, [REDACTED] was able to break free. Rosatelli then grabbed [REDACTED] around her neck with one arm while holding a knife to her throat with the other hand. The knife had an approximately 8-inch blade. While holding the knife to [REDACTED] throat, Rosatelli kept saying he "just wanted some narcs". While the knife was still to her throat, [REDACTED] heard an officer say "put the weapon down," and then heard a gun shot.

The District Attorney's Consolidated Intake Division reviewed the case and filed charges against Matthew Rosatelli for violations of Penal Code Sections 664/187, 245(a)(1), 245(a)(1), 209(b)(1), 243(d) and 210.5.

## LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California Penal Code sections 196 and 197 specifically provide that in a situation where it is reasonably necessary for an officer to defend himself or another person against death or serious bodily injury, the use of deadly force is legally justified. Additionally, an officer who had reasonable cause to believe a person has committed a public offense or is a danger to themselves or others may use reasonable force to affect arrest or detention, to prevent escape or to overcome resistance. (*Tennessee v. Gardner* (1985) 471 U.S. 1;

*Graham v. Connor* (1989) 490 U.S. 386; *Kortum v. Alkrie* (9177) 69 C.A. 3d 325; CALCRIM 2670. An officer who attempts to arrest or detain a person need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a). The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. *People v. Allen* (1980) 109 C.A.3d 981,985; CALCRIM 2670, 2672.

Officer Miller shot Rosatelli to protect [REDACTED] from being stabbed and possibly killed. At the time Officer Miller fired his weapon, [REDACTED] was being held captive with a knife to her throat by Rosatelli. Prior to shooting, Officer Miller told Rosatelli to put the knife down. Instead of obeying the officer's command, Rosatelli kept the knife to the victim's throat and began to move her away from the officers. Officer Miller stated that he was afraid that Rosatelli was going to stab the victim if he was able to take her to the back of the pharmacy and out of the view of officers. Based on the above facts, it is clear that Officer Miller actually and reasonably believed at the time he fired his weapon that Rosatelli intended to cause death or serious physical harm to [REDACTED].

#### CONCLUSION:

Applying the controlling legal standards to the factual record in this case, we find that Officer Miller's actions were reasonable and necessary in defense of [REDACTED] against a subject who was armed with a lethal weapon and acting in a threatening manner. Finding the shooting lawful, we will take no further action in this matter.

Very truly yours,

JAN SCULLY  
DISTRICT ATTORNEY

*Keri Sternberg*

KERI STERNBERG  
Deputy District Attorney

cc: ✓ Officer Darrin Miller  
✓ Sgt. Paul Martinson  
Francine Tournour

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Police Department

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**Report Number: 2007-373197**

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Records or information, the disclosure of which would compromise the anonymity of whistleblowers, complainants, victims or witnesses (Cal. Pen. Code § 832.7(b)(6)(B));

Records or information, the disclosure of which would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person (Cal. Pen. Code § 832.7(b)(6)(D));

Records or information, the disclosure of which would reveal or compromise official law enforcement security and investigative procedures (Cal. Gov. Code §§ 7923.600(a) & 7923.615(a));

Records or information, the disclosure of which would reveal personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information (Cal. Pen. Code § 832.7(b)(7));

Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 7922.000);

Records or information that constitute confidential medical, financial, or other information, the disclosure of which is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy (Cal. Pen. Code § 832.7(b)(6)(C)); and

Records or information, the disclosure of which is exempted or prohibited pursuant to federal or state law (Cal. Gov. Code § 7927.705; see also Cal. Const. art. 1 Sec. 1).

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