Fatal Officer Involved Shooting of Yong Liu

Monterey Park Police Department

Officer Gilbert Alvarez, #425

J.S.I.D. File #21-0187

GEORGE GASCÓN

District Attorney

Justice System Integrity Division

November 17, 2022

MEMORANDUM

TO: CHIEF KELLY GORDON
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Homicide Bureau
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Yong Liu
J.S.I.D. File #21-0187
M.P.P.D. File #2021-17021
L.A.S.D. File #021-00054-3199-013

DATE: November 17, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 17, 2021, fatal shooting of Yong Liu by Monterey Park Police Department (MPPD) Officer Gilbert Alvarez.

The District Attorney's Command Center was notified of the shooting on May 17, 2021, at 6:02 p.m. The District Attorney Response Team responded and was provided a walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Detective Michael Davis.

The following analysis is based on investigative reports, audio recordings of witness interviews, photographs, radio traffic, Body Worn Video (BWV), and surveillance video submitted to this office by the Monterey Park Police Department and LASD Detectives Michael Davis and Joseph Valencia.

FACTUAL ANALYSIS

Summary

The Monterey Park Police Department is adjacent to the Monterey Park Fire Department. Those agencies share a city gasoline station guarded by a locked gate. Entry is controlled by a coded keypad and is marked "Police Vehicles Only."

On May 17, 2021, at approximately 4:58 p.m., MPPD Officer Gilbert Alvarez was driving a marked patrol car and entered that secured gas station area with the intention of refueling his patrol car at the end of his shift.

While the gate was open and Alvarez was driving his patrol car through the gate, a man, later identified as Yong Liu, drove his car behind Alvarez into the secured area and gained access to the secured gas filling station.

When Alvarez stopped his car at the gas pumps, he noticed that Liu had followed him. Alvarez exited his patrol car to confront Liu. Liu exited his car, immediately brandished a knife, and charged at Alvarez. Alvarez drew his service weapon, backpedaled, and ordered Liu to stop. Liu did not stop and continued toward Alvarez. Alvarez then fired his service weapon at Liu, resulting in Liu's death.

<u>The Video Surveillance</u>

The video surveillance below shows Liu following Alvarez into the secured gas station area:

Figure 1- Video of Liu following officer Alvarez into the secured area.

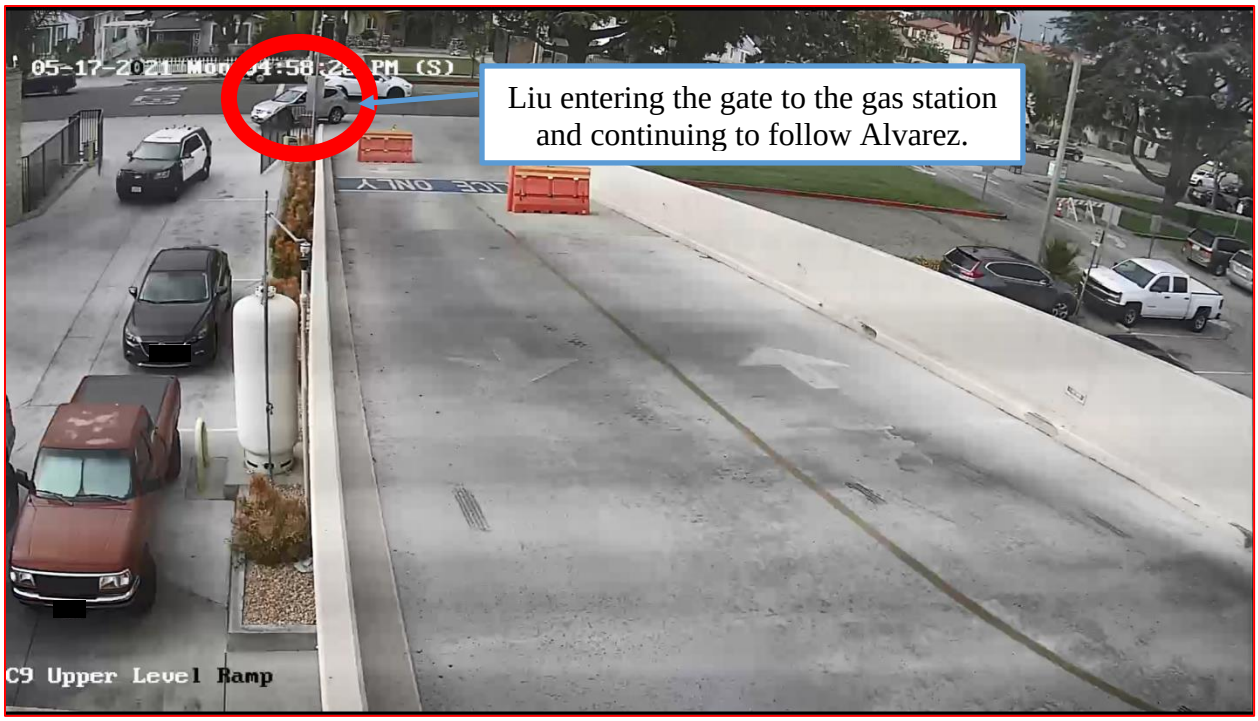

Figure 2- Video of Liu following officer Alvarez into the secured area.

The video surveillance below, partially obstructed and blurry, shows Alvarez drawing his service weapon and attempting to distance himself from Liu:

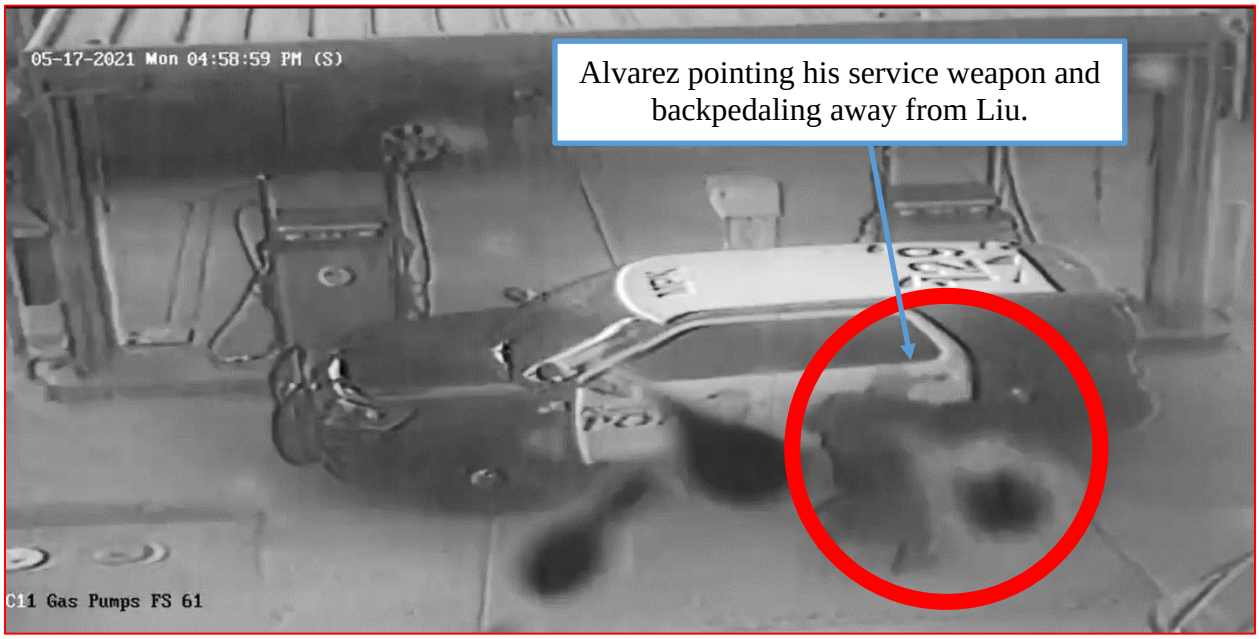

Figure 3 – Video of Alvarez pointing his service weapon at Liu.

Figure 4 – Video of Liu charging at Alvarez as Alvarez retreats.

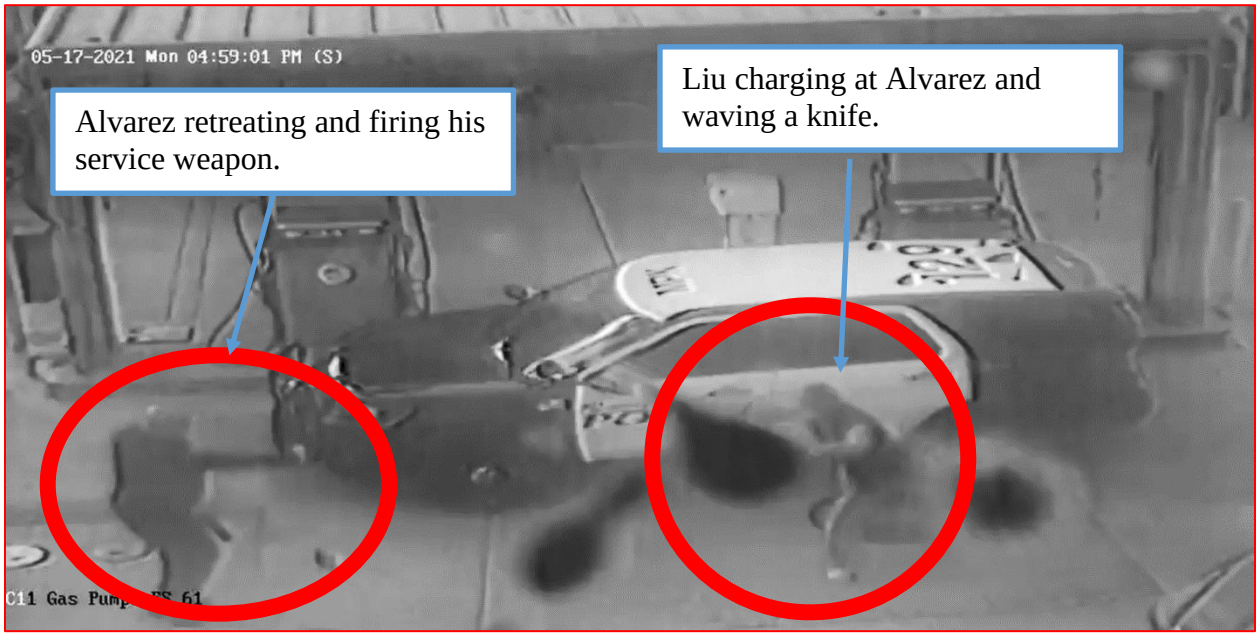

Figure 5 – Video of Liu charging at Alvarez.

Body Worn Video (BWV)

Alvarez's body worn video shows Lui attacking him with a knife, as shown below:

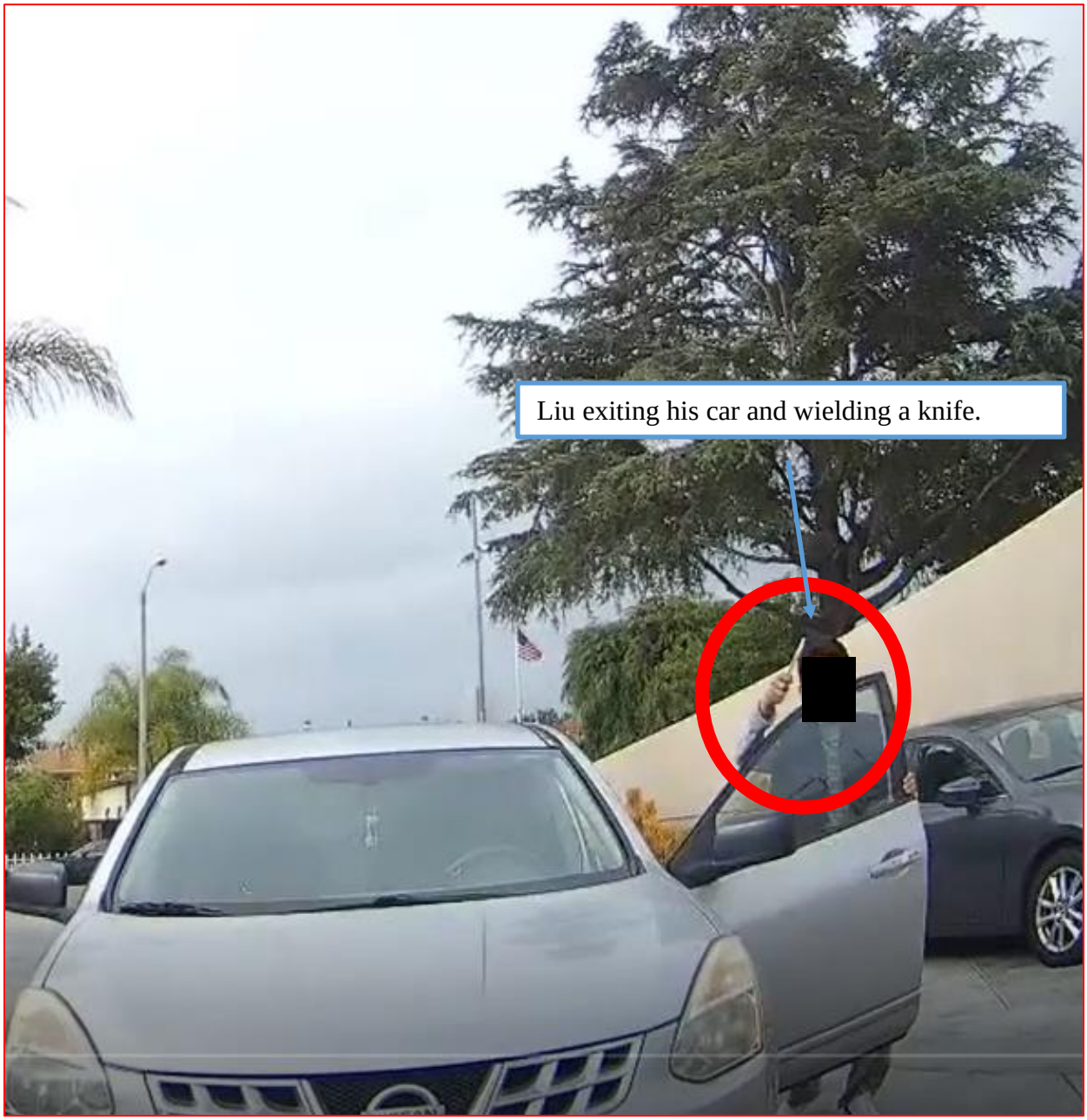

Figure 6 – Video of Liu exiting his car while brandishing a knife.

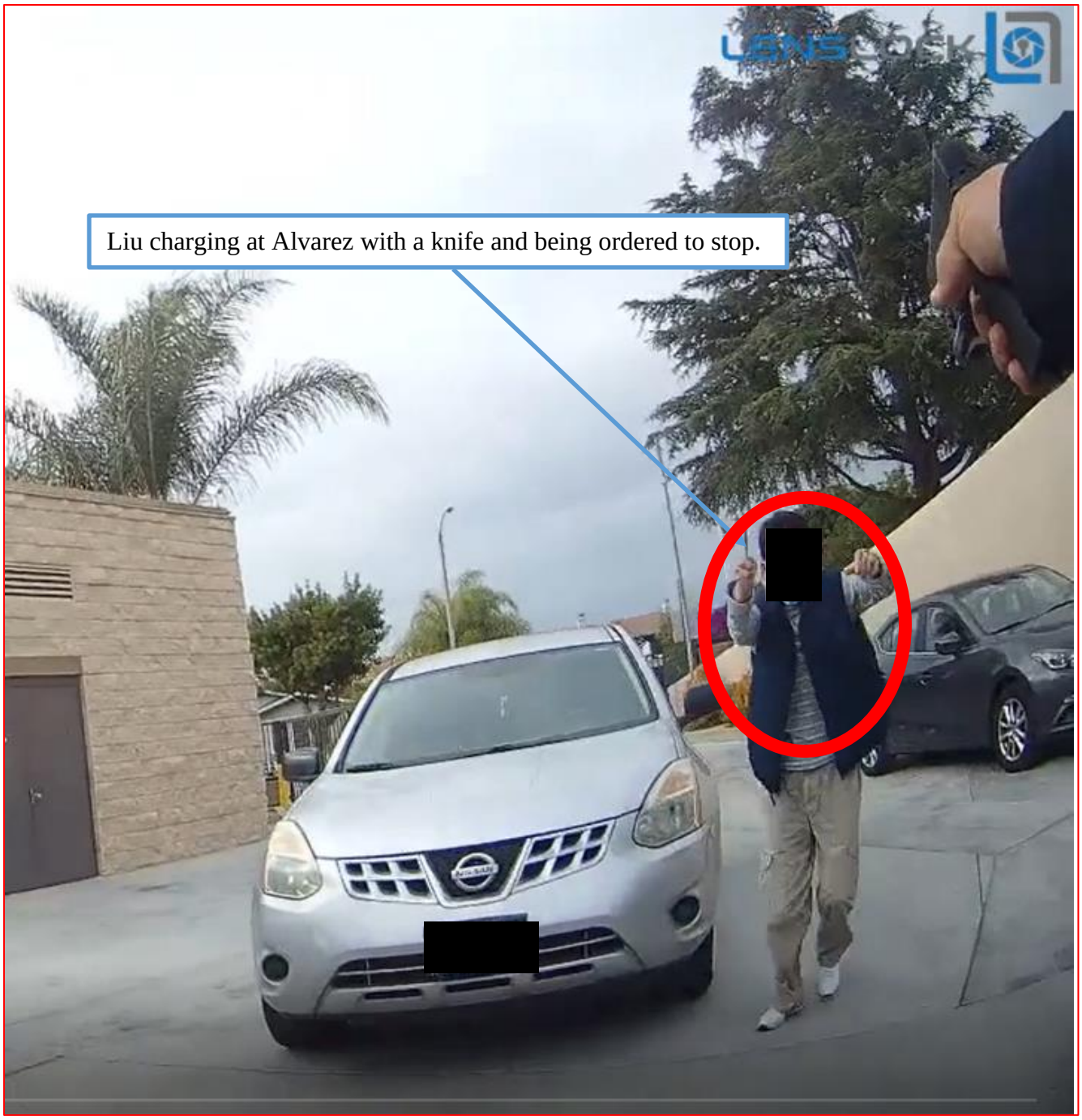

Figure 7 – Video of Liu approaching Alvarez with a knife.

<u>The Knife</u>

Liu was armed with the knife shown in the photograph below:

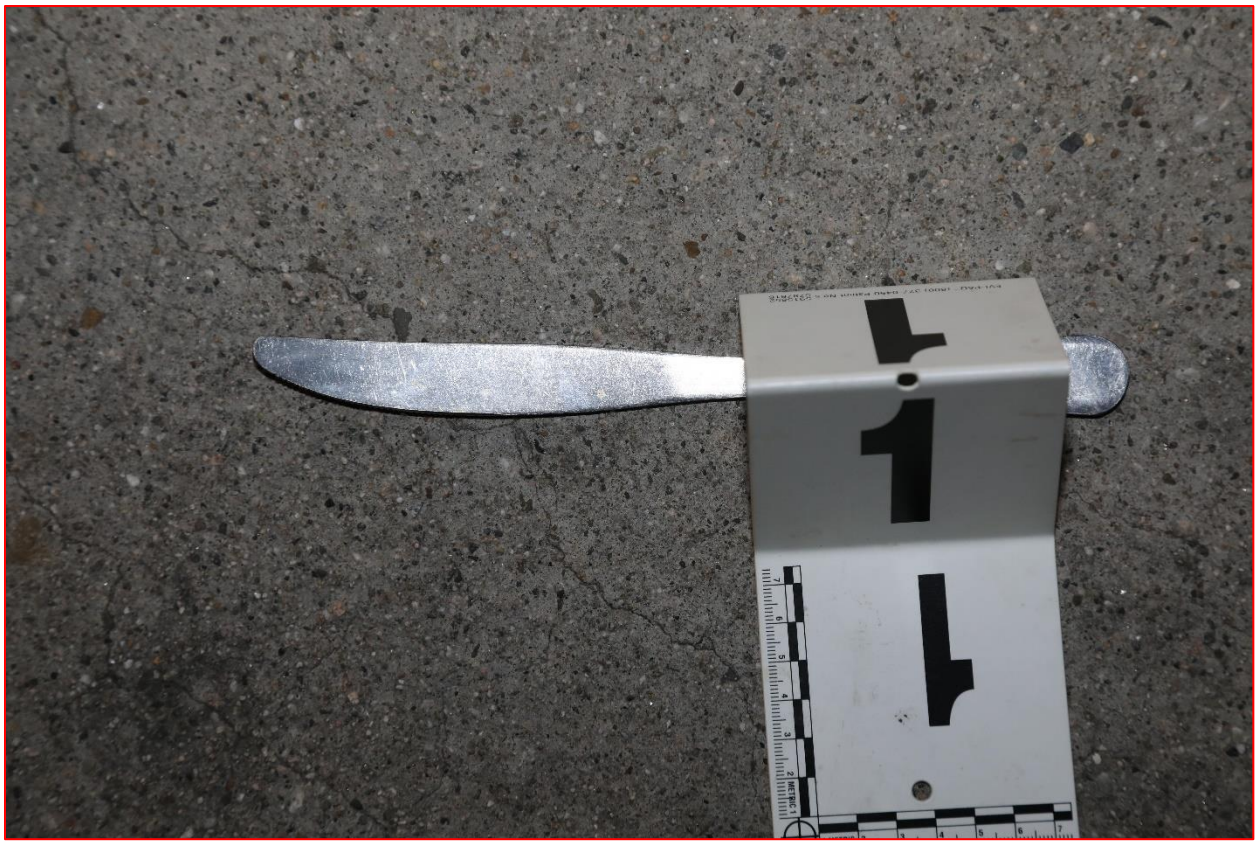

Figure 8- Photo of Liu's knife.

Firearms Evidence

Alvarez was armed with a 9mm semiautomatic handgun. Nine cartridge casings were recovered at the scene consistent with Alvarez firing nine times at Liu.

Officer Alvarez's Statement

Officer Alvarez did not provide a statement.

[redacted]'s Statement

[redacted], Liu's daughter, stated that due to a recent death in the family, Liu might have been depressed. She explained that Liu had recently sought medical help and had quit his job the same day as his doctor's appointment and that Liu was on medication. Before the shooting, Liu had been missing from the family home. Upon hearing about the shooting on the news, [redacted]. believed that Liu might be the person involved.

Autopsy

On May 27, 2021, Job D. Augustine, M.D. performed a postmortem examination of Liu's remains and formed the opinion that Liu died of multiple gunshot wounds. A toxicology analysis was performed, and it was determined that Liu had Norfluoxetine, an antidepressant, in his bloodstream at the time of his death.

LEGAL ANALYSIS

The Law

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) and (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force are taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "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… 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, 396-397.

Analysis

The evidence reviewed in this investigation shows that Liu followed Alvarez and his marked police vehicle into a secured area at the police station and advanced rapidly toward Alvarez with a knife. There is no evidence that Liu and Alvarez had ever encountered each other before. Liu left Alvarez no time to deploy less-lethal means or to avoid the confrontation. Alvarez attempted to back away from Liu, drew his service weapon, and ordered Liu to stop. Liu did not comply. Under these rapidly unfolding circumstances it was reasonable for Alvarez to believe deadly force was necessary to defend against an imminent threat of death or serious bodily injury.

Also, the fact that Liu's knife was later determined to be a table knife does not alter the reasonableness of Alvarez's actions. The right of self-defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal. App.2d 577.

CONCLUSION

Based on a review of the totality of the circumstances in this case, there is compelling evidence that Liu presented a threat of death or serious bodily injury to Alvarez by rapidly advancing toward him while brandishing a knife. It was therefore reasonable for Alvarez to believe it was necessary to fire his service weapon at Liu.