Fatal Officer Involved Shooting of Juan Carlos Perez-Victor Torrance Police Department

Officer Edward Lalonde, #16313 Officer Branden Nakashima, #19247 Officer Alex Gonzales, #21089

J.S.I.D. File #18-0229



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 11, 2021

MEMORANDUM

TO: CHIEF JAY HART

Torrance Police Department 3300 Civic Center Drive Torrance, California 90503

FROM: JUSTICE SYSTEM INTEGRITY DIVISION

Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Juan Carlos Perez-Victor

J.S.I.D. File #18-0229 T.P.D. File #180025155

DATE: August 11, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 1, 2018, fatal shooting of Juan Carlos Perez-Victor by Torrance Police Department (TPD) Officers Edward Lalonde, Branden Nakashima, and Alex Gonzales. We have concluded that Officers Lalonde, Nakashima, and Gonzales acted in lawful self-defense and the defense of others when they fired their duty weapons at Perez-Victor.

The District Attorney's Command Center was notified of this shooting on June 1, 2018, at approximately 10:20 a.m. The District Attorney Response Team (DART) responded to the location, where they received a briefing and walk-through of the scene.

The following analysis is based on investigative and other police reports, 9-1-1 calls, radio transmissions and records, PUMA audio recordings, cell phone video, recorded interviews, crime scene photographs, coroner's and forensic reports, and other evidence submitted to this office by TPD Detective Jeff Livingston. The voluntary statements of the involved officers were considered in this analysis.

FACTUAL ANALYSIS

On June 1, 2018, at approximately 8:47 a.m., TPD received multiple 9-1-1 calls reporting a man, later identified as Juan Carlos Perez-Victor, walking around with a knife in the parking lot located at 20040 Hawthorne Boulevard. One caller said Perez-Victor was holding a knife while harassing people. Another caller reported seeing Perez-Victor run up to a parked car and place a knife to the driver's window, forcing the driver to drive away. The caller also said Perez-Victor was scraping and sharpening the knife on the ground. TPD communications dispatched several officers, informing them Perez-Victor was armed with a knife, had placed the knife to the window of an occupied vehicle, and was sharpening the knife on the ground.

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¹ PUMA is a digital recording device.

At approximately 8:55 a.m., Nakashima arrived at the location first, followed by Lalonde and Gonzales. All TPD officers wore full police uniforms and drove marked, black-and-white patrol vehicles. Nakashima parked directly in front of Perez-Victor, who was sitting on the pavement in the middle of the parking lot. Nakashima stood next to his closed, driver's side door and spoke to Perez-Victor in English. Perez-Victor responded to Nakashima in Spanish, removed a knife from his pocket, opened the blade and began scraping the knife on the pavement. Lalonde parked next to the driver's side of Nakashima's patrol vehicle. Lalonde stood next to his driver's side door and spoke to Perez-Victor in English, who responded back to him in English. Lalonde repeatedly asked Perez-Victor to put down the knife so they could talk. Gonzales parked behind Nakashima, armed himself with a 40mm less-lethal weapon, and stood next to Nakashima. Officer Christopher Bargar arrived, exited his patrol vehicle, and stood behind Lalonde's passenger-side door. Bargar armed himself with a Taser. Officers Tyler Knox and Scott Nakayama and Sergeants Patrick Ghesquierre and Daniel Vasquez also arrived at the location.

While the officers spoke to Perez-Victor, he repeatedly placed the knife down and leaned back, then picked the knife up and motioned as if he was going to throw it at the officers. Gonzales warned Perez-Victor he would be shot with a less-lethal device if he continued reaching for the knife. Vasquez tried speaking to Perez-Victor in Spanish. Perez-Victor did not respond coherently and began laughing at the officers. At various times Perez-Victor told the officers, "Shoot me," "Come get it [the knife] if you want to," and "I'm not scared. I can do this all day long." The officers repeatedly asked Perez-Victor to put down the knife and throw it away from him, but he refused.

After approximately nine minutes, Perez-Victor attempted to stand up while holding the knife. Gonzales fired a 40mm impact round, striking Perez-Victor in the upper right torso. The round did not appear to affect him. Perez-Victor got onto one knee and counted to three while pointing the knife at the officers. The officers ordered Perez-Victor to sit back down, but Perez-Victor continued counting and pretending to throw the knife at the officers with an over-handed throwing motion. Gonzales fired a 40mm oleoresin capsicum (OC) round at Perez-Victor, hitting him in the upper left torso and covering him in OC powder. Perez-Victor stood up and began jumping around in circles, swinging his arms and yelling. The officers ordered Perez-Victor to sit down. Gonzales fired a second 40mm impact round at Perez-Victor, striking him in the back. This impact did not appear to affect him. Perez-Victor turned around and began walking quickly towards the officers while holding the knife in his right hand. The officers continued to order Perez-Victor to drop the knife.

Perez-Victor approached Nakashima's patrol vehicle, raised both arms up over his head, and quickened his pace. As Perez-Victor advanced towards the officers holding the knife in his right hand, Lalonde fired one round from his handgun. Perez-Victor continued moving towards the officers. When Perez-Victor was approximately three to four feet away from Nakashima and Gonzales, Nakashima fired one round at Perez-Victor from his handgun. Perez-Victor continued moving towards the officers. Gonzales dropped his 40mm less-lethal weapon, drew his handgun and pulled the trigger, but his handgun malfunctioned. Nakashima fired a second round from his handgun at Perez-Victor, who continued moving towards the officers holding the knife. Gonzales cleared the malfunction from his handgun and fired two rounds while backing away from Perez-Victor. As the other officers were firing their handguns, Bargar deployed his Taser,

striking Perez-Victor with both Taser darts. Perez-Victor fell to the ground and pushed himself up onto his forearms. The officers again ordered Perez-Victor to drop the knife. Gonzales kicked the knife away from Perez-Victor's right hand. The officers handcuffed Perez-Victor and searched him. They located a plastic baggie containing methamphetamine in his right front pants pocket and a second, folded pocket knife in his left front pants pocket. The officers provided medical assistance to Perez-Victor until the Torrance Fire Department (TFD) paramedics arrived. TPD paramedics pronounced Perez-Victor deceased at 9:13 a.m.

Witness Statements

Statement of Nakashima

Nakashima was the first officer to arrive and saw Perez-Victor sitting on the ground, surrounded by his personal belongings. Nakashima tried talking to Perez-Victor in English, but he responded in Spanish. Perez-Victor removed a pocket knife from his left pants pocket and opened the blade. Nakashima told Perez-Victor to drop the knife, but he did not comply. Lalonde arrived and tried talking to Perez-Victor in English, who responded to Lalonde in English. Perez-Victor started holding the knife as if he were going to throw it at the officers. Perez-Victor said, "Come get the knife!" and "Just shoot me!" several times. Perez-Victor did not comply with any commands to drop the knife and kept the knife near him at all times, which prevented the officers from safely approaching him. When Perez-Victor came towards the officers holding the knife in his hand, Nakashima believed Perez-Victor intended to stab him and Gonzales. When Perez-Victor was approximately three to four feet away from him, Nakashima fired two rounds from his Glock .45 caliber handgun. Perez-Victor fell on top of Gonzales' 40mm weapon, and Nakashima kicked the 40mm weapon away.

Statement of Lalonde

Lalonde arrived after Nakashima and observed Perez-Victor sitting on the ground, holding a knife in his right hand. Lalonde asked Perez-Victor to put down the knife. Perez-Victor was generally unresponsive and did not follow directions. Perez-Victor began scraping the knife on the ground and flipping the knife over, as if he was going to throw it at the officers. Throughout the incident, Perez-Victor always had the knife within reach. Perez-Victor got into a kneeling position and tried to stand up holding the knife in his right hand. An officer fired a less-lethal 40mm round, striking Perez-Victor in the chest. Perez-Victor continued trying to stand up. An OC round was fired at Perez-Victor, which did not appear to have any effect. Lalonde repeatedly ordered Perez-Victor to drop the knife and to stay down. Perez-Victor stood up and started jumping up and down, yelling and screaming and swinging his arms, as if he was getting up the courage to attack the officers. Perez-Victor turned around and immediately charged at Nakashima, Gonzales and Bargar holding the knife in his right hand. Lalonde was concerned because Perez-Victor was quickly approaching Gonzales and Bargar, who did not have their handguns drawn. Lalonde believed Perez-Victor intended to attack the officers and fired one round from his .45 caliber Glock handgun when Perez-Victor was fewer than ten feet from the other officers. Lalonde was unable to continue firing, due to the possibility he would shoot his fellow officers if he did so.

Statement of Gonzales

When Gonzales arrived, Perez-Victor was sitting down, sharpening a knife on the ground and yelling incoherently. Gonzales believed Perez-Victor was under the influence of narcotics. Gonzales armed himself with a 40mm less-lethal weapon and stood next to Nakashima beside Nakashima's driver's side door. Perez-Victor was not responding to commands and was laughing incoherently. The officers tried talking to Perez-Victor for approximately ten minutes. When Perez-Victor began flicking the knife as though he was going to throw it at the officers, Gonzales warned Perez-Victor that he would shoot him with the 40mm weapon if he continued doing so and ordered Perez-Victor to drop the knife. The knife was always within Perez-Victor's immediate reach.

When Perez-Victor began to stand up, Gonzales believed Perez-Victor was preparing to attack the officers and fired a 40mm impact round, hitting Perez-Victor in the upper left arm or chest. The round did not seem to have any effect, and Perez-Victor continued to stand up. Gonzales fired an OC round at Perez-Victor, hitting him in the stomach or shoulder area. The OC round did not seem to have any effect. Perez-Victor stood up holding the knife and looked like he was pumping himself up and getting himself psyched for a final push. When Perez-Victor turned around facing Gonzales, Gonzales fired another 40mm impact round, hitting Perez-Victor. Perez-Victor locked eyes with Gonzales and started moving aggressively towards him holding the knife with the exposed blade pointing upwards. Gonzales believed Perez-Victor was going to stab him and Nakashima. Gonzales dropped his 40mm weapon and attempted to fire his Glock .45 caliber handgun, but the handgun malfunctioned. Gonzales heard a gunshot as Perez-Victor continued advancing towards him. Gonzales cleared the malfunction and fired one round at Perez-Victor, who was about one foot away from him. Perez-Victor continued moving towards Gonzales, and Gonzales fired a second round.² Perez-Victor fell to the ground in front of Gonzales.³ Gonzales kicked the knife away.

Statement of Bargar

When Bargar arrived, Perez-Victor was sitting on the ground with the knife under his left thigh. Perez-Victor was acting erratically and not complying with commands. Bargar positioned himself behind Lalonde's passenger door to provide less-lethal cover with the Taser. When Perez-Victor tried to stand up, Gonzales deployed a 40mm round, which had no discernable effect. Perez-Victor pointed the knife at the officers and acted as if he was going to throw it. Gonzales fired an OC round, which had no visible effect. Perez-Victor stood up, turned around, and started jumping up and down, as though he was trying to pump himself up. Perez-Victor turned back around and started walking aggressively towards Gonzales and Nakashima holding the knife in his right hand. When Perez-Victor was within five feet of the officers, Bargar believed he was an immediate threat and deployed his Taser at Perez-Victor, who fell on his stomach. Bargar heard two to three gunshots immediately after he deployed the Taser. Bargar assisted handcuffing and searching Perez-Victor and recovered a second knife from Perez-Victor's left front pants pocket.

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² Cell phone video of the incident shows Gonzales retreating backwards as Perez-Victor advances towards him.

³ Gonzales was not aware a Taser was fired until he saw Taser probes when Perez-Victor was on the ground.

Statement of Hunter H.

Hunter H. was seated inside his parked vehicle when he saw Perez-Victor yelling in the parking lot. Perez-Victor approached a parked vehicle and pointed a knife at the driver's window in a threatening manner. The male driver drove away. Perez-Victor began sharpening the knife on the ground, waiving the knife and yelling at people walking by. After the officers arrived, Perez-Victor sat on the ground, yelling at the officers. An officer fired a pellet gun round at Perez-Victor, who stood up and shook it off. The officers told Perez-Victor to stay down. Perez-Victor charged at the officer who shot at him while holding the knife out in front of him. Hunter H. believed Perez-Victor intended to attack the officer with the knife.

Statement of Timothy K.

Timothy K. was walking towards his truck in the parking lot when he noticed five police officers with their weapons drawn facing him on the other side of his truck. Timothy K. realized something was happening, so he walked around and stood next to people who were filming with their cell phones from about 40 feet away. Perez-Victor was yelling incoherently. The officers were yelling at Perez-Victor to stay down, but Perez-Victor kept sitting up and fidgeting, which Timothy K. believed prevented the officers from approaching him. Timothy K. could not see whether Perez-Victor was holding anything in his hands. Perez-Victor stood up, took a step towards the officers and was struck by a beanbag round in his chest. The round did not faze Perez-Victor, who smiled and wiped "talc" from his chest. Perez-Victor started beating his chest and was struck with another beanbag round. The officers were screaming at Perez-Victor to get down. Perez-Victor started running towards the officers, who fired four gunshot rounds and a Taser at him. Perez-Victor was able to walk forward two more steps after being shot and got very close to the officers. Timothy K. said the officers were patient and gave Perez-Victor "every chance."

Statement of Brandon H.

Brandon H. was walking in the parking lot when he saw Perez-Victor threaten at least two people with a knife. Perez-Victor was ranting and saying "crazy" things. Brandon H. began recording the incident on his cell phone shortly after the police arrived. Brandon H. provided a 15 minute cell phone recording to a TPD officer at the scene. After watching the video with the officer, Brandon H. said, "That's a good shooting, isn't it? I mean, I would have, the way he was walking right at you guys so fast."

Brandon H.'s Video

Brandon H.'s cell phone video shows Perez-Victor seated on the pavement in the middle of the parking lot, surrounded by belongings. Perez-Victor is wearing jeans and a baseball cap but no shirt. Nakashima is standing next to the closed driver's side door of his patrol vehicle. Perez-Victor is motioning towards the officer with a knife in his right hand. Officers tell Perez-Victor to put the knife down. Perez-Victor responds, "You can shoot me. I can revive..." and begins scraping the knife on the ground. Perez-Victor tells Lalonde, "Just keep your distance, okay? That's all." Lalonde repeatedly tells Perez-Victor, "Drop the knife. Let's talk." Perez-Victor

points the knife blade at the officers, leans back and places his hands on the ground behind him. Three other patrol vehicles are parked next to Nakashima. Perez-Victor begins counting the number of officers. Lalonde tells Perez-Victor to put the knife down so they can talk. Perez-Victor laughs and says, "You guys can shoot me. Shoot me!" Lalonde responds, "No, why would I shoot you? Why? Let's talk." Nakashima opens his driver's side door and stands behind it. Gonzales retrieves a 40mm weapon and stands next to Nakashima beside the driver's side door. Lalonde repeatedly says, "Let's talk." Perez-Victor responds, "You want me to go [unintelligible]?... A United States citizens. Do whatever you have to do. I just enjoy myself... Woohoo!" Lalonde tells Perez-Victor, "I just need you to throw the knife away so we can talk." Perez-Victor holds the knife up and says, "Nope. Look, the knife is here. Do you want to touch it?" Lalonde asks him to put the knife on the ground. Perez-Victor responds, "You can come and get it if you'd like to." Gonzales tells Perez-Victor to stop pointing the knife. Perez-Victor says, "Shoot it! Shoot it! I'll just let you know, every bullet that you throw to me, will come back to you!" The officers continue ordering Perez-Victor to drop the knife.

Perez-Victor counts to four and sits upright. The officers tell him not to move. Perez-Victor begins mumbling to himself in Spanish. Lalonde asks Perez-Victor if he wants to have a conversation. Perez-Victor says he does not. Lalonde tells Perez-Victor if he wants the officers to leave, he has to put the knife down. Perez-Victor asks if Lalonde wants to touch [the knife]. Perez-Victor laughs and begins mumbling to himself in Spanish. Perez-Victor picks up a cell phone and sits up as if he is talking to someone, then leans back again. Perez-Victor says, "I'm not scared. I can do this all day long." Ghesquierre and Vasquez arrive and park on the passenger side of Nakashima's patrol vehicle. Vasquez attempts to speak to Perez-Victor in Spanish. Lalonde tells the other officers to let Vasquez talk to Perez-Victor and there is no rush. Perez-Victor tells the officers, "There's a line between there [tilting his head to his right] and there [tilting his head to his left]. You guys don't see it?" Perez-Victor lays down on the ground while the officers continue talking to him.

Perez-Victor sits up and says if the officers throw something at him, it will go back to them. Perez-Victor picks up an object from between his legs. Perez-Victor tells the officers to shoot him. An officer tells him to put the knife down. Perez-Victor begins scraping the knife on the ground, then motions towards the officers with the knife and begins counting in Spanish. Perez-Victor gets up onto his left knee, trying to stand up. Gonzales yells, "Less lethal!" and fires one 40mm round at Perez-Victor, hitting him in the chest. Perez-Victor kneels on his left knee, points the knife at the officers with his right hand, counts to three, and pretends to throw the knife at the officers. The officers order Perez-Victor to sit down. Perez-Victor continues kneeling on his left knee, counting to three and pretending to throw the knife. Gonzales fires an OC round, which strikes Perez-Victor in the chest and spreads OC powder over him. Perez-Victor stands up, jumps around and yells, "Woohoo!" The officers order him to sit on the

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⁴ Perez-Victor is holding the knife in his right hand when he leans back.

⁵ On Gonzales' PUMA recording, Gonzales says, "If you reach for that knife again, you're going to get shot with this less-lethal."

⁶ It is unclear where the knife is at this point.

⁷ On Gonzales' PUMA recording, Gonzales says, "How about you roll over on your stomach, put your hands on your head, and we'll all move on from here. Is that cool?"

⁸ On Gonzales' PUMA recording, Gonzales tells Perez-Victor to stop reaching for the knife.

⁹ On Gonzales' PUMA recording, Gonzales tells Perez-Victor, "We don't want to do that. Put the knife down."

ground. An officer yells, "Less lethal!" and Gonzales fires a 40mm round as Perez-Victor is turning towards the officers. Perez-Victor quickly walks towards the officers holding the knife in his right hand. As Perez-Victor advances towards them, several officers repeatedly order him to drop the knife. Perez-Victor raises his arms up above his head and increases his speed.



Perez-Victor raising his arms as he advances towards the officers.

As Perez-Victor approaches the front bumper of Nakashima's patrol vehicle, Lalonde fires one round from his handgun. Perez-Victor continues walking towards the officers. Nakashima fires one round from his handgun at Perez-Victor, who continues moving towards the officers. Gonzales attempts to fire his handgun, which appears to malfunction.



Perez-Victor approaching the officers with the knife after being fired upon.

Bargar deploys the Taser, striking Perez-Victor. Nakashima fires a second round as Perez-Victor continues moving forward towards him and Gonzales. Gonzales clears the chamber of his handgun and immediately fires two rounds as he retreats from Perez-Victor. Perez-Victor falls onto the ground next to Nakashima and pushes himself up onto his forearms. The officers order Perez-Victor to drop the knife. Nakashima kicks Gonzales' 40mm weapon away from in front of Perez-Victor. Gonzales kicks the knife away from Perez-Victor's right hand. The officers handcuff Perez-Victor, search his clothing, and render medical aid until the paramedics arrive.

Recovered Evidence

TPD Forensic Identification Section (FIS) specialists recovered four expended .45 caliber cartridge casings, one .45 caliber bullet, two blue and one orange foam 40mm projectiles, a Taser with one cartridge and wires, one open pocket knife, one closed pocket knife, and a one gallon-sized plastic baggie containing methamphetamine at the scene.



The extended folding knife Perez-Victor was holding during the incident.

One .45 caliber expended casing was later recovered from Nakashima's patrol vehicle. A witness later recovered an expended bullet from the parking lot and provided it to TPD.

Postmortem Examination

Los Angeles County Deputy Medical Examiner Ajay J. Panchal performed the postmortem examination. Perez-Victor suffered one gunshot wound to his upper left torso, two gunshot wounds to his left chest, and a graze wound to his right torso. Perez-Victor had three abrasions consistent with three projectile impacts. Perez-Victor had one Taser dart embedded in his right arm and another dart embedded in his right leg. Panchal determined the cause of death to be multiple gunshot wounds. The toxicology report revealed Perez-Victor had methamphetamine in his system at the time of his death.

LEGAL ANALYSIS

A police officer may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime. 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

¹⁰ The timing between the gunshots and the Taser is imperceptible unless the video is viewed frame-by-frame.

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. Penal Code section 835a. An officer "may use all the force 'that appears to him as a reasonable man to be necessary to overcome all resistance, *even to the taking of life*,' ... the resistance must be such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190). The officer may use no more force than would appear necessary to him as a reasonable person. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082; see also CALCRIM No. 505. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger the person perceived need not to have actually existed. A prior threat or harm to the person or others can be considered when determining whether a person's conduct and beliefs were reasonable. Id. A person is not required to retreat. He is entitled to stand his ground and defend himself and, if reasonably necessary, to pursue an assailant until the danger of death or bodily injury has passed. This is so even if safety could have been achieved by retreating. The People have the burden of proving beyond a reasonable doubt that the person did not act in lawful self-defense or the defense of another. Id.

In evaluating whether a police officer's use of 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 evaluation of reasonableness should look to "the facts and circumstances of each case, including the severity of the crime, the threat posed by the suspect, and whether the suspect is resisting or attempting to evade arrest." *Graham v. Connor* (1989) 490 U.S. 386, 396. "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." *Id.* at 396-397.

TPD officers responded to multiple reports that Perez-Victor was threatening people with a knife in a parking lot. When the officers responded to the location, Perez-Victor was sitting in the middle of the parking lot armed with a knife. The officers repeatedly gave Perez-Victor commands to put down the knife and to remain seated. Perez-Victor did not comply with the officers' commands and repeatedly motioned as if he was going to throw the knife at them. After approximately nine minutes, Perez-Victor began to stand up while holding the knife. Gonzales struck Perez-Victor with three, less-lethal rounds, which appeared to have no effect. After the third less-lethal round, Perez-Victor charged directly towards the officers while holding a knife in his right hand. Believing Perez-Victor was going to stab the other officers, Lalonde

fired one round from his handgun at Perez-Victor. Believing Perez-Victor was going to stab him and Gonzales, Nakashima fired two rounds from his handgun. Believing Perez-Victor was going to stab him and Nakashima, Gonzales fired two rounds from his handgun at Perez-Victor. Given the totality of the circumstances, the officers' use of deadly force against Perez-Victor was objectively reasonable.

CONCLUSION

We find that Officers Lalonde, Nakashima, and Gonzales acted in lawful self-defense and the defense of others when they fired their handguns at Perez-Victor.