

**Non-Fatal Officer Involved Shooting Daniel Alvarez**  
**Los Angeles Police Department**

**Officer Luis Cortez #1269**

**J.S.I.D. File #21-0410**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**August 30, 2023**

## **MEMORANDUM**

TO: CHIEF STEVEN ZIPPERMAN  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: Non-fatal Officer Involved Shooting of Daniel Alvarez  
J.S.I.D. File #21-0410  
F.I.D. File #F050-21

DATE: August 30, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 29, 2021, non-fatal officer involved shooting of Daniel Alvarez by Los Angeles School Police Department (LASPD) Officer Luis Cortez. We have concluded that Officer Cortez acted lawfully in reasonable self-defense when he fired his duty weapon.

The District Attorney's Command Center was notified of this shooting on September 29, 2021. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on reports, recorded interview transcripts, autopsy and toxicology reports, and videos and photographs submitted to this office by the Los Angeles Police Department's (LAPD) Force Investigation Division (FID) on July 28, 2022. The officers were not equipped with body cameras and there is no body worn video of the incident. Cortez gave a compelled statement which was neither reviewed nor considered in this analysis.

### **FACTUAL SUMMARY**

#### **Introduction**

On September 29, 2021, at approximately 12:52 p.m., [REDACTED] the Assistant Principal at George Washington Carver Middle School, at 4410 McKinley Avenue in Los Angeles, called the LASPD Communications Division about a man screaming obscenities and harassing parents near

the school. The call indicated that the suspect was in a blue-greenish Chevrolet van parked on Vernon Avenue with a license plate of [REDACTED]

LASPD Officers Luis Cortez and Cesar De La Cruz separately responded to the location, saw the suspect van, and encountered Alvarez inside holding pepper spray. Alvarez armed himself with a knife and exited his vehicle. Alvarez ran away from the location with Cortez and De La Cruz in pursuit. The chase took place for several blocks until Alvarez entered a market on McKinley Avenue. Cortez and De La Cruz followed him inside when they heard a woman scream after Alvarez's entry. De La Cruz said that Alvarez charged Cortez with the pepper spray in one hand and the knife in another hand. De La Cruz said that Cortez responded by firing three shots at Alvarez, wounding Alvarez.



A map depicting Alvarez's path of travel from his van in front of Carver Middle School to Junior Mini-Market.

### [REDACTED]'s Statement

[REDACTED] was a middle school teacher at Carver Middle School on the day of the incident. As students were coming into his classroom at the start of class, several were talking about a man standing outside the school cursing and threatening them.

[REDACTED] went out of his classroom and saw Alvarez next to a van on the street. [REDACTED] said that Alvarez was acting strange, as if he had mental health issues or was high on drugs. [REDACTED] said that Alvarez flipped him off, cursed at him and challenged him to a fight. [REDACTED] gathered his students and went back inside the classroom. [REDACTED] then closed his door and contacted school security to tell them about the incident. A short time later [REDACTED] heard walkie-talkie and police-type communication taking place outside the room. After that there was a lockdown and

██████████ and the children in his class stayed in ██████████ classroom. ██████████ became aware that a shooting had taken place, but he did not actually hear any gunshots.

#### **██████████'s Statement**

Investigators conducted an audio recorded interview of ██████████ on November 5, 2021. ██████████ was the assistant principal at Carver Middle School. ██████████ received a notification from the school's messaging system that a man was harassing and accosting parents as the parents walked along the school's property. Vladmir then sent a radio message for school security to check out the situation.

██████████ said that the school security officer, ██████████ went to the location and told ██████████ about a van parked at the location, but ██████████ did not see anything else. ██████████ went to the location as well and saw the vehicle but did not see the individual. ██████████ contacted the school police so they could respond to the situation.

██████████ returned a few minutes later and saw a police vehicle near the van, but he did not see any officers or Alvarez. A short time later, after consultation with other school administrators and the police, ██████████ had the school put on lockdown until an LAPD officer told him that it was safe to end the lockdown.

#### **██████████s Statement**

██████████ was a campus aide at Carver Middle School. ██████████ was interviewed on December 1, 2021 at Carver Middle School. ██████████ said on September 29, 2021, she was working when a parent of a student approached her and said a man had been acting strange. The parent said the man who was on the street next to a van had threatened her and thrown a beer can at her. The woman showed ██████████ the van, but ██████████ did not see the man. ██████████ relayed the information about the man throwing the cans and his van to ██████████. Shortly after that, the campus was put on lockdown.

#### **Witness ██████████'s Statement**

██████████ was interviewed by telephone on March 1, 2022. The conversation was recorded. ██████████ was getting lunch in the area of Vernon Avenue between McKinley Avenue and Wadsworth Avenue at the time that Cortez and De La Cruz had the initial confrontation with Alvarez in his van as it was parked on Vernon Avenue. ██████████ saw two police officers pull up to the back of Alvarez's van, look around and knock on the van. ██████████ then saw Alvarez come out of the window of the van with a knife in his hand. ██████████ heard an officer say, "Drop it! Drop it!" ██████████ then heard two shots that sounded like rubber bullets. Alvarez then ran towards Wadsworth Avenue and out of ██████████'s sight. That was the last thing that ██████████ saw or heard.

#### **Witness ██████████'s Statement**

██████████ was interviewed on the evening of the incident. The interview was audio recorded. ██████████ worked at the corner of Wadsworth Avenue and Vernon Avenue. ██████████ was at that location when

he saw Cortez and De La Cruz following Alvarez down Vernon Avenue eastbound towards Wadsworth telling Alvarez to, "Drop the knife!" several times. Alvarez was walking away from them when he turned towards them, pointed a knife at them, and said, "Hell no!" [REDACTED] saw Alvarez pointing and waving the knife around as he walked away from the officers. The officers kept pursuing Alvarez northbound on 43<sup>rd</sup> Place, then they turned left (westbound) and out of [REDACTED] sight.

[REDACTED] said that he had seen Alvarez in the area previously. [REDACTED] said that he had seen Alvarez in the same van as the day of the incident, and when Alvarez was outside of his van he would be up to, "No good...scaring people out there...you know, taking all kind of things and this and that." [REDACTED] had also seen Alvarez standing outside of Carver Middle School screaming.

#### **[REDACTED] s Statement**

[REDACTED] was interviewed on the evening of the incident. The interview was audio recorded. [REDACTED] worked at the corner of Wadsworth Avenue and Vernon Avenue. [REDACTED] was working indoors at the location when he heard someone saying, "Freeze! Stop! Throw the knife away!" [REDACTED] went outside and saw Alvarez running away from an officer running towards Wadsworth Avenue going towards 43<sup>rd</sup> Place. [REDACTED] saw that Alvarez had a knife, and the officer had a gun that was drawn and pointing at Alvarez.

[REDACTED] had previously seen Alvarez in that area for approximately the past three days, but not earlier than that.

#### **Witness [REDACTED] s Statement**

[REDACTED] was interviewed on October 1, 2021. [REDACTED] lives in the area and saw two officers following Alvarez telling him, "Hey, drop the weapon! Drop the weapon!" Alvarez was walking away from the officers towards McKinley. Alvarez was rapidly moving from the street to sidewalk and back to the street. [REDACTED] was able to see a knife in Alvarez's hands. [REDACTED] said that as Alvarez walked away from the officers, he would occasionally turn back towards them and get within ten feet of the officers. The officers were holding their handguns out while following Alvarez and giving him commands. Alvarez and the officers went around the corner at McKinley Avenue and disappeared. A short time later, [REDACTED] heard several gunshots.

#### **[REDACTED] s Statement**

[REDACTED] was interviewed on the day of the incident. The interview was audio recorded. [REDACTED] was with [REDACTED] in the front yard of a residence in the area when he saw two officers chasing Alvarez down the street. [REDACTED] said that the officer closest to Alvarez was asking Alvarez to stop so they could talk to him, but that Alvarez did not pay attention to the officer.

[REDACTED] said that Alvarez began to, "Mistreat," the officers, saying, "Fuck you!" [REDACTED] said that Alvarez displayed a knife and lunged at the officer with the knife, causing the officer to take several steps backwards. [REDACTED] thought the officer was going to shoot Alvarez at that moment.

But ██████ said the officer, “Contained himself.” ██████ said the officer said, “Hey, put the knife down, and let’s talk.”

██████ said Alvarez then pulled out a pink cannister to spray the officer with something, causing the officer to cover his face. Alvarez lunged at the officer again with the knife. ██████ said that one of the times that Alvarez lunged at the officer Alvarez said, “I want to kill you!”

Alvarez then turned and ran towards McKinley Avenue, where he turned right and out of sight. Shortly after that, ██████ heard gunshots.

██████ said that during the whole interaction, the officer talked to Alvarez in a calm manner. ██████ thought the officer acted professionally.

### **██████’s Statement**

██████ was interviewed on the day of the incident. ██████ interview was audio recorded. ██████ owns Junior Mini-Market and was working outside the market preparing a can of paint when he heard someone speaking loudly. ██████ looked towards the entrance of the store and saw Alvarez entering the store with a knife. ██████ said that when he saw the knife, he thought Alvarez was going to do something with the knife. ██████ had seen Alvarez around the neighborhood for approximately two years, but this was the first time ██████ had seen Alvarez with a knife. ██████ said that previously Alvarez had appeared like he was on drugs. ██████ had barred Alvarez from coming into the store on previous occasions.

After Alvarez walked inside the store, ██████ grabbed a piece of wood and prepared to go inside when a police officer showed up telling Alvarez to, “Put it down! Put it down!” Alvarez and the officer entered the store while ██████ waited outside. ██████ heard two or three gunshots from inside the store, so he looked inside. The officer told him, “No, stay there. Stay there.” The next time ██████ saw Alvarez was later when paramedics were taking him out on a stretcher.

### **Witness ██████’s Statement**

██████ was interviewed on November 5, 2021. Her interview was audio recorded. ██████ has lived in the neighborhood for many years. On the day of the incident, ██████ was leaving her house when she opened the door and saw an officer with his handgun out. At first, ██████ thought the officer was pointing the gun at her, but then she noticed Alvarez near the trashcans at the curb and realized that the officer was pointing the gun at Alvarez. ██████ said the officer was saying, “Police! Police!” to Alvarez.

██████ said that Alvarez, whom she described as, “the crazy man,” ran up on the police officer and tried to pepper spray him. ██████ said that spray came out, but the officer backed up a little bit and the spray did not appear to reach the officer. Alvarez then turned and ran away toward McKinley Avenue. ██████ opined that the officer, “was really threatened for his life.”

## ██████████'s Statement

██████████ was interviewed on October 13, 2021. ██████████ lived in the neighborhood where Alvarez walked away from Cortez and De La Cruz. ██████████ saw Alvarez walking from Wadsworth Avenue towards McKinley Avenue with De La Cruz and Cortez following behind him as they walked towards Junior Mini-Market. ██████████ said that the officers were telling Alvarez to, "Drop it! Drop it!" ██████████ could see that Alvarez had something in his hand but could not tell exactly what. ██████████ kept watching until Alvarez and the officers turned the corner on McKinley Avenue towards the liquor store. ██████████ heard gunshots shortly thereafter.

## ██████████'s Statement

██████████ gave an audio recorded interview on September 29, 2021, the night of the incident. ██████████ was working at the cash register at Junior Mini-Market, which was where the shooting took place. ██████████ saw Alvarez come into the store and say, "Fuck!" ██████████ felt afraid because she had seen Alvarez in the store other times and he had been aggressive when she had told him, "If you're not going to buy, leave." ██████████ felt relief when she also saw a police officer entering the store.

██████████ heard the officer say, "Get on the ground!" and "Put the knife down on the floor!" She heard the officer yelling at Alvarez but did not understand everything because it was spoken fast and was in English, which is not her native language. ██████████ was afraid and wanted to run out, but the officer told her, "Calm down ma'am, get on the floor." ██████████ went down on to the floor, but was still able to see the aisle that Alvarez and Cortez were standing in. ██████████ said that Cortez was giving commands to, "Put the knife on the floor!" Alvarez ignored the commands and was approximately six feet away from Cortez when Cortez fired at Alvarez. ██████████ heard approximately four gunshots.





Photograph of the aisle in Junior Mini-Market where the shooting took place.

### **Officer Cesar De La Cruz's Statement**

On October 1, 2021, De La Cruz gave a compelled statement about the event. De La Cruz was driving a marked black and white patrol vehicle in full uniform and without a partner. He received a dispatch call while on patrol in the area of Carver Middle School of a man screaming obscenities at students, parents and staff near Carver Middle School. He was given a description of a van associated with the subject of the call, and when he got to the location, he saw that van. He saw Cortez pull his patrol vehicle next to the suspect vehicle and yell through the window, "Hey, put that down!" As De La Cruz walked to the passenger side of the suspect vehicle, he saw Alvarez in the car make eye contact with him and pull out a cannister of pepper spray, which he waved in De La Cruz's direction. While De La Cruz and Cortez stood together on the sidewalk observing Alvarez. Alvarez said, "Why are you trying to get me?" De La Cruz said that Cortez broadcast that the subject was holding pepper spray.

Alvarez moved to the rear of the van, bent down and picked up a knife. Alvarez tried exiting through the windows of his vehicle numerous times while holding the knife and pepper spray, Cortez and De La Cruz kept their distance. Alvarez finally left the vehicle and walked into the street. De La Cruz said that he and Cortez kept their distance from him while ensuring they did not get hit by traffic. De La Cruz said that Alvarez lunged at Cortez one time, but Cortez moved back. De La Cruz said that Alvarez began running away from both officers, with both officers



giving chase. Both officers gave continuous commands to Alvarez to drop the knife and pepper spray.

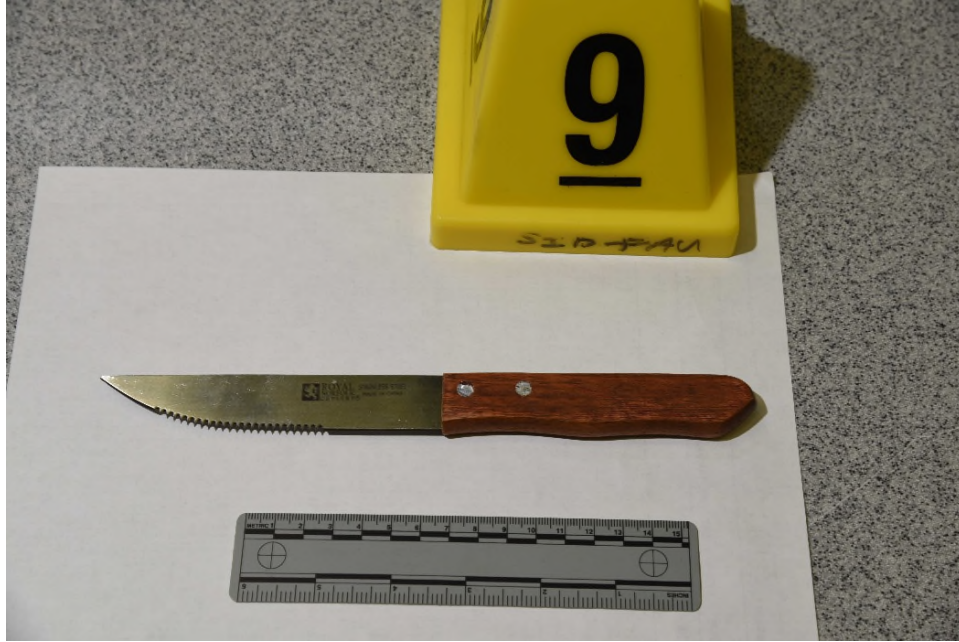
Alvarez ran down the street and went onto the property of a tire shop on the corner of Wadsworth Avenue and Vernon Avenue. Both officers continued to chase Alvarez as he turned on 43<sup>rd</sup> Place and ran towards the middle of the block where he stopped and picked up some gravel on the ground and threw gravel rocks at the two officers three to four times. De La Cruz said that Cortez again told Alvarez to drop the knife, and both officers tried to get Alvarez to talk to them. Alvarez dropped the rocks and continued to run away. De La Cruz said that as they followed Alvarez, Cruz gave commands to drop the knife while De La Cruz kept updating the dispatch with what was happening. Alvarez stopped and sprayed pepper spray in the direction of Cortez. De La Cruz broadcast, "He just tried to pepper spray my partner!"

Both Cortez and De La Cruz continued following Alvarez around the corner when De La Cruz saw Alvarez go into a mini-market. Cortez and De La Cruz followed Alvarez into the market. Inside the store, De La Cruz saw Alvarez holding the pepper spray in one hand and was drinking a can of soft drink in his other hand. De La Cruz heard Cortez yell at Alvarez, saying, "Drop the knife! Let's talk about it! Drop the knife!" Alvarez responded, "No, you're trying to get me!" De La Cruz saw Alvarez turn in his direction, and while holding his duty weapon in his hand, heard Alvarez say, "Oh, shit!" Alvarez then ran to a different location within the mini-market closer to Cortez.

De La Cruz saw Alvarez look back and forth between De La Cruz and Cortez, then run toward Cortez with his knife and pepper spray in his hands. De La Cruz lost sight of Alvarez and then he heard gunshots. De La Cruz came over to where Cortez was and saw Alvarez on the ground while Cruz said, "He's got the knife." De La Cruz approached Alvarez as he lay on the ground and, after some initial resistance by Alvarez, handcuffed Alvarez and began rendering aid to him while Cortez called for emergency medical assistance for Alvarez.



A photograph of the pepper spray Alvarez used against Cortez.



A photograph Alvarez's knife.

### **Investigation and Diagrams by Investigating Officers**

As part of FID's investigation of the shooting, investigators took photographs in Junior Mini-Market depicting where Cortez stood when confronted by Alvarez, where Alvarez stood when he first began advancing on Cortez in the aisle, and where Alvarez stood when Cortez shot Alvarez. The photographs depicted other people standing in as proxies for Cortez and Alvarez based on the statements of De La Cruz and [REDACTED]

FID investigators also created a diagram of the store showing the layout of the store and locations of everyone inside the store when the shooting took place.

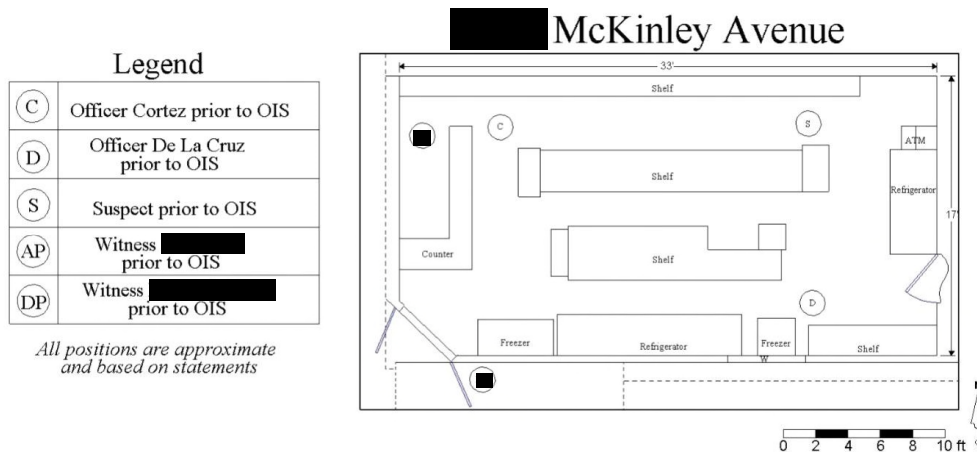


A photograph of the investigator's reenactment showing Cortez and Alvarez's relative positions prior to Cortez's firing his duty weapon at Alvarez.



A photograph of the investigator's reenactment showing Cortez and Alvarez's relative positions at the time of Cortez's firing his duty weapon at Alvarez.





The diagram created by investigators showing the location of all parties in Junior Mini-Market.

### [REDACTED]'s Statement

[REDACTED] is Alvarez's father. He lives in the neighborhood and was alerted to the incident involving his son. The police spoke with him outside Junior Mini-Market in a recorded conversation. [REDACTED] told the police that Alvarez was schizophrenic and had been going through a crisis for the last month where he had not been taking his medication.

Alvarez would come by the house occasionally and get money, but [REDACTED] would not let him in the house because Alvarez was dangerous. Alvarez had pulled a knife on [REDACTED] previously and had recently struck [REDACTED] on his foot, hurting [REDACTED].

On the day before the shooting, [REDACTED] saw Alvarez while at the park. Alvarez asked him for money and brandished pepper spray at him but did not shoot the pepper spray at [REDACTED]. [REDACTED] was afraid Alvarez would spray him because two months prior Alvarez had sprayed [REDACTED] with pepper spray in his eyes. [REDACTED] tried flagging down a police officer, but by the time the police came, Alvarez had run away.

### Alvarez's YouTube Account

Officers found Alvarez's YouTube account, which included hundreds of videos of him talking in a stream of consciousness manner. The videos continue until just days prior to the incident in this case. Many of the videos take place at night in his car talking about issues such as conspiracies about Scientology, pedophilia, illegal immigration and pro wrestling. Alvarez also talks several times about disputes with school police. One series of videos occurs during the daytime when he is verbally jousting with the security from a mall as he is being kicked out of the mall. In that video he is holding the pepper spray that was used in his confrontation with Cortez. Alvarez then pans the camera to a bag he is carrying where he has the same knife he brandished at Cortez.

## **Medical Treatment**

Alvarez was taken to USC Medical Center (USCMC) and treated for a gunshot wound to his right front shoulder area and right side of his abdomen. While in the hospital Alvarez tested positive for Covid-19 and was placed into isolation.

## **Alvarez's Criminal Case**

Alvarez was charged with a felony assault of Cortez pursuant to Penal Code Section 245(c) in case BA499353. His initial arraignment day was set for October 1, 2021, but due to his medical treatment he was not actually arraigned until October 26, 2021. Alvarez was initially found incompetent to stand trial but was later returned to competency and his case is currently pending a pre-trial hearing.

## **LEGAL ANALYSIS**

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. Penal Code section 835a.

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 is 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).

The jury instructions for self-defense say that a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being

killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

In this case, Cortez and De La Cruz encountered Alvarez outside of a school as Alvarez wielded a knife and pepper spray. As Alvarez led Cortez and De La Cruz on a several block chase, both officers kept their distance while still commanding him to stop and drop his weapon. At several points, Alvarez threatened Cortez and De La Cruz, lunging at them with the knife and attempting to spray them with pepper spray. Each time, the officers avoided the attack and did not use deadly force on Alvarez.

Eventually, Alvarez went inside the close confines of a mini-market where he confronted Cortez in a narrow aisle in the store. In that location, Cortez's ability to retreat was restricted. According to De La Cruz, Alvarez ran towards Cortez holding the knife in one hand and pepper spray in the other. Although Cortez lost sight of Alvarez, Ann stated that Alvarez approached within six feet of Cortez when Cortez fired.

The evidence presented here supports a reasonable belief on the part of Officer Cortez that his use of force was necessary to defend against an imminent threat of death or serious bodily injury.

## **CONCLUSION**

We conclude that Officer Cortez used force in lawful self-defense.