



OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

ALBERT LOCHER
ASSISTANT DISTRICT ATTORNEY



June 20, 2011

Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

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

Re: Officer-involved shooting: Case No. **SSD 10-103350**

Shooting officers: SSD Sergeant Randall Winn #145
SSD Detective Orrlando Mayes #138
SSD Detective Charles Esty #60
SSD Detective Ronald Parsons #1040
SSD Detective Scott Puffer #407
SPD Officer Doug Rosin #828

Person shot: Anthony Ronald Alvarez
(DOB: 6/10/84)

Dear Sheriff Jones and Chief Braziel:

The District Attorney's Office, as an independent agency, has concluded its investigation and analysis of the above-referenced officer involved shooting. The materials we considered included Sacramento County Sheriff's Department reports, Sacramento County Coroner's reports, video and audio recordings, photographs, and reports by District Attorney investigators. Civil liability, tactics, and departmental

SPECIAL INVESTIGATIONS

P.O. Box 749 * 901 G Street * Sacramento, California 95814
(916) 874-5897 FAX (916) 874-8238

policies and procedures were not considered. Based upon the facts of this incident, we have concluded that the shooting of Anthony Alvarez was lawful.

FACTS:

On May 19, 2010, an armed gunman robbed the U.S. Bank in San Francisco. On May 26, 2010, an armed gunman robbed the U.S. Bank in Concord. On June 2nd and 3rd, witnesses from both incidents identified Anthony Ronald Alvarez in photographic lineups as the robber. Investigators suspected that on May 3, 2010, Alvarez also robbed the Chase Bank in Martinez. In addition, Alvarez was a possible suspect in the stabbing murder of [REDACTED] that occurred in San Francisco on April 8, 2010.¹

On June 4, 2010, Concord Police detectives spotted Alvarez riding in a vehicle in Pleasant Hill. When they attempted to stop the vehicle, Alvarez fled from the car and fired at one of the detectives, missing him. A search was conducted for Alvarez, but he was not located. In the vehicle, officers found a backpack containing a loaded Tech 9 firearm, a loaded .22-caliber semi-automatic handgun, ammunition, a wig, and costume masks.

On June 5, 2010, Concord Police detectives obtained an arrest warrant for Alvarez for the charges of attempted murder, robbery, and felon in possession of a firearm. Alvarez also had an outstanding no bail warrant for a felony probation violation out of San Francisco.

Concord Police detectives received information that Alvarez was hiding with his cousin in Sacramento in apartment [REDACTED] at the Arden Town Apartments, located at [REDACTED] Arden Way. The detectives were informed that Alvarez was armed with .40-caliber and 9mm semi-automatic handguns and that Alvarez vowed he was "not going down." Management at the Arden Town Apartments told Concord Police detectives that a male matching Alvarez's description had recently been seen coming and going from apartment [REDACTED]. The detectives also learned from the apartment management that the occupants of apartment [REDACTED] were [REDACTED] and [REDACTED], along with their two young children.

On the morning of June 9th, Concord Police detectives contacted the Sacramento County Sheriff's Department for assistance in initiating a surveillance operation on the apartment to confirm that Alvarez was inside. Sheriff's detectives through computer checks learned that [REDACTED] was on searchable probation. Sheriff's investigators met with officers from Concord Police and FBI agents near the apartment complex. They developed a plan to establish surveillance of apartment [REDACTED]. Once Alvarez was

¹ Alvarez was later linked by DNA evidence to the commission of this murder through a blood sample taken after his death.

confirmed to be inside the apartment, additional units would be requested and they would attempt to arrest Alvarez.

At approximately 12:15 p.m., Sacramento Sheriff and Concord Police detectives approached the complex and established an inner perimeter around the apartment. [REDACTED] and [REDACTED] exited the apartment a few minutes later and were detained. They confirmed that Alvarez was inside the apartment and was armed with at least two handguns. They also advised that their four-year old son [REDACTED] and their sixteen-month old son [REDACTED] were still inside.

Alvarez started to exit the apartment through the kitchen window. He was holding a handgun. Upon observing a detective nearby, he retreated back into the apartment. Officers observed [REDACTED] in the northeast corner window of the apartment. A Sheriff detective moved underneath the window, tore out the screen, and pulled [REDACTED] from the residence through the window. Shortly thereafter, officers observed [REDACTED] in the window. However, Alvarez abruptly pulled [REDACTED] back and closed the window before officers could rescue him.

Alvarez then began systematically closing all the windows and blinds to the apartment to eliminate the view that officers had into the residence. Alvarez also barricaded the front door with a couch. The Sheriff's Special Enforcement Detail (SED) and Critical Incident Negotiations Team (CINT) were called out.

Apartment [REDACTED] is a two-bedroom apartment, approximately 800 square feet in size, on the first-floor of the complex. The north wall consists of two bedrooms on the west and east corners with a bathroom in between. Each bedroom has a window and so does the bathroom. The northeast bedroom was considered the master bedroom. The east side of the building contained a window in the kitchen near the south side. The south side of the apartment consisted of a common wall shared with adjacent apartment [REDACTED] and also shared with an interior breezeway leading to other apartments and the stairs to the second story. The west side of the apartment consisted of one large window into the living room.

Surrounding apartments were evacuated. Arden Way was shutdown to traffic. For the next 55 hours, Alvarez remained barricaded inside the apartment with [REDACTED] as his hostage. CINT negotiators made numerous attempts to contact Alvarez and convince him to surrender. Negotiators also employed the assistance of family members to convince Alvarez to release the child and surrender. Alvarez continually refused.

Officers received information from friends and family members that Alvarez was paranoid schizophrenic and had bipolar disorder. He had been taking medications but often stopped for unknown reasons. His girlfriend reported that Alvarez had recently been saying his goodbyes to family and friends. Alvarez had warned [REDACTED] that the police were looking for him and if she was ever with him and saw the police, she should run because there was going to be a shootout. He also told her that if

anyone tried to convince him to turn himself in to the police, he was going to kill them. Alvarez admitted to her that he had robbed a bank and that he had stabbed and killed a man in San Francisco. He told her he killed the man because the man had raped his mother. He also told her he had a couple more people he needed to kill. She observed bruises on his sides from where he kept two handguns in his waistband day and night. According to [REDACTED] Alvarez was on a suicide mission. She advised investigators that [REDACTED] told her Alvarez said to go into the room and lock the door because he was going to shoot the police.

In the beginning of the incident, Alvarez had free reign of the apartment after he barricaded the front door and closed all the windows. Sheriff's officers developed a plan to break out the windows and remove the vertical blinds to facilitate observation into the apartment, to limit Alvarez's opportunity to move around inside the apartment, and to provide a point of entry in the event that a hasty response was necessary to rescue the child. Sergeant Winn, Detectives Santin and Esty, and Deputy Carver approached the apartment from the northwest while Detectives Mayes and Henry approached from the west. Detective Henry and Deputy Carver were equipped with ballistic shields. Detective Esty had a ten foot fiberglass pole with a metal hook to clear the glass and assist in removing the blinds.

At approximately 10:44 p.m., Detective Esty initiated clearing glass from the living room window. Immediately upon Detective Esty breaking glass with the pole, Alvarez fired at the officers from inside the apartment. Shots broke out part of the glass and penetrated the stucco beneath the window. Detective Esty continued to remove the vertical blinds until a substantial part of the window was cleared for view. Sergeant Winn and Detective Mayes both observed Alvarez in the living room firing at the officers outside the window. Detective Mayes could see that Alvarez was not holding the baby as he was holding a pistol with both hands. Sergeant Winn fired one shot and Detective Mayes fired five shots at Alvarez. Detective Henry believed he had been struck by one of Alvarez's shots and announced, "I'm hit." The officers retreated to their respective initiation positions. Alvarez continued to shoot at them as they retreated.

Once in a position of safety, Detective Henry was examined. Detective Henry experienced a burning pain in his right thigh. However, no bullet hole could be found. The next day he developed a substantial bruise on the front of his right thigh, consistent with either an impact to his ballistic groin shield or a secondary impact from some type of shrapnel, possibly the stucco that was shot out by Alvarez from below the window.

After the shooting incident, Detective Mayes inspected his sidearm, a Sig Sauer P226 semi-automatic handgun. It had remained in a holster strapped on his right thigh during the incident. When Detective Mayes pulled the gun from its holster to inspect it, he found the slide was detached from the frame of the gun. He reassembled it and determined that it appeared operable. Later, the firearm and holster were inspected more closely. A series of defects on different parts of the straps and holster were

located. The series appeared to have been made by a projectile with a trajectory going front to back and slightly left to right entering the left or inside face of the holster. The projectile traveled into the holster, struck the left side of the gun, and then exited the rear of the holster. The Sig Sauer firearm had corresponding damage. Discoloration marks consistent with a metal wipe were found on and adjacent to the slide release lever on the left side of the gun. The slide release lever was also bent. The damage to the holster and the firearm were consistent with having been struck by a bullet. Moreover, a bullet striking the slide release lever on the firearm may have caused the slide to detach from the firearm when Deputy Mayes removed the gun from his holster.

At 10:52 p.m., one of the CINT negotiators was able to speak with Alvarez by phone. Alvarez indicated that he was bleeding. He confirmed that the baby was okay. Alvarez stated, "The boy's alright. Make sure you don't try that shit again, 'cause if you do, he might not be alright." Alvarez terminated the phone call. At 10:54 p.m., the negotiator spoke with Alvarez again by phone. Alvarez said, "Do not do that again" and hung up.

Detectives Elmore and Prehoda were positioned on the north side of the apartment covering the master bedroom window in the Sheriff's armored vehicle known as "Bearcat." Alvarez fired numerous shots from inside the master bedroom. These shots exited the wall just below the window leaving large holes. The detectives were unable to see Alvarez due to a lack of light inside the bedroom. Alvarez fired short bursts of rounds in increments of one, two, three, four, and five at a time. During one of those bursts, three of the rounds passed directly over or next to Detective Elmore. One of the rounds struck the driver's side edge of the windshield, then appeared to fragment or ricochet, striking the front grip of Detective Elmore's rifle next to his hand. One of the rounds ricocheted off the building behind Detective Elmore and landed on the ground within four feet of his position. Detective Elmore observed that the round which struck the windshield hit approximately five inches to the right of where he had been positioned and at exactly the same height as his head.

On June 10, 2010, at 1:31 a.m., Deputies Limbird and Flores approached the master bedroom window to place a video camera in order to see inside the room. Alvarez shot at them. The deputies heard something hit the wall near them. They retreated from that position.

At approximately 1:40 a.m., the Sheriff's Explosive Ordinance Detail (EOD) utilized their robot to approach the apartment to clear the windows of obstructions so officers would have a better view inside. Officers positioned the robot to break out portions of the window that had not already been removed and to use the robot's gripper to tear down vertical blinds that were inside the windows. From the camera on the robot and the microphone mounted to it, officers could see and hear Alvarez shooting rounds at the robot. They observed a couple of rounds penetrate the stucco exterior of the structure near the robot.

At 3:15 a.m., officers attempted to again deploy the robot to clear blinds from the living room window. Alvarez poked part of his head around the corner of the hallway to fire at the robot. Seeing Alvarez, Detective Esty from his position in a nearby apartment fired one shot at Alvarez with his 9mm Heckler and Koch MP-5 assault rifle. Detective Esty thought he saw his round glance off Alvarez's head, but he was not sure. Alvarez stuck his arm around the corner again and fired additional rounds. Detective Esty then knew that his shot did not disable Alvarez.

Detective Parsons was positioned in a nearby second-floor apartment. He was armed with a .308-caliber Remington Model 700 rifle equipped with a scope. From his position, Detective Parsons was able to see through the window into a portion of the northeast bedroom. His view was partially obstructed by some remaining blinds on the window and by a large rear projection television inside the room. He was able to observe approximately half of the doorway that led from the northeast bedroom into the hallway.

Detective Parsons requested that the robot be used to remove the remaining blinds on the window to assist in seeing into the room. Knowing that Alvarez would likely fire at the robot, Detective Parsons watched for him. At 3:26 a.m., when Detective Parsons observed part of Alvarez's face in the doorway, he fired at Alvarez. His shot struck a portion of the window that was still intact. Detective Parsons additionally thought his round struck some small object that was on top of the television. However, Detective Parsons was also fairly sure that his shot struck Alvarez. Detective Parsons then observed Alvarez's arm and Alvarez fired multiple times. Shots struck Bearcat, approximately five feet from where Detective Parsons was positioned, and around the apartment complex. When he observed a muzzle flash, Detective Parsons fired where he thought Alvarez's arm was located. Detective Parsons fired three shots hoping to hit Alvarez's arm. However, Alvarez was tactically positioning himself such that Detective Parsons could not anticipate where he was. Alvarez fired a total of ten shots at Detective Parsons.

Sacramento Police Department (SPD) SWAT officers arrived to assist. At approximately 9:00 a.m., SPD Officer Rosin observed Alvarez run quickly from the north side of the apartment to the south towards the kitchen area. Approximately two to four minutes later, Alvarez ran back across from south to north carrying food items. Officer Rosen fired one shot at Alvarez using his .308-caliber DPMS Panther Arms LAR rifle. Officer Rosin could see a bullet hole in the wall from the shot he fired. He believed he may have winged or nicked Alvarez, but was not sure whether he had even struck Alvarez.

At 9:48 a.m., SPD negotiators had contact with Alvarez and confirmed that the baby was alright. During the day, officers saw and heard [REDACTED], verifying that he was okay.

At 1:59 p.m., family members who had spoken with Alvarez by phone indicated that Alvarez claimed to have sustained a head injury and to have been shot in the arm. However, SPD officers had seen him on several occasions throughout the day and did not observe any visible injuries or restricted mobility.

As the standoff progressed, the tactical teams were able to clear the windows forcing Alvarez to hunker down in the small T-shaped hallway between the bedrooms and bathroom. This hallway measured approximately three feet by five feet. Alvarez was able to close the bedroom and bathroom doors and remain out of view in that hallway. When Alvarez left this safe area, he used the child as a shield to protect himself as he made his movements. At times, he used the child as a shield to block his face. He also covered himself and the child with a blanket or towel during movements to make differentiating between the two of them difficult. He employed these methods to gather blankets, towels, food, and other items from other areas of the apartment.

On June 11, 2010, at 12:18 a.m., FBI Special Agent Campion began addressing Alvarez using a loudspeaker system from the area of the Bearcat armored vehicle. Campion assured Alvarez that law enforcement would not harm him if he surrendered. Almost immediately, Alvarez fired two shots at the armored vehicle and the loudspeaker system.

Beginning at approximately 12:27 a.m., Alvarez fired upon officers several more times. These rounds appeared to have been fired directly at officers in perimeter positions. One round struck the apartment building near apartments [REDACTED] and [REDACTED] sending stucco shrapnel into the officers that were positioned at that location. One round penetrated apartment [REDACTED] and landed within feet of Detective Parsons and Detective Massagli who were there occupying a sniper position. Detective Parsons was peppered with drywall on his face by the round.

Over the course of several more hours, Alvarez fired multiple times at officers. Alvarez also fired multiple times at robots when they approached the apartment.

In a lengthy phone call that began at 3:11 a.m. with one of the negotiators, Alvarez discussed how his life had been bad the last couple of years. He indicated he was paranoid schizophrenic and had bipolar disorder. He stated he had been hospitalized before, but the doctors did not have enough time on his 5150 hold to make a full diagnosis. He said he received treatment in the jail and had been on medications, but they either did not work or he did not like how they made him feel. He stated he had not taken medications for months.

Throughout the day, as Alvarez ran from the north side of the apartment to the south side and back, he held the child in front of his body or covered both of them with a blanket. At other times, when he peeked out of the hallway area, he held the baby in front of his face as a human shield.

During a phone call with a negotiator at 3:48 p.m., Alvarez was very agitated and indicated he did not trust anyone. The negotiator asked Alvarez about [REDACTED] and pointed out that some of the food they had delivered to the apartment was for [REDACTED]. Alvarez stated, "I could give a fuck if that little nigger eats." Alvarez wanted certain demands met regarding delivery of a cell phone or, as he stated, "Something might happen out of my control." Alvarez also stated that he would not give them [REDACTED] and that this was a "hostage situation." He then stated that [REDACTED] could have left, but he did not want to.

At 6:47 p.m., Sheriff EOD and Police Bomb Squad detectives initiated two explosive breaching charges on the south wall of the apartment in order to provide a view of the hallway where Alvarez was hiding. One of the breaches was in the common wall with apartment [REDACTED] on the south side of apartment [REDACTED]. The port created by the breaching charge offered a significant view of the kitchen nook, the kitchen, the north part of the living room and the T-shaped hallway.

At 7:13 p.m., while looking through the port created in the kitchen wall, Sergeant Winn saw the sleeve of Alvarez's T-shirt on the left side of the hallway. It appeared that Alvarez was seated on the floor facing to the north away from Sergeant Winn. Alvarez used his feet to push himself up while using the wall against his back. When Alvarez stood up, he moved a couple of inches to the right, exposing his upper arm. Alvarez then bent down at the waist to the left and Sergeant Winn could see him reaching down and forward with his right arm as though he were picking up something. Moments later, Alvarez stood up and Sergeant Winn could tell that he had picked up the child and placed the baby on the left side of his body. Alvarez stood up and proceeded to come in view of the threshold of the hallway approximately 6 to 8 inches, exposing his right shoulder, his right back, and most of his right arm. Sergeant Winn used that opportunity to fire two to three rounds with his .223-caliber Colt M-4 assault rifle directly at Alvarez's body near his scapula area. Alvarez moved several inches to his left and out of Sergeant Winn's view. Sergeant Winn tracked Alvarez proportionately firing an additional three rounds through the sheetrock just left of the entrance to the hall.

Alvarez dropped to the floor. He landed in a position with his leg visible extending across the threshold of the hallway with his foot facing east and his toes pointed up as though he were either seated or lying in a supine position. Simultaneously, Sergeant Winn observed [REDACTED] stand up and move from left to right. [REDACTED] looked directly at Sergeant Winn. Although [REDACTED] had blood on him, it appeared to be collateral. [REDACTED] moved back out of view in the direction he came from the left. Meanwhile, Detectives Puffer, Donelli, and Epperson had proceeded from apartment [REDACTED] in an attempt to make entry into apartment [REDACTED]. They first tried the front door and determined that it was blocked. They then moved to make entry through the living room window.

Sergeant Winn saw Alvarez bend his leg at the knee and attempt to use his foot in what appeared to be a motion pushing himself up. Knowing that the other officers would be

trying to make entry, Sergeant Winn decided to take one more shot away from [REDACTED]. He aimed at Alvarez's right foot and ankle in an attempt to prevent him from getting up. Sergeant Winn fired and observed Alvarez's foot jump up as if he had been struck. Immediately, Alvarez's right arm appeared in view of the threshold holding a large frame semi-automatic handgun. Alvarez bent his hand backward at the wrist and pointed the gun directly toward Sergeant Winn's location, firing two or three rounds. Sergeant Winn aimed and fired two shots at Alvarez's hand. Upon firing the second shot, the gun flew out of Alvarez's hand and disappeared.

At the same time, Detective Puffer, who had made entry through the living room window, crossed the living room and approached the entry to the hallway. He rounded the corner into the T-shaped hallway. Detective Puffer saw Alvarez reaching around his chest and waistband area. Detective Puffer believed that Alvarez was reaching for the handgun he had been using or another firearm in his waistband. Detective Puffer pointed his Colt M-4 assault rifle at Alvarez and shot Alvarez one time on the right side of his head just in front of his right ear.

Detective Puffer picked up [REDACTED] and crossed the living room back to the window. Detective Puffer handed [REDACTED] to Detective Mayes who carried him to awaiting medics. [REDACTED] had a small cut the size of a pin prick on his left elbow and a small amount of blood above his right knee. Other blood on him appeared to be Alvarez's.

Alvarez was pulled out of the hallway into the living room and handcuffed. Paramedics were called in and examined Alvarez. He was declared deceased at the scene at 7:27 p.m. Detectives located a loaded 9mm Hi-Point semi-automatic handgun in his waistband.

Detectives also located a .40-caliber Smith & Wesson semi-automatic handgun on the floor of the hallway. The magazine for this firearm was inserted inside the magazine well. However, the butt plate for the magazine had come off, the spring for the magazine had come out and was lying near the gun, and eight live rounds were located around the gun. The condition of the firearm appeared consistent with having been struck by a projectile, likely from when Sergeant Winn shot the gun out of Alvarez's hand.

Crime scene investigators processed the apartment. They located numerous apparent bullet holes in the walls, consistent with shots having been fired from inside the apartment directed towards the outside. Some of those holes still had projectiles embedded in them where bullets failed to completely penetrate the stucco. Over forty expended cartridge casings consistent with the rounds contained in Alvarez's guns were found scattered around the inside of the apartment.

An autopsy was conducted by the Sacramento County Coroner's Office. It was determined that Alvarez died from multiple high-velocity gunshot wounds. Alvarez had a perforating gunshot wound of the head and neck. The round entered the right side of

his head, fractured his basilar skull and first cervical vertebra, and transected his spinal cord. In addition, Alvarez had multiple gunshot wounds of his left upper back and shoulder, with large areas of injuries from secondary flying debris. One wound that entered his posterolateral left shoulder and exited his anterior left shoulder appeared older than the other wounds. The exit wound was dried and was surrounded by bruising. Alvarez had another gunshot wound to his right lower back. Further, he had a perforating gunshot wound and a graze wound of his right hand. He also had graze wounds of his lower right leg and his right heel. Finally, he had other minor blunt force injuries from flying debris.

Alvarez's prior criminal history included convictions in 2003 for resisting or obstructing an officer (Penal Code § 148); in 2007 for possession of a controlled substance (Health and Safety Code § 11377(a)), possession of marijuana (Health and Safety Code § 11357(b)) and driving on a suspended license (Vehicle Code § 14601.5(a)); in 2008 for selling marijuana (Health and Safety Code § 11360(a)) and vandalism (Penal Code § 594(b)(2)(a)); and in 2009 for battery (Penal Code § 242).

ANALYSIS:

A peace officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Graham v. Connor* (1989) 490 U.S. 386; *Kortum v. Alkire* (1977) 69 C.A. 3d 325; Penal Code § 835a; 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. (Penal Code § 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, 2671, 2672.) The rule "requires that the officer's lawful conduct be established as an objective fact; it does not establish any requirement with respect to the defendant's mens rea." (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020.)

In situations where it is reasonably necessary to defend oneself or others from death or serious bodily injury, the use of deadly force is legally justified. (Penal Code § 197; *People v. Ceballos* (1974) 12 Cal.3d 470, 482-483; CALCRIM 505, 3470.) The law does not require actual danger. The appearance of imminent death or serious bodily injury to oneself or others is sufficient justification, so long as the fear is genuine, objectively reasonable and the basis for the use of deadly force. (Penal Code § 197(3); *In re Christian S.* (1994) 7 Cal.4th 768; CALCRIM 505, 3470.)

"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, supra*, 490 U.S. at pp. 396-397.)

Applying these legal principles to the factual circumstances, each of the officers clearly had the right to act in defense of themselves, in defense of their fellow officers, and in defense of [REDACTED]. When officers attempted to apprehend Alvarez on June 9, 2010, they knew that he had two warrants for his arrest and was wanted for committing a series of violent felonies. They knew he was armed. They knew that he had already fired at Concord Police officers when they tried to apprehend him.

Instead of submitting to arrest, Alvarez took [REDACTED] a sixteen-month old child, as his hostage and barricaded the apartment. Alvarez kept [REDACTED] as his hostage and remained in the barricaded apartment for a substantial period of time. Efforts to negotiate a surrender were not productive. Alvarez indicated that he was specifically using the child as a hostage and as a tool. Alvarez repeatedly used the child as a shield, such that if officers fired upon him, they would harm [REDACTED] and he thought he would be protected. Through his words and actions, Alvarez demonstrated that he had no regard for the value of [REDACTED] life.

In addition, Alvarez continued to fire rounds at officers. He fired directly at where officers were positioned, indicating an attempt to injure them. Alvarez demonstrated that he had no regard for the value of the officers' lives.

Knowing that he had committed several robberies and that he had killed a man, Alvarez likely believed that if he was captured and arrested, he would spend the rest of his life in prison. Family and friends reported that Alvarez had recently been saying his goodbyes and appeared to be on a suicide mission. He previously warned family members that he was going to have a shoot out with the police.

Alvarez suffered a substantial injury to his left shoulder from one of the officer's shots during the standoff. However, Alvarez refused to surrender, continuing on in his barricaded position. He was not concerned with food or water or how long the standoff progressed. He fired rounds at times and in increments indicating he believed he had sufficient ammunition to remain in his barricaded position. It was obvious that Alvarez was not going to come out of that apartment or release [REDACTED] and that if officers entered the apartment to apprehend Alvarez, he would fire at the officers, risking harm to the officers as well as to [REDACTED].

The events that occurred and the information the officers knew about the situation gave them every reason to believe their lives and the life of [REDACTED] were in danger. Sergeant Winn, Detectives Mayes, Esty, Parsons, and Puffer, and Officer Rosin

reasonably believed that Alvarez posed an imminent threat of death or serious bodily injury to themselves and to [REDACTED]


Moreover, when officers approached the apartment on the first night of the standoff to clear windows so they could observe inside, without provocation Alvarez fired on them. Detective Henry was struck by some type of projectile. Clearly, Sergeant Winn and Detective Mayes reasonably acted in self-defense and in defense of their fellow officers when they returned fire at Alvarez.

Furthermore, in the final exchange, Detective Puffer entered the apartment and approached the hallway in order to rescue [REDACTED]. Detective Puffer knew that Alvarez had been firing at Sergeant Winn. Detective Puffer believed that Alvarez was reaching for the firearm he had been using or for another firearm in his waistband. Alvarez did in fact have a loaded firearm in his waistband. Detective Puffer reasonably acted in self-defense and in defense of others at the scene when he shot Alvarez.

Given the circumstances, the officers were justified in using deadly force. We find the shootings to be lawful and will take no further action in this matter.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY



MICHAEL BLAZINA
Supervising Deputy District Attorney

cc: Inspector General Lee Dean
Francine Tournour, Office of Public Safety Accountability
SSD Detective Elaine Stoops #6
SSD Detective Brian Shortz #992
SSD Sergeant Randall Winn #145
SSD Detective Orrlando Mayes #138
SSD Detective Charles Esty #60
SSD Detective Ronald Parsons #1040
SSD Detective Scott Puffer #407
SPD Officer Doug Rosin #828

KATHERINE LESTER
Chief of Police

5770 Freeport Blvd., Suite 100
Sacramento, CA 95822-3516

(916) 808-0800
Fax: (916) 808-0818
www.sacpd.org

Report Number: 2010-170767

Please note that the records provided in this release do not include records or portions of records that are exempt from disclosure pursuant to applicable law. Without limiting other arguments against disclosure that may exist, the following records or portions of records are specifically prohibited or exempted from disclosure:

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 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))

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 and Cal. Pen. Code §§ 11105 and 13300).

Sacramento Police Department
Professional Standards Unit
916-808-3790
spdpsu@pd.cityofsacramento.org