

# CITY OF HOUSTON

INTER OFFICE CORRESPONDENCE

TO: Police Officers'  
Civil Service Commission  
Of the City of Houston

FROM: Art Acevedo  
Chief of Police

DATE: September 10, 2020

SUBJECT: Indefinite Suspension  
Luis Alvarado,  
Police Officer  
Employee # [REDACTED]  
Northeast Division  
Issue #56011-2020

In accordance with the provisions of the TEX. LOC. GOV'T. CODE, Chapter 143 (formerly Art. 1269m), commonly known as the Fire Fighters' and Police Officers' Civil Service Act, you are hereby advised that as of the close of business on the date stated above, I have indefinitely suspended **Luis Alvarado, Police Officer**.

**Luis Alvarado, Police Officer**, has been indefinitely suspended for acts and conduct in violation of Rule V, Section 6, Subsections (b) and (k) of the City of Houston Police Officers' Civil Service Commission's (the "Commission") Rules Governing Members of the Houston Police Department (the "Department"), which reads as follows:

## "SECTION 6 - CAUSES FOR REMOVAL OR SUSPENSION

"No classified employee shall engage in, or be involved in, any one of the following acts or conduct and the same shall constitute cause for the disciplinary or indefinite suspension of a classified employee:

"(b) violations of a municipal charter provisions;

"(k) violation of an applicable police department rule or special order."

Additionally, by his conduct, as detailed below, **Luis Alvarado, Police Officer**, has violated the Houston Police Department's General Orders. Compliance with the General Orders is required of all members of the Houston Police Department, and violation thereof is grounds for disciplinary action as provided in Rule V, Section 6, Subsection (k) of the Commission's Rules, quoted above.

The following facts serve as the basis for the indefinite suspension of Officer Alvarado:

Investigation revealed that on April 21, 2020, at approximately 8:55 p.m., Officer Luis Alvarado along with his partner, Officer Omar Tapia, responded to the scene of a person in mental crisis who was later identified as Mr. N. Chavez, in a parking lot at or near the intersection of Gazin

Street and the I-10 East Freeway Service Road. Officer Alvarado and Officer Tapia arrived at the location at about the same time that Sergeant Benjamin Leblanc arrived. Shortly thereafter, Officer Nancy Leija arrived on scene. All officers were assigned to the Northeast Patrol Division and all four officers were wearing body worn cameras (BWC) and had timely activated their BWCs in accordance with Department policy.

Mr. Chavez was positioned behind a light pole in a squatted position on the south side of the parking lot. As the officers approached Mr. Chavez, he was yelling. Officer Alvarado described the parking lot as approximately 40 yards long and 30 yards wide, which is about half the size of a football field. On the south side of the parking lot is a wooden fence and on the west side, there are two vehicle entrances and two shallow ditches.

Evidence from the investigation, including BWC video, shows that Sergeant Leblanc, Officer Alvarado, Officer Tapia, and Officer Leija approached Mr. Chavez and were telling him to "*calm down*" and "*we are here to help you.*" Mr. Chavez was yelling and acting erratic. Officer Alvarado told investigators that Mr. Chavez, "*wasn't making sense to me, so it occurred to me that, uh, he was most likely in crisis.*"

Officer Alvarado told Internal Affairs that Mr. Chavez had an object in his hand that Officer Alvarado at first thought was a "*piece of glass.*" The investigation determined that the object in Mr. Chavez's hand was a piece of metal rebar. Evidence from the investigation shows that after observing that Mr. Chavez had a metal object in his hand, Sergeant Leblanc went back to his vehicle and retrieved his beanbag shotgun. Sergeant Leblanc returned and instructed the officers to get their Conducted Energy Devices (CED) out to provide less lethal options. Officer Alvarado and Officer Leija armed themselves with their CEDs and Officer Tapia armed himself with his duty weapon.

After Mr. Chavez was given verbal commands to get on the ground, he did not comply and began stabbing himself with the metal object. Sergeant Leblanc deployed his beanbag shotgun at Mr. Chavez with no apparent effect, and Mr. Chavez remained standing. Just a few seconds later, Sergeant Leblanc deployed a second beanbag round at Mr. Chavez. Mr. Chavez began walking towards Sergeant Leblanc, and Sergeant Leblanc deployed a third beanbag round. Mr. Chavez continued advancing, and Sergeant Leblanc deployed a fourth beanbag round. The beanbag rounds had no apparent effect on Mr. Chavez. After Sergeant Leblanc deployed his fourth beanbag round, he directed officers to use their CEDs on Mr. Chavez. Both Officer Alvarado and Officer Leija discharged their CEDs two times which also had no apparent effect on Mr. Chavez. Officer Alvarado then transitioned to his duty weapon.

Harris County Constable Precinct 6 Deputy Art Garduno arrived and was standing to the left of Sergeant Leblanc. Mr. Chavez began to advance towards Sergeant Leblanc and Deputy Garduno. Officer Alvarado was on the west end of the parking lot standing approximately in the center of the parking lot, two to three car lengths away from Mr. Chavez. Officer Alvarado's BWC video shows Mr. Chavez advancing quickly towards Sergeant Leblanc and Deputy Garduno. Evidence from the investigation, including BWC video, shows that as Sergeant

Leblanc backed up, Mr. Chavez began advancing quickly towards Sergeant Leblanc and Deputy Garduno. Sergeant Leblanc deployed his last two beanbag rounds from his beanbag shotgun at Mr. Chavez and then ran to his vehicle and placed the beanbag shotgun in the trunk.

Evidence from the investigation shows that as Sergeant Leblanc was standing at the trunk of his vehicle when Mr. Chavez again advanced quickly in the direction of Sergeant Leblanc and Deputy Garduno with the metal object in his hand. Sergeant Leblanc un-holstered his duty weapon and discharged his weapon at Mr. Chavez two times. At the same time, Deputy Garduno discharged his CED, striking Mr. Chavez. After Sergeant Leblanc discharged his weapon and Deputy Garduno discharged his CED, Mr. Chavez can be seen on Officer Alvarado's BWC falling into a ditch near a police vehicle and Officer Alvarado can be heard saying, "*9C11 shots fired, shots fired.*"

Shortly after Mr. Chavez fell into the ditch, Officer Alvarado, Officer Tapia, and Officer Leija moved up towards Mr. Chavez from the south. Officer Alvarado holstered his duty weapon, took out his handcuffs and is heard saying, "*Going hands on, going hands on*" as he moved toward Mr. Chavez. As Officer Alvarado approached Mr. Chavez, blood is seen on the front of Mr. Chavez's shirt. BWC evidence shows that as Officer Alvarado approached Mr. Chavez, his partner Officer Tapia is telling Mr. Chavez, "*not to move.*" Mr. Chavez is seen laying on his back with obvious signs of significant bleeding. When the officers got within a few feet of Mr. Chavez, Mr. Chavez rolled over, yelled "*Fuck you*" at the officers, and slashed at them with the metal object. The officers immediately backed up. Sergeant Leblanc instructed the officers not to approach due to Mr. Chavez's aggressive behavior. At no time during the remainder of this incident did the officers attempt to approach Mr. Chavez again to try to take him into custody.

While Mr. Chavez was in the ditch, he remained noncompliant to verbal commands and continued stabbing himself in the head and neck with the metal object. Shortly thereafter, Sergeant Michael Reedy arrived on scene with another beanbag shotgun and took cover behind Sergeant Leblanc's patrol vehicle. In his Internal Affairs interview, Sergeant Leblanc estimated about eight to ten additional officers began arriving on the northwest side of the scene, closer to the freeway service road and stated that the officers on scene had formed three sides of a square around Mr. Chavez to contain him. Additionally, Sergeant Leblanc told Internal Affairs that he asked for patrol vehicles to shut down the freeway service road.

At this time, several officers began arriving on the northwest side of the scene. Evidence from the investigation reveals that both Officer Kevin Nguyen and Officer Joseph Adovasio took positions to the west of where Mr. Chavez was located. Sergeant Leblanc maintained verbal communications with Mr. Chavez as he was lying in the ditch and provided instructions to arriving officers in order to avoid a crossfire situation.

Evidence from the investigation shows that during this time, Sergeant Reedy fired his beanbag shotgun at Mr. Chavez three separate times. Each time Sergeant Reedy fired his beanbag shotgun, Mr. Chavez was trying to slowly crawl out of the ditch. After Sergeant Reedy fired his

third round, Sergeant Leblanc got on the radio and asked for a sergeant with another beanbag shotgun.

Sergeant Leblanc began speaking with Mr. Chavez and explaining that the police officers wanted to take him to the hospital to get help. Officer Adovasio was also on scene and started speaking with Mr. Chavez, trying to calm him down. Officer Alvarado's BWC showed that after several minutes of the officers trying to speak with Mr. Chavez, Mr. Chavez continued to harm himself on his knees in the ditch rocking back and forth. Mr. Chavez then suddenly yelled "*Fuck you,*" jumped to his feet and came out of the ditch in the direction of Officers Alvarado, Tapia, Leija, and Sergeant Reedy who were positioned in the parking lot south of Mr. Chavez. Officer Nguyen, who was standing on the west side, discharged his duty weapon one time at Mr. Chavez. At the same time, Sergeant Reedy, who was still behind Sergeant Leblanc's patrol vehicle, discharged his beanbag shotgun. Mr. Chavez fell to the ground and rolled over and up onto his knees.

After Mr. Chavez came out of the ditch, Sergeant Reedy placed his beanbag shotgun on the ground and backed away from his position. BWC evidence shows that the officers to the south standing next to Sergeant Leblanc, including Officer Alvarado, backed up when Mr. Chavez came out of the ditch and Officer Nguyen discharged his firearm and Sergeant Reedy deployed his beanbag shotgun. Sergeant Reedy and the officers then moved forward until Mr. Chavez crawled towards them causing the officers to back up again until an officer yelled "*stay the line*" and the officers stopped. Officer Alvarado estimated the distance between Mr. Chavez and himself to be approximately 15 feet. Evidence from the investigation shows that Sergeant Reedy was estimated to be about 10 feet away from Mr. Chavez and that he had moved behind a patrol vehicle to place cover between himself and Mr. Chavez.

After Mr. Chavez got up on his knees, he crawled forward and looked around for several seconds, and began to motion that he was going to throw the metal object at the officers. Sergeant Leblanc began giving Mr. Chavez verbal commands not to throw the object. After looking around for several seconds, Mr. Chavez threw the metal object in the direction of the officers. When Mr. Chavez threw the metal object, Officer Alvarado moved back slightly from his position. When asked by Internal Affairs if he thought that he and the other officers should have created more distance after Mr. Chavez made the throwing motion, Officer Alvarado responded, "*No Sir.*"

After Mr. Chavez threw the metal object, he grabbed the wires of a CED that had already been deployed and was laying on the ground. Mr. Chavez started pulling the CED towards him. Evidence from the investigation shows that Sergeant Leblanc stepped towards Mr. Chavez as he was pulling the wires and stated, "*Don't do it.*" Evidence further shows that when Mr. Chavez obtained the empty CED in both of his hands, Sergeant Leblanc, Officer Tapia, Officer Rubio, and Officer Alvarado discharged their duty weapons a total of twenty-one (21) times at Mr. Chavez, fatally wounding him. Officer Alvarado discharged his firearm seven (7) times at Mr. Chavez.

The Houston Police Department (HPD) places the highest value on the life and safety of its employees and members of the community. The Houston Police Department's "Use of Force" policy provides that employees must use only the amount of force reasonably necessary to protect themselves or others to effect an arrest, or bring an incident under control, even if under the circumstances the law would allow the use of greater force. HPD policy requires that the "use of force must be objectively reasonable based on the totality of the circumstances." Additionally, HPD policy states that "the use of deadly force is limited to those circumstances in which officers reasonably believe it is necessary to protect themselves or others from the imminent threat of serious bodily injury or death." Pursuant to HPD policy, "employees who use force against any person must detail the specific reasons for using such force."

In both of my messages to cadets on their first day at the Training Academy and in my video message to the entire Department, I present the Department's general principles on the use of force and stress that deadly force should only be used when there is an imminent threat of serious bodily injury or death and when it is absolutely necessary. I emphasize that in handling critical incidents, the goal is for everyone, the officers, the suspects and citizens, to go home safely. To assist in achieving that goal, I discuss four tactics that an officer should use to his or her advantage to ensure the safe handling of an incident: time, distance, numbers, cover and concealment. If officers utilize these four tactics, as applicable and available to them under the totality of the circumstances, it will likely reduce the need to use force and ensure that any use of deadly force was necessary to protect themselves or others from the imminent threat of serious bodily injury or death.

Officer Alvarado used deadly force against Mr. Chavez when he discharged his firearm at him seven (7) times. As stated above, HPD policy mandates that Officer Alvarado detail the specific reason why each of the seven (7) discharges was necessary to protect Officer Alvarado or others from an imminent threat of serious bodily injury or death. Officer Alvarado told Internal Affairs that he was not aware how many times he had discharged his firearm at Mr. Chavez at the time of the incident. Officer Alvarado stated, "*At that moment when I discharged my firearm, I was not sure. Later on during the investigation I remember them taking my duty weapon and the magazine out and they counted my bullets. And that's when I realized I shot seven times sir.*"

When questioned by Internal Affairs regarding why he used deadly force against Mr. Chavez, Officer Alvarado admitted that Mr. Chavez was on his knees at the time that he pulled the CED towards him and further admitted that Mr. Chavez did not point the CED at him. Officer Alvarado told Internal Affairs that he believed that Mr. Chavez pointed the CED at the other officers on scene and detailed the threat to the officers as, "*that taser could cause incapacitate an officer, causing 'em to fall down, hit his head on the concrete ground, um, the su- after that the suspect could possibly, uh, grab the firearm that's already, uh, being held by the officer. So the officer drops the gun. And the suspect would be able to grab the - the - the firearm from the officer. The - the prongs from the taser could also, um, be shot in a sensitive area which is your face, possibly your eye, causing you to go blind.*" Evidence from the investigation, including BWC video and Officer Alvarado's own statements, establish that Officer Alvarado's use of deadly force was neither objectively reasonable nor necessary to

protect Officer Alvarado or any other officer from an imminent threat of serious bodily injury or death.

Evidence from the investigation establishes the following circumstances existed during this incident. At the time that Officer Alvarado used deadly force against Mr. Chavez, there were approximately 28 officers, deputies, and sergeants on the scene of this incident. Prior to Officer Alvarado's decision to use deadly force against Mr. Chavez, Mr. Chavez was seriously wounded from being shot by firearm, struck by beanbag rounds, tased and stunned by CED, and multiple self-inflicted stab wounds. Officer Alvarado, being one of the first officers on the scene, was present during all of the facts and circumstances leading to Mr. Chavez's physical condition prior to his use of deadly force and in fact had deployed his CED on Mr. Chavez two times. While no officer on the scene may have been fully aware of all of the prior uses of force, less lethal or deadly, that were utilized on Mr. Chavez or their effect, the evidence clearly establishes that prior to Officer Alvarado's use of deadly force that Mr. Chavez was bleeding heavily and had at best limited mobility having spent the last 10 minutes of the incident inside a ditch either on his back or on his knees. Additionally, the evidence shows that after the firearm discharge by Officer Nguyen and the simultaneous beanbag discharge from Sergeant Reedy, Mr. Chavez appeared to only be able to crawl on his knees.

Given the totality of the circumstances described above, Officer Alvarado's use of deadly force against Mr. Chavez is not objectively reasonable. First, the evidence establishes that the empty CED obtained by Mr. Chavez did not pose an imminent threat of serious bodily injury or death to Officer Alvarado or the other officers. As admitted by Officer Alvarado, Mr. Chavez obtained the deployed and discarded CED by pulling its wires to him. Officer Alvarado, who deployed his CED two times at the same time as Officer Leija, stated that the wires indicated that at least one dart had been deployed but that he did not know whether the CED still had a dart. Additionally, Officer Alvarado stated that he believed that he and the other officers were approximately 15 feet from Mr. Chavez when Mr. Chavez obtained the CED, which would have been within the effective range of a CED. Evidence from the investigation, however, establishes that the CED was fully deployed by Officer Leija and placed on the ground by her to prevent Officer Tapia from tripping over the wires. The CED remained on the ground for an additional 10 minutes without any officer, including Officer Alvarado, picking it up or determining whether it had a dart in it. Additionally, evidence from the investigation also establishes that only Sergeant Reedy was within the effective range of the CED and he was behind the cover of a patrol vehicle. Despite being the closest proximity to Mr. Chavez, Sergeant Reedy did not discharge his weapon when Mr. Chavez obtained the CED.

Even if the CED had not been fully deployed and Officer Alvarado or the other officers were within its effective range, Officer Alvarado's use of deadly force was not necessary to protect himself or the other officers from the imminent threat of serious bodily injury or death under the totality of the circumstances. Officer Alvarado admitted that Mr. Chavez did not point the CED at him and that he used deadly force against Mr. Chavez because "*that taser could cause incapac- incapacitate an officer, causing 'em to fall down, hit his head on the concrete ground, um, the su- after that the suspect could possibly, uh, grab the firearm that's already, uh, being*

*held by the officer.*" As detailed above, at the time of Officer Alvarado's firearm discharge, Mr. Chavez was seriously injured and had limited mobility. Given Mr. Chavez's physical condition and the fact that there were approximately 28 officers on scene, Officer Alvarado's belief that Mr. Chavez could, from his kneeling position, deploy the CED, incapacitate an officer, and then crawl approximately 15 feet and grab that officer's firearm before being detained by the numerous other officers on the scene is not objectively reasonable.

Additionally, a review of the totality of the circumstances, including all available options, make clear that Officer Alvarado's use of deadly force was not necessary to protect anyone from an *imminent* threat of serious bodily injury or death as required by HPD policy. As stated above, Officer Alvarado described the parking lot as 40 yards long and 30 yards wide. Further, BWC video shows both he and the other officers creating distance between themselves and Mr. Chavez continually throughout the scene when Mr. Chavez threatened them with what they believed to be an edged weapon. Officer Alvarado also told Internal Affairs that he created distance from Mr. Chavez after he attempted to go hands on and Mr. Chavez aggressively slashed at him and his partner with the metal object. Yet, when faced with the option of creating distance and moving out of what he perceived to be the effective range of the CED or using deadly force, Officer Alvarado chose to use deadly force. Officer Alvarado told Internal Affairs that he could not create distance "*[b]ecause like I said we want to have scene containment sir. We don't want to expand the scene and have the suspect, um, have more - more, um, uh, what's the word. More places to go and, uh, be a harm to himself as well. The - the east freeway was sou- uh, north of him. We didn't want him to just be able to get up and walk towards over there and get hit by a car. So we just kept, uh, his scene, uh, the scene containment sir.*" Again, given the number of officers on that scene, Mr. Chavez's physical condition and the amount of space available in the parking lot, Officer Alvarado's decision to use deadly force against Mr. Chavez rather than create distance is not objectively reasonable under the totality of the circumstances.

In addition to failing to create distance, Officer Alvarado also failed to utilize the cover and concealment that was available to him and the officers on the scene. His partner, Officer Tapia, admitted to Internal Affairs that the officers could have used either of the two patrol vehicles nearby on the scene to protect themselves from the CED if necessary. In fact, Sergeant Reedy did utilize the patrol vehicle to the officers' left for cover and concealment and did not discharge his weapon when Mr. Chavez obtained the CED. Officer Alvarado told Internal Affairs that when he first arrived on scene that he took cover behind a fence to the south of where they parked their patrol vehicle to observe Mr. Chavez. Yet, when a seriously injured Mr. Chavez is pulling in an empty CED while on his knees, Officer Alvarado chose to use deadly force against him rather than create distance or take cover and concealment behind a nearby patrol vehicle.

Officer Alvarado was asked by Internal Affairs, "*Is there anything you felt you could've done differently looking back at this scene in retrospect?*" and Officer Alvarado responded, "*No Sir,*" and stated that, "*We did everything that we could sir.*" Officer Alvarado's failure to identify other options and acknowledge how his use of deadly force could have been avoided is concerning to me. Officer Alvarado admitted to Internal Affairs that he recalled my message to his cadet class on his first day of training at the Academy regarding the importance of utilizing

time, distance, numbers, and cover and concealment to ensure that everyone comes home safely. Officer Alvarado also admittedly used the tactics of distance and cover during this incident. Yet, when any one of these options could have been utilized to eliminate any imminent threat that he may have perceived was posed by an empty CED and create more time for the safe handling of this incident, Officer Alvarado instead inexplicably used deadly force against Mr. Chavez in violation of HPD policy.

In sum, the evidence from the investigation, including BWC video and Officer Alvarado's own statements, clearly establish that his use of deadly force was not objectively reasonable under the totality of the circumstances, including but not limited to the number of officers on the scene, Mr. Chavez's physical condition, position, threat to and distance from the officers, the available space in the parking lot, and the available cover and concealment. Further, Officer Alvarado's use of deadly force was not necessary to protect either himself or others from the imminent threat of serious bodily injury or death. Therefore, Officer Alvarado violated HPD's "Use of Force" policy.

The General Orders violated by Officer Alvarado are as follows: 200-08 – Conduct and Authority and 600-17 – Use of Force. Officer Alvarado was previously furnished copies of these General Orders.

## **GENERAL ORDERS**

**Conduct and Authority**, Order No. 200-08, dated May 9, 2019, states in part, but is not limited to:

### **1 CONDUCT AND BEHAVIOR**

#### **SOUND JUDGMENT**

Employees are expected to exercise sound judgment at all times. Employees' behavior shall be limited to conduct that is reasonable and prudent. No employee shall commit any act on or off duty in an official or private capacity that may bring reproach, discredit, or embarrassment to the department.

**Use of Force**, Order No. 600-17, dated September 30, 2015, states in part, but is not limited to:

### **1 GENERAL USE OF FORCE PRINCIPLES**

Use of force must be objectively reasonable based on the totality of the circumstances. The circumstances justifying the initial use of force may change during the course of an event. It is the duty of all employees to constantly assess the situation and adjust the use of force accordingly. Employees who use force against any person must detail the specific reasons for using such force.



Employees are authorized by law to use force to protect themselves or others, to effect an arrest, or to maintain custody of those arrested. When dealing with members of the community, suspects, or prisoners, employees must use only the amount of force reasonably necessary to protect themselves or others, to effect an arrest, or to bring an incident under control, even if under the circumstances the law would allow the use of greater force.

## 5 USE OF DEADLY FORCE

The use of deadly force shall be limited to those circumstances in which officers reasonably believe it is necessary to protect themselves or others from the imminent threat of serious bodily injury or death. Officers shall consider their immediate surroundings and the safety of uninvolved persons before using deadly force.

Pursuant to all applicable statutory and case law, on September 2, 2020, Officer Alvarado was given an opportunity to meet and explain the above events to me at his Disciplinary Review Hearing (DRH). At his DRH, Officer Alvarado read a prepared statement and respectfully advised that he would not answer questions from me or his chain of command. In his prepared statement, Officer Alvarado told me that he believed that he acted in accordance with his "training, HPD policy, sound judgment and common sense" under the "circumstances present" and the "changing dynamics at the scene." At his DRH, Officer Alvarado further stated that he believed that it "should be obvious" to anyone reviewing the BWC video that "all the officers at the scene wanted this incident to end peacefully."

What was "obvious" to the chain of command and me from watching the BWC video of this incident is that Officer Alvarado and the other officers on the scene utilized the tactics of verbal commands, creating distance and taking cover in accordance with "training, HPD policy, sound judgment and common sense" during their initial encounter with Mr. Chavez, when he was fully mobile, armed with an edged weapon and arguably posed the greatest threat. Additionally, it was "obvious" that Officer Alvarado and the officers continued to utilize these tactics throughout this incident. Yet, when a seriously injured, heavily bleeding Mr. Chavez, while on his knees started pulling the wires of an empty CED towards him and obtained it, Officer Alvarado chose to use deadly force against him rather than create distance or take available cover.

It is the duty of all employees to continuously assess the situation and to adjust the tactics and force options accordingly. Officer Alvarado's statement to Internal Affairs that "*we did everything that we could*" is not consistent with HPD policy or training. Further, his belief that his only option when Mr. Chavez was pulling the wires of the CED toward him was to discharge his firearm seven times at Mr. Chavez is not objectively reasonable under the totality of the circumstances. Officer Alvarado did not and cannot credibly explain to his chain of command and me how the CED posed an imminent threat of serious bodily injury or death to him or the other officers given Mr. Chavez's physical condition, the number of officers on scene and the distance of the officers from Mr. Chavez. Nor can Officer Alvarado explain why, if he believed that the CED posed an imminent threat of serious bodily injury or death once obtained by Mr.

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Chavez, he failed to utilize any of other options available to him as he had previously done during this incident. Contrary to his prepared statement, Officer Alvarado's actions were neither reasonable nor prudent and did not comply with HPD's "Use of Force" policy.

Further, Officer Alvarado's conclusory statement at his DRH that "it was Mr. Chavez's own actions that compelled the use of deadly force" is extremely concerning given the facts and circumstances detailed above. For Officer Alvarado to state that he was "compelled" to use deadly force against Mr. Chavez totally contradicts the mandate of the Houston Police Department and of policing in general to uphold the fundamental guiding principle to protect and preserve the sanctity of life. Officer Alvarado's use of deadly force was not objectively reasonable under the totality of the circumstances nor was it necessary to protect himself or others from the imminent threat of serious bodily injury or death. If an officer's use of deadly force is determined not to be objectively reasonable under the totality of the circumstances in violation of HPD policy, indefinite suspension is mandated and is why it is the unanimous decision of the chain of command.

I have also considered Officer Alvarado's disciplinary history, work record, and history in the Houston Police Department in determining the severity of discipline. Officer Alvarado is hereby reminded of his right to appeal my decision and is informed that he has 15 days after receipt of a copy of this memorandum within which to file a written appeal to the Police Officers' Civil Service Commission, located at 611 Walker, 4<sup>th</sup> Floor, Houston, Texas 77002. Officer Alvarado is informed that pursuant to Section 143.1016 of the Texas Local Government Code, he may elect to appeal to an independent third party hearing examiner instead of to the Commission. If Officer Alvarado elects to appeal to an independent third party hearing examiner, he waives all rights of appeal to a district court except as provided by Subsection (j) of Section 143.1016 of the Texas Local Government Code.

  
Art Acevedo  
Chief of Police

aa:djt

cc: Luis Alvarado  
Police Officer

MC/651K