

HALL OF JUSTICE  
330 WEST BROADWAY  
SAN DIEGO, CA 92101  
(619) 531-4040  
SanDiegoDA.com

OFFICE OF  
**THE DISTRICT ATTORNEY**  
COUNTY OF SAN DIEGO

DWAIN D. WOODLEY  
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN  
DISTRICT ATTORNEY

May 6, 2025

Acting Chief Erik Witholt  
Escondido Police Department  
1163 North Centre City Parkway  
Escondido, CA 92026

Chief Scott Wahl  
San Diego Police Department  
1401 Broadway  
San Diego, CA 92101

**Re: Non-Fatal shooting of Mr. Antonio Rosales by Escondido Police Officer Corey Montross on October 2, 2024; Escondido Police Department Case No. 24-009435; San Diego Police Department Case No. 24-040559; DA Special Operations Case 24-132PS; Deputy District Attorney assigned: D. Cal Logan**

Dear Acting Chief Witholt and Chief Wahl,

We have reviewed the reports and materials compiled by the San Diego Police Department's Homicide Unit concerning the shooting of Mr. Antonio Rosales on October 2, 2024. A District Attorney Investigator responded to the scene and was briefed by detectives. This case was submitted to the District Attorney's Office on December 20, 2024.

***Summary***

On October 2, 2024, at 7:38 p.m., a woman who requested to remain anonymous called the Escondido Police Department to report a man threatening her with a gun at the Transit Center at 700 West Valley Parkway. Within minutes, Montross and another officer, LE1, arrived at the location and were flagged down by the reporting party, CW1. CW1 pointed at a man, later identified as Antonio Rosales, and stated that he had pointed a gun at her.

Montross and LE1 started walking towards Rosales. Montross identified himself as a police officer and ordered Rosales to stop. Rosales continued to walk away from the Transit Center, disregarding both officers' orders to stop. Rosales then began running to the nearby fenced bike path that runs along the flood control channel. Montross and LE1 chased after him. LE2 arrived in his marked police vehicle at the entrance of the bike path, exited his vehicle, and joined the chase on foot. LE1 and LE2 were several steps behind Montross and Rosales. LE3 arrived and joined the pursuit, trailing the others.

Rosales began to slow while manipulating an object in his hands. Montross believed the item in Rosales's hands was a gun. Montross again identified himself as a police officer and told Rosales several times to drop whatever he had in his hands, or he would shoot. Rosales responded by shouting an expletive at Montross and continued to run eastbound on the bike path.

Rosales suddenly slowed to a stop and turned to face Montross while holding a handgun in his right hand. As Rosales pivoted toward Montross, he raised the handgun and pointed it at the right side of his own neck, and then turned back away from Montross. When Rosales made the pivot toward Montross with the gun in his hand, Montross believed Rosales was about to shoot him. In response, Montross fired ten rounds from his pistol at Rosales, striking him with all ten rounds. Rosales fell to the ground and dropped the weapon.

Officers initiated lifesaving measures until Escondido Fire and Paramedics took over and transported Rosales to the hospital. Rosales sustained multiple gunshot wounds and survived the injuries.

At the scene of the shooting, officers recovered an unloaded black Crossman model 357SNR CO2-powered pellet revolver with a CO2 cartridge inserted in the handle. The handgun resembled a full-frame firearm and is capable of firing metal projectiles. Ammunition for the weapon was found in Rosales's pocket.

Toxicology results showed Rosales had a blood alcohol content of 0.189%.

As a result of this incident, Rosales was charged with one count of violating Penal Code section 69, Resisting an Executive Officer by Means of Threats and Violence, in San Diego Superior Court case SCN459904. On April 25, 2025, Rosales entered a guilty plea to the charge. The sentencing hearing is scheduled for May 28, 2025.

### ***Persons Involved***

At the time of the incident, Rosales was a 34-year-old resident of Escondido. Montross had been employed as a police officer with the Escondido Police Department for three and a half years.

### ***Statement of Civilian Witness One (CW1)***

Investigators identified CW1 as the person who called the Escondido Police Department to report the male brandishing a firearm. CW1 told the dispatcher to send the police to 700 West Valley Parkway, Watch Tower One. When Montross and LE1 arrived, CW1 flagged down LE1 and pointed to Rosales and said, "Yes, he's right there running away with the gun. He brandished it at me. He pointed it at me. He's walking away. It's my brother."

CW1 did not witness the officer-involved shooting, but after the shooting, CW1 provided investigators with information about what took place before she called 911. CW1 told police Rosales was claiming CW1 had been disrespectful toward him. Rosales produced the firearm. He held it in his hand and it was partially covered by a "hoodie." Rosales told CW1 he was going to shoot her and pointed the gun at her. He also pointed the gun at CW2. CW1 was not afraid when

Rosales pointed the gun at her. She described the gun as a small black gun with a silver tip. She called 911 to report the incident, and Rosales ran away.

***Statement of Civilian Witness Two (CW2)***

CW1, CW2, and Rosales had been hanging out at the Transit Center smoking marijuana. Rosales kept saying CW1 disrespected him. CW2 told Rosales that he was the one who was being disrespectful towards all of them. Rosales drank two beers and continued to be disrespectful.

When CW2 asked Rosales how CW1 was being disrespectful, Rosales reached into a bag, displayed a gun, and pointed it at CW2. CW2 remained silent and Rosales put the gun away. CW1 walked away. CW2 noted he was about two feet from Rosales, close enough to grab the gun. CW1 soon returned, informing them she had called the police. Rosales took the gun out again, tucked it in his waistband, and walked away.

CW2 said that when the gun had been out, he saw the gun barrel pointed at him, covered by a shirt Rosales had draped over it. He said it looked like a Glock and might be an air rifle or BB gun. Rosales never threatened him or mentioned shooting. CW2 described the gun as "probably" a 9mm with a grayish top and black bottom. He was not scared or nervous when Rosales pointed the gun. CW2 described Rosales as a "hothead" with an indifferent attitude. He believed Rosales aimed the gun to scare him and CW1.

***Statement of Law Enforcement Officer One (LE1)***

LE1 responded with Montross to a call at the Escondido Transit Center regarding a subject who allegedly brandished a firearm at a female. Upon arrival, LE1 was approached by CW1. Although CW1 did not verbally confirm making the call, she pointed towards Rosales and stated, "He's walking that way, he pointed a gun at me."

LE1 saw Rosales walking away so he and Montross ordered Rosales multiple times to stop. LE1 broadcast a description of Rosales over the radio. Rosales started out walking but broke into a run and LE1 and Montross chased him onto the bike path. LE1 slowed down for vehicle traffic while crossing the street and fell behind Montross as they entered the bike path. LE1 heard Montross up ahead calling out to Rosales, identifying himself as police and telling him to stop or he may be shot.

Rosales slowed down next to the fence on the north side of the bike path and huddled next to the fence facing away from LE1. LE1 was about ten yards behind Rosales and could not see his hands or what he was doing. Montross took a position to the right of LE1, and Rosales turned around and faced Montross. LE1 heard gunshots and Rosales fell to the ground. When Rosales fell to the ground, LE1 saw a gun fall to the ground near him. LE1 assisted with pulling Rosales away from the gun then handcuffing him and rendering aid.

***Statement of Law Enforcement Officer Two (LE2)***

LE2 responded to a call from a woman stating that a man had brandished a firearm. LE2 was nearing the scene when he heard LE1, who had already arrived on scene, broadcast that he was speaking to the reporting party. LE1 also broadcast a description of the suspect and his direction of travel.

As LE2 arrived at the scene, he saw Montross and LE1 chasing Rosales. LE2 exited his vehicle and joined in the foot pursuit. LE2 was about five or six paces behind Montross and Rosales. As Rosales turned onto the bike path, Montross gave commands to Rosales to stop and warned Rosales he would shoot him. While Rosales was running, it appeared that he may have been holding some type of bag, but LE2 was not able to see if Rosales was holding anything else.

Rosales stopped and turned towards the chain link fence which is a barrier between the bike path and the flood control channel. Rosales appeared as though he was going to climb the fence to jump into the flood control channel. Rosales was initially facing away from Montross but then turned toward Montross. Montross fired his gun approximately eight or nine times. LE2 was standing approximately 10-15 feet away from Montross and approximately 20 feet from Rosales when the shooting happened. After the shooting, LE2 approached Rosales, who was lying on the ground in the fetal position. LE2 saw a black revolver handgun lying next to Rosales. LE2 began coordinating with other officers to provide aid to Rosales.

LE2 estimated that from the time he received the radio call to the time of the shooting, approximately two minutes lapsed. LE2 did not have time to coordinate a plan for taking Rosales into custody using other less-lethal options.

***Statement of Law Enforcement Officer Three (LE3)***

LE3 heard a report over the radio of an individual brandishing a weapon. LE3 drove to the location to provide assistance if needed. He was about one block away when he heard LE1 broadcast that he was being flagged down by the reporting party and that a man was walking away north on Quince Street. As LE3 drove closer to the area, he saw a man, Rosales, walking north on Quince Street followed by officers.

Rosales started running toward the flood control channel and was being followed by Montross and LE1. LE3 exited his vehicle and joined the foot pursuit. LE1 and LE2 were about 20 feet in front of him running eastbound toward the flood control channel. Understanding Rosales may be armed with a firearm, LE3 was concerned because the officers were at a disadvantage with no cover.

Rosales slowed down, then slightly turned his body to face toward an officer. Rosales's hands were above his waist; his hands were not above his head as if he was going to surrender. Rosales had his back to LE3 and was slightly hunched over when LE3 heard approximately five to eight shots being fired. LE3 saw an object leave Rosales's hand and fall to the ground as Rosales went into the fetal position. When Rosales was on the ground, LE3 saw a firearm on the ground lying near his head.

Another officer arrived and assisted LE3 in pulling Rosales away from the gun. LE3 handcuffed Rosales and provided aid until paramedics arrived. LE3 found unspent ammunition compatible with the gun Rosales was carrying in Rosales's front pocket.

***Statement of Officer Corey Montross***

Montross was dispatched to a radio call from an anonymous caller who reported a man brandishing a firearm at the Escondido Transit Center at 700 West Valley Parkway. Montross arrived on scene and noticed in his rearview mirror a woman waving at LE1. LE1 had arrived right behind Montross.

Montross exited his patrol vehicle and walked over to the woman, CW1, who was providing LE1 a description of the suspect. As Officer Montross approached them, he heard CW1 say, "He pointed it at me." Based on the circumstances of the call, Montross believed CW1 was referring to a gun having been pointed at her. CW1 said, "My brother, he's running away right there." Montross pointed at Rosales who was walking away and asked CW1 if he was the person she was referring to. CW1 said, "Yes, that's him."

Montross began walking toward Rosales, identified himself as a police officer, and told Rosales to stop. Rosales began to run east across Quince Street and then turned north. Montross chased after him while continuing to identify himself as a police officer and demanding he stop running.

Rosales ran eastbound onto the flood control channel pathway, which is a bike path used by bicyclists and pedestrians. Montross began closing the distance and could see Rosales holding a black object in his right hand. Rosales was manipulating the object and Montross believed it was the gun CW1 had referred to. Montross again identified himself as a police officer. He told Rosales twice to stop and to drop what was in his hands and that he was going to shoot him.

Believing Rosales was carrying a firearm, Montross drew his handgun and pointed it at Rosales. The light from Montross's handgun illuminated Rosales as he was running.

Rosales stopped and abruptly turned toward Montross. Montross saw a black handgun in Rosales's right hand. Rosales was holding the gun at the level of his chest or neck as he was turning to face Montross. Montross believed Rosales was turning to present the gun and shoot at him. Montross feared for his life. He thought he was about to be shot so he began shooting at Rosales. As Montross was shooting, Rosales began turning away but maintained control of the gun he was holding. Montross lost sight of Rosales's gun as Rosales turned but he could see Rosales had not dropped it. Montross felt Rosales could turn around at any time and begin shooting at him. Montross continued to fire until Rosales dropped his gun. He was concerned that if he didn't shoot, either he or one of the other officers would be shot. After Rosales fell to the ground, Montross ceased firing. Montross observed a firearm next to Rosales on the ground.

Additional officers arrived to assist Montross. They pulled Rosales away from the gun so they could begin administering aid to him.

Montross believed Rosales had pointed a gun at CW1, threatening her. Due to heavy pedestrian, bicycle, and vehicle traffic in the area with open businesses, Rosales posed a public danger and needed to be apprehended.

Given the short time from Montross's arrival to the pursuit and shooting of Rosales, de-escalation was not possible. Montross believed non-lethal options like a baton, pepper spray, or Taser would be ineffective and inappropriate due to Rosales potentially having a firearm.

### ***Investigation***

The scene of this incident was secured, photographed, and investigated by the San Diego Police Department's Homicide Unit. All police reports, crime scene investigators' reports, audio-recorded interviews, and video including body worn camera and surveillance video were reviewed. The events leading up to and the incident itself were captured by other officers' body worn cameras. All these items were found to provide evidence corroborating the officer and witness statements.

This incident occurred on a concrete bike path located between North Quince Street and Centre City Parkway. The bike path runs parallel to the Escondido Creek in an east-west direction. The bike path is bordered on the north by an approximate six-foot chain-link fence and bordered on the south by a concrete building.

Rosales was armed with a black Crossman model SNR. 357, CO2-powered pellet gun capable of firing metal pellet projectiles. The gun was not loaded and had a CO2 cannister inserted in the gun. Six inert realistic-looking bullets with the headstamp "WIN100," which are utilized to propel the metal pellets, were recovered from Rosales's pants pocket while medical intervention was being performed.

Montross was armed with his department-issued Glock model 45, 9mm handgun. A Streamlight flashlight was mounted to the handgun's frame. After the shooting incident, Montross's firearm and two extra magazines were retrieved by a San Diego Police Department Crime Scene Specialist for analysis. The firearm was received loaded with one live round in the chamber and seven rounds remaining in the 17-round capacity magazine. This is consistent with Montross firing ten rounds.

Investigators recovered ten cartridge casings with the headstamp "WIN 9MM LUGER" from Montross's shooting position. The cartridge casings had the same headstamps as those in Montross's gun.

### ***Body Worn Camera Footage***

During this incident, several officers had their body worn cameras on and activated. Montross activated his body worn camera upon arrival at the Transit Center. The footage shows Montross approaching CW1, who is heard telling LE1, "He pointed it at me. He's walking away. He's my brother." Montross then points toward someone in the distance (Rosales) and asks CW1, "That dude right there?" CW1 confirms. Montross then calls to Rosales, "Hey, come here. Police Department." Montross begins chasing Rosales, calls to him to stop, and identifies himself as the police. Rosales runs onto the bike path as LE2 is seen pulling his vehicle up to the entrance of the bike path. LE2 joins in pursuing Rosales. Montross yells at Rosales, "Stop. Stop. Police Department. Drop what's in your hands. Drop what's in your hand." Montross draws his firearm and points it at Rosales while repeating orders to drop what is in his hands. Rosales continues to

run and yells back, "Fuck you." Montross yells, "Drop what's in your fucking hands." Rosales turns to his left to face Montross and as he does this, he raises a handgun in his right hand and points the gun at the right side of his own neck. Rosales continues to pivot to his left with the gun raised and Montross fires his weapon. Rosales continues to turn away from Montross, who continues to fire at Rosales until Rosales falls to the ground. Rosales is seen lying on the ground in the fetal position as Montross walks closer. A gun on the ground near Rosales's head comes into view. Other officers arrive and take Rosales into custody and begin treating his wounds.

LE1's body worn camera footage shows LE1 approaching CW1. He asks CW1 if she called. CW1 says, "Yes, he's right there going away with the gun. He brandished it at me. He pointed it at me. He's walking away. It's my brother." LE1 and Montross begin to pursue Rosales. LE1 trails behind Montross as Rosales runs across the street onto the bike path. Montross is visible ahead of LE1, but Rosales is out of the camera's view. The sound of Montross's gunshots can be heard as LE1 approaches where Montross is standing. LE2 comes into view and approaches Montross. Montross tells LE2 that Rosales, who is now lying on the ground, has a gun. LE1 and other officers take Rosales into custody and begin administering aid to him.

LE2's body worn camera footage shows him arriving in his vehicle at the entrance to the bike path. He gets out of his vehicle and joins the foot pursuit alongside LE1. Montross is ahead of LE2 and can be heard calling out to Rosales, telling him to show what is in his hands. The sound of numerous gunshots being fired are heard. LE2 is too far away from the shooting for it to be in view. As LE2 draws near he begins to instruct other officers to take Rosales into custody.

### ***Surveillance Video Footage***

A camera mounted above the bike path captured much of the incident. The recording shows Rosales running eastbound along the fence line of the bike path. Rosales appears to be holding an object in his right hand. Rosales slows down and turns his body to the left. Rosales is holding a handgun to the right side of his neck and holding a dark colored jacket draped over his left arm. Rosales continues to turn to his body to the left while continuing to hold the handgun to his neck. A muzzle flash from Montross's gun comes into the camera's view as Montross enters the frame firing his gun at Rosales who is facing away from Montross. Rosales drops the gun as he starts to fall to the ground. Rosales is seen lying in the fetal position on his right side after being struck by gunfire. Officers are seen taking Rosales into custody and providing him medical aid.

### ***Toxicology***

On October 15, 2024, a San Diego Police Department Forensic Chemist analyzed a blood sample that had been taken from Rosales at Palomar Hospital on October 2, 2024. The results showed Rosales had a blood alcohol content of 0.189%.

### ***Injuries***

Rosales sustained twelve penetrating gunshot wounds to his body and face. This number is greater than the number of rounds fired by Montross because some of the wounds were entry wounds and exit wounds. Rosales was treated at the hospital and recovered from his injuries.

***Legal Standard of Criminal Liability***

Penal Code section 835a generally sets forth the standard to evaluate a peace officer's use of deadly force and the circumstances upon which an officer may use such force. The law provides more specifically, in part, that "a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary... [t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person." Penal Code section 835a(c)(1)(A).

When confronting a potentially suicidal person, the code states deadly force shall not be used "against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or another person." Penal Code section 835a(c)(2).

The statute defines "deadly force" as "any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm." Penal Code section 835a(e)(1).

An imminent threat of death or serious bodily injury is one where "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). The statute defines totality of the circumstances as "all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." Penal Code section 835a(e)(3).

The statute further states, "In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer." Penal Code section 835a(a)(2). "[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." Penal Code section 835a(a)(4).

Additionally, "a peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or prevent escape or overcome resistance. For purposes of this section 'retreat' does not mean tactical repositioning or other de-escalation tactics." Penal Code section 835a(d).



***Conclusion***

Officer Montross and LE1 attempted to lawfully detain Rosales after a witness identified Rosales as the person who had threatened her with a gun. Rosales ignored the officers' commands to stop and instead fled the scene. This led to a foot pursuit onto a pedestrian and bike path. During this rapidly evolving situation, Montross reasonably believed Rosales was armed with a firearm. Montross repeatedly identified himself as a police officer and repeatedly ordered Rosales to drop what he held in his hands. Rosales continued to flee, then abruptly stopped and turned his body to face Montross. As Rosales pivoted toward Montross, the weapon Rosales held in his right hand came into Montross's view. It was at this moment Montross believed Rosales had turned to confront him and shoot him. Rosales quickly turned away from Montross while still holding the CO2-powered pellet gun. Montross feared Rosales would turn around again and shoot him. Montross immediately addressed the imminent threat of harm he faced by discharging his weapon. Montross believed that deadly force was necessary to defend himself from the imminent threat of death or bodily injury. A reasonable officer in the same situation, based on the totality of the circumstances known to Montross at the time, would come to the same conclusion. Therefore, Officer Montross bears no state criminal liability for his actions. A copy of this letter, along with all materials submitted for our review will be retained in our files.

Sincerely,

  
SUMMER STEPHAN  
District Attorney

cc: Captain Kevin Toth, Escondido Police Department  
Captain Manuel Del Toro, San Diego Police Department