



Susan Pamerleau
Sheriff
Bexar County, Texas

ADMINISTRATIVE INVESTIGATION REPORT

Complainant	Reporting Person	PSI Case Number
Sheriff's Administration	Sgt. J. Baeza	2015-0363
Nature of Complaint	Date of Incident	Incident Location
Officer Involved Shooting	08/28/2015	24414 Walnut Pass
Subject of Investigation	Badge Number	Employee No.
Robert Sanchez	364	10533
Gregory Vasquez	4014	20789
Date of Hire	Division Assigned	Date Inv. Assigned
Sanchez-02/02/90 Vasquez-02/24/2003	Patrol 1 st shift West	08/31/2015
Approving Administrator:	Date:	Date Expires
<i>H. R. Pelland</i>	<i>2/9/16</i>	02/24/2016

THE FOLLOWING INVESTIGATIVE REPORT CONTAINS CONFIDENTIAL AND SENSITIVE INFORMATION. DISSEMINATION OF SAID INFORMATION WITHIN OR OUTSIDE OF THE AGENCY IS PROHIBITED EXCEPT THROUGH ESTABLISHED CHANNELS.

THIS REPORT CONTAINS THE RESULTS OF AN ADMINISTRATIVE INVESTIGATION. THE HEREIN CONTAINED FACT FINDINGS ARE BASED UPON PREPONDERANCE OF THE AVAILABLE EVIDENCE. NO RECOMMENDATIONS OR SUGGESTIONS OR DISCIPLINARY ACTION ARE INCLUDED. SUCH RECOMMENDATIONS ARE BEYOND THE JURISDICTIONAL SCOPE OF THE PROFESSIONAL STANDARDS AND INTEGRITY DIVISION AUTHORITY AS DEFINED BY AGENCY POLICY.

THE ONLY CONCLUSIONS CONTAINED WITHIN THIS REPORT ARE THOSE WHICH CAN BE LOGICALLY DEDUCTED FROM THE EVIDENCE. THE REVIEWING AUTHORITY IS NOT BOUND BY THE FINDINGS CONTAINED WITHIN THIS REPORT AND IS FREE TO DRAW HIS/HER OWN CONCLUSIONS.



FINDING(s)**Sheriff's Office Policy and Procedures - NONE****Sheriff's Civil Service Rules – NONE****DETAILS:**

On August 28, 2015 Sergeant Freveletti and I responded to an officer involved shooting at 24414 Walnut Pass; at the time we were both assigned to the Professional Standards & Integrity Unit. I was made aware of the situation while monitoring my police radio. The details of a family disturbance were announced over the radio, and an Alert 3 tone was broadcast (used on all problem natures that have an Emergency priority except wrong way drivers).

The dispatcher advised there was a Hispanic male wearing a grey muscle shirt and shorts. The dispatcher announced that a female at the location was bleeding from her head. The dispatcher also advised over the air that the male subject wanted to commit "suicide by cop". The dispatcher confirmed the male subject had a knife, and advised the deputies that were en route of the information.

While en route to the location one of the deputies at the location announced that shots had been fired and the male subject ran inside of the residence. He requested a negotiator be dispatched to the scene for assistance. I continued driving and monitoring the radio traffic as deputies continued to update the situation as it unfolded. Prior to my arrival at the location deputies fired their weapons and the male subject had been shot.

Sergeant Freveletti and I arrived at the location, I observed a patrol deputy taping off the crime scene with yellow crime scene tape. A secondary area had been taped off that would allow detectives and the executive staff to gather without interfering with the crime scene; yet still separated from the media and bystanders. I stood inside this area and monitored the scene to see if any policy violations were observed.

I contacted Investigator John Mahon who gave me a brief synopsis of the events that occurred. I was advised deputies were dispatched to the location for a family disturbance, the male subject (Gilbert Flores 05/18/1974) had assaulted his wife, his 18 day old baby, and was armed with a knife. Deputies arrived and made contact with Gilbert outside of the residence, a shot was fired and he ran back inside the residence. At some point Gilbert Flores came back outside and after another confrontation; deputies fired their weapons at Gilbert Flores striking him. I observed a Taser lying in the grassy area across from the listed address and was advised, deputies attempted to tase Gilbert Flores unsuccessfully. The Taser fell to the ground and was picked up by Gilbert Flores and thrown across the street into the grass near a large drainage ditch. Medical aid was summoned for Gilbert Flores and he was transported via ambulance to a landing zone to await the arrival of Airlife. Gilbert Flores's wife Maritza Flores had been injured by Gilbert Flores, and had a laceration to her head, she had been transported via ambulance to University Hospital prior to my arrival.

After receiving a synopsis of the events that occurred Sergeant Freveletti and I left the location. I did not conduct any interviews while at the scene. No immediate policy violations were observed or noted.

Responsibility of Investigation:

The Bexar County Sheriff's Office Policy and Procedure (14.03) (C) states: any situation where a citizen is killed or injured by an officer, whether on duty or off duty; the Professional Standards & Integrity Division have the responsibility and authority to conduct an investigation. I would be the Sergeant assigned to the internal investigation, and Investigator J. Perez (Homicide) would be the lead investigator assigned to the criminal investigation. On September 10, 2015 I signed a property receipt from Investigator Perez, confirming that I had received a copy of his case jacket. The packet contained one CD-R and one Blu-ray disk that included the contents of the case. I reviewed the contents of the cd's to include but not limited to; statements, reports, photographs, 911 calls, and radio communications between deputies and dispatch.

911 call:

On August 28, 2015 at approximately 1128 hours dispatch received an incoming 911 call from (210) 592-8059. As the call taker answers the call you hear a female crying on the other end of the line. The call taker says "Bexar County 911 what is your emergency" the female continues to cry and you can hear a male in the background say "I'm gonna die I'm not going back to prison". The call taker tries to get the female to talk; she continues to cry uncontrollably and says "No she's bleeding all over, all over her hair". In the background you can hear a male who appears to be arguing with someone. The female begs "Please" and continues to cry, the call taker tries to ascertain who is bleeding, and the call disconnects.

The call taker calls back and when the line connects you hear a baby crying, a female crying and a man answers the phone by saying "yesss". The call taker says "hello" and the male says "yes my mom she is crying, she wants paramedics or police officers. The female still crying, says "please, please hurry". The call taker asks "why are we going out there" the male responds "because my wife she is bleeding from the head" call taker asks "how is she bleeding from the head" the male says "she hit herself on the head". The call taker asks "how did she hit herself on the head" the male responds "that I don't know I walked in the room and she was bleeding". The call taker says "can you ask your mother how she got hurt" the male says "are you gonna send paramedics she's bleeding"? Thank you". The call taker says "sir", and tries to obtain more information, the male tells her "she has a laceration on her head and she needs attention I guess" the call taker continues to ask "how" she was injured, and begins to ask more questions. The call taker says "so you have no idea how she cut her head" the male says "nope". The call taker confirms the address, phone number, and the name on the caller ID as "Roy Flores" the male stumbles and then says "yes sir, yes ma'am". The call taker says "we will get someone out there" and the call disconnects.

The female who is heard crying in the other two phone calls, places another call to 911. The call taker answers and says "911 what is the address of the emergency"? The female

says "24414 Walnut pass, please send the police over here." "My son has gone crazy he beat up his wife and she bleeding". She keeps saying "he's gone crazy" and says she thinks he may be on drugs, she's not sure. The call taker gets a brief description of the male and the female continues "I just want him out of here he beat her up and the baby, the baby is only not even two months and he gave her a black eye". The call taker confirms the incident was actively going on. The female says "he's gone crazy", and says "he's got a knife". In the background you can hear a male yelling "send swat cause I'm gonna kill; your gonna have to kill me I promise you that, it's my time to go. Another male tries to calm him down and the female continues to cry, the call taker tries to tell the lady crying to go to a different room and get away from the male with the knife. The male is in the background and says "I got a knife and I'm gonna suicide by cop, so you better bring a swat team or whoever is gonna get ready to pull the trigger because I'm gonna die today".

The call taker tells the lady to get away from him (the male with the knife) and go to a different room. The two males in the background are yelling and arguing. The call taker tells the female it is hard to hear her and asks her to go to a different room. The female tells the call taker again that his wife is bleeding. The call taker asks if the baby is ok, the female says "she has a black eye". The female explains that her son had "gone crazy" and that he tore everything up and that he beat up his wife and kept saying she is bleeding. The female tells the call taker "he's ready to die", she identifies him as "Gilbert". In the background you can hear him yelling and says "Its Gilbert Flores TDC# is 1199.. I'm on parole so I'm not going back to prison I'm gonna die today; so you better get ready somebody to pull the trigger. The call taker attempts to tell the mother she doesn't have to talk to him and Gilbert Flores continues to yell and starts to yell obscenities at the call taker " nah fuck you nigger I'm talking to you nigger what the fuck is wrong with you". "You can't fucking tell me nigger I'm talking to you." You hear the female saying "move, move" and Gilbert Flores continues to yell "cause that's the same way I'm gonna be when they get here." "There ain't no turning back from this homeboy; I did 10 years in the penitentiary maximum security penitentiary". The call taker tells the female once again if she could get into a room away from him that will help, she says he's following me around. Gilbert Flores yells "she has a bathroom in her room that she can lock herself into". The female says "there is blood all over the floor, I don't know what happened but she was bleeding she was trying to clean herself".

The female continues to cries, but it sounds like she goes into the bathroom. She tells the call taker she is in her bathroom. She confirms his date of birth for the call taker as May 7, 1974. The female tells the call taker her name is "Carmen" and that her son pushed her. Carmen continues to cry and says "I'm sorry, Oh god why did this happen". Carmen says "he says he won't go back to prison that he would rather die, he said for ten years" she explains he always been very hot tempered. The call taker gets vehicle information and tries to keep Carmen on the phone while deputies are en route. They continue to talk and Carmen explains there is blood everywhere and says his wife was trying to take a shower to clean up so she could go to her parents. The call taker ends the call and tells Carmen the deputies are on the way.

Radio communication:

As the call taker communicates with the caller he types up the information for the dispatcher, who relays the information to deputies. Dispatch requests the Sergeant on West primary and 1S4 (Sgt. Roger Pedraza) responds. The dispatcher briefs 1S4 about a sick /injured adult and says "it might be a female that's bleeding they are not giving us all the information, and there is a male at the location we need to send two units out there too." The sergeant approves, dispatch asks if she can send some of the other units because they have two deputies riding together (a two man unit).

A short time later an emergency alert tone is broadcast over all channels; this tone is used in emergency situations and allows for a special type of response by deputies (Code three). A Code-Three Emergency Call is a request for service that requires the continuous use of emergency lights and siren and is used for critical situations demanding emergency response which presents an actual and verified threat of immediate danger of death or serious bodily injury to a peace officer or any citizen.

Dispatch announces the Alert tone is for a "disturbance in progress with a knife" she provides the address as 24414 Walnut Pass. At 1133 hours 1D20 (Deputy Gregory Vasquez) advises dispatch to put his current call on hold, and says he is on the way. Several other deputies including 1D23 (Deputy Robert Sanchez at 1134 hours) tells dispatch they are en route to the call. Sergeant Pedraza the on duty supervisor for West patrol advises he is monitoring the situation.

2PC-(Two Papa Charlie/ Captain Tijerina; West patrol captain) advises dispatch to check with East patrol to see if they have any units available to assist, dispatch acknowledges. Dispatch announces to all units en route to Walnut Pass "he is threatening suicide by cop" "all units be advised en route to Walnut Pass, disturbance with a knife he is threatening suicide by cop". The radio traffic continues until Deputy Vasquez arrives at the location, dispatch announces for all units to "Hold your traffic" (cease radio traffic). Dispatch request a status check on Deputy Sanchez and Deputy Vasquez answers (his breathing is labored), he says " 1D20 we had shots fired out here, were gonna need a negotiator he ran back inside he got a knife on him". Dispatch acknowledges him and advises the channel is still closed and code is still running. Deputy Vasquez keys back up and states " there is people inside with him, dispatch acknowledged, "shots fired and we are also gonna get a negotiator". Deputy Vasquez says "yeah quick he is standing at the door he has a knife with him, and I saw two older people inside." 1D41 (Dennis O'steen) answers up and advises he is a negotiator, and to clear it with Sergeant Pedraza.

Deputy Sanchez keys up and says "he's out he's talking to us he has the knife in his hand". 1PS1 (Sergeant Anthony Davis/ Negotiator) advises dispatch if there are any negotiators on duty have them make the location. There is a lot of radio communication until the dispatcher is advised to close the channel for the deputies on scene. 1L2 (Lieutenant Aaron Von Muldau) advises dispatch to check the status of the deputies on scene after brief time of silence has passed. Dispatch asks for a status check, Deputy Sanchez advised "he is still talking with us, he still has the knife in his hand" He is in front of his house, telling us his wife and parents are in the house". Dispatch

acknowledges, and reiterates "The channel is still closed" (closing the channel allows deputies on scene to talk without being interrupted by other radio traffic in emergency situations). Deputy Sanchez says "he's coming towards us", Lieutenant Von Muldau says "I need someone at the scene to secure their radio". Deputy Sanchez says "he's telling us we are going to have to shoot him; he has the knife in his hand". Lt. Von Muldau says "he does not go back in the house" Deputy Sanchez says "ok we think he's gonna go back into the house right now" Lieutenant Von Muldau says "do what you need to do". Again there is a period of silence and dispatch asks for a status check. Deputy Sanchez says "He's going around a car; he's trying to get into a vehicle." "He's trying to get into Delta twenty's vehicle". Sergeant Pedraza says "stop him, stop him, all means stop him". The next time Deputy Sanchez keys up he says "we got one down". Dispatch acknowledges "one down at 1158" Lt. Von Muldau says "secure that subject" and Deputy Sanchez acknowledges "we are doing that right now". Radio traffic is switched to Tac 3. Lt. Von Muldau says "pass on to them they need to clear the house and send in medical ASAP".

Deputy Sanchez says "go ahead and send in medical, they are saying the wife just has a cut I'm gonna check her out right now". Dispatch cleared the code 3 and advised everyone to switch to TAC 3 (an alternate channel that allows free talk between deputies, and relieves the primary channel from heavy radio traffic). Deputy Sanchez says "you got one female she has a laceration to the top of her head".

24414 Walnut Pass:

Deputy Gregory Vasquez and Deputy Robert Sanchez provided statements to Investigator J. Perez immediately after the shooting occurred, and with their representation present. I reviewed each of the statements that were included in the packet I received from Investigator Perez. After reviewing the statements that were provided by deputies regarding their actions at the scene, I did not see any violations to the Bexar County Sheriff's Office policy and procedures. An overall review of the Bexar County Sheriff's Office policy was conducted as well as the Texas Penal Code and Code of Criminal Procedures; with specific attention focused on the following sections.

Bexar County Policy and Procedures:

Ch. 8 Firearms and Training- In accordance with policy, Deputy Vasquez and Deputy Sanchez were each carrying county issued, approved Glock model 22's on their persons. Deputy Vasquez qualified with his county issued Glock on March 6, 2015 serial # XHX814. Deputy Sanchez qualified with his county issued Glock on April 21, 2015 serial # XHX761. Deputy Vasquez has the approval to carry his county issued Colt M4 Serial # LE223574, his last qualification with this rifle was July 13, 2015. Deputy Vasquez attended the mandated 24 hour rifle course policy on 07/15/15 Course # 3322.

Ch. 9 Use of Force – Deputies may use reasonable force to overcome resistance in the lawful performance of duties, even though there is no immediate or apparent danger calling for self -defense. In each instance of the use of force, the officer should exhaust every reasonable means of employing the minimum amount of force to affect an objective before escalating to the next, more forceful method. However, an officer is not

required to engage in prolonged combat or struggle rather than resorting to that method which will most quickly and safely bring the situation under control. Deputies Vasquez and Sanchez were dispatched to 24414 Walnut Pass for a disturbance with a knife. Upon their arrival Deputy Vasquez entered the residence and announced himself "Sheriff Office" and observed Gilbert Flores who displayed a large knife, and stated I'm not going back to prison. Deputy Vasquez feared for his life and retreated outside of the residence to wait for backup. Deputy Sanchez arrived on scene and Gilbert Flores aggressively approached Deputy Sanchez with the knife in his hand and Deputy Sanchez fired one shot at him. The shot did not strike Gilbert Flores, but struck the brick exterior of the residence. Gilbert Flores ran back inside the house for a brief period of time, but then out of nowhere popped up back outside on the front porch. Deputy Vasquez had his county issued Glock drawn and pointed at Gilbert Flores; however he re holstered his weapon when he lost sight of Gilbert Flores and believed he had entered the residence. Deputy Vasquez said all of a sudden Gilbert Flores appeared out of nowhere and was holding the knife in one hand and metal chair in the other.

Deputy Vasquez utilized his ballistic shield to protect himself from Gilbert Flores who according to Deputy Vasquez was about ten feet away and closing the distance between them. Gilbert Flores got within three to four feet of Deputy Vasquez and was swinging the knife at him; Deputy Vasquez feared that Gilbert Flores would stab him with the knife. Deputy Vasquez hit Gilbert Flores with the ballistic shield and then attempted to tase him; however Gilbert Flores used the metal chair to deflect the Taser. As he came closer to Deputy Vasquez still holding the knife Deputy Vasquez used his hand and attempted to punch Gilbert Flores, the Taser was still in Deputy Vasquez hand, and when he struck Gilbert Flores it fell to the ground. Gilbert Flores eventually picked up the Taser and threw it across the street into a grassy area. Deputy Vasquez and Sanchez continued to use verbal commands as they had throughout the entirety of the incident; however Gilbert Flores continued to shout out "I'm not going back to prison" and "I told you, you will have to kill me". Gilbert Flores attempted to enter Deputy Vasquez patrol vehicle, which was still running and the keys were inside the ignition. Deputy Sanchez was able to go around to the driver's side and remove the keys before Gilbert Flores could get inside the vehicle. Gilbert Flores continued to engage Deputy Vasquez and Sanchez with the knife in his hand and was within eight to ten feet of him before he once again announced "your going to have to kill me". Deputy Vasquez in his statement said "knowing the situation kept escalating, I believed it was the males' intent to kill me". Deputy Vasquez fired one shot and simultaneously Deputy Sanchez also fired one shot causing Gilbert Flores to fall to the ground and dropped the knife. Deputy Estrada arrived on scene and secured Gilbert Flores in handcuffs, medical was notified arrived on scene and transported Gilbert Flores to a landing zone to await Airlife, Gilbert Flores expired prior to being transported by Airlife.

Ch. 26 Domestic Disturbances -

Where an assault occurred prior to officers' arrival, officers shall arrest if they have probable cause to believe that the offender committed the assault which resulted in bodily injury to a person, and that there is danger of further bodily injury to the same person.

Officers shall also arrest for an assault occurring prior to their arrival if they have probable cause to believe that the assault resulted in serious bodily injury; and the offender is about to escape so that there is not time to produce a warrant. Deputies Vasquez and Sanchez were made aware of the assault that Gilbert Flores had committed against his wife, prior to their arrival. Deputy Vasquez observed an older male inside the residence when he first arrived, and believed the occupants of the home were in immediate danger if Gilbert Flores reentered the residence.

Ch. 32 Emergency/Critical Incident Operations

Deputy Vasquez and Sanchez arrived on scene provided an accurate description of the incident. Gilbert Flores was armed with a knife, and there were occupants inside the residence with possible injuries sustained from an Assault. Once on scene and able to assess the situation a negotiator was requested. Deputy Vasquez and Sanchez both feared that Gilbert Flores would reenter the residence and cause further bodily injury or death to the occupants inside. After using deadly force to stop the actions of Gilbert Flores, the scene was secured, medical was requested, and a welfare check of the occupants inside the residence was conducted. Medical staff was also requested for Gilbert Flores' wife.

Code of Criminal Procedures:

Ch. 5 Family Violence Prevention

5.04 Duties of Peace Officer (a) Primary duties of a peace officer who investigates or responds to a disturbance call that may involve family violence are to protect any potential victim of family violence, enforce the laws of the state, enforce a protective order from another jurisdiction and make lawful arrest of violators. Deputies feared Gilbert Flores would commit further acts of family violence if he was permitted to reenter the residence.

Penal Code

Ch. 9 Use of Force

Deadly Force is justified in self-defense, defense of a third person, and to affect a lawful arrest in which the peace officer reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to another if the arrest is delayed. Gilbert Flores displayed a knife, used the knife to swing at Deputy Vasquez and had previously assaulted his wife and 18 day old baby. Deputies Vasquez and Sanchez feared for their lives as well as the lives of the occupants inside the residence. From the time contact was made with Gilbert Flores he repeated over and over, I am not going back to prison, you are going to have to kill me.

Conclusion:

After a complete review of all the details of the Investigation to include the criminal investigation I did not observe any violations of Bexar County Policy and Procedures.