

Sheriff Deputy Gregory Vasquez

1 (1 - 4)

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1 UNITED STATES DISTRICT COURT FOR
2 THE WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION
4 MARITZA AMADOR,)
5 INDIVIDUALLY AND AS)
6 REPRESENTATIVE OF THE)
7 ESTATE OF GILBERT FLORES)
8 AND AS NEXT FRIEND OF)
9 MINOR R.M.F. VANESSA)
10 FLORES, MARISELA FLORES,)
11 CARMEN FLORES AND)
12 ROGELIO FLORES)
13 Plaintiffs,)
14 VS.) CA NO.: 5:15-CV-00810RP
15)
16 BEXAR COUNTY, BEXAR)
17 COUNTY SHERIFF'S OFFICE,)
18 GREGORY VASQUEZ,)
19 INDIVIDUALLY AND IN HIS)
20 OFFICIAL CAPACITY AND)
21 ROBERT SANCHEZ,)
22 INDIVIDUALLY AND IN HIS)
23 OFFICIAL CAPACITY,)
24 Defendants.)
25

ORAL AND VIDEOTAPED DEPOSITION OF
DEPUTY GREGORY VASQUEZ
JANUARY 10, 2017

ORAL AND VIDEOTAPED DEPOSITION of DEPUTY
GREGORY VASQUEZ, produced as a witness at the instance
of the Plaintiffs, and duly sworn, was taken in the
above-styled and numbered cause on January 10, 2017,
from 9:11 a.m. until 3:14 p.m., before Denise Ganz
Byers, CSR, RPR, CRR, RMR, in and for the State of
Texas, reported by machine shorthand, at the offices of
Law Offices of Charles Frigerio, 111 Soledad, Suite 840,
San Antonio, Texas, pursuant to the Federal Rules of
Civil Procedure.

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ALSO PRESENT:
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VIDEOGRAPHER:
Marcelino Gutierrez

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3 JANUARY 10, 2017
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1 (The reading of Federal Rule 30(b)(5)(A)
2 into the record was waived.)
3 THE VIDEOGRAPHER: We are on the record on
4 January the 10th, 2017 at 9:11 a.m.
5 DEPUTY GREGORY VASQUEZ
6 was called as a witness by the Plaintiffs and, having
7 been first duly sworn, was examined and testified as
8 follows:
9 EXAMINATION
10 BY MR. HENRY:
11 Q. Please state your name.
12 A. Gregory Vasquez.
13 Q. And where do you live, sir?
14 A. In San Antonio, Texas.
15 Q. All right. How long have you lived in San
16 Antonio?
17 A. About 35 years, probably.
18 Q. Where were you born?
19 A. Michigan.
20 Q. All right. And are you married?
21 A. Yes, sir.
22 Q. Kids?
23 A. Yes, sir.
24 Q. I'm going to go over a little bit of your
25 educational history. If you would let me know where you

EXHIBIT

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DepoTexas, Inc.

<p style="text-align: right;">Page 5</p> <p>1 went to high school, college and basically your</p> <p>2 background on education.</p> <p>3 A. Yes, sir.</p> <p>4 Q. Go ahead.</p> <p>5 A. Oh. I went to John Marshall High School, San</p> <p>6 Antonio. I went to SAC for a little bit and then I went</p> <p>7 in the Marine Corps.</p> <p>8 Q. All right. The San Antonio College, how long</p> <p>9 did you attend college?</p> <p>10 A. Not even a year, sir.</p> <p>11 Q. Okay. And then you went to the Marines?</p> <p>12 A. That was before.</p> <p>13 Q. Before?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. And how old were you when you went into</p> <p>16 the Marines?</p> <p>17 A. 18.</p> <p>18 Q. And how long did you spend in the Marines?</p> <p>19 A. 2-1/2 years, 3 years.</p> <p>20 Q. Okay. And were you honorably discharged?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All right. And so after the Marines, what did</p> <p>23 you do?</p> <p>24 A. Started working at Clarke American.</p> <p>25 Q. Okay. So between the high school and SAC,</p>	<p style="text-align: right;">Page 7</p> <p>1 was your job after that?</p> <p>2 A. I worked at Clarke American, printing checks.</p> <p>3 Q. Printing checks?</p> <p>4 A. Yes, sir.</p> <p>5 Q. All right. And is that here in San Antonio?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How long did you hold that job?</p> <p>8 A. 13-1/2 years.</p> <p>9 Q. All right. And how old are you?</p> <p>10 A. 49, sir.</p> <p>11 Q. And your date of birth?</p> <p>12 A. 9-24-67.</p> <p>13 Q. And at Clarke American, what was your job title</p> <p>14 when you left that company?</p> <p>15 A. I was a pressman.</p> <p>16 Q. And why did you leave that company?</p> <p>17 A. I was let go.</p> <p>18 Q. Who let you go?</p> <p>19 A. I believe his name is Phil Magnus.</p> <p>20 Q. How would you spell that last name?</p> <p>21 A. M-A-G-N-U-S.</p> <p>22 Q. Does Clarke American still exist, that company?</p> <p>23 A. It was just bought out recently, sir, by</p> <p>24 Harland. They closed the base plant down and moved.</p> <p>25 Q. And that's -- is that the company that prints</p>
<p style="text-align: right;">Page 6</p> <p>1 that's the extent of your formal education; is that</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. All right. So let me -- let's talk about work</p> <p>5 history. Okay? What's the first job you had?</p> <p>6 A. Besides throwing a newspaper, probably.</p> <p>7 Q. Okay. Throwing a newspaper. When was that,</p> <p>8 high school?</p> <p>9 A. During high school.</p> <p>10 Q. Okay. And then after school, what was your</p> <p>11 first job?</p> <p>12 A. Flowers to Go.</p> <p>13 Q. All right. What did you do for them?</p> <p>14 A. I made flower arrangement sales.</p> <p>15 Q. Okay. How long did you have that job?</p> <p>16 A. Probably a couple years, I would say.</p> <p>17 Q. And that was here in San Antonio?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And who was your employer, the person's name?</p> <p>20 A. The manager was Kathleen McCarthy, I believe.</p> <p>21 Q. Okay. And then after that job, what was your</p> <p>22 next job?</p> <p>23 A. I believe I went in the Marine Corps after</p> <p>24 that.</p> <p>25 Q. And after your discharge from the Marines, what</p>	<p style="text-align: right;">Page 8</p> <p>1 checks?</p> <p>2 A. Yes, sir, the basic check.</p> <p>3 Q. And what was your next job after Clarke</p> <p>4 American?</p> <p>5 A. I did construction for a year and then I got on</p> <p>6 with the Sheriff's Department.</p> <p>7 Q. What was the reason Phil Magnus let you go?</p> <p>8 A. I would say it was because the press wasn't</p> <p>9 running when it was supposed to be. I guess job</p> <p>10 performance --</p> <p>11 Q. Okay.</p> <p>12 A. -- basically.</p> <p>13 Q. You weren't printing the checks fast enough?</p> <p>14 A. No, sir. The press was down.</p> <p>15 Q. Right. Is that reason he gave you?</p> <p>16 A. I believe so, yes, sir. It's been a while.</p> <p>17 Q. And then you did construction for a year. What</p> <p>18 company was that at?</p> <p>19 A. Wolverine Electric.</p> <p>20 Q. Who was your supervisor there at Wolverine?</p> <p>21 A. Jim Vasquez.</p> <p>22 Q. Any relation to you?</p> <p>23 A. Brother.</p> <p>24 Q. Is Wolverine Electric still in existence?</p> <p>25 A. Yes, sir.</p>

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1 Q. Here in San Antonio?

2 **A. Yes, sir.**

3 Q. All right. So did you resign Wolverine
4 Electric to work with the Sheriff's Department?

5 **A. Yes, sir.**

6 Q. All right. And what prompted you to join the
7 Sheriff's Department?

8 **A. I didn't really care for the construction end.**

9 Q. Okay. And -- and let me kind of clarify that a
10 little bit. I mean, how did you know about or decide,
11 "I want to go into law enforcement," that job in
12 particular, even though you didn't like construction?
13 Why did you pick that?

14 **A. Honestly, I was looking through a work flier at
15 Walmart and I just saw it and I applied.**

16 Q. There was a -- was there like an advertisement
17 for a job?

18 **A. Yeah. The little -- little catalog, like
19 newspaper thing they have there.**

20 Q. About how old were you when you started working
21 for the Sheriff's Department?

22 **A. 34, 35.**

23 Q. Have you ever been arrested?

24 **A. No, sir.**

25 Q. Ever been convicted of any offense?

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1 **A. No, sir.**

2 Q. So when you applied with the Sheriff's
3 Department, do you know what position you were applying
4 for?

5 **A. To work in the jail.**

6 Q. In that application process, were you
7 interviewed?

8 **A. Yes, sir.**

9 Q. So you've been with the Sheriff's Department
10 now for, what, 14 years; is that right?

11 **A. Almost 14, sir.**

12 Q. Okay. So let's kind of go through your history
13 at the Sheriff's Department, the jobs that you've held.
14 Okay?

15 **A. Yes, sir.**

16 Q. So what was your first job with the Sheriff's
17 Department?

18 **A. The detention, working in the jail.**

19 Q. Okay. And when you say "detention, working in
20 the jail," what does that involve doing?

21 **A. Well, you could either work in the unit or they
22 have you work in the kitchen, depending on where they
23 need you.**

24 Q. Okay. And -- and for the ladies and gentlemen
25 of the jury, when you say "working in the unit, working

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1 in the kitchen," what do you actually do?

2 **A. Working in the jail -- in the unit, you're a
3 unit officer. You know, you're making sure everything
4 is running smoothly. There's no problems in there.**

5 Q. Okay.

6 **A. People are getting the things that they need.**

7 Q. And so when you say "people are getting the
8 things they need," do you mean inmates --

9 **A. Yes, sir.**

10 Q. -- do you mean other --

11 Okay. So are you ensuring that there is
12 security within that unit for those prisoners and
13 securing a jail? Is that part of your job?

14 **A. Yes, sir. As a unit officer you're working,
15 inside making sure everything is being run the way that
16 it's supposed to be.**

17 Q. Okay. And that detention work as a unit
18 officer working -- did you work in the kitchen also?

19 **A. Now and then, sir. The longer you're there,
20 you'll get better jobs basically.**

21 Q. I see. And then so the kitchen, what does that
22 mean, to work in the kitchen?

23 **A. You're the officer who's there in the kitchen,
24 you know, making sure the inmates aren't stealing stuff,
25 making sure they're doing their job. You know --**

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1 Q. Do they cook food --

2 **A. -- accountability.**

3 Q. Do they cook food and prepare food, the
4 inmates?

5 **A. Yes, sir.**

6 Q. Okay. So they're in a kitchen setting working,
7 and you're basically overseeing them to make
8 sure it's --

9 **A. Yes, sir.**

10 Q. -- that --

11 **A. Everybody has their job duty.**

12 Q. How long did you perform that job in the unit
13 and/or kitchen at the jail?

14 **A. Almost five years.**

15 Q. Who was your supervisor when you worked into
16 that five years?

17 **A. As far as sergeants, it would be probably
18 Sergeant Tucker, but he's passed on. And I couldn't
19 really tell you the rest. It's been a while.**

20 Q. Okay. In the five years that -- your first
21 five years with the Sheriff's Department, did you ever
22 have any disciplinary issues where you had to be
23 disciplined?

24 **A. No, sir.**

25 Q. Okay. After working in the unit or kitchen,

<p style="text-align: right;">Page 13</p> <p>1 what's the next position you held with the Sheriff's</p> <p>2 Department?</p> <p>3 A. I went to patrol.</p> <p>4 Q. So take us through the process that you went</p> <p>5 through in transitioning from unit kitchen to patrol.</p> <p>6 What did you have to do?</p> <p>7 A. You attend a patrol class.</p> <p>8 Q. Okay.</p> <p>9 A. And I believe it's 12 weeks. And then after</p> <p>10 that, you go through an FTO program on the streets with</p> <p>11 different officers for two to three weeks at a time.</p> <p>12 Q. And what was the name of that program, you</p> <p>13 said? A what?</p> <p>14 A. FTO, field training.</p> <p>15 Q. All right. And then once you go through that</p> <p>16 training, that process, then you're put into the field</p> <p>17 by yourself or with another officer?</p> <p>18 A. No, sir. We're by ourselves.</p> <p>19 Q. Okay. The training you got when you first</p> <p>20 became a patrol officer, what kind of training was it,</p> <p>21 besides the field? I know you said you had field</p> <p>22 training.</p> <p>23 A. You go through different classes, use of force.</p> <p>24 Every day there's a different set of classes you go</p> <p>25 through. And then you have physical training or</p>	<p style="text-align: right;">Page 15</p> <p>1 case?</p> <p>2 A. Just my report, sir.</p> <p>3 Q. Okay. Nothing else?</p> <p>4 A. And the -- in --</p> <p>5 MR. FRIGERIO: Interrogatories.</p> <p>6 A. In -- see, I'm really not sure.</p> <p>7 MR. FRIGERIO: Interrogatories.</p> <p>8 Q. (By Mr. Henry) Interrogatory --</p> <p>9 A. The answers.</p> <p>10 Q. Okay. Did you verify your interrogatory</p> <p>11 answers?</p> <p>12 A. Yes, sir.</p> <p>13 MR. HENRY: Do you have them?</p> <p>14 MR. WILSON: (Indicating.)</p> <p>15 (Exhibit Number 1 was marked.)</p> <p>16 Q. (By Mr. Henry) Let me show you what's marked</p> <p>17 as Vasquez Exhibit Number 1, and the interrogatories</p> <p>18 that you answered, was that your verification page to</p> <p>19 those interrogatories?</p> <p>20 A. (Reviewing document.)</p> <p>21 Yes, sir, I believe so.</p> <p>22 (Exhibit Number 2 was marked.)</p> <p>23 Q. (By Mr. Henry) Okay. Let me show you what's</p> <p>24 been marked as Vasquez Exhibit Number 2, and let me let</p> <p>25 you review it for just a second.</p>
<p style="text-align: right;">Page 14</p> <p>1 calisthenics.</p> <p>2 Q. Okay. So I guess about a decade ago -- if</p> <p>3 you've been with the Sheriff's Department for 14 years,</p> <p>4 about a decade ago, is that first time you went through</p> <p>5 use of force training, or did you go through it --</p> <p>6 A. Well, you go through the training, you know,</p> <p>7 when you're going through the jail, you know --</p> <p>8 Q. Okay.</p> <p>9 A. -- use of force and stuff, you know.</p> <p>10 Q. Okay. And when you were hired on to work in</p> <p>11 the jail, did you have use of force training before you</p> <p>12 started working in the jail?</p> <p>13 A. Offhand, sir, I couldn't tell you. But I'm</p> <p>14 sure we did. You know, you go through all the classes</p> <p>15 leading up to, you know, being able to -- being able to</p> <p>16 handle different situations.</p> <p>17 Q. Uh-huh. Do you have any independent memory of</p> <p>18 having a use of force class, courses, while you were</p> <p>19 working in the jail?</p> <p>20 A. I'm sure we did, sir, but offhand I couldn't</p> <p>21 tell you. But I'm sure we did.</p> <p>22 Q. So the total time that you've been with the</p> <p>23 Bexar County Sheriff's Office has been how long?</p> <p>24 A. Next month will be 14 years.</p> <p>25 Q. Okay. Have you reviewed any documents in this</p>	<p style="text-align: right;">Page 16</p> <p>1 A. (Reviewing document.)</p> <p>2 Q. Okay. Exhibit Number 2 that we've looked at,</p> <p>3 Vasquez Number 2, does that accurately reflect your</p> <p>4 course work, education and training at the Sheriff's</p> <p>5 Department?</p> <p>6 A. I believe so, sir. I couldn't tell you for</p> <p>7 sure.</p> <p>8 Q. Okay. Is there anything inaccurate that you</p> <p>9 saw on Exhibit Number 2?</p> <p>10 A. Not just browsing it, sir.</p> <p>11 Q. Okay.</p> <p>12 A. I didn't -- I didn't have time to study it,</p> <p>13 but --</p> <p>14 Q. I can give you a couple minutes to look at it</p> <p>15 and tell me if there's anything that you think is</p> <p>16 incorrect on Exhibit Number 2. Incorrect in the sense</p> <p>17 that you did not receive that training.</p> <p>18 A. (Reviewing document.)</p> <p>19 Q. All right. Have you had a chance to review</p> <p>20 that, sir?</p> <p>21 A. Yes, sir, I browsed it over.</p> <p>22 Q. All right. Did everything appear to be</p> <p>23 accurate in terms of the training you received at the</p> <p>24 Sheriff's Department?</p> <p>25 A. Like I said, I don't necessarily know exactly,</p>

<p style="text-align: right;">Page 17</p> <p>1 you know, class for class on what we take. During</p> <p>2 inservice, you're given a different amount of classes</p> <p>3 and stuff like that.</p> <p>4 Q. Okay.</p> <p>5 A. So, you know, like I said, just looking it over</p> <p>6 right now, browsing it, yes, sir.</p> <p>7 Q. Do you see any problems with that document in</p> <p>8 terms of either referencing a class that maybe you</p> <p>9 didn't take or, as you sit here and look at that</p> <p>10 document, does that appear, based on your review -- and</p> <p>11 I know you just reviewed it -- appear to be accurate?</p> <p>12 A. As far as I can tell, sir.</p> <p>13 Q. Okay.</p> <p>14 (Exhibit Number 3 was marked.)</p> <p>15 Q. (By Mr. Henry) You said you had training on</p> <p>16 the use of force at the Sheriff's Department; is that</p> <p>17 correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. I'll show you what's marked as Exhibit Vasquez</p> <p>20 Number 3, Chapter 9 on "Use of Force." It's Pages 100</p> <p>21 through 109.</p> <p>22 A. (Reviewing document.)</p> <p>23 Q. Okay. Exhibit Number 3, Mr. Vasquez, is that</p> <p>24 the "Use of Force" policy for the Sheriff's Department?</p> <p>25 A. I believe so, yes, sir.</p>	<p style="text-align: right;">Page 19</p> <p>1 Exhibit Number 4, if you'd take a look at that.</p> <p>2 (Exhibit Number 4 was marked.)</p> <p>3 A. (Reviewing document.)</p> <p>4 Q. (By Mr. Henry) Did you get a chance to review</p> <p>5 that, Mr. Vasquez?</p> <p>6 A. Yes, sir.</p> <p>7 Q. All right. Is Exhibit Number 4 the testing</p> <p>8 that you took regarding the "Use of Force" policy for</p> <p>9 the Bexar County Sheriff's Office?</p> <p>10 A. Testing as in what, sir?</p> <p>11 Q. As in that's a test.</p> <p>12 A. Oh, okay. Offhand, I'm -- I couldn't really</p> <p>13 tell you if that's a test or not.</p> <p>14 Q. All right. Could you hand me Exhibit Number 4?</p> <p>15 A. (Indicating.)</p> <p>16 Q. The form that I just handed you, Exhibit</p> <p>17 Number 4, do you know when you filled this form out?</p> <p>18 A. No, sir. It appears to be at one of our</p> <p>19 inservices we went over. As far as it being a test, I</p> <p>20 really don't know.</p> <p>21 Q. Okay. Let me ask you, Exhibit Number 4, is it</p> <p>22 your testimony that this was an inservice that you</p> <p>23 attended, you received Exhibit Number 4, and you needed</p> <p>24 to initial and know each of the policies for the Use of</p> <p>25 Force, and that's what Exhibit Number 4 represents?</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. All right. And is that the "Use of Force"</p> <p>2 policy that you've been trained on in the last five</p> <p>3 years?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. And, to your recollection, is that the</p> <p>6 "Use of Force" policy that you've been trained on since</p> <p>7 you've been with the Sheriff's Department?</p> <p>8 A. I would say yes, sir.</p> <p>9 Q. All right. Has all of your training been</p> <p>10 through the Bexar County Academy, or did you receive</p> <p>11 training from any other source?</p> <p>12 A. Other source, sir.</p> <p>13 Q. What other sources?</p> <p>14 A. San Antonio College where you get your Peace</p> <p>15 Officer's license.</p> <p>16 Q. Okay. Anywhere else?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you have use of force training when you got</p> <p>19 your Peace Officer's license?</p> <p>20 A. Once again, sir, it's been a while. I</p> <p>21 couldn't --</p> <p>22 Q. Okay.</p> <p>23 A. -- accurately answer that. I'm sure, but like</p> <p>24 I said.</p> <p>25 Q. Let me show you what's marked as Vasquez</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Like I said, sir, I don't know when we got it.</p> <p>2 I don't know if it was at inservice. I don't know if it</p> <p>3 was a test like you stated earlier. I don't know.</p> <p>4 Q. Okay. Let's look at Exhibit Number 4, "Use of</p> <p>5 Deadly Force."</p> <p>6 First of all, Exhibit Number 4 that we're</p> <p>7 looking at, are those your initials?</p> <p>8 A. Yes, sir.</p> <p>9 Q. All right. And when you look up at the</p> <p>10 numbers, it says "Badge Number." That's your badge</p> <p>11 number; correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And then do you see where the date is blank?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did you get this particular in --</p> <p>16 Is it fair to call this an inservice?</p> <p>17 A. That's what I'm saying, sir. I don't -- I</p> <p>18 believe it was an inservice.</p> <p>19 Q. Okay.</p> <p>20 A. They give it to you and they go over it.</p> <p>21 Q. Okay. And so you're going over the use "Of</p> <p>22 Deadly Force" and you're initialing that you've been</p> <p>23 educated and are aware of the policies with regard to</p> <p>24 use of deadly force; correct?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. All right. Did you do this inservice before or</p> <p>2 after the death of Mr. Flores?</p> <p>3 A. It had to be before, sir. I haven't gone to</p> <p>4 inservice yet.</p> <p>5 Q. It had to be before?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Did you have any inservices on the use</p> <p>8 of force after the death of Mr. Flores?</p> <p>9 A. Sir, I just said I haven't been to inservice</p> <p>10 yet.</p> <p>11 Q. Okay. So the answer is, no, you have not been</p> <p>12 to any inservices training with regard to the use of</p> <p>13 force after the death of Mr. Flores; correct?</p> <p>14 A. Correct.</p> <p>15 Q. And this particular "Use of Deadly Force"</p> <p>16 inservice that you initialed off each of these</p> <p>17 Sections 1 through -- ending on Page 4, 9.16,</p> <p>18 "Violations of Policy," each of these areas that you</p> <p>19 initialed off, we don't know when you received this</p> <p>20 training; correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. We don't know -- Let me ask you this: When</p> <p>23 you would go and get an inservice, would you have to</p> <p>24 sign in for your inservice?</p> <p>25 A. Oh, yes, sir. You sign in.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. All right.</p> <p>2 A. I mean, like I said, though, you go over</p> <p>3 different classes --</p> <p>4 Q. Right.</p> <p>5 A. -- you know, through the whole three to four</p> <p>6 days.</p> <p>7 Q. For the ladies and gentlemen of the jury, when</p> <p>8 you talk about doing inservices and we look at Exhibit</p> <p>9 Number 4, "Use of Force," there are many other topics</p> <p>10 that you do inservices on as an officer; correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And what are just some of the other examples of</p> <p>13 inservices that you have done?</p> <p>14 A. Well, when you go through inservice, you go to</p> <p>15 the range. We also do the Taser training. And then you</p> <p>16 have your mandatory updates, stuff like that.</p> <p>17 Q. Okay. And let me ask you a little bit about</p> <p>18 the Taser training. How many times have you had Taser</p> <p>19 training?</p> <p>20 A. Off the top of my head, sir, I couldn't give</p> <p>21 you an exact number. Probably more than two or three.</p> <p>22 You know, like I said, you go every year. So, you know,</p> <p>23 I'm not sure when they came out with it.</p> <p>24 Q. Okay. The -- besides the inservice for use of</p> <p>25 force -- and I just want to focus on use of force right</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. All right. And when you signed in for</p> <p>2 inservices, have you done that multiple times in your</p> <p>3 career at the Sheriff's Department?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And where do you do your inservices at? What</p> <p>6 location?</p> <p>7 A. Before, we used to do them at Farm Road.</p> <p>8 Q. Okay.</p> <p>9 A. Before that, we did it at Guerra.</p> <p>10 Q. And would you normally have the same person</p> <p>11 doing the inservices, or would they be different</p> <p>12 officers doing inservices?</p> <p>13 A. Well, each field is broken up, so you might</p> <p>14 have a -- you'd have a different officer going over</p> <p>15 different courses.</p> <p>16 Q. Okay. The inservice that we saw in Exhibit</p> <p>17 Number 4, have you had that inservice more than one time</p> <p>18 at the Bexar County Sheriff's Department?</p> <p>19 A. Inservice, you go once a year.</p> <p>20 Q. All right. But have you had the inservice on</p> <p>21 the use of force more than one time?</p> <p>22 A. I'm sure we have, sir.</p> <p>23 Q. Okay. And when you say you're sure you are --</p> <p>24 you have, that's based on your memory; correct?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 24</p> <p>1 now -- do you have any type of simulations that you use</p> <p>2 with regard to use of force?</p> <p>3 A. We do do the training as far as with the Taser,</p> <p>4 shoot or don't shoot, you know, with the instructors.</p> <p>5 Q. Let me make sure I understand what you mean by</p> <p>6 that.</p> <p>7 You referenced the Taser. And with regard</p> <p>8 to Tasers -- you will do the shoot or don't shoot with</p> <p>9 regard to the Taser; is that correct?</p> <p>10 A. Well, you also have your -- you know, the mock</p> <p>11 pistols that we use.</p> <p>12 Q. Okay.</p> <p>13 A. That's, you know, you either holster, draw, do</p> <p>14 whatever you need to do.</p> <p>15 Q. Okay. So that mock -- mock use of Tasers</p> <p>16 occurs and also mock use of a firearm occurs; is that</p> <p>17 right?</p> <p>18 A. I don't -- not the Tasers. The firearms, yes.</p> <p>19 Q. Only the firearms?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And when you do the mock training with</p> <p>22 the firearm, do you check in for that training? Do you</p> <p>23 check in?</p> <p>24 A. It's just one of the classes that they have.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 25</p> <p>1 A. You're already there. You check in in the 2 morning, I believe, and in the afternoon. 3 Q. Okay. When was the last time you did a mock 4 firearm training course? 5 A. I want to say last year, sir. 6 Q. Last year? 7 A. In my last inservice. 8 Q. Was that before this incident -- 9 A. Yes, sir. 10 Q. -- with Mr. Flores? 11 And so you would have gone to that class 12 and checked in; correct? 13 A. Yes, sir. You sign the paperwork showing that 14 you've been trained. 15 Q. Do you see anywhere on Vasquez Exhibit Number 2 16 that shows us that training? 17 A. (Reviewing document.) 18 I want to say, sir, with the 19 less-than-lethal electronic control. I believe that's 20 what they call it. 21 Q. And what's the number and date of that entry on 22 Exhibit Number 2? 23 A. It looks like it's 3347, and then the date is 24 between 9-1-13 and 8-31 of '15. That's just what it has 25 on the top here.</p>	<p style="text-align: right;">Page 27</p> <p>1 out that role? 2 A. Yes, sir. 3 Q. All right. Do you have any videos that you use 4 where you get training and you're actually using, you 5 know, your Taser or your -- your weapon? 6 A. No, sir. It's all hands-on. 7 Q. Okay. And over the last few years, do you know 8 who has put on that training? 9 A. No, sir. Like I said, there's different 10 instructors that do different things. 11 Q. So basically it's all live instruction? 12 A. Yes, sir. 13 Q. All right. And you may have other officers 14 standing in front of you and making certain movements or 15 having certain weapons, and then you're going to 16 react -- 17 A. Right. 18 Q. -- and -- 19 A. Or you have another officer who's your backup. 20 You know, you go over things. 21 Q. And then what you're supposed to do is learn 22 what levels of force you should use under various 23 circumstances; correct? 24 A. Yes, sir. 25 Q. Or you're supposed to learn what force you</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. 2 A. And the same thing, 9-1 -- it's down -- it's 3 down here a couple different times. 4 Q. 9-1 what? 5 A. That's the date. 9-1-11 to 8-31 of '13, it's 6 also 3344. 7 And then 9-1 of '13, the same thing, 3344. 8 So it's -- it's down here a couple different times. 9 Q. Is that an inservice that you would typically 10 have every year on shoot/don't shoot with a weapon? 11 A. Well, it's one of the things that they go over, 12 yes, sir. 13 Q. Is that a yearly event? 14 A. Yes, sir. You only go to inservice once a 15 year. 16 Q. Okay. So how is the shoot/no shoot training 17 conducted? Is it done live with another officer? Is it 18 done by video? Can you explain to us how that happens? 19 A. It's with other officers, instructors from the 20 firearms courses and the instructors for the Academy, 21 and then they just have had different scenarios. 22 You know, you have your Taser out, then 23 you see that he's got a firearm or a knife, and then you 24 pull your gun out, you know, et cetera. 25 Q. Okay. And is that with other officers acting</p>	<p style="text-align: right;">Page 28</p> <p>1 should not use under various circumstances; correct? 2 A. Yes, sir. 3 Q. Right. When you are -- when you've gone 4 through these use of force classes, one of the 5 components -- for the ladies and gentlemen of the jury, 6 one of the components is when not to use force; correct? 7 A. Yes, sir. They go over it, but each situation 8 is different. 9 Q. Right. But in a general way, you are learning 10 when and what force to use under certain circumstances; 11 correct? 12 A. Well, like I said, each circumstance is 13 different -- 14 Q. Okay. 15 A. -- where I would perceive something different 16 than what another gentleman would see. 17 Q. Okay. And whether you perceive it differently 18 or not, there is a procedure in place that you're 19 supposed to follow on the type of force you either 20 should or should not use based on the circumstances; 21 correct? 22 A. Yes, sir. 23 Q. So we've talked about how you became a patrol 24 officer, you had your training for 12 weeks, you had the 25 field training that you also did, and then you've had</p>

<p style="text-align: right;">Page 29</p> <p>1 the training that we've seen on Exhibit Number 2.</p> <p>2 Is there any other training you've</p> <p>3 received by the Bexar County Sheriff's Office, other</p> <p>4 than what I've just outlined?</p> <p>5 A. I believe that's it, sir.</p> <p>6 Q. Okay. At the time of this incident in August</p> <p>7 of 2015, who was your direct supervisor?</p> <p>8 A. My direct supervisor would be Sergeant Pedraza.</p> <p>9 Q. And how long had he been your direct supervisor</p> <p>10 at the time of this incident?</p> <p>11 A. Years-wise, sir, I don't know when --</p> <p>12 number-wise, I couldn't tell you. He's been for a</p> <p>13 while, though.</p> <p>14 Q. Okay. Well, you say "for a while," do you mean</p> <p>15 in terms of years or months?</p> <p>16 A. I would say years, it's been a couple years.</p> <p>17 Q. Okay.</p> <p>18 A. But, like I said, exact number-wise, you know,</p> <p>19 months, I couldn't tell you.</p> <p>20 Q. For -- at the time of this incident for you,</p> <p>21 did you have a particular shift you worked at -- you</p> <p>22 worked?</p> <p>23 A. Yes, sir. I work 6 to 2.</p> <p>24 Q. 6 a.m. to 2 p.m.?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 31</p> <p>1 A. I don't -- I only work Tuesdays, and now I work</p> <p>2 Saturdays, but mostly Tuesdays out there, so depending</p> <p>3 on what that day was --</p> <p>4 Q. Okay. Do you have any other part-time jobs</p> <p>5 besides working at Hooters on Tuesdays or Saturdays?</p> <p>6 A. No, not really, sir.</p> <p>7 Q. I'm sorry. What?</p> <p>8 A. Not really. I mean, there's no -- like if I</p> <p>9 pick up a part-time here or there, but basically that's</p> <p>10 it. That's my steadies.</p> <p>11 Q. All right. So let me ask you a little bit</p> <p>12 about that.</p> <p>13 Picking up a part-time, in law enforcement</p> <p>14 is it not unusual for law enforcement officers to pick</p> <p>15 up various types of jobs doing security where they're</p> <p>16 not necessarily a part-time employee of that company but</p> <p>17 they may do it on a hit-and-miss basis, one --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- one day, one night?</p> <p>20 A. Right.</p> <p>21 Q. And have you done that throughout your career</p> <p>22 as a peace officer?</p> <p>23 A. No. So just -- just recently it's been</p> <p>24 steadier.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. And during the month preceding this incident,</p> <p>2 did you hold any other job besides the Bexar County</p> <p>3 Sheriff's job?</p> <p>4 A. As in?</p> <p>5 Q. Any other type of employment.</p> <p>6 A. Oh, yes. I work my part-times.</p> <p>7 Q. What do you do? What were you doing part-time</p> <p>8 before this incident?</p> <p>9 A. I want to say I was working at Hooters. I</p> <p>10 still do.</p> <p>11 Q. I'm sorry. What?</p> <p>12 A. Hooters.</p> <p>13 Q. What do you do there?</p> <p>14 A. Security.</p> <p>15 Q. Okay. On the day of this incident, were you</p> <p>16 supposed to be working part-time at Hooters?</p> <p>17 A. What do you mean?</p> <p>18 Q. Well, you told us your shift was 6 a.m. to</p> <p>19 2 p.m.</p> <p>20 A. Yes, sir.</p> <p>21 Q. On the day of this incident, were you going to</p> <p>22 be going to work part-time at Hooters after this</p> <p>23 incident?</p> <p>24 A. I don't believe so, sir.</p> <p>25 Q. Okay. Did you work the day before?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Before, it would be now and then, but now</p> <p>2 it's --</p> <p>3 Q. What other type of work besides working at</p> <p>4 Hooters were you doing within the year of this incident</p> <p>5 with Mr. Flores?</p> <p>6 A. That's probably about it. Maybe, you know,</p> <p>7 security as far as, you know, subdivisions. But an</p> <p>8 exact date when this incident happened, I couldn't tell</p> <p>9 you.</p> <p>10 Q. Let me ask you: Is the only way to accurately</p> <p>11 determine what days you may have done other part-time</p> <p>12 work at Hooters or this other random work you do is to</p> <p>13 get those stubs or payment information from those other</p> <p>14 third parties, those other companies?</p> <p>15 A. Or you could get them from them, or some of</p> <p>16 them are cash, you know.</p> <p>17 Q. Okay. Did you keep a record of those cash</p> <p>18 payments?</p> <p>19 A. No, sir.</p> <p>20 Q. Did you receive cash payment for work you did</p> <p>21 in 2015?</p> <p>22 A. Like I said, sir, before, there's different,</p> <p>23 you know, part-times that they pay cash and some don't</p> <p>24 pay cash.</p> <p>25 Q. Okay.</p>

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1 **A. As far as 2015, I couldn't tell you which ones**
 2 **I've worked.**
 3 Q. Would all of the cash payments that you could
 4 have received or check payments that you could have
 5 received in 2015, would those be on your 2015 tax
 6 return?
 7 **A. The check ones, yes, sir.**
 8 Q. What about the cash?
 9 **A. The cash ones are far in between, so, no.**
 10 Q. Okay. Do you have a supervisor at Hooters?
 11 **A. Yes, sir. There's a manager.**
 12 Q. Who?
 13 **A. There's a manager.**
 14 Q. What's his name or her name?
 15 **A. Now, it's Rocky Cheeks.**
 16 Q. Who was it in August of 2015?
 17 **A. That, I couldn't even tell you, sir. The**
 18 **turnover there is, you know --**
 19 Q. How long has Rocky Cheeks been the manager of
 20 Hooters?
 21 **A. The one that I work at, for the last maybe**
 22 **four, five months.**
 23 Q. All right. Which Hooters do you provide the
 24 security at? What location?
 25 **A. Wurzbach and Fredericksburg Road. It's**

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1 **8527 Wurzbach.**
 2 Q. Do you ever work Friday evening security at
 3 Hooters?
 4 **A. Once in a while, sir. But like I said, it's,**
 5 **you know, far in between. Sometimes I pick up at**
 6 **Rivercenter. Sometimes -- you know, I usually try to**
 7 **keep it at those two.**
 8 Q. What's Rivercenter?
 9 **A. Rivercenter Mall.**
 10 Q. Is there a Hooters location there?
 11 **A. Yes, sir.**
 12 Q. Okay. So you may work two different locations?
 13 **A. Yes, sir, if -- you know, if I can help out the**
 14 **gentleman who's called me, then I'll work it. If not,**
 15 **I'll just stick with the two that I have, the two days.**
 16 Q. Okay. Do you have any other family that's in
 17 law enforcement here in Bexar County?
 18 **A. No, sir.**
 19 Q. You told us you're married. Where -- does your
 20 spouse work?
 21 **A. Yes, sir.**
 22 Q. Where does she work?
 23 **A. She's a school teacher.**
 24 Q. And which school?
 25 **A. Ott Elementary.**

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1 Q. I'm sorry?
 2 **A. Ott Elementary. O-T-T Elementary.**
 3 Q. And do you have adult children?
 4 **A. Yes, sir.**
 5 Q. And how many?
 6 **A. I've got two.**
 7 Q. And do they live here in Bexar County?
 8 **A. The one does, my daughter. My boy goes to A&M**
 9 **at College Station.**
 10 Q. And does your daughter work here?
 11 **A. Yes, sir.**
 12 Q. Where does she work?
 13 **A. She works for my father-in-law.**
 14 Q. And what is your father-in-law's name?
 15 **A. Warren Davis.**
 16 Q. And what kind of work is that?
 17 **A. It's a -- I believe a nonprofit home out in**
 18 **Pleasanton, Texas --**
 19 Q. Okay.
 20 **A. -- that he has.**
 21 Q. Prior to this incident with Mr. Flores, had you
 22 ever been involved in Tasing any civilian?
 23 **A. No, sir.**
 24 Q. Prior to this incident with Mr. Flores, had you
 25 ever been involved in discharging your weapon while on

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1 the job? And not for training purposes, but when
 2 dealing with a civilian, an arrest.
 3 **A. Oh, no, sir.**
 4 Q. Okay. Was this the very first time dealing
 5 with Mr. Flores that you, on the job, discharged your
 6 Taser and weapon?
 7 **A. Yes, sir.**
 8 Q. This incident involving Mr. Flores, how did you
 9 learn about this incident or get called to the scene?
 10 **A. We were called by his mom, I guess.**
 11 Q. Okay.
 12 **A. I was dispatched.**
 13 Q. You were called by dispatch?
 14 **A. Yes, sir.**
 15 Q. All right. And have you reviewed the records
 16 to learn when you were dispatched, when you arrived
 17 and --
 18 **A. No, sir.**
 19 Q. You've reviewed none of that?
 20 **A. (Moving head from side to side.)**
 21 Q. Have you ever reviewed any of that information,
 22 ever, from the time of this incident to today?
 23 **A. We just had the key card when I'm writing out**
 24 **my report. But as far as going back over it, no, sir.**
 25 Q. Okay. To the best of your recollection, how

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1 long were you at the scene, in terms of minutes, before
 2 you discharged your weapon?
 3 **A. Exact minutes, I couldn't tell you. I wasn't**
 4 **there with a watch, looking at everything.**
 5 Q. Right. Do you have any idea, approximately, of
 6 how -- how long you were there before you discharged
 7 your weapon?
 8 **A. No, sir. Maybe 15, 20 minutes.**
 9 Q. Okay. All right. I'm going to take a short
 10 break for just a minute, get something to drink.
 11 Also, you know, any time during the
 12 deposition if you want to take a break, just say you
 13 want to take a break and we can take a break. All
 14 right?
 15 **A. Yes, sir.**
 16 THE VIDEOGRAPHER: We're off the record at
 17 10:02 a.m.
 18 (Recess from 10:02 until 10:11.)
 19 THE VIDEOGRAPHER: We're back on the
 20 record at 10:11 a.m.
 21 (Exhibit Number 5 was marked.)
 22 Q. (By Mr. Henry) Did you testify to the Grand
 23 Jury in this case?
 24 **A. No, sir.**
 25 Q. Do you know if Mr. Sanchez did?

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1 **A. You'd need to ask him, sir.**
 2 Q. Do you know? My question is: Do you know?
 3 **A. I don't know.**
 4 Q. You don't know?
 5 **A. No, sir.**
 6 Q. Okay. Do you know who did testify to the Grand
 7 Jury in this case?
 8 **A. No, sir.**
 9 Q. All right. So let me show you what's marked as
 10 Vasquez Exhibit Number 5, an Incident Detail Report.
 11 And I'll let you peek at that.
 12 MR. FRIGERIO: For purposes of the record,
 13 this is Bexar County 072691 Bates stamp.
 14 Q. (By Mr. Henry) So Exhibit Number 5, that
 15 Incident Detail Report, have you seen these types of
 16 documents in your experience as an officer?
 17 **A. I mean, no, I've never looked at an incident**
 18 **report like this.**
 19 Q. Okay. What would you review to determine when
 20 you actually got to the scene of this incident?
 21 **A. (Reviewing document.)**
 22 **As far as I can see, sir, it's just this**
 23 **right here on this one page.**
 24 Q. Okay. And what are you referring to, sir?
 25 **A. "1 Delta 20 on scene."**

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1 Q. I'm sorry. Could you repeat that?
 2 **A. "1 Delta 20 on scene."**
 3 Q. What does that mean?
 4 **A. 1 Delta 20 is the call sign, which would have**
 5 **been me.**
 6 Q. Okay.
 7 **A. And I was on the scene.**
 8 Q. Okay. And what time was that at?
 9 **A. It appears to be 11:46 and 16 seconds.**
 10 Q. Okay. And I've reviewed those documents and
 11 you can confirm, does it appear as though you got the
 12 call assigned to you at about 11:33?
 13 **A. (Reviewing document.)**
 14 **No, sir. It appears to be 11:34 --**
 15 Q. Okay.
 16 **A. -- and 50 seconds.**
 17 Q. All right. So 11:46 you arrived at the scene.
 18 And do you notice on Exhibit Number 5 at 11:47:17 it
 19 indicates that shots are fired?
 20 **A. (Reviewing document.)**
 21 **What time did you say, sir?**
 22 Q. 11:47:17.
 23 **A. No, sir. I show it as 11:48 and 42 seconds.**
 24 Q. Okay. Did you see any other indication that --
 25 let me show you real quick.

Page 40

1 Okay. So the time of shots fired is
 2 11:48:42; correct?
 3 **A. Yes, sir, according to this.**
 4 Q. Okay. I want to go back and cover something
 5 with you with regard to that training we talked about
 6 earlier.
 7 The -- you had mentioned that you had
 8 simulated training and you had live officers that were,
 9 you know, in the same room with you going through this
 10 training on use of force; correct?
 11 **A. Yes, sir.**
 12 Q. Okay. What I want to ask you about is, did you
 13 ever have any simulated training where you had a video
 14 and you would look at a video and you'd have a weapon
 15 and you'd decide use of force based on video training?
 16 **A. No, sir. I've never done that.**
 17 Q. None? Never done that?
 18 **A. No, sir. It's always with a fellow officer and**
 19 **other officers there and --**
 20 Q. Never with any other type of video training
 21 where you would actually have a mock weapon or weapon
 22 and you would be seeing various types of circumstances
 23 on a video screen and responding --
 24 **A. No, sir, not that I can recall ever having**
 25 **that.**

<p style="text-align: right;">Page 41</p> <p>1 Q. The -- and you had made a reference to training 2 where there might be a knife or a gun being used. And 3 so that particular training where a knife or gun is 4 being used, that would be where an actual officer during 5 training would have a knife or a gun; is that correct? 6 A. Right. 7 Q. And then you would be responding in your 8 training, based on your testing and review of the use of 9 force policy, you would be interacting with those 10 officers, whether they had a gun or knife, based on that 11 use of force policy; correct? 12 A. Yes, sir. 13 Q. And this particular training by officers -- 14 Which is the only type of training you've 15 ever had; correct? 16 A. Yes, sir. 17 Q. All right. 18 -- you've not had any of that type of 19 training since this incident; correct? 20 A. No, sir. I have inservice next month. 21 Q. Okay. As a result of this incident with 22 Mr. Flores, did you have any immediate remedial 23 training -- 24 A. No, sir. 25 Q. -- about use of force?</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Had -- have you ever been summoned to other 2 scenes where there was a complaint of assault? 3 A. Yes, sir. 4 Q. Have you done that numerous times in your 5 career? 6 A. Yes, sir. 7 Q. Was there anything unusual about being called 8 to an assault scene, for you, in terms of your 9 experience being an officer? 10 A. No, sir. 11 Q. For the ladies and gentlemen of the jury, it's 12 not uncommon for you to be called to assaults at scenes; 13 correct? 14 A. I mean, if they're -- calls are made, sir, you 15 have to answer them. 16 Q. Right. That's what I'm saying, that in your 17 career and your experience, it has not been unusual for 18 you to get calls to scenes where there's an assault 19 allegation; correct? 20 A. Right. Like I said, though, it -- you know, it 21 could be other calls. But, you know, you don't get to 22 pick and choose. You go to the call that they assign 23 you to. 24 Q. Yeah. Whatever they send you, you go. 25 And I'm not -- and I'm not trying to infer</p>
<p style="text-align: right;">Page 42</p> <p>1 A. No, sir. 2 Q. Any refresher courses on the use of force? 3 A. No, sir. 4 Q. Did you personally go make yourself, without -- 5 you're telling us that Bexar County Sheriff's Department 6 gave you no refresher courses after this incident on use 7 of force; correct? 8 A. Correct. 9 Q. All right. Did you take it upon yourself to go 10 back and look at the use of force policies to refresh 11 yourself on those policies and how they should apply to 12 circumstances? 13 A. No, sir. 14 Q. Okay. So let's go back to this timeline where 15 you get called to the scene. Okay? 16 A. Yes, sir. 17 Q. The -- so the Exhibit Number 5 is a reference 18 for the timing of events that occurred at the scene; 19 correct? 20 A. Yes, sir. 21 Q. Okay. When you got called to the scene, what 22 was the basis of your understanding for being called to 23 the scene? 24 A. That a person had been assaulted with a knife, 25 a male and -- I mean, a female and a child.</p>	<p style="text-align: right;">Page 44</p> <p>1 that you pick or choose where you go. I'm just asking 2 if, in your experience, you've had a number of assault 3 calls that you've had to respond to? 4 A. Yes, sir. 5 Q. And, I mean, you don't get to pick and choose 6 where you go; right? 7 A. No, sir. 8 Q. Right. You go where they tell you to go and 9 then have to deal with the situation when you get there; 10 right? 11 A. Yes, sir. 12 Q. Do you know about how long it was? I know you 13 told us you arrived at the scene at 11:46:16. About how 14 long after that did your backup arrive? 15 A. Do you want me to look on this? 16 Q. Yeah, you can refer to that. Yes. You're 17 going to refer to Exhibit Number 5; correct? 18 A. Yes, sir. 19 (Reviewing document.) 20 According to this, sir, he arrived at 21 11:47 and 43 seconds. 22 Q. Okay. Now, what I'd like to do is, up to the 23 time that Officer Sanchez comes to the scene, I'd like 24 for you to walk us through what you did when you got to 25 the scene up until the time Officer Sanchez arrives, to</p>

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1 the best of your recollection.

2 **A. Do you want me to start from when I was**
3 **dispatched, or do you want me to start when I got on**
4 **scene?**

5 Q. When you got on the scene.

6 **A. Okay. I took a left on to Walnut Pass. The**
7 **firemen were staging right there on the corner. I went**
8 **down looking for the address. It was like three or four**
9 **houses off the corner. Put the car in park, the Tahoe.**

10 **Went to the back, grabbed my shield. Made**
11 **it to the front door, announced "Sheriff's Department,"**
12 **moved the handle, the door opened, I stepped inside.**

13 **As I was stepping inside, the family**
14 **members were straight across from me from the doorway.**
15 **They're not saying anything to me. They're just**
16 **standing -- they're sitting looking and staring at me.**

17 **I see a door to my left. I clear that**
18 **real quick. No one is in there. It's like an office.**

19 **I come back out. Once again, the family**
20 **members are still just staring at me. No one is telling**
21 **me where this gentleman is at.**

22 **As I'm looking at them, the gentleman**
23 **comes out from a second door -- like an archway, not a**
24 **doorway -- comes out, he's got a knife in his hand,**
25 **says, "I'm not going back. I just did ten years."**

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1 **You know, I had my -- my duty pistol out**
2 **at the time when I walked in. As I was talking to him,**
3 **I told him, "Put your -- put the knife down, you're**
4 **going to be all right."**

5 **"Nah." He starts going, you know, back**
6 **and forth, English, Spanish, and I don't speak Spanish**
7 **so I couldn't tell you what was being said.**

8 **As I'm talking to him, he moves over, and**
9 **now he's in line with the family members. My thinking**
10 **is is that if something was to happen and we were to --**
11 **you know, a round was to go off and I miss, I hit a**
12 **family member, I'd be responsible for that.**

13 **I put my gun up, I drew my Taser out, and**
14 **I was talking to Mr. Flores again.**

15 **I told him, "Put the knife down, you're**
16 **going to be all right."**

17 **That's when he started coming at me in the**
18 **entrance -- entryway of the house. I was right there.**
19 **I stepped outside.**

20 **He's, you know, waving the knife, telling**
21 **me, "You're going to have to kill me, I'm not going**
22 **back. I know what" -- you know, "I know what that" --**
23 **you know, excuse my language -- "I know what that**
24 **bullshit shield does and I know what that bullshit-ass**
25 **Taser does."**

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1 **I kept scooting back. He's on the porch,**
2 **waving the knife around, hands going up and down,**
3 **flopping around. And I'm telling him, "Hey, just drop**
4 **the knife. You're going to be all right."**

5 **He goes back inside the house and slams**
6 **the door.**

7 **I tell dispatch, "I'm going to need a -- a**
8 **proper -- negotiator out there because the gentleman**
9 **went back in the house."**

10 **As soon as I got done saying it, he's back**
11 **outside. And I want to say within that time Deputy**
12 **Sanchez pulled up.**

13 Q. Okay. When you walked into the house and you
14 had that initial interaction with Mr. Flores, did -- his
15 behavior was erratic to you, emotionally erratic?

16 **A. Yes, sir. There was -- there was something**
17 **wrong.**

18 Q. Okay. Did you -- at the Bexar County Sheriff's
19 Department, did you get any training on dealing with
20 psychologically impaired people, when you might confront
21 them?

22 **A. Crisis intervention training.**

23 Q. Yeah. You do?

24 **A. Yes, sir.**

25 Q. Okay. So from that particular training, in

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1 your experience, could you tell there was some type of
2 psychological crisis going on for Mr. Flores?

3 **A. At the time, it's hard, because there was very**
4 **little said to me except for, you know, the cuss words**
5 **here and there. And, you know, I was just trying to --**
6 **you know, trying to get him to drop the knife at the**
7 **time.**

8 Q. Were you trying to de-escalate the situation?

9 **A. Yes, sir.**

10 Q. And that -- that you were doing inside the
11 home, when you had your gun out and you saw him come in,
12 you said you then got your Taser out; right?

13 **A. Yes, sir.**

14 Q. All right. So you, I guess, based on your
15 training, de-escalated the type of weapon you may
16 potentially use based on the circumstances that you were
17 confronted with?

18 **A. Yes, sir. And I was thinking of the family**
19 **members that were behind him.**

20 Q. Okay. And so you retreated outside the house.
21 And when you say you went outside the house, what
22 prompted you to go outside as opposed to staying inside?

23 **A. Well, because Mr. Flores started coming at me,**
24 **and the doorway was right there to the house.**
25 **(Indicating.)**

<p style="text-align: right;">Page 49</p> <p>1 Q. Okay. So he had a knife, he was coming towards</p> <p>2 you, you had your Taser that you selected to use</p> <p>3 possibly, because if you discharged your firearm you</p> <p>4 were concerned about the safety of the people inside the</p> <p>5 house?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. And so as he approached you, you had</p> <p>8 your Taser in your hand and he was approaching with a</p> <p>9 knife and you did not discharge the Taser at that time;</p> <p>10 correct?</p> <p>11 A. No, sir, because at the time when I stepped out</p> <p>12 there was enough room, I felt, where I'm talking to him</p> <p>13 and I'm trying to get him to drop the knife, where I</p> <p>14 didn't feel, you know, we're just -- he's still a threat</p> <p>15 to me, but he's in enough space where --</p> <p>16 Q. Okay.</p> <p>17 A. -- you know, I feel that I'm trying to talk him</p> <p>18 out of the situation.</p> <p>19 Q. For the ladies and gentlemen of the jury, we've</p> <p>20 got a video camera that's pointing at you.</p> <p>21 Was he farther than from where you're at</p> <p>22 to the video camera when he's approaching you or -- when</p> <p>23 you're inside the house, how close is he to you when</p> <p>24 he's approaching you?</p> <p>25 A. I would say between the camera and the wall.</p>	<p style="text-align: right;">Page 51</p> <p>1 shows him getting there, actually, within about a minute</p> <p>2 of you getting there?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. A minute and a half. And so let's --</p> <p>5 let's take it from where you -- where you step outside</p> <p>6 the door. And your testimony is that Flores gets</p> <p>7 outside the door; correct?</p> <p>8 A. Yes, sir. He's on the porch.</p> <p>9 Q. All right. And when he gets outside, is the</p> <p>10 door still open to the home or is it closed, if you</p> <p>11 remember?</p> <p>12 A. I don't recall offhand, sir.</p> <p>13 Q. Okay. And when you come outside the house and</p> <p>14 Flores comes outside, why don't you take us through the</p> <p>15 next event that occurs between yourself and Flores?</p> <p>16 A. Like I said, I was standing in the yard. He's</p> <p>17 at the porch. I'm telling him, "Drop the knife.</p> <p>18 Everything is going to be fine."</p> <p>19 He says that we've killed numerous</p> <p>20 homeboys. You know, he's going on and on.</p> <p>21 And I'm like, "All right." I told him,</p> <p>22 you know, "I didn't have nothing to do with that."</p> <p>23 So, like I say, he went back inside. I</p> <p>24 radioed in to dispatch that I would like a negotiator up</p> <p>25 there.</p>
<p style="text-align: right;">Page 50</p> <p>1 He's right there.</p> <p>2 Q. Somewhere around 10 feet?</p> <p>3 A. If that. Probably a little bit closer. But</p> <p>4 from what I remember, he was -- you know, he was there.</p> <p>5 Q. So your -- at that point, in your training and</p> <p>6 your experience, you are going to try to de-escalate by</p> <p>7 moving away from him, you're not going to discharge your</p> <p>8 Taser at that moment that he's approaching you with a</p> <p>9 knife; correct?</p> <p>10 A. Right. I backed out of the residence at that</p> <p>11 time.</p> <p>12 Q. All right. And based on at least those</p> <p>13 totality of the circumstances that you were confronting,</p> <p>14 that appeared to be the safest thing for you to do for</p> <p>15 yourself and for the protection of the family inside;</p> <p>16 correct?</p> <p>17 A. Right. The gentleman followed me out.</p> <p>18 Q. Okay. All right. So once you get outside the</p> <p>19 door, that's when, to the best of your memory,</p> <p>20 Mr. Sanchez shows up at the scene?</p> <p>21 A. Exactly when he got there -- it was around that</p> <p>22 time.</p> <p>23 Q. Okay.</p> <p>24 A. I mean --</p> <p>25 Q. Yeah. If we look at the Exhibit Number 5, it</p>	<p style="text-align: right;">Page 52</p> <p>1 He comes back outside. After he slams the</p> <p>2 door, he comes back outside. And then he starts again</p> <p>3 with his "What the hell?" you know, cussing me out,</p> <p>4 swearing, Spanish, English.</p> <p>5 And I'm telling him, "Hey, you know what?</p> <p>6 You're going to be fine. Drop the knife."</p> <p>7 And then he gets upset and he starts</p> <p>8 coming at me. So when he's coming out, I'm here on the</p> <p>9 lawn towards the driveway side. I do like a half</p> <p>10 horseshoe into the front of the lawn and I draw him out</p> <p>11 this way.</p> <p>12 So now the house is over here and we're</p> <p>13 facing this way, at which time he, you know, starts</p> <p>14 coming at me with the knife. I had the Taser in my</p> <p>15 hand, and I block him. And then, you know, he runs --</p> <p>16 you know, he's tried to stab me already with it, with</p> <p>17 the knife that he had. He runs up.</p> <p>18 I want to say that's when Deputy Sanchez</p> <p>19 fired one round at him and he went running.</p> <p>20 Q. Okay. Let me stop you there at this situation.</p> <p>21 So let's go back to the front door. You</p> <p>22 said he comes out. In that first sequence, you go in,</p> <p>23 you come out, he comes out with you; correct? And</p> <p>24 you're in the grass in the front yard and he's on the</p> <p>25 front porch area; correct?</p>

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1 **A. Yes, sir.**

2 Q. All right. And then he goes back into the

3 house?

4 **A. Well, he's on the porch. And, like I said,**

5 **he's going back and forth. You know, I did this. And**

6 **he's, you know, seen, you know, natural -- a lot of his**

7 **people pass away, you know, in prison, he knows what**

8 **that, you know, bullshit shield does, the Taser. And**

9 **then he went inside and slammed the door again.**

10 Q. Okay.

11 **A. So then he comes back out --**

12 Q. And you're -- and you're standing in the grass

13 at that time?

14 **A. Yes, sir. That's when I told dispatch, "Send**

15 **me a negotiator." He comes back out. As soon as I get**

16 **done saying it, boom, he's back out and I'm like, "Wow."**

17 **So then he comes out, starts coming at**

18 **me --**

19 Q. Now, let me stop you right there. When he's

20 coming at you, you have your shield; correct?

21 **A. Yes, sir.**

22 Q. And you have your Taser?

23 **A. Yes, sir.**

24 Q. All right. So when he's coming back out at

25 you, does he have anything in his hands?

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1 **A. He has the knife in his hand the whole time.**

2 Q. Does he have anything else?

3 **A. No, sir, not at that point.**

4 Q. Okay. So go ahead. So this is the first time

5 in the yard he's approaching you; correct?

6 **A. Yes, sir.**

7 Q. All right. So go ahead.

8 **A. So then Deputy Sanchez sees me struggling with**

9 **the gentleman. I tell him, you know, "Help me, Bobby.**

10 **Get him."**

11 **Bobby fires one round because he can see**

12 **the gentleman trying to stab me, which I've already**

13 **blocked numerous times.**

14 **Mr. Flores runs back across the lawn, up**

15 **into -- well, I think he's going back in the house.**

16 **Instead of chasing after him, I go to**

17 **where my partner is and I say, you know, "Are you all**

18 **right?"**

19 **He says, "Yeah."**

20 **I said, "Look, there's people inside the**

21 **house. I don't know where they are. You've got to be**

22 **careful where you're shooting at."**

23 **He says, "Okay."**

24 **I said, "Okay. Well, let's go get him."**

25 **I still had my Taser out. I'm walking --**

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1 **I'm leading because I'm -- I have the shield. He's**

2 **behind me.**

3 **I'm walking up about maybe three-quarters**

4 **of the way on the lawn and he jumps off the porch. And**

5 **now he's got a folding chair and the knife.**

6 **He starts coming at me with the folding**

7 **chair and the knife. I block him. I take a step back.**

8 **I deploy my Taser. The Taser hits the bottom of the**

9 **chair, and I want to say the little bar, but there was**

10 **no connection.**

11 **He's still coming at me even after I**

12 **deploy the Taser. He throws the chair down. And with**

13 **the Taser, it's got all the wires, it all gets mixed up**

14 **in there with the chair. He throws it down.**

15 **I'm still backpedaling. I go into like a**

16 **half horseshoe. I go into the street. He's coming at**

17 **me. I chuck him with the shield. He was a big boy. He**

18 **bounces into the car, he bounces back up.**

19 **I hit him with the Taser, because I didn't**

20 **have time to change the cartridge out because he was up**

21 **on me. I hit him with the Taser. It fell out of my**

22 **hand. I hit him again with the shield. Again, he had**

23 **bounced on the car.**

24 **At that time, I doubled behind him. So**

25 **now me and Deputy Sanchez are on the same side.**

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1 **Mr. Flores is over here. He walks over, picks up my**

2 **Taser, deploys it, and it's just running a dry cycle.**

3 **There's no cartridge on it.**

4 **But I told him, "Scoot back" -- you know,**

5 **I told Deputy Sanchez, "Scoot back just in case, him**

6 **being in prison, he knows how to change out the Taser."**

7 **So we scooted back, let him do his thing.**

8 **He deploys it. Like I said, all it's doing is arcing.**

9 **He gets upset, throws the Taser into the field, and then**

10 **he goes back up to the house.**

11 **Again, you know, he's been trying to stab**

12 **me numerous times through the whole event. Excuse me.**

13 **He runs back up to the house. Again, he's, you know,**

14 **saying stuff in Spanish, English, he's not going back,**

15 **"You're going to have to kill me."**

16 **Meanwhile, we're about maybe to the next**

17 **driveway over at the neighbor's house where the**

18 **properties meet. You know what I'm saying?**

19 Q. Yes.

20 **A. The big sides of the lawn. We're looking at**

21 **him. He runs down the driveway, Mr. Flores did.**

22 **As we're staring at him, he opens my Tahoe**

23 **door. I carry an AR-15. I looked at Deputy Sanchez.**

24 **He knows I carry an AR. I said to him, "He's going in**

25 **to get my rifle."**

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1 Q. Where was your rifle located in the truck?
 2 **A. In the stand or -- it's not really a lock or a**
 3 **safe -- it's a holder.**
 4 Q. Is it locked in the vehicle or is it not
 5 locked?
 6 **A. No, sir. That's what I said, it's a holder.**
 7 **If you press the button, it opens up.**
 8 Q. Okay. So you've got that AR in that holder
 9 right there?
 10 **A. Yes, sir.**
 11 Q. Okay.
 12 **A. So at that time we started going towards him.**
 13 **We broke off, started cutting in on the pie. He slammed**
 14 **the door, pulled the knife out of the back of his pants,**
 15 **right hand, left hand, started going up and down with**
 16 **his hands.**
 17 **Deputy Sanchez told him three to four**
 18 **times, "Drop the knife. Drop the knife. This is the**
 19 **last time I'm going to tell you to drop the knife."**
 20 **After the third or fourth time, he made a**
 21 **movement. Before I squeezed off my round, he looked at**
 22 **me, he told me, "I told you you'd have to kill me."**
 23 **Fearing for myself and my partner, you**
 24 **know, of death or, you know, bodily injury, I squeezed**
 25 **my round off and -- when he made that movement and that**

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1 **was it. He dropped over.**
 2 **Another deputy pulled up, backup. On the**
 3 **radio I could hear him say, "Go ahead and secure him.**
 4 **Make sure you secure him."**
 5 **I said, "All right." So I told him,**
 6 **"Let's" -- you know, "We've got to secure him."**
 7 **I had my shield. I went up to him. The**
 8 **other officer was going to do the handcuffing. I kicked**
 9 **the knife away from the gentleman. It went underneath**
 10 **the truck in the driveway. The other officer handcuffed**
 11 **him -- flipped him over, handcuffed him.**
 12 **As we're doing that, the dad walks out.**
 13 **The only thing anybody said to me from inside the house**
 14 **is, "Is he dead?"**
 15 **I said, "Sir, you know what? Go back in**
 16 **the house. Someone will be with you in a minute."**
 17 Q. Let me stop you there. So let's go -- I'm
 18 going to retrace your steps now to when you're in the
 19 yard.
 20 All right. On the very first time he's
 21 approaching you in the yard, your testimony is that he
 22 had a knife in his hand and that you had your Taser out.
 23 And this is before he gets the lawn chair;
 24 correct?
 25 **A. Yes, sir. He has -- he had the knife the whole**

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1 **time in his hand.**
 2 Q. All right. And so while he's coming at you --
 3 your testimony is while he's coming at you with a knife,
 4 is he pointing the knife at you?
 5 **A. As far as like at me? Yes and no.**
 6 Q. Okay.
 7 **A. Because he's going up and down, his, you know,**
 8 **hands flailing around. And then at one point he does,**
 9 **because he tries to stab me, he tries to kill me.**
 10 Q. Okay. And so -- and at that point you've got
 11 the shield in one hand and you've got the Taser in the
 12 other hand; right?
 13 **A. Yes, sir.**
 14 Q. All right. And at that moment, you don't
 15 discharge the Taser; correct?
 16 **A. No, sir.**
 17 Q. All right. And you could have discharged that
 18 Taser? I mean, it was working; correct?
 19 **A. Yes, sir.**
 20 Q. All right. And you have Officer Sanchez there
 21 at the scene when this event is occurring; right?
 22 **A. Yes, sir.**
 23 Q. All right. And so at that moment, based on
 24 your judgment and experience, you don't believe it's
 25 necessary to use your Taser at that moment; correct?

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1 Because you don't use it?
 2 **A. The only thing -- I don't use it, but the only**
 3 **thing I'm concentrating on is that gentleman with a**
 4 **knife.**
 5 Q. Right. But you know you have that weapon in
 6 your hand that you can discharge if you feel that you
 7 need to?
 8 **A. Yes, sir.**
 9 Q. All right. And so when you have that
 10 interaction in the yard, how close is he to you when you
 11 say he has a knife in his hand? Did he -- did he touch
 12 the shield --
 13 **A. Yes, sir.**
 14 Q. -- with the knife?
 15 **A. He -- I was -- I was blocking him as he was**
 16 **trying to strike me.**
 17 Q. Okay. And did that happen more than once?
 18 **A. Yes, sir.**
 19 Q. Okay. How many times?
 20 **A. I want to say 10 to 12. He -- he was trying to**
 21 **kill me.**
 22 Q. Okay. And at that moment in time when you're
 23 telling us he was trying to kill you, you didn't feel it
 24 necessary to discharge your Taser?
 25 **A. Like I said, sir, the only thing I remember is**

<p style="text-align: right;">Page 61</p> <p>1 this gentleman has a knife, I've got a shield. My</p> <p>2 shield being bigger than his knife, I'm blocking him,</p> <p>3 trying to de-escalate everything so we can go ahead and</p> <p>4 take him into custody.</p> <p>5 Q. Do you have the Taser in one hand and grabbing</p> <p>6 the shield and the Taser at the same time?</p> <p>7 (Indicating.)</p> <p>8 A. Am I carrying it that way?</p> <p>9 Q. Yeah.</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. So a Taser looks a lot like a gun;</p> <p>12 correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. So you've got your hand around the</p> <p>15 Taser and you have your other hand holding the shield;</p> <p>16 correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Is the shield in your right hand or left hand?</p> <p>19 A. It's in my left hand --</p> <p>20 Q. Okay. And the Taser --</p> <p>21 A. -- because I'm right-handed.</p> <p>22 Q. Okay. The Taser is in your right hand?</p> <p>23 A. Yes, sir.</p> <p>24 Q. All right. So you're holding the shield with</p> <p>25 your left hand. And when he's coming at you initially,</p>	<p style="text-align: right;">Page 63</p> <p>1 correct?</p> <p>2 A. Yes, sir. Because of the fact that I'm making</p> <p>3 sure my partner is good.</p> <p>4 Q. Right.</p> <p>5 A. You know, our whole thing is to go home at the</p> <p>6 end of the shift. You know, I don't -- I'm making sure</p> <p>7 he's good. I'm explaining to him what I have inside the</p> <p>8 house, what I've come across. You know, this way we</p> <p>9 don't have any people getting hurt.</p> <p>10 Q. Well, what I'm talking about specifically is</p> <p>11 when the -- when Flores is retreating from you, the</p> <p>12 threat to you, you perceive, is less than when he's</p> <p>13 approaching you with the shield; correct?</p> <p>14 A. Oh, yes, sir. Yes, sir.</p> <p>15 Q. Okay. He's getting away from you --</p> <p>16 A. Right.</p> <p>17 Q. -- or you're getting away from him and you're</p> <p>18 reducing the threat so that you don't have to use force</p> <p>19 or deadly force; correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. And so you're cognizant of his movement</p> <p>22 from you or to you in terms of how you're going to</p> <p>23 possibly use force?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 62</p> <p>1 how far away from him --</p> <p>2 Okay. How far away are you from him, when</p> <p>3 he's on the porch and you're in the grass, when he first</p> <p>4 starts coming at you?</p> <p>5 A. Maybe 12, 15 feet, something like that. It's</p> <p>6 not very far. (Indicating.)</p> <p>7 Q. Okay. But at some point he actually comes</p> <p>8 right to you.</p> <p>9 A. He brings it to me --</p> <p>10 Q. Okay.</p> <p>11 A. -- with his aggression. (Indicating.)</p> <p>12 Q. All right. And then your testimony is he</p> <p>13 strikes the shield with the knife; correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And -- and while he's coming at you -- while</p> <p>16 he's coming at you, you've got in your right hand the</p> <p>17 Taser; correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And at the time he's coming to you, you</p> <p>20 perceive he's going to be a threat to you, don't you?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All right. And -- All right. And so at the</p> <p>23 times that he was moving away from you and retreating</p> <p>24 from you, you didn't perceive him as the same threat to</p> <p>25 you as when he approached you and hit the shield;</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Excuse me.</p> <p>2 Q. And that's all based on your education and</p> <p>3 training and experience; right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. All right. Now, at the time that -- at the</p> <p>6 time he goes back into that house after the first</p> <p>7 interaction with you in the yard, your testimony is he</p> <p>8 comes -- does he go back into the house or does he stay</p> <p>9 outside the house?</p> <p>10 A. No, sir, he goes in the house. He slams the</p> <p>11 door. And that's when I told dispatch, you know, "Give</p> <p>12 me a negotiator."</p> <p>13 Q. Okay. But then when he comes back out, he</p> <p>14 comes out with the chairs; right?</p> <p>15 A. To tell you the truth, sir, I don't know where</p> <p>16 the chairs -- if he brought them out or if they were --</p> <p>17 they're folding chairs, metal chairs. I don't know if</p> <p>18 they were leaning against the wall. I really have no</p> <p>19 idea.</p> <p>20 Q. So let me make sure I understand. You -- you</p> <p>21 come -- on the first interaction where you engage</p> <p>22 Flores, you come out of the house, Flores comes out of</p> <p>23 the house. Then Flores goes back in that house and</p> <p>24 slams the door --</p> <p>25 A. Right.</p>

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1 Q. -- correct?

2 Then he comes out of the house, you have
3 the altercation in the grass where he's coming at you,
4 you have your Taser in your right hand, your shield in
5 your left hand; correct?

6 **A. Yes, sir.**

7 Q. Right. Then after that phase is done, Flores
8 retreats from you and goes toward the house again;
9 correct?

10 **A. Yes, sir. After Deputy Sanchez fired one**
11 **round, he was running back into the house.**

12 Q. Okay. Then he comes out --

13 **A. But he never made it in the house.**

14 Q. Okay. He never made it in the house. But --
15 but then the next time he approaches you, he's got
16 chairs in his hand?

17 **A. Well, to tell you the truth, I don't know if he**
18 **went in the house or not, because from there I went over**
19 **to where my partner was --**

20 Q. Okay.

21 **A. -- to make sure he was good and explained to**
22 **him what exactly we had.**

23 Q. Okay. So you don't know if he went in the
24 house or out of the house --

25 **A. Right.**

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1 Q. -- but you just know that he's back out with
2 the chairs, and that's when you engage him again or he
3 engages you.

4 And let me ask you about that sequence.

5 When he has the chairs in his hand, you're still in that
6 front yard; correct?

7 **A. Yes, sir.**

8 Q. All right. You're still in relatively the same
9 position you were as when you had the first interaction
10 with him with your shield up and your Taser out;
11 correct?

12 **A. Yes, sir. Because I -- before that we were**
13 **going to up to go inside the house. I thought he went**
14 **in the house.**

15 Q. Right.

16 **A. That's when he met me with the chair and the**
17 **knife, "Ahh," and -- (Indicating.)**

18 Q. Okay. And so he's outside the house when he
19 has that second interaction with you outside. And how
20 far is he from you when you shoot the Taser?

21 **A. Feet-wise, I couldn't tell you. He -- he was**
22 **coming at me, though. I mean, like I could say 10 feet,**
23 **8 feet, 6 feet, but he's closing in and I'm**
24 **backpedaling.**

25 Q. Okay.

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1 **A. So the exact amount of feet I really don't**
2 **know, sir.**

3 Q. Okay. But you're in the front yard; correct?

4 **A. Yes, sir.**

5 Q. And is he also in the grass in the yard when
6 you discharge your Taser?

7 **A. Yes, sir.**

8 Q. Okay. So you both are in -- in the grassy part
9 of that front yard?

10 **A. Yes, sir.**

11 Q. All right. And you discharge the Taser one
12 time or twice?

13 **A. Just once, sir. But, like I said, there was no**
14 **time to take the Taser off to change the cartridge out**
15 **because he's up on me.**

16 Q. Okay.

17 **A. There's no time.**

18 Q. Okay. And so you shoot the Taser one time.
19 Once you discharged the Taser, your testimony is it hits
20 the chair in some way; correct?

21 **A. The bottom of the chair, I want to say. It has**
22 **to have the two prongs -- you know, if we get one prong**
23 **and then if you get close enough you can run a cycle on**
24 **them. But the one, there was no connection with him.**

25 Q. Okay. So at the -- at the moment that the

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1 Taser hits the chair, does Mr. Flores drop the chair?

2 **A. No, sir. He's still coming at me, and then he**
3 **throws it like to the side.**

4 Q. Okay.

5 **A. And then we do a horseshoe, come in the street.**
6 **I'm backpedaling. He's coming forward with me.**

7 Q. Okay. Now, after you're backpedaling and
8 you're retreating from him and he's coming towards you,
9 is your testimony that he then tries to go back into the
10 house?

11 **A. No, sir. He's coming at me. I do a half**
12 **horseshoe. He's still following me. He's still trying**
13 **to stab me.**

14 **We're going -- doing a horseshoe into the**
15 **street. Because there's two cars parked in front of the**
16 **house, I go around to give myself space. But, you know,**
17 **I'm going backwards, he's going forward. He is going to**
18 **cut down that space quicker than I can backpedal.**

19 Q. At the time that you discharged your Taser, did
20 you drop your Taser?

21 **A. No, sir.**

22 Q. Okay. Did you continue to hold your Taser
23 while you were backpedaling?

24 **A. Yes, sir. And then he still had the knife, and**
25 **I'm trying to block him. And I'm backpedaling into the**

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1 **street and I still have it in my hand, yes, sir.**

2 Q. Okay. And there were two cars parked in the
3 street in front of the house?

4 **A. Yes, sir.**

5 Q. All right. So you were going behind the second
6 car, the darker car?

7 **A. I -- the color of the car, sir, I don't know.**

8 Q. Okay. All right. There were -- there was two
9 cars parked in the street, there was one car closer to
10 his driveway and then another car right behind there.
11 You know where his driveway was?

12 **A. We're going towards like the corner, like
13 towards the neighbor's house that had the --**

14 Q. Let's reference it a different way. Your --
15 your car, your Bexar County Sheriff's Department car is
16 basically parked right there behind his driveway;
17 correct?

18 **A. Right.**

19 Q. All right. And so behind the Bexar County
20 Sheriff's car there's another vehicle parked on the curb
21 and yet another vehicle right behind it?

22 **A. Right. And then we --**

23 Q. All right.

24 **A. -- we came around that -- the second car.
25 (Indicating.)**

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1 Q. Is the -- so if we were to take the cars in
2 front of the home, you have the Bexar County Sheriff's
3 car, you have the car right behind it, and then you have
4 a third car?

5 **A. Yes, sir.**

6 Q. You're going behind the third car when you're
7 retreating from him; correct?

8 **A. Right. And I'm going into the street and he's
9 still --**

10 Q. Coming out. Does he ever go into the street?

11 **A. Yes, sir.**

12 Q. Okay. And so does he go around the black car
13 or the -- the third car? Excuse me.

14 **A. Yes, sir.**

15 Q. Does he go around the third car into the
16 street?

17 **A. Yes, sir.**

18 Q. And when you're in the street, do you still
19 have the Taser in your hand?

20 **A. Yes, sir.**

21 Q. Okay. At any point when you're in the street,
22 do you ever drop that Taser?

23 **A. Like I said, sir, I struck him with it, trying
24 to get him away from me, and that's when it fell and it
25 went into the street. And then I chucked him again with**

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1 **the shield. And each time he would just bounce off the
2 car being, you know, a bigger gentleman.**

3 Q. And that was the third car that he was bouncing
4 off of?

5 **A. In between, like as we were going, we did the
6 second car -- or the third car and the second car, he
7 was still coming at me, you know, through the whole
8 thing.**

9 Q. All right. So when -- when he engaged you in
10 the street, did you push him off the third car or the
11 middle car?

12 **A. I want to say it was both cars, because I
13 chucked him twice. You know, boom. And then he came
14 again, boom. And then boom again. And he kept going
15 into the car.**

16 Q. Okay. And so when you -- when you hit him the
17 first time, did you drop the Taser?

18 **A. I want to say it was the second time, because I
19 hit him with the shield trying to give myself space and
20 then he still was, you know, coming.**

21 **It was -- when I say he bounced into the
22 car, it was like bounce and come right back up. You
23 know, it wasn't like he went down to the ground,**

24 Q. Right.

25 **A. And then I hit him with the Taser and then I**

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1 **hit him with the shield again.**

2 Q. Okay. And so after, you believe the second
3 time, you used the shield to hit him, that's when you
4 believe you dropped the Taser?

5 **A. I dropped the Taser when I struck him with the
6 Taser, sir.**

7 Q. Okay. All right. And you would have been in
8 the street?

9 **A. Yes, sir.**

10 Q. Okay. And did you see where you dropped the
11 Taser in the street?

12 **A. It was right there in front of the house.
13 Exact points, no, sir, but I know that it was right
14 there in front of the house.**

15 Q. All right.

16 **A. You know, where at on the two cars I couldn't
17 tell you, but it was between the first car and the
18 second car in the front of their house.**

19 Q. All right. So after you dropped the Taser,
20 after that interaction, your testimony is what, as far
21 as you do next?

22 **A. I dropped the Taser after I hit him with the
23 shield. I doubled back behind him. So now Mr. Flores
24 is on his driveway side, you know, of the house, still
25 in the front of the house.**

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1 Q. Of his driveway; right?

2 **A. Yeah, but he's not in the driveway. He's in**
 3 **front of the house in the street. I'm just trying to**
 4 **give you a for-instance where he was.**

5 Q. Okay.

6 **A. He's on this side. I double behind him. Now**
 7 **me and Deputy Sanchez are on same side.**

8 **He picks up the Taser. He's looking at**
 9 **us, pulls the trigger, you know, to engage it.**

10 **I tell Deputy Sanchez, "Hey, scoot back."**
 11 **We need at least 21 feet," with the Tasers that we have,**
 12 **because they can shoot out 21 feet. So I tell him,**
 13 **"Scoot back."**

14 **He goes ahead and he -- he runs an arc.**
 15 **You know, it just bahhhhhhhh.**

16 Q. Right.

17 **A. He gets upset when it stops and throws it out**
 18 **into the field.**

19 Q. And then what does he do next?

20 **A. From there he goes back up to the house. He --**

21 Q. And then --

22 **A. He's standing at -- on the little -- little**
 23 **sidewalk, just before you get to their porch. He's**
 24 **standing there. I think they have -- if I remember**
 25 **right, they have bushes right there. And he's going**

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1 **back and forth.**

2 Q. Okay. Now, when he goes back toward the house,
 3 did -- were you communicating with your supervisor or
 4 anyone by radio?

5 **A. No, I wasn't.**

6 Q. Was Officer Sanchez?

7 **A. I believe he was, sir.**

8 Q. Okay.

9 **A. But, like I said, you need to ask him, though,**
 10 **for --**

11 Q. Okay.

12 **A. -- what was being said.**

13 Q. Did you ever hear any direction over your radio
 14 from -- from any supervisor?

15 **A. To tell you the truth, I got coded out three**
 16 **times on this call for officer in trouble. So what was**
 17 **being said, to me, I couldn't make out what was being**
 18 **said.**

19 **Things were being said over the radio.**

20 **People are coming, people are going. What exactly it**
 21 **is, I don't know. I have no idea.**

22 Q. So do you have any recollection of anyone
 23 saying, "Don't let him back in the house, do what you
 24 have to do" --

25 **A. I --**

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1 Q. -- any recollection of that?

2 **A. I heard afterwards that they had -- you know,**
 3 **somebody had said that over the radio.**

4 **But then, like after everything was over**
 5 **with, that's when I heard someone get on the radio and**
 6 **say, "Make sure -- make sure you secure him."**

7 Q. So but as the event -- as the event -- before
 8 Flores is actually shot with a weapon, did you ever hear
 9 anyone over your radio say, "Do what you have to do" or
 10 "Stop him. By all means, stop him"?

11 **A. Like I said, sir, stuff is being said over the**
 12 **radio. But to tell you the truth, I'm concentrating on**
 13 **this gentleman with a knife that's trying to kill me.**

14 Q. All right. So as -- so as those events were
 15 occurring, your radio is working; correct?

16 **A. Yes, sir. And like I said, I can hear things**
 17 **being said, but I have no idea what's being said because**
 18 **I'm concentrating on this gentleman.**

19 Q. Okay. So as you sit here today, as you're
 20 focusing on -- as you're sitting here today recollecting
 21 the events of that day with Flores, you know you're
 22 hearing over your radio comments, but you're focusing on
 23 Flores primarily?

24 **A. Yes, sir. Because the whole thing came down to**
 25 **is that when we were talking to Mr. Flores, everything I**

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1 **was telling him was getting him more upset, more upset**
 2 **and more upset, so I stopped talking to him. And Deputy**
 3 **Sanchez started giving him commands.**

4 MR. HENRY: Objection; nonresponsive.

5 Q. (By Mr. Henry) My question to you is: When
 6 you are engaging Flores, you still know that you're
 7 getting auditory messages through your radio? You're --

8 **A. Yes, sir. But, like I said, I -- I couldn't**
 9 **tell you what exactly the messages are being said to me**
 10 **because I'm concentrating on this gentleman.**

11 Q. All right. You can't tell me now; correct?

12 You can't tell me now?

13 **A. Right. What was being said, who said it, I**
 14 **can't tell you.**

15 Q. But when it was being said to you, are you
 16 saying that you were -- were you disregarding the radio
 17 messages, were you ignoring the radio messages?

18 **A. No, sir.**

19 Q. Okay.

20 **A. There's a gentleman who's trying to kill me**
 21 **with a knife. I'm not paying attention to the radio.**
 22 **I'm paying attention to this gentleman who's in front of**
 23 **me who's already tried to stab me numerous times.**

24 MR. HENRY: Objection; nonresponsive.

25 Q. (By Mr. Henry) My question to you was:

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<p>1 Although you're focusing on Flores, you still have</p> <p>2 messages coming in that you can hear?</p> <p>3 A. Yes, sir.</p> <p>4 Q. But you're focusing on Flores?</p> <p>5 A. Yes, sir. That's exactly what I just said,</p> <p>6 though, to you.</p> <p>7 Q. Okay.</p> <p>8 A. I said that I can hear things coming through,</p> <p>9 but I couldn't hear exactly what was being said.</p> <p>10 Q. Okay.</p> <p>11 A. Or I couldn't make out what was being said.</p> <p>12 Q. Okay. When you say you couldn't make out what</p> <p>13 was being said, you are in a situation where you're</p> <p>14 under a lot of stress; correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. All right. And so are you not being able to</p> <p>17 understand what's being told over the radio because</p> <p>18 there's -- the radio is crackling, it's not working</p> <p>19 right, or because of the stress you're experiencing?</p> <p>20 A. I would say it's the stress I'm experiencing.</p> <p>21 Q. Okay. So there's not a problem necessarily</p> <p>22 with the radio; correct?</p> <p>23 A. No, sir. And like I said, I know things were</p> <p>24 being said. Who was saying it, what was being said, I</p> <p>25 have -- I couldn't tell you.</p>	<p>1 Q. All right. And does he have any supervisory</p> <p>2 capacity over you?</p> <p>3 A. I believe, sir, at the time he was the east and</p> <p>4 west supervisor. He was over the sergeants.</p> <p>5 Q. Okay.</p> <p>6 A. So I answer to my sergeants. And then he's</p> <p>7 also monitoring the radio, he's -- you know, but he's</p> <p>8 overall over everybody at the time.</p> <p>9 Q. Okay. So if you hear him giving you a</p> <p>10 direction, you hear a direction given to you on the</p> <p>11 ground, he, in your mind, is a supervisor for you?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. And then he's Pedraza's supervisor?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. So we've got you -- going back to the</p> <p>16 detail of this event, you're in the street, you say he</p> <p>17 goes back toward the house after the Taser is dropped.</p> <p>18 A. Yes, sir.</p> <p>19 Q. He throws the Taser, goes back toward the</p> <p>20 house. Is that when Sanchez fired a shot?</p> <p>21 A. No. He fired it earlier.</p> <p>22 Q. Earlier?</p> <p>23 A. Yes, sir.</p> <p>24 Q. On the other occasion when he went back to the</p> <p>25 house; correct?</p>
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<p>1 Q. Okay. So if anyone was trying to give you</p> <p>2 direction over the radio, for whatever reason, it would</p> <p>3 not have had any affect on you? Is that what you're</p> <p>4 telling us?</p> <p>5 A. Exactly.</p> <p>6 Q. Okay.</p> <p>7 A. Like I said, I don't -- you know, people can</p> <p>8 tell me whatever they would like to tell me on the</p> <p>9 radio, but they're not there with me at the time when</p> <p>10 this gentleman is -- you know, when I'm having an</p> <p>11 altercation with him. You know, anybody can give their</p> <p>12 free advice, but I'm the one that's there with him.</p> <p>13 Q. Right. And so any advice being given to you</p> <p>14 over the radio by -- would it be a supervisor giving you</p> <p>15 direction? Who would be doing that?</p> <p>16 A. That's what I'm saying. They have supervisors</p> <p>17 that would be on there. You know, they should have</p> <p>18 closed the channel. We have deputies, "Show me en</p> <p>19 route, I'm on the way."</p> <p>20 You know, that what's I'm saying. I'm not</p> <p>21 paying attention. You know, I can hear the radio, but</p> <p>22 I'm concentrating on Mr. Flores.</p> <p>23 Q. So Lieutenant von Muldau, do you know that</p> <p>24 lieutenant?</p> <p>25 A. Yes, sir.</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Okay. And so he heads back to the house. Does</p> <p>3 he go in the house?</p> <p>4 A. I don't believe so, sir. I don't really know</p> <p>5 where he went. Because, like I said, Deputy Sanchez</p> <p>6 fired one round, missed him.</p> <p>7 Instead of chasing after the gentleman, I</p> <p>8 went to where he was, and I told him, "Hey, you know,</p> <p>9 people are inside the house, be careful where you're</p> <p>10 shooting."</p> <p>11 Q. But you're saying the interaction -- the</p> <p>12 interaction in the street, that interaction occurs after</p> <p>13 Sanchez shot at the house; right?</p> <p>14 A. Yeah. This is -- the interaction in the street</p> <p>15 is towards the end of the whole thing.</p> <p>16 Q. Right. And it's after Sanchez shot at the</p> <p>17 house?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay.</p> <p>20 A. Deputy Sanchez fired earlier during the time.</p> <p>21 Q. Okay. And so we're back to Flores going back</p> <p>22 to the house. Now, once he goes back to the house,</p> <p>23 you're still in the street; correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. And then --</p>

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1 **A. Because of the fact that we moved back 21 feet**
2 **for the Taser.**

3 Q. Okay.

4 **A. So he goes back up to the house and he's**
5 **standing like on the little sidewalk right there by the**
6 **porch.**

7 Q. Okay. And then you -- and then you move from
8 the street once he's on the porch; correct?

9 **A. No, sir.**

10 Q. You stay in the street?

11 **A. Yes, sir. Because of the fact that when we**
12 **were in the street after he did that, he went up to the**
13 **house, he didn't stay there very long because that's**
14 **when he took off and went down the sidewalk to my Tahoe,**
15 **and that's when we started going towards him.**

16 Q. Okay. At any point after the incident in the
17 street when he went to the house, are you telling us
18 that he went directly to your Tahoe?

19 **A. He went to the house, he was standing on the**
20 **sidewalk, we're at the neighbor's because we scooted**
21 **back, you know, the 21 feet.**

22 Q. At the neighbor's house right -- if you're
23 looking at the Flores home --

24 **A. It's by Car Number 3.**

25 Q. Yeah. Car Number 3. Did you go over into the

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1 yard of the home to the right of the Flores home?

2 **A. I don't believe so, sir, no, sir.**

3 Q. Okay. And then so you got Flores on the porch
4 area, your testimony is he then starts proceeding to
5 your squad car?

6 **A. Yes, sir, my Tahoe.**

7 Q. Right. And you're never over in the neighbor's
8 yard at all at that time, or before that time?

9 **A. We're -- I want -- I want to say we're in the**
10 **street because we scooted back.**

11 Q. Okay.

12 **A. You know, we're like on the sidewalk -- not**
13 **sidewalk, but the street area where the driveway comes**
14 **out. Right in that area.**

15 Q. Okay. All right. And then when he -- when
16 Flores goes to your squad car, you talked to us about
17 the AR being in the -- is there a middle console holder
18 in your car; correct?

19 **A. Yes, sir.**

20 Q. And does he open -- does he ever go to the
21 driver's door?

22 **A. No, sir. It's always on the passenger side.**

23 Q. Does -- does he open the passenger door?

24 **A. Yes, sir.**

25 Q. Okay. Does he close the passenger door?

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1 **A. Yes, sir. That was after we started converging**
2 **on him, starting to --**

3 Q. Right.

4 **A. -- to go in, because we talked about it. I**
5 **told him, "Hey," I said, "I have my AR in there." And**
6 **he knows, you know, that I carry an AR, because one of**
7 **us has one.**

8 **So we started walking. I was leading**
9 **because I had the shield. We broke off.**

10 **And I don't know if he couldn't figure out**
11 **how to get the rifle out or he could see through the**
12 **Tahoe, he could see us coming, because that's when he**
13 **slammed the door and he started coming at us.**
14 **(Indicating.)**

15 Q. Okay. So the -- his attempt to get in the
16 vehicle, was it just one time?

17 **A. That I can remember, yes, sir.**

18 Q. Okay. And then you and Officer Sanchez --
19 before you -- before he's at the car, did you and
20 Officer Sanchez, back on the street behind the third
21 car, did you ever come together and discuss how you're
22 going to handle Mr. Flores when he was approaching your
23 car?

24 **A. No, sir, I don't -- no, sir. We just -- you**
25 **know, we have been working long enough together where we**

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1 **kind of understand each other's moves. We started, you**
2 **know, going and then we broke off, and that's when he**
3 **came at us.**

4 Q. But when you were back behind that third
5 vehicle, is it your testimony you told Sanchez, "Hey, I
6 have an AR in my vehicle"?

7 **A. I told him that when Mr. Flores opened the**
8 **door.**

9 Q. Okay. And you were behind the third vehicle
10 when Flores opened that door; correct?

11 **A. Yes, sir, towards the neighbor's --**

12 Q. Right.

13 **A. -- right there in the street area.**

14 Q. All right. And when you were communicating
15 with Officer Sanchez about the gun in the squad car, the
16 AR, were you, you know, right up next to him, a couple
17 feet from Sanchez, or were you still, you know, 10,
18 15 feet apart?

19 **A. No, sir. I think we were -- we were pretty**
20 **close. Exact amount? I have no idea. But we were**
21 **right there where we could talk.**

22 Q. Okay. And when you were talking about having
23 the AR in your vehicle, is that when Flores then slammed
24 the door to the car, simultaneous -- almost simultaneous
25 with you saying, "Hey, I've got an AR in there," Flores

<p style="text-align: right;">Page 85</p> <p>1 then closed that door?</p> <p>2 A. No, sir, not exactly then, because of the fact</p> <p>3 that he was looking in the car. He's still in the</p> <p>4 street. He was looking in the car.</p> <p>5 And I told, you know, Deputy Sanchez, "I</p> <p>6 have my AR in there."</p> <p>7 We decided we were going to go get him.</p> <p>8 We started heading down. Not very far. He broke off.</p> <p>9 And so like we're, you know, cutting the pie on him.</p> <p>10 That's when he slammed the door.</p> <p>11 I don't -- like I said, I don't know if he</p> <p>12 could look through and necessarily see us coming or he</p> <p>13 couldn't get it out. I don't -- I don't know what his</p> <p>14 intentions were.</p> <p>15 Q. At the time that he was slamming the door and</p> <p>16 you guys were beginning to re-approach him, was there</p> <p>17 another squad car coming up the street behind you guys,</p> <p>18 some more backup?</p> <p>19 A. I don't think at that time, sir.</p> <p>20 Q. Okay.</p> <p>21 A. I want to say the other squad car got there</p> <p>22 after the shots were fired.</p> <p>23 Q. Okay. Not before?</p> <p>24 A. I don't believe so, sir, no.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 87</p> <p>1 A. No, sir.</p> <p>2 Q. Never?</p> <p>3 A. Not during that time, no, sir.</p> <p>4 Q. Did you ever see Mr. Sanchez use his cell phone</p> <p>5 at any point during that period of time?</p> <p>6 A. No, sir. I don't believe either one of us used</p> <p>7 it just because of the situation we were in.</p> <p>8 Q. Who is your cell phone company provider?</p> <p>9 A. AT&T.</p> <p>10 Q. What's your cell phone number?</p> <p>11 MR. FRIGERIO: Okay. We're going to</p> <p>12 object to that under 42 U.S.C. Section 405 for the</p> <p>13 purposes of this deposition. We can talk about it later</p> <p>14 for -- with a -- with a protective order.</p> <p>15 MR. HENRY: Fine. All right. Thank you.</p> <p>16 Q. (By Mr. Henry) All right. So your provider is</p> <p>17 AT&T?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And this cell phone, do you have one cell phone</p> <p>20 number, only one personal cell phone?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And at the time of this incident, did you only</p> <p>23 have one cell phone that you used?</p> <p>24 A. Yes, sir.</p> <p>25 Q. So you and Officer Sanchez are back away, as</p>
<p style="text-align: right;">Page 86</p> <p>1 A. Or if it was, it was in the back and, you know,</p> <p>2 I couldn't necessarily --</p> <p>3 Q. Right. You weren't focusing on that?</p> <p>4 A. Yeah. Yes, sir.</p> <p>5 Q. The -- do you carry a cell phone?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Is that a Bexar County Sheriff's</p> <p>8 Department cell phone?</p> <p>9 A. No, sir. It's my phone.</p> <p>10 Q. Personal cell phone?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Did you use your cell phone at all</p> <p>13 communicating when this incident occurred?</p> <p>14 A. No, sir.</p> <p>15 Q. From the beginning of that incident to the very</p> <p>16 end after you discharged your weapon, did you ever use</p> <p>17 your cell phone?</p> <p>18 A. I don't believe so, sir. No, sir.</p> <p>19 Q. You don't believe so?</p> <p>20 A. No. I -- I mean, at the time we're on it, I</p> <p>21 wasn't on my phone.</p> <p>22 Q. I'm talking about at any point from the time</p> <p>23 you got called to the scene, from the time you were at</p> <p>24 the scene until after you discharged your firearm, did</p> <p>25 you ever use your cell phone?</p>	<p style="text-align: right;">Page 88</p> <p>1 you say, you're toward the neighbor's, I guess around</p> <p>2 that third car, and you decided you were going to go,</p> <p>3 quote, "decided we were going to go get him."</p> <p>4 Tell me about that decision-making</p> <p>5 process. What made you decide to "go get him"?</p> <p>6 A. Because it seemed like everything was getting</p> <p>7 more and more -- the situation was getting worse as it</p> <p>8 was going on.</p> <p>9 You know, we were -- now he's in the car,</p> <p>10 you know, I have an AR. We needed to do something</p> <p>11 and -- you know, for public safety, our safety and</p> <p>12 everybody around.</p> <p>13 Q. Did you ever hear anyone on a radio -- when</p> <p>14 Flores was going to the car, did you ever hear anyone on</p> <p>15 your radio say, "Do what you have to do," when he was</p> <p>16 going into that car?</p> <p>17 A. No, sir. Like I said, stuff is being said.</p> <p>18 But, like I said, I couldn't tell you what was being</p> <p>19 said exactly.</p> <p>20 Q. When you and Flores were -- I'm sorry -- when</p> <p>21 you and Officer Sanchez were back behind that third</p> <p>22 vehicle and you made the decision to go get him, did --</p> <p>23 did Sanchez tell you, "We need to go get him. We need</p> <p>24 to go now and deal with this"?</p> <p>25 A. No, sir. I don't believe so.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. Did you tell him that?</p> <p>2 A. I believe that we both decided, you know, it's</p> <p>3 getting worse, and we're going to go, you know, get him,</p> <p>4 as far as try to get him into custody.</p> <p>5 Q. All right. So that's what I'm trying to figure</p> <p>6 out. When you-all were back there by that third car,</p> <p>7 did you have a conversation like you just told me, "Hey,</p> <p>8 it's getting worse, we need to go get him now"?</p> <p>9 A. Yes, sir. I told him, I said, you know, that</p> <p>10 "My AR is in the car. We have to go get him." And</p> <p>11 that's when, you know, he slammed the door.</p> <p>12 Q. Okay. So he slams the door, you know the AR is</p> <p>13 in there. You and Sanchez make the decision we're going</p> <p>14 to have to go get him and try to detain him?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And at that time when you'd be -- when</p> <p>17 you start moving in, he's already slammed the door, but</p> <p>18 he's still on the driveway; correct?</p> <p>19 A. Yes, sir. Where the car was parked, he was --</p> <p>20 Q. Right.</p> <p>21 A. -- street-driveway right there.</p> <p>22 Q. And then -- and then he moves toward -- if</p> <p>23 you're approaching him, he's moving toward your right as</p> <p>24 you approach him, isn't he?</p> <p>25 A. As I approach him, yes, sir, it's to the right.</p>	<p style="text-align: right;">Page 91</p> <p>1 with his hands up, if that's what you mean.</p> <p>2 (Indicating.)</p> <p>3 Q. Right. But on the direction by Deputy Sanchez,</p> <p>4 your testimony is Sanchez tells him, "I'm going to tell</p> <p>5 you the last time to drop the knife"; correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And you're keeping an eye on Flores the whole</p> <p>8 time; right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. All right. And so are his hands up or down</p> <p>11 when he makes that last direction?</p> <p>12 A. To tell you the truth, I couldn't tell you</p> <p>13 exactly where they were.</p> <p>14 Q. Okay. When -- you discharged your weapon first</p> <p>15 at Flores; correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And then within a millisecond moment, Sanchez</p> <p>18 discharged his weapon, too; right?</p> <p>19 A. I'm not sure about the time, but it was almost</p> <p>20 simultaneous.</p> <p>21 Q. Okay. And so was a decision made that -- when</p> <p>22 you were back a ways and discussing we're going to have</p> <p>23 to, you know, stop this, was a decision made that, if</p> <p>24 there was going to be a shot fired, you would be</p> <p>25 shooting first?</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. All right. All right. And as you're</p> <p>2 approaching him, he has a knife in his -- which hand,</p> <p>3 left hand or right hand?</p> <p>4 A. It started out in the right, pulled it out,</p> <p>5 switched over to the left. (Indicating.)</p> <p>6 Q. Okay. And at that point you're -- are -- are</p> <p>7 you instructing him to do anything as you're approaching</p> <p>8 him? Are you talking to him?</p> <p>9 A. Deputy Sanchez was.</p> <p>10 Q. What's -- what's Deputy Sanchez telling him?</p> <p>11 A. He told him three times -- three to four times</p> <p>12 to drop the knife. And then finally, at the end, he</p> <p>13 told him, "This is the last time I'm going to tell you,</p> <p>14 guy, drop the knife."</p> <p>15 Q. Okay. And so you're not giving any</p> <p>16 instructions? Officer -- Deputy Sanchez is; correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. You're just approaching.</p> <p>19 And so when he tells him, "This is the</p> <p>20 last time I'm going to tell you to drop the knife," and</p> <p>21 he does not drop the knife, are his hands up or down?</p> <p>22 A. Like I said before, sir, he was going up and</p> <p>23 down, you know, the whole time. (Indicating.)</p> <p>24 Q. Okay.</p> <p>25 A. I mean, he's not walking towards me, you know,</p>	<p style="text-align: right;">Page 92</p> <p>1 A. No, sir.</p> <p>2 Q. All right. It just happened to be that you</p> <p>3 shot first; correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And did you shoot right after, I mean, within a</p> <p>6 second of Sanchez saying, "You need to drop the knife"</p> <p>7 for the last time?</p> <p>8 A. No, sir. I think it was -- he made a movement</p> <p>9 with the knife. And, you know, as he was telling me,</p> <p>10 you know, "I told you you'd have to kill me," he made a</p> <p>11 movement, and that's when I squeezed a round.</p> <p>12 Q. What was the movement? Show me what movement</p> <p>13 he made.</p> <p>14 A. I want to say it was something like that, you</p> <p>15 know, with -- with his hands. (Indicating.)</p> <p>16 Q. Uh-huh.</p> <p>17 A. And being within that distance, you know, I</p> <p>18 feared for my partner's life, I feared for mine.</p> <p>19 Q. So you're saying that -- you showed a gesture</p> <p>20 with his hands up; correct?</p> <p>21 A. Right.</p> <p>22 Q. All right. And his knife -- the knife was in</p> <p>23 the left hand?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. And how far was he when -- from you when</p>

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1 you discharged your weapon?

2 **A. Exact feet, I couldn't tell you. To me, it**
 3 **appeared that he was 6 to 8 feet away from my partner.**
 4 **But for me, I don't have a measuring guide out there.**

5 Q. Was he coming at you?

6 **A. I want to say so, but then I want to say like**
 7 **he would stop, you know, and start, you know, flailing**
 8 **his arms. You know, I -- and then he made the movement.**
 9 **Was he still moving? I couldn't tell you.**

10 Q. Were his -- were his arms up in the air with
 11 the knife in his left hand for a couple seconds before
 12 you ever shot him?

13 **A. Yes, sir, I would say so. But I don't -- I**
 14 **wouldn't consider -- you know, he's still a threat to**
 15 **me.**

16 MR. HENRY: Objection; nonresponsive.

17 Q. (By Mr. Henry) My question to you was: Was
 18 his hands up in the air with the knife in his left hand
 19 for a couple seconds before you ever shot him?

20 **A. Yes, sir. But then also he was also up and**
 21 **down, you know, the whole time. So, I mean, just**
 22 **because he put his hands up doesn't necessarily mean**
 23 **that, you know, he was giving up.**

24 MR. HENRY: Objection; nonresponsive.

25 Q. (By Mr. Henry) The only thing you know is his

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1 hands were up and that knife was in his left hand and
 2 you discharged your weapon into him? At that moment, he
 3 had his hands up and the weapon was in his left hand?
 4 (Indicating.) Is that true or not?

5 **A. Yes, sir. But then if you take the totality of**
 6 **everything and what --**

7 Q. I'm not asking you about the totality.

8 **A. Oh, okay.**

9 Q. I'm just asking at that moment.

10 **A. Yes, sir.**

11 Q. Have you seen the video of yourself?

12 **A. Yes, sir, I've seen it.**

13 Q. All right. How many times have you watched
 14 that video?

15 **A. Maybe once, and it wasn't --**

16 Q. One time?

17 **A. Yes, sir.**

18 Q. All right. And then right after this incident,
 19 you wrote a statement about how this incident occurred;
 20 right?

21 **A. Yes, sir.**

22 Q. All right. Based on your training and
 23 education with the department, you're supposed to be
 24 truthful and honest when giving that statement; correct?

25 **A. Yes, sir.**

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1 Q. In fact, you know that if you fill out a report
 2 and you knowingly fill it out incorrectly, you know
 3 that's a crime, don't you?

4 **A. Yes, sir.**

5 Q. Okay. And so, in fact, when you wrote your
 6 report, were you at the scene of this incident?

7 **A. No, sir.**

8 Q. Were you back at -- where were you at?

9 **A. They took us to CID, I think it is, back at the**
 10 **jail.**

11 Q. All right. And so when you were at the scene,
 12 did you have your -- was your lawyer at the scene?

13 **A. He made it out there, yes, sir.**

14 Q. Okay. And when you went to CID, did you go
 15 with your lawyer to CID?

16 **A. No, sir. He met us over there.**

17 Q. Okay. So let me make sure I understand this.
 18 Your lawyer --

19 Who was your lawyer who came to the scene
 20 of this incident?

21 **A. Bob -- Robert Leonard.**

22 Q. Okay. Did you talk to him at the scene of the
 23 incident?

24 **A. Oh, yes, sir.**

25 Q. Okay. And did you ask for a lawyer to come to

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1 the scene of the incident?

2 **A. At the time another deputy had called to let**
 3 **him know that there had been a shooting.**

4 Q. But what my question is: Did you direct the
 5 lawyer to come to the scene for you?

6 **A. No, sir. He -- he called me and he told me he**
 7 **was on his way.**

8 Q. Okay. When you say "he," you mean the lawyer
 9 called you?

10 **A. Yes, sir. After another officer had called him**
 11 **to tell me that.**

12 Q. Did he call your cell phone?

13 **A. Yes, sir.**

14 Q. Okay.

15 **A. But that was after the shooting.**

16 Q. After the incident; right?

17 **A. Yes, sir.**

18 Q. And so at the scene of the incident you talked
 19 to the lawyer; correct?

20 **A. Yes, sir.**

21 Q. Did you walk through the scene with the lawyer?

22 MR. FRIGERIO: Objection. Whatever was
 23 said was attorney-client privileged.

24 Q. (By Mr. Henry) Did you ever walk into --

25 Well, let me ask you: The home where this

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1 incident occurred and the yard -- the home, that -- in
 2 your mind, that was the location of the crime scene;
 3 correct?
 4 **A. Yes, sir.**
 5 Q. Did you ever walk into that house with the
 6 lawyer?
 7 **A. Inside the house, no, sir.**
 8 Q. Okay. And so when you went to CID, did you go
 9 with the lawyer in his car or did you go by yourself?
 10 **A. No, sir, I went with a -- people from CID.**
 11 Q. Okay. And then about how long were you at the
 12 scene of the incident with the lawyer?
 13 **A. I couldn't even tell you, sir. I don't -- you**
 14 **know, I didn't look at a clock.**
 15 Q. Okay.
 16 **A. I wasn't out there very long.**
 17 Q. All right. You go to CID and then -- and
 18 that's where you give the written statement; is that
 19 correct?
 20 **A. Yes, sir.**
 21 Q. Okay. And who did you give that statement to?
 22 **A. It was a detective, now he's a sergeant, Mahon.**
 23 Q. Your statement that you gave, did you write
 24 that statement out?
 25 **A. No, sir. You're telling Deputy Mahon what**

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1 **happened, he's typing.**
 2 Q. So you're telling him and he's typing it up?
 3 **A. Yes, sir.**
 4 Q. Okay. And then you read that typed-up
 5 statement --
 6 **A. Yes, sir.**
 7 Q. -- before you signed it; correct?
 8 **A. Yes, sir.**
 9 Q. Was your lawyer present with you when you
 10 signed it?
 11 **A. Yes, sir.**
 12 Q. All right. And was the lawyer present when
 13 Mr. Mahon was typing it up?
 14 **A. Yes, sir.**
 15 Q. Okay. And so when you reviewed that statement,
 16 you reviewed it in the room with Mr. Mahon and your
 17 lawyer; correct?
 18 **A. Yes, sir.**
 19 Q. Okay. And did you discuss any changes to your
 20 statement with Mr. Mahon before you signed that
 21 statement?
 22 **A. Just things that I wanted to take out; commas,**
 23 **periods, stuff like that, words.**
 24 Q. Okay. And -- and what commas, periods and
 25 words did you remove from the typed-up statement by

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1 Mr. Mahon -- Lieutenant Mr. Mahon?
 2 **A. That, I couldn't even tell you, sir. It's**
 3 **been, you know, a couple of years --**
 4 Q. All right. So you --
 5 **A. -- year and a half.**
 6 Q. So after you told him what words to remove from
 7 the statement, did he go retype up the statement?
 8 **A. Yes, sir.**
 9 Q. Okay. And so those drafts of the statement
 10 that was first typed up by Mahon, have you seen those
 11 drafts?
 12 **A. No, sir. What happened to them afterwards, I**
 13 **have no idea.**
 14 Q. And those are the words that you told him that
 15 he typed up in that statement initially; correct?
 16 **A. Yes, sir.**
 17 Q. And then you changed that statement. And that
 18 particular draft of those statements, you don't know
 19 where they're at, the drafts?
 20 **A. No, sir.**
 21 Q. Okay. And as you sit here today, do you know
 22 what words you changed?
 23 **A. No, sir. I mean, just mostly talking about the**
 24 **events of what happened.**
 25 Q. When you were telling Mahon what words to

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1 change, was your lawyer in the room with you?
 2 **A. Yes, sir, he was in there.**
 3 Q. Okay. When you were telling Mahon the story of
 4 how this incident took place, were you being truthful
 5 and honest with him when you told him the story verbally
 6 and he was typing it up?
 7 **A. Yes, sir.**
 8 Q. And so when you went and changed the words of
 9 your statement, one, as we sit here today, we'll never
 10 know what words you changed, will we?
 11 **A. No, sir. I don't -- I don't know where that**
 12 **copy is.**
 13 Q. Did you ask Lieutenant Mahon to destroy that
 14 statement --
 15 **A. No, sir.**
 16 Q. -- the first statement?
 17 **A. No, sir. He's a sergeant, too. But no, sir.**
 18 Q. Okay. Did he tell you he was going to destroy
 19 it?
 20 **A. No, sir. After I was done, I left. Well,**
 21 **actually, I got a ride back to my car.**
 22 Q. Okay. So you intentionally and knowingly
 23 altered your statement before you signed it, didn't you?
 24 MR. FRIGERIO: Objection; form.
 25 Q. (By Mr. Henry) Didn't you? You can answer my

<p style="text-align: right;">Page 101</p> <p>1 question.</p> <p>2 MR. FRIGERIO: You can answer the question</p> <p>3 to the best of your ability.</p> <p>4 A. No, sir. We were going over the chronicle of</p> <p>5 events.</p> <p>6 Q. (By Mr. Henry) But you intentionally and</p> <p>7 knowingly removed words from your statement, didn't you?</p> <p>8 A. Well, after I looked at it and we started to</p> <p>9 think, "Okay. Well, this needs to go up here," and</p> <p>10 stuff like that. It's not like --</p> <p>11 Q. What you do mean "we" -- "we," "We looked at</p> <p>12 it"? Who is "we"?</p> <p>13 A. I mean, as I was looking at it and I told</p> <p>14 Mahon, "No. This needs to go" -- my lawyer is there,</p> <p>15 everybody is there.</p> <p>16 Q. Okay. And so -- but you're the one giving the</p> <p>17 statement; correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And Lieutenant Mahon let you change your</p> <p>20 statement, didn't he? He let you change the structure</p> <p>21 of that statement and the words in it?</p> <p>22 A. Yes, sir. He's a sergeant, obviously.</p> <p>23 MR. HENRY: All right. We're going to</p> <p>24 take another break.</p> <p>25 THE VIDEOGRAPHER: We're off the record at</p>	<p style="text-align: right;">Page 103</p> <p>1 A. In this form?</p> <p>2 Q. Yeah, or on a screen. You know, in a</p> <p>3 PowerPoint.</p> <p>4 A. Oh, I'm sure we've seen them. "Use of</p> <p>5 Force" --</p> <p>6 Q. Right.</p> <p>7 A. -- they go over the PowerPoints in classrooms</p> <p>8 and stuff --</p> <p>9 Q. Right.</p> <p>10 A. -- but, yeah, we've gone over. But like I'm</p> <p>11 saying, necessarily this one, I couldn't tell you for</p> <p>12 sure, sir.</p> <p>13 Q. Okay. When you were at the scene and at the</p> <p>14 CID office, we were talking about the statement you gave</p> <p>15 the officer that typed up the -- your description of the</p> <p>16 incident was Officer who?</p> <p>17 A. Now he's a sergeant.</p> <p>18 Q. Sergeant.</p> <p>19 A. Sergeant Mahon.</p> <p>20 Q. All right. And while you were giving that oral</p> <p>21 statement, he was typing it up, your attorney was</p> <p>22 sitting in that room?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And your attorney's name is what?</p> <p>25 A. Bob Leonard.</p>
<p style="text-align: right;">Page 102</p> <p>1 11:26 p.m.</p> <p>2 (Recess from 11:26 until 11:38.)</p> <p>3 THE VIDEOGRAPHER: We're back on the</p> <p>4 record at 11:38 a.m.</p> <p>5 Q. (By Mr. Henry) All right. Officer Vasquez,</p> <p>6 let me show you what's marked as Exhibit Number 6. And</p> <p>7 my question about Exhibit Number 6, is this a PowerPoint</p> <p>8 on training that you have actually received from the</p> <p>9 Bexar County Sheriff's Department on the use of force?</p> <p>10 (Exhibit Number 6 was marked.)</p> <p>11 A. (Reviewing document.)</p> <p>12 Q. (By Mr. Henry) All right. Exhibit Number 6,</p> <p>13 is that a "Use of Force" PowerPoint that you have</p> <p>14 reviewed in your training before the incident with</p> <p>15 Flores?</p> <p>16 A. (Reviewing document.)</p> <p>17 It could be. You mean just because it</p> <p>18 says "Use of Force" and "Sheriff's Department," it</p> <p>19 doesn't necessarily mean that it is, but, I mean, we go</p> <p>20 over PowerPoints and stuff like that. Now, is it</p> <p>21 necessarily this one? I couldn't tell you.</p> <p>22 Q. Okay. Do you have any recollection of ever</p> <p>23 reviewing Number 6?</p> <p>24 A. Like this?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Were there any other lawyers sitting in that</p> <p>2 room besides Bob Leonard with you?</p> <p>3 A. No, sir. He was my lawyer.</p> <p>4 Q. Was there anyone else in that room with you</p> <p>5 besides Sergeant Mahon, yourself, and Bob Leonard?</p> <p>6 A. No, sir, that was it.</p> <p>7 Q. So when you were reviewing that statement and</p> <p>8 making the corrections that you wanted to through</p> <p>9 removing words or changing it, you were doing it in the</p> <p>10 room with Bob Leonard and Sergeant Mahon; correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. All right. And Sergeant Mahon was letting you</p> <p>13 change that statement, wasn't he?</p> <p>14 A. I mean, he was typing it, so, yeah, I guess so.</p> <p>15 Q. Right. And then when you went back and changed</p> <p>16 it, he retyped it and redid it based on what you told</p> <p>17 him; correct?</p> <p>18 A. Right.</p> <p>19 Q. So in Exhibit Number 6 on Page 42, your</p> <p>20 statement that you gave for this incident, that was your</p> <p>21 report; correct? Your witness statement was your</p> <p>22 report?</p> <p>23 A. My report is my report. I don't understand</p> <p>24 what you're saying.</p> <p>25 Q. All right. Well, part of the your report is</p>

<p style="text-align: right;">Page 105</p> <p>1 your witness statement about what occurred that day;</p> <p>2 right?</p> <p>3 A. The only thing I did was my report.</p> <p>4 Q. Right. And that is your statement of the</p> <p>5 events that occurred that day --</p> <p>6 A. Oh, yes, sir.</p> <p>7 Q. -- right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. All right. Do you see where it says "Do not</p> <p>10 message your report"?</p> <p>11 A. Right.</p> <p>12 Q. All right. You massaged your report, didn't</p> <p>13 you?</p> <p>14 MR. FRIGERIO: Objection; form.</p> <p>15 You can go ahead and answer.</p> <p>16 A. Oh, you're not massaging it. You're --</p> <p>17 Q. (By Mr. Henry) You're changing it.</p> <p>18 A. -- putting it into the order that you want it</p> <p>19 to be in.</p> <p>20 Q. Right. You put it in the order, you took out</p> <p>21 words, you changed the order, is what you're telling the</p> <p>22 jury; right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Did your lawyer get a copy of the first draft</p> <p>25 of that statement?</p>	<p style="text-align: right;">Page 107</p> <p>1 Department policies and procedures. All right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. So as we go to 9.01, it talks about the policy</p> <p>4 and using force, the purpose. And then we get down</p> <p>5 further to the end -- bottom of the page, do you see D,</p> <p>6 "Deputies may use reasonable force to overcome</p> <p>7 resistance in the lawful performance of duties, even</p> <p>8 though there is no immediate or apparent danger calling</p> <p>9 for self-defense. However, deputies must" -- second</p> <p>10 page -- "be acting within the scope of their official</p> <p>11 authority. Every reasonable opportunity to comply with</p> <p>12 the request for cooperation must be given to the person</p> <p>13 and force used only after all other reasonable means</p> <p>14 have failed to produce compliance."</p> <p>15 All right. Did you see that rule?</p> <p>16 A. Yes, sir.</p> <p>17 Q. When you discharged your weapon and shot</p> <p>18 Mr. Flores, based on your education and training by the</p> <p>19 Bexar County Sheriff's Department, did you believe that</p> <p>20 you were following the policy of D that I've just read</p> <p>21 to you?</p> <p>22 I'll -- let me put it together here for</p> <p>23 you. It might be a little bit easier for you to read at</p> <p>24 one time. (Indicating.)</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 106</p> <p>1 A. I don't know what he got, sir.</p> <p>2 Q. Okay. So he may have a copy of that first</p> <p>3 draft? You don't know it as you sit here?</p> <p>4 A. Yes, sir. I don't -- I don't know what he's</p> <p>5 got.</p> <p>6 Q. Okay. And -- and that first draft is your</p> <p>7 first verbal description to CID of this incident, isn't</p> <p>8 it?</p> <p>9 A. Right. But it's not necessarily turned over to</p> <p>10 them until everything is done.</p> <p>11 Q. It's your -- but it's your first verbal</p> <p>12 description to Sergeant Mahon who's typing it up?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. It's your very first utterance of</p> <p>15 what occurred after this incident, isn't it?</p> <p>16 A. Yes, sir.</p> <p>17 (Sotto voce discussion.)</p> <p>18 MR. HENRY: I dropped my mic.</p> <p>19 Over here?</p> <p>20 MR. WILSON: Yes, sir. (Indicating.)</p> <p>21 (Sotto voce discussion.)</p> <p>22 Q. (By Mr. Henry) Let's look at Exhibit Number 3.</p> <p>23 I'm going to put this up on the screen for you. And</p> <p>24 I'll submit to you that that is Chapter 9, "Use of</p> <p>25 Force," and that's out the Bexar County Sheriff's</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. Okay. And so based on your training and</p> <p>2 education, the policy that we see here under Chapter 9,</p> <p>3 Subsection D, that is something based on your experience</p> <p>4 at Bexar County Sheriff's Department that you relied</p> <p>5 upon in discharging your weapon and using that force at</p> <p>6 that moment with Mr. Flores; correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. All right. Now let's look at, also, B</p> <p>9 on Exhibit Number 3. And, just for reference, that is</p> <p>10 still "Use of Force" policy, 9.01, 9.02B. "In each</p> <p>11 instance of the use of force, the officer should exhaust</p> <p>12 every reasonable means of employing the minimum amount</p> <p>13 of force to affect an objective before escalating to the</p> <p>14 next, more forceful method. However, an officer is not</p> <p>15 required to engage in prolonged combat or struggle</p> <p>16 rather than resorting to that method which will most</p> <p>17 quickly and safely bring the situation under control."</p> <p>18 Is Subsection B that I just read to you</p> <p>19 another policy and procedure of the County that you</p> <p>20 believe, based on your education and training by the</p> <p>21 Bexar County Sheriff's Department, you utilized when you</p> <p>22 discharged your gun and shot Mr. Flores?</p> <p>23 A. Sir, leading all the way up to that point, yes,</p> <p>24 sir.</p> <p>25 Q. All right. And including that point; correct?</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. That point.</p> <p>3 (Sotto voce discussion.)</p> <p>4 Q. (By Mr. Henry) So on Exhibit Number 3 also we</p> <p>5 talked about it's Pages 100 through 109. Do you see</p> <p>6 that, sir?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And if we go to --</p> <p>9 MR. FRIGERIO: Are those Bexar County</p> <p>10 Bates stamped?</p> <p>11 MR. HENRY: I don't see a Bates stamp on</p> <p>12 them.</p> <p>13 Q. (By Mr. Henry) If we go to Page 105 of Exhibit</p> <p>14 Number 3, 9.10, "Use of Deadly Force" --</p> <p>15 And this is training that you received</p> <p>16 through the policies, procedures and other on-the-job</p> <p>17 training from the Bexar County Sheriff's Department;</p> <p>18 correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. All right. It says A, "Preparation for Use of</p> <p>21 Deadly Force."</p> <p>22 Now, if we go to Pages 106, f, "Deadly</p> <p>23 Force," and it gives you a description of what deadly</p> <p>24 force is; correct?</p> <p>25 A. Yes, sir.</p>	<p>1 Q. All right. Is that your statement that you</p> <p>2 wrote on the date of this incident?</p> <p>3 A. Yes, sir.</p> <p>4 Q. If we look at your statement -- we'll put this</p> <p>5 up here on the Elmo -- when we go to the very end of</p> <p>6 this document, third page of your statement, you --</p> <p>7 before you sign this --</p> <p>8 Let me ask you: Did you -- did you change</p> <p>9 your statement more than one time before you signed it?</p> <p>10 A. I don't think so, sir. I mean -- I don't</p> <p>11 really recall how many times it was changed. I mean,</p> <p>12 you're going through it and you're telling him what to</p> <p>13 write, what needs to be -- you know, take this out, put</p> <p>14 that in. You know, as far as --</p> <p>15 Q. So you don't know how many times you actually</p> <p>16 told Sergeant Mahon to change your statement while you</p> <p>17 were there --</p> <p>18 A. No, sir.</p> <p>19 Q. -- that day?</p> <p>20 We know it was more than once; right?</p> <p>21 A. Well, no. Because, like I said, you're not</p> <p>22 necessarily changing. You're adding stuff in, taking</p> <p>23 stuff out as you're recalling the incident.</p> <p>24 Q. Is this typed up on a typewriter, or was it on</p> <p>25 a computer?</p>
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<p>1 Q. And then do you see where it says g, "It shall</p> <p>2 be incumbent on every officer to exhaust every</p> <p>3 reasonable means of employing only that amount of deadly</p> <p>4 force necessary to accomplish the purpose," and, h,</p> <p>5 "Where feasible, a verbal warning shall be given to the</p> <p>6 offender prior to the use of deadly force"? Do you see</p> <p>7 that, h?</p> <p>8 A. Yes, sir.</p> <p>9 Q. All right. And then, i, "Once the immediate</p> <p>10 danger of death or serious bodily injury to an officer</p> <p>11 or another person has passed, deadly force shall not be</p> <p>12 used."</p> <p>13 Did you see that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. So -- and do you agree with that? You</p> <p>16 agree with that policy; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And you agree that's a policy that you should</p> <p>19 follow; correct?</p> <p>20 A. Yes, sir.</p> <p>21 (Exhibit Number 7 was marked.)</p> <p>22 Q. (By Mr. Henry) Let me show you Exhibit</p> <p>23 Number 7, and these are Bates stamped 070937, '38 and</p> <p>24 '39.</p> <p>25 A. (Reviewing document.)</p>	<p>1 A. I'm not sure. I was sitting on one side and he</p> <p>2 was sitting on the other. I want to say it was a</p> <p>3 computer, but I could be wrong.</p> <p>4 Q. Okay. When you type up your reports, do you</p> <p>5 use a computer or do you use a typewriter?</p> <p>6 A. My reports, I use a type -- I mean, a</p> <p>7 computer, yes, sir.</p> <p>8 Q. All right. Typewriters are kind of antiquated</p> <p>9 now; right?</p> <p>10 A. A little bit old, yes, sir.</p> <p>11 Q. Yeah. So whatever drafts were made and changed</p> <p>12 and altered by you and Sergeant Mahon, is it your</p> <p>13 understanding that those were done on a computer that</p> <p>14 Sergeant Mahon was typing on?</p> <p>15 A. Yes, sir, I believe so.</p> <p>16 Q. Okay. All right. Yeah. And as you were</p> <p>17 making your changes, you say he was sitting behind his</p> <p>18 desk. Were you able to see his screen that he was</p> <p>19 typing on as he was typing your statement?</p> <p>20 A. No, sir. I'm on one side and he's on the</p> <p>21 other.</p> <p>22 Q. Right.</p> <p>23 A. But I wasn't like -- you know, I'm telling him</p> <p>24 what happened, so, no, sir.</p> <p>25 Q. So he'd be typing it up while you're telling</p>

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1 him. And then would he print it out, let you look at
 2 it, and then you would tell him what you needed to
 3 change?
 4 **A. Right.**
 5 Q. All right. And then your lawyer is sitting by
 6 you while you're doing that; right?
 7 **A. Yes, sir.**
 8 Q. And that may have had happened multiple times,
 9 that he would print it out, show it to you, print it
 10 out, show it to you?
 11 **A. Not necessarily print it out because he's**
 12 **there. He might tell you -- you know, you might tell**
 13 **him, "Well, put this," you know, "Oh, no, I don't want**
 14 **that to be in there." You know, it's --**
 15 **I don't necessarily believe it was printed**
 16 **out like two or three times --**
 17 Q. Okay.
 18 **A. -- if that's what you're saying.**
 19 Q. Maybe just printed out once, and then you told
 20 him the changes that you wanted?
 21 **A. Right. As you're going over and --**
 22 Q. Right.
 23 **A. -- reading -- proofreading.**
 24 Q. Okay. And at the time that you signed this
 25 statement on the day of this incident, you did not know

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1 that there was a videotape of this incident, did you?
 2 **A. No, sir.**
 3 Q. All right. And you learned -- did you learn
 4 that day, after you did this statement, that there was a
 5 video?
 6 **A. Yes, sir.**
 7 Q. Okay. How -- how soon in terms of time? Was
 8 it hours later after your report that you signed that
 9 you learned there was a video?
 10 **A. Yes, sir. It was after we were taken back --**
 11 **before we were taken back to our cars, the Sheriff had**
 12 **called us in and said, "There's a video out there. I**
 13 **don't know what's on it. We'll go from there."**
 14 **"All right."**
 15 **She hadn't seen it yet.**
 16 Q. Okay. Let me ask you, you've told us that
 17 you've seen the video; correct?
 18 **A. Yes.**
 19 Q. All right. So based on you having seen a video
 20 of part of this incident, is there anything to your
 21 statement that you signed on the day of this incident
 22 that's Exhibit Number -- that's Exhibit Number 7, is
 23 there anything that you would change in your statement
 24 today?
 25 **A. No, sir. It's --**

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1 Q. You'd still keep it the same way?
 2 **A. Yes, sir, the best that I recalled at that**
 3 **time. I don't -- I was pretty -- excuse me -- pretty**
 4 **truthful -- you know, I was truthful at the beginning.**
 5 **I don't -- it is what it is.**
 6 Q. You think you were truthful; right.
 7 **A. Yes, sir. On what I recalled -- recalled.**
 8 Q. Okay. Now, when you signed this statement,
 9 before you signed it, did anyone read to you the --
 10 What I mean by "anyone," did Sergeant
 11 Mahon read to you that you were swearing to and
 12 affirming that everything in this statement was true and
 13 correct?
 14 **A. Yes, sir.**
 15 Q. Did he read that out loud to you?
 16 **A. I believe so, yes, sir.**
 17 Q. And then I guess at the end did he also tell
 18 you, "I also understand that if I knowingly made any
 19 false statements, charges may be filed against me for
 20 perjury"?
 21 **A. Yes, sir.**
 22 Q. Did he read that to you?
 23 **A. I'm not sure. But I'm sure he read the whole**
 24 **thing. But, you know, like I said, I gave everything**
 25 **truthful that day.**

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1 Q. Before you signed this statement for the last
 2 time, did Sergeant Mahon read it out loud to you?
 3 **A. I couldn't tell you for sure, sir.**
 4 Q. Okay. So while this incident was taking place
 5 and -- let's go to your statement and we'll go to the
 6 second page of your statement.
 7 It says, "Deputy Sanchez went toward the
 8 driver side of my patrol vehicle to shut off the patrol
 9 vehicle and get my keys. At the same time, while Deputy
 10 Sanchez was doing so, I was at the rear of my patrol
 11 ... watching the male with my duty weapon pointed at the
 12 male."
 13 Is that a true statement?
 14 **A. It's a true statement, but the order is out**
 15 **of -- out of place. Because Deputy Sanchez did go**
 16 **inside my vehicle and did throw me the keys afterwards.**
 17 Q. That all happened after Mr. Flores was shot,
 18 didn't it?
 19 **A. Yes, sir, I believe so.**
 20 Q. Okay. So when you're saying that Deputy
 21 Sanchez went over to the vehicle to get your keys out
 22 when Flores was basically at your vehicle, that never
 23 ever happened, did it?
 24 **A. No, sir. He did get my keys, though.**
 25 Q. No, no. Listen to my question. While Flores

<p style="text-align: right;">Page 117</p> <p>1 was at your vehicle, right after he slammed the door --</p> <p>2 while he was slamming the door, or within seconds,</p> <p>3 Deputy Sanchez was never, ever at your vehicle, was he,</p> <p>4 at that time?</p> <p>5 A. Like I said, it was after the order that he</p> <p>6 was -- after he was shot, Deputy Sanchez reached in and</p> <p>7 grabbed my keys and threw them to me.</p> <p>8 MR. HENRY: Objection; nonresponsive.</p> <p>9 Q. (By Mr. Henry) Listen to my question.</p> <p>10 Your statement is that Flores slams the</p> <p>11 door to your vehicle, Sanchez is going over and getting</p> <p>12 the keys out at the same time. That's what this</p> <p>13 statement says, isn't it?</p> <p>14 A. Right.</p> <p>15 Q. That is not true, is it?</p> <p>16 A. No, sir. The chronicle of order is out.</p> <p>17 Q. Right. That is not true. Physically speaking,</p> <p>18 from the physical evidence of what happened, Sanchez was</p> <p>19 never at your vehicle getting any keys out while Flores</p> <p>20 was over there, was he?</p> <p>21 MR. FRIGERIO: Objection; form.</p> <p>22 Q. (By Mr. Henry) Was he?</p> <p>23 MR. FRIGERIO: You can go ahead and</p> <p>24 answer.</p> <p>25 A. He was -- like I said, it was the order that I</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. (By Mr. Henry) Right?</p> <p>2 MR. FRIGERIO: Objection; form. You're</p> <p>3 now being argumentative with the witness.</p> <p>4 Q. (By Mr. Henry) No. No. You understand,</p> <p>5 logically speaking --</p> <p>6 A. Yes, sir.</p> <p>7 Q. -- if I tell you I'm in the bathroom and I'm</p> <p>8 actually sitting here, that would be false, wouldn't it?</p> <p>9 A. If you put it that way, yes, sir.</p> <p>10 Q. Right. So from the perspective of you trying</p> <p>11 to describe the exigent circumstances of what's</p> <p>12 happening on the day of this incident, you're trying to</p> <p>13 describe that while Flores is trying to get in that</p> <p>14 vehicle, Sanchez is over there trying to get the keys</p> <p>15 out --</p> <p>16 A. Right.</p> <p>17 Q. -- at the same time; right?</p> <p>18 A. That didn't happen that way.</p> <p>19 Q. And that never happened; right?</p> <p>20 A. Right. It was --</p> <p>21 Q. And that's a --</p> <p>22 A. The order was different.</p> <p>23 Q. -- and that's a false statement, isn't it?</p> <p>24 MR. FRIGERIO: Objection; form.</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">Page 118</p> <p>1 wrote it out at because of what happened, everything</p> <p>2 going through my mind, and that's the way I put it.</p> <p>3 But Deputy Sanchez did get it after</p> <p>4 Mr. Flores was shot. Yes, sir. He did throw them to</p> <p>5 me. Now, the order might be out that you're referring</p> <p>6 to, but it did happen --</p> <p>7 MR. HENRY: Objection --</p> <p>8 A. -- but not necessarily --</p> <p>9 MR. HENRY: Objection; nonresponsive.</p> <p>10 Q. (By Mr. Henry) I'm not -- I'm asking you a</p> <p>11 different question. I know you're trying to explain the</p> <p>12 order, but I'm not asking you that.</p> <p>13 I'm saying, if you look at this statement,</p> <p>14 the true evidence is that Officer Sanchez never went to</p> <p>15 get the keys out of that car when Flores had just</p> <p>16 slammed that door?</p> <p>17 A. Right. Yes, sir.</p> <p>18 Q. Okay. And to the extent that that's physically</p> <p>19 not true, this statement is false, isn't it?</p> <p>20 MR. FRIGERIO: Objection; form.</p> <p>21 A. No, sir. Like I said --</p> <p>22 Q. (By Mr. Henry) Well, that's like saying I'm in</p> <p>23 the bathroom right now, but I'm not in the bathroom,</p> <p>24 sir.</p> <p>25 A. All right, sir.</p>	<p style="text-align: right;">Page 120</p> <p>1 MR. FRIGERIO: Being argumentative.</p> <p>2 Q. (By Mr. Henry) So you're willing to tell the</p> <p>3 jury that -- you're just going to tell this jury that</p> <p>4 it's true?</p> <p>5 A. No, sir. What I'm telling you is that the</p> <p>6 order is out of order. At the time that I did the</p> <p>7 report, that's what I remembered. That's what I'm</p> <p>8 saying.</p> <p>9 Q. And -- and that was right after this incident</p> <p>10 and you're trying to describe to Lieutenant Mahon that</p> <p>11 while this situation is unfolding rapidly, you've got to</p> <p>12 have Sanchez trying to get the keys out of the car</p> <p>13 because Flores is trying to get in the car? That's what</p> <p>14 you're trying to tell in this statement, isn't it?</p> <p>15 MR. FRIGERIO: Objection; form.</p> <p>16 A. No, sir.</p> <p>17 Q. (By Mr. Henry) Well, you -- that's what it</p> <p>18 says. It says, at the time -- "Deputy Sanchez went</p> <p>19 toward the driver side of my patrol ... to shut off the</p> <p>20 patrol vehicle and get my keys. At the" time -- "at the</p> <p>21 same time, while Deputy Sanchez was doing so, I was at</p> <p>22 the rear of my patrol vehicle."</p> <p>23 I mean, you're not only saying he's</p> <p>24 getting the keys, but he's turning off the vehicle,</p> <p>25 aren't you?</p>

<p style="text-align: right;">Page 121</p> <p>1 A. Like I said, sir --</p> <p>2 Q. Is that what you're saying?</p> <p>3 A. -- it's not -- it's not -- not --</p> <p>4 Q. No, no, no. Is that what you're saying in the</p> <p>5 statement or not?</p> <p>6 MR. FRIGERIO: Objection; form. It says</p> <p>7 what it says.</p> <p>8 Q. (By Mr. Henry) That's what it says, doesn't</p> <p>9 it?</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. And so if you believe this</p> <p>12 statement, it looks like Sanchez is running to that car</p> <p>13 and Flores is getting in that car and he's trying to get</p> <p>14 the keys and turn it off at the same time? If you read</p> <p>15 it as you wrote it, doesn't it?</p> <p>16 A. No, sir. That's not the way I take it.</p> <p>17 Q. No. As you wrote it --</p> <p>18 A. Yes, sir, that's the way -- yes, sir.</p> <p>19 Q. -- that's -- that's the way it --</p> <p>20 A. Yes, sir.</p> <p>21 Q. -- the way it reads; right?</p> <p>22 And this is after you read your statement,</p> <p>23 you changed the statement, you had your lawyer in the</p> <p>24 room, and you had Mahon changing it for you; right?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 123</p> <p>1 A. He was mimicking me? I don't understand.</p> <p>2 Q. All right. So let me --</p> <p>3 A. Where is it at on here? So I can read it.</p> <p>4 Q. Well, let me kind of do it differently. And</p> <p>5 maybe this could be at little bit more helpful. I'm</p> <p>6 going to come over by you. I'm going to stand right</p> <p>7 here, and you can -- you can -- it's not going to be on</p> <p>8 the screen.</p> <p>9 Flores has his hands up just like this and</p> <p>10 he's got a knife in his left hand; right? (Indicating?)</p> <p>11 A. Yes, sir.</p> <p>12 Q. Are you telling us that he tried to come at you</p> <p>13 with the knife while his hands were in the air? Is that</p> <p>14 your testimony?</p> <p>15 A. He was -- he was shaking his hands the whole</p> <p>16 time. And if you lead up to everything going to that,</p> <p>17 I'm not going to believe that he's surrendering, no,</p> <p>18 sir.</p> <p>19 MR. HENRY: Objection; nonresponsive.</p> <p>20 Q. (By Mr. Henry) When he has his hands up in the</p> <p>21 air, are you telling this jury that he's coming forward</p> <p>22 trying to hit you with a knife? With his hands up --</p> <p>23 A. I'm saying that he's still a threat to me, yes,</p> <p>24 sir.</p> <p>25 MR. HENRY: Objection; nonresponsive.</p>
<p style="text-align: right;">Page 122</p> <p>1 Q. This is the final statement?</p> <p>2 A. Yes, it's the final statement.</p> <p>3 Q. And so even though we know that's completely</p> <p>4 false, what you just wrote in your statement, right</p> <p>5 after that -- right after that, you write that "While</p> <p>6 Deputy Sanchez and I were standing toward the rear of my</p> <p>7 patrol vehicle, the male said, 'I told you, you'd have</p> <p>8 to kill me.'"</p> <p>9 You put that in your statement, didn't</p> <p>10 you?</p> <p>11 A. Yes, sir.</p> <p>12 MR. FRIGERIO: Objection; form.</p> <p>13 Q. (By Mr. Henry) All right. And now you want us</p> <p>14 to believe that he told you that, just like you want us</p> <p>15 to believe that Sanchez was running to the vehicle to</p> <p>16 get the keys and turn it off; right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. Now, let's go to Page 3 of your</p> <p>19 statement. Now, I -- while you were standing there and</p> <p>20 Flores steps away from that vehicle and puts his hands</p> <p>21 up, is it your testimony that when Flores had his hands</p> <p>22 up with the knife in his left hand, he was mimicking to</p> <p>23 come towards you with the knife in his left hand while</p> <p>24 his hands were in the air? Is that your sworn testimony</p> <p>25 right now?</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. (By Mr. Henry) I'm not asking you about</p> <p>2 whether you feel he's a threat.</p> <p>3 I'm asking, is he physically moving that</p> <p>4 knife towards you?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay.</p> <p>7 A. I believe so.</p> <p>8 Q. All right. And then your sworn testimony and</p> <p>9 your statement is he's 6 to 8 feet away from you and</p> <p>10 Officer Sanchez; right?</p> <p>11 A. Yes, sir. That's what I wrote.</p> <p>12 Q. All right. And so -- in fact, in your</p> <p>13 statement -- in your statement, you --</p> <p>14 Let me go back over here, Officer Vasquez.</p> <p>15 You're saying that he's 6 to 8 feet away from you and</p> <p>16 he's advancing towards you, in your statement, didn't</p> <p>17 you?</p> <p>18 A. From what I remember, and I'm writing the</p> <p>19 report, yes, sir. I -- I --</p> <p>20 Q. And advancing towards you means he's coming</p> <p>21 towards you; right?</p> <p>22 A. Not necessarily.</p> <p>23 Q. Okay. So tell me, if I'm standing here like</p> <p>24 this right now, am I advancing towards you, right now,</p> <p>25 as we speak? (Indicating.)</p>

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1 **A. Leading up to that --**

2 Q. No. Right now.

3 **A. No. If you're just standing there like that,**
4 **no.**

5 Q. Okay. And so -- but at the time you discharged
6 your weapon, you wrote down that he was advancing
7 towards you and was 6 to 8 feet away from you, didn't
8 you?

9 **A. Yes, sir. When I squeezed off the round, he**
10 **was advancing.**

11 Q. Okay. And that's your sworn testimony now and
12 it's your sworn testimony in your statement; right?

13 **A. Yes, sir.**

14 Q. Now, if he's not advancing at you, you would
15 agree with me that that's not an imminent threat of harm
16 to you?

17 MR. FRIGERIO: Objection --

18 Q. (By Mr. Henry) When he's not advancing towards
19 you; right?

20 MR. FRIGERIO: Objection; form.

21 **A. No, sir. He's still a -- he's still a threat**
22 **to me. Until he drops the knife, until he lays down,**
23 **until he no longer is in control of that knife, he's**
24 **still a threat to me.**

25 Q. (By Mr. Henry) Ah. So, first of all, when you

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1 say he's 6 to 8 feet away from you, you know that's
2 completely false, don't you?

3 **A. No, sir. I don't have, first of all, a tape**
4 **measure out there to measure 6 feet, 8 feet. It's what**
5 **I perceive at the time.**

6 Q. And so your perception was really bad at that
7 time, wasn't it, because he wasn't 6 to 8 feet away from
8 you and he wasn't even moving towards you; right?

9 **A. At the time that this happened, yes, sir, I**
10 **believe that, in my mind and everything that was going**
11 **on, that he was a threat until he dropped the knife. He**
12 **was still advancing and that's -- that's what I**
13 **perceived.**

14 Q. Okay. So if I go back 25 feet from you and I
15 put my hand up and I have a knife in my left hand, and
16 I'm 25 feet away from you and I'm not moving and my
17 hands are up, would you still put a bullet in me?

18 **A. You have to take --**

19 Q. No. Would you -- No. Based on that exact
20 situation, would that --

21 **A. This gentleman at the time, sir, I believed to**
22 **be 6 to 8 feet away.**

23 Q. No, no.

24 **A. The totality --**

25 MR. HENRY: Object --

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1 **A. -- of everything in there --**

2 Q. (By Mr. Henry) Sir --

3 MR. HENRY: Objection; nonresponsive.

4 Q. (By Mr. Henry) -- I'm not asking you that.

5 I'm asking you, at 21 feet away --

6 You know CID went in and measured how far
7 he was from you after this incident? You know that,
8 don't you?

9 MR. FRIGERIO: Objection; form.

10 **A. No, sir. I don't know what they found.**

11 Q. (By Mr. Henry) Oh, you don't know that they
12 measured it and you were 21 feet away?

13 **A. I have -- I don't know what they do. I'm not**
14 **familiar with their -- you know, necessarily what they**
15 **measure at the scene, at necessarily my scene.**

16 Q. Nobody has ever told you, "Wait a minute, your
17 statement is false. He wasn't 6 to 8 feet away from
18 you"? No one in the --

19 **A. No, sir --**

20 Q. -- Bexar County Sheriff's Department --

21 **A. -- because that's how --**

22 Q. -- has ever --

23 **A. -- I perceived it.**

24 Q. Listen to my question.

25 Nobody that supervised you in the Bexar

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1 County Sheriff's Department has ever told you, "Wait a
2 minute, Officer Vasquez. He wasn't 6 to 8 feet away
3 from you. He was 21 feet away from you"?

4 **A. No, sir, no one has ever told me.**

5 Q. Let me show you what is marked as Exhibit
6 Number 8.

7 (Exhibit Number 8 was marked.)

8 Q. (By Mr. Henry) And this is produced by the
9 Sheriff's Department. And it shows where Vasquez was
10 standing and it shows where you were standing when you
11 discharged your weapon.

12 All right. Now, this document showing
13 your distance, you've never seen this before you, have
14 you?

15 **A. No, sir.**

16 Q. All right. There's a big difference between 6
17 to 8 feet and 21 feet, don't you think?

18 **A. Like I said, sir, that's what I perceived at**
19 **the time.**

20 MR. HENRY: Objection; nonresponsive.

21 Q. (By Mr. Henry) Do you think there's a big
22 difference between --

23 **A. Sure.**

24 Q. -- 6 to 8 feet and 21 feet?

25 **A. Yes, sir, number-wise.**

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1 Q. Okay. All right. And so let me get into that
2 for just a minute with you, your perception, because
3 that's important. It's very important.
4 If you would have perceived that he wasn't
5 even moving and his hands were up and he wasn't moving
6 towards you and he was over 21 feet away from you, would
7 you still have discharged your weapon, sir? Would you
8 have done that?

9 **A. Yes. At the same time -- with everything under**
10 **the same circumstance, yes.**

11 Q. So 21 feet away, hands are straight -- you
12 would -- you would have still shot him?

13 **A. Yes, sir. With everything that had been**
14 **involved prior up to that, yes, sir.**

15 Q. All right. And so at the time his hands are
16 straight up in the air at --

17 And, you know, this measurement of 21
18 feet, have you -- because you don't know you were 21
19 feet away and you perceived you were 6 to 8 feet, that
20 perception in your mind, we know would be inaccurate,
21 wouldn't it?

22 **A. No, sir. Like I've -- I've stated already, in**
23 **my mind, that's what I saw.**

24 Q. I know. But you can -- you can dream anything
25 you want up in your mind. If it ain't true, it ain't

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1 true; right?

2 MR. FRIGERIO: Objection; form.

3 Q. (By Mr. Henry) I mean, if it's not true, it's
4 not true?

5 **A. That's what I saw, sir.**

6 Q. Right. It's like you perceiving, if my hand is
7 up right here in front of you and you say, "Mr. Henry, I
8 perceive that your hand is 50 feet away from me," well,
9 you can perceive it, but it doesn't mean it's true;
10 right?

11 **A. Right.**

12 Q. All right. So my point with you is this: You
13 perceived 6 to 8 feet away, you put in your statement;
14 right? Because --

15 **A. Yes, sir.**

16 Q. -- because you know that when you're writing
17 your statement the issue of whether or not he's an
18 imminent threat or not is important to your statement,
19 isn't it?

20 **A. No, sir. He was what I believed to be 6 to 8**
21 **feet. It has to do with nothing else about --**

22 Q. Well, you --

23 **A. You know, you're -- you're trying to tell me**
24 **that it -- well, if -- if he was 21 feet, I wouldn't**
25 **have done it.**

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1 **To me, at the time when I'm writing the**
2 **report, when I shot him, it's 6 to 8 feet.**

3 Q. Right. And -- and right now we know that that
4 is incorrect?

5 **A. According to your --**

6 MR. FRIGERIO: Objection --

7 **A. -- what --**

8 MR. FRIGERIO: -- form.

9 Q. (By Mr. Henry) Right. And we know right now
10 that even as you sit here, nobody has questioned you or
11 talked to you in the Bexar County Sheriff's Department
12 about your perception of reality versus real reality?

13 **A. Yes, sir.**

14 Q. Right? No one has said, "Hey, wait, your real
15 reality of 6 to 8 feet is completely wrong," have they?

16 **A. No, sir.**

17 Q. All right. And when he's 6 to 8 feet and
18 you're perceiving 6 to 8 feet and you're perceiving he's
19 moving towards you with his hands up with a knife in his
20 left hand, that perception --

21 First of all, as a reasonable and prudent
22 officer, you need to make sure you're accurate in your
23 perceptions, don't you?

24 **A. Yes, sir.**

25 Q. And if you're inaccurate in your perceptions,

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1 you may take the wrong steps and wrong actions if you
2 incorrectly perceive what's going on; correct?

3 **A. Yes. I mean --**

4 Q. All right.

5 **A. -- you're responsible.**

6 Q. Right. So as a reasonable and prudent officer,
7 you need to accurately perceive events before you take
8 action, don't you?

9 **A. At the time of everything happening and this**
10 **gentleman is trying to kill me, trying to stab me, I saw**
11 **it as 6 to 8 feet, yes, sir.**

12 MR. HENRY: Objection; nonresponsive.

13 **A. And I don't have a tape measure and I don't**
14 **have markings and I don't have -- that's in my mind what**
15 **I saw.**

16 MR. HENRY: Objection; nonresponsive.

17 Q. (By Mr. Henry) As a reasonable, prudent
18 officer, you have to perceive things correctly before
19 you take action --

20 **A. Right. Yes, sir.**

21 Q. -- right?

22 Because if you misperceive, then you can
23 take action that you should not have taken; correct?

24 **A. Yes, sir.**

25 Q. All right. And that would be improper as an

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<p>1 officer to take action when you misperceive events,</p> <p>2 wouldn't it?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. And so in your education and training as</p> <p>5 an officer, even as we sit here today, Bexar County has</p> <p>6 not done anything to educate you in how to accurately</p> <p>7 perceive events because we know they haven't shown you</p> <p>8 these true measurements; right?</p> <p>9 A. No, sir.</p> <p>10 Q. All right. Do you think that's important for</p> <p>11 you to know how to truly perceive events?</p> <p>12 A. At the time, I was perceiving --</p> <p>13 Q. No, today. I'm talking about right now. Do</p> <p>14 you think it's important for you to know --</p> <p>15 A. Oh, yes, sir.</p> <p>16 Q. All right. And do you think knowing you're 21</p> <p>17 feet away, how far you were away, what actually was the</p> <p>18 real physical evidence, is that important, do you think</p> <p>19 as a deputy in the Sheriff's Department, to be given</p> <p>20 that true information for you to do your job?</p> <p>21 MR. FRIGERIO: Objection to form.</p> <p>22 A. Yes, sir.</p> <p>23 MR. FRIGERIO: In fact, I've never seen</p> <p>24 those actual measurements as far as in discovery from</p> <p>25 Bexar County. I've seen the picture, but I've never</p>	<p>1 that document?</p> <p>2 MR. FRIGERIO: No.</p> <p>3 Q. (By Mr. Henry) All right. So when you</p> <p>4 discharged your weapon, did you hear Officer Sanchez</p> <p>5 discharge his weapon?</p> <p>6 A. After the fact.</p> <p>7 Q. Right. Just like milliseconds --</p> <p>8 A. Yes, sir.</p> <p>9 Q. -- later; right?</p> <p>10 MR. HENRY: It's about 12:25, so I'm going</p> <p>11 to take a little lunch break, probably about 45 minutes</p> <p>12 to an hour, and we'll come back.</p> <p>13 MS. BOWEN: With this same witness?</p> <p>14 MR. HENRY: Yes, of course.</p> <p>15 THE VIDEOGRAPHER: We're off the record at</p> <p>16 12:21 p.m.</p> <p>17 (Recess from 12:21 until 1:36.)</p> <p>18 THE VIDEOGRAPHER: We're back on the</p> <p>19 record at 1:36 p.m.</p> <p>20 Q. (By Mr. Henry) Okay, sir. Let me ask you a</p> <p>21 little bit about insurance. Now, do you understand that</p> <p>22 you have an insurance policy that covers you and your</p> <p>23 conduct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. Are you aware that my clients made a</p>
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<p>1 seen measurements.</p> <p>2 MR. WILSON: It was on there. I mean, I</p> <p>3 blew up the little box.</p> <p>4 MR. HENRY: It's your documents.</p> <p>5 MR. WILSON: But the -- but the documents</p> <p>6 are in there.</p> <p>7 MR. HENRY: It's your documents. You</p> <p>8 produced them. Or Bexar County produced them. I think</p> <p>9 you represent the officer; right?</p> <p>10 MR. FRIGERIO: Correct.</p> <p>11 MR. HENRY: So it would have come from</p> <p>12 Bexar County.</p> <p>13 Are you saying you didn't get a copy of</p> <p>14 those?</p> <p>15 MR. FRIGERIO: Not of the measurements,</p> <p>16 no.</p> <p>17 MR. WILSON: The measurements are on</p> <p>18 there.</p> <p>19 MR. HENRY: They're right there.</p> <p>20 MR. FRIGERIO: They have a photograph, but</p> <p>21 they didn't have any measurements, the one that I -- was</p> <p>22 produced in the.</p> <p>23 MR. HENRY: Oh.</p> <p>24 MR. FRIGERIO: -- discovery docs.</p> <p>25 MR. HENRY: So the County didn't give you</p>	<p>1 demand on your insurance company to tender the policy</p> <p>2 limits that you have available to you to cover this</p> <p>3 claim?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. So you got a copy of that letter?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay.</p> <p>8 A. No, sir.</p> <p>9 Q. All right. So to make you aware, on behalf of</p> <p>10 my clients, we sent a letter to your lawyers advising</p> <p>11 them, you and Mr. Sanchez, that your policy limits of</p> <p>12 insurance, if you would tender that to us, then this</p> <p>13 case would be resolved against you and Officer Sanchez.</p> <p>14 Have you ever seen that letter?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. Are you aware of that demand being made</p> <p>17 upon you?</p> <p>18 A. No, sir. I haven't seen the letter in an</p> <p>19 envelope</p> <p>20 Q. Okay. All right. Do you have a -- do you have</p> <p>21 a -- do you have a personal attorney?</p> <p>22 A. No, sir. (Indicating.)</p> <p>23 Q. Just this attorney here; right?</p> <p>24 A. Yes.</p> <p>25 MR. FRIGERIO: Charles Frigerio is his</p>

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1 attorney.

2 MR. HENRY: All right.

3 Q. (By Mr. Henry) But other than him, you don't

4 have a personal attorney; right?

5 **A. No, sir.**

6 Q. All right. And -- and, to your knowledge, he

7 was hired by the insurance company for you; right?

8 MR. FRIGERIO: Objection; form. He was

9 hired by Bexar County.

10 **A. Hired by --**

11 MR. FRIGERIO: Bexar County.

12 **A. -- the County, yes, sir.**

13 Q. (By Mr. Henry) So let me ask you, you know

14 about one insurance policy covering you. Are you

15 familiar with any other policies of insurance covering

16 you for your conduct on the job?

17 **A. No, sir.**

18 Q. Okay. Just the -- just the one I've talked

19 about?

20 **A. Yes, sir. Just the one you've --**

21 Q. Okay.

22 **A. -- stated.**

23 Q. Got you. Now, since you didn't know about a

24 demand to you, did anyone -- did you ever learn or --

25 that that demand expired yesterday?

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1 **A. No, sir.**

2 Q. Okay. So as I'm telling you about a demand

3 letter, you've never heard of a demand letter and you've

4 never heard of when it was going to expire; right?

5 **A. No, sir.**

6 Q. Okay. What I'm going to do is I'm going to

7 send another letter to your lawyers, all right, the

8 exact same letter. And there was a time on that of

9 10 -- well, to expire tomorrow -- excuse me --

10 yesterday. The time demand expired yesterday.

11 Because you don't know about it, what I'm

12 going to do is I'm going to re-send that letter and I'm

13 going to provide you and Mr. Sanchez 15 more days to be

14 able to respond to that demand, since you didn't even

15 know about it. Okay? So I'll be sending that out

16 today, okay, to counsel. All right.

17 The -- let's see. The course of events

18 that led up to before you shot Mr. Flores, all those

19 courses of events, as a reasonable and prudent officer,

20 up until the time you discharged your weapon, you did

21 not feel it necessary to use deadly force because you

22 did not use deadly force --

23 MR. FRIGERIO: Objection; form.

24 Q. (By Mr. Henry) -- up until the time you

25 discharged your weapon?

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1 **A. I tried to -- tried to take care of the problem**

2 **before, you know, it escalated.**

3 Q. Right. And so when -- when you tried to take

4 care of that problem -- when you tried to take care of

5 that problem, you deemed, based on those circumstances,

6 that deadly force wasn't going to be used, because you

7 didn't use deadly force?

8 MR. FRIGERIO: Objection; form. That's

9 not what he testified to.

10 **A. You need to look at it like the spots I could**

11 **have used deadly force at, there was always somebody**

12 **there, somebody -- I was thinking more or less of the**

13 **other people, not necessarily myself.**

14 Q. (By Mr. Henry) You're talking about inside the

15 house; right?

16 **A. Yes, sir, but even still -- he was still, you**

17 **know, for a while in the direct line of the house.**

18 Q. Uh-huh.

19 **A. You know, even still when he moved over to the**

20 **lawn, when we moved out of the way, you know, if I would**

21 **have missed, I still would be responsible for that round**

22 **wherever it went.**

23 Q. Well, you could have missed him in the driveway

24 and that round could have gone into another house, too?

25 **A. Right. But at that time, he had just gotten**

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1 **out of the vehicle, and at that time there was no --**

2 Q. So let me ask you a little bit about this

3 AR-15.

4 **A. Yes, sir.**

5 Q. So, if I understand it, if you -- if you're

6 sitting in a driver's seat like you are right now of

7 your Sheriff's vehicle, that AR-15 would be right to

8 your right?

9 **A. Yes, sir, between the two seats.**

10 Q. All right. And is it in a rack?

11 **A. Yes, sir. There's two rack -- well, one rack**

12 **with two slots in it, like one for --**

13 Q. Right.

14 **A. -- a shotgun and one for a --**

15 Q. Right. So -- so let me come back around over

16 to you so I can visualize really what you're talking

17 about and so -- so can the jury.

18 So what you've got is a -- is a situation

19 where right here, there is a rifle in a slot; is that

20 right? (Indicating.)

21 **A. Yes, sir.**

22 Q. And then that rifle in that slot, you were

23 conc -- well, that rifle was in that slot when Flores

24 was trying to get in the car; right?

25 **A. Yes, sir.**

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1 Q. Okay. And you were worried that he might get
2 to that rifle; right?

3 **A. Yes, sir.**

4 Q. And it's your sworn testimony right now that
5 rifle was in that slot when Flores was trying to get in
6 that car; right?

7 **A. Yes, sir.**

8 Q. And that's -- that's -- that's not like a
9 perception of yours, like how you said, "I think he was
10 6 to 8 feet"?

11 **A. No, sir.**

12 Q. As you're sitting here testifying, you know
13 that rifle was in that car --

14 **A. Yes, sir.**

15 Q. -- in that same location you just showed me;
16 right?

17 **A. Yes, sir.**

18 Q. And did you instruct anyone to take that rifle
19 out of that car after this incident?

20 **A. No, sir. There was people moving all over the
21 place.**

22 Q. Right. Are you aware of anyone having gone in
23 and removed that rifle before that crime scene was
24 secured?

25 **A. That, I don't -- because when I left it was in**

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1 **there. When I came back, everything was in the back of
2 the Tahoe.**

3 Q. Oh, it was in the back of the Tahoe?

4 **A. Yes, sir.**

5 Q. Okay. And so the -- did -- did you instruct
6 anyone to move --

7 **A. No, sir.**

8 Q. -- anything?

9 **A. Like I said, though, people were in and out the
10 whole time.**

11 MR. HENRY: Let me show this. See if you
12 can zoom in on that.

13 Q. (By Mr. Henry) Now, let me show you a
14 photograph that's been produced by Bexar County
15 Sheriff's Department in this lawsuit.

16 Do you agree with me that you don't see an
17 AR-15 in that photograph?

18 **A. No, sir.**

19 Q. Okay. And with regard to the AR-15, are you
20 sure that AR-15 wasn't already in the back of the trunk?

21 **A. No, sir. It was in there.**

22 Q. It was there?

23 **A. Yes, sir.**

24 Q. Is it locked or unlocked?

25 **A. The --**

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1 Q. AR. Has it got a lock on it?

2 **A. No, sir. See, it's like they sit in the thing.**

3 **All you do is hit the button and take it out.**

4 Q. Okay. So -- and in this photograph that we're
5 looking at right now --

6 You had never seen any of the crime scene
7 photographs; correct?

8 **A. No, sir.**

9 Q. So this particular photograph of the inside of
10 your vehicle just after this incident, this is the first
11 time you've seen it; right?

12 **A. Yes, sir.**

13 Q. Thanks. Now, do you keep the case for the
14 AR-15 in the trunk of your vehicle?

15 **A. Yes, sir.**

16 Q. Okay. And then do you from time to time keep
17 the AR in the case in the trunk?

18 **A. Yeah. They're in there, you know, to --
19 leaving, when we first get into the car. You take it
20 out afterwards, after you load up.**

21 Q. Okay. The video of this incident, you said, I
22 think, you saw it one time; right?

23 **A. Yes, sir.**

24 Q. Okay.

25 MR. HENRY: Is that hooked into this one?

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1 MR. WILSON: Uh-huh.

2 Q. (By Mr. Henry) The next thing we're going to
3 do is the video will be up here on the screen. So what
4 I'm going to show you is a video that's produced by
5 Bexar County Sheriff's Department.

6 (Video playing.)

7 (Sotto voce discussion.)

8 Q. (By Mr. Henry) All right. So this is a
9 videotape, I'll submit to you, that was given to us by
10 Bexar County Sheriff's Department. And it's a video,
11 and then they have superimposed over it the 911
12 recordings, the dispatch recordings. Okay?

13 **A. Yes, sir.**

14 Q. All right. So in this video, where are you
15 standing?

16 **A. I believe that's me on that side.
17 (Indicating.)**

18 Q. Okay. On the left side in front of the black
19 car?

20 **A. Yes, sir.**

21 MR. HENRY: All right. Go ahead.

22 (Video playing.)

23 MR. HENRY: Keep going.

24 Q. (By Mr. Henry) All right. Now --

25 MR. HENRY: Pause.

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1 Q. (By Mr. Henry) -- do you see where Mr. Flores
2 was coming out of the front door there? Were you able
3 to see that through the screen?

4 **A. No, sir, I can't see it.**

5 Q. Okay.

6 MR. HENRY: Continue.

7 (Video playing.)

8 MR. HENRY: All right. Pause.

9 Q. (By Mr. Henry) All right. So you're on the
10 left, and in your right hand you've got the shield;
11 correct? To the left of the screen.

12 **A. Yes, sir, that's me. (Indicating.)**

13 Q. Okay. And then that's your squad car to the
14 left of you; right?

15 **A. Yes, sir.**

16 MR. HENRY: All right. Keep going.

17 (Video playing.)

18 MR. HENRY: Pause.

19 Q. (By Mr. Henry) Now, did you see the --
20 Mr. Flores at the front door there, the front door area?

21 **A. Right here? (Indicating.)**

22 Q. Yes, sir.

23 **A. Yes.**

24 MR. HENRY: Okay. Keep going.

25 (Video playing.)

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1 MR. HENRY: Okay. Stop.

2 Q. (By Mr. Henry) What's a key card?

3 **A. A key card is what dispatch sends you that has
4 all of the information on it.**

5 Q. What kind of -- what information?

6 **A. Like where you're going to, the address, the
7 complainant, any notes that are going to be --
8 basically, that one that had all the things on it,
9 that's -- like the key card will be on the computer.
10 That's what they send.**

11 MR. HENRY: Keep going.

12 (Video playing.)

13 MR. HENRY: Stop.

14 Q. (By Mr. Henry) So at this point in time, are
15 you just kind of keeping your distance because you want
16 him to come outside?

17 **A. No. I think we're talking to him and -- and
18 he's going back and forth.**

19 Q. And what we're seeing right now, this is after
20 you've -- after you've already went into the house,
21 after you've left the house the first time; right?

22 Remember, you described how you went to
23 the door --

24 **A. Yes, sir.**

25 Q. -- opened the door?

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1 **A. We're back outside.**

2 Q. Yes. This is -- this is later on.

3 MR. HENRY: Keep going.

4 (Video playing.)

5 MR. HENRY: Okay. Pause that.

6 Q. (By Mr. Henry) Now, that audio we just heard,
7 "He has a knife in his hand," is that something you
8 would be hearing also when you're on the scene?

9 **A. Yes, sir.**

10 Q. Okay. And this is something that Officer
11 Sanchez would also be hearing over his radio?

12 **A. Yes, sir.**

13 MR. HENRY: Okay. Keep going.

14 (Video playing.)

15 MR. HENRY: Let's go ahead and pause right
16 there.

17 Q. (By Mr. Henry) Now, did the altercation in the
18 yard, happ -- that already occurred before what we're
19 seeing on the video; right?

20 **A. I'm not sure.**

21 Q. Okay. Let's keep going and it might give you
22 some reference in a minute.

23 (Video playing.)

24 MR. HENRY: Okay. Let's go ahead and
25 pause there. Can you pause that?

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1 Q. (By Mr. Henry) Do you see -- on the roadway
2 there, in front of the black car, do you see that object
3 on the ground? It's kind of in that gray area.

4 **A. Right there? (Indicating.)**

5 Q. Yes, sir.

6 **A. Yes, sir.**

7 Q. Is that the Taser?

8 **A. I don't believe so, sir. I'm not really sure
9 what it is.**

10 MR. HENRY: Okay. Let's keep going.

11 (Video playing.)

12 Q. (By Mr. Henry) Now, right here, you've got
13 your gun drawn; right?

14 **A. Yes, sir.**

15 MR. HENRY: Pause that.

16 Q. (By Mr. Henry) Now, when we don't hear any
17 audio transmissions, is the best of your memory that
18 there were no audio transmissions to you as you look at
19 yourself on the video?

20 **A. You don't hear anything because they closed the
21 channel.**

22 Q. All right. And then in a little bit -- and you
23 heard some audio transmissions before. But, as we go
24 along in the video, you may hear some audio
25 transmissions. Okay?

<p style="text-align: right;">Page 149</p> <p>1 MR. HENRY: Continue.</p> <p>2 (Video playing.)</p> <p>3 MR. HENRY: Okay. Stop there.</p> <p>4 Q. (By Mr. Henry) What does that mean, "Get a</p> <p>5 status check"?</p> <p>6 A. Wants to see how we're doing.</p> <p>7 Q. And does that mean -- are you or Mr. Sanchez</p> <p>8 supposed to reply and give that status?</p> <p>9 A. Yes, sir.</p> <p>10 MR. HENRY: Okay. Keep going.</p> <p>11 (Video playing.)</p> <p>12 MR. HENRY: All right. Stop.</p> <p>13 Q. (By Mr. Henry) Is that Officer Sanchez</p> <p>14 speaking?</p> <p>15 A. Yes, sir.</p> <p>16 MR. HENRY: Okay. Keep going.</p> <p>17 (Video playing.)</p> <p>18 MR. HENRY: Stop right there.</p> <p>19 Q. (By Mr. Henry) That chair he picked up, is</p> <p>20 that the chair that he used when you shot the Taser</p> <p>21 toward him the first time?</p> <p>22 A. It appears to be, sir.</p> <p>23 Q. Okay.</p> <p>24 (Video playing.)</p> <p>25 MR. HENRY: Okay. Stop.</p>	<p style="text-align: right;">Page 151</p> <p>1 distance from him that he is not a danger to you;</p> <p>2 correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right.</p> <p>5 A. But even with a knife in his hand, the Taser,</p> <p>6 and everything else, he's still a threat to us.</p> <p>7 Q. He's a threat, but you're keeping enough</p> <p>8 distance from him that he's not an imminent threat to</p> <p>9 you --</p> <p>10 MR. FRIGERIO: Objection; form.</p> <p>11 Q. (By Mr. Henry) -- aren't you?</p> <p>12 A. That's -- the space we --</p> <p>13 Q. Right. I mean --</p> <p>14 A. -- over the 21 feet for the Taser.</p> <p>15 Q. I mean, if he's within 3 feet of you, that's</p> <p>16 going to feel more like an imminent threat to you;</p> <p>17 correct? If he was within 3 feet of you with the knife.</p> <p>18 A. Compared to that space right there, yes, sir.</p> <p>19 Q. Well, yeah. I mean -- and using common sense,</p> <p>20 the farther away he is with the knife, the more you</p> <p>21 don't feel that he's an imminent threat? Is that a</p> <p>22 fair, logical assumption?</p> <p>23 MR. FRIGERIO: Objection; form.</p> <p>24 A. No, sir. He's still a threat until he drops</p> <p>25 the knife.</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. (By Mr. Henry) Now, do you see him pick up</p> <p>2 that object?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Does that recollect your memory that that's the</p> <p>5 Taser he picked up?</p> <p>6 A. I believe so, sir, yes, sir.</p> <p>7 Q. Okay.</p> <p>8 MR. HENRY: Keep going.</p> <p>9 (Video playing.)</p> <p>10 MR. HENRY: Stop there.</p> <p>11 Q. (By Mr. Henry) Now, I noticed that as he's</p> <p>12 coming towards you, you guys are backing up. Right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. And you're keeping distance from</p> <p>15 him; correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And that strategy that you're using, is that a</p> <p>18 strategy where you're trying to de-escalate the</p> <p>19 situation as opposed to escalating it?</p> <p>20 A. Yes, sir. Trying to give ourselves space so</p> <p>21 there's no --</p> <p>22 Q. Okay. And when you're -- when you see the</p> <p>23 knife in his hand and he's got the chairs in his hands</p> <p>24 and you and Officer Sanchez are back this far,</p> <p>25 basically, yourself, you're making sure you keep enough</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. (By Mr. Henry) Okay.</p> <p>2 A. I still consider him a threat. Even though</p> <p>3 there's a space there, it doesn't mean it can't be</p> <p>4 closed.</p> <p>5 Q. Right. He can close it. But that's why you're</p> <p>6 keeping the distance, is because you don't want him to</p> <p>7 be an imminent threat to you. So you're going to keep</p> <p>8 that distance; right?</p> <p>9 A. Yes, sir. We're looking at him with a Taser</p> <p>10 right now.</p> <p>11 Q. Right.</p> <p>12 A. That's why we scooted back to 21 feet.</p> <p>13 Q. Right.</p> <p>14 MR. HENRY: Okay. Keep going.</p> <p>15 (Video playing.)</p> <p>16 MR. HENRY: So go ahead and stop right</p> <p>17 here.</p> <p>18 Q. (By Mr. Henry) So as he is throwing that</p> <p>19 Taser, he's got -- is that the farthest he's been from</p> <p>20 the house, to the best of your memory?</p> <p>21 A. More or less, yes, sir.</p> <p>22 Q. Okay.</p> <p>23 MR. HENRY: All right. Continue.</p> <p>24 (Videotape playing.)</p> <p>25 MR. HENRY: Now, stop there again.</p>

<p style="text-align: right;">Page 153</p> <p>1 Q. (By Mr. Henry) Now, you are over there -- when</p> <p>2 I was talking about being on the right-hand side of the</p> <p>3 Flores house, are you in the street and you're off the</p> <p>4 screen here?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. And then --</p> <p>7 MR. HENRY: Continue.</p> <p>8 (Video playing.)</p> <p>9 MR. HENRY: Stop.</p> <p>10 Q. (By Mr. Henry) Now, do you hear that</p> <p>11 instruction, "Be sure he does not go back into the</p> <p>12 house"?</p> <p>13 A. Yes, sir.</p> <p>14 Q. That would have been coming through your --</p> <p>15 A. Radio.</p> <p>16 Q. -- radio; correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And you and Officer Sanchez would be hearing</p> <p>19 that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. All right. Now -- and that direction that</p> <p>22 you're getting at that time, you're taking that in while</p> <p>23 you're watching him; correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. All right. And who is telling you, "Don't let</p>	<p style="text-align: right;">Page 155</p> <p>1 (Video playing.)</p> <p>2 MR. HENRY: Go ahead.</p> <p>3 Q. (By Mr. Henry) And right now, you're actually</p> <p>4 in front of him. You're off screen, but you're in front</p> <p>5 of him when he's communicating with you, isn't he?</p> <p>6 A. I don't know. I don't know where I'm at</p> <p>7 compared to where -- who he's talking to.</p> <p>8 MR. HENRY: Pause.</p> <p>9 Q. (By Mr. Henry) When he's talking right there,</p> <p>10 you don't know if he's talking to you or someone else?</p> <p>11 A. No. I'm saying I don't know if he's talking to</p> <p>12 me or Deputy Sanchez.</p> <p>13 Q. Okay. But you guys are both standing within a</p> <p>14 few feet of each other; right?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. He's talking to -- he's talking to one</p> <p>17 of you two officers or both of you; right?</p> <p>18 A. Right.</p> <p>19 MR. HENRY: Keep going.</p> <p>20 (Video playing.)</p> <p>21 MR. HENRY: Stop right there.</p> <p>22 Q. (By Mr. Henry) Now, do you see where he's on</p> <p>23 the grass?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Do you see how you can't see yourself or</p>
<p style="text-align: right;">Page 154</p> <p>1 him get back into the house"?</p> <p>2 A. Now that I hear it now, that's Lieutenant Von</p> <p>3 Muldau.</p> <p>4 Q. Who?</p> <p>5 A. Lieutenant Von Muldau.</p> <p>6 MR. HENRY: Okay. Continue.</p> <p>7 (Video playing.)</p> <p>8 MR. HENRY: Stop.</p> <p>9 Q. (By Mr. Henry) Now, you just heard Officer</p> <p>10 Sanchez say, "He's going to go back in the house,"</p> <p>11 didn't you?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And then Officer -- did you say Valdo --</p> <p>14 A. Von Muldau.</p> <p>15 Q. Yeah. He says, "Do what you've got to do";</p> <p>16 right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. What does that mean, "Do what you've got to</p> <p>19 do," to you as a trained officer?</p> <p>20 A. It could be, you know, tackling. It could</p> <p>21 be "Don't let him back in the house," like he explained</p> <p>22 it. You know, there's probably a million different</p> <p>23 things that you could think of.</p> <p>24 Q. Right.</p> <p>25 MR. HENRY: Keep going.</p>	<p style="text-align: right;">Page 156</p> <p>1 Officer Sanchez on the road or on the sidewalk?</p> <p>2 And let me point real quick. You know</p> <p>3 you're back here on the screen; right? (Indicating.)</p> <p>4 A. Yes, sir.</p> <p>5 Q. You and Officer -- so -- but we can't see you</p> <p>6 anywhere on the road and we can't see you anywhere on</p> <p>7 the sidewalk, can we -- can we?</p> <p>8 A. No, sir.</p> <p>9 Q. So we know you have to be either behind the</p> <p>10 tree in the grass or farther back; right?</p> <p>11 A. I'm -- I'm not sure.</p> <p>12 Q. Well, by omission; right?</p> <p>13 A. Yeah, I mean, either probably in the road or in</p> <p>14 the -- in the grass, but I don't think I was in the</p> <p>15 grass.</p> <p>16 Q. Okay. All right. So do you think you were</p> <p>17 farther back here on the road?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay.</p> <p>20 MR. HENRY: Go ahead.</p> <p>21 (Video playing.)</p> <p>22 MR. HENRY: Stop. Can you back that up</p> <p>23 just a millisecond? Right. Keep going.</p> <p>24 (Video playing.)</p> <p>25 MR. HENRY: Stop.</p>

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<p>1 Q. (By Mr. Henry) Okay. Do you see the tree on 2 the far right? 3 A. Over here, sir? 4 Q. Yes, sir. 5 A. Yes, sir. 6 Q. Okay. 7 MR. HENRY: Play and stop. 8 (Video playing.) 9 Q. (By Mr. Henry) Do you see the shadow moving by 10 the right tree, going -- 11 MR. HENRY: Hit again. 12 (Video playing.) 13 A. Yes, sir. 14 Q. (By Mr. Henry) Okay. Do you see how it 15 appears that you're walking down the sidewalk -- 16 somebody is walking down the sidewalk? 17 MR. HENRY: Pause. 18 Q. (By Mr. Henry) Do you see how one of you 19 officers is walking down the sidewalk? 20 A. Yes, sir. 21 Q. You're not on the street; right? 22 A. One of us wasn't. 23 MR. HENRY: Keep going. 24 (Video playing.) 25 Q. (By Mr. Henry) Now you're on the street.</p>	<p>1 Sanchez say he's going toward the vehicle. 2 You never heard Officer Sanchez say that 3 there was an AR-15 -- 4 A. No, sir. 5 Q. -- right? 6 All right. And then you heard -- was that 7 Sergeant -- Lieutenant, what was the name of the 8 gentleman giving you the directions over the -- 9 A. The last one was Sergeant Pedraza. 10 Q. Oh, that was Pedraza. Okay. And he says, "Use 11 all means" -- 12 MR. HENRY: Let's go back real quick. 13 (Video playing.) 14 MR. HENRY: Go back farther. 15 (Video playing.) 16 Q. (By Mr. Henry) "Stop him. Stop him all 17 means." 18 Now, "all means," did you interpret that 19 to mean at that time that could include deadly force? 20 A. No, sir. I didn't pick up -- you know, I can 21 hear people talking. But, like I said, I'm 22 concentrating on him. I didn't even hear it -- 23 Q. So what we're hearing -- 24 A. -- the words that were -- 25 Q. -- what we're hearing, we know came through</p>
Page 158	Page 160
<p>1 (Video playing.) 2 MR. HENRY: Okay. Now stop. 3 Q. (By Mr. Henry) So let's go back to when you 4 were, you know, by that first tree, when you were 5 either -- on the sidewalk in front of that house. 6 You and Officer Sanchez had a conversation 7 that you were going to have to end this situation; 8 correct? 9 A. It was after -- I want to say after he started 10 going towards our Tahoe -- my Tahoe. 11 MR. HENRY: Okay. Let's continue. 12 (Video playing.) 13 MR. HENRY: Stop. 14 Q. (By Mr. Henry) So that's Officer Sanchez 15 saying, "He's trying to get into the vehicle"; correct? 16 A. Yes, sir. 17 Q. All right. And did you tell Officer Sanchez, 18 when you were out there, "Hey, my AR-15 is there in" -- 19 A. Yes -- 20 Q. -- "the front"? 21 A. -- sir. 22 MR. HENRY: Okay. Keep going. 23 (Video playing.) 24 MR. HENRY: Okay. Stop. 25 Q. (By Mr. Henry) All right. So you hear Officer</p>	<p>1 your radio. But you're focusing on him so -- 2 A. Right. 3 Q. -- you may not be focusing on a direction; 4 right? 5 A. Right. 6 Q. Okay. 7 MR. HENRY: Continue. 8 (Video playing.) 9 MR. HENRY: Stop. 10 Q. (By Mr. Henry) Now, at this point, is the door 11 to the squad car closed? 12 A. Yes, sir, he closed it, I believe. 13 Q. Okay. And then -- so he's standing with his 14 hands down; right? 15 A. Yes, sir. 16 MR. HENRY: Okay. Play it. 17 (Video playing.) 18 MR. HENRY: Stop. 19 Q. (By Mr. Henry) All right. Are you asking him 20 to surrender at this time? 21 A. I believe Deputy Sanchez is giving the orders 22 to "Drop the knife. Drop the knife. Drop the knife." 23 After the fourth -- third or fourth time -- 24 Q. All right. 25 A. -- he didn't drop the knife.</p>

<p style="text-align: right;">Page 161</p> <p>1 Q. All right. And then did you warn him, "I'm 2 going to shoot you if you don't drop the knife," or did 3 you hear Officer Sanchez say that? 4 A. No, sir, to both. 5 Q. Okay. At no time did you warn him you were 6 going to, nor Officer Sanchez, that you were going to 7 shoot him if he didn't drop the knife? 8 A. I don't believe so, no, sir. 9 Q. Okay. 10 MR. HENRY: Okay. Keep going. 11 (Video playing.) 12 MR. HENRY: Stop. 13 Q. (By Mr. Henry) All right. So his hands are 14 up; right? 15 A. Yes, sir. 16 Q. Do you see his feet moving towards you? 17 A. The -- the video stopped. 18 MR. HENRY: Okay. Keep going. 19 (Video playing.) 20 MR. HENRY: Okay. Go back. 21 Q. (By Mr. Henry) Now, I'm going to ask you -- 22 we'll look at it again -- and tell the ladies and 23 gentlemen of the jury, is he walking towards you? 24 A. No, sir, he's not. 25 Q. Okay. All right. All right. Now, let's go</p>	<p style="text-align: right;">Page 163</p> <p>1 video where he just put his hands up; right? 2 A. Yes, sir. 3 Q. All right. Do you see where it says 7:36 -- 4 7:36:03? 5 All right. So if we -- let me show you 6 what's marked as Vasquez Number 9. 7 (Exhibit Number 9 was marked.) 8 Q. (By Mr. Henry) Vasquez Number 9 is three 9 still-frame photographs. Okay? You can take a look at 10 that. I'm going to ask you some questions about the 11 still frames and the video at the same time. 12 A. (Reviewing document.) 13 MR. HENRY: Okay. So let's go back to the 14 video. 15 (Video playing.) 16 MR. WILSON: Right there? 17 MR. HENRY: Yeah. Yes. Get ready to 18 pause it. Okay. Pause it. 19 Q. (By Mr. Henry) Okay. Do you see where it says 20 7:36:07? 21 A. Yes, sir. 22 Q. All right. Now, if you'll hand me those 23 exhibits, the three pictures. 24 A. (Indicating.) 25 Q. Thank you.</p>
<p style="text-align: right;">Page 162</p> <p>1 back again. I'm going to ask you about his hands. 2 Watch his hands. 3 (Video playing.) 4 Q. (By Mr. Henry) Is his left hand coming towards 5 you with the knife? 6 A. No, sir. But he -- they were -- No, sir. 7 Q. Okay. 8 MR. HENRY: All right. Continue. 9 (Video playing.) 10 Q. (By Mr. Henry) Okay. So that's where he 11 kicked the knife out of the way; correct? 12 A. Yes, sir. 13 Q. And then there was that other Sheriff back 14 there that I guess had just gotten to the scene; right? 15 A. Yes, sir. 16 Q. What was his name? 17 A. Estrada. 18 (Video playing.) 19 MR. HENRY: Stop. 20 (Sotto voce discussion.) 21 MR. HENRY: Let's go back to -- let's do 22 that. Let's go back to the sequence -- 23 (Video playing.) 24 MR. HENRY: Okay. Stop. 25 Q. (By Mr. Henry) All right. Now, you saw on the</p>	<p style="text-align: right;">Page 164</p> <p>1 All right. When you see 7:36:07, the 36 2 is a second. When it goes to 37, that's one second. 3 And then the .07 is milliseconds. Do you understand? 4 A. Yes, sir. 5 Q. Okay. So he's got his hands up at 7:36. 6 MR. HENRY: All right. Go ahead and play. 7 (Video playing.) 8 MR. HENRY: Stop. 9 Q. (By Mr. Henry) And at or before 7:38 you 10 discharged your weapon; correct? 11 A. Yes, sir. 12 Q. In two seconds or less, from the point he 13 raises his hands, you discharged that weapon, didn't 14 you? 15 A. Yes, sir. 16 Q. All right. And when you discharged the weapon, 17 he was not moving towards you and he was not moving the 18 knife towards you, was he? 19 MR. FRIGERIO: Objection; form. 20 A. He wasn't necessarily moving at that point, 21 but -- 22 Q. (By Mr. Henry) I'm talking about only this 23 point. 24 A. Okay. But he was still a threat to me. 25 Q. And -- and --</p>

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<p>1 MR. HENRY: Objection; nonresponsive.</p> <p>2 Q. (By Mr. Henry) When you discharged your</p> <p>3 weapon, his feet weren't moving towards you nor was his</p> <p>4 hand with the knife in it; correct?</p> <p>5 A. No, sir.</p> <p>6 Q. All right. And do you see where you're</p> <p>7 standing by the car?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Are you leaning up against that car?</p> <p>10 A. I don't believe so, sir.</p> <p>11 Q. Are your legs crossed?</p> <p>12 A. I think it was after -- No, sir. That thing I</p> <p>13 think right there is the shield, if I'm not mistaken.</p> <p>14 Q. Your shield is in front of you?</p> <p>15 A. I set it down after we were done.</p> <p>16 Q. All right. Let's go back.</p> <p>17 MR. HENRY: Go back.</p> <p>18 (Video playing.)</p> <p>19 Q. (By Mr. Henry) Okay. Is your shield in your</p> <p>20 hand when you discharge your weapon?</p> <p>21 A. I believe so, sir.</p> <p>22 MR. HENRY: Okay. Keep playing.</p> <p>23 (Video playing.)</p> <p>24 Q. (By Mr. Henry) So you discharged your weapon</p> <p>25 and then you backed up; correct?</p>	<p>1 Deputy Sanchez and me."</p> <p>2 At no time within 2-1/2 seconds of</p> <p>3 discharging that weapon did he advance towards you, did</p> <p>4 he?</p> <p>5 A. Not at that time, sir.</p> <p>6 Q. No. "I would say the male was about 6 to 8</p> <p>7 feet away from us."</p> <p>8 Now looking at the video, you know that's</p> <p>9 not 6 to 8 feet away; right?</p> <p>10 MR. FRIGERIO: Objection; form.</p> <p>11 A. I look at it from -- the 6 to 8 feet away from</p> <p>12 Deputy Sanchez.</p> <p>13 Q. (By Mr. Henry) Oh, okay. So --</p> <p>14 A. Once again, it's my perspective on what I'm</p> <p>15 seeing at the time.</p> <p>16 Q. So --</p> <p>17 A. You know, it's easy to come back by and</p> <p>18 armchair quarterback me over a video when all I'm doing</p> <p>19 is doing the report on what I remember.</p> <p>20 MR. HENRY: Objection; nonresponsive.</p> <p>21 Q. (By Mr. Henry) I'm just going over the true</p> <p>22 facts of what happened with you, Officer.</p> <p>23 A. Yes, sir.</p> <p>24 MR. FRIGERIO: Objection; form.</p> <p>25 Q. (By Mr. Henry) So "I would say the man was</p>
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<p>1 A. Yes, sir.</p> <p>2 Q. And where you're standing when you discharge</p> <p>3 your weapon, what you're telling the ladies and</p> <p>4 gentlemen of the jury, if we look at Vasquez Exhibit</p> <p>5 Number 9 -- and let me go back over this photograph.</p> <p>6 MR. HENRY: Zoom out, please. Stop.</p> <p>7 Q. (By Mr. Henry) Where you are on the right</p> <p>8 against the car, from where you are to where Mr. Flores</p> <p>9 is, when we look at Exhibit Number 9, and we just saw</p> <p>10 the video, "The male started advancing towards Deputy</p> <p>11 Sanchez and me."</p> <p>12 He at no time in this sequence right</p> <p>13 before you discharge your weapon was advancing towards</p> <p>14 you, was he?</p> <p>15 A. Once again, sir, my perspective is that he was</p> <p>16 advancing.</p> <p>17 MR. HENRY: Objection; nonresponsive.</p> <p>18 Q. (By Mr. Henry) You just saw yourself on the</p> <p>19 video?</p> <p>20 A. Yes, sir. According to the video, he wasn't</p> <p>21 advancing.</p> <p>22 Q. All right. And the video is right. The video</p> <p>23 is not fake or anything; right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. All right. "The male started advancing toward</p>	<p>1 about 6 to 8 feet away from us."</p> <p>2 All right. Well, 6 to 8 feet -- you put</p> <p>3 "us." You're one of the people in "us"; right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. All right. And so as you sit here today, in</p> <p>6 actuality, on Exhibit Number 8, you're to the left and</p> <p>7 it's 21 feet; right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And --</p> <p>10 MR. FRIGERIO: Objection; form.</p> <p>11 Q. (By Mr. Henry) And then Officer Sanchez is</p> <p>12 even farther away from you at 23 feet; right?</p> <p>13 MR. FRIGERIO: Objection; form.</p> <p>14 Q. (By Mr. Henry) Do you see that, Officer?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And so you're -- then you put in here -- and</p> <p>17 this is -- this is before you know there's even a</p> <p>18 video -- you state, "Knowing the situation had kept</p> <p>19 escalating."</p> <p>20 Well, at the point that he stopped moving</p> <p>21 towards you and his hands are in the air, he stopped</p> <p>22 escalating at that moment, didn't he?</p> <p>23 MR. FRIGERIO: Objection; form.</p> <p>24 A. Yes, sir. He stopped the escalation.</p> <p>25 Q. (By Mr. Henry) He stopped, he didn't move</p>

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1 towards you and he put his hands up. He stopped
2 escalating, didn't he?

3 **A. Yes, sir. But he also had a knife in his hand.**

4 Q. Right. But in terms -- he had a knife in his
5 hand the whole time. But he stopped escalating his
6 conduct towards you by not moving towards you and
7 putting his hands up in the air; correct?

8 **A. Yes.**

9 MR. FRIGERIO: Objection to form.

10 Q. (By Mr. Henry) All right. And this statement
11 right here, we know from the physical evidence of this
12 videotape that "The male started moving towards us" and
13 "He was 6 to 8 away from us," we know that that is false
14 from this videotape?

15 MR. FRIGERIO: Objection; form.

16 Q. (By Mr. Henry) That physical evidence is
17 false, isn't it?

18 **A. Yes, sir.**

19 Q. All right. But that is the basis that you want
20 anyone who's looking at this situation to believe, that
21 you feel like you're in imminent threat of harm, and so
22 you're writing this report as though he's coming towards
23 you and he's closer to you; right?

24 MR. FRIGERIO: Objection; form.

25 **A. Yes.**

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1 Q. (By Mr. Henry) All right. So on -- so with
2 regard to your training -- you know, have you been in
3 situations where people put their hands up to give up?

4 **A. Not with a knife, sir.**

5 Q. How about any situation, "Put your hands up"?

6 **A. Oh, yes, sir.**

7 Q. All right. So at --

8 **A. They -- they usually are ordered to get on the**
9 **ground. He wouldn't comply. He had a knife in his**
10 **hand. He was still a threat to me.**

11 Q. Where does it say in your report that he was
12 ordered to get on the ground? Show --

13 **A. No. I'm saying, that's when -- when people are**
14 **ordered to get on the ground.**

15 **I told him numerous times to drop the**
16 **knife. I told him to -- you know, I'm saying that they**
17 **get on the ground when they surrender.**

18 Q. Right. So -- but here, nowhere at the end of
19 this transaction, do you put in your report you ordered
20 him to get on the ground. You didn't say that --

21 **A. No, sir. I'm not saying that part. I'm saying**
22 **that people that do surrender drop the knife and get**
23 **down on the ground.**

24 MR. HENRY: Objection; nonresponsive.

25 Q. (By Mr. Henry) In this scenario, though -- in

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1 this scenario specific --

2 **A. No, sir, he wasn't told, he was not told.**

3 Q. All right. When he stops moving towards you on
4 the video and he puts his hands up in the air, does
5 that, at that immediate time, look like an acquiescence?

6 **A. What is that, sir?**

7 Q. Like he's acquiescing to you. He's stopping
8 moving towards you and his hands are in the air?

9 **A. No, sir. To me, he's still a threat, like I've**
10 **stated, as long as he has a knife in his hand.**

11 Q. Is that an exhibit right there in front of you?

12 **A. Yes, sir.**

13 Q. Okay. Let me see it.

14 **A. (Indicating.)**

15 Q. So the concept of imminent danger, when
16 Mr. Flores is 20 feet or plus away from you, his hands
17 are in the air, he's not moving towards you, have you
18 had any training that has trained you that at those
19 distances that should not be construed as an imminent
20 threat?

21 **A. No. It's still to me an imminent threat even**
22 **if he has -- as long as he has a knife in his hand, he's**
23 **still a threat to me.**

24 Q. Okay. Now, when you were telling him to drop
25 the knife, you were giving him verbal warnings, correct?

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1 **A. At --**

2 Q. To drop the knife.

3 **A. At the end, Deputy Sanchez was giving the**
4 **orders.**

5 Q. Okay. Did you hear him say, "Drop the knife"?

6 **A. Yes, sir.**

7 Q. All right. And in response to "Drop the
8 knife," he stopped and put his hands up in the air;
9 correct?

10 **A. It was all in sequence. He just stopped, but**
11 **he did not drop the knife; therefore, he's still a**
12 **threat.**

13 MR. HENRY: Objection; nonresponsive.

14 Q. (By Mr. Henry) My -- my question is: When
15 Officer Sanchez said, "Drop the knife," did he then put
16 his hands up in the air with the knife in his left hand
17 and stand there?

18 **A. Yes, sir.**

19 Q. Okay. So based on what you viewed as your
20 conduct versus what you thought was your conduct when
21 you wrote your statement, based on your education and
22 training by the Bexar County Sheriff's Department, and
23 seeing that video again, you would do the exact same
24 thing again, wouldn't you?

25 **A. Each circumstance is different, but, yes.**

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1 Q. All right. In looking at that and being able
2 to go look at a videotape of yourself, unless -- if you
3 were trained by the Bexar County Sheriff's Department
4 that, "Hey, look, under that circumstance, don't shoot,
5 don't use deadly force in that circumstance," if you
6 were trained that way, would you follow that training?

7 MR. FRIGERIO: Objection; form.

8 **A. You follow the training that you're given.**

9 Q. (By Mr. Henry) Yeah. And -- and so at 21
10 feet, knife in the hand, that immediate time, that
11 immediate moment, if you were trained you don't use
12 lethal force at that time, that's training that you
13 would listen to, adhere to, and use in the field if that
14 event occurred; correct?

15 MR. FRIGERIO: Objection; form.

16 **A. You would try to use it the best you can.**

17 Q. (By Mr. Henry) Right. And so as you sit here
18 today, nobody has trained you otherwise to act any
19 differently because no one has gone over this video with
20 you and what you should or shouldn't have done on the
21 day of this incident?

22 And I mean -- "no one," I mean people at
23 the Bexar County Sheriff's Department.

24 **A. No, I haven't been briefed, again.**

25 Q. Okay. So going through this video slice by

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1 slice by slice like we've just done with you, is this
2 the first time that's happened with you, to look at your
3 conduct versus what you put in your statement?

4 **A. Yes, sir.**

5 Q. Okay. And did you -- you learned a lot about
6 what was actually in the video versus what was in your
7 statement, didn't you?

8 **A. I learned that my perception is what I -- what
9 I went off of.**

10 Q. Right. And what we know today from looking at
11 your video -- the video and looking at your statement,
12 you have a lot of -- you had flawed perceptions?

13 MR. FRIGERIO: Objection; form.

14 Q. (By Mr. Henry) They were flawed, weren't they?
15 I mean, you're not going to tell this jury that your
16 statement is accurate, are you?

17 **A. At the time, that was -- that was what I saw it
18 as, yes. I mean, if you look at it now --**

19 Q. Yeah. That's what --

20 **A. You know, things are --**

21 Q. -- I'm talking about, now.

22 **A. But they're -- they're still -- I would have
23 done everything the exact same way.**

24 Q. And so even with your flawed judgment, knowing
25 how incorrect you were, going back and looking at this

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1 video, you would still conduct yourself the exact same
2 way?

3 **A. Yes, sir.**

4 Q. Okay. And -- but -- but if Bexar County had
5 trained you differently, that this is not an imminent
6 threat, that you should not use lethal force in this
7 type of scenario, that is training that you would adhere
8 to and try to use in the field?

9 MR. FRIGERIO: Objection; form.

10 **A. You would -- each officer is different. But
11 the thing is, is that you -- I don't believe there would
12 be an officer that would have done anything different
13 than what I did.**

14 MR. HENRY: Objection; nonresponsive and
15 speculation.

16 Q. (By Mr. Henry) So what does "immediate danger"
17 mean to you?

18 **A. I was in immediate danger the whole time out
19 there.**

20 Q. Okay.

21 **A. This gentleman tried to kill me, tried to stab
22 me.**

23 MR. HENRY: Objection; nonresponsive.

24 Q. (By Mr. Henry) What does that mean? I don't
25 mean in terms of the scenario. I mean, what is

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1 "immediate danger"? What do you --

2 **A. That I could have seriously bodily injury
3 and/or death.**

4 Q. What does "immediate" mean?

5 **A. That it could happen now.**

6 Q. Okay. And does immediate danger have any
7 relationship to the distance of someone who you may be
8 trying to arrest?

9 Does distance have any relationship to
10 immediate danger from your training and experience as an
11 officer?

12 **A. The threat is still there if he's holding a
13 knife. It doesn't matter if he's -- I don't know if he
14 can throw, I don't know what he -- you know, what his
15 skills are.**

16 MR. HENRY: Objection; nonresponsive.

17 Q. (By Mr. Henry) I'm not saying threat. I said
18 immediate danger.

19 **A. Yes, sir, we're in immediate danger there.**

20 Q. Okay. So have you had any training or
21 experience that the farther a person is away from you
22 without a gun, the less the immediate danger is to you?

23 **A. A weapon is a weapon.**

24 MR. HENRY: Objection; nonresponsive.

25 Q. (By Mr. Henry) Listen to my question. Have

<p style="text-align: right;">Page 177</p> <p>1 you had any training that the farther someone is from</p> <p>2 you without a weapon -- a gun, without a gun --</p> <p>3 A. Oh, without a gun, yes, sir. You --</p> <p>4 Q. Yeah, without a gun that --</p> <p>5 A. You would just understand that --</p> <p>6 Q. Let me finish my question.</p> <p>7 I'm talking about immediate danger only.</p> <p>8 The farther someone is from you without a -- a gun, do</p> <p>9 you agree that the immediate danger gets farther and</p> <p>10 farther away from you?</p> <p>11 A. Yes, sir, without a gun.</p> <p>12 MR. HENRY: Okay. Let's take a break real</p> <p>13 quick.</p> <p>14 THE VIDEOGRAPHER: We're off the record at</p> <p>15 2:27 p.m.</p> <p>16 (Recess from 2:27 until 2:38.)</p> <p>17 THE VIDEOGRAPHER: We're back on the</p> <p>18 record at 2:38 p.m.</p> <p>19 Q. (By Mr. Henry) All right. The Criminal</p> <p>20 Investigation Division for the Bexar County Sheriff's</p> <p>21 Department, once there was a shooting that occurred here</p> <p>22 with Mr. Flores and yourself and Mr. San -- Officer</p> <p>23 Sanchez, the Criminal Investigation Division of the</p> <p>24 Sheriff's Department immediately started their</p> <p>25 investigation; correct?</p>	<p style="text-align: right;">Page 179</p> <p>1 But what was said 16 months ago in the</p> <p>2 back of a car, I couldn't tell you.</p> <p>3 Q. Let me ask you: Is this the very first time</p> <p>4 where you have ever been at a scene where CID came to</p> <p>5 the scene to investigate you?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. And so do you remember being sequestered</p> <p>8 into a different patrol car from Officer Sanchez?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. And between the time that the shooting</p> <p>11 occurred and the time you were in a separate squad car</p> <p>12 sequestered, about how much time elapsed?</p> <p>13 A. I couldn't even tell you, sir. It wasn't --</p> <p>14 Q. And between the time you got in the squad car</p> <p>15 and the shooting occurred, you had interactions with</p> <p>16 Officer Sanchez before you got into that squad car,</p> <p>17 didn't you?</p> <p>18 A. I'm not sure on that either.</p> <p>19 Q. On Exhibit Number 7, when we look at the last</p> <p>20 page of that statement -- excuse me -- the</p> <p>21 second-to-last page -- did you put anywhere in your</p> <p>22 statement that your AR-15 was in the front seat of your</p> <p>23 car?</p> <p>24 A. No, sir.</p> <p>25 Q. Then there's the last page. (Indicating.)</p>
<p style="text-align: right;">Page 178</p> <p>1 A. I don't know when they started. I'd imagine</p> <p>2 so.</p> <p>3 Q. Okay. You know that when you gave your</p> <p>4 statement to Officer Mahon, you knew that was pursuant</p> <p>5 to the Criminal Investigations Division investigation of</p> <p>6 this incident, didn't you?</p> <p>7 A. Yes, sir.</p> <p>8 Q. All right. And --</p> <p>9 (Sotto voce discussion.)</p> <p>10 Q. (By Mr. Henry) Did you ever ask to review the</p> <p>11 Criminal Investigation Division investigation of this</p> <p>12 incident?</p> <p>13 A. No, sir.</p> <p>14 Q. Okay. Do you know if anyone on your behalf,</p> <p>15 like your lawyer, ever asked for it?</p> <p>16 A. I'm not sure, sir.</p> <p>17 Q. Okay. But you've never seen it; correct?</p> <p>18 A. No, sir.</p> <p>19 Q. At the scene of this incident, did Investigator</p> <p>20 Perez and Mahon interview you in a car at the scene and</p> <p>21 tell you what they would be doing with regard to taking</p> <p>22 your statement?</p> <p>23 A. I don't remember talking to Deputy Perez. I</p> <p>24 talked to Mahon. But Perez, I'm not familiar with</p> <p>25 talking to him about it.</p>	<p style="text-align: right;">Page 180</p> <p>1 A. I don't see it in there either, sir.</p> <p>2 Q. Okay. You don't have any memory of telling</p> <p>3 Officer Perez or -- what's the other officer's name --</p> <p>4 Mahon -- do you have any recollection as you sit here</p> <p>5 today telling them that your AR-15 was in the front seat</p> <p>6 of your car?</p> <p>7 A. No, sir. I don't -- I don't recall telling</p> <p>8 them that.</p> <p>9 Q. Do you remember doing a walk-through of the</p> <p>10 crime scene with your lawyer?</p> <p>11 A. No, I -- he showed up about maybe 20, 25, 30</p> <p>12 minutes later. I don't -- I know we went into the --</p> <p>13 that big van that they have for crime scene, but I</p> <p>14 couldn't tell you if he was with us or what --</p> <p>15 Q. As you sit -- as you sit here today, you don't</p> <p>16 remember walking around and walking through the crime</p> <p>17 scene with your attorney; right?</p> <p>18 A. No, sir. I couldn't tell you I do or not.</p> <p>19 Q. You're not denying that you might have done</p> <p>20 that; right?</p> <p>21 A. I'm sure it's a possibility.</p> <p>22 (Exhibit Number 10 was marked.)</p> <p>23 Q. (By Mr. Henry) Okay. Let me show you what's</p> <p>24 been marked as Exhibit Number 10, a supplemental report</p> <p>25 by Officer --</p>

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<p>1 (Sotto voce discussion.)</p> <p>2 Q. (By Mr. Henry) -- Officer Mahon. Yeah, a</p> <p>3 supplemental report by Officer Mahon.</p> <p>4 And you haven't seen Exhibit Number 10;</p> <p>5 correct?</p> <p>6 A. No, sir.</p> <p>7 MR. FRIGERIO: Let me see. For the</p> <p>8 record, it's Bexar County Bates 070864.</p> <p>9 A. (Reviewing document.)</p> <p>10 THE WITNESS: Do you want to see it?</p> <p>11 (Sotto voce discussion.)</p> <p>12 Q. (By Mr. Henry) Have you had a chance to look</p> <p>13 at Exhibit Number 10?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Go to the very last page of Exhibit Number 10.</p> <p>16 A. (Witness complies.)</p> <p>17 Q. And do you see the very last note on Exhibit</p> <p>18 Number 10?</p> <p>19 A. Yes, sir.</p> <p>20 Q. What does it say?</p> <p>21 A. "Investigative Note: In this statement, Deputy</p> <p>22 Vasquez did not mention decedent had stopped and raised</p> <p>23 his hands."</p> <p>24 Q. So in Officer Mahon's report that we have as</p> <p>25 Exhibit Number 10 -- and this report date is 8-30-15 and</p>	<p>1 explain yourself, why you left that glaring, factual,</p> <p>2 physical piece of evidence out of your statement?</p> <p>3 A. No, sir.</p> <p>4 Q. If they would have asked you to come in, would</p> <p>5 you have come in and talked to them and explained</p> <p>6 yourself?</p> <p>7 A. Yes, sir.</p> <p>8 Q. You knew -- do you know today how the vehicle,</p> <p>9 Sheriff's vehicle that's in the video, the first vehicle</p> <p>10 that Flores was going to, do you know how that vehicle</p> <p>11 was turned off?</p> <p>12 A. How it was turned off?</p> <p>13 Q. Yes.</p> <p>14 A. When Deputy Sanchez got the keys.</p> <p>15 Q. And do you know how Deputy Sanchez got the</p> <p>16 keys?</p> <p>17 A. He opened the door, turned the car off, and</p> <p>18 pulled them out of the ignition.</p> <p>19 Q. Before or after Flores was dead?</p> <p>20 A. I guess it was -- I'm not really sure. He</p> <p>21 was -- he was shot, but I don't believe he was dead yet.</p> <p>22 Q. All right. Before or after he was shot?</p> <p>23 A. After.</p> <p>24 Q. And after he's shot and on the ground, is it</p> <p>25 your testimony today that that's when Sanchez got the</p>
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<p>1 he's referring to the date and time of the offense</p> <p>2 8-28-15 -- he has an extensive report listing who the</p> <p>3 investigators and people that are involved.</p> <p>4 MR. HENRY: Can you zoom that out, please?</p> <p>5 Okay. That's good. Thank you.</p> <p>6 Q. (By Mr. Henry) It talks about his conduct and</p> <p>7 how he came to the scene. It says, "Deputy Vasquez</p> <p>8 conducts walk-through." Do you see that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And he makes a -- and then the last entry he's</p> <p>11 got, "Video Observed," and he states, "After obtaining</p> <p>12 Deputy Vasquez's statement and he had departed from the</p> <p>13 Bexar County Sheriff's Office, I viewed a video footage</p> <p>14 of the offense (later identified as being filmed by</p> <p>15 Michael Thomas). The video footage clearly illustrates</p> <p>16 the decedent apparently standing still with his hands in</p> <p>17 the air just prior to being shot by Deputy Sanchez and</p> <p>18 Deputy Vasquez."</p> <p>19 Have I read that correctly? Did --</p> <p>20 A. Yes.</p> <p>21 Q. -- I read that correctly?</p> <p>22 All right. And his note is "Investigative</p> <p>23 note: In his statement, Deputy Vasquez did not mention</p> <p>24 decedent had stopped and raised his hands."</p> <p>25 Did anyone in CID come back and ask you to</p>	<p>1 keys?</p> <p>2 A. I believe so, sir.</p> <p>3 Q. Okay. That's based on your memory today;</p> <p>4 right?</p> <p>5 A. I'm trying to remember it, yes, sir.</p> <p>6 Q. Okay.</p> <p>7 MR. HENRY: Let's go on the video.</p> <p>8 (Video playing.)</p> <p>9 MR. HENRY: Let's pause there.</p> <p>10 Q. (By Mr. Henry) It's your testimony that when</p> <p>11 Officer Sanchez went in that car, your AR-15 was right</p> <p>12 there in that slot --</p> <p>13 A. Yes, sir.</p> <p>14 Q. -- where --</p> <p>15 That's your testimony?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are you as certain about the location of that</p> <p>18 AR-15 as you are about Officer Sanchez having rushed to</p> <p>19 the car while Flores was rushing to the car?</p> <p>20 A. Yes, sir. The rifle was in there. And the</p> <p>21 part about Deputy Sanchez and -- and Mr. Flores at the</p> <p>22 same time, that was my recollection --</p> <p>23 Q. Okay.</p> <p>24 A. -- at the time.</p> <p>25 Q. Right. And that's what I'm saying. It was</p>

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1 wrong; right? Totally wrong. Your recollection was
 2 totally wrong, wasn't it, sir?
 3 **A. It was -- Yes, sir.**
 4 Q. Okay. And so I'm saying, just like that was
 5 glaringly wrong, the fact that there may or may not have
 6 been a AR-15, you might be wrong as you sit here today,
 7 too; right?
 8 **A. No, sir.**
 9 Q. You're 100 percent positive; right?
 10 **A. Yes, sir. My weapon was in it.**
 11 Q. And did you or --
 12 MR. HENRY: Keep going on that video.
 13 (Video playing.)
 14 Q. (By Mr. Henry) Okay. Now, did you see --
 15 MR. HENRY: Stop there.
 16 Q. (By Mr. Henry) Did you see the passenger
 17 door -- We can go back.
 18 Did you see how either yourself or one of
 19 the other officers closed that passenger door just now?
 20 **A. No, sir.**
 21 MR. HENRY: Go back.
 22 (Video playing.)
 23 Q. (By Mr. Henry) Do you have any recollection of
 24 seeing them close that passenger door?
 25 **A. No, sir.**

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1 Q. All right. So if the passenger door was
 2 closed, and there's other video footage of that or other
 3 physical evidence, you're not going to dispute that;
 4 right?
 5 **A. I don't remember someone closing that door, no.**
 6 MR. HENRY: Okay. Keep going.
 7 (Video playing.)
 8 Q. (By Mr. Henry) Who is the other officer you're
 9 talking to to your right?
 10 **A. Deputy Estrada.**
 11 MR. HENRY: Stop there.
 12 Q. (By Mr. Henry) Do you know what you're doing
 13 there at the front of that car? Do you know what you're
 14 doing at the front?
 15 **A. I think I was just looking at him.**
 16 Q. Okay.
 17 MR. HENRY: Keep going.
 18 (Video playing.)
 19 Q. (By Mr. Henry) Okay. So this complete video,
 20 it's the very first time you've seen it; correct?
 21 **A. I've seen it one other time.**
 22 Q. When, after this incident, did you see it?
 23 **A. Months afterwards, sir. I really wasn't**
 24 **interested in seeing it.**
 25 Q. What prompted you to see it?

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1 **A. Just to look at it, to see.**
 2 Q. Did you -- did you ask to see it?
 3 **A. No. I saw it online.**
 4 Q. Okay. But you didn't see the whole video
 5 online, did you?
 6 **A. No, sir.**
 7 Q. Okay. So did you go online and look at it when
 8 you were at home, or did you do it at the office?
 9 **A. When I was working part-time.**
 10 Q. Okay. When you say "part-time," do you mean --
 11 **A. The Hooters.**
 12 Q. Okay. So you were there at that job and you
 13 looked at it online?
 14 **A. Yes, it is -- it's on my phone.**
 15 Q. Okay. So in terms of anyone from the Sheriff's
 16 Department going over that video with you, nobody has
 17 done that?
 18 **A. No, sir.**
 19 Q. Okay. So you probably saw just a smaller
 20 segment of this video?
 21 **A. Yeah, shorter.**
 22 Q. When you have your training for using force or
 23 deadly force, in any part of that training do they train
 24 you about distance and if a person does not have a
 25 firearm? Is there any training that they provide you on

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1 distance and what distance someone can be an immediate
 2 threat versus just a threat?
 3 **A. You -- from the time you get your license, they**
 4 **go over, you know, the 21-foot rule.**
 5 Q. Okay. And that 21-foot rule, if they're inside
 6 21 feet, is that is a threat?
 7 **A. Yes, sir.**
 8 Q. Okay. If they're outside the 21 feet, is that
 9 not an immediate threat?
 10 **A. With this gentleman, as long as he had a knife**
 11 **in his hand, he was still a threat to me.**
 12 MR. HENRY: Okay. Objection;
 13 nonresponsive.
 14 Q. (By Mr. Henry) I'm talking about training.
 15 **A. Oh, training. Yeah, they tell you --**
 16 Q. They go into --
 17 **A. -- that, yeah. But I believe the -- the**
 18 **footage has been expanded to 35 feet, if I'm correct.**
 19 MR. HENRY: Okay. Objection;
 20 nonresponsive.
 21 Q. (By Mr. Henry) So have you received any
 22 training about how far away an individual is from you,
 23 if they don't have a firearm, that they can be
 24 considered an immediate threat?
 25 **A. 21 feet with a -- with a knife.**

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1 Q. Okay. And if they're outside 21 feet -- with a
2 knife, if they're outside 21 feet, that is still a
3 threat, but not necessarily an immediate threat;
4 correct?

5 **A. Yes, sir, they're still a threat. But, like I**
6 **said, they've expanded it to 35, if I'm correct.**

7 Q. Okay. And tell me, when you say "they," who's
8 "they"?

9 **A. I don't know the gentleman's name.**

10 Q. When -- when did you heard -- hear that they
11 expanded it to 35 feet?

12 **A. It's just the rule of -- of -- the gentleman's**
13 **name I couldn't tell you, but it's a rule that's in law**
14 **enforcement.**

15 Q. Tell me where -- that rule that you're
16 referring to that you learned about, that's since this
17 incident occurred; right?

18 **A. No, sir. It's been there --**

19 Q. Before?

20 **A. Yes, sir.**

21 Q. And can you refer me to one place where you
22 learned about this 35 feet now?

23 **A. I want to say when you get your license and**
24 **when you get, you know, your inservice time, that that's**
25 **still a threat.**

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1 Q. Right. But not necessarily an immediate
2 threat; right? If you're in --

3 **A. I mean, not necessarily an immediate threat,**
4 **but a threat is a threat.**

5 Q. Right. If they're -- if they're within 35
6 feet, it can be a threat, within 21 feet, turns into
7 immediate threat; is that right?

8 **A. No, sir. Just -- I mean --**

9 Q. Just a threat?

10 **A. Yes. And then that's the distance that they**
11 **can go ahead and close the gap on you.**

12 Q. Okay. All right. So if they're 21 to 35 feet
13 away from you, they're still considered a threat?

14 **A. Yes, sir.**

15 Q. Okay. And it's not as -- not an immediate
16 threat, but it's still a threat?

17 **A. Well, it's -- well, it's immediate threat.**

18 Q. Okay. And so that -- that training you got
19 about being an immediate threat, you're saying you
20 learned that from the Bexar County Sheriff's Department;
21 right?

22 **A. Yes, sir.**

23 Q. And you're saying you got it from what else
24 besides Bexar County?

25 **A. Oh, I want to say --**

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1 Q. Because you've been -- you've been licensed for
2 a long time, so it had to have been from some training.

3 **A. Yes, sir. I believe at SAC, they also, when**
4 **you do, you know, the weapon retention and that stuff,**
5 **they go over it, I believe.**

6 Q. So now we're going back, what, 15 years ago?
7 Or, no. How long ago, to SAC?

8 **A. I got it afterwards, sir. Excuse me.**

9 Q. What year was that?

10 **A. Maybe '03, '04.**

11 Q. Okay. So what you're doing is you're telling
12 this jury that an immediate threat can exist with a
13 weapon in the hand, and you got that education and
14 training from SAC?

15 **A. I believe so, sir. I mean, I got it someplace**
16 **in there. I couldn't tell you necessarily at SAC or at**
17 **the County, but that it's -- it's --**

18 Q. All right. I'm trying to pin you down as hard
19 as I can on this 35-foot deal you're bringing up.

20 So that information, did you see it in a
21 PowerPoint?

22 **A. I couldn't tell even tell you.**

23 Q. Did you see it in a video?

24 **A. They have videos out there, but I mean --**

25 Q. Okay.

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1 **A. -- as far as, you know --**

2 Q. All right. So if I was to scour the earth at
3 SAC and scour the earth for every bit of information at
4 the Bexar County Sheriff's Department for 35 feet, some
5 way, somehow it should turn up, right, because you got
6 that training and education?

7 **A. It should. Like I said, I'm not -- They've**
8 **gone from 21 to 35.**

9 Q. And so when did that happen? Did it happen at
10 SAC or did it happen after SAC?

11 **A. Well, it had -- Well, that 35 was just within**
12 **the last year or two, I believe, so --**

13 Q. Okay. In the last year or two now?

14 **A. Yes.**

15 Q. All right. So in that last year, that's a
16 little -- we're narrowing it down -- last two years.

17 So are you saying you learned about this
18 35-foot rule before Flores or after Flores, or do you
19 not know?

20 **A. I want to say it was after, but I haven't gone**
21 **to inservice, but I -- the -- it was 21 feet and then**
22 **it -- they --**

23 Q. Okay.

24 **A. -- the footage has been expanded.**

25 Q. Okay. So would it be fair, based on your

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1 memory, that for you to learn about the 35-foot rule, it
 2 would have occurred at an inservice after the incident
 3 with Flores?
 4 **A. I haven't been to inservice.**
 5 Q. Okay. So it would had to have been in the --
 6 the year prior to the event with Flores that you had an
 7 inservice and learned about this 35-foot rule?
 8 **A. Either the 21 or the 35, yes, sir.**
 9 Q. Within a year of this incident; correct?
 10 **A. Yes, sir, I would imagine.**
 11 Q. Okay. All right. So if it was an inservice,
 12 at those inservices they provide you paper to read, they
 13 provide you videos, and they have verbal trainers;
 14 right?
 15 **A. Videos and verbal.**
 16 Q. All right.
 17 **A. But as far as paper, I'm not --**
 18 Q. Somewhere within that year of this incident
 19 that training existed for you; right?
 20 **A. It should, yes, sir.**
 21 Q. Right. And so -- so let me ask you, then did
 22 you -- with regard to learning about this 35 feet, were
 23 you told by trainers that the policy of the Bexar County
 24 Sheriff's Department was if they are within 35 feet of
 25 you --

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1 **A. No, sir. We weren't told that.**
 2 Q. Oh, okay. No one ever told you it's a policy,
 3 don't worry about it --
 4 **A. No, sir.**
 5 Q. -- if they're 35 feet from you, it's an
 6 imminent threat, you can use deadly force?
 7 **A. No, sir.**
 8 Q. No one ever told you that; right?
 9 **A. No, sir.**
 10 Q. You've never read anything that says someone 35
 11 feet away from you is necessarily an imminent threat,
 12 have you --
 13 **A. I've just --**
 14 Q. -- that doesn't -- that doesn't have a firearm?
 15 **A. I've just heard that they expanded the rules to**
 16 **35 feet within the last year or two.**
 17 Q. I know. You're saying "heard," and I'm -- and
 18 the only place you say you could have heard it from is
 19 the Bexar County Sheriff's Department through
 20 inservices; right?
 21 **A. The 21-foot rule. The 35, I haven't been back**
 22 **to inservice since.**
 23 Q. No. But, I mean, the year before this incident
 24 is when you're telling us you've heard about --
 25 **A. I think that's when they expanded the feet. I**

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1 **don't -- they haven't said anything because I haven't**
 2 **been back.**
 3 Q. I know. But in the year before -- you just
 4 told us that the year before the Flores incident that
 5 you learned about this 35-foot rule.
 6 **A. No, sir. The 21. I said they changed the rule**
 7 **within --**
 8 Q. Okay. So the year before, you never had any
 9 knowledge, you never had any training about a 35-foot
 10 rule? It's only after the Flores incident that you
 11 heard that they may have expanded it to 35 feet?
 12 **A. Yes, sir.**
 13 Q. Okay. And then so because you haven't been in
 14 inservice, where did you hear that from?
 15 **A. Probably from other deputies or from --**
 16 Q. Tell me their names.
 17 **A. I don't know. I mean, maybe Daggett. There's**
 18 **other deputies you talk to.**
 19 Q. Daggett. Tell me who -- give me every name.
 20 **A. Peña, maybe. That's really about it. That's**
 21 **the only ones I really talk to.**
 22 Q. Daggett and Peña. Did they say they went to
 23 inservice and said, "Hey, wait" --
 24 **A. No, sir, they didn't say that.**
 25 Q. Oh, okay. Have you ever seen any policy or

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1 procedures at Bexar County that define for you what
 2 "close proximity" is to you by someone that you may be
 3 confronting? What -- what is "close proximity"?
 4 **A. No, sir, I don't believe so.**
 5 Q. Okay. Let's look at Exhibit Number 4 and this
 6 is the information you checked off on.
 7 It says, "It shall be incumbent on every
 8 officer to exhaust every reasonable means of employing
 9 only that amount of deadly force necessary to accomplish
 10 the purpose."
 11 Do you see where you initialed that?
 12 **A. Yes, sir.**
 13 Q. Okay. So it says "every reasonable means of
 14 employing only that amount of deadly force necessary to
 15 accomplish the purpose."
 16 What does that mean to you? Not in terms
 17 of Flores. But just in general, what does that mean to
 18 you?
 19 **A. To me, it means that you have to -- not**
 20 **necessarily you have to use, but you use whatever means,**
 21 **like your ASP, your Taser, your -- and then at the end**
 22 **it would be deadly force.**
 23 Q. Okay. And then do you see here there's another
 24 section you initialed off, "Once the immediate danger of
 25 death or serious bodily injury to an officer or another

<p style="text-align: right;">Page 197</p> <p>1 person has passed, deadly force shall not be used"?</p> <p>2 And you initialed that off; correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. At the time you discharged your weapon --</p> <p>5 Do you see under the next set of rules,</p> <p>6 "The following are examples which may be considered</p> <p>7 deadly force situations depending on the circumstance:</p> <p>8 Shooting at, or stabbing an officer"?</p> <p>9 Now, when you see "or stabbing an</p> <p>10 officer," at the time you discharged your weapon, he was</p> <p>11 not stabbing you; correct?</p> <p>12 A. No, sir. But, like I said, he was a threat.</p> <p>13 MR. HENRY: Objection; nonresponsive.</p> <p>14 Q. (By Mr. Henry) At the time you discharged your</p> <p>15 weapon, he was stabbing you; correct?</p> <p>16 A. No, he wasn't stabbing me.</p> <p>17 Q. He wasn't trying to stab you either, was he?</p> <p>18 His hands were in the air.</p> <p>19 A. Yes, sir.</p> <p>20 Q. And then the next item you initialed,</p> <p>21 "Advancement towards an officer by a suspect exhibiting</p> <p>22 a firearm, knife or club in a manner and in close enough</p> <p>23 proximity to the officer to give reason to believe that</p> <p>24 the officer may be assaulted."</p> <p>25 And that's another basis for using -- or</p>	<p style="text-align: right;">Page 199</p> <p>1 MR. FRIGERIO: We'll reserve our</p> <p>2 questions.</p> <p>3 MS. BOWEN: We'll reserve our questions</p> <p>4 until trial.</p> <p>5 THE VIDEOGRAPHER: We're off the record on</p> <p>6 January the 10th, 2017 at 3:14 p.m.</p> <p>7 (Deposition concluded at 3:14 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 198</p> <p>1 an example of using deadly force; correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you initial that?</p> <p>4 All right. When you discharged your</p> <p>5 weapon, Mr. Flores was not advancing towards you;</p> <p>6 correct?</p> <p>7 A. No, sir.</p> <p>8 Q. He did have a knife, though; right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. "And in close enough proximity." "In close</p> <p>11 enough proximity," that language, in the policies and</p> <p>12 procedures of Bexar County Sheriff's Department, nowhere</p> <p>13 have you been instructed on what "close enough</p> <p>14 proximity" is when someone has a knife --</p> <p>15 A. No, sir.</p> <p>16 Q. -- have you?</p> <p>17 Do you have any training that hands up</p> <p>18 means "I surrender"?</p> <p>19 A. Do I have training for hands up means</p> <p>20 surrender?</p> <p>21 Q. Yes, sir.</p> <p>22 A. Not necessarily, sir.</p> <p>23 Q. Okay. Officer Vasquez, that's all the</p> <p>24 questions I have for you today. Thank you.</p> <p>25 A. Thank you, sir.</p>	<p style="text-align: right;">Page 200</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 DEPUTY GREGORY VASQUEZ - JANUARY 10, 2017</p> <p>3 PAGE LINE CHANGE REASON</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

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<p>1 CHANGES AND SIGNATURE</p> <p>2 DEPUTY GREGORY VASQUEZ - JANUARY 10, 2017</p> <p>3 PAGE LINE CHANGE REASON</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11</p> <p>12 I declare under penalty of perjury that the</p> <p>13 foregoing is true and correct.</p> <p>14</p> <p>15 _____</p> <p>16 DEPUTY GREGORY VASQUEZ</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 I further certify that charges for the</p> <p>2 preparation of the foregoing completed deposition were</p> <p>3 \$_____ for the original thereof, charged to</p> <p>4 Attorney(s) for the Plaintiffs.</p> <p>5 GIVEN under my hand and seal of office on</p> <p>6 this, the 16th day of January, 2017.</p> <p>7</p> <p>8</p> <p>9 _____</p> <p>10 Denise Ganz Byers, CSR, RPR, RMR, CRR</p> <p>11 Texas CSR No. 2037</p> <p>12 Expiration Date: 12/31/18</p> <p>13 DepoTexas - Firm Registration No. 539</p> <p>14 100 N.E. Loop 410, Suite 955</p> <p>15 San Antonio, Texas 78216</p> <p>16 210-481-7575</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 THE STATE OF TEXAS:</p> <p>2 COUNTY OF BEXAR:</p> <p>3</p> <p>4 I, Denise Ganz Byers, Certified Shorthand</p> <p>5 Reporter in and for the State of Texas, do hereby</p> <p>6 certify that the facts stated by me in the caption</p> <p>7 hereto are true; that the foregoing deposition of</p> <p>8 DEPUTY GREGORY VASQUEZ, the witness hereinbefore named,</p> <p>9 was taken by me in machine shorthand, the said witness</p> <p>10 having been by me first duly cautioned and sworn to tell</p> <p>11 the truth, the whole truth and nothing but the truth,</p> <p>12 and later transcribed from machine shorthand to</p> <p>13 typewritten form by me.</p> <p>14 I further certify that the above and</p> <p>15 foregoing deposition, as set forth in typewriting, is</p> <p>16 a full, true and correct transcript of the proceedings</p> <p>17 had at the time of taking said deposition.</p> <p>18 I further certify that I am neither</p> <p>19 attorney or counsel for, nor related to or employed</p> <p>20 by any of the parties to the action in which this</p> <p>21 deposition is taken, and further that I am not a</p> <p>22 relative or employee of any attorney or counsel</p> <p>23 employed by the parties hereto, or financially</p> <p>24 interested in the action.</p> <p>25</p>	