

Page 1

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 ROGELIO)
 12 FLORES)
 13 Plaintiffs)
 14 v.) 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

14 ORAL AND VIDEOTAPED DEPOSITION OF
 15 ROGER PEDRAZA
 16 FEBRUARY 27, 2017

17 ORAL AND VIDEOTAPED DEPOSITION of ROGER PEDRAZA,
 18 produced as a witness at the instance of the Plaintiffs,
 19 and duly sworn, was taken in the above-styled and
 20 numbered cause on the 27th day of February, 2017, from
 21 1:02 p.m. to 4:34 p.m., before Karen M. Kane, CSR, in
 22 and for the State of Texas, reported by machine
 23 shorthand method, at the Bexar County Justice Center,
 24 300 Dolorosa, Conference Room 202, San Antonio, Texas,
 25 pursuant to the Federal Rules of Civil Procedure.

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15

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17 Chapter 32 - Emergency/Critical Incident

18 Operations

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20 Chapter 9 - Use of Force

21 Exhibit 3 84

22 Photograph

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24 Photograph

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Photograph

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Photograph

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Patrol Supervisors Report of Incident

(Exhibits scanned/attached.)

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Statement Taken: 08/28/15 of Deputy

G. Vasquez

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1 APPEARANCES

2

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23 Mr. Guillermo "Jeff" Benavides

24 *****

25

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1 EXHIBITS (continued)

2 NO. DESCRIPTION MARKED FOR ID/REFERENCED

3 Exhibit 10 134

4 Cell Phone Video Review

5 Exhibit 11 159

6 Video footage

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8 Photograph

9 (Exhibits scanned/attached.)

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Page 5

1 THE VIDEOGRAPHER: Today's date is
 2 February 27th, 2017. The time is 1:02 p.m.
 3 This is the beginning of the deposition
 4 of Sergeant Roger Pedraza. We're on the record. Will
 5 the court reporter please swear in the witness?
 6 ROGER PEDRAZA
 7 called as a witness herein, having been first duly
 8 sworn, was examined and testified as follows:
 9 EXAMINATION
 10 BY MR. WILSON:
 11 Q. Would you please tell us your full name, sir?
 12 A. **It's Roger Anthony Pedraza.**
 13 Q. And, Mr. Pedraza, what is your date of birth?
 14 A. **12/9 of 1967.**
 15 Q. And your address, please, sir?
 16 A. **Is 8319 Thorncliff, San Antonio, 78250.**
 17 Q. Could you say that name of that street again,
 18 please?
 19 A. **Thorncliff.**
 20 Q. Thorncliff.
 21 Have you ever had your deposition taken
 22 before, sir?
 23 A. **Yes, sir.**
 24 Q. All right. And was that in your capacity as a
 25 Bexar County Sheriff's officer?

Page 6

1 A. **As a sergeant.**
 2 Q. All right. And when was that?
 3 A. **Two years ago.**
 4 Q. And what type of case did that involve?
 5 A. **An officer-involved shooting.**
 6 Q. All right. And could you tell me the name of
 7 that case, please?
 8 A. **It was Sergeant Bellino, and I can't remember**
 9 **who the -- the person who was shot.**
 10 Q. So you were deposed in the Bellino civil
 11 rights case that followed after that shooting; is that
 12 correct?
 13 A. **That's correct.**
 14 Q. All right. Was that the only deposition that
 15 you have given in the course of your career?
 16 A. **Yes, sir.**
 17 Q. All right. So, then, I won't go through all
 18 of the ground rules. But if I ask a question that you
 19 don't understand, please tell me.
 20 A. **Yes, sir.**
 21 Q. I'll be happy to rephrase it. Okay?
 22 A. **Yes, sir.**
 23 Q. All right. And who is your current employer,
 24 sir?
 25 A. **The Bexar County Sheriff's Office.**

Page 7

1 Q. And how long have you been employed with the
 2 Bexar County Sheriff's Office?
 3 A. **Over 28 years.**
 4 Q. So we are in 2017. When did you start?
 5 A. **December 27th of 1988.**
 6 Q. And what's your educational background?
 7 A. **A senior in college.**
 8 Q. All right. So when did you graduate high
 9 school?
 10 A. **In 1987.**
 11 Q. And then you started working for Bexar County
 12 in 1988?
 13 A. **December, yes, sir.**
 14 Q. And did you -- so you went directly from high
 15 school to Bexar County Sheriff's Department?
 16 A. **Other jobs in between.**
 17 Q. All right. And what other jobs did you have
 18 for that year or so in between?
 19 A. **A car wash, a car dealership.**
 20 Q. This was your first career-type job, right?
 21 A. **Yes, sir.**
 22 Q. All right. And you've maintained your
 23 employment with Bexar County Sheriff's Department ever
 24 since?
 25 A. **Yes, sir.**

Page 8

1 Q. So you said you went to college. When did you
 2 go to college?
 3 A. **Throughout high -- after high school, the last**
 4 **25 years.**
 5 Q. Off and on?
 6 A. **Off and on. I have 93 hours of college.**
 7 Q. Okay. And where -- where did your college --
 8 where did you go?
 9 A. **San Antonio Community College and Wayland**
 10 **Baptist University.**
 11 Q. William what?
 12 A. **Wayland Baptist.**
 13 Q. Wayland. And do you have a degree?
 14 A. **No, sir.**
 15 Q. And what are you studying?
 16 A. **It was criminal justice with a social studies**
 17 **for teacher certification.**
 18 Q. Okay. And so you've been working towards that
 19 degree over the course of your career off and on, I take
 20 it?
 21 A. **Yes, sir, off and on.**
 22 Q. And you are about two-thirds of the way
 23 finished, but you hadn't quite finished yet?
 24 A. **I have not, yes, sir.**
 25 Q. All right. And so when you became a -- when

Page 9

1 you went to work for Bexar County, did you go through
 2 the Academy before you did that?
 3 **A. Yes, I did.**
 4 Q. All right. And what academy did you go
 5 through?
 6 **A. I went to the Bexar County Sheriff's Academy.**
 7 Q. And when did you get your peace officer's
 8 license?
 9 **A. I want to say 1990.**
 10 Q. And when you went to work for Bexar County in
 11 1988, what was your job?
 12 **A. A detention officer.**
 13 Q. Did you have a different kind of license at
 14 that point?
 15 **A. A jailer's certification.**
 16 Q. So the first thing you got was jailer -- a
 17 jailer certification, correct, that allowed you to work
 18 in the jail?
 19 **A. Yes.**
 20 Q. And then was it after that that you went to
 21 the Bexar County Sheriff's Academy?
 22 **A. It was San Antonio College.**
 23 Q. And so did you -- San -- what -- back then did
 24 they not have the Bexar County Sheriff's Academy?
 25 **A. Not certification, not for peace officers.**

Page 10

1 Q. Okay. So you got your peace officer's license
 2 through San Antonio College?
 3 **A. Yes, sir.**
 4 Q. SAC?
 5 **A. Yes, sir.**
 6 Q. And you got that in what year?
 7 **A. About 1990.**
 8 Q. And so you worked as a jailer from 1988 to
 9 1990, and then you got your peace officer's license. Is
 10 that when you became a deputy?
 11 **A. Yes, sir.**
 12 Q. And have you been a deputy ever since then
 13 even though you've been promoted to sergeant?
 14 **A. Yes, sir.**
 15 Q. So other than the training you received at
 16 SAC, has all of your training since 1990 been through
 17 the Bexar County Sheriff's Academy?
 18 **A. Different schools throughout my career.**
 19 Q. And let's be specific. When it comes to use
 20 of force, where has your training come from?
 21 **A. That would be different schools.**
 22 Q. All right. What kind of schools can you tell
 23 me that you've been to where you've learned use of
 24 force?
 25 **A. SWAT certification, Texas Department of Public**

Page 11

1 **Safety.**
 2 Q. Texas Department of Public Safety?
 3 **A. Yes, sir.**
 4 Q. All right. And was that through any
 5 particular curriculum or course that you took with DPS?
 6 **A. Narcotic raids.**
 7 Q. So when it comes to when you can legally use
 8 deadly force, can you tell me all the places that you
 9 received your training?
 10 **A. Not all of them. The majority was basic peace**
 11 **officer's course.**
 12 Q. Back in 1990?
 13 **A. Yes, sir.**
 14 Q. Well, we are now in the year 2017.
 15 Have you received any update training or
 16 additional training on when you can legally and
 17 constitutionally use deadly force?
 18 **A. Not -- not -- not to my knowledge, I mean, no.**
 19 Q. So the last time you ever received any
 20 training on when you could constitutionally use deadly
 21 force is when you were at SAC in 1990? Is that a fair
 22 statement?
 23 **A. No, it's not.**
 24 Q. Okay. I didn't think so.
 25 **A. No, it's not.**

Page 12

1 Q. All right. So after 1990 where have you
 2 received training on when you can legally and
 3 constitutionally use deadly force?
 4 **A. Through the Bexar County Sheriff's Office.**
 5 Q. Okay. And that's where your training would
 6 come from after that, right?
 7 **A. Yes, sir.**
 8 Q. Okay. So if I understand it correctly, you
 9 initially got introduced to that concept through SAC
 10 when you got your peace officer's license in 1990,
 11 correct?
 12 **A. Yes, sir.**
 13 Q. And then from 1990 forward, when you could
 14 constitutionally and legally use deadly force would have
 15 come from the Bexar County Sheriff's Academy?
 16 **A. Yes.**
 17 Q. Okay. No other source that you can think of?
 18 **A. Texas Department of Public Safety, other**
 19 **courses throughout my career, Drug Enforcement**
 20 **Administration.**
 21 Q. All right. So tell me what you learned in
 22 your narcotics -- in your narcotics course through DPS
 23 as to when you can use deadly force.
 24 **A. In fear of -- of yourself or a third person.**
 25 Q. All right. And what do you mean in fear of

Page 13

1 yourself or a third person?

2 **A. When I'm in fear for my life or the safety of**

3 **another person.**

4 Q. Okay. And what did you learn about -- tell me

5 more about that.

6 What did DPS teach you about when you are

7 in fear for your life or the life of a third person?

8 **A. It's when there's a threat, an imminent threat**

9 **in front of you or that for another person.**

10 Q. Okay. Well, is that -- did you learn whether

11 that was an objective fear or a subjective fear?

12 **A. I don't understand that -- that question by**

13 **objective or subjective.**

14 Q. Okay. Do you -- did you learn what the term

15 "objective" means in any of your training when it comes

16 to the use of deadly force?

17 **A. I -- objective -- I don't know what**

18 **"objective" means.**

19 Q. All right. Well, we'll get to it, then, in

20 some more detail.

21 **A. Okay.**

22 Q. All right. So what you think you learned from

23 the Department of Public Safety was is when you feel

24 like you are in an immediate threat of harm for yourself

25 or another person, you could use deadly force?

Page 14

1 **A. Yes.**

2 Q. All right. Any other sources of your training

3 besides DPS in relation to -- and the Bexar County

4 Sheriff's Academy -- as to when you can use deadly

5 force?

6 **A. I've been through so many schools throughout**

7 **my career, I ...**

8 Q. Okay. Did anybody ever teach you that the

9 fear you have had to be a fear of an immediate threat of

10 harm?

11 **A. Yes.**

12 Q. All right. And what is your understanding of

13 an immediate threat of harm?

14 **A. It's imminent happening now.**

15 Q. Right then and there?

16 **A. Right then and there.**

17 Q. All right. So is it your understanding, sir,

18 that the only time you can use deadly force as a peace

19 officer under the constitution is when there is an

20 immediate threat happening at the time?

21 **A. Yes.**

22 Q. Is it your understanding, sir, that you cannot

23 use it based upon what has happened in the past?

24 **A. No. It's got to -- no.**

25 Q. Okay. It can't be on a potential threat of

Page 15

1 what might happen in the future, right?

2 **A. Right.**

3 Q. It has to be what's happening at the moment

4 you decide to pull the trigger?

5 **A. Yes.**

6 Q. That's your understanding?

7 **A. Yes, sir.**

8 Q. And that is it your understanding, sir, that

9 if there is no immediate threat at the time you decide

10 to pull the trigger that you cannot legally or

11 constitutionally use deadly force?

12 **A. Correct.**

13 Q. All right. So if, in fact, someone was

14 engaging in behavior in the past which could be

15 considered a threat, but wasn't engaging in that

16 behavior at the time, you couldn't pull the trigger. Is

17 that your understanding?

18 **A. Yes, sir.**

19 Q. But you can't base it upon what they did a few

20 minutes before, right?

21 MR. FRIGERIO: Objection; form.

22 Q. (BY MR. WILSON) Is that your understanding?

23 MR. FRIGERIO: Objection; form; calls for

24 speculation.

25 MR. LOPEZ: Same objection.

Page 16

1 Q. (BY MR. WILSON) Do you understand my question?

2 Say you're in the middle of something with

3 somebody, okay, you have a situation going on. Maybe a

4 couple minutes before they were acting in a way that

5 could be considered immediate threat of harm to you,

6 right?

7 **A. Yes.**

8 Q. But then now they're not doing that. Can you

9 still use deadly force based upon what they did in the

10 past?

11 MR. FRIGERIO: Objection; form.

12 MR. LOPEZ: Same objection. Asks for

13 speculation.

14 Q. (BY MR. WILSON) You can answer. Those are for

15 the Court later.

16 **A. Okay. Can you repeat the question?**

17 Q. Sure. Let's say you're involved in an

18 altercation with someone. At one point during that

19 altercation they're engaging in behavior which could be

20 considered an immediate threat, okay, but then now

21 that -- they're no longer doing that, they're no longer

22 engaging in that same behavior.

23 Because of what they did in the past,

24 could you use deadly force once they stop it?

25 MR. FRIGERIO: Same objection.

Page 17

1 **A. No.**
 2 Q. (BY MR. WILSON) Okay. Because once that
 3 force -- that immediate threat is gone, you no longer
 4 can use deadly force, correct?
 5 **A. Correct.**
 6 Q. That's your -- that's what you've been
 7 trained?
 8 **A. Yes, sir.**
 9 Q. So let's say, for example, someone was in a
 10 fight with a police officer and was actually punching
 11 that police officer or using a knife, for that matter,
 12 right?
 13 And somebody had -- let's say somebody had
 14 a knife and was engaged in a fight with a police
 15 officer, but that fight is now over and that person is
 16 now 20 some-odd feet away from that police officer.
 17 Could the officer shoot that person based
 18 upon the fight that happened a few -- few minutes
 19 earlier?
 20 MR. FRIGERIO: Objection; form.
 21 MR. LOPEZ: Objection.
 22 **A. I can't answer that question.**
 23 Q. (BY MR. WILSON) Why not?
 24 **A. Because I'm not -- it has to be what the**
 25 **officer sees in front of him.**

Page 18

1 Q. Well, I understand that.
 2 But my question is just based on what
 3 you've told me, while he's in the fight there could be
 4 an immediate threat, right?
 5 **A. Yes, sir.**
 6 Q. But once he's standing 20 feet away from the
 7 officer and just standing still, is he still an
 8 immediate threat where he can justify the use of deadly
 9 force?
 10 MR. LOPEZ: Objection -- hold on, hold
 11 on. Objection; argumentative.
 12 Q. (BY MR. WILSON) You can answer.
 13 **A. I can't answer that question. That's going to**
 14 **be up to that officer.**
 15 Q. I'm asking you based upon your understanding
 16 of the law. Okay?
 17 **A. Yes, sir.**
 18 Q. Based upon your understanding of the law, does
 19 the mere fact that someone is engaged in an altercation
 20 with a police officer several minutes earlier justify
 21 that same officer shooting that person when he's
 22 standing still more than 20 feet away?
 23 **A. Again, I can't answer that question.**
 24 Q. Why not? What else would you -- what else
 25 would you need?

Page 19

1 **A. I don't know what that officer is seeing at**
 2 **that time.**
 3 Q. What if he's just seeing a man standing still?
 4 **A. I can't answer. It's speculation, sir.**
 5 Q. Okay. What if he's just standing still 20
 6 some-odd feet away from him holding a knife, would that
 7 be enough to justify shooting him because he was in a
 8 fight earlier?
 9 MR. FRIGERIO: Objection; form.
 10 **A. Again --**
 11 MR. LOPEZ: Objection; argumentative.
 12 **A. Again, I can't -- I'm not present.**
 13 Q. (BY MR. WILSON) Do you have to be present to
 14 make that call?
 15 **A. To shoot somebody?**
 16 Q. Yes.
 17 **A. Yes, sir.**
 18 Q. Do you have to be -- so, in other words, you
 19 understand and agree that you would have to be on scene
 20 in order to make that determination?
 21 **A. Yes, sir.**
 22 Q. You as a sergeant off scene couldn't make that
 23 determination, could you?
 24 **A. No, sir.**
 25 Q. All right. Now, how long were you a deputy

Page 20

1 before you became a sergeant?
 2 **A. 24 -- 23 years.**
 3 Q. So you became -- you were promoted to sergeant
 4 approximately five years ago or so?
 5 **A. Yes, sir.**
 6 Q. And has your peace officer's license ever been
 7 suspended in any way?
 8 **A. Yes, sir.**
 9 Q. All right. When was your peace officer's
 10 license suspended?
 11 **A. 2013.**
 12 Q. And what was the basis for the suspension of
 13 your peace officer's license?
 14 **A. I had a crash in a patrol car, and I got a**
 15 **suspension for it.**
 16 Q. All right. Was there circumstances of that
 17 crash which necessitated your peace officer's license
 18 being suspended?
 19 **A. I was found at fault.**
 20 Q. Okay. And that was enough?
 21 MR. FRIGERIO: Objection; form. He
 22 doesn't understand the question. His license wasn't
 23 suspended.
 24 Q. (BY MR. WILSON) No, no, no, no. Your peace
 25 officer's license is what I'm talking about.

Page 21

1 So you were involved in an at-fault
 2 collision, and as a result of that your peace officer's
 3 license was suspended?
 4 **A. When you're suspended you -- you lose**
 5 **everything.**
 6 Q. Were you suspended while they were
 7 investigating that, or were you disciplined?
 8 **A. Disciplined.**
 9 Q. All right. And what was the basis of your
 10 discipline because you were in a wreck?
 11 **A. I was just found at fault.**
 12 Q. Okay. Were you -- was there any sort of other
 13 activity or conduct on your part involved?
 14 **A. No, sir.**
 15 Q. Were you under a DWI or anything like that?
 16 **A. No, sir.**
 17 Q. Okay. So how long were you -- were you
 18 suspended for this at-fault wreck?
 19 **A. Three days.**
 20 Q. So that's the only time your peace officer's
 21 license has been suspended?
 22 MR. FRIGERIO: Objection; form.
 23 Q. (BY MR. WILSON) For that three days?
 24 **A. Yes.**
 25 Q. Okay. Have you ever been involved in a

Page 22

1 shooting?
 2 **A. Yes, sir.**
 3 Q. All right. When were you first involved in a
 4 shooting?
 5 **A. December 23rd, 1994.**
 6 Q. All right. And do you recall the name of the
 7 person involved?
 8 **A. I believe it was Joe Henry Gonzalez.**
 9 Q. Joe Henry Gonzalez?
 10 **A. Yes, sir.**
 11 Q. Okay. Was that the only time you've ever had
 12 to discharge your weapon in the course of your career?
 13 **A. No, sir.**
 14 Q. All right. When was the second time?
 15 **A. It was October of '94.**
 16 Q. Twice in the same year?
 17 **A. Yes, sir.**
 18 Q. And Mr. Gonzalez, was he killed?
 19 **A. No, sir.**
 20 Q. Okay. What was the name of the other
 21 individual in October?
 22 **A. I believe his name was Jess McGill.**
 23 Q. Jess McGill?
 24 **A. (Nodding.)**
 25 Q. And what -- was Mr. McGill killed?

Page 23

1 **A. No, sir.**
 2 Q. And any other time that you had to discharge
 3 your weapon in the line of duty?
 4 **A. No, sir.**
 5 Q. So those two occasions in 1994?
 6 **A. Yes, sir.**
 7 Q. And were those shootings investigated?
 8 **A. Yes, sir.**
 9 Q. Was it found that you violated policy at any
 10 time when you were engaged in those shootings?
 11 **A. No, sir.**
 12 Q. And so what was the circumstances of the one
 13 with Mr. McGill?
 14 **A. Mr. McGill, we went to box him -- I was in**
 15 **narcotics, and he started driving cars and started**
 16 **dragging one of the deputies.**
 17 Q. All right. So he was -- so he was actually
 18 driving away in a -- in a vehicle?
 19 **A. He was in a vehicle boxed in.**
 20 Q. Okay. But he was attempting to drive off?
 21 **A. Yes, sir.**
 22 Q. And he was dragging another --
 23 **A. Deputy.**
 24 Q. -- deputy at the time?
 25 **A. Yes, sir.**

Page 24

1 Q. Okay. And so while he was fleeing, you shot
 2 into his vehicle?
 3 **A. Yes, sir.**
 4 Q. And did you hit him?
 5 **A. No, sir.**
 6 Q. Okay. But he wasn't physically hit?
 7 **A. No, sir.**
 8 Q. But you hit the car?
 9 **A. Yes, sir.**
 10 Q. All right. But you were trying to hit it?
 11 **A. Yes, sir.**
 12 Q. So you were trying to hit a fleeing suspect;
 13 is that correct?
 14 **A. It was in defense of a deputy -- a deputy that**
 15 **was being dragged.**
 16 Q. Okay. But my question was a little more
 17 specific than that.
 18 You discharged your weapon at a suspect
 19 while he was fleeing in a vehicle?
 20 **A. Yes.**
 21 Q. And did you get -- was that investigated?
 22 **A. Yes, sir.**
 23 Q. And do you recall what department investigated
 24 that shooting?
 25 **A. Our department.**

Page 25

1 Q. Well, there's a department within the --

2 **A. It was within the Sheriff's Office.**

3 Q. Right. Was it -- was it -- I think now

4 there's something known as the Professional Integrity

5 Unit or something like that.

6 Was there something like that back in

7 1994?

8 **A. It was just Criminal Investigation Division.**

9 Q. Okay. And so there was a criminal

10 investigation of that particular shooting?

11 **A. It was investigated, yes, sir.**

12 Q. And did the Sheriff's Department determine

13 that when you shot into the vehicle of a fleeing suspect

14 you were acting within policy?

15 **A. Yes, sir.**

16 Q. Okay. And when was the next -- the next was

17 like December of 1994?

18 **A. December 23rd, 1994.**

19 Q. All right. And tell me the circumstances

20 under which you discharged your weapon at that time?

21 **A. That was a search warrant. And when we made**

22 **entry into the door, he fired upon us, and we returned**

23 **fire.**

24 Q. Okay. So he actually fired his gun first?

25 **A. Yes, sir.**

Page 26

1 Q. And then you -- you and some other officers

2 fired upon him?

3 **A. Yes, sir.**

4 Q. And did you strike him?

5 **A. They couldn't tell. He was hit, but they**

6 **couldn't tell who.**

7 Q. Okay. So there was more than one. Was there

8 more than one gun wound -- gunshot wound?

9 **A. Yes, sir.**

10 Q. But nobody did ballistics to determine what

11 wound was from what weapon?

12 **A. No, sir.**

13 Q. And so was that investigated by the Criminal

14 Investigation unit as well?

15 **A. Yes, sir.**

16 Q. And that shooting was determined to be within

17 policy?

18 **A. Yes, sir.**

19 Q. Because at least in that shooting he had

20 already -- he had fired upon the officers, right, and

21 y'all returned the fire?

22 **A. Yes, sir.**

23 Q. Okay. So he had a weapon that he was actually

24 using?

25 **A. Yes, sir.**

Page 27

1 Q. Now, when you were a -- when you became a

2 sergeant, is there a chain of command of the people that

3 work underneath you?

4 **A. Yes.**

5 Q. And what is -- who is it that reports to you?

6 **A. It is the patrolmen or civilians.**

7 Q. Civilians might be who?

8 **A. The secretary.**

9 Q. Okay. Is there a particular unit -- a patrol

10 unit that reported to you?

11 **A. My shift of whoever I covered.**

12 Q. Okay. And on any given shift how many people

13 would be reporting to you?

14 **A. 15 to 20.**

15 Q. And most of those would be patrolmen?

16 **A. Patrolmen.**

17 Q. And those patrolmen and patrolwomen, I guess,

18 would be -- you would be the first person in their chain

19 of command?

20 **A. Yes, sir.**

21 Q. And did you receive any training on becoming a

22 sergeant?

23 **A. Yes, sir.**

24 Q. And when did you receive your training on

25 becoming a sergeant?

Page 28

1 **A. I want to say 2012.**

2 Q. And what did that -- how many weeks did that

3 training consist of?

4 **A. 40 hours, one week.**

5 Q. And was part of your training -- what did it

6 cover?

7 **A. Policies, ethics, any policies.**

8 Q. What kind of -- like what policies, the Bexar

9 County Sheriff's Department policies?

10 **A. Yes, sir, Bexar County Sheriff's policies.**

11 Q. Okay. Including the use of force policy, was

12 that part of that training?

13 **A. Yeah, I can't recall. It was -- it was so**

14 **many things, I can't ...**

15 Q. You don't know if you got additional training

16 at that time?

17 **A. No, I don't.**

18 Q. And how is your job responsibilities different

19 as a sergeant as opposed to a patrol deputy?

20 **A. You're in charge of the whole shift, the**

21 **individual deputies, then -- then yourself.**

22 Q. All right. So, for example, what do you have

23 to do when you're in control? What does being in

24 control mean?

25 **A. Making sure the -- the shift is staffed.**

Page 29

1 Q. Okay. What else?

2 **A. That the officers go to their calls and are**

3 **active.**

4 Q. And do you have the responsibility of

5 dictating what kind of response is made to any

6 particular call?

7 **A. You -- you may.**

8 Q. Okay. For example, when a call comes in

9 through dispatch and 911, do you hear those calls?

10 **A. The 911?**

11 Q. Not necessarily the 911 call, but dispatch.

12 **A. If you hear it, yes.**

13 Q. All right. What if you don't hear it? I

14 mean, who is it that dictates what kind of response is

15 necessary? Do you understand what I'm saying?

16 **A. My response.**

17 Q. Okay. When you get a call to 911, eventually

18 dispatch hears that, right, and it becomes a call for

19 the Sheriff's Department?

20 And I'm making a distinction between a

21 phone call and what you would call an actual event that

22 you have to respond to.

23 Do you see what I'm saying? Am I making

24 myself clear?

25 **A. Okay.**

Page 30

1 Q. And so when you get that, who is it that

2 determines, Okay. This is the kind of call we're

3 dealing with, and this is the response we're going to

4 provide?

5 **A. That's the dispatcher.**

6 Q. Okay. So it's the dispatcher's

7 responsibility.

8 For example, I have seen something in the

9 policy manual called a critical event. Have you ever

10 seen that?

11 **A. Yes.**

12 Q. And it's Chapter 32, An Emergency, slash,

13 Critical Incident Operations Policy.

14 (Pedraza Exhibit No. 1 marked.)

15 Q. (BY MR. WILSON) Let me show you Exhibit 1 to

16 your deposition.

17 Have you seen that before?

18 **A. Yes, sir.**

19 Q. All right. What -- now, that has a definition

20 of what's considered a critical incident, correct?

21 **A. I wouldn't call it a definition. It's -- it's**

22 **our policy as a -- as a guide.**

23 Q. Well, the reason why I say "definition" is

24 because under the term Definitions it says Critical

25 Incidents.

Page 31

1 **A. Yes, sir.**

2 Q. Okay. So there is a definition for critical

3 incident, correct?

4 **A. Yes, sir.**

5 Q. And once that -- if an incident meets that

6 definition, then you have to respond as if it's a

7 critical or emergency incident, correct?

8 **A. Yes.**

9 Q. And these are the policies that you need to

10 follow once that determination is made?

11 **A. Yes.**

12 Q. And who is it that has the responsibility

13 within the Bexar County Sheriff's Department to make

14 that determination and to identify an incident as a

15 Chapter 32 critical incident?

16 **A. Dispatcher or a supervisor.**

17 Q. Would you be one of those supervisors?

18 **A. Yes.**

19 Q. Okay. So either the dispatcher or yourself

20 has to make that determination?

21 **A. Or the patrolman.**

22 Q. The patrolman themselves can make that

23 determination?

24 **A. Yes, sir.**

25 Q. So when it's determined that a critical

Page 32

1 incident is ongoing, what is your understanding of the

2 procedure that needs to be followed?

3 **A. What resources do we need?**

4 Q. Okay. So who would make the determination as

5 to what resources you need?

6 **A. That could be the patrolmen on scene or the**

7 **supervisor or through dispatch.**

8 Q. Okay. So everyone would have that authority,

9 is what you're telling me?

10 **A. Yes.**

11 Q. So you're telling me that under the Bexar

12 County Sheriff's Department policy, a dispatcher could

13 call in a SWAT team?

14 **A. Yeah, they -- they can call a SWAT team.**

15 Q. Okay. And a dispatcher could call in a

16 negotiator?

17 **A. Yes.**

18 Q. And if the dispatcher doesn't do it, you could

19 do it as a supervisor?

20 **A. Yes.**

21 Q. And you're saying that the patrolmen can do it

22 as well?

23 **A. They would, yes.**

24 Q. Okay. So everybody has the responsibility and

25 the authority to make sure that the proper response is

Page 33

1 made to a critical incident?
 2 **A. Yes.**
 3 Q. And, for example, one of the elements of a
 4 critical incident is a threatened suicide. Do you
 5 understand that?
 6 **A. Yes.**
 7 Q. So when someone at a event or an incident is
 8 threatening suicide, that by definition becomes a
 9 critical emergency incident requiring following policy,
 10 Chapter 32, correct?
 11 **A. Well, typically, yes.**
 12 Q. Okay. So if this Chapter 32 is not followed
 13 when someone has threatened suicide, then that policy
 14 would be violated. Is that a fair statement?
 15 MR. LOPEZ: I'm going to object --
 16 MR. FRIGERIO: Objection; form.
 17 MR. LOPEZ: Yeah; calls for speculation.
 18 **A. No.**
 19 Q. (BY MR. WILSON) Okay. Under what
 20 circumstances can -- if someone is out there threatening
 21 suicide, it would not be a critical incident under
 22 Chapter 32?
 23 **A. If it meets the elements.**
 24 Q. Okay. And what other -- what other elements
 25 would there be?

Page 34

1 **A. That's it's actual -- an actual suicide or**
 2 **attempted suicide.**
 3 Q. Okay. So who -- who makes that determination?
 4 **A. It would be the officer on the scene.**
 5 Q. All right. So what if the dispatcher hears
 6 that a person is threatening suicide by cop, would that
 7 be considered a critical incident under Chapter 32?
 8 **A. Yes.**
 9 Q. So once you hear those words, that meets the
 10 definition, correct?
 11 **A. That's correct.**
 12 Q. So once those words are known throughout an
 13 incident, then Chapter 32 has to be followed?
 14 **A. No.**
 15 Q. All right. So who can override Chapter 32 at
 16 that point?
 17 **A. Supervisor.**
 18 Q. All right. So, now, did you understand in
 19 this particular instance Mr. Flores had indicated that
 20 he -- that this was going to be a "suicide by cop"
 21 situation?
 22 **A. That was transmitted on -- over the radio.**
 23 Q. And when was the first time you heard that?
 24 Was it while it was happening?
 25 **A. Yes.**

Page 35

1 Q. So you knew at the time it was happening that
 2 this was a potential suicide by cop situation correct?
 3 **A. That's correct.**
 4 Q. So did you know at that point that this was a
 5 Chapter 32 critical incident?
 6 **A. No, sir.**
 7 Q. All right. And why not?
 8 **A. Because I didn't know until the deputies**
 9 **arrive on the scene.**
 10 Q. All right. And when the deputies arrived on
 11 scene, did you hear anything from them which would
 12 change the potential that this was a Chapter 32 critical
 13 incident?
 14 **A. Yes.**
 15 Q. What was that?
 16 **A. Deputy Vasquez screaming on the radio.**
 17 Q. I'm sorry. Screaming what?
 18 **A. That he needed -- he had a guy armed with a**
 19 **knife.**
 20 Q. Okay. So explain to me -- I guess maybe --
 21 maybe my question wasn't clear.
 22 When you heard that Mr. Flores in realtime
 23 had said, "You're going to have to kill me. It's a
 24 suicide by cop," you knew it was a suicide by cop
 25 situation, correct?

Page 36

1 **A. I never heard Flores say that.**
 2 Q. Okay. What did you hear on dispatch?
 3 **A. Dispatch said that he was in the background**
 4 **saying that he wanted to commit suicide by cop.**
 5 Q. Okay. So you heard that from dispatch?
 6 **A. Yes, sir.**
 7 Q. And so at that point you knew it was a Chapter
 8 32 situation, and that the response would have to follow
 9 that policy?
 10 **A. No, sir.**
 11 Q. Okay. So what were you waiting on at that
 12 point?
 13 **A. Confirmation from the first deputies to**
 14 **arrive.**
 15 Q. And did you receive that confirmation?
 16 **A. When I heard his voice screaming, yes, sir.**
 17 Q. Okay. So you did get confirmation?
 18 **A. Yes, sir.**
 19 Q. All right. And once you got confirmation,
 20 whose responsibility would it be to make sure the
 21 Chapter 32 procedure is followed?
 22 **A. That would be either Deputy Vasquez or**
 23 **myself --**
 24 Q. All right.
 25 **A. -- or the dispatcher.**

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1 Q. All right. And so what did you do to follow
 2 Chapter 32? What did you do to follow Chapter 32 once
 3 you received confirmation?
 4 **A. At that point I -- I didn't do anything. I**
 5 **responded to the call.**
 6 Q. And what did you do in response to the call?
 7 **A. Driving.**
 8 Q. You were on your way?
 9 **A. I was on my way.**
 10 Q. Did you -- did you call in for any additional
 11 resources?
 12 **A. No, sir.**
 13 Q. Did you call in for a negotiator to come in?
 14 **A. No, sir.**
 15 Q. Had one -- had a negotiator already been
 16 called in?
 17 **A. I heard Vasquez mentioning get the**
 18 **negotiators.**
 19 Q. Okay. And did you make any attempt to do
 20 that?
 21 **A. No, sir.**
 22 Q. Do you know if anybody made any attempt to do
 23 that?
 24 **A. No, I do not.**
 25 Q. And what is your understanding of once you

Page 38

1 know it's a critical event under Chapter 32, what is the
 2 response supposed to be?
 3 **A. To get the resources that are needed for that**
 4 **type of situation.**
 5 Q. And what resources did you think were
 6 necessary?
 7 **A. When I was on my way I did not know. I was**
 8 **just -- to get him help, to get Officer Vasquez help**
 9 **right away.**
 10 Q. Did you not -- could you not call in resources
 11 while you were on your way?
 12 **A. I didn't want to get on the radio.**
 13 Q. But you did get on the radio.
 14 **A. Yes, sir.**
 15 Q. So you were on the radio?
 16 **A. Yes, sir.**
 17 Q. Okay. But you didn't use your radio for
 18 calling in additional resources?
 19 **A. No, sir.**
 20 Q. Why not?
 21 **A. I needed the radio clear.**
 22 Q. Well, Sergeant, we have you on the radio a
 23 little bit later in this incident.
 24 **A. Yes, sir.**
 25 Q. So you were on the radio?

Page 39

1 **A. Yes, sir.**
 2 Q. Okay. Why didn't -- but why didn't you use
 3 the radio to call in additional resources?
 4 MR. LOPEZ: Objection; asked and
 5 answered.
 6 Q. (BY MR. WILSON) You can answer.
 7 **A. Officers were on the way.**
 8 Q. Who do you -- who was on the way? Who did you
 9 know was on the way?
 10 **A. I couldn't answer that question. There was**
 11 **just so many.**
 12 Q. Did you know anybody was on the way?
 13 **A. Yes, I did.**
 14 Q. Okay. Did you know if any negotiator was on
 15 the way?
 16 **A. No, I do not.**
 17 Q. Did you know if any -- or how many officers
 18 were on the way?
 19 **A. No, sir. I was --**
 20 Q. Could you have gotten on a different channel
 21 and made sure that resources were sent to the scene that
 22 were necessary?
 23 **A. Yes.**
 24 Q. So it wasn't a matter of just staying off the
 25 radio. You could have used a different channel?

Page 40

1 **A. Yeah.**
 2 Q. All right. But instead you drove -- you were
 3 driving there --
 4 **A. Yes, sir.**
 5 Q. -- and didn't call any additional resources on
 6 another channel or otherwise?
 7 **A. No, sir.**
 8 Q. And were you monitoring what was going on?
 9 **A. Yes, sir.**
 10 Q. What is the purpose of you as a sergeant
 11 monitoring what's going on at the scene?
 12 **A. Trying to find out what's going on at the**
 13 **scene.**
 14 Q. For what purpose?
 15 **A. Safety of my officers, what -- what -- what do**
 16 **they need.**
 17 Q. Okay. And what do you mean by that, safety of
 18 your officers? What is the purpose of having a sergeant
 19 such as yourself monitoring what's going on at a scene
 20 through the radio communication?
 21 **A. To make sure everything is okay, monitor the**
 22 **situation.**
 23 Q. Okay. Well, can you give instructions?
 24 **A. Yes.**
 25 Q. Can you give orders?

Page 41

1 **A. Yes.**
 2 Q. Can you give authorizations?
 3 **A. Yes.**
 4 Q. So is it fair to say that one of the reasons
 5 why you monitor what's going on at the scene is so that
 6 you can give the appropriate orders to the officers?
 7 **A. Yes.**
 8 Q. But would you agree with me, sir, that your
 9 ability to monitor what's going on is based entirely
 10 upon the radio communications that you're given?
 11 **A. Yes.**
 12 Q. And that if the officers don't give you
 13 accurate communications as to what's going on, then you
 14 can't give accurate orders?
 15 **A. That's correct.**
 16 Q. And that if the situation changes, any order
 17 that you have already given could no longer be
 18 applicable potentially?
 19 **A. I can't answer that question because --**
 20 Q. Well --
 21 **A. -- I wouldn't know.**
 22 Q. -- you're not on the scene?
 23 **A. That's correct.**
 24 Q. You're only as good as what you hear that they
 25 tell you?

Page 42

1 **A. Yes, sir.**
 2 Q. And it's your responsibility to give them
 3 appropriate orders based upon what they tell you?
 4 **A. Yes, sir.**
 5 Q. Are they under an obligation based upon Bexar
 6 County policy to give you accurate and up-to-date
 7 information?
 8 **A. Yes.**
 9 Q. Is that written down anywhere?
 10 **A. Not to my knowledge.**
 11 Q. But it's the custom?
 12 **A. Yes.**
 13 Q. So part of the Bexar County custom is for
 14 patrol officers on the scene to give their supervisors
 15 in an incident such as this ongoing communication as to
 16 what's going on?
 17 **A. Yes.**
 18 Q. And the purpose behind that custom is so that
 19 you as a supervisor can give them the appropriate
 20 instructions and orders to follow, correct?
 21 **A. Correct.**
 22 Q. And you expect them to follow your orders as
 23 part of the chain of command, correct?
 24 **A. I expect them.**
 25 Q. Right. And they're under an obligation to

Page 43

1 follow your orders, are they not?
 2 **A. Yes.**
 3 Q. And so part of the custom of Bexar County is,
 4 is that a supervisor who is not on the scene can give
 5 orders to a patrolman who is on how to behave, correct?
 6 **A. Yes.**
 7 Q. And what to do?
 8 **A. Yes.**
 9 Q. And that part of the idea is that the
 10 supervisor can tell a patrolman on the scene what
 11 actions he can and cannot take based upon the
 12 information that you're given as a sergeant?
 13 **A. Yes.**
 14 Q. Okay. And that would include, would it not,
 15 sir, when deadly force can be used?
 16 **A. No.**
 17 Q. Okay. Because you could give the order to use
 18 deadly force, correct?
 19 **A. No, I cannot.**
 20 Q. All right. And so is it your testimony, sir,
 21 that you cannot give an order or an authorization
 22 offsite to use deadly force under Bexar County policy?
 23 **A. That's correct.**
 24 Q. Okay. So if you did that you would be
 25 violating policy, correct?

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1 MR. LOPEZ: Objection. That's
 2 argumentative.
 3 **A. I wouldn't know.**
 4 Q. (BY MR. WILSON) In the --
 5 **A. I haven't seen any policy.**
 6 Q. In the event you gave an order or an
 7 authorization to a patrolman on the scene to use deadly
 8 force, you would be violating Bexar County policy. Am I
 9 correct or not?
 10 MR. FRIGERIO: Objection; form.
 11 MR. LOPEZ: Objection; calls for
 12 speculation.
 13 **A. I -- I don't know.**
 14 MR. LOPEZ: It's vague.
 15 Q. (BY MR. WILSON) Okay. Sir, can you give an
 16 order to use deadly force offsite?
 17 **A. No.**
 18 Q. Is there a policy or procedure in Bexar County
 19 that prohibits a sergeant such as yourself who is not on
 20 the scene from giving any orders in relation to the use
 21 of deadly force?
 22 **A. Not that I'm aware of.**
 23 Q. There is a custom which allows you to give
 24 orders to your patrolmen offsite, correct?
 25 **A. Yes.**

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1 Q. And what you're telling me is, is that based
 2 upon that custom, there is no written policy which would
 3 prohibit you from giving the use of deadly force order
 4 offsite?
 5 **A. That I'm aware of.**
 6 Q. Okay. So as far as you know, the custom would
 7 allow it. Is that fair to say?
 8 **A. I wouldn't know.**
 9 Q. You don't know?
 10 **A. No, sir.**
 11 Q. There's vagueness in that custom as to what
 12 you can and cannot do, right?
 13 **A. No.**
 14 MR. LOPEZ: I'm going to object;
 15 argumentative.
 16 If you can tell him what the policy is,
 17 then probably we can move along, but this is just ...
 18 MR. WILSON: I'm trying to find out, I
 19 mean, and --
 20 MR. LOPEZ: Well, we gave you-all their
 21 policies.
 22 MR. WILSON: I know, and I understand why
 23 I'm asking the question.
 24 Q. (BY MR. WILSON) Okay. Sir, you told me that
 25 there's no -- necessarily there's no written policy

Page 46

1 allowing a sergeant such as yourself to give offsite
 2 words, but it's a custom?
 3 **A. That I'm aware of.**
 4 Q. Okay.
 5 **A. I'm not aware of any policy.**
 6 Q. All right. You're not aware of any written
 7 policy?
 8 **A. (Nodding.)**
 9 Q. But you know it happens?
 10 MR. LOPEZ: Hold it, hold it. Objection.
 11 I'm going to -- I object, yeah, that you are suggesting
 12 an answer that he just didn't give. Confusing.
 13 Q. (BY MR. WILSON) You've done that in the past,
 14 correct, as a sergeant?
 15 **A. What's that?**
 16 Q. You've given orders to your patrolmen based
 17 upon the information that they're giving you as to
 18 what's going on at a scene, correct?
 19 **A. That's correct.**
 20 Q. And you've done that more than once?
 21 **A. Yes, sir.**
 22 Q. Other sergeants have done that as well,
 23 correct?
 24 **A. I can't answer for other sergeants.**
 25 Q. But you know as part of -- part of what you

Page 47

1 know as a sergeant, you have the authority to give them
 2 instructions while they're on a scene, correct?
 3 **A. Yes, sir.**
 4 Q. And you haven't seen any written policy that
 5 provides for that, but you do it on a regular basis. Is
 6 that fair to say?
 7 **A. Yes.**
 8 Q. All right. So when someone is involved in an
 9 incident and they're involved and an event is going on
 10 and they're relaying to you what's happening, you have
 11 the authority based upon what you understand the custom
 12 to be to give them instructions and authorizations and
 13 orders, correct?
 14 **A. Correct.**
 15 Q. And there's nothing that you've seen that
 16 would prohibit that from taking place?
 17 **A. Correct.**
 18 Q. And you've never gotten in trouble for doing
 19 that, have you? Right?
 20 **A. No.**
 21 Q. And have your supervisors given you
 22 instructions when you're on the scene, based upon what
 23 you're telling me?
 24 **A. Yes, sir.**
 25 Q. So not only have you done it, your supervisors

Page 48

1 have done it?
 2 **A. Yes.**
 3 Q. All right. And you've never heard anywhere --
 4 anywhere within the Bexar County Sheriff's Department
 5 saying, Hey, you guys can't do that. You need to be on
 6 scene to give instructions?
 7 Nobody has ever said that, right?
 8 **A. I don't -- I don't know.**
 9 Q. They would expect as part of your
 10 authoritative ability to manage your shift to be able to
 11 give those instructions. Is that your understanding?
 12 **A. Yes.**
 13 MR. LOPEZ: Well, I'm going to object to
 14 the question.
 15 MR. WILSON: All right.
 16 MR. LOPEZ: It's argumentative and calls
 17 for speculation.
 18 Q. (BY MR. WILSON) You know how you do your job.
 19 You manage the shift, right?
 20 **A. Yes.**
 21 Q. Part of managing the shift, which has been for
 22 years, is if somebody is involved in an incident on
 23 scene, they're relaying to you what's happening, you
 24 give them instructions, authorizations and orders as
 25 need be, right?

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1 **A. Yes.**
 2 Q. That's how it's always been, right?
 3 **A. Yes, sir.**
 4 Q. Okay. But what you're telling me is and that
 5 it's your belief that that authority does not extend to
 6 giving an order to use deadly force, right?
 7 **A. Repeat the question.**
 8 Q. Sure. I believe you told me earlier that when
 9 it came to the use of deadly force, you don't think that
 10 custom allows that to happen.
 11 **A. I don't know about the custom.**
 12 Q. Okay. Was there any policy that would
 13 prohibit you from giving a patrolman onsite the
 14 authority to use deadly force when you're not there?
 15 **A. Not that I'm aware of.**
 16 Q. Nothing would prohibit that?
 17 **A. Not that I'm aware of.**
 18 Q. All right. So if, in fact, you said to use
 19 deadly force to a patrolman on the scene, that would be
 20 within your level of authority even though you weren't
 21 there?
 22 MR. LOPEZ: Objection; calls for
 23 speculation.
 24 Q. (BY MR. WILSON) Is that your understanding?
 25 **A. No, sir.**

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1 Q. And why not?
 2 **A. I'm not -- I'm not -- I'm not there. I'm not**
 3 **at the scene.**
 4 Q. All right. So let me see if I can't clear
 5 this up.
 6 You -- there is a custom that you're aware
 7 of that allows you to give orders offsite, correct?
 8 **A. That's correct.**
 9 Q. And you expect the patrolmen to follow them?
 10 **A. Yes, sir.**
 11 Q. But it is your belief that that custom does
 12 not extend to giving the patrolmen onsite the authority
 13 and duty to use deadly force?
 14 **A. Correct.**
 15 Q. Now, what do you base that limitation on?
 16 **A. I can't speak for the patrolmen that's in**
 17 **front of me.**
 18 Q. But you -- but you give orders to do other
 19 things. So my question --
 20 **A. Yes, sir.**
 21 MR. LOPEZ: No, no. That question is
 22 argumentative.
 23 MR. WILSON: I didn't even finish the
 24 question, Albert.
 25 MR. LOPEZ: Well, you started argument --

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1 being argumentative. That's my objection.
 2 MR. WILSON: It's not argumentative.
 3 MR. LOPEZ: And the rest of the question
 4 has to be argumentative.
 5 MR. WILSON: It's not. That's nonsense.
 6 Q. (BY MR. WILSON) Here's my question --
 7 MR. LOPEZ: No, it's not nonsense.
 8 Q. (BY MR. WILSON) Here's my question, sir: What
 9 part of -- what written policy that you're aware of
 10 prohibits you from giving the instructions to use deadly
 11 force offsite?
 12 MR. LOPEZ: Objection; asked and
 13 answered.
 14 **A. I'm not --**
 15 Q. (BY MR. WILSON) There is no written policy,
 16 correct?
 17 **A. Not that I'm aware of.**
 18 Q. So what is your understanding of this custom
 19 that we've been discussing which would prohibit you from
 20 giving the authority or the authorization to use deadly
 21 force offsite?
 22 MR. LOPEZ: Objection; argumentative.
 23 Mischaracterizes the witness' testimony.
 24 Q. (BY MR. WILSON) You can answer.
 25 **A. I've never said there was a custom of using**

Page 52

1 **deadly force.**
 2 Q. Okay. You've told me about a custom of giving
 3 orders.
 4 **A. Yes, sir.**
 5 Q. Okay. So that was my question.
 6 What is your understanding of the
 7 limitation that you're placing on this custom? Where do
 8 you get that, that that ability does not extend to
 9 giving orders to use deadly force?
 10 **A. Repeat the question.**
 11 Q. Sure. You've said -- you've told us that
 12 there's a custom that says you can tell a patrol officer
 13 what to do on scene --
 14 **A. That's correct.**
 15 Q. -- even though you're not there.
 16 **A. That's correct.**
 17 Q. And you've told us that, in your opinion, that
 18 does not extend to the use of deadly force. And I'm
 19 asking you what do you base that on?
 20 **A. That I'm aware of, there's no policy or**
 21 **custom.**
 22 Q. All right. And so who told you that that
 23 custom does not extend to giving the instructions to use
 24 deadly force?
 25 **A. Nobody. I'm not aware of it.**

Page 53

1 Q. Okay. Is it something that just never
 2 happened before? Or what is it about this understanding
 3 of how you can give orders, but you can never give
 4 orders to use deadly force?
 5 **A. I can't answer to whatever happened before.**
 6 Q. It's never happened before?
 7 **A. I can't answer that question.**
 8 Q. So I guess what I'm saying -- what you're
 9 telling me, sir, is that you're aware of this custom.
 10 You don't think it extends to giving deadly force, but
 11 you don't have anything to base that belief on; is that
 12 fair?
 13 **A. Yes.**
 14 Q. So even under this custom you could give
 15 somebody the order to use deadly force?
 16 **A. I -- no, I can't answer that question.**
 17 Q. You don't know?
 18 **A. I don't know.**
 19 Q. You don't know whether you could or you
 20 couldn't?
 21 **A. I don't know.**
 22 Q. Okay. Now, you are familiar with the
 23 constitutional -- let me rephrase that.
 24 Are you familiar, sir, with the law as to
 25 when a peace officer can constitutionally and legally

Page 54

1 use deadly force?
 2 **A. I'm familiar with it, yes.**
 3 Q. Okay. And what is your understanding of when
 4 a peace officer can constitutionally and legally use
 5 deadly force?
 6 MR. LOPEZ: Objection; asked and
 7 answered.
 8 **A. When they're in fear of imminent danger.**
 9 Q. (BY MR. WILSON) Okay. And when they are in
 10 fear of imminent danger, is that the full extent of your
 11 understanding?
 12 **A. Or of a third person.**
 13 Q. Okay. I want to get the full extent of your
 14 understanding.
 15 Is the full extent of your understanding
 16 is when a peace officer is in fear of an imminent threat
 17 of harm to themselves or a third person, he can use
 18 deadly force?
 19 **A. Yes, sir.**
 20 Q. Okay. Is that fear merely the subjective fear
 21 of the police officer, according to your understanding,
 22 what he feels at the time?
 23 **A. I can't answer for him.**
 24 Q. I'm not asking you to answer for him. I'm
 25 asking for your understanding of the policy -- or your

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1 understanding of the law as you've been trained.
 2 **A. Yes, sir.**
 3 Q. Okay. Is it your understanding that that
 4 feeling is a subjective personal feeling of that peace
 5 officer at the time?
 6 **A. Yes.**
 7 Q. Have you been taught by Bexar County Sheriff's
 8 Academy that you can use deadly force if you as a peace
 9 officer subjectively personally feel in fear of your
 10 life or the life of a third person that you can use
 11 deadly force?
 12 **A. Yes, sir.**
 13 Q. Has anybody ever taught you that that fear
 14 must be based on objective facts?
 15 **A. What are -- I don't know what objective facts.**
 16 Q. That was my question.
 17 Has anybody ever told you that that fear
 18 that you are feeling must be based upon objective facts?
 19 Did anybody ever use those phrases -- that phrase to
 20 you?
 21 **A. No, not that I can recall.**
 22 Q. Nobody has ever told you that your subjective
 23 fear of harm to yourself or someone else must be based
 24 upon an objective set of facts?
 25 **A. No, not that I can recall.**

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1 Q. Or has your extent of your training been that
 2 if you feel threatened of immediate bodily harm to
 3 yourself or someone else, you can use deadly force?
 4 **A. Yes.**
 5 Q. Even if that fear is based upon something that
 6 is not objective at all. Nobody ever used that term?
 7 MR. LOPEZ: Objection; vague.
 8 Q. (BY MR. WILSON) Let me rephrase it.
 9 You're familiar with the use of force
 10 policy for the Bexar County Sheriff's Department,
 11 correct?
 12 **A. Yes.**
 13 **(Pedraza Exhibit No. 2 marked.)**
 14 Q. (BY MR. WILSON) I want to show you Exhibit 2,
 15 which is the use of force policy.
 16 MR. FRIGERIO: Do you have any Bates
 17 numbers on those?
 18 MR. WILSON: I don't know if it's got a
 19 Bates number or not.
 20 MS. VILLARRUEL: I think we just covered
 21 it.
 22 MR. WILSON: We just covered it.
 23 MS. VILLARRUEL: Sorry.
 24 MR. WILSON: But it's Chapter -- it's
 25 Section 9.01 of the Bexar County Sheriff's manual.

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1 Q. (BY MR. WILSON) All right. And it's the
 2 version April 15th, 2014. You're familiar with that,
 3 correct?
 4 **A. Yes, sir.**
 5 Q. All right. And in order for a shooting to be
 6 within the policy of Bexar County Sheriff's Department,
 7 you would have to follow this use of force policy,
 8 correct?
 9 **A. Correct.**
 10 Q. Okay. Do you understand -- has anybody ever
 11 used the term "objective" -- "objectively reasonable"?
 12 **A. No.**
 13 Q. Because in Section 9.01 -- I'll put it on the
 14 screen here.
 15 MR. WILSON: Whoops. Can I make that a
 16 little bit smaller and get the whole page in there?
 17 THE VIDEOGRAPHER: (Complies.)
 18 Q. (BY MR. WILSON) Okay. Do you see that, sir?
 19 **A. Yes, sir.**
 20 Q. You have it in front of you --
 21 **A. Yes, sir.**
 22 Q. -- but we're seeing it on the screen before
 23 you.
 24 It is the policy of the Bexar County
 25 Sheriff's Office that deputies use only the force that

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1 reasonably appears necessary to effectively bring an
 2 incident under control. While protecting the lives of
 3 the officer and others, the use of force must be
 4 objectively reasonable.
 5 **A. Yes, sir.**
 6 Q. Has anybody ever told you what the term
 7 "objectively reasonable" means?
 8 **A. No, sir.**
 9 Q. In all of your training with the Bexar County
 10 Sheriff's Department, you've never had anybody tell you
 11 what an objectively reasonable use of force would be?
 12 **A. No, sir.**
 13 Q. Okay. Section B of this policy. Do you see
 14 that Section B?
 15 **A. Yes, sir.**
 16 Q. In each instance of the use of force, an
 17 officer should exhaust every reasonable means of
 18 employing the minimum amount of force to affect an
 19 objective before escalating to the next, more forceful
 20 method.
 21 Do you understand what that means?
 22 **A. Yes, sir.**
 23 Q. What is your understanding of that?
 24 **A. To use different things.**
 25 Q. What does that mean, "use different things"?

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1 **A. Hands, ASP, different -- Taser before you use**
 2 **deadly force.**
 3 Q. Okay. I've heard the phrase "continuum of
 4 force."
 5 Have you ever heard that phrase?
 6 **A. Not that I'm ...**
 7 Q. Nobody has ever used the phrase "continuum of
 8 force" in your training? Is that your recollection?
 9 **A. No.**
 10 Q. Okay. Then it says, However, an officer is
 11 not required to engage in prolonged combat or struggle
 12 rather than resorting to that method which will most
 13 quickly and safely bring the situation under control.
 14 What is your understanding of that phrase?
 15 **A. I mean, we can't prolong combat. That's what**
 16 **I've been -- we can't fight forever. We're not trained**
 17 **to fight.**
 18 Q. Okay. And so did anybody ever tell you what
 19 prolonged combat or struggle would be?
 20 **A. Continual until exhaustion.**
 21 Q. Okay. Did anybody ever give you any sort of
 22 training on or understanding of what the County means by
 23 prolonged combat or struggle?
 24 **A. What I've been told was to continue, continue,**
 25 **continue, continue.**

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1 Q. Okay. And then it says -- so basically you
 2 don't have to use these different levels of force in
 3 order to avoid a prolonged combat. Is that your
 4 understanding?
 5 MR. LOPEZ: Objection; mischaracterizes
 6 the policy.
 7 Q. (BY MR. WILSON) Well, this is all part of the
 8 same paragraph.
 9 How do you -- how do these two sentences
 10 fit together in your understanding based on your
 11 training?
 12 **A. Which sentence?**
 13 Q. The two sentences, part of Section B.
 14 Based upon your training and understanding
 15 of the policy, how do those two sentences fit together?
 16 **A. That means we're not -- we don't have to be**
 17 **prolonged combat, and I can go from zero to the use of**
 18 **force. I don't have to go one, two steps.**
 19 Q. Okay. When you can go from zero to use of
 20 deadly force?
 21 **A. Yes, sir.**
 22 Q. Okay. So you can go from zero to use of
 23 deadly force --
 24 **A. Yes.**
 25 Q. -- in your mind based upon this policy --

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1 **A. Yes, sir.**
 2 Q. -- if you believe that it would quickly bring
 3 the situation under control?
 4 **A. Yes, sir.**
 5 Q. And when it says "safely," whose safely are
 6 you referring to under the policy?
 7 **A. My -- myself and the public.**
 8 Q. Yourself and the public. Okay.
 9 So that -- would that include the
 10 individual you're trying to arrest?
 11 **A. Yes, sir.**
 12 Q. Okay. So it's your understanding that the
 13 safety that the person -- part of the safety that you're
 14 trying to take into account is the safety of the person
 15 you're trying to arrest?
 16 **A. That's correct.**
 17 Q. Okay. So, obviously, when you decide to shoot
 18 somebody, that's not safety as far as they're concerned.
 19 Would you agree with that?
 20 MR. LOPEZ: Objection; argumentative.
 21 **A. Yes.**
 22 Q. (BY MR. WILSON) Okay. I mean, you're not
 23 trying to protect their safety. You're trying to kill
 24 them?
 25 **A. At that point, yes.**

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1 Q. Okay. So at that point you're saying you can
 2 go from zero to use of deadly force without
 3 consideration of the safety of the person you're trying
 4 to arrest at that point, correct?
 5 **A. (Indicating.)**
 6 Q. You said -- you said you could go -- under
 7 this policy you could go from zero to deadly force?
 8 **A. Yes, sir.**
 9 Q. All right. And, obviously, when you make that
 10 decision, you're not concerned about the safety of the
 11 person you're trying to arrest, correct?
 12 MR. LOPEZ: Object; form.
 13 Q. (BY MR. WILSON) You're trying to shoot them?
 14 **A. Yes.**
 15 MR. LOPEZ: Well, shooting or arrest?
 16 You're confusing -- you're confusing this whole line of
 17 questioning.
 18 Is he arresting him or shooting him?
 19 You're mixing both, and that's what I think --
 20 MR. WILSON: Okay.
 21 MR. LOPEZ: -- is unfairly --
 22 MR. WILSON: No.
 23 MR. LOPEZ: -- unfairly --
 24 Q. (BY MR. WILSON) When you're dealing --
 25 MR. LOPEZ: -- confusing this whole

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1 thing.
 2 Q. (BY MR. WILSON) When you're dealing with a
 3 suspect, all right, and you're engaged in this
 4 altercation, obviously you're trying to arrest them,
 5 right?
 6 **A. Yes.**
 7 Q. Nothing confusing about that, is there?
 8 **A. No.**
 9 Q. Okay. So when you're talking about the
 10 suspect, the person you're trying to apprehend as part
 11 of this conflict, you're saying you could go from zero
 12 to the use of deadly force without having to go through
 13 anything in between under this policy, right?
 14 **A. Yes.**
 15 Q. Okay. And, obviously, if you make the
 16 decision to go from zero to the use of deadly force,
 17 you're no longer concerned about the safety of the
 18 person you're trying to apprehend or that you're in this
 19 conflict with, correct?
 20 **A. Well, we -- the thing is to stop the threat.**
 21 Q. Right. You're trying to -- at that point
 22 you're trying to kill them, right?
 23 **A. Stop the threat.**
 24 Q. Okay. Well, you're using deadly force against
 25 them.

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1 **A. Yeah.**
 2 Q. Right?
 3 MR. LOPEZ: That's argumentative.
 4 Q. (BY MR. WILSON) And deadly force is defined in
 5 the policy as that force which is intended or known to
 6 cause by the manner of its use or intended use as
 7 capable of causing death or serious bodily injury.
 8 You understand that, right?
 9 **A. Yes, sir.**
 10 Q. Okay. So when you decide to use deadly force,
 11 you're making that decision, obviously regardless of the
 12 safety of the person you're trying to apprehend, right,
 13 because you think there's some other reason why you need
 14 to do that?
 15 **A. Yes.**
 16 Q. Okay. So Section D of this policy -- you see
 17 it's still on the same page -- and it goes on to the
 18 next page.
 19 **A. Okay.**
 20 Q. Deputies may use reasonable force to overcome
 21 resistance in the lawful performance of duties, even
 22 though there is no immediate or apparent danger calling
 23 for self-defense.
 24 What is your understanding of that
 25 section?

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1 If you need to finish -- if you need to
 2 finish it --
 3 MR. LOPEZ: I'll object. The policy
 4 speaks for itself.
 5 MR. WILSON: I'm asking for his
 6 understanding.
 7 MR. LOPEZ: I understand that, but the
 8 policy speaks for itself. That's my objection.
 9 **A. That means you need to use whatever you can to**
 10 **prevent threat.**
 11 Q. (BY MR. WILSON) Okay. Where do you see the
 12 word "threat" anywhere in Section D?
 13 **A. I don't. That's from my experience.**
 14 Q. Okay. So, by the way, as part of your duties
 15 as sergeant, do you give -- you have to give
 16 instructions to the people below you, right?
 17 **A. Yes, sir.**
 18 Q. You expect them to know how to use these
 19 policies, correct?
 20 **A. Yes, sir.**
 21 Q. Do you give them any training?
 22 **A. No.**
 23 Q. Even -- even informal training, even like do
 24 you ever have meetings with them, the people underneath
 25 your shift or anything?

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1 **A. Yes.**
 2 Q. Okay. And do you ever go through these
 3 policies?
 4 **A. Yes.**
 5 Q. Okay. So you have to know the policies so you
 6 can instruct the people below you, correct?
 7 **A. Yes.**
 8 Q. And you have the ability to discipline them
 9 for violating the policies, correct?
 10 **A. Yes, sir.**
 11 Q. Okay. So as part of your management
 12 responsibility, you have to understand what these
 13 policies mean, correct?
 14 **A. That's correct.**
 15 Q. Okay. So when I asked you your understanding,
 16 that's one of the reasons why I'm asking you, is because
 17 you have supervisory authority over those below you,
 18 correct?
 19 **A. That's correct.**
 20 Q. Including the patrolmen involved in this
 21 particular incident?
 22 **A. Yes, sir.**
 23 Q. So you would need to know what the policy
 24 means and understanding what it means in order to
 25 properly instruct and discipline those underneath you,

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1 correct?
 2 **A. That's correct.**
 3 Q. Okay. So Section D says, Deputies may use
 4 reasonable force to overcome resistance in the lawful
 5 performance of duties, even though there is no immediate
 6 or apparent danger calling for self-defense.
 7 Is it your understanding of this
 8 particular section that even though you're not in fear
 9 of self -- need self-defense, you could use force to get
 10 compliance?
 11 MR. LOPEZ: Objection. The policy speaks
 12 for itself.
 13 **A. That's what it states.**
 14 Q. (BY MR. WILSON) Okay. And that's your
 15 understanding of it, too, right?
 16 **A. Yes.**
 17 Q. Because then it goes on to say on the next
 18 page, Every reasonable opportunity to comply -- let
 19 me -- let me rephrase that.
 20 Every reasonable opportunity to comply
 21 with the request for cooperation must be given to the
 22 person and force used only after all reasonable means
 23 have failed to produce compliance.
 24 What is your understanding of that
 25 section?

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1 MR. LOPEZ: Objection. The policy speaks
 2 for itself.
 3 **A. Verbal -- verbal commands to hands-on.**
 4 Q. (BY MR. WILSON) Okay. So you could use
 5 force -- under this policy is it your understanding that
 6 you could use force if someone doesn't comply with your
 7 commands?
 8 **A. Yes.**
 9 Q. Could that include deadly force?
 10 **A. Yes, sir.**
 11 Q. Okay. So it is your understanding of Bexar
 12 County policy that if someone refuses to comply with
 13 your commands, even though there's no immediate need for
 14 self-defense, you could use deadly force?
 15 MR. FRIGERIO: Objection; form. That's a
 16 different question.
 17 **A. As long as you're faced with immediate danger.**
 18 Q. (BY MR. WILSON) Okay. As long as there's an
 19 immediate danger?
 20 **A. Yes.**
 21 Q. Okay. So even though -- is it your
 22 understanding of the policy that if someone fails to
 23 comply with an officer's command even though there's no
 24 immediate need for self-defense, you could use deadly
 25 force?

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1 MR. FRIGERIO: Objection; form.
 2 MR. LOPEZ: Objection; the policy --
 3 MR. FRIGERIO: Different question.
 4 MR. LOPEZ: Yeah, the policy speaks for
 5 itself.
 6 Q. (BY MR. WILSON) You can answer.
 7 **A. Repeat the question.**
 8 Q. Sure. Based on this section, sir, is it your
 9 understanding that if someone refuses to comply with an
 10 officer's commands, that officer could use deadly force
 11 even though there's no immediate need for self-defense?
 12 MR. FRIGERIO: Objection; form.
 13 **A. If he's faced with a threat, yes, sir.**
 14 Q. (BY MR. WILSON) But he still has to be faced
 15 with an immediate threat?
 16 **A. Or a third person.**
 17 Q. Or a third person?
 18 **A. Yes, sir.**
 19 Q. Okay. So is it your understanding, sir, that
 20 you never learned what "reasonable grounds" means?
 21 I don't want to trick you. Look under
 22 Definitions --
 23 MR. LOPEZ: It's tricky. I'm going to
 24 object on that basis.
 25 Q. (BY MR. WILSON) Under Definitions on page 101.

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1 Next page.
 2 **A. Where?**
 3 Q. It's on that page that we were just on.
 4 There's Definitions in this section.
 5 Section D, Reasonable Grounds. Did
 6 anybody ever explain to you what that meant?
 7 **A. Yeah.**
 8 Q. Okay. So what is your understanding of what
 9 that means?
 10 **A. To me it sounds like probable cause.**
 11 Q. Okay. And what do you mean by that?
 12 **A. There's reason to believe that they're doing**
 13 **something with their intention.**
 14 Q. All right. And those reasons have to be based
 15 upon what a reasonably prudent officer under the same or
 16 similar circumstances would do, correct?
 17 **A. Yes.**
 18 Q. Not on what -- not on the subjective belief of
 19 that individual officer. Is that your understanding?
 20 **A. Every officer is trained differently.**
 21 Q. I'm talking about policy under Bexar County
 22 Sheriff's Department.
 23 **A. Yes, sir.**
 24 Q. Okay. So it's what a reasonably prudent
 25 officer would do under the circumstances, not what that

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1 individual officer individually thought, correct?
 2 **A. Correct.**
 3 Q. So if an individual officer only acts on his
 4 subjective belief, that's not basing it on reasonable
 5 grounds and what a reasonable officer would do under the
 6 same or similar circumstances. Do you understand the
 7 distinction?
 8 MR. LOPEZ: I'm going to object --
 9 MR. FRIGERIO: Objection; form.
 10 MR. LOPEZ: -- argumentative.
 11 **A. I can't answer for the other officers.**
 12 Q. (BY MR. WILSON) Well, when you use force, is
 13 it based upon the reasonable grounds to use that force
 14 or on what the individual officer thought at the time?
 15 MR. LOPEZ: I'm going to object;
 16 argumentative. It's vague --
 17 **A. It's whatever the officer -- imminent danger**
 18 **of the officer --**
 19 THE REPORTER: Hold on. What was the
 20 last one?
 21 MR. LOPEZ: Confusing.
 22 THE REPORTER: Okay.
 23 MR. LOPEZ: Confusing question --
 24 Q. (BY MR. WILSON) And your answer --
 25 MR. LOPEZ: -- and tricky.

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1 Q. (BY MR. WILSON) And your answer was whatever
 2 the officer thought at the time?
 3 **A. No. Whatever imminent danger he's facing at**
 4 **the time.**
 5 Q. But does that threat of imminent danger have
 6 to be based upon his individual belief or an objective
 7 set of facts which would make a reasonable officer
 8 believe that that threat was real?
 9 MR. LOPEZ: Objection as to the form of
 10 that question.
 11 Q. (BY MR. WILSON) You can answer.
 12 **A. Facts.**
 13 Q. Okay. It has to be based upon the facts that
 14 exist, right, that's the policy?
 15 **A. Yes.**
 16 Q. Not on what that individual officer thought at
 17 the time, right?
 18 MR. FRIGERIO: Objection; form.
 19 MR. LOPEZ: Objection; form.
 20 **A. I can't answer for what the officer thought at**
 21 **the time.**
 22 Q. (BY MR. WILSON) Well, but have you reviewed
 23 what other officers have done as part of a disciplinary
 24 process?
 25 **A. That's --**

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1 Q. Okay. We'll get into that in some detail.
 2 All right. So your understanding of
 3 reason -- you were taught what "reasonable grounds"
 4 meant as part of your training, correct?
 5 **A. Yes.**
 6 Q. And so when it comes to the use of deadly
 7 force, what is your understanding of whether that threat
 8 is based upon reasonable objective facts or based upon a
 9 subjective belief of the officer involved?
 10 **A. To me it's imminent danger at the time.**
 11 Q. Based upon what the officer thought at the
 12 time as opposed to objective facts. Is that what your
 13 understanding is?
 14 **A. Yes.**
 15 Q. And that's your understanding of the law as
 16 you've been trained by Bexar County Sheriff's Academy,
 17 correct?
 18 **A. Correct.**
 19 Q. Okay. If you could go to page 106 on Exhibit
 20 2, sir, Section -- now we're talking about the Use of
 21 Deadly Force under Section 9.10. And it starts on page
 22 106 is where the meat of it is. There we go
 23 (indicating).
 24 It says here the policy is, Generally, an
 25 officer may use deadly force only in situations, which

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1 indicate that, the officer --
 2 **A. Sir, I'm -- where --**
 3 Q. Section E. Excuse me. I'm sorry. Page --
 4 are you on page 106?
 5 **A. Okay. E.**
 6 Q. Okay. Generally, an officer may use deadly
 7 force only in situations, which indicate that, the
 8 officer or another person may be seriously injured or
 9 killed -- I'm assuming that says if the deadly force is
 10 not used.
 11 Is that your understanding?
 12 **A. Yes, sir.**
 13 Q. Was that what you were taught?
 14 **A. Yes.**
 15 Q. Okay. And then it goes on to Section I. Do
 16 you see that at the bottom here?
 17 Once the immediate danger of death or
 18 serious bodily injury to an officer or another person
 19 has passed, deadly force shall not be used.
 20 Is that your understanding of the policy?
 21 **A. Yes, sir.**
 22 Q. Is that your understanding of the law the way
 23 you've been taught?
 24 **A. Yes, sir.**
 25 Q. Did anybody tell you what "immediate danger"

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1 means?
 2 **A. Now; in front of you.**
 3 Q. Right at that moment.
 4 **A. If you don't stop it, someone is going to get**
 5 **hurt or killed.**
 6 Q. And "immediate" means when you make a decision
 7 to pull the trigger, correct?
 8 **A. Yes, sir.**
 9 Q. It doesn't mean what happened in the past,
 10 right?
 11 **A. That's correct.**
 12 Q. It doesn't mean what actions that suspect may
 13 have engaged in the few minutes before, right?
 14 MR. FRIGERIO: Objection; form.
 15 Q. (BY MR. WILSON) Is that correct?
 16 **A. That's correct.**
 17 Q. It's what he's doing at that particular
 18 moment?
 19 **A. Yes, sir.**
 20 Q. Okay. And that if he's not doing anything
 21 that would constitute an immediate danger of death or
 22 serious bodily injury, then deadly force cannot be used;
 23 is that correct?
 24 MR. LOPEZ: Objection; asks for
 25 speculation. Asks for a legal conclusion, also.

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1 Q. (BY MR. WILSON) Well, understanding -- your
 2 understanding of the policy.
 3 Based upon this policy, if what he's doing
 4 at the exact moment you decide to pull the trigger is
 5 not an immediate danger of threat or serious bodily
 6 injury, you couldn't pull the trigger, right?
 7 MR. LOPEZ: I'm going to object that the
 8 policy speaks for itself.
 9 Q. (BY MR. WILSON) You can answer.
 10 **A. That's correct.**
 11 Q. Okay. Even if in the past he may have swung a
 12 knife at you, if he's not doing it at the time, you have
 13 to have a new immediate threat in order to justify it,
 14 correct?
 15 MR. FRIGERIO: Objection; form.
 16 MR. LOPEZ: Yeah.
 17 MR. FRIGERIO: Calls for speculation.
 18 MR. LOPEZ: Yeah.
 19 MR. FRIGERIO: Facts not in evidence.
 20 MR. LOPEZ: And that calls for a legal
 21 conclusion, also.
 22 **A. I can't answer that question.**
 23 Q. (BY MR. WILSON) Okay. Well, you carry a
 24 weapon, right?
 25 **A. Yes, sir.**

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1 Q. You have to -- you have to follow the policy
 2 of the Bexar County Sheriff's Department, right?
 3 **A. That's correct.**
 4 Q. Okay. And you have supervisory authority over
 5 others that carry weapons and follow these policies,
 6 correct?
 7 **A. Yes, sir.**
 8 Q. Okay. So you have to make a decision whenever
 9 you're engaged -- sometimes you've made the decision
 10 twice -- to pull the trigger?
 11 **A. That's correct.**
 12 Q. Okay. And so let me give you a scenario.
 13 Okay?
 14 Let's say that you're involved in an
 15 altercation with a potential suspect and he attacks you
 16 with a knife, okay, during the course of that
 17 altercation, but you don't -- you don't decide to shoot
 18 him at that point.
 19 Are you with me so far?
 20 **A. Yes.**
 21 Q. And then later -- a few minutes later he is
 22 standing 20 some-odd feet away from you, but he's
 23 holding a knife.
 24 Is that an immediate danger of death or
 25 serious bodily injury at that moment which would justify

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1 shooting him?
 2 MR. FRIGERIO: Objection; form.
 3 **A. I can't answer that question unless I'm faced**
 4 **with that situation.**
 5 Q. (BY MR. WILSON) Why not? You know the policy.
 6 **A. Because I'm not going to speculate.**
 7 Q. But you know the policy?
 8 **A. Yes, sir.**
 9 Q. And you discipline people for not following
 10 the policy?
 11 **A. Yes, sir.**
 12 Q. If you knew that an officer shot a man while
 13 he's standing still with his hands in the air who
 14 happens to be holding a knife and he's 29 feet away from
 15 that officer, would that be following the policy?
 16 MR. FRIGERIO: Objection; form.
 17 **A. Yes.**
 18 Q. (BY MR. WILSON) It would be? Based on what?
 19 **A. If the officer is in fear for his safety.**
 20 Q. Well, what about a man standing 29 feet away
 21 with his hands in the air, happened to be holding a
 22 knife, what would put an officer -- a reasonable officer
 23 under an immediate threat of death?
 24 MR. LOPEZ: The question is overbroad,
 25 vague, and calls for speculation.

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1 Q. (BY MR. WILSON) You can answer.
 2 **A. It's speculation, sir. I cannot answer the**
 3 **question if I'm ...**
 4 Q. So you're telling me that as a disciplinary
 5 officer you couldn't make that determination based upon
 6 policy?
 7 **A. It depends on what the situation is. I can't**
 8 **answer that because I need to know more facts.**
 9 Q. Okay. Well, I'm telling you the facts.
 10 The man is standing on the driveway 29
 11 feet away from an officer. He happens to be holding a
 12 knife, but his hands are in the air, and he's not moving
 13 towards the officers. He's not making moves towards
 14 anybody. He's just standing there.
 15 Would that be a justified shooting?
 16 MR. LOPEZ: Object to the question. Asks
 17 for speculation.
 18 Why don't you ask him what the officer
 19 perceived or not?
 20 MR. WILSON: I don't care what the
 21 officer perceived.
 22 MR. LOPEZ: Well --
 23 **A. I can't answer that question, sir. I don't**
 24 **know what's -- what's in front of the officer.**
 25 Q. (BY MR. WILSON) Okay. So what you're telling

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1 me is that based upon your understanding of the policy,
 2 a Bexar County Sheriff's deputy could shoot a man under
 3 the policy who is standing still, not advancing towards
 4 the officer or anybody else, not making any threatening
 5 gestures with a knife, just because he's holding a knife
 6 he could be shot and killed?
 7 **A. Yes.**
 8 Q. Okay. And that would be in compliance with
 9 Bexar County policy and the law the way you know it?
 10 **A. Yes, sir.**
 11 Q. Okay. So a man standing still not making any
 12 threatening moves can be shot and killed?
 13 MR. FRIGERIO: Objection; form.
 14 MR. LOPEZ: Objection; form.
 15 **A. I can't answer that question. I don't know --**
 16 Q. (BY MR. WILSON) You just did.
 17 **A. Then --**
 18 MR. LOPEZ: No, he didn't.
 19 Q. (BY MR. WILSON) Okay.
 20 MR. LOPEZ: And you're argumentative.
 21 I'm going to ask for -- I object to that question.
 22 Q. (BY MR. WILSON) So it's your understanding of
 23 Bexar County policy the way you know it and the law the
 24 way you've been taught that a man standing still on a
 25 driveway with his hands up in the air, happens to be

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1 palming a knife, but he's 29 feet away from the officer
 2 and makes no move with his hands or his feet to move
 3 towards those officers, that person can legally be shot?
 4 **A. If there's an imminent danger, yes, sir.**
 5 Q. What case -- what would you -- you'd have to
 6 know what the imminent danger is besides him just
 7 standing there holding a knife, right?
 8 **A. That's correct.**
 9 Q. There would have to be something else?
 10 **A. I -- I can't -- I don't know.**
 11 Q. Well --
 12 **A. I'm not in the situation at that moment.**
 13 Q. Is just standing there holding a knife enough?
 14 **A. Yes.**
 15 Q. Just standing still holding a knife 29 feet
 16 away is enough to kill him?
 17 **A. If he's -- if it's imminent danger, yes.**
 18 Q. I'm just -- are you telling me -- that's what
 19 I want to find out.
 20 Is it your understanding of the law, sir,
 21 that man standing still, not moving or advancing towards
 22 the officer, is more than 20 feet away with his hands up
 23 in the air is enough of an immediate threat to justify
 24 shooting him?
 25 MR. LOPEZ: Objection; asked and

Page 82

1 answered.
 2 **A. If there's imminent danger to those officers**
 3 **or a third person, yes, sir.**
 4 Q. (BY MR. WILSON) Well, there has to be
 5 something else besides that, correct? Or are you
 6 telling me that standing still alone is enough?
 7 **A. I'm not saying standing still alone is enough.**
 8 Q. Okay.
 9 **A. As long as there's imminent danger.**
 10 Q. All right. So there has to be something else
 11 going on?
 12 MR. LOPEZ: Objection; asked and
 13 answered.
 14 **A. I can't answer that question.**
 15 Q. (BY MR. WILSON) All right.
 16 MR. LOPEZ: We have been more than an
 17 hour in the deposition. Whenever you feel like --
 18 MR. WILSON: We can take a break.
 19 MR. LOPEZ: Okay. Thank you.
 20 THE VIDEOGRAPHER: The time is 2:11 p.m.
 21 We're off the record.
 22 (Recess taken.)
 23 THE VIDEOGRAPHER: The time is 2:20 p.m.
 24 We're on the record.
 25 Q. (BY MR. WILSON) Sir, are you familiar with the

Page 83

1 policy of Bexar County Sheriff's Department on properly
 2 securing your vehicle when you're at a scene?
 3 **A. Yes, sir.**
 4 Q. What is your understanding of the policy or
 5 the requirements for a patrol officer to properly secure
 6 his vehicle when he's on the scene?
 7 **A. Just to make sure that nobody can have access**
 8 **to it.**
 9 Q. What does that mean?
 10 **A. Each situation is going to be different.**
 11 Q. Someone pulls up to a house of a domestic
 12 disturbance. What would be the proper and policy way to
 13 properly secure a vehicle?
 14 **A. Put it in park and take the keys out.**
 15 Q. Okay. So if a Bexar County Sheriff's deputy
 16 leaves the keys in his vehicle and leaves the vehicle
 17 running, would that be properly securing his vehicle
 18 under the policy?
 19 **A. No.**
 20 Q. And what -- some patrol officers carry -- and
 21 I think it's been referred to as ARs?
 22 **A. Yes, sir.**
 23 Q. What are those?
 24 **A. Assault rifles.**
 25 Q. Okay. Not every officer has them in their

Page 84

1 patrol cars, but some of them do, correct?
 2 **A. Yes, sir.**
 3 Q. And when a patrol officer has an AR, what is
 4 the policy on where they secure that weapon?
 5 **A. In the holder inside the vehicle.**
 6 Q. And do you happen to carry one in your patrol
 7 car?
 8 **A. I did.**
 9 Q. You did. And so where is that holder located?
 10 **A. It's in the center console.**
 11 **(Pedraza Exhibit No. 3 marked.)**
 12 Q. (BY MR. WILSON) And is that holder -- does it
 13 have a lock on it?
 14 **A. It's just a holder. I won't -- I won't call**
 15 **it a lock.**
 16 Q. Well, how is it secured?
 17 **A. It's secured through a vice.**
 18 Q. What's a vice?
 19 **A. Like a clamp.**
 20 Q. Okay. And how is that clamp undone?
 21 **A. It can be done by pushing a button or with a**
 22 **handcuff key.**
 23 Q. Do you have to use a handcuff key, or can you
 24 just push a button?
 25 **A. You can push a button.**

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1 Q. Is it tied in any way to the ignition of the
 2 vehicle?
 3 **A. No, sir.**
 4 Q. Is it -- so whether or not the keys are in
 5 that vehicle or not would not determine who has access
 6 or the ability to unlock that rifle?
 7 **A. That's correct.**
 8 Q. Someone could simply just push a button and it
 9 would become undone and the rifle could be taken out?
 10 **A. Or yank it.**
 11 Q. Or yank it. You can just pull it out without
 12 even releasing it?
 13 **A. It's a holder. It's not a safe. It's just a**
 14 **holder.**
 15 Q. So -- and is that standard equipment for Bexar
 16 County, is that type of holder?
 17 **A. Yes, sir.**
 18 Q. All right. And when you have a weapon in a
 19 holder like that, can you -- what part of it do you see?
 20 I mean, if you're like -- if you're sitting in a
 21 driver's seat, what part of it would you see next to
 22 you?
 23 **A. You would see the barrel, the barrel facing**
 24 **up.**
 25 Q. Okay. So it goes barrel up?

Page 86

1 **A. Yes, sir.**
 2 Q. And how much of that barrel -- if you were
 3 sitting in a car -- in a passenger seat, how much of
 4 that barrel would show up?
 5 **A. You would see the whole rifle. You would see**
 6 **the whole -- the whole --**
 7 Q. The whole thing?
 8 **A. -- the whole thing.**
 9 Q. Okay. So if a rifle is in a holder, you would
 10 see it?
 11 **A. Yes, sir.**
 12 Q. If you're looking at the center console like
 13 from the driver's window or the driver's door, you would
 14 see that rifle?
 15 **A. Yes, sir.**
 16 Q. Okay. Let me show you what we marked as
 17 Pedraza Exhibit No. 3, which I understand this is taken
 18 from the -- it's BC O72187. It's the photograph of
 19 Sergeant -- or Patrolman Deputy Vasquez's vehicle.
 20 Do you see the rifle in the center holder?
 21 **A. No, sir, I cannot.**
 22 Q. And if it was there you would see it, correct?
 23 MR. FRIGERIO: Objection; form; calls for
 24 speculation.
 25 Q. (BY MR. WILSON) I mean, the way you've

Page 87

1 described that that holder works, you would see that if
 2 it was there?
 3 **A. Yes.**
 4 Q. Okay. The photograph from this particular
 5 point of view, if that rifle was in that center holder
 6 you would see it?
 7 **A. Yes.**
 8 Q. Okay. So the fact that you don't see it means
 9 it's not there at the time this photograph was taken,
 10 correct?
 11 **A. I can't answer that question.**
 12 Q. Well, you don't see it in there, do you?
 13 **A. I don't see it, but I don't know if it's not**
 14 **there or not.**
 15 Q. You don't see it?
 16 **A. I don't see it, no.**
 17 Q. It's not -- if it was in the holder you would
 18 see it?
 19 **A. This picture is too dark, sir, and the rifle**
 20 **is dark. It would be camouflaged right into it.**
 21 Q. Right. So if I gave you a cleaner version of
 22 that photograph, you could tell me if you see it? In
 23 other words, you don't see it in that photograph?
 24 **A. That's correct.**
 25 Q. All right. And my understanding is if you

Page 88

1 were looking in the driver's side window, you would be
 2 able to see that rifle if it was in the holder?
 3 **A. Yes.**
 4 Q. Okay. Let me show you a closer version which
 5 we'll mark as Exhibit 4.
 6 (Pedraza Exhibit No. 4 marked.)
 7 Q. (BY MR. WILSON) So do you see the rifle in
 8 that photo?
 9 **A. No, I do not.**
 10 Q. And you would, wouldn't you?
 11 **A. Yes, I can see it. I can see it clearly.**
 12 Q. Is it the holder?
 13 **A. Yes, sir.**
 14 Q. Is this the holder right here (indicating)?
 15 **A. No, sir.**
 16 Q. What's the -- where is the holder?
 17 **A. It is right here (indicating).**
 18 Q. Right back here (indicating)?
 19 **A. Yes, sir.**
 20 Q. Okay. So that holder is empty, right?
 21 **A. The best as I can tell.**
 22 Q. Okay. That means that that rifle is not there
 23 in this photo, correct?
 24 **A. That's correct.**
 25 Q. Okay. And you would see it if it was?

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1 **A. Again, it blends in, but I don't -- I don't**
 2 **see it.**
 3 Q. You don't see it. Okay.
 4 So is it fair to say, sir -- now, when
 5 you -- when you go secure a scene, nothing should be
 6 moved, correct? In other words, after a shooting
 7 nothing should be moved, right?
 8 **A. Unless you need to secure weapons or some type**
 9 **of evidence for -- during certain situations.**
 10 Q. Okay. Do you know whether any evidence or
 11 weapon was moved or secured following the shooting of
 12 Mr. Flores?
 13 **A. Yes, sir.**
 14 Q. What weapon?
 15 **A. I believe the knife.**
 16 Q. The knife. Okay. Anything other than the
 17 knife, nothing moved?
 18 **A. That I'm aware of, no, sir.**
 19 Q. Do you have any knowledge during the course of
 20 the investigation that prior to the time that these
 21 photographs were taken that that AR was moved in any
 22 way?
 23 **A. No, sir.**
 24 Q. All right. So if this is the condition of
 25 that holder at the time of the shooting, then that rifle

Page 90

1 wasn't in the center console locked, was it?
 2 MR. FRIGERIO: Objection; form; calls for
 3 speculation.
 4 **A. I -- I don't know.**
 5 Q. (BY MR. WILSON) Okay. Well, you understand
 6 that these photographs were taken by the crime
 7 investigation shortly after the shooting. Okay? All
 8 right?
 9 **A. Yes, sir.**
 10 Q. And if that rifle -- to your knowledge, that
 11 rifle -- no other weapons were secured or moved other
 12 than the knife?
 13 **A. The weapons from Vasquez and Bobby were moved.**
 14 Q. Their handguns?
 15 **A. Yes, sir.**
 16 Q. Not their rifle?
 17 **A. That's correct.**
 18 Q. Okay. So do you have any knowledge that that
 19 rifle was moved from its location that it was in at the
 20 time of the shooting?
 21 **A. Oh, no, sir.**
 22 Q. Okay. So if, in fact, these photographs
 23 depict the inside of his vehicle and the driver's side
 24 and the center console and the holder of that rifle,
 25 that rifle is not there, correct?

Page 91

1 **A. That's correct.**
 2 Q. And if nothing was changed or moved, then that
 3 rifle wouldn't have been there at the time of the
 4 shooting, would it?
 5 **A. That's correct.**
 6 MR. FRIGERIO: Objection; form.
 7 Q. (BY MR. WILSON) Are you aware of any other
 8 weapons that Mr. -- that Deputy Vasquez had in his
 9 patrol car other than that rifle?
 10 **A. No, sir, I'm not -- I'm not aware of any other**
 11 **weapons.**
 12 **(Pedraza Exhibit No. 5 marked.)**
 13 Q. (BY MR. WILSON) Let me show you Exhibit 5. Is
 14 that the case for the AR?
 15 **A. That's a case --**
 16 Q. Okay.
 17 **A. -- a rifle case.**
 18 Q. All right. And what is this (indicating)?
 19 **A. The -- the mesh?**
 20 Q. Uh-huh.
 21 **A. That's a cage.**
 22 Q. That's a cage?
 23 **A. Or just a barrier.**
 24 Q. Okay. So if Deputy Vasquez had his rifle in
 25 its case in the trunk area, the back part of that

Page 92

1 vehicle, that would be protected by this mesh, correct?
 2 **A. No, sir.**
 3 Q. In other words, if someone was trying to get
 4 into the passenger -- back seat passenger of that
 5 vehicle, could -- would that mesh prevent him from
 6 getting into that rifle?
 7 **A. I don't know if it would prevent him or not.**
 8 Q. Well, can you undo that mesh from the -- from
 9 the back seat?
 10 Is it actually mesh or is it metal?
 11 **A. Metal.**
 12 Q. Okay.
 13 **A. Metal.**
 14 Q. It's actually a metal that's secured, right?
 15 **A. It's secured, yes.**
 16 Q. Right. And you put -- you put people that you
 17 arrest in the back seat of these vehicles, right?
 18 **A. That's correct.**
 19 Q. You don't want them reaching into the back
 20 part of your car, right?
 21 **A. I would hope not.**
 22 Q. That's what that -- that's what that guard is
 23 designed to prevent, right?
 24 **A. To prevent.**
 25 Q. Right. So if I -- if I was sitting in the

Page 93

1 back seat of a patrol -- a normal patrol vehicle like
 2 this one, I couldn't reach in and grab anything that's
 3 in the back part of that vehicle, right? That mesh
 4 would prevent me from doing that?
 5 **A. I -- I wouldn't know if it's faulty or -- I**
 6 **wouldn't bet my life on it.**
 7 Q. Assuming that it's acting -- operating
 8 normally, you -- I couldn't reach back there and grab a
 9 rifle if it was back there, could I?
 10 **A. You could --**
 11 Q. How would I do that through the mesh?
 12 **A. -- if it's not secure.**
 13 Q. Well, it would have to be faulty, then, right?
 14 **A. Yes.**
 15 Q. Okay. Any indication that Mr. Vasquez's grill
 16 guard or this guard was in any way defective on the day
 17 of this shooting?
 18 **A. Not that I'm aware of.**
 19 Q. Okay. As far as you know, it was operating
 20 exactly the way it was supposed to be?
 21 **A. Yes, sir.**
 22 Q. Okay. So assuming that's the case, if someone
 23 tried to reach in through the passenger -- back
 24 passenger door, they couldn't get to this rifle, if
 25 that's where it was, right?

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1 **A. Using force or tools, yes, they could.**
 2 Q. You would have to use tools, is that what you
 3 just said?
 4 **A. Force or tools.**
 5 Q. What kind of force would you have to use?
 6 **A. Reasonable force, whatever force is**
 7 **necessary --**
 8 Q. You don't even know how much -- how much that
 9 would be, do you?
 10 **A. No, sir.**
 11 Q. Okay. So someone would have to use tools or
 12 some amount of force to remove that metal guard in order
 13 to reach in and get a weapon, if that's where this rifle
 14 was.
 15 **A. Yes, sir.**
 16 Q. Right?
 17 **A. Yes, sir.**
 18 Q. Okay. Does that seem very likely to you that
 19 someone would have the ability to do that?
 20 **A. I -- I don't know.**
 21 Q. Any indication based upon your investigation
 22 that Deputy Vasquez was concerned that -- well, let
 23 me -- let me -- let me show you this instead before I do
 24 that.
 25 (Pedraza Exhibit No. 6 marked.)

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1 Q. (BY MR. WILSON) Let me show you Exhibit 6. Do
 2 you see that? That's a better picture of that --
 3 someone would actually have to -- the screws and stuff
 4 are on the back side of that, right; in other words,
 5 away from the passenger seat?
 6 **A. Yes, they appear that way.**
 7 Q. Okay. So someone would have to use tools to
 8 reach in to the very back of this and unscrew all these
 9 screws to remove that mesh, right?
 10 MR. FRIGERIO: Objection; form; calls for
 11 speculation.
 12 **A. I don't know. I mean, it depends on what they**
 13 **can use.**
 14 Q. (BY MR. WILSON) Okay. My point is it would be
 15 highly unlikely that somebody would be able to get into
 16 the very back of this from the passenger side, wouldn't
 17 it?
 18 **A. Yes.**
 19 Q. That's not reasonable to think that that's a
 20 real threat, is it?
 21 MR. FRIGERIO: Objection; asked and
 22 answered.
 23 **A. I can't answer that question if it's a real**
 24 **threat. I'm not -- I'm not --**
 25 Q. (BY MR. WILSON) Someone -- someone reaching

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1 into the back seat passenger side door of your vehicle,
 2 would you think it was a real threat that they could
 3 reach in and grab a rifle if that's where it was?
 4 **A. Yes.**
 5 Q. Based on what?
 6 **A. It's a temporary barrier.**
 7 Q. What would they have to do in order to remove
 8 that barrier?
 9 **A. Use force, kick it. I don't know.**
 10 Q. Okay. What about the driver's side door? If
 11 they're at the driver's side door could they then do it?
 12 **A. It would be the same.**
 13 Q. They would have to crawl over --
 14 **A. The front, are you talking about the driver's**
 15 **side?**
 16 Q. Yeah, yeah. I mean, the front passenger.
 17 Excuse me.
 18 If they're opening the front passenger
 19 door, there's a realistic belief that they could get
 20 into the very back of this vehicle if that's where the
 21 rifle was?
 22 **A. Again, that's speculation. I don't know where**
 23 **the rifle is.**
 24 Q. If you were facing a suspect, okay, and you
 25 had your rifle in the very back, assuming it's in a case

Page 97

1 such as this, okay, and he reaches in to the front
 2 passenger door, are you immediately going to think he's
 3 going to get my rifle?
 4 **A. That's a -- yes, sir, that's a possibility.**
 5 Q. You think that's a real threat?
 6 **A. Yes.**
 7 Q. Okay. So a suspect reaching into the front
 8 passenger door of a patrolman's vehicle you think is a
 9 realistic threat that he could reach a weapon in a case
 10 behind a metal mesh guard in the very back of that
 11 vehicle?
 12 **A. He's inside the vehicle.**
 13 Q. Is the answer to my question, yes, you think
 14 that's a real threat?
 15 **A. Yes, I do.**
 16 Q. And that's the kind of real threat that you
 17 think would justify shooting him?
 18 **A. Again, I'm not present.**
 19 Q. That's fine. I know. That's my question.
 20 The mere fact that he's reaching into your
 21 driver -- your passenger side of the front seat of your
 22 patrol car, and your rifle is back behind this metal
 23 mesh in the very back of your patrol car, is that a
 24 realistic immediate threat of harm which you think would
 25 justify the use of deadly force?

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1 MR. FRIGERIO: Objection; assumes facts
 2 not in evidence.
 3 **A. I can't answer that question, sir.**
 4 Q. (BY MR. WILSON) Why not?
 5 **A. I need to be present. I'm not -- I'm not --**
 6 **I'm not going to speculate to anything with this.**
 7 Q. Would that in and of itself be enough for you
 8 to shoot somebody?
 9 **A. Again, I can't answer that question.**
 10 Q. What about the mere fact that he's getting
 11 into the patrol car regardless of where the rifle is, is
 12 that enough?
 13 **A. I don't know what's inside the vehicle. I**
 14 **don't know if there's other weapons or anything else.**
 15 Q. Okay. Well, not knowing that, is that enough?
 16 In other words, the mere fact that
 17 someone -- a guy is trying to get into the patrol car,
 18 is that enough to shoot him, under the policy of the
 19 Bexar County Sheriff's Department?
 20 **A. I don't know what's in the vehicle or anything**
 21 **else, and I cannot speculate.**
 22 Q. Okay. Well, the reason I'm asking you that
 23 question, sir, is that you recall during the course of
 24 this incident you gave the instruction, "Do what you
 25 have to do"?

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1 **A. Yes, sir.**
 2 Q. Okay. And we're going to get into that.
 3 **A. Okay.**
 4 Q. All right. So let me show you what we'll mark
 5 as your Exhibit No. 7.
 6 (Pedraza Exhibit No. 7 marked.)
 7 Q. (BY MR. WILSON) Review that document, sir.
 8 MR. FRIGERIO: Do any of these things
 9 have Bates marks on them?
 10 MR. WILSON: Yeah. I'll tell you what it
 11 is once he gives it back to me. I don't think I have
 12 it. I think I can get it.
 13 It's Bates 070840.
 14 MR. FRIGERIO: Thank you.
 15 Q. (BY MR. WILSON) All right. This is the
 16 statement that you gave following the shooting of
 17 Mr. Flores; is that correct?
 18 **A. That's correct.**
 19 Q. At what time did you give this statement?
 20 **A. I don't -- I don't have a time.**
 21 Q. Okay. Because I see -- hold on -- the date of
 22 the incident is August 28th, 2015; is that correct?
 23 **A. Yes, sir.**
 24 Q. And the Type of Incident is the Use of Deadly
 25 Force.

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1 That means that the officer used deadly
 2 force against Mr. Flores, correct?
 3 **A. That's correct.**
 4 Q. The time on that -- do you know what the time
 5 refers to?
 6 **A. That's going to be the key card.**
 7 Q. Meaning what?
 8 **A. The time the call came out.**
 9 Q. Okay. Now, then it says at the bottom, it's
 10 got Supervisor Submitting Report: Sergeant Roger
 11 Pedraza, which is you, correct?
 12 **A. Yes, sir.**
 13 Q. And the date of the report was August 28th,
 14 2015, the same time -- the same day that this happened?
 15 **A. Yes, sir.**
 16 Q. And then it has a time. Is that 7:45 p.m.?
 17 **A. Yes.**
 18 Q. So is that the time that you did the report?
 19 **A. Yes, sir.**
 20 Q. Okay. Now, when was it that you first
 21 determined that there was something going on on Walnut
 22 Pass?
 23 **A. I remember hearing the call come out. I can't**
 24 **recall if it was an emergency tone or not.**
 25 Q. Okay. And by "emergency tone," what are you

Page 101

1 referring to? I don't know that.

2 **A. When there's a -- like a code 3 call, there's**

3 **an emergency tone that comes on the radio to get**

4 **officers' attention.**

5 Q. Okay.

6 **A. And I can't recall -- I just remember hearing**

7 **that call coming out.**

8 Q. All right. So what is the first thing you

9 remember learning about what's going on on Walnut Pass?

10 **A. That there was a disturbance involving a**

11 **knife.**

12 Q. What is -- is that the best that you can

13 recall?

14 **A. When I first heard about it, yes, sir.**

15 Q. And how did you hear about it?

16 **A. Via -- via radio transmissions.**

17 Q. Okay. And so at that point did you determine

18 that it was a potential -- that the suspect was saying

19 he wanted to commit suicide by cop?

20 **A. As the deputies were en route, that's when the**

21 **dispatcher advised us over the radio.**

22 Q. And you knew at that point that there -- that

23 there had -- the subject had a knife?

24 **A. That's -- I didn't know facts. That's what**

25 **was being said over the radio.**

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1 Q. All right. And then I understand that Deputy

2 Vasquez and Deputy Sanchez were assigned the call?

3 **A. Yes.**

4 Q. Who assigned them the call?

5 **A. Dispatch.**

6 Q. Okay. That wasn't done by you?

7 **A. No, sir.**

8 Q. All right. Dispatch, is that because they

9 were close, they were the -- or what was -- what would

10 have determined who would have gotten the call?

11 **A. I'm not too familiar with -- well, if that's**

12 **their district, so they're close districts.**

13 Q. Okay. It would have been within their area of

14 response?

15 **A. Yes, I mean ...**

16 Q. Okay. And, then, so what did you do once you

17 heard that information?

18 **A. I remember I was driving on 1604 and**

19 **Marbach -- Marbach and 1604, and I just continued just**

20 **driving.**

21 Q. Okay. And you were driving towards the scene?

22 **A. No. I was just driving.**

23 Q. Okay. Were you planning on going to the scene

24 at that point?

25 **A. No.**

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1 Q. Would there have been any part of policy or

2 procedure which would have necessitated your involvement

3 at that point?

4 **A. No.**

5 Q. All right. And so what was the next thing

6 that you heard, that you can recall?

7 **A. The dispatch saying that he wanted to commit**

8 **suicide by cop.**

9 Q. Okay. Would that change your response in any

10 way?

11 **A. Alert, but, no.**

12 Q. You would have been under no obligation to do

13 anything differently?

14 **A. At that time, no, sir.**

15 Q. And you wouldn't have been under any

16 obligation to call in any additional resources knowing

17 that that situation was going on?

18 **A. No, sir.**

19 Q. Had you had any training in regard to crisis

20 intervention when someone is threatening suicide by cop?

21 **A. Crisis intervention, yeah.**

22 Q. All right. Did it include that subject,

23 someone who is threatening suicide by cop? Did you

24 receive any training particularly in that regard?

25 **A. Yes.**

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1 Q. All right. What is your understanding of the

2 policy and procedure of Bexar County Sheriff's

3 Department when that incident is unfolding, when you

4 have someone who is threatening that?

5 **A. Suicide?**

6 Q. Suicide by cop, uh-huh.

7 **A. Send more than one unit.**

8 Q. Okay. Anything other than sending two units?

9 **A. It all depends on when the officers get there.**

10 Q. Okay. And when the officers get there and the

11 person continues to say that he wants to commit suicide

12 by cop, gives them indications of that, what is the next

13 step?

14 **A. Get additional resources out there or**

15 **officers.**

16 Q. And what additional resources? Would there be

17 anybody in particular?

18 **A. It can be a SWAT team, house negotiators,**

19 **mental health unit.**

20 Q. Okay. It can be any of those, but is there

21 any sort of protocol on who needs to go?

22 **A. It depends on what happens at the scene.**

23 Q. Is it left up to the individual judgment of

24 the patrol officers?

25 **A. If it's an actual scene, yes, sir.**

Page 105

1 Q. Okay. So in this particular instance it
 2 was -- the policy of Bexar County Sheriff's Department
 3 is to leave it up to the individual judgment of the
 4 officers on who needs to be responding. Is that fair to
 5 say?
 6 **A. Yes.**
 7 Q. In other words, they can decide if they need a
 8 negotiator?
 9 **A. Yes, because they can get there and there's**
 10 **nothing there.**
 11 Q. Right. They can -- the individual patrol
 12 officers make the judgment call on whether or not a
 13 mental health professional is needed, correct?
 14 **A. Yes.**
 15 Q. And so there's no protocol of when that
 16 incident is unfolding that this is the response we're
 17 going to give. It's just whatever the officers on the
 18 scene determine is necessary. Is that the policy?
 19 **A. Well, the policy -- if there's a critical**
 20 **incident; but if it's a false alarm, we're not going to**
 21 **send -- activate all these units to the scene.**
 22 Q. Okay. I guess that's my question.
 23 It's up to the individual officers to
 24 determine if those resources come to the -- the scene,
 25 correct?

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1 **A. If there's an actual suspect trying to commit**
 2 **suicide by cop.**
 3 Q. Well, in this particular instance you already
 4 knew that he had threatened it, and it was confirmed by
 5 the officers on the scene, correct?
 6 **A. That's correct.**
 7 Q. So at that point who -- who has the obligation
 8 to make sure the proper resources are given to this
 9 situation?
 10 **A. That's a supervisor and the officer on scene.**
 11 Q. So that would be you?
 12 **A. Yes, sir.**
 13 Q. All right. So did you call in SWAT?
 14 **A. No, sir.**
 15 Q. Did you call in a hostage negotiator?
 16 **A. No, sir.**
 17 Q. Did you call in a mental health professional?
 18 **A. No, sir.**
 19 Q. Why not?
 20 **A. I was responding.**
 21 Q. You were just going to go there yourself?
 22 **A. I was on the way, yes, sir, once -- once**
 23 **things ...**
 24 Q. Why wouldn't you call in a mental health
 25 professional when --

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1 MR. LOPEZ: If you would allow the
 2 witness to finish his answer --
 3 MR. WILSON: I apologize.
 4 MR. LOPEZ: -- I would appreciate it.
 5 Q. (BY MR. WILSON) I apologize.
 6 **A. Again, it all depends -- we'd had some false**
 7 **alarm where they call 911 and it is not what is on the**
 8 **key card or what's dispatched. The officer on scene --**
 9 **or it can be worse. It can be a worse situation.**
 10 Q. All right. But in this particular instance --
 11 so you were -- you were going to have to arrive on the
 12 scene before you made the determination of what needed
 13 to be there?
 14 **A. No, sir.**
 15 Q. Okay. So in this particular instance you
 16 heard over the radio that, in fact, it was a real
 17 threat, suicide by cop, right?
 18 MR. LOPEZ: Well, that mischaracterizes
 19 the testimony.
 20 Q. (BY MR. WILSON) Well, what did -- what did the
 21 officers on the scene confirm for you? Did you confirm
 22 whether it was a real suicide?
 23 **A. It was the information that was being relayed**
 24 **over the radio --**
 25 Q. Okay.

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1 **A. -- yeah, that he was armed with a knife.**
 2 Q. Okay. And was it a real threat of suicide by
 3 cop, or was it a false alarm?
 4 **A. I can't answer that question.**
 5 Q. Why not?
 6 **A. Because I wasn't there.**
 7 Q. Well, but you're making the determinations.
 8 It's up to you as supervisor to determine --
 9 **A. With the information -- with the information**
 10 **being relayed on the radio, yes.**
 11 Q. All right. So what determination did you
 12 make?
 13 **A. This person was armed with a knife.**
 14 Q. Well, did you make a determination that --
 15 that there was a potential threat by suicide by cop, or
 16 did you discount that?
 17 **A. I didn't -- the subject was armed with a**
 18 **knife. I didn't know what he was thinking or saying.**
 19 Q. Well, he had already said that you're going to
 20 have to kill me if I'm threatening suicide by cop.
 21 **A. That was relayed through dispatch.**
 22 Q. So did you discount it and ignore it?
 23 **A. No, I did not.**
 24 Q. Okay. So you had a man with a knife who was
 25 threatening that he wanted to commit suicide by cop?

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1 **A. That's what --**
 2 Q. You --
 3 **A. -- the information I had, yes.**
 4 Q. Okay. And based upon that information, you
 5 did not call in a mental health professional?
 6 **A. At that moment, no, sir.**
 7 Q. Okay. And -- and you're telling me that
 8 there's nothing within the policy of Bexar County
 9 Sheriff's Department which would require you to do that?
 10 **A. Yes, or get an emergency detained, get him**
 11 **some medical help, emergency mental help.**
 12 Q. Okay. So did you also make the determination
 13 that you did not need a negotiator?
 14 **A. At that time, no.**
 15 Q. No, you didn't make that determination, or,
 16 no, you made the determination you didn't need one?
 17 **A. At that time I needed help for Officer**
 18 **Vasquez, and that was my concern.**
 19 Q. Okay. So you made -- you didn't -- when would
 20 you have made the determination that you might need a
 21 mental health professional, when you got to the scene?
 22 **A. When I got to the scene, or Deputy Vasquez**
 23 **could've asked for that, too.**
 24 Q. Okay. Now, you've been through the crisis
 25 intervention training, right?

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1 **A. Yes, sir.**
 2 Q. All right. What did you learn about how to
 3 respond to a person who is threatening suicide by cop?
 4 **A. They're dangerous.**
 5 Q. What else did you learn besides they're
 6 dangerous?
 7 **A. Use precautions, you know, send more than one**
 8 **officer; and we usually use tactics when you're**
 9 **approaching them.**
 10 Q. All right. And what did you learn about how
 11 to approach them?
 12 **A. That's basic 101 officer safety and -- and,**
 13 **you know, draw your weapon when he's armed with a knife.**
 14 Q. All right. Well, you understand that when you
 15 deal with mental health crises -- that's not unexpected
 16 in your job, right? I mean, patrol officers deal with
 17 mental health patients --
 18 **A. Yes, sir.**
 19 Q. -- during the course of their shifts, right?
 20 **A. Not every call, but, yes, sir.**
 21 Q. It's pretty common, isn't it?
 22 **A. Yes, it is.**
 23 Q. It's not something that the County would
 24 expect to be an unexpected event, right?
 25 **A. No.**

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1 Q. As a matter of fact, you would -- you would
 2 know as a patrol officer for years that it's fairly
 3 common to deal with mental health patients on the
 4 street?
 5 **A. Yes, sir.**
 6 Q. Okay. And so you would have to have training
 7 on how to handle those patients, right?
 8 **A. Yes, sir.**
 9 Q. And that's the purpose behind why you've got
 10 training on crisis intervention, isn't it?
 11 **A. Yes, sir.**
 12 Q. All right. So what did you learn about how to
 13 properly approach a potential mental health crisis that
 14 an individual was having?
 15 MR. LOPEZ: Objection; vague; overbroad.
 16 Q. (BY MR. WILSON) For example, did you receive
 17 any information on how to de-escalate the situation?
 18 **A. Yes.**
 19 Q. All right. What training did you receive on
 20 how to --
 21 **A. But my training says officer safety comes**
 22 **first.**
 23 Q. Oh, okay.
 24 **A. In my experience, officer safety is going to**
 25 **come first.**

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1 Q. Okay. So officer safety first; de-escalating
 2 the situation after that?
 3 **A. That's correct.**
 4 Q. Would you agree with me that one of the ways
 5 to promote officer safety is to de-escalate the
 6 situation?
 7 **A. Yes.**
 8 Q. In other words, you engage -- you could engage
 9 in tactics that calm the situation down, and that makes
 10 it safer for the officer and everybody involved,
 11 correct?
 12 MR. LOPEZ: Objection; calls for
 13 speculation.
 14 **A. It depends on the situation.**
 15 Q. (BY MR. WILSON) But you're taught that, are
 16 you not?
 17 **A. I'm taught it depends on the situation.**
 18 **If he's armed with a gun, I'm armed with a**
 19 **gun. If he's armed with a weapon --**
 20 THE REPORTER: Slow down, slow down.
 21 THE WITNESS: I'm sorry.
 22 Q. (BY MR. WILSON) Slow down. She has to get it.
 23 What did you learn in terms of how to
 24 de-escalate a potential mental health crisis?
 25 **A. It depends on the situation.**

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1 Q. I don't care. What did you learn?
 2 MR. LOPEZ: What do you mean you don't
 3 care?
 4 Q. (BY MR. WILSON) The answer is not it depends
 5 on the situation.
 6 MR. LOPEZ: If you want to object to the
 7 nonresponsiveness, go ahead and object; but that's
 8 argumentative, the "I don't care."
 9 Q. (BY MR. WILSON) What was your training on how
 10 to de-escalate a potential mental health crisis?
 11 **A. Talk.**
 12 Q. Tell me: What did you learn how to talk?
 13 **A. Ask them what's going on, you know.**
 14 Q. Okay. Anything else?
 15 **A. The basics.**
 16 Q. I'm sorry, but I don't know what the basics
 17 are.
 18 **A. Who, what, when and how.**
 19 Q. Okay. And what is the purpose behind trying
 20 to de-escalate the situation?
 21 **A. Getting them help.**
 22 Q. All right. Because even though they're
 23 threatening suicide by cop, part of your goal is not to
 24 achieve that goal, right?
 25 **A. That's correct.**

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1 Q. You don't want them to be killed, and you
 2 don't want to have to shoot them?
 3 **A. No officer does want that.**
 4 Q. Right. And so the idea behind de-escalating
 5 the situation is to make sure that whatever they're
 6 stating or whatever they're threatening, you want to try
 7 to make sure that doesn't happen, right?
 8 **A. That's correct.**
 9 Q. Did you receive any training, sir, on how
 10 to -- how long it could take to de-escalate a situation?
 11 **A. No, sir.**
 12 Q. Is there any time limit, to your knowledge?
 13 **A. There's no time limit.**
 14 Q. It could take hours, if need be, right?
 15 **A. Yes, sir.**
 16 Q. It wouldn't be proper for a Bexar County
 17 deputy to be out there 10 minutes and decide now is the
 18 time to end this thing, right?
 19 **A. I can't answer that question.**
 20 Q. All right. In other words, they're never
 21 taught that it's just time to get it over with?
 22 **A. It all depends on the threat.**
 23 Q. Right. But even if there's no immediate
 24 threat at the time, I mean, you're taught as part of
 25 your training that if it takes hours, it takes hours,

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1 right?
 2 **A. That's correct.**
 3 Q. If it takes, you know, 15 minutes, it takes 15
 4 minutes?
 5 **A. Yes, sir.**
 6 Q. But the whole idea is to de-escalate the
 7 situation and not confront the person to the point where
 8 you have to shoot them, right?
 9 **A. It all depends on the situation, sir.**
 10 Q. And did you ever learn that the level of
 11 threat during a situation can change?
 12 **A. Yes, sir.**
 13 Q. And what did you learn in that regard?
 14 **A. It can escalate or it can de-escalate.**
 15 Q. Right. And did you also learn that you have
 16 to constantly be evaluating what the level of threat is
 17 at any given moment?
 18 **A. Of course.**
 19 Q. That you have to constantly redo that calculus
 20 to see what the level of threat is at the time?
 21 **A. Yes, sir.**
 22 Q. And base your actions on what the level of
 23 threat is at that moment?
 24 **A. Yes, sir.**
 25 Q. All right. So that you have to constantly

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1 reevaluate the level of that threat. You were taught
 2 that, right?
 3 **A. It's common sense.**
 4 Q. Right. And so what you decide to do at one
 5 moment may -- may no longer be the appropriate activity
 6 based upon the threat at the moment you're acting,
 7 right?
 8 **A. Yes, sir.**
 9 Q. Okay. The level of threat could go up or it
 10 could go down?
 11 **A. Yes, sir.**
 12 Q. So if at one point you decide you could use
 13 deadly force, but then the level of threat goes down,
 14 you wouldn't use it anymore, would you?
 15 **A. That's correct.**
 16 Q. Okay. Because you have to constantly be
 17 reevaluating it?
 18 **A. Yes, sir.**
 19 Q. All right. So you're driving to the scene
 20 now.
 21 What prompts you to change your mind and
 22 go to the scene? What is it that you hear over the
 23 radio that says, I'm now going to go to the scene?
 24 **A. When Deputy Vasquez is screaming.**
 25 Q. And what are you hearing?

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1 **A. That he has a guy armed with a knife, and he**
 2 **has got an injured person inside and a baby.**
 3 Q. So you knew about the injured person inside
 4 before you decided to go there, right?
 5 **A. That's what -- via the transmission, yes.**
 6 Q. All right. And you knew about the baby inside
 7 the house before you decided to go there?
 8 **A. Yes.**
 9 Q. All right. So, really, what changed was
 10 Deputy Vasquez's situation?
 11 **A. Yes, sir.**
 12 Q. That's what prompted you to go there?
 13 **A. Yes, sir.**
 14 Q. Okay. Now, how long did it take you to get
 15 there, to your knowledge, roughly speaking?
 16 **A. 15 to 20 minutes. I mean, I was a long ways**
 17 **off.**
 18 Q. When you arrived at the scene, had Mr. Flores
 19 already been shot?
 20 **A. Yes, sir.**
 21 Q. Okay. So do you know how long it was after
 22 you arrived -- after his shooting that you arrived?
 23 **A. No, sir.**
 24 Q. Were there other officers who already arrived
 25 on the scene before you?

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1 **A. Yes, sir.**
 2 Q. And I mean beyond Vasquez and Sanchez.
 3 **A. Yes, sir.**
 4 Q. To your knowledge, who was the third officer
 5 to arrive on the location?
 6 **A. Luis Estrada.**
 7 Q. Deputy Estrada?
 8 **A. Yes, sir.**
 9 Q. And then do you know whether you were -- where
 10 were you in line after that? Were you the fourth or the
 11 fifth?
 12 **A. Oh, God. I couldn't answer that, sir.**
 13 Q. Okay. People started converging?
 14 **A. There was just so many officers, I couldn't**
 15 **answer that.**
 16 Q. Okay. But there were more than three when you
 17 got there?
 18 **A. Oh, yes, sir.**
 19 Q. Okay. All right. So while you are driving to
 20 the scene, my understanding is that they had secured the
 21 radio or secured the channel. I may be using the wrong
 22 term, but I've heard that on the -- on the dispatch,
 23 secure the channel or something.
 24 What does that mean?
 25 **A. I can't recall what was said, but usually they**

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1 **say the channel is closed.**
 2 Q. The channel is closed?
 3 **A. The channel is closed.**
 4 Q. I knew I was using the wrong phrase.
 5 **A. The channel is closed.**
 6 Q. But that means -- what does that mean, the
 7 channel is closed?
 8 **A. That means that the air is made -- is given to**
 9 **Deputy Vasquez and nobody else unless there's an**
 10 **emergency.**
 11 Q. Okay. What about Deputy Sanchez, he's part of
 12 that closed channel?
 13 **A. Yeah, he got there right afterwards.**
 14 Q. So is he part of the closed channel? You
 15 could hear him as well?
 16 **A. Anybody arriving is part of the closed**
 17 **channel.**
 18 Q. Okay. And you as a supervisor, you're part of
 19 that closed channel?
 20 **A. Yes, sir.**
 21 Q. And who is your immediate supervisor?
 22 **A. I've had so many, I can't recall if it was**
 23 **Lieutenant Tooke, Casillas.**
 24 Q. There's a Lieutenant von Muldau. Was he your
 25 supervisor at the time?

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1 **A. No, sir.**
 2 Q. All right. Where does he fit in this?
 3 **A. He's a lieutenant, but of another section.**
 4 Q. He wasn't even in the chain of command of
 5 Deputy Vasquez or Sanchez?
 6 **A. He's -- because we are assigned to first**
 7 **patrol, west patrol. And that is sergeant, myself**
 8 **and -- we've had so many lieutenants, sir, I can't --**
 9 **Tooke, Casillas.**
 10 Q. Okay. So Lieutenant von Muldau --
 11 **A. He's a lieutenant on duty; and, yes, he's also**
 12 **a patrol lieutenant.**
 13 Q. Was he on the east side or west side or --
 14 **A. He was on the west side.**
 15 Q. So was he in the -- he was not in the
 16 immediate chain of command, but it would be somebody
 17 they could listen -- they would have to follow?
 18 **A. Yes, yes. And he can make decisions, yes,**
 19 **sir.**
 20 Q. Okay. So would he be part of the closed
 21 channel as well?
 22 **A. Anybody that went to west patrol, yes, sir.**
 23 Q. So the purpose of closing the channel is to
 24 prevent all the excess noise from coming over the radio?
 25 **A. It's for emergency traffic.**

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1 Q. Okay. People that are connected with this
 2 particular incident?
 3 **A. Mainly for Deputy Vasquez who was screaming**
 4 **for help, yes, sir.**
 5 Q. Okay. So when you're driving, you say, After
 6 a few seconds, Deputy Vasquez yelled via radio
 7 transmission, shots had been fired.
 8 **A. Yes, sir.**
 9 Q. Now, have you done any sort of investigation
 10 as to determine what shots had been fired by that point?
 11 **A. No, sir. I'm en route.**
 12 Q. Okay. Well, since then, I mean, since this
 13 shooting have you done any investigation to determine
 14 what he means at that point by "shots had been fired"?
 15 **A. Since then?**
 16 Q. Yeah.
 17 **A. My own investigation, no, sir.**
 18 Q. Well, are you aware of any investigation?
 19 **A. Yes, sir.**
 20 Q. Okay. Are you aware of any investigation as
 21 to what he means at that point, "shots had been fired"?
 22 **A. That somebody discharged their weapon. I**
 23 **don't know if it's the suspect or the officers at that**
 24 **point.**
 25 Q. Okay. Well, at this point do you know?

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1 **A. No, sir, just that shots had been fired. I**
 2 **don't know who -- which one it is --**
 3 Q. Okay.
 4 **A. -- either the suspect or the deputies.**
 5 Q. Well, to your knowledge, or based upon your
 6 entire investigation, did Mr. Flores ever have a gun and
 7 did he ever shoot a gun?
 8 **A. Not that I'm aware of.**
 9 Q. Okay. Based upon the totality of the
 10 investigation, all we know is that he had a knife,
 11 correct?
 12 **A. Are you talking about my investigation while**
 13 **I'm en route or overall?**
 14 Q. I'm talking about what we know today.
 15 **A. I don't know.**
 16 Q. Never had a gun, did he?
 17 **A. Not that I'm aware of, no, sir.**
 18 Q. So these shots had been fired could not have
 19 come from him?
 20 **A. At that point, I don't know.**
 21 Q. At that point you don't know, that's correct;
 22 but now you know it wasn't him?
 23 **A. Oh, yes, sir.**
 24 Q. Okay. And so the suspect was armed with a
 25 knife. He never said the suspect was armed with a gun,

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1 right?
 2 **A. That's correct.**
 3 Q. Okay. And then he says -- and, by the way,
 4 this is from your statement.
 5 Is this in -- is this in the chronological
 6 fashion the way you recall it?
 7 **A. Yes.**
 8 Q. All right. And who did you give your
 9 statement to?
 10 **A. To my captain, my lieutenant --**
 11 Q. Okay.
 12 **A. -- and my chief.**
 13 Q. Are they on this -- are they anywhere
 14 identified on this?
 15 **A. It's Report Distribution on the first page.**
 16 Q. Okay. Lieutenant - Patrol; Deputy Chief -
 17 Patrol; Captain - Patrol; Other.
 18 So who is the lieutenant you gave it to?
 19 You don't recall?
 20 **A. I apologize. We've had so many.**
 21 Q. That's okay.
 22 **A. It's either going to be Tooke or Casillas. I**
 23 **can't recall.**
 24 Q. Fair enough. Deputy Chief - Patrol, who would
 25 that be?

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1 **A. Hamilton.**
 2 Q. Do you have a first name?
 3 **A. Joe.**
 4 Q. Okay. Mr. Hamilton, Joe Hamilton.
 5 And who would the Captain be?
 6 **A. I believe that's going to be Tijerina, Molina**
 7 **and Roach.**
 8 Q. Okay. And Other, who would Other be?
 9 **A. CID or the PIO.**
 10 Q. The PIO, is that the Professional Integrity
 11 Unit?
 12 **A. No. The media.**
 13 Q. The media. Okay. Did you give this --
 14 **A. Public Information Officer.**
 15 Q. Oh, I see.
 16 **A. We might have submitted -- I might have**
 17 **submitted it to them.**
 18 Q. Okay. So, anyway, so this is your
 19 understanding of the chronological events, correct?
 20 **A. Yes, sir.**
 21 Q. So you're -- the idea that Deputy Vasquez
 22 yelled via radio transmission that shots had been fired,
 23 he -- he said that first, correct?
 24 **A. That's correct.**
 25 Q. And then Lieutenant von Muldau advised the

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1 deputies, "Do not let the suspect back inside the house
 2 and for them to do what they had to do."
 3 Did you hear that?
 4 **A. Yes.**
 5 Q. Does that instruction come after
 6 Mr. Vasquez -- Deputy Vasquez had already said shots had
 7 been fired?
 8 **A. I believe so.**
 9 Q. Okay.
 10 MR. LOPEZ: I'm going to do a late
 11 objection. The radio transmissions speak for
 12 themselves.
 13 Q. (BY MR. WILSON) Okay. So but this is your
 14 recollection of the events, correct?
 15 **A. That's correct.**
 16 Q. Okay. So when he said, "Do not let the
 17 suspect back inside the residence," what did you infer
 18 from that? What did you understand by that?
 19 **A. Not to let him go back inside the house.**
 20 Q. Okay. And would that be the authorization to
 21 use deadly force, to prevent him from getting back in
 22 the house?
 23 **A. Not to my knowledge.**
 24 Q. But, then, so don't let him get back into the
 25 residence, what does that mean? It would have been left

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1 up to the judgment of the officers?
 2 MR. LOPEZ: Hold on, hold on. Object;
 3 asked and answered.
 4 Q. (BY MR. WILSON) So what --
 5 MR. LOPEZ: Argumentative, too.
 6 MR. WILSON: Any more?
 7 MR. LOPEZ: No.
 8 Q. (BY MR. WILSON) Okay. So "Do not let the
 9 suspect back inside the residence," what did you infer
 10 that was telling the patrol officers?
 11 **A. Not to let him back inside the house.**
 12 Q. And what -- what could they do, anything that
 13 they determined necessary?
 14 **A. Not to let him back in the house.**
 15 Q. I know, but does that mean anything they
 16 determined necessary?
 17 **A. I don't know. Don't let him back in the**
 18 **house.**
 19 Q. Well, he's giving an instruction to people on
 20 the scene.
 21 **A. I can't answer for -- for Lieutenant von**
 22 **Muldau, sir.**
 23 Q. All right. But this is your understanding. I
 24 mean, you put this in your statement.
 25 **A. Yes, that's what --**

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1 Q. And he is -- and -- and this statement is, "Do
 2 not let them get" -- "the suspect get back inside the
 3 residence," is that an order to them?
 4 MR. LOPEZ: Objection; calls for
 5 speculation.
 6 **A. That's via radio transmissions.**
 7 Q. (BY MR. WILSON) I know. Is it an order to
 8 them?
 9 **A. Yes.**
 10 Q. Okay. So he's ordering them not to let him
 11 back in the house?
 12 **A. Yes.**
 13 Q. Okay. And for them to do what they had to do,
 14 you put that in there as well?
 15 **A. Yes.**
 16 Q. All right. So did that mean that the -- based
 17 upon your understanding, that they could use deadly
 18 force if they needed to to prevent him from getting back
 19 in the house?
 20 **A. I can't answer to that.**
 21 Q. All right. If you had gotten that
 22 instruction, would you have interpreted it that way?
 23 **A. No.**
 24 Q. Why not?
 25 **A. Not to let him back in the house.**

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1 Q. Okay.
 2 **A. Because I don't -- I can't answer for**
 3 **Lieutenant von Muldau.**
 4 Q. Okay. But to do whatever they had to do,
 5 right?
 6 **A. That's what he said.**
 7 Q. Okay. And that would have been one of those
 8 situations where he's giving an order to people on the
 9 scene based upon what they have told them is going on,
 10 correct?
 11 **A. That's correct.**
 12 Q. All right. And that would be part of that
 13 custom that we've talked about in the past, that
 14 supervisors do that?
 15 **A. Via radio transmissions we have information**
 16 **we're getting relayed, yes, sir.**
 17 Q. Right. And that information and that order is
 18 only as good as the information you're getting, correct?
 19 **A. That's correct.**
 20 Q. If you're getting false information from the
 21 scene, the underlying basis of that order is based on
 22 false information, right?
 23 **A. Yes.**
 24 Q. Okay. And then, "The emergency tone went over
 25 the radio for an officer in trouble with shots fired."

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1 Okay. So that's what you think happened
 2 next?
 3 **A. Yes.**
 4 Q. And then you state, "Deputy Sanchez then came
 5 over the radio and stated the suspect was trying to get
 6 into Deputy Vasquez's patrol unit."
 7 Do you know how much time passed between
 8 those two events, he's trying to get back into the house
 9 and now you're being told he's trying to get into the
 10 patrol unit?
 11 **A. A second or a minute --**
 12 Q. Okay.
 13 **A. -- to the best I can recall because I'm**
 14 **driving and I've got lights and sirens and I'm trying to**
 15 **get there as fast as I can.**
 16 Q. All right. So you think about a minute passes
 17 between those two events, based on your recollection?
 18 **A. Yes, sir.**
 19 Q. Okay. And then you decide to then based upon
 20 that information, "I said over the radio not to let the
 21 suspect take off in the patrol unit and do what they had
 22 to do."
 23 **A. Yes, sir.**
 24 Q. Now, why did you give that instruction?
 25 **A. Because they were yelling and screaming that**

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1 **he was getting back in the vehicle.**
 2 Q. Okay. But why would you give them the
 3 instruction not to let him get in the patrol car?
 4 **A. Because I don't -- I don't want him to take**
 5 **off or get a weapon.**
 6 Q. Did you know whether there was a weapon in
 7 that patrol car?
 8 **A. To the best of my knowledge, with my -- no, I**
 9 **did not at the time.**
 10 Q. Okay. And, again, you're -- that's an order
 11 for them, right? You're telling them what to do?
 12 **A. Yes, sir.**
 13 Q. And you're telling them do what they have to
 14 do, whatever they have to do, to stop him from getting
 15 in that patrol car, right?
 16 **A. Yes, sir.**
 17 Q. If I remember -- did you ever see the
 18 statement for Deputy Vasquez?
 19 **A. No, sir.**
 20 Q. Okay. Do you recall the exact words you used?
 21 **A. This is the best to my -- to my -- that I can**
 22 **recall.**
 23 Q. During the entire course of your post-shooting
 24 investigation, you never read Deputy Vasquez's
 25 statement?

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1 **A. No, sir.**
 2 Q. Is that what you're telling me?
 3 **A. That's correct.**
 4 Q. And even preparing for your deposition here
 5 today you've never seen it?
 6 **A. Never.**
 7 Q. All right. So ...
 8 (Pedraza Exhibit No. 8 marked.)
 9 Q. (BY MR. WILSON) Have you ever -- have you ever
 10 seen Deputy Sanchez's?
 11 **A. No, sir.**
 12 Q. By the way, have you read anybody's statement
 13 other than your own?
 14 **A. No, sir.**
 15 Q. Have you ever read the dispatch reports as
 16 showing what you actually said?
 17 **A. No.**
 18 Q. Okay. By the way, you know that this incident
 19 was videotaped, right?
 20 **A. The -- Vasquez's?**
 21 Q. No. The shooting was actually videotaped by a
 22 neighbor.
 23 **A. Oh, yes, sir.**
 24 Q. All right. Have you ever seen that videotape?
 25 **A. I saw the one that was by KSAT 12.**

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1 Q. Okay. You've seen -- you've seen the one that
 2 was on the news?
 3 **A. The news, and then I saw the -- the other one.**
 4 Q. Okay. Just so the record is clear, there was
 5 one that was done by a gentleman in a car that was on
 6 the road --
 7 **A. Yes.**
 8 Q. -- that was released to the news media.
 9 **A. Yes.**
 10 Q. You saw that one?
 11 **A. Yes, sir.**
 12 Q. And then there was one that was done by a
 13 neighbor, his name was Fleming, and it was done by -- at
 14 his house, which was longer.
 15 Have you seen that one?
 16 **A. I saw a part -- a part of it, yes, sir.**
 17 Q. What part of it did you see?
 18 **A. Just the part where they show with the knife**
 19 **in the hand.**
 20 Q. What do you mean "the knife in the hand"?
 21 **A. Where Mr. Flores is holding a knife in his**
 22 **hand.**
 23 Q. And you just -- you just witnessed the part at
 24 the time of the shooting?
 25 **A. Yes, sir.**

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1 Q. All right. And when did you see that for the
 2 first time?
 3 **A. About a year, year and a half ago, preparing**
 4 **for the deposition.**
 5 Q. Okay. So the -- here it is.
 6 So the -- so in preparation for your
 7 deposition, that was the one and only time that you've
 8 seen that; is that correct?
 9 **A. That's correct.**
 10 Q. You did not see that in regard to your
 11 investigation as a supervisor for Deputy Sanchez or
 12 Vasquez, correct?
 13 **A. That's correct.**
 14 Q. And you weren't involved -- you weren't
 15 involved in the investigation after the shooting to
 16 determine if any discipline was required?
 17 **A. No, not ...**
 18 Q. Okay. So you as their immediate supervisor
 19 was not involved in the investigation to determine
 20 whether or not they should be disciplined; is that
 21 correct?
 22 **A. That's correct.**
 23 Q. Or whether or not charges should be filed
 24 against them?
 25 **A. That's correct.**

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1 Q. So as a result of that, you've never seen
 2 their statements and you've never seen the video as it
 3 compares to their statements, correct?
 4 **A. That's correct.**
 5 Q. Okay. Well, then, we'll have some fun --
 6 we'll do that today.
 7 (Pedraza Exhibit No. 10 marked.)
 8 Q. (BY MR. WILSON) All right. So I'm going to
 9 show you Pedraza Exhibit No. 10. And this is the Cell
 10 Phone Video Review that was done as part of the
 11 investigation.
 12 And I'm just going to point out --
 13 **A. You said "Pedraza."**
 14 Q. I'm sorry. It's Pedraza No. 10 is the
 15 exhibit.
 16 **A. Oh, okay. I'm sorry.**
 17 Q. And this was done by a Deputy Arevalos, I
 18 guess. A-r-e-v-a-l-o-s.
 19 **A. Arevalos.**
 20 Q. Okay. It was Bexar County 071362. Okay.
 21 And apparently what he does is he compares
 22 the cell phone video that was done by Mr. Fleming to the
 23 dispatch records and the radio communications, is what I
 24 understand this to be. Okay?
 25 And the reason why I'm showing it to you

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1 is because he says on page 071365 at minute 7:27 into
 2 the video of -- by Fleming, you make the comment over
 3 the radio, "Stop him, by all means, stop him."
 4 Do you see that?
 5 **A. Yes, sir.**
 6 Q. All right. So my understanding of the
 7 dispatch records and the radio transmissions is that's
 8 the actual words that you used.
 9 Any reason to dispute that?
 10 **A. No, sir. I mean ...**
 11 Q. Okay. So when you were telling your deputies,
 12 "Stop him, by all means, stop him," why did you give
 13 that instruction?
 14 MR. LOPEZ: Well, mischaracterizes even
 15 your statement.
 16 MR. WILSON: I'm sorry?
 17 MR. LOPEZ: I object. Your question
 18 mischaracterizes your own exhibit. If you want to --
 19 MR. WILSON: This is not my exhibit.
 20 It's Bexar County Bates stamp No. 071362.
 21 MR. LOPEZ: Well, you're using it in a
 22 deposition, so it's your exhibit. So you're
 23 mischaracterizing what he says, your question does.
 24 You're adding a little word there that wasn't there.
 25 MR. WILSON: Whatever.

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1 Q. (BY MR. WILSON) All right. Sir, according to
 2 this document given to us by Bexar County, the actual
 3 words you used were, "Stop him, all means, stop him."
 4 **A. Yes.**
 5 Q. Okay. Why -- under what basis did you give
 6 that instruction to the officers underneath you?
 7 **A. To stop him from taking off in the vehicle.**
 8 Q. And what did you -- what was the information
 9 that you relied upon to give that order?
 10 **A. That he was getting inside the vehicle.**
 11 Q. And that was based upon the information given
 12 to you by the people at the scene, correct?
 13 **A. Yes, sir.**
 14 Q. That you were under the impression that he was
 15 getting into the patrol vehicle what, to drive off, or
 16 whatever reason?
 17 **A. Yes, sir.**
 18 Q. Okay. So when you said, "Stop him, all means,
 19 stop him," did that include the use of deadly force, if
 20 necessary?
 21 **A. No, sir.**
 22 Q. Then what did you mean by the term "all
 23 means"?
 24 **A. To stop him from taking off in the vehicle.**
 25 Q. What limit -- did you give them any

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1 limitations?
 2 **A. No, sir, just stop him --**
 3 Q. Okay. So --
 4 **A. -- from getting in the vehicle.**
 5 Q. All right. So when you said "all means," did
 6 you -- but you didn't say "all means except deadly
 7 force," did you?
 8 MR. LOPEZ: Hold it. Objection. The
 9 documents speaks for itself.
 10 Q. (BY MR. WILSON) You can answer, sir.
 11 MR. LOPEZ: You don't have to answer that
 12 question because that's borderline harassment.
 13 If you asked him already what he said and
 14 what the transmission said and then you want him to add
 15 to it. Just ask him if he added something that was not
 16 in the transmission.
 17 MR. WILSON: I did.
 18 MR. LOPEZ: Well, no.
 19 MR. WILSON: That's what I just asked
 20 him.
 21 MR. LOPEZ: Well, you keep just asking
 22 and adding to -- to what is in the transmission.
 23 Asked and answered.
 24 MR. WILSON: I can ask him --
 25 MR. LOPEZ: That's what he said. No,

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1 you're harassing the witness.
 2 MR. WILSON: I am not harassing him.
 3 MR. LOPEZ: What time is it? You know,
 4 we're being here about 20 minutes on the same little
 5 question here. It's 3:10.
 6 MR. WILSON: Yeah, and 10 minutes have
 7 been your objections.
 8 MR. LOPEZ: And this person was not even
 9 involved in this shooting, so ...
 10 Q. (BY MR. WILSON) Sir, let me ask you a simple
 11 question: Did you -- did you give your under -- people
 12 underneath you any limitations that they could use to
 13 stop this gentleman from getting into the patrol car?
 14 MR. LOPEZ: Objection. The document
 15 speaks for itself and the transmission speaks for
 16 itself.
 17 Q. (BY MR. WILSON) You can answer.
 18 **A. Can you --**
 19 Q. Sure. You use the word -- you use the term
 20 "all means."
 21 **A. Yes, sir.**
 22 Q. What did you mean by "all means"?
 23 **A. To stop him from taking off in the vehicle.**
 24 Q. But what did you mean by "all means"?
 25 MR. LOPEZ: Well, asked and answered,

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1 objection.
 2 You don't have to answer that question.
 3 If you want to take it to the Federal court, take it,
 4 but he already answered it.
 5 Q. (BY MR. WILSON) So "all means" could be
 6 whatever those patrol officers determined was necessary
 7 at the time, correct?
 8 **A. No, sir.**
 9 Q. All right. So did you give them any
 10 limitations on what you meant by "all means"?
 11 MR. LOPEZ: Same objection.
 12 **A. No, sir.**
 13 Q. (BY MR. WILSON) If they took that to mean
 14 authorization to use deadly force, would you say that
 15 they were misinterpreting what you said?
 16 **A. No, sir.**
 17 Q. So your -- a proper interpretation for them
 18 would mean your instruction meant use deadly force if
 19 necessary?
 20 MR. LOPEZ: Objection; calls for
 21 speculation.
 22 **A. No, sir.**
 23 Q. (BY MR. WILSON) Well, how -- see, I guess now
 24 I'm confused.
 25 If Deputy Vasquez and Deputy Sanchez took

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1 that instruction to use deadly force, was that a
 2 misinterpretation of what you told them?
 3 **A. I can't answer for them, sir.**
 4 Q. Okay. But you gave them the instruction,
 5 right?
 6 MR. LOPEZ: What instruction?
 7 Q. (BY MR. WILSON) The instruction to "Stop him,
 8 all means, stop him."
 9 **A. Yes.**
 10 Q. And if they took that to use deadly force, are
 11 they misinterpreting your order?
 12 **A. I can't answer for them.**
 13 Q. I'm asking you as the person giving the order,
 14 are they misinterpreting your order?
 15 MR. LOPEZ: Calls for speculation.
 16 **A. I can't answer that question.**
 17 Q. (BY MR. WILSON) Are they violating your order
 18 if they use deadly force to stop him from getting in
 19 that vehicle?
 20 **A. Again, I can't answer that question.**
 21 Q. Well, apparently that's what they did.
 22 So you gave them the order, "Stop him, by
 23 all means, stop him," and they chose to shoot him --
 24 MR. LOPEZ: Objection --
 25 Q. (BY MR. WILSON) -- would that be a violation

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1 of your order?
 2 MR. LOPEZ: Objection; argumentative.
 3 And counsel is testifying about what happened or not.
 4 **A. No, sir.**
 5 Q. (BY MR. WILSON) All right. So they would be
 6 perfectly acting within the authority that you gave them
 7 to use deadly force to stop him from getting into the
 8 vehicle?
 9 MR. FRIGERIO: Objection; form.
 10 **A. I did not give them authority.**
 11 Q. (BY MR. WILSON) You gave them an order to
 12 follow, correct?
 13 **A. Yes.**
 14 Q. And that order meant to stop him from getting
 15 in the vehicle by all means?
 16 MR. LOPEZ: Objection; asked and
 17 answered.
 18 Q. (BY MR. WILSON) Right?
 19 **A. Yes.**
 20 Q. And if they interpreted that "all means" to
 21 include the use of deadly force, that would be in
 22 compliance with your order?
 23 **A. No, sir.**
 24 Q. Why not?
 25 **A. Because that's not what -- the order I gave.**

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1 Q. You said "all means."
 2 **A. Yes, sir.**
 3 Q. Okay. Did you give them any instructions on
 4 what "all means" meant?
 5 **A. No, sir.**
 6 Q. Did you give them any limitations on what "all
 7 means" meant?
 8 **A. No, sir.**
 9 Q. Don't you think orders should be clear?
 10 **A. Yes.**
 11 Q. Don't you think they should be clear for the
 12 people underneath you to follow them the way you want
 13 them to be followed?
 14 **A. Yes, sir.**
 15 Q. All right. So did you -- so did you think you
 16 gave a clear order here?
 17 **A. Yes.**
 18 Q. All right. And so if they interpreted that
 19 that order "all means" meant to use deadly force, that
 20 would be in compliance with your order or no?
 21 **A. I can't answer that question, sir. I can't.**
 22 **That's speculation.**
 23 Q. It's your order?
 24 **A. Yes, sir, to stop him from taking off in the**
 25 **vehicle.**

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1 Q. All right. If Deputy Vasquez said, "We shot
 2 him so that he wouldn't take off in the vehicle in
 3 compliance with Sergeant Pedraza's order," you'd be okay
 4 with that?
 5 MR. LOPEZ: Hold on for a second.
 6 I'm going to object because this calls
 7 for evidence and facts not in evidence.
 8 I read the deposition, and Vasquez never
 9 said that.
 10 If you want to make a hypothetical, go
 11 ahead and do it. That's not what Vasquez said.
 12 MR. WILSON: And if you just want to
 13 object the way you're supposed to, that would be good,
 14 too.
 15 MR. LOPEZ: Well, we're in Federal court.
 16 MR. WILSON: Okay. Good.
 17 MR. LOPEZ: I can make my objection in
 18 short sentences so I can understand.
 19 MR. WILSON: Obstructing objections to
 20 your witness to not answer, so I object to that.
 21 MR. LOPEZ: Well, then, go ahead and ask
 22 the proper question.
 23 MR. WILSON: I am asking perfectly proper
 24 questions, Mr. Lopez.
 25 MR. LOPEZ: I don't know that.

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1 Q. (BY MR. WILSON) You gave the -- you gave the
 2 deputies underneath you the order to "Stop him, all
 3 means, stop him."
 4 And if they interpret that to use deadly
 5 force, that's in compliance with your order, correct?
 6 **A. No, sir.**
 7 Q. Why not?
 8 **A. Because I didn't tell them -- I told them to**
 9 **stop him -- to stop him from taking off in the vehicle.**
 10 Q. No. You said, "Stop him, all means, stop
 11 him."
 12 **A. Yes, sir.**
 13 Q. All right. And if they said, "Okay. We'll
 14 use deadly force to stop him," when did -- how would
 15 they violate your order if that's what they did?
 16 **A. I can't answer for that -- for them because --**
 17 Q. You told them to use all means.
 18 **A. To stop him from getting into the vehicle.**
 19 Q. And if the means they chose is deadly force,
 20 is that violating your order?
 21 MR. LOPEZ: Asked and answered.
 22 **A. I did not give the order to use deadly force.**
 23 Q. (BY MR. WILSON) Let me show you how Deputy
 24 Sanchez interpreted your order. Here's his deposition
 25 testimony, sir.

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1 Do you see that in front of you?

2 **A. Uh-huh.**

3 Q. This is what he testified to under oath, page

4 143 of his deposition.

5 "Okay. Later on we're going to hear an

6 instruction where Sergeant Pedraza says, 'Stop him, all

7 means, stop him,' in relation to getting into that

8 vehicle. Do you recall that?

9 "Yes.

10 "How did you interpret that?

11 "Make sure that he doesn't get into that

12 vehicle. I mean, I may use deadly force if I have to."

13 Now, apparently Deputy Vasquez -- Sanchez

14 interpreted that that he could use deadly force to

15 prevent him from getting into the vehicle. Is that what

16 you meant?

17 MR. FRIGERIO: Objection; form.

18 **A. No, sir.**

19 Q. (BY MR. WILSON) So did he misinterpret your

20 order?

21 **A. I don't know what he thought at the time, sir.**

22 Q. Based upon that testimony, did he misinterpret

23 your order?

24 **A. My order was to stop him from taking off in**

25 **the vehicle, not the use of deadly force.**

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1 Q. Would you have authorized the use -- would you

2 think it would be within Bexar County Sheriff's

3 Department policy to use deadly force to prevent a

4 suspect from getting in the patrol car?

5 **A. If it's -- if it's imminent danger, yes.**

6 Q. What would the immediate danger have to be?

7 MR. LOPEZ: Objection; calls for

8 speculation.

9 **A. Whatever is present for the officers at the**

10 **scene.**

11 Q. (BY MR. WILSON) Would you have given the order

12 to use deadly force if all you knew is he was getting in

13 the patrol car?

14 **A. I can't answer if, if.**

15 Q. I'm not asking you that. You gave an order.

16 **A. Yes.**

17 Q. You said that order does not include deadly

18 force. And why doesn't it include deadly force?

19 **A. It's to stop him from taking off in the**

20 **vehicle.**

21 Q. But why not use deadly force to accomplish

22 that?

23 **A. Because I'm not at the scene. I can't see**

24 **what's in front of them, what they're faced with.**

25 Q. Is it your understanding, sir, that when you

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1 gave that order you did not want them to use deadly

2 force to accomplish that goal?

3 **A. My order was for them not to let him take off**

4 **in the vehicle.**

5 MR. WILSON: That wasn't my question,

6 sir. Object as being nonresponsive.

7 Q. (BY MR. WILSON) My question is when you gave

8 that order, was your intent for them not to use deadly

9 force to accomplish that goal?

10 **A. Yes.**

11 Q. Because is that because you understood that

12 using deadly force under that circumstance would not be

13 an immediate threat to justify the use of deadly force?

14 **A. I can't answer that question. I'm not there.**

15 Q. But when you're giving that order, you don't

16 think that's enough?

17 **A. Enough for what?**

18 Q. For the use of deadly force.

19 **A. I can't authorize deadly force. I'm not**

20 **there.**

21 Q. All right. If, in fact, Mr. Flores was not

22 trying to get into that vehicle at the time they shot

23 him -- well, let me rephrase it.

24 Your order is based on the assumption that

25 he's still trying to get in the vehicle, correct?

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1 **A. That's correct.**

2 Q. Once he is no longer trying to get in that

3 vehicle, is your order still to stop him from getting in

4 the vehicle? That doesn't make sense, does it?

5 **A. No.**

6 Q. That order would then no longer be applicable,

7 would it?

8 **A. Yeah.**

9 Q. Because he's no longer trying to get into the

10 vehicle, so they don't -- they aren't using -- that

11 should not be any means to stop him from doing something

12 he's no longer doing, right?

13 **A. That's correct.**

14 Q. Okay. So, in other words, your information in

15 that order is only as good as the information that

16 you're given, right?

17 **A. Yeah.**

18 Q. So after you gave that order did Mr. Sanchez

19 or Mr. Vasquez ever get back on the radio and tell you,

20 "He stepped away from the vehicle. He's no longer

21 trying to get in it"?

22 **A. No, sir.**

23 Q. Would that have been a piece of information

24 you would have liked to have received?

25 **A. Of course.**

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1 Q. Okay. Because then you could have given them
 2 another order, right?
 3 **A. I -- I can't answer that. I don't know.**
 4 Q. You don't know. But -- but as far as you
 5 knew, the next thing you hear is shots fired?
 6 **A. Yes, sir.**
 7 Q. All right. And did you think that they had
 8 fired the shots because he was still trying to get into
 9 that vehicle?
 10 **A. I -- I don't know.**
 11 Q. You don't know?
 12 **A. No, sir.**
 13 Q. Did you ever ask anybody, Was he still trying
 14 to get into the vehicle at the time they shot him?
 15 **A. No, sir.**
 16 Q. You never asked anybody?
 17 **A. No, sir.**
 18 Q. Did you ever talk to Deputy Sanchez or Deputy
 19 Vasquez about why they shot?
 20 **A. No, sir.**
 21 Q. Why not?
 22 **A. Because they're -- when they're in a critical**
 23 **incident we don't ask them questions -- I don't -- I**
 24 **don't ask them questions.**
 25 Q. Is that part of the policy?

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1 **A. That's part of the collective bargaining.**
 2 Q. Okay. What is it -- what is it about the
 3 collective bargaining that would prevent you as their
 4 supervisor from asking them questions about what
 5 happened?
 6 **A. Rephrase myself.**
 7 Q. Sure. Okay.
 8 **A. When a situation like this happens, yes, I'm**
 9 **the supervisor at the scene. I asked them, "Did you**
 10 **shoot somebody," yes or no, and that's it. I don't go**
 11 **into details of the basics.**
 12 Q. Why not?
 13 **A. Sir?**
 14 Q. Why not?
 15 **A. Again, part of the collective bargaining,**
 16 **they're entitled to an attorney.**
 17 Q. So as part of the collective bargaining
 18 agreement, are you prevented from asking those
 19 questions?
 20 **A. No, sir.**
 21 Q. Okay. Well, then, if you're not prevented,
 22 why would you not ask them? Why do you say the
 23 collective bargaining agreement prohibits you from doing
 24 that?
 25 **A. It's to -- if they have -- if they want to**

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1 **request counsel, they're entitled to counsel before**
 2 **questioning.**
 3 Q. And, then, so once they request --
 4 **A. Well --**
 5 Q. Excuse me. Go ahead.
 6 **A. Just with the basics. You know, Did you shoot**
 7 **this person?**
 8 **You know, okay, then that's it.**
 9 Q. Is that your understanding of the collective
 10 bargaining agreement?
 11 **A. Yes, sir, that's my interpretation, yes.**
 12 Q. Okay. And is that how these investigations
 13 are done?
 14 **A. No. Every -- every situation is different.**
 15 Q. All right. So -- so you have a situation
 16 where two deputies shot and killed a person.
 17 And you as their immediate supervisor,
 18 your understanding of the way that the agreement works
 19 between the Union and the County is that all you can say
 20 is, "Did you shoot them?"
 21 And they have to answer yes or no?
 22 **A. They don't have to answer, but, yeah.**
 23 Q. Okay. And then they can request legal
 24 counsel, and at that point your involvement ends as far
 25 as the investigation goes?

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1 **A. No, with questioning them.**
 2 Q. Okay. And -- and is that because they have
 3 counsel at that point?
 4 **A. If they request it.**
 5 Q. Okay. And if they don't request it what
 6 happens?
 7 **A. Then we can ask them anything we want to.**
 8 Q. Okay. So then -- all right. So you get on
 9 the scene. And what is it that you see when you get to
 10 the scene?
 11 **A. I see the patrol cars and I see patrolmen**
 12 **start to tape, you know, off the residence.**
 13 Q. Okay. And what do you do?
 14 **A. I ask where Vasquez was and Bobby were.**
 15 Q. All right. And what were you told?
 16 **A. They were inside patrol cars. Their weapons**
 17 **had been secured.**
 18 Q. And then what did you do next?
 19 **A. I asked where was the suspect at, Mr. Flores.**
 20 Q. All right. And then did you see him on the
 21 ground?
 22 **A. No, sir.**
 23 Q. All right. What did you -- what -- who -- who
 24 did you ask that question to?
 25 **A. I believe it was Schneider. And there was**

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1 **several deputies that -- that came up to me, and I asked**
 2 **where -- where he was at.**
 3 Q. All right. So, I'm sorry, sir. Who did you
 4 ask that question to?
 5 **A. There were several patrolmen. I believe**
 6 **Daggett approached me, and I remember there was**
 7 **Schneider and some other officers.**
 8 Q. Okay. I want to go to the second paragraph of
 9 your statement, sir.
 10 "I made the location and observed Deputy
 11 Vasquez inside a patrol vehicle. I went up to Deputy
 12 Vasquez and asked if he was okay. As I opened the Tahoe
 13 door, I observed he did not have his duty weapon on his
 14 belt and I asked him where it was and he stated it was
 15 in the back."
 16 What is that referring to?
 17 **A. They had to take away his gun and put it in**
 18 **the back of the Tahoe.**
 19 Q. Okay. So other deputies that had arrived
 20 earlier than you had him do that, to your understanding?
 21 **A. Yes.**
 22 Q. And then you say, "I advised him to get his
 23 weapon and place it back into his holster."
 24 Why did you do that?
 25 **A. Chain of custody.**

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1 Q. Okay. "And then Deputy Daggett then advised
 2 me Deputy Sanchez was in the other Tahoe and he, too,
 3 placed his weapon in the back of his Tahoe."
 4 And you told him to do the same thing,
 5 correct?
 6 **A. Yes, sir.**
 7 Q. So there would be a chain of custody for their
 8 weapons?
 9 **A. Yes, sir.**
 10 Q. And that was an evidentiary concern, correct?
 11 **A. Yes, sir.**
 12 Q. And then you were told that the suspect had
 13 been transported.
 14 At that point did you know whether he was
 15 alive or not?
 16 **A. No, he wasn't -- he had -- he had left in the**
 17 **ambulance. And I asked who had been with him, and they**
 18 **said nobody, so I made them go with him.**
 19 Q. Okay.
 20 **A. They didn't say he was deceased yet, no, sir.**
 21 Q. Right. And then later on did he come back
 22 because he was pronounced dead at the scene and then he
 23 came back?
 24 **A. They transported him to -- he was going to be**
 25 **Air Life'd by helicopter to the hospital, and that**

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1 **was -- that was a different location.**
 2 Q. Right. I understand he went to another
 3 location. But he was pronounced dead at that
 4 location --
 5 **A. Yes, sir.**
 6 Q. -- and his body was brought back to the scene
 7 of the --
 8 **A. Huh-uh.**
 9 Q. Was it not?
 10 **A. I can't -- I mean, I don't think so. I thought**
 11 **it was still at the location.**
 12 Q. Okay. So the photographs of him in the
 13 ambulance, that was done by the Criminal Investigation
 14 Department, that was done --
 15 **A. I believe --**
 16 Q. -- at the other location?
 17 **A. -- at the other location.**
 18 Q. Fair enough. All right. And, then, so you
 19 then say that -- you say there was a family member that
 20 started coming outside, but you didn't know who they
 21 were, correct?
 22 **A. That's correct.**
 23 Q. And then you find out that Gilbert Flores is
 24 pronounced dead at 12:56 p.m., and it was determined
 25 that Gilbert Flores had stabbed his wife.

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1 How did you determine that he had stabbed
 2 his wife?
 3 **A. That's what the other patrolmen had told me.**
 4 Q. All right. You didn't do your own independent
 5 investigation to that effect, correct?
 6 **A. Well, not independent, but I ask -- I start**
 7 **asking more questions.**
 8 Q. Okay. Did you ever see any evidence that he'd
 9 actually stabbed his wife?
 10 **A. No, sir.**
 11 Q. Okay. Even after all this is said and done?
 12 **A. No, sir.**
 13 Q. All right. So that could be an error in your
 14 statement?
 15 **A. That's what I got from the other officers and**
 16 **investigators.**
 17 Q. I understand. I mean, but that would be some
 18 misinformation that you got?
 19 **A. Yes, that could be, yes, sir.**
 20 Q. Okay. And then both -- and he assaulted his
 21 infant daughter, and both had been transported to the
 22 hospital prior to the arrival, correct?
 23 **A. That's correct.**
 24 Q. And no other information -- then you end at,
 25 "No other information gathered at the time," correct?

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1 **A. That's correct.**
 2 Q. Did you attempt to gather any information to
 3 add to your statement after this?
 4 **A. Just the preliminary of the -- what happened.**
 5 Q. Did you do a subsequent statement, or is this
 6 the only one you've done?
 7 **A. This is the only one I've done.**
 8 Q. Okay. So when it says, "No other information
 9 gathered at time," you didn't do any investi -- did you
 10 do additional investigation after you did your
 11 statement?
 12 **A. No.**
 13 Q. Okay. So this is the complete investigation
 14 that you've ever done into this entire incident?
 15 **A. Yes, at the scene, gather information.**
 16 Q. Well, after the fact did you do any additional
 17 investigation as to what happened?
 18 **A. No.**
 19 Q. After the fact did the Professional Integrity
 20 Unit come and talk to you about your involvement at
 21 least in terms of what you said over the radio?
 22 **A. No, sir.**
 23 Q. After you were done did the district attorney
 24 ever come and talk to you?
 25 **A. Just for the deposition.**

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1 Q. Just for the civil case, right?
 2 **A. Yes, sir.**
 3 Q. In relation to the investigation that was done
 4 into the shooting by Bexar County Sheriff's Department
 5 or the Bexar County DA's office, did anybody from the DA
 6 come and talk to you about that?
 7 **A. No, sir.**
 8 Q. And did you have any involvement with the
 9 grand jury?
 10 **A. No, sir.**
 11 Q. So if I understand, the extent of your
 12 involvement is arriving at the scene, saying what you
 13 said in your statement, and that's it?
 14 **A. Yes, sir.**
 15 Q. And after the fact nobody ever told you
 16 anything else?
 17 **A. No, sir.**
 18 Q. Now, you said you've never read the statement
 19 of Deputy Vasquez or Sanchez, correct?
 20 **A. That's correct.**
 21 Q. But you have seen the -- you've been shown the
 22 video of -- that Mr. Fleming did, correct?
 23 **A. Just the part where he was holding a knife.**
 24 Q. Fair enough. We're going to switch and show
 25 that.

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1 MR. WILSON: Go off the record.
 2 MR. LOPEZ: Can we take a break now?
 3 MR. WILSON: We can take a break, uh-huh.
 4 THE VIDEOGRAPHER: The time is 3:30 p.m.
 5 We're off the record.
 6 (Recess taken.)
 7 THE VIDEOGRAPHER: The time is 3:45 p.m.
 8 We're on the record.
 9 (Pedraza Exhibit No. 11 marked.)
 10 Q. (BY MR. WILSON) All right, sir. While we were
 11 off the record I handed you Deputy Vasquez's statement.
 12 You're still reviewing that?
 13 **A. Yes, sir.**
 14 Q. Okay. Why don't we let you finish doing that
 15 and then we'll start? Okay.
 16 MR. WILSON: And go back off the record if
 17 we need to.
 18 THE VIDEOGRAPHER: The time is 3:45.
 19 We're off the record.
 20 (Recess taken.)
 21 THE VIDEOGRAPHER: The time is 3:48 p.m.
 22 We're on the record.
 23 Q. (BY MR. WILSON) All right, sir. We took our
 24 break. And during our break I handed you Deputy
 25 Vasquez's statement made during the course of the

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1 investigation that was conducted by Bexar County. And
 2 you've since reviewed that; is that correct?
 3 **A. That's correct.**
 4 Q. And as I understand it, that is the first time
 5 you've ever reviewed that?
 6 **A. Yes, sir.**
 7 Q. All right. By the way, prior to you giving
 8 your statement did you know that this incident had been
 9 videotaped?
 10 **A. Yes.**
 11 Q. When did you find out that the incident had
 12 been videotaped?
 13 **A. When I was at the scene.**
 14 Q. And how was it that you found out?
 15 **A. Investigators were talking about some -- some**
 16 **male subject had videotaped the -- the shooting --**
 17 Q. Okay.
 18 **A. -- on his cell phone.**
 19 Q. All right. So did you review any videotapes
 20 prior to giving your statement?
 21 **A. No, sir.**
 22 Q. So you learned that there might be a video of
 23 it, but you never viewed it until when? Until the
 24 preparation for your deposition?
 25 **A. When the news media aired it on TV.**

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1 Q. All right. So you never looked at it in terms
 2 of a formal investigation; is that correct?
 3 **A. That's correct.**
 4 Q. You viewed it because the news media put it on
 5 the news --
 6 **A. Yes, sir.**
 7 Q. -- and you viewed it publicly?
 8 **A. Yes, sir.**
 9 Q. And -- but you gave your statement not with
 10 knowledge of it, but not having viewed it?
 11 **A. That's correct.**
 12 Q. Okay. Now, I'm going to show you a portion
 13 of -- this is the Fleming video. Okay?
 14 (Video playing.)
 15 Q. (BY MR. WILSON) And do you recognize what's
 16 depicted in that video?
 17 **A. The Fleming video? I only know that the guy**
 18 **was a young guy, an African-American. Is that**
 19 **Mr. Fleming?**
 20 Q. No, sir. This would be the video that was
 21 done by the neighbor --
 22 **A. Okay.**
 23 Q. -- that -- on his cell phone. And it was a
 24 house that -- do you see this fence right here
 25 (indicating)?

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1 **A. Right here (indicating)?**
 2 Q. Let me show you on my screen -- doesn't do any
 3 good --
 4 **A. Okay.**
 5 Q. This right here (indicating) --
 6 **A. Yes, sir.**
 7 Q. -- that's -- that's for like a retaining pond.
 8 And then Mr. Fleming lives on the other side of that,
 9 and he was inside his house and he was filming the
 10 incident.
 11 **A. Okay.**
 12 Q. Have you ever seen this particular video?
 13 **A. No. Just the portion where he was holding the**
 14 **knife.**
 15 Q. Okay. So do you see the -- can you point out
 16 the house that is the Flores home?
 17 **A. I want to say it's this one right here**
 18 **(indicating).**
 19 Q. Okay. And do you see Deputy Vasquez and
 20 Deputy Sanchez?
 21 **A. Yes, I do.**
 22 Q. All right. And you see -- is that Deputy
 23 Vasquez (indicating)?
 24 **A. That's Vasquez.**
 25 Q. And that's Deputy Sanchez (indicating)?

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1 **A. Deputy Sanchez.**
 2 Q. And then that is?
 3 **A. The patrol vehicle.**
 4 Q. Okay. And do you know whose patrol vehicle
 5 that is?
 6 **A. That's Deputy Vasquez's.**
 7 Q. All right. And if Mr. Vasquez had -- had
 8 followed Bexar County Sheriff's Department policy, he
 9 would have secured that vehicle, correct?
 10 **A. That's correct.**
 11 Q. By taking his keys out of that vehicle when he
 12 arrived at the scene?
 13 **A. He should have been, but, again, it depends on**
 14 **the situation. If it's imminent, sometimes you don't**
 15 **have time.**
 16 Q. All right. But he was -- but if he had time
 17 to get out and get his ballistic shield and walk up to
 18 the house --
 19 **A. Yes, sir.**
 20 Q. -- he should have secured that vehicle?
 21 **A. Yes, sir.**
 22 Q. It shouldn't be sitting there right there with
 23 the keys in the car and the engine running?
 24 **A. Not with the keys in it and the engine**
 25 **running.**

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1 Q. All right. That would be a violation of the
 2 policy?
 3 **A. Yes, sir.**
 4 Q. All right. Now, we don't see Mr. Flores in
 5 this particular incident, but I'm going to start playing
 6 the tape.
 7 **A. Okay, sir.**
 8 Q. Okay.
 9 (Video playing.)
 10 Q. (BY MR. WILSON) Now, real quick. You see
 11 Mr. Flores now, right?
 12 **A. Yes, sir.**
 13 Q. He's the gentleman without his shirt on. And
 14 you see Deputy Sanchez and Deputy Vasquez moving back
 15 away from him, correct?
 16 **A. Yes, sir.**
 17 Q. That would be the appropriate thing to do at
 18 that point, correct?
 19 **A. Yes.**
 20 Q. All right. Do you see how they're positioned
 21 with one in the street and one closer to the cars?
 22 **A. Yes, sir.**
 23 Q. Is that part of a tactical move? I've heard
 24 of something called triangulating. Have you ever heard
 25 that?

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1 **A. Yes; but if Vasquez has a shield, they should**
 2 **use a shield.**
 3 Q. What does that mean?
 4 **A. To be behind him. But, again, every**
 5 **situation, I mean, you have to take ...**
 6 Q. Well, in other words, Deputy Sanchez should
 7 have been behind Vasquez?
 8 **A. If he had a shield, yes.**
 9 Q. Right. And he does have a shield. And I
 10 think that we're --
 11 **A. Yes, you can see that he's got a shield.**
 12 Q. You can see he's got a ballistic shield?
 13 **A. Yes, sir.**
 14 Q. So the appropriate thing for Deputy Sanchez to
 15 have done would have been to stand behind Deputy
 16 Vasquez --
 17 MR. FRIGERIO: Objection; form.
 18 Q. (BY MR. WILSON) -- since he's got the shield.
 19 Is that what you're saying?
 20 MR. FRIGERIO: Objection; form.
 21 **A. That's what I'm saying, but every situation is**
 22 **different.**
 23 Q. (BY MR. WILSON) Okay.
 24 **A. I mean, separating is --**
 25 Q. Okay. And by separating, they could be

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1 triangulating --
 2 **A. Yes.**
 3 Q. -- the suspect, correct?
 4 **A. Yes, sir.**
 5 Q. That's a tactic that you learned?
 6 **A. Yes, sir.**
 7 Q. And what is the purpose of that?
 8 **A. Not to be in a straight line, straight line of**
 9 **fire.**
 10 Q. So that's something that they could be doing
 11 because they learned to do it?
 12 **A. Yes, sir.**
 13 Q. Okay. All right. And so he's coming toward
 14 them and they back off, right?
 15 Now, let's keep walking.
 16 (Video playing.)
 17 Q. (BY MR. WILSON) Now, hold on. Now, at this
 18 particular point do you see whether Deputy Vasquez and
 19 Deputy Sanchez have their weapons drawn?
 20 **A. I can't see Vasquez. It -- it appears Deputy**
 21 **Sanchez does.**
 22 Q. Okay. And can you tell whether or not --
 23 well, Deputy Vasquez is right here (indicating)?
 24 **A. Yes.**
 25 Q. Does he appear to be more than 6 to 8 feet

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1 away from Mr. Flores?
 2 **A. Possible, I mean ...**
 3 Q. What would be your understanding -- I mean,
 4 viewing what you're seeing right here, is he more than 6
 5 to 8 feet away?
 6 **A. He appears to be 8 feet away.**
 7 Q. About 8 feet away?
 8 **A. I mean, 6 to 8, from what I can see from this**
 9 **video. I mean, it's --**
 10 Q. Is it your --
 11 **A. -- the size of a driveway.**
 12 Q. Is it your understanding that Deputy Vasquez
 13 is 6 to 8 feet away from Mr. Flores right now?
 14 MR. LOPEZ: Well, I'm going to -- I'm
 15 going to object to the question; argumentative.
 16 Q. (BY MR. WILSON) Is that your testimony?
 17 **A. It appears to. I mean, I can't -- I don't**
 18 **have -- what is on this video, yes, sir.**
 19 Q. Do you know whether --
 20 MR. LOPEZ: Objection; calls -- objection
 21 to the responsiveness, speculation.
 22 Q. (BY MR. WILSON) Okay. So is it -- you were
 23 taught to measure distances as part of your training,
 24 were you not?
 25 **A. Yes.**

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1 Q. Part of knowing whether you're in immediate
 2 threat of danger is to know how far away the suspect is
 3 from you, right?
 4 **A. It depends on the circumstances, sir.**
 5 Q. Even under -- under this circumstance?
 6 **A. To me it's a danger.**
 7 Q. I didn't -- I didn't ask you that.
 8 My question is: You -- part of what you
 9 were taught is to determine whether or not you're in an
 10 immediate threat with the proximity of the suspect to
 11 you, right?
 12 **A. That's correct.**
 13 Q. You need to know how far away he is to
 14 determine how much of a threat he is, right?
 15 **A. In a stressful situation you're not going to**
 16 **be counting feet.**
 17 MR. WILSON: I object to that as being
 18 nonresponsive.
 19 Q. (BY MR. WILSON) You need to know how far away
 20 he is so that you know how much of a threat he is,
 21 right?
 22 **A. No, sir.**
 23 Q. Okay. You were never taught that?
 24 **A. Again, in this situation you're not going to**
 25 **be counting feet.**

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1 Q. I didn't ask you that, sir.
 2 MR. WILSON: I'm going to object to that
 3 as being nonresponsive.
 4 Q. (BY MR. WILSON) Were you trained to determine
 5 the proximity of the suspect to you to make a
 6 calculation of whether you were under an immediate
 7 threat of harm?
 8 MR. FRIGERIO: Objection; argumentative.
 9 **A. I'm trying to answer the best that I can.**
 10 Q. (BY MR. WILSON) All right. Were you trained
 11 that proximity of the suspect to you is part of the
 12 information you have to know to determine whether you're
 13 under an immediate threat of harm?
 14 **A. Yes, sir.**
 15 Q. Okay. And that would depend upon, also, what
 16 kind of weapon he had, right, if he had one?
 17 **A. Yes, sir.**
 18 Q. So the distance he is away with a gun, of
 19 course, is different than the distance he is away with a
 20 knife, right?
 21 **A. Yes, sir.**
 22 Q. And you were taught that part of the
 23 calculation to determine whether you were under an
 24 immediate threat of harm with a man with a knife is how
 25 far away he is from you, correct?

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1 **A. That's correct.**
 2 Q. What were you taught in that regard?
 3 **A. Well, the size of the person, his demeanor,**
 4 **his aggressiveness.**
 5 Q. My question is as far as distance what were
 6 you taught?
 7 A person with a knife, for them to be an
 8 immediate threat of harm to you, you said you were
 9 taught distance was one of the things to take into
 10 consideration.
 11 So a man with a knife, what is the
 12 distance you were taught?
 13 **A. 21 feet.**
 14 Q. Okay. So you were taught that if a person is
 15 more than 21 feet away from you, the immediate threat of
 16 harm is not there or is at least decreased, correct, if
 17 he's holding a knife?
 18 **A. No, sir.**
 19 Q. What were you taught about the 21-foot rule?
 20 **A. They can -- before you can holster it they --**
 21 **they could stab you within 21 feet or it could be more.**
 22 Q. Okay. And what do you mean it could be more?
 23 **A. I don't know how fast this person is. I don't**
 24 **know if he can throw the knife. I don't know his**
 25 **expertise with a knife.**

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1 Q. And, then, also whether or not you already had
 2 your weapon unholstered or not, correct?
 3 **A. You could miss and he could still charge you,**
 4 **sir. It's something that --**
 5 MR. WILSON: Object to that as being
 6 nonresponsive.
 7 Q. (BY MR. WILSON) The 21-foot rule --
 8 MR. LOPEZ: I'd appreciate it if you let
 9 him finish his answer.
 10 Q. (BY MR. WILSON) The 21-foot rule that you were
 11 taught or the 21-foot information you were given was
 12 based upon your pistol not being out of its holster,
 13 correct?
 14 MR. LOPEZ: Objection to the --
 15 MR. FRIGERIO: Objection; form.
 16 MR. LOPEZ: -- question. The witness was
 17 not allowed to finish his answer.
 18 **A. Again, it all depends on the -- on the person,**
 19 **sir.**
 20 Q. (BY MR. WILSON) Earlier you had made the
 21 determination, sir, that you were taught holstered -- at
 22 21 feet a person could come and stab you if your pistol
 23 is holstered. He could close that distance, correct?
 24 **A. I don't believe I said holstered.**
 25 Q. Okay. Were you taught that there was a

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1 difference between whether your weapon is holstered or
 2 not?
 3 **A. No, sir. To me 21 feet, and it depends on the**
 4 **situation. You could miss.**
 5 Q. So -- so part of the things that you're taught
 6 is you have to know, at least with some degree of
 7 reasonableness, as to how far away the suspect is,
 8 correct?
 9 **A. Yes, sir.**
 10 Q. And in this particular instance it's your
 11 testimony that based upon what you're seeing in that
 12 video, it's your testimony that Mr. Vasquez is 6 to 8
 13 feet away?
 14 **A. And I'm guessing.**
 15 Q. Okay. Have you ever seen any of the
 16 investigation that was done to determine how far away he
 17 actually is?
 18 **A. No, sir.**
 19 **(Pedraza Exhibit No. 12 marked.)**
 20 Q. (BY MR. WILSON) Let me show you Pedraza
 21 No. 12.
 22 Have you ever seen that photograph before?
 23 **A. No, sir.**
 24 Q. It's part of the criminal investigation file
 25 that we were given by Bexar County.

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1 And apparently it is a determination of
 2 the actual distance that Mr. Vasquez -- Deputy Vasquez
 3 is away from at least the sandals of Mr. Flores.
 4 **A. Okay.**
 5 Q. Do you see that?
 6 How far away according to this document is
 7 Deputy Vasquez?
 8 MR. FRIGERIO: Objection to the form of
 9 the question; lacks foundation.
 10 **A. The document says 21 feet .443.**
 11 Q. (BY MR. WILSON) Okay. And how about Deputy
 12 Sanchez?
 13 **A. 23 feet .663.**
 14 Q. So at least according to that document that
 15 was given to us by Bexar County -- I will admit to you
 16 that the actual -- the blowup of the numbers, I did
 17 that. All right?
 18 **A. Okay.**
 19 Q. The actual numbers themselves are on the
 20 original document. All right?
 21 So according to the Bexar County's
 22 investigation of where Mr. Flores' sandals were to where
 23 Deputy Vasquez was is over 21 feet.
 24 MR. FRIGERIO: Objection; form.
 25 Q. (BY MR. WILSON) Is that correct, according to

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1 that document?
 2 **A. Yes, sir.**
 3 Q. It's a far cry from 6 to 8 feet, isn't it?
 4 MR. FRIGERIO: Objection; form;
 5 argumentative.
 6 Q. (BY MR. WILSON) I'll rephrase it.
 7 It's a longer distance than 6 to 8 feet,
 8 correct?
 9 **A. That's correct.**
 10 Q. All right. So your estimation -- if it's, in
 11 fact, 21 feet -- that this photograph shows him 6 to 8
 12 feet is incorrect, correct?
 13 **A. That's correct.**
 14 **(Video playing.)**
 15 Q. (BY MR. WILSON) All right. Now, right now --
 16 and I know that it's still framed -- is Mr. Flores
 17 attempting to get in the patrol car?
 18 **A. No, sir.**
 19 Q. Is he making -- and let's kind of just go
 20 through this. I'm going to back it up a little bit and
 21 we're going to go through the shooting and I'm going to
 22 ask you some questions. Okay?
 23 **A. Okay.**
 24 Q. I'm just going to play this until the point of
 25 the shooting, and then I'll ask you some questions.

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1 (Video playing.)
 2 Q. (BY MR. WILSON) You saw where he got shot,
 3 right?
 4 **A. Yes, sir.**
 5 Q. At the time he was shot was he trying to get
 6 in the patrol car?
 7 **A. No, sir.**
 8 Q. At the time he was shot was he moving towards
 9 Deputy Vasquez or Deputy Sanchez?
 10 MR. FRIGERIO: Objection; form.
 11 **A. I can't tell from that video.**
 12 Q. (BY MR. WILSON) Do you want to see it again?
 13 **A. Sure.**
 14 Q. Look at it again. You tell me if he's -- if
 15 he's moving toward them at the time they decide to shoot
 16 him.
 17 (Video playing.)
 18 Q. (BY MR. WILSON) Do you see his feet move?
 19 **A. I can't tell from that video.**
 20 Q. You want to see it again?
 21 **A. Sure.**
 22 Q. Okay.
 23 MR. LOPEZ: I'm going to object. The
 24 video speaks for itself.
 25 MR. WILSON: That's right.

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1 MR. LOPEZ: You can argue that video. I
 2 don't know where this line of questioning is going to.
 3 Q. (BY MR. WILSON) My question is: You tell me
 4 if you see him advancing towards Deputy Vasquez at the
 5 time Deputy Vasquez pulls the trigger.
 6 **A. Okay.**
 7 MR. LOPEZ: Objection. The video speaks
 8 for itself.
 9 Q. (BY MR. WILSON) You tell me what you see.
 10 MR. LOPEZ: Same objection.
 11 Q. (BY MR. WILSON) Tell me if he's advancing.
 12 MR. LOPEZ: Same objection.
 13 (Video playing.)
 14 **A. I can't tell from that video.**
 15 Q. (BY MR. WILSON) So your testimony is you can't
 16 tell that he's standing still?
 17 **A. You said advancing towards Deputy Vasquez.**
 18 Q. Do you see him moving towards him at the time
 19 of the shooting?
 20 MR. FRIGERIO: Objection; form.
 21 **A. I can't tell from that video.**
 22 Q. (BY MR. WILSON) What is it that you don't --
 23 what would -- you can't tell whether a person is
 24 standing still or their feet are moving based on this
 25 video?

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1 **A. That's correct.**
 2 Q. Okay. It's your testimony that looking at
 3 this video you cannot say that Mr. Flores' feet do not
 4 move from the time he's standing there until the time
 5 he's shot?
 6 **A. I cannot testify to that, yes, sir.**
 7 Q. That's your testimony?
 8 **A. Yes, sir.**
 9 Q. Okay. Is he making any movements with his
 10 arms towards Deputy Vasquez based upon what you saw?
 11 MR. LOPEZ: Objection. The video speaks
 12 for itself.
 13 **A. I -- I can't tell from this video. I cannot**
 14 **tell what Vasquez or Sanchez observed.**
 15 Q. (BY MR. WILSON) I'm talking about what you
 16 observed.
 17 **A. From this video, that's a -- that's a**
 18 **different angle. I cannot see.**
 19 Q. So you're telling me -- I'm not saying -- I'm
 20 not saying what they saw. I'm saying what you see.
 21 **A. Okay.**
 22 Q. Okay. Do you see at the time they decide to
 23 shoot Mr. Flores, do you see him making any threatening
 24 moves with his arms towards them?
 25 MR. LOPEZ: Objection. The video speaks

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1 for itself.
 2 **A. Again, with this video, I cannot testify to --**
 3 **to yes on that.**
 4 Q. (BY MR. WILSON) Oh, so you're telling me that
 5 when you look at this video you can't say one way or the
 6 other whether Mr. Flores is making any sort of
 7 threatening moves with his arms?
 8 MR. LOPEZ: Asked and answered.
 9 **A. That's correct.**
 10 Q. (BY MR. WILSON) Okay. So do you have a
 11 problem with your eyesight, sir?
 12 MR. FRIGERIO: Objection; argumentative
 13 and side-bar.
 14 MR. LOPEZ: Objection; argumentative.
 15 Q. (BY MR. WILSON) It's a valid question.
 16 MR. LOPEZ: It's not. You know that.
 17 Q. (BY MR. WILSON) What is your vision? Is it
 18 20-20? You can answer.
 19 **A. No, sir.**
 20 Q. Do you have -- do you wear contact lenses?
 21 **A. No, sir.**
 22 Q. Do you have uncorrected -- do you have 20-20
 23 vision or no?
 24 **A. No, sir, I do not.**
 25 Q. Okay. Are you -- do you wear glasses?

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1 **A. Yes, when I need to.**
 2 Q. Okay. Do you need to wear glasses in order to
 3 see what's in this video that I'm showing you?
 4 **A. No, sir.**
 5 Q. Can you see it clearly?
 6 **A. Yes, sir.**
 7 Q. All right. Nothing wrong with your eyesight
 8 that you can't see this video clearly?
 9 **A. That's correct.**
 10 Q. All right. And so -- but what you're telling
 11 us is, is that when you see this video you cannot tell
 12 us one way or the other whether Mr. Flores is moving his
 13 feet at the time he's shot, correct?
 14 **A. That's correct.**
 15 Q. You can't tell us whether he's moving his arms
 16 in a threatening manner at the time he's shot?
 17 **A. That's correct.**
 18 Q. All right. Do you see that his hands are
 19 above his -- well, let me just show you a still picture.
 20 I'll show you Exhibit 11 taken from the
 21 video.
 22 MR. LOPEZ: I'm going to object that the
 23 photographs and video images speaks for itself.
 24 Q. (BY MR. WILSON) What is the location of
 25 Mr. Flores' hands?

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1 **A. They're up.**
 2 Q. All right. Does it appear that he's raising
 3 them up as if he's surrendering?
 4 MR. LOPEZ: Objection; calls for
 5 speculation.
 6 **A. I -- I don't know if they're just up. I can't**
 7 **answer by seeing this.**
 8 Q. (BY MR. WILSON) Can you put up -- show on the
 9 video what -- what -- how his hands are?
 10 **A. (Indicating.)**
 11 Q. Okay. Is that a typical sign somebody is
 12 surrendering, in your experience?
 13 MR. FRIGERIO: Objection; form.
 14 **A. Again, it depends on the situation.**
 15 Q. (BY MR. WILSON) I didn't ask you that. I'm
 16 asking you on your experience.
 17 **A. I'm answering on my experience.**
 18 Q. When you see somebody with their hands up just
 19 the way that you've depicted, is that typical of
 20 somebody who is surrendering?
 21 MR. LOPEZ: Objection; calls for
 22 speculation.
 23 Can you be more specific if he had a
 24 knife or does he have a knife?
 25 Q. (BY MR. WILSON) I don't care whether he has a

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1 knife or not. My question --
 2 MR. LOPEZ: I know you don't care, but
 3 that's the whole problem here. I'm going to -- asked
 4 and answered.
 5 Q. (BY MR. WILSON) Sir, when somebody puts their
 6 hands above their head like that way you've just
 7 described, in your experience and your training is that
 8 typical of someone who is surrendering?
 9 **A. It depends on the situation.**
 10 Q. All right. What would -- what would the
 11 situation differ -- how would that not be surrendering?
 12 **A. Is he armed or not armed?**
 13 Q. Well, what if he's just holding a knife?
 14 **A. That's not surrendering.**
 15 Q. How much time was given from the time the
 16 instructions were given to drop the knife to the time
 17 they shot him?
 18 **A. I don't know.**
 19 Q. All right. If they gave him less than a
 20 second to comply, would that be appropriate under the
 21 circumstances?
 22 MR. FRIGERIO: Objection; form.
 23 **A. I can't answer that question. That's ...**
 24 Q. (BY MR. WILSON) All right. If Mr. Sanchez
 25 testified that -- he said, "I'm asking you to" -- "I'm

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1 telling you to drop the knife. It's the last time I'm
 2 going to tell you," and the only thing Mr. Flores does
 3 is raise his hands above his head the way you've seen in
 4 the video and stands still there, would Mr. Sanchez have
 5 the legal justification under the Bexar County policy to
 6 shoot him for failing to drop that knife?
 7 MR. FRIGERIO: Objection; form.
 8 **A. If he's armed with a knife, that's imminent**
 9 **danger for Deputy Sanchez.**
 10 Q. (BY MR. WILSON) Even though he's more than 20
 11 feet away and standing still and not advancing in any
 12 way, would he be -- would he be under an immediate
 13 threat of harm to justify the shooting?
 14 **A. I can't answer that question.**
 15 Q. Based upon what you've seen in this video,
 16 Mr. Flores was shot when he was standing still, raising
 17 his hands above his head the way he was, was this a
 18 justified shooting, in your opinion?
 19 MR. FRIGERIO: Objection; form.
 20 MR. LOPEZ: Objection; form.
 21 **A. I can't answer to the video.**
 22 Q. (BY MR. WILSON) Why -- what is it about the
 23 video that you would -- that you would need -- well, let
 24 me ask you this: What was the immediate threat of harm
 25 that you saw in the video?

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1 **A. Is he armed with a -- is he armed with a**
 2 **weapon?**
 3 Q. Yeah, he has a knife in one hand, yeah.
 4 **A. Then, yes.**
 5 Q. Okay. So standing still with a knife, you
 6 could shoot him under Bexar County policy?
 7 MR. FRIGERIO: Objection;
 8 mischaracterizes the evidence. He wasn't standing
 9 still.
 10 MR. WILSON: He was standing still.
 11 MR. FRIGERIO: He wasn't.
 12 MR. WILSON: Yes, he was.
 13 **A. If it's an imminent danger, yes, sir.**
 14 Q. (BY MR. WILSON) Okay. Well, let me ask you
 15 this way: If he's standing still away from that patrol
 16 car and his hands above his hand simply holding a knife,
 17 can they shoot him?
 18 **A. I don't know. I can't answer for them, sir.**
 19 Q. I'm just -- I'm not asking you that. I'm
 20 asking you based on your understanding of the policy and
 21 the law.
 22 **A. If he's armed with a knife, there's imminent**
 23 **danger, yes, sir, they can.**
 24 Q. Well, what is the imminent danger of a man
 25 standing still with a knife?

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1 **A. He can kill you with a knife.**
 2 Q. What is the imminent danger of a man standing
 3 more than 20 feet away from an armed officer with a
 4 knife? What is the immediate danger that justifies the
 5 shooting?
 6 **A. That's going to be up to the officers that are**
 7 **at the scene.**
 8 Q. I'm not asking about the officers at the
 9 scene. I'm asking your understanding of the law.
 10 **A. Again, I cannot answer that question, sir.**
 11 MR. LOPEZ: That question has been asked
 12 and answered many times.
 13 Q. (BY MR. WILSON) So you're telling me that
 14 according to your understanding of the training you've
 15 received and your understanding of Bexar County
 16 Sheriff's Department policy that a man standing still
 17 with his hands above his head in an apparent -- the way
 18 that you've described them, just because he's holding a
 19 knife and the officers are more than 20 feet away and
 20 he's not advancing towards them and he's not making
 21 threatening moves with his arms, they can shoot him
 22 simply because he's holding a knife?
 23 **A. I can't answer --**
 24 MR. LOPEZ: Hold on, hold on. I'm going
 25 to object on the basis that it calls for speculation and

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1 lacks foundation.
 2 Q. (BY MR. WILSON) You can answer.
 3 **A. I can't answer that question, sir. I don't**
 4 **know what the imminent danger they're seeing at the**
 5 **time.**
 6 Q. Well, you just saw the video. That was the
 7 imminent danger.
 8 **A. You said he was armed with a knife. That's**
 9 **the danger.**
 10 Q. That's it? The mere fact that he's got a
 11 knife under those circumstances is enough for you to say
 12 this was a shooting within the law the way you
 13 understand it and within Bexar County Sheriff's
 14 Department policy?
 15 **A. That's not -- that's not up to me to decide**
 16 **that, sir.**
 17 Q. I'm asking you. You're their supervisor.
 18 **A. Yes, sir, but I can't answer that question.**
 19 Q. I'm not asking -- sir, you -- you have a gun.
 20 **A. Yes, sir.**
 21 Q. You patrol our streets.
 22 **A. Yes, sir.**
 23 Q. Okay. I want to know as a citizen of Bexar
 24 County what your understanding is of the Bexar County
 25 policy and when you can shoot somebody. Okay?

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1 **A. Okay.**
 2 Q. I'm not -- I'm not asking what their thought
 3 process was. We already asked them that.
 4 You've seen this video now.
 5 **A. Yes, sir.**
 6 Q. You've seen what he's doing at the time they
 7 shoot him.
 8 Based upon your understanding as someone
 9 who carries a gun in this county, what was the immediate
 10 threat which justified the shooting?
 11 MR. LOPEZ: Argumentative -- objection;
 12 argumentative and compound.
 13 **A. To answer your question, if you're in fear for**
 14 **your life or the life of a third person, you're**
 15 **authorized to use deadly force.**
 16 Q. (BY MR. WILSON) All right. So what put them
 17 in fear of their life to justify deadly force based upon
 18 what he was doing at the time they shot him?
 19 **A. You'd have to ask them.**
 20 Q. Well, you saw the video. Based upon what you
 21 see in the video, what was it?
 22 MR. LOPEZ: Objection; asked and
 23 answered.
 24 **A. I can't answer that question, sir.**
 25 Q. (BY MR. WILSON) Do you see anything in

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1 there -- in that video which would justify it based upon
 2 what you've seen?
 3 **A. You have to ask -- yes. I mean, according to**
 4 **what you just told me, he's armed with a knife. I can't**
 5 **see it from the video.**
 6 Q. Yeah, I'm assuming he does have a knife in his
 7 hand. I'll grant you that. Him standing still with a
 8 knife, is that enough?
 9 MR. LOPEZ: Objection; asked and
 10 answered.
 11 **A. I can't answer that question if he's standing**
 12 **still or not from this video.**
 13 Q. (BY MR. WILSON) So what movement do you see in
 14 the video which would justify the shooting?
 15 **A. Again, I can't answer that to -- to this**
 16 **video.**
 17 Q. You can't say one way or the other?
 18 **A. No, sir, I cannot.**
 19 Q. Okay. You can't say whether he's moving or
 20 standing still?
 21 **A. That's correct.**
 22 Q. All right. So assume with me for the sake of
 23 this question that he's standing still and he's holding
 24 a knife. Is that enough?
 25 **A. It's up to what the officers see at the**

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1 **moment.**
 2 Q. I'm not saying that. I'm saying based upon
 3 your understanding of the law and your training and the
 4 fact that you hold a gun, you carry a gun.
 5 **A. Okay.**
 6 Q. You're acting under the same policy.
 7 Based upon your understanding of the
 8 policy, a man standing still holding a knife, is that
 9 enough?
 10 MR. FRIGERIO: Objection; form; calls for
 11 speculation.
 12 MR. LOPEZ: Calls for speculation.
 13 **A. If you're in fear for --**
 14 MR. LOPEZ: It fails to set the proper
 15 foundation and asked and answered.
 16 Q. (BY MR. WILSON) Go ahead.
 17 **A. If you're in fear for your safety or that of a**
 18 **third person, you're authorized to use deadly force.**
 19 MR. WILSON: And I will object as
 20 nonresponsive.
 21 Q. (BY MR. WILSON) This is a really simple
 22 question.
 23 You're an officer. You're standing there
 24 with a gun on somebody. That person is standing 21 feet
 25 away from you or more, standing still holding a knife.

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1 Do you think you can legally shoot him
 2 under those circumstances, everything else being equal?
 3 **A. It all --**
 4 MR. LOPEZ: Hold on, hold on. Objection;
 5 overbroad; vague about anything else being equal.
 6 MR. WILSON: That's good. I agree with
 7 that.
 8 Q. (BY MR. WILSON) Let me rephrase the question,
 9 sir.
 10 You're a police officer. Is it your
 11 understanding of the law and Bexar County Sheriff's
 12 Department policy that if a man is simply holding a
 13 knife and not making any aggressive moves towards an
 14 officer he can be shot?
 15 **A. Again, if the officer is in imminent danger,**
 16 **yes, he can.**
 17 Q. Okay. So in that instance is it merely the
 18 fact that he's holding a knife that gives the officer
 19 the reasonable justification?
 20 MR. LOPEZ: Objection; same objection.
 21 Calls for speculation; lack of foundation.
 22 Q. (BY MR. WILSON) I mean, I guess what I'm
 23 trying -- I'm confused, sir.
 24 If I'm -- if I'm 30 feet away from you --
 25 okay.

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1 Let's do this. I'm way over here and I
 2 happen to be holding a knife. Can you shoot me
 3 (indicating)?
 4 **A. From this distance?**
 5 Q. Yes, sir.
 6 MR. FRIGERIO: Objection; form.
 7 **A. If I'm in near for my safety or that of a**
 8 **third person, yes, sir.**
 9 Q. (BY MR. WILSON) Okay. So what would give you
 10 a reasonable justification of being in fear of your
 11 safety if I'm this far away from you so that you can
 12 kill me?
 13 **A. Imminent danger.**
 14 Q. What's the imminent danger?
 15 **A. You're armed with a knife.**
 16 Q. That's it?
 17 **A. Yes, sir.**
 18 Q. That's your understanding of the law?
 19 **A. Yes, sir. You have a weapon.**
 20 Q. The fact that I've got a knife and I'm this
 21 far away, I'm not moving towards you, I'm not trying to
 22 advance towards you, I'm just standing still, you could
 23 shoot me?
 24 **A. Yes, sir.**
 25 Q. That's your understanding of the law and Bexar

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1 County Sheriff's Department policy?
 2 **A. Yes, sir.**
 3 Q. Okay. And that's what you were taught?
 4 **A. Yes, sir.**
 5 Q. The mere presence of a knife is enough to
 6 shoot somebody even if they're that far away and they're
 7 not making any moves toward you?
 8 **A. No, sir.**
 9 MR. FRIGERIO: Objection; form.
 10 Q. (BY MR. WILSON) That's what we just went
 11 through.
 12 **A. I also said imminent danger.**
 13 Q. Well, what was the imminent danger if I'm
 14 standing still and not advancing?
 15 MR. LOPEZ: I'm going to object;
 16 argumentative.
 17 Q. (BY MR. WILSON) I know you want to add that,
 18 but what is your understanding of what constitutes an
 19 immediate danger?
 20 **A. Sir --**
 21 MR. LOPEZ: Objection; argumentative.
 22 **A. -- I'm not adding anything. I'm basing it on**
 23 **what the law is.**
 24 Q. (BY MR. WILSON) I understand that. But you're
 25 telling me the law says if I'm standing still, that's

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1 enough of an immediate danger just because I have a
 2 knife in my hand and I'm that far away?
 3 **A. Yes.**
 4 Q. Okay. So based upon what you've seen in this
 5 video, do you see any discrepancies between the
 6 statement that Mr. Vasquez gave and what you see on the
 7 video at the time of the shooting?
 8 MR. LOPEZ: Objection. The documents and
 9 video speak for themselves.
 10 **A. I can't answer for Deputy Vasquez.**
 11 Q. (BY MR. WILSON) I didn't ask you that.
 12 You read his statement?
 13 **A. Yes, sir.**
 14 Q. You've seen the video at the time of the
 15 shooting, right?
 16 **A. Yes, sir.**
 17 Q. Do you see any discrepancies between his
 18 statement and what you saw in the video?
 19 **A. I do not.**
 20 Q. You do not.
 21 All right. So your view of the video is
 22 Deputy Flores at the time of the shooting is standing 6
 23 to 8 feet away and advancing towards those officers?
 24 That's what you saw in the video?
 25 **A. I said I cannot answer to if he's advancing or**

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1 not.

2 Q. Yes, sir. You said that's what Deputy Vasquez

3 says in the statement, right?

4 **A. Can you show me where, sir, because I'm not**

5 **sure --**

6 Q. Yeah, look on the last page.

7 He said at the time of the shooting he's

8 advancing towards him and he's 6 to 8 feet away.

9 **A. Yes, sir.**

10 Q. Do you think that's consistent with what you

11 saw on the video at the time of the shooting?

12 MR. LOPEZ: Objection; calls for

13 speculation.

14 **A. Again, I can't answer on the video, sir.**

15 Q. (BY MR. WILSON) You keep saying that. What is

16 it about the video that you can't answer that question?

17 MR. LOPEZ: Objection; argumentative.

18 **A. I don't know if it's accurate, it's been**

19 **tampered with. I don't know. I cannot testify to that**

20 **video.**

21 Q. (BY MR. WILSON) Okay.

22 **A. I did not take it.**

23 Q. Okay. So is it -- so you don't believe -- you

24 know whether it's been tampered with or not. We got

25 this video from Bexar County.

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1 **A. Okay.**

2 Q. Okay. Assuming it's in its original form, it

3 was part of the evidence that was gathered during the

4 course of the investigation, assuming it hasn't been

5 tampered with, all right --

6 **A. Yes, sir.**

7 Q. -- assuming that it's properly authenticated

8 based upon what Bexar County has told us, all right, do

9 you see any discrepancies between what Deputy Vasquez

10 says is happening at the time of this shooting and

11 what's in the video?

12 **A. No, I did not.**

13 Q. Okay. So when you look at this video you see

14 a man advancing towards these deputies and 6 to 8 feet

15 away?

16 **A. No, sir.**

17 Q. Okay. Well, that's what he said.

18 **A. I cannot tell you he's advancing or not.**

19 Q. When someone is advancing towards someone

20 else, do their feet have to be moving?

21 **A. No.**

22 Q. So I could advance toward you and my feet not

23 move?

24 **A. Yes, sir.**

25 Q. How could I advance towards you and my feet

Page 195

1 not move?

2 **A. With your arms or body.**

3 Q. Okay. All right. So if I'm standing still

4 and my feet don't move and my body doesn't move, my

5 shoulders don't move, my arms don't move, am I advancing

6 towards you?

7 **A. No, sir.**

8 Q. Okay. So if at the time of this shooting

9 Mr. Flores' feet aren't moving, his body is not moving,

10 his shoulders aren't moving, his arms aren't moving

11 towards these officers, is he advancing towards them?

12 MR. FRIGERIO: Objection; form.

13 **A. I -- I can't answer that question. I was not**

14 **there.**

15 Q. (BY MR. WILSON) You saw it on the tape.

16 **A. Again, I cannot testify on that tape.**

17 Q. I'm telling you: If, in fact, at the time of

18 this shooting Mr. Flores' feet aren't moving, his body

19 is not moving, his shoulders aren't moving, his arms

20 aren't moving towards these officers, is he advancing

21 towards them?

22 MR. FRIGERIO: Objection; assumes facts

23 not in evidence.

24 **A. I can't answer.**

25 MR. LOPEZ: Assumes -- objection; assumes

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1 facts not in evidence.

2 MR. WILSON: And what facts would those

3 be, a different tape?

4 MR. FRIGERIO: Just because you interpret

5 the tape one way, other people can interpret the tape

6 someway else, Counsel.

7 MR. WILSON: Right, right.

8 Q. (BY MR. WILSON) So what -- what advance --

9 what advancement do you see in this tape at the time of

10 the shooting?

11 **A. Again, I can't answer that question on this**

12 **video.**

13 Q. Well, you said it's consistent, sir. That's

14 why I'm asking the question. Okay?

15 MR. LOPEZ: I'm going to -- I'm going to

16 ask the witness to stop answering questions unless you

17 move on because --

18 MR. WILSON: I just want to ask --

19 MR. LOPEZ: -- you have -- you have

20 been through that course --

21 Q. (BY MR. WILSON) Look at the tape, sir. And at

22 the time of the shooting tell me what advancement do you

23 see.

24 **A. Again, I can't answer that question.**

25 Q. Okay. So you don't -- you can't say one way

Page 197

1 or the other?
 2 **A. No, sir, I cannot.**
 3 Q. And even though you can't say one way or the
 4 other, it's your testimony that the testimony -- that
 5 the videotape is consistent with what Officer Vasquez
 6 says?
 7 MR. LOPEZ: Asked and answered.
 8 **A. Yes, sir.**
 9 Q. (BY MR. WILSON) Okay. Would you agree with me
 10 that at the time of the shooting any order that you gave
 11 them to prevent him from getting into the patrol car was
 12 no longer applicable?
 13 **A. Applicable, can you explain?**
 14 MR. LOPEZ: Well --
 15 Q. (BY MR. WILSON) Let me -- let me rephrase it.
 16 He was not trying to get in the patrol car
 17 at the time they shot him, correct?
 18 **A. Correct.**
 19 Q. He had stepped away from trying to get in the
 20 patrol car?
 21 **A. Correct.**
 22 Q. So they didn't have to use any means at that
 23 point to keep him from getting into the patrol car,
 24 correct?
 25 **A. I don't -- I can't answer that question.**

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1 Q. Well, do you see him trying to do it at the
 2 time they shoot him?
 3 **A. I don't know what this is -- was he stepping**
 4 **back, was he stepping forward? I can't answer that**
 5 **question.**
 6 Q. Do you see him trying to get in the patrol car
 7 at the time they shot him? You already said "no."
 8 **A. No.**
 9 Q. Okay. You don't see him doing that, right?
 10 You don't see him making any move towards that patrol
 11 car, do you, at the time he's shot?
 12 MR. FRIGERIO: Objection; form.
 13 **A. What I can see on the video, I cannot -- I**
 14 **don't know if he was stepping back or forward.**
 15 Q. (BY MR. WILSON) Was he making -- he had
 16 stepped away from the patrol car, correct?
 17 **A. That's correct.**
 18 Q. He wasn't making any move to get back in it at
 19 the time they shot him, right?
 20 MR. FRIGERIO: Objection; form.
 21 MR. LOPEZ: Objection. The video speaks
 22 for itself.
 23 **A. Again, I can't answer that question. I don't**
 24 **know if he was stepping back or ...**
 25 Q. (BY MR. WILSON) Do you see him make any

Page 199

1 move -- do you see any stepping back in that video
 2 before he's shot?
 3 **A. I cannot testify to that video, sir.**
 4 Q. What do you mean you can't testify? You
 5 can't --
 6 **A. I can't recall if he's stepping forward or**
 7 **stepping backwards.**
 8 Q. You can't recall it?
 9 **A. I mean, I cannot see that, observe that.**
 10 Q. Do you see him making a move one way or the
 11 other?
 12 MR. LOPEZ: Objection; asked and
 13 answered.
 14 **A. Again, I can't answer that question.**
 15 Q. (BY MR. WILSON) So you can't tell us what you
 16 see in this video?
 17 **A. Not the facts, no, sir, I cannot.**
 18 Q. What do you mean not the facts?
 19 **A. I can't say if he's -- I can't see if he's**
 20 **stepping forward or stepping backwards or --**
 21 Q. Do you trust your own vision?
 22 **A. Yes, I do.**
 23 Q. Okay. Do you trust your own observations
 24 based upon what you see?
 25 **A. Yes, I do.**

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1 Q. Okay. Based upon the observations that you
 2 know about in this video that you can see, do you see
 3 him moving forward or backward?
 4 MR. LOPEZ: Objection; asked and
 5 answered.
 6 **A. I can't see him doing either one.**
 7 Q. (BY MR. WILSON) Do you see him doing any of
 8 it?
 9 **A. Again, I cannot testify either one, forward or**
 10 **backwards.**
 11 Q. Okay. So based on everything that you know,
 12 sir, and after reviewing this video and your own
 13 statement and what was said at the scene and everything
 14 that you know, what was the immediate threat at the time
 15 of the shooting which justified the shooting?
 16 **A. He was armed with a knife.**
 17 Q. And that was it?
 18 **A. Yes, sir.**
 19 Q. And in your mind that's enough?
 20 **A. There's imminent danger.**
 21 Q. Would this shooting be within the policy of
 22 Bexar County Sheriff's Department because he was -- he
 23 did not comply to drop the knife, if that's the only
 24 thing he didn't do?
 25 **A. No.**

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1 Q. It would have to be something more than simply
 2 not complying, correct?
 3 **A. Imminent danger.**
 4 Q. All right. And the imminent danger would have
 5 to be something more than not complying?
 6 **A. That's correct.**
 7 Q. Can the Bexar County Sheriff's Department use
 8 deadly force to -- in regard to a potential threat or as
 9 opposed to an immediate threat?
 10 Do you know what a potential threat would
 11 be, something that might happen?
 12 **A. No.**
 13 Q. It has to be an immediate threat happening at
 14 the time of the shooting, correct?
 15 **A. That's correct.**
 16 Q. So according to your understanding of the
 17 policy, a deputy could not shoot somebody because they
 18 might do something?
 19 **A. That's correct.**
 20 Q. For example, if Mr. Flores is not making any
 21 moves to get back into that house at the time they shoot
 22 him, you couldn't shoot him because you thought he might
 23 run back into the house, correct?
 24 **A. Correct.**
 25 Q. If he might get into that car, but he's not

Page 202

1 making any attempt to do so at the time --
 2 **A. Excuse me, sir. Can you rephrase that? Can**
 3 **you go back to that question?**
 4 Q. Absolutely. There were people in that house,
 5 correct?
 6 **A. Yes, sir.**
 7 Q. If at the time you shoot him he's not making
 8 any moves to get back in the house, you couldn't justify
 9 the shooting because he might decide to run in the
 10 house, correct?
 11 **A. That's correct.**
 12 Q. Okay. If he's not making any moves to get
 13 into the patrol car at the time of the shooting, you
 14 can't say, "Well, he could try to get in the car, that's
 15 why I shot him"? That wouldn't be justified, would it?
 16 **A. No, sir.**
 17 Q. It has to be an immediate threat at the time?
 18 **A. Imminent danger, yes, sir.**
 19 Q. When you pull the trigger?
 20 **A. Yes, sir.**
 21 Q. All right. Have you talked to anybody else
 22 besides counsel in relation to this video within Bexar
 23 County?
 24 **A. No, sir.**
 25 Q. When you saw the video and when it was on the

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1 news, what was your first thought in regard to whether
 2 or not this was a justified shooting?
 3 MR. FRIGERIO: Objection; form.
 4 **A. It was -- I didn't think anything.**
 5 Q. (BY MR. WILSON) You didn't think one way or
 6 the other?
 7 **A. No, sir.**
 8 Q. When you saw what you just saw, you didn't
 9 think whether Deputy Vasquez or Sanchez acted
 10 appropriate or not? You didn't think one way or the
 11 other?
 12 **A. No.**
 13 Q. When you saw what you saw, Mr. Flores, the way
 14 he was at the time of the shooting and once you saw
 15 that, you're telling us you didn't have a thought one
 16 way or the other whether this was a shooting within the
 17 policy or not?
 18 **A. There was imminent danger, yes.**
 19 Q. You saw imminent danger?
 20 **A. Yes.**
 21 Q. Okay. I thought you said when you saw the
 22 video you couldn't tell whether he had a knife or not?
 23 **A. This video, yes, sir.**
 24 Q. This video?
 25 **A. Yes, sir. When I saw it, I saw the knife.**

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1 Q. Okay. And so the mere fact that he has a
 2 knife is imminent danger, and you can shoot him based
 3 upon what you saw in the video?
 4 **A. It's up to -- again, it's up to Vasquez and**
 5 **Sanchez; but the thing is he was armed with a knife**
 6 **(indicating).**
 7 Q. I know, but you're their --
 8 **A. What I -- what I observed.**
 9 Q. -- you're their supervisor, right?
 10 **A. Yes.**
 11 Q. You would have the ability to discipline them
 12 if they shot when they weren't supposed to?
 13 MR. LOPEZ: No, that's a
 14 mischaracterization.
 15 **A. No, sir.**
 16 Q. (BY MR. WILSON) You wouldn't?
 17 **A. No, sir.**
 18 Q. Who would?
 19 **A. It would be PSI or Internal Affairs.**
 20 Q. Internal Affairs. Okay.
 21 If you were on the scene would you have
 22 the ability to say, Hey, I'm going to turn these folks
 23 in to Internal Affairs, if you saw something that was a
 24 violation of policy?
 25 **A. Yes, sir.**

Page 205

1 Q. Okay. So if you saw a shooting that you
 2 thought was outside of policy, you could turn them in?
 3 **A. I'd write a report.**
 4 Q. You could write a report?
 5 **A. Yes, sir.**
 6 Q. Which would be part of the --
 7 **A. I would write a report.**
 8 Q. Okay. And that would be part of the process?
 9 **A. Yes, sir.**
 10 Q. Okay. Based upon what you see in the video,
 11 you wouldn't write a report?
 12 **A. I'd have to write a report.**
 13 Q. I'm talking about turning them in.
 14 **A. I'm not here -- I don't say that there's**
 15 **anything wrong. That's up to the investigation**
 16 **department.**
 17 Q. So you as their supervisor who can say they
 18 violated policy, you don't see a violation of policy in
 19 this video?
 20 **A. No, sir.**
 21 MR. WILSON: No further questions, sir.
 22 EXAMINATION
 23 BY MR. FRIGERIO:
 24 Q. I have a few questions for you, sir.
 25 MR. FRIGERIO: Do you mind if I borrow

Page 206

1 your ...
 2 Q. (BY MR. FRIGERIO) You've been a police officer
 3 for 28 years, sir?
 4 **A. Yes, sir.**
 5 Q. Over those 28 years have you come to
 6 determine -- have you come to know the term "totality of
 7 the circumstances"?
 8 **A. Yes, sir.**
 9 Q. Okay. What does that mean, "totality of the
 10 circumstances"?
 11 **A. The circumstances that are present at that**
 12 **moment.**
 13 Q. Would part of the totality of the
 14 circumstances in this particular case be that Mr. Flores
 15 was attempting to kill Officer Vasquez with a -- with a
 16 knife?
 17 MR. WILSON: Object to the form.
 18 You mean at the time of the shooting or
 19 several minutes before?
 20 MR. FRIGERIO: I'm asking the questions,
 21 Counsel. Now you can make your objection to form,
 22 whatever you want.
 23 MR. WILSON: That's what I just did.
 24 MR. FRIGERIO: Fine.
 25 MR. WILSON: I object to that as being

Page 207

1 vague because you're not saying at what time.
 2 Q. (BY MR. FRIGERIO) Sergeant, you're aware that
 3 part of the totality of the circumstances in this
 4 particular case was that Mr. Flores was using that knife
 5 to attempt to stab Officer Vasquez? You were aware of
 6 that, were you not?
 7 MR. WILSON: Object to the form. Do you
 8 mean at the time of the shooting or prior?
 9 Q. (BY MR. FRIGERIO) You can answer the question.
 10 **A. Yes, sir.**
 11 Q. Is it also part of the totality of the
 12 circumstances as to what occurred inside the residence
 13 as to what type of a call this even was?
 14 **A. Yes, sir.**
 15 Q. You mention in your statement that it was
 16 determined that Mr. Flores had assaulted both not only
 17 his wife, but also his newborn baby?
 18 **A. Yes, sir.**
 19 Q. What does that tell you as an officer with
 20 regard to the violent propensities of an individual that
 21 would attack their newborn baby?
 22 MR. WILSON: Object to the form.
 23 **A. They're extremely violent. I mean, no**
 24 **remorse.**
 25 Q. (BY MR. FRIGERIO) And is that part of the

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1 totality of the circumstances as to what type of an
 2 individual the officers are dealing with?
 3 **A. Yes, sir.**
 4 Q. And with regard to all the totality of the
 5 circumstances, would you also want to know the
 6 conversations that were taking place between both
 7 Deputies Sanchez, Vasquez and Mr. -- Mr. Flores?
 8 MR. WILSON: Object to the form.
 9 Q. (BY MR. FRIGERIO) Would that also be part of
 10 the totality of the circumstances?
 11 **A. Yes, sir.**
 12 Q. And part of those totality of the
 13 circumstances would be the number of times he was
 14 commanded to throw down the knife, correct? That would
 15 also be part of the totality?
 16 MR. WILSON: Object to the form.
 17 **A. Yes, sir.**
 18 Q. (BY MR. FRIGERIO) Did you ever see him throw
 19 down the knife?
 20 **A. No, sir.**
 21 MR. FRIGERIO: Thank you. I'll pass the
 22 witness.
 23 MR. WILSON: Any questions, Albert?
 24 MR. LOPEZ: Let me have your report,
 25 please.

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1 THE WITNESS: (Complies.)
 2 EXAMINATION
 3 BY MR. LOPEZ:
 4 Q. For the record, my name is Albert Lopez. I'm
 5 going to refer you to Exhibit No. 7.
 6 I think we have established that that's
 7 the only report that you have drafted regarding your
 8 participation in this case; is that right?
 9 **A. Yes, sir.**
 10 Q. Okay. And besides the facts that you have in
 11 that report, you did not report any other facts to Bexar
 12 County investigators either Professional Standards or
 13 the Criminal Investigation investigators?
 14 **A. No, sir.**
 15 Q. Okay. And you have not provided any opinions
 16 one way or the other regarding whether this shooting is
 17 being justified, and I mean to IA or to Criminal
 18 Investigation division?
 19 **A. No, sir.**
 20 MR. LOPEZ: Okay. Pass the witness.
 21 FURTHER EXAMINATION
 22 BY MR. WILSON:
 23 Q. Sir, you were asked questions about the
 24 totality of the circumstances.
 25 **A. Yes, sir.**

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1 Q. Do you remember that?
 2 What is your understanding of the totality
 3 of the circumstances, how that comes into play when you
 4 make a determination on whether to shoot somebody?
 5 **A. The violence that's -- it is the officers or**
 6 **violence that you perceive in front of you.**
 7 Q. Well, do you still have to be under an
 8 immediate threat of serious bodily injury?
 9 **A. Yes, sir.**
 10 Q. It doesn't happen what happen -- it doesn't
 11 matter what happened before, does it?
 12 **A. That's correct.**
 13 Q. In other words, Mr. Flores could have -- well,
 14 I'll just take it of this context.
 15 You could see -- you could see somebody
 16 kill somebody else. And if you're not in an immediate
 17 threat of harm, you can't shoot that suspect, can you?
 18 **A. Yes, you can.**
 19 MR. FRIGERIO: Objection; form.
 20 Q. (BY MR. WILSON) You can? Okay.
 21 So let's assume that a suspect kills
 22 somebody else and you don't see it, but you hear that
 23 that's what happened and you're on the scene. Okay?
 24 If that person is not imposing an
 25 immediate threat of harm to you, can you shoot them?

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1 **A. No, sir.**
 2 Q. Okay. So it doesn't matter the extent of the
 3 violence they have against someone else when you make
 4 the actual decision at the time to pull your trigger,
 5 does it?
 6 **A. Yes, it does.**
 7 Q. You still have to be under an immediate threat
 8 of harm?
 9 **A. Yes, sir.**
 10 Q. So even if they were extremely violent to
 11 other people in the minutes prior to the time you pulled
 12 the trigger, that doesn't excuse you if you're not under
 13 an immediate threat of harm at the time. Is that your
 14 understanding?
 15 **A. Yes, sir.**
 16 Q. You have to be under the immediate threat at
 17 the time?
 18 **A. Yes, sir.**
 19 Q. So you can't use a totality of the
 20 circumstances to justify a shooting if you're not under
 21 an immediate threat of harm at the time you shoot,
 22 correct?
 23 **A. That's correct.**
 24 Q. You still have to be under an immediate
 25 threat?

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1 **A. Yes.**
 2 Q. Okay. So counsel asked you questions that you
 3 understood as part of the totality of the circumstances
 4 that Mr. Flores had gotten into an altercation with
 5 Deputy Vasquez where he was trying to hit him with a
 6 knife, correct, earlier, or trying --
 7 **A. Yes.**
 8 Q. -- to stab him?
 9 **A. Yes.**
 10 Q. Right? But that was earlier --
 11 MR. FRIGERIO: He was trying to kill him
 12 with a knife, actually.
 13 Q. (BY MR. WILSON) That was earlier on, right?
 14 **A. Yeah. Yes, sir.**
 15 Q. All right. That wasn't happening at the time
 16 of the shooting, was it?
 17 **A. No.**
 18 Q. So at the time of the shooting that can't be
 19 used as justification for the shooting, can it?
 20 MR. FRIGERIO: Objection; form.
 21 MR. LOPEZ: Yeah, that one calls for
 22 speculation and legal conclusion.
 23 Q. (BY MR. WILSON) Well, based upon your
 24 understanding.
 25 MR. LOPEZ: It calls for a legal

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1 conclusion, anyway.
 2 **A. It leads up.**
 3 Q. (BY MR. WILSON) My question --
 4 **A. It may lead up to -- to a shooting.**
 5 Q. So if Mr. Vasquez -- if Deputy Vasquez says,
 6 "I shot Mr. Flores at the time I did because five
 7 minutes earlier he had tried to stab me with a knife,"
 8 would that be proper justification under your
 9 understanding of the policy?
 10 **A. No, sir.**
 11 Q. And if he says that I knew that he assaulted
 12 his wife and maybe his infant child inside that house 20
 13 minutes earlier, would that in and of itself be
 14 justification?
 15 **A. No, sir.**
 16 Q. Mr. Vasquez and Mr. Sanchez have to be under
 17 an immediate threat at the time they pull the trigger,
 18 right?
 19 **A. Yes, sir.**
 20 Q. Regardless of the fact that maybe some minutes
 21 before there was a more violent altercation between the
 22 two of them, correct?
 23 MR. FRIGERIO: Objection; form.
 24 MR. LOPEZ: Yeah, that one calls for
 25 speculation and a legal conclusion.

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1 Q. (BY MR. WILSON) Is that true?
 2 **A. Yes, sir.**
 3 Q. Okay. You understand it that way, right?
 4 **A. Yes, sir.**
 5 Q. So even if Deputy Vasquez had gotten into an
 6 altercation when Mr. Flores was trying to -- as counsel
 7 says -- kill him with that knife, he would still have to
 8 be under an immediate threat of harm at the time he
 9 pulled the trigger?
 10 **A. Yes, sir.**
 11 Q. And the fact that he had tried to do that
 12 several minutes earlier is not justification to pull the
 13 trigger when he does, correct?
 14 MR. FRIGERIO: Objection; form. It calls
 15 for a legal conclusion.
 16 MR. LOPEZ: Objection. It calls for a
 17 legal conclusion.
 18 Q. (BY MR. WILSON) Based upon your understanding
 19 of the law and the training you received and the policy
 20 of Bexar County Sheriff's Department?
 21 **A. Yes, sir.**
 22 Q. Am I correct?
 23 **A. Yes, sir.**
 24 MR. WILSON: Okay. No further questions,
 25 sir.

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1 MR. FRIGERIO: Reserve our questions.
 2 MR. LOPEZ: I'm going to reserve all my
 3 questions for the time of trial.
 4 THE VIDEOGRAPHER: The time is 4:34 p.m.
 5 We're off the record.
 6 (Deposition concluded at 4:34 p.m.)
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1 CHANGES AND SIGNATURE
 2 WITNESS NAME: DATE OF DEPOSITION:
 3 ROGER PEDRAZA FEBRUARY 27, 2017
 4 PAGE/LINE CHANGE/REASON
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

1 I, ROGER PEDRAZA, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.
4
5
6
7 _____
8 ROGER PEDRAZA
9
10 THE STATE OF _____)
11 COUNTY OF _____)
12 Before me, _____, on
13 this day personally appeared ROGER PEDRAZA, known to me
14 (or proved to me under oath or through
15 _____) (description of identity
16 card or other document) to be the person whose name is
17 subscribed to the foregoing instrument and acknowledged
18 to me that they executed the same for the purposes and
19 consideration therein expressed.
20 Given under my hand and seal of office this
21 _____ day of _____, 2017.
22
23 _____
24 Notary Public in and for
25 the State of _____
Commission Expires: _____

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 ROGELIO)
12 FLORES,)
13 Plaintiffs)
14 v.) CA NO. 5:15-CV-00810RP
15 BEXAR COUNTY, BEXAR)
16 COUNTY SHERIFF'S OFFICE,)
17 GREGORY VASQUEZ,)
18 INDIVIDUALLY AND IN HIS)
19 OFFICIAL CAPACITY AND)
20 ROBERT SANCHEZ,)
21 INDIVIDUALLY AND IN HIS)
22 OFFICIAL CAPACITY,)
23 Defendants.)
24
25 REPORTER'S CERTIFICATION
ORAL VIDEOTAPED DEPOSITION OF
ROGER PEDRAZA
FEBRUARY 27, 2017

1 I, KAREN M. KANE, Certified Shorthand Reporter in
2 and for the State of Texas, hereby certify to the
3 following:
4 That the witness, ROGER PEDRAZA, was duly sworn by
5 the officer and that the transcript of the videotaped
6 deposition is a true record of the testimony given by
7 the witness;
8 I further certify that pursuant to FRCP Rule

1 30(f)(1) that the signature of the deponent.
2 ___x___ was requested by the deponent or a party
3 before the completion of the deposition and returned
4 within 30 days from date of receipt of the transcript.
5 If returned, the attached Changes and Signature Page
6 contains any changes and the reasons therefor;
7 _____ was not requested by the deponent or a party
8 before the completion of the deposition.
9 I further certify that I am neither attorney or
10 counsel for, related to, nor employed by any of the
11 parties to the action in which this testimony was taken,
12 Further, I am not a relative or employee of any
13 attorney of record in this cause, nor do I have a
14 financial interest in the action.
15 Subscribed and sworn to on this the 6th day of
16 Marcj, 2017.
17
18
19 _____
20 KAREN M. KANE,
21 Texas CSR No. 4186
22 Expiration Date: 12/31/2017
23 DepoTexas
24 Firm Registration No. 539
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