

Sheriff Deputy Robert Sanchez

1 (1 - 4)

Page 1	Page 3
<p>1 UNITED STATES DISTRICT COURT FOR 2 THE WESTERN DISTRICT OF TEXAS 3 SAN ANTONIO DIVISION 4 MARITZA AMADOR,) 5 INDIVIDUALLY AND AS) 6 REPRESENTATIVE OF THE) 7 ESTATE OF GILBERT FLORES) 8 AND AS NEXT FRIEND OF) 9 MINOR R.M.F., VANESSA) 10 FLORES, MARISELA FLORES,) 11 CARMEN FLORES AND) 12 ROGELIO FLORES) 13 Plaintiffs,) 14 VS.) CA NO.: 5:15-CV-00810RP 15) 16 BEXAR COUNTY, BEXAR) 17 COUNTY SHERIFF'S OFFICE,) 18 GREGORY VASQUEZ,) 19 INDIVIDUALLY AND IN HIS) 20 OFFICIAL CAPACITY AND) 21 ROBERT SANCHEZ,) 22 INDIVIDUALLY AND IN HIS) 23 OFFICIAL CAPACITY,) 24 Defendants.) 25 ***** ORAL AND VIDEOTAPED DEPOSITION OF DEPUTY ROBERT SANCHEZ JANUARY 10, 2017 ***** ORAL AND VIDEOTAPED DEPOSITION of DEPUTY ROBERT SANCHEZ, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on January 10, 2017, from 3:35 p.m. until 6:55 p.m., before Denise Ganz Byers, CSR, RPR, CRR, RMR, in and for the State of Texas, reported by machine shorthand, at the offices of Law Offices of Charles Frigerio, 111 Soledad, Suite 840, San Antonio, Texas, pursuant to the Federal Rules of Civil Procedure.</p>	<p>1 ORAL AND VIDEOTAPED DEPOSITION OF 2 DEPUTY ROBERT SANCHEZ 3 JANUARY 10, 2017 4 PAGE 4 5 Examination by Mr. Wilson 6 7 Appearances 2 8 Changes and Signature 210 9 Reporter's Certificate 212 10 11 12 13 EXHIBITS 14 EXHIBIT NUMBER DESCRIPTION PAGE 15 Exhibit Number 1 Affidavit of Robert 4 16 Sanchez 17 Exhibit Number 2 Texas Commission on 9 18 Law Enforcement 19 Personal Information for 20 Robert F. Sanchez 21 Exhibit Number 3 1/8/16 policies form 57 22 initiated by Robert F. 23 Sanchez 24 Exhibit Number 4 Witness's Statement of 75 25 Robert F. Sanchez Exhibit Number 5 Frame-by-frame breakdown 186 of "Shooting Events"</p>
Page 2	Page 4
<p>1 APPEARANCES 2 3 FOR THE PLAINTIFFS: 4 Robert P. Wilson 5 THE LAW OFFICES OF THOMAS J. HENRY 6 521 Starr Street 7 Corpus Christi, Texas 78401 8 361.985.0600 9 361.985.0601 (fax) 10 rwilson@thomasjhenrylaw.com 11 12 FOR THE DEFENDANTS GREGORY VASQUEZ AND ROBERT SANCHEZ: 13 Charles S. Frigerio 14 Hector X. Saenz 15 LAW OFFICES OF CHARLES S. FRIGERIO 16 111 Soledad, Suite 840 17 San Antonio, Texas 78205 18 210.271.7877 19 210.271.0602 20 csfrigeriolaw@bscglobal.net 21 22 FOR THE DEFENDANT BEXAR COUNTY, ET AL.: 23 Susan A. Bowen 24 BEXAR COUNTY DISTRICT ATTORNEY'S OFFICE 25 101 W. Nueva, 7th Floor San Antonio, Texas 78205 210.335.2311 sbowen@bexar.org ALSO PRESENT: Gregory Vasquez Philip Hayden, ED.D. VIDEOGRAPHER: Marcelino Gutierrez</p>	<p>1 (The reading of Federal Rule 30(b)(5)(A) 2 into the record was waived.) 3 (Exhibit Number 1 was marked.) 4 THE VIDEOGRAPHER: We're on the record on 5 January the 10th, 2017 at 3:35 p.m. 6 DEPUTY ROBERT SANCHEZ 7 was called as a witness by the Plaintiff and, having 8 been first duly sworn, was examined and testified as 9 follows: 10 EXAMINATION 11 BY MR. WILSON: 12 Q. Would you please tell us your full name, sir? 13 A. Robert Sanchez. 14 Q. Do you have a middle name? 15 A. I have a middle last name. Flores. 16 Q. Okay. So is it Robert Sanchez Flores -- 17 A. Yes. 18 Q. -- or Robert -- 19 Okay. And your date of birth, sir? 20 A. June 21st, 1964. 21 Q. And you live here in San Antonio? 22 A. Yes, sir. 23 Q. And you understand that we're here to take your 24 deposition in a lawsuit that's brought against you 25 arising from the shooting death of Gilbert Flores on</p>



DepoTexas, Inc.

<p style="text-align: right;">Page 5</p> <p>1 August 28th, 2015; is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. You sat in on the deposition of Deputy Vasquez</p> <p>4 just -- which took place today; correct?</p> <p>5 A. Correct.</p> <p>6 Q. Tell me what you disagree with about the</p> <p>7 testimony of Mr. -- or Deputy Vasquez.</p> <p>8 A. About Deputy Vasquez's testimony?</p> <p>9 Q. Yes, sir. Anything you disagree with?</p> <p>10 A. Nothing I can think of.</p> <p>11 Q. All right. Nothing stands out as anything you</p> <p>12 disagree with?</p> <p>13 A. Nothing right now that I can think of, no.</p> <p>14 Q. All right. So as we sit here today -- we just</p> <p>15 finished that deposition a couple of minutes ago --</p> <p>16 A. Right.</p> <p>17 Q. -- it's your testimony that you agree with</p> <p>18 everything that he said?</p> <p>19 A. I can't think of anything.</p> <p>20 Q. Could you tell us your educational background?</p> <p>21 Where did you go to high school?</p> <p>22 A. Memorial High School.</p> <p>23 Q. And when did you graduate high school?</p> <p>24 A. 1982.</p> <p>25 Q. Did you go to college after that?</p>	<p style="text-align: right;">Page 7</p> <p>1 your college classes at SAC and then again at UTSA, did</p> <p>2 you have any sort of classes that talked about when it</p> <p>3 was Constitutionally legal for a officer to use deadly</p> <p>4 force?</p> <p>5 A. I remember classes on use of force, yes.</p> <p>6 Q. Did that include when an officer could</p> <p>7 Constitutionally use le -- deadly force?</p> <p>8 A. I think so, yes, sir.</p> <p>9 Q. Where you studied actual case law?</p> <p>10 A. We might have.</p> <p>11 Q. Okay. I understand that you -- you became a</p> <p>12 deputy with the Bexar County Sheriff's Department; is</p> <p>13 that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And when was it that you became a deputy with</p> <p>16 Bexar County?</p> <p>17 A. I was employed on February 2nd, 1990.</p> <p>18 Q. Prior to that time, had you ever been involved</p> <p>19 in law enforcement?</p> <p>20 A. No.</p> <p>21 Q. What kind of jobs had you had up until that</p> <p>22 point?</p> <p>23 A. I worked for Target and I did do private</p> <p>24 security.</p> <p>25 Q. Did you get a private securities license?</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. Where did you go to college?</p> <p>3 A. San Antonio College.</p> <p>4 Q. And did you get a degree?</p> <p>5 A. Yes.</p> <p>6 Q. What was your degree?</p> <p>7 A. Criminal jus -- law enforcement, associate's.</p> <p>8 Q. And when did you obtain that degree?</p> <p>9 A. About -- it has to be like '86-'87. I think it</p> <p>10 took me like three years, three or four years after high</p> <p>11 school.</p> <p>12 Q. All right. And then did you have any college</p> <p>13 after that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Where did you go to college after that?</p> <p>16 A. UTSA.</p> <p>17 Q. Did you obtain a degree from UTSA?</p> <p>18 A. Yes, sir.</p> <p>19 Q. What was your degree from UTSA?</p> <p>20 A. Criminal justice.</p> <p>21 Q. And when did you obtain that degree?</p> <p>22 A. I want to say it was 1992.</p> <p>23 Q. Any formal college after that?</p> <p>24 A. No.</p> <p>25 Q. When you went through your training or I guess</p>	<p style="text-align: right;">Page 8</p> <p>1 A. I wasn't armed. It was just a -- I don't think</p> <p>2 it was necessarily a license. It was just -- you know,</p> <p>3 I worked for, I think, Wells Fargos and they</p> <p>4 automatically make you a security guard.</p> <p>5 Q. Okay. So after high school you worked at</p> <p>6 Target?</p> <p>7 A. Yes.</p> <p>8 Q. As a security guard?</p> <p>9 A. No.</p> <p>10 Q. Oh.</p> <p>11 A. I was working as like a stocker.</p> <p>12 Q. Okay. And then where did you work -- where</p> <p>13 else -- excuse me -- you said you worked at Wells Fargo?</p> <p>14 A. The security company Wells Fargo, yeah.</p> <p>15 Q. And were you a -- like a security guard?</p> <p>16 A. Yes.</p> <p>17 Q. What kind of locations?</p> <p>18 A. Buildings. The 410.</p> <p>19 Q. Like at night?</p> <p>20 A. Yes. I was going to school, too.</p> <p>21 Q. Okay. And so you didn't carry a weapon in that</p> <p>22 job?</p> <p>23 A. No, I never carried a weapon.</p> <p>24 Q. Was the first time that you ever carried a</p> <p>25 weapon was when you went to work for Bexar County?</p>

<p style="text-align: right;">Page 9</p> <p>1 A. Yes, sir.</p> <p>2 Q. And I see that you obtained your jailer's</p> <p>3 license in February of 1990; is that correct?</p> <p>4 A. Yes, sir.</p> <p>5 (Exhibit Number 2 was marked.)</p> <p>6 Q. (By Mr. Wilson) As a matter of fact, let me</p> <p>7 show you Exhibit -- Sanchez Exhibit Number 2 and</p> <p>8 represent to you that those are some records that we</p> <p>9 received from TCLEOSE. Could you look at those and see</p> <p>10 if they are complete?</p> <p>11 A. (Reviewing document.)</p> <p>12 Yes, this seems to be complete. Yes, sir.</p> <p>13 Q. Okay. And for the purpose of the record and</p> <p>14 the jury, TCLEOSE is the Texas -- what does that stand</p> <p>15 for?</p> <p>16 A. Texas Combined Law Enforcement Association,</p> <p>17 something like that.</p> <p>18 MR. FRIGERIO: First, it's now called</p> <p>19 TCOLE.</p> <p>20 MR. WILSON: TCOLE.</p> <p>21 Q. (By Mr. Wilson) Okay. Texas Commission on Law</p> <p>22 Enforcement?</p> <p>23 A. Commission on Law Enforcement.</p> <p>24 Q. Sorry. And so those would be the ones that</p> <p>25 would maintain -- the state agency that would maintain</p>	<p style="text-align: right;">Page 11</p> <p>1 through the Bexar County Sheriff's Academy?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Not through any other agency or source?</p> <p>4 A. No, sir.</p> <p>5 Q. So anything you learned after 1992 -- well, let</p> <p>6 me back that up.</p> <p>7 You got your Peace Officer's license in</p> <p>8 August of 1992; correct?</p> <p>9 A. I think so, yes, sir.</p> <p>10 Q. Okay. And was that after you went through the</p> <p>11 Academy --</p> <p>12 A. Yes.</p> <p>13 Q. -- at Bexar County?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Okay. So you got a jailer's license in 1990.</p> <p>16 Was there a Jailer Academy training that you received?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And that was also from Bexar County?</p> <p>19 A. Yes, sir.</p> <p>20 Q. All right. So any training that you ever</p> <p>21 received in being a jailer or in law enforcement would</p> <p>22 have been through Bexar County with the exception of</p> <p>23 what you got at UTSA?</p> <p>24 A. Correct.</p> <p>25 Q. All right. And from 1990 forward, as far as</p>
<p style="text-align: right;">Page 10</p> <p>1 when you got your license and your training that you</p> <p>2 received; correct?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And Exhibit 2 is a history from the time</p> <p>5 you obtained your license all the way back to 1990</p> <p>6 through 2016 as to the courses that you've taken; would</p> <p>7 that be correct?</p> <p>8 A. I would think so, yes.</p> <p>9 Q. And when you first -- could we say that any</p> <p>10 training that you've received in law enforcement would</p> <p>11 either have been through San Antonio College, UTSA or</p> <p>12 the Bexar County Sheriff's Academy?</p> <p>13 A. The law enforcement, yes, at San Antonio</p> <p>14 College.</p> <p>15 UTSA, it wasn't so much law enforcement.</p> <p>16 It was more of a -- I think my emphasis was in</p> <p>17 corrections at that time.</p> <p>18 Q. Penitentiaries?</p> <p>19 A. Yes.</p> <p>20 Q. More of a jailer-type situation?</p> <p>21 A. Yes.</p> <p>22 Q. And did that include use of force classes?</p> <p>23 A. I'm sure we covered it somewhere in there.</p> <p>24 Q. Okay. But as far as once you became a licensed</p> <p>25 peace officer, all of your training would have been</p>	<p style="text-align: right;">Page 12</p> <p>1 law enforcement training is concerned, that would have</p> <p>2 been through the Bexar County Sheriff's Academy?</p> <p>3 A. Yes, sir.</p> <p>4 Q. No other outside agency or anything like that?</p> <p>5 A. No, not -- not to my knowledge.</p> <p>6 MR. WILSON: That's Exhibit 2.</p> <p>7 MR. FRIGERIO: Are you going sequentially</p> <p>8 or are we --</p> <p>9 MR. WILSON: That's, yeah, Exhibit 1, just</p> <p>10 a little housekeeping.</p> <p>11 Q. (By Mr. Wilson) Earlier we were given</p> <p>12 interrogatory answers that you had filled out and</p> <p>13 answered in response to some of the discovery that we</p> <p>14 sent to you.</p> <p>15 A. Yes, sir.</p> <p>16 Q. And initially that did not include an affidavit</p> <p>17 verifying those as being true and correct, and then</p> <p>18 we've since received one, which is Sanchez Number 1.</p> <p>19 Is that your signature?</p> <p>20 A. Yes, that is my signature.</p> <p>21 Q. And so that would be your verification that the</p> <p>22 interrogatory answers you gave us were true and correct;</p> <p>23 is that right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. Now, so you started as a Bexar County</p>

Page 13	Page 15
<p>1 deputy in 1992; is that correct?</p> <p>2 A. I'm considered a deputy when I finished the</p> <p>3 Academy in February of '90.</p> <p>4 Q. But you started as a patrol deputy outside of</p> <p>5 the jail system in 1992; is that right?</p> <p>6 A. No. I didn't start patrol until -- let me</p> <p>7 see -- it would have to have been like '96, maybe '98.</p> <p>8 Q. Did you stay in the jail system up until that</p> <p>9 point?</p> <p>10 A. I stayed -- I did around three to four years in</p> <p>11 the jail.</p> <p>12 Q. Okay. And then what did you do?</p> <p>13 A. Then I got chosen to become a DARE officer.</p> <p>14 Q. DARE, is --</p> <p>15 A. Uh-huh.</p> <p>16 Q. -- is that a drug program?</p> <p>17 A. Yes, sir.</p> <p>18 Q. What does that stand for?</p> <p>19 A. Drug Abuse Resistance and Education.</p> <p>20 Q. And did that involve teaching --</p> <p>21 A. Yes, sir.</p> <p>22 Q. -- people about the dangers of drug use?</p> <p>23 A. Fifth graders.</p> <p>24 Q. Fifth graders. Okay.</p> <p>25 A. Uh-huh.</p>	<p>1 force against an inmate?</p> <p>2 A. I don't recall.</p> <p>3 Q. Any time that you were involved as a jailer,</p> <p>4 did you ever have to discharge your weapon?</p> <p>5 A. In -- we don't have weapons. We have the --</p> <p>6 you can't. It's a secure area. We can't have weapons.</p> <p>7 We do -- at that time, we have a pin. We</p> <p>8 snap it. It alerts other officers to quarters, that</p> <p>9 there's a fight going on or we need assistance.</p> <p>10 Q. Okay. And there are other officers that are</p> <p>11 trained to respond to those incidents --</p> <p>12 A. Yes.</p> <p>13 Q. -- is that correct? Is that why you use the</p> <p>14 pin?</p> <p>15 A. Yes.</p> <p>16 Q. So did you have any sort of weapon on you at</p> <p>17 all?</p> <p>18 A. No, sir.</p> <p>19 Q. Makes sense in a jail.</p> <p>20 A. Yeah.</p> <p>21 Q. So you would -- you would roam the halls of the</p> <p>22 jail and the other areas without any sort of weapon?</p> <p>23 A. Yeah. I was assigned a pod, and sometimes I</p> <p>24 was also in the kitchen, worked the kitchen.</p> <p>25 Q. All right. And a pod would be where the</p>
Page 14	Page 16
<p>1 Q. And how long did you do that?</p> <p>2 A. For four years.</p> <p>3 Q. So during those four years you would not be out</p> <p>4 apprehending criminals or doing law enforcement in that</p> <p>5 regard?</p> <p>6 A. Towards, like, the last two or three years I</p> <p>7 did ride-alongs to prepare me.</p> <p>8 Q. So am I correct in understanding that initially</p> <p>9 you worked at the Bexar County jail?</p> <p>10 A. Uh-huh.</p> <p>11 Q. Is that right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Were you an officer that worked with the</p> <p>14 inmates?</p> <p>15 A. Detention officer, yes, sir.</p> <p>16 Q. Mr. Vasquez had told us that he also did that.</p> <p>17 Sometimes he worked on the unit, sometimes he worked in</p> <p>18 the kitchen.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Did you work in different places?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Was it all over the jail?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. The whole time that you were there, did</p> <p>25 you ever have any sort of instances where you had to use</p>	<p>1 inmates were?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. And so you would do that, but you</p> <p>4 wouldn't do that with any sort of weapon?</p> <p>5 A. No, sir.</p> <p>6 Q. But when you obtained your peace officer's</p> <p>7 license you had the ability to have a weapon; correct?</p> <p>8 A. Oh, yes, sir.</p> <p>9 Q. But your job qualifications didn't necessary</p> <p>10 require it?</p> <p>11 A. Repeat that again.</p> <p>12 Q. Your qual -- what you were doing didn't allow</p> <p>13 you to carry it while you were on duty inside the jail?</p> <p>14 A. Yes. I did -- we -- we were -- we could carry</p> <p>15 going to work and going back home. But, yes, we were</p> <p>16 assigned a weapon.</p> <p>17 Q. So what were the years you were involved with</p> <p>18 the jail?</p> <p>19 A. Well, I started in 1990, I want to say all the</p> <p>20 way to about Ninety -- the end of '93, beginning of '94.</p> <p>21 Maybe halfway through '94.</p> <p>22 Q. And then you got connected with the DARE</p> <p>23 program?</p> <p>24 A. Yes, I got it.</p> <p>25 Q. And you taught fifth graders for four years?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. About four years, sir.</p> <p>2 Q. And then during the last -- some part of that</p> <p>3 time period, you did ride-alongs --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- and -- because you were planning on becoming</p> <p>6 a patrol officer?</p> <p>7 A. Yes.</p> <p>8 Q. And so starting around -- if it was four years,</p> <p>9 then it would be around 1998 you became a patrol</p> <p>10 officer; is that correct?</p> <p>11 A. Yeah. But I think I -- They go to patrol</p> <p>12 school. It had to have been like '96-'97.</p> <p>13 Q. So you went through patrol school?</p> <p>14 A. Yes. In the summer.</p> <p>15 Q. And how long was that patrol school?</p> <p>16 A. About three months.</p> <p>17 Q. And was that at the Academy?</p> <p>18 A. Yes.</p> <p>19 Q. And did you have use of force training --</p> <p>20 A. Yes, sir.</p> <p>21 Q. -- at that time?</p> <p>22 A. Uh-huh.</p> <p>23 Q. And up until this point when you're just now</p> <p>24 getting on a patrol unit --</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">Page 19</p> <p>1 A. I -- I couldn't say. It was -- we went through</p> <p>2 the -- we went through -- we took turns. Maybe I went</p> <p>3 through it maybe three or four times.</p> <p>4 Q. Okay. And each time you went through it would</p> <p>5 it be an hour or so?</p> <p>6 A. Oh, no. It depends on the situation. I mean,</p> <p>7 they last maybe five, ten minutes.</p> <p>8 Q. Oh, I see.</p> <p>9 A. Yeah. It was like a -- almost like a real</p> <p>10 situation.</p> <p>11 Q. Okay. So three or four times, five to ten</p> <p>12 minutes a time?</p> <p>13 A. I think so.</p> <p>14 Q. And that would be the extent of how you used</p> <p>15 that?</p> <p>16 A. Yeah, I think so. Yes.</p> <p>17 Q. And you had an instructor who would tell you --</p> <p>18 A. Yes.</p> <p>19 Q. -- whether you should have shot or not shot?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. After that time at SAC, up until the</p> <p>22 time that you went to patrol academy school, in all of</p> <p>23 training you received at Bexar County, did you ever have</p> <p>24 any shoot/don't shoot video simulations?</p> <p>25 A. No. I think that was the only place I had the</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. -- had any of your use of force training</p> <p>2 include any sort of shoot/don't shoot video simulations?</p> <p>3 A. Yes.</p> <p>4 Q. Where did you have shoot/don't shoot video</p> <p>5 simulations?</p> <p>6 A. At San Antonio College when I was getting my</p> <p>7 peace license.</p> <p>8 Q. So that would have been back in 1990?</p> <p>9 A. Yes.</p> <p>10 Q. And what do you recall about those?</p> <p>11 A. I think it was something new that just was</p> <p>12 coming out. And it had a screen, and you had a</p> <p>13 makeshift weapon or -- it was almost like a video game.</p> <p>14 And they would play a scene. And, you know, sometimes</p> <p>15 they would come out with a gun, sometimes they wouldn't.</p> <p>16 Sometimes they'd come out with a knife, sometimes they</p> <p>17 wouldn't.</p> <p>18 It just -- and you would talk to them.</p> <p>19 And I thought it was amazing because the people in the</p> <p>20 video would answer you back, you know. That's how</p> <p>21 advanced it had gotten at that time. And, you know, I</p> <p>22 remember going through that training.</p> <p>23 Q. And how long was that training?</p> <p>24 A. How long?</p> <p>25 Q. I mean, how many weeks did you do that?</p>	<p style="text-align: right;">Page 20</p> <p>1 videos.</p> <p>2 Q. Okay. After you became a patrol officer in '96</p> <p>3 to '98 time frame, up until the time of Mr. Flores'</p> <p>4 shooting, had ever been to the Academy where you</p> <p>5 received video shoot/don't shoot simulations?</p> <p>6 A. I don't recall.</p> <p>7 Q. Nobody ever went through the same thing that</p> <p>8 you had done a few times at SAC?</p> <p>9 A. I -- I couldn't say.</p> <p>10 Q. All right. Did you ever have any live</p> <p>11 simulations?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, explain to me how the live</p> <p>14 simulations worked.</p> <p>15 A. Well, they're scenarios. It's almost like role</p> <p>16 play. Officers play the bad guy and you play -- and</p> <p>17 you're the officer.</p> <p>18 Q. Okay.</p> <p>19 A. And they're -- you know, bring out -- they have</p> <p>20 a weapon. Oh, you don't know they have a weapon.</p> <p>21 Q. Okay.</p> <p>22 A. And they might.</p> <p>23 Q. And so how many times would you have gone</p> <p>24 through the live simulations?</p> <p>25 A. How many times? We would take turns. About</p>

<p style="text-align: right;">Page 21</p> <p>1 two or three times.</p> <p>2 Q. Was it on a yearly basis?</p> <p>3 A. Yes. Probably about once a year.</p> <p>4 Q. Was it part of your inservice?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And so would any of these scenarios that you</p> <p>7 went through on a live simulation, would the -- the</p> <p>8 whole goal was either that was a justified shooting or</p> <p>9 not a justified shooting?</p> <p>10 A. Yes.</p> <p>11 Q. And so you were taught you shouldn't have shot</p> <p>12 at that point, like if somebody comes out?</p> <p>13 A. Right.</p> <p>14 Q. And the instructors that would -- you were</p> <p>15 dealing with would tell you, "No, no, no, that's not --</p> <p>16 you shouldn't have shot at that -- at that gentleman"?</p> <p>17 A. Well, they always said, you know, no situation</p> <p>18 is going to be the same. You know, they try to give us</p> <p>19 the best instruction they can and to use our best</p> <p>20 judgment.</p> <p>21 Q. When they would tell you that, did they tell</p> <p>22 you under what circumstances you could legally and</p> <p>23 within the Constitution shoot a suspect?</p> <p>24 A. I -- I think so, yes.</p> <p>25 Q. And when you went through those -- those</p>	<p style="text-align: right;">Page 23</p> <p>1 A. If you feel that he was a threat to your life.</p> <p>2 Q. The way you felt?</p> <p>3 A. The way I felt.</p> <p>4 Q. You personally?</p> <p>5 A. Yes.</p> <p>6 Q. Your subjective belief?</p> <p>7 A. Yes, when I'm -- when I'm in fear of my life.</p> <p>8 Q. You understand what "subjective" means; right?</p> <p>9 A. When I'm -- explain -- can you explain it to</p> <p>10 me?</p> <p>11 Q. Sure. "Subjective" means what you thought.</p> <p>12 A. Yes, what I thought.</p> <p>13 Q. As opposed to what a reasonably prudent officer</p> <p>14 might think?</p> <p>15 A. A reasonably prudent officer?</p> <p>16 Q. Uh-huh.</p> <p>17 A. It's all different situations.</p> <p>18 Q. Okay. So you were taught that you could shoot</p> <p>19 somebody with a knife as long as you personally felt in</p> <p>20 fear of your life?</p> <p>21 A. Yes.</p> <p>22 Q. Regardless of whether, on an objective basis, a</p> <p>23 reasonably prudent officer would also feel fear?</p> <p>24 A. Well, all situations are different here.</p> <p>25 You -- we can't, you know --</p>
<p style="text-align: right;">Page 22</p> <p>1 trainings, what was your understanding of when you could</p> <p>2 legally shoot a suspect?</p> <p>3 A. When they have a knife, when they have a</p> <p>4 weapon, when they're a threat.</p> <p>5 Q. Okay. Those seem like different things to me.</p> <p>6 A. Uh-huh.</p> <p>7 Q. So what were you taught about when they had a</p> <p>8 knife, when you could legally and justifiably, within</p> <p>9 the Constitution, shoot a suspect?</p> <p>10 A. Can you say it one more time?</p> <p>11 Q. Sure. In your training at Bexar County --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- when were you taught that you could legally</p> <p>14 shoot a suspect who had a knife, to stay within the</p> <p>15 Constitution?</p> <p>16 A. When was I taught?</p> <p>17 Q. What were you taught, like when you could do</p> <p>18 that?</p> <p>19 A. When he's a -- he's a threat. He's a -- when</p> <p>20 you fear for your life.</p> <p>21 Q. Was it based upon your subjective feeling of</p> <p>22 your sense of fear?</p> <p>23 A. Yes.</p> <p>24 Q. And you were taught that, based upon your</p> <p>25 subjective feeling of fear, you could shoot somebody?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. I understand that.</p> <p>2 A. Yeah.</p> <p>3 Q. But did you ever hear the term "reasonably</p> <p>4 prudent officer"?</p> <p>5 A. I'm not sure.</p> <p>6 Q. Did you ever hear the term "an objective fear,"</p> <p>7 that a reasonably prudent officer would fear an</p> <p>8 immediate threat to their life?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Nobody -- you don't recall anybody ever telling</p> <p>11 you that?</p> <p>12 A. No. But they would say if you're in immediate</p> <p>13 fear of your -- of your life or, you know --</p> <p>14 Q. Right.</p> <p>15 A. -- you're in fear of your life or somebody</p> <p>16 else's life.</p> <p>17 Q. Okay. What you felt?</p> <p>18 A. What I felt or any -- any -- me or any off --</p> <p>19 other officer.</p> <p>20 Q. Well, there's a difference. Earlier you told</p> <p>21 me that you understood that when you felt like you were</p> <p>22 in fear --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- you could -- you could shoot somebody who</p> <p>25 had a knife?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. Right, if you're in fear, I mean, of your life, 2 yes. 3 Q. What were you taught about an immediate threat? 4 A. What was I taught? 5 Q. Yes, sir. 6 A. That it's immediate, that it could happen right 7 away. 8 Q. What is your understanding of "immediate"? 9 A. That it could -- can happen any time, right 10 away. 11 Q. It wasn't something that happened in the past; 12 right? 13 A. Right. I mean, it's going to happen or it's in 14 my -- it's about to happen. 15 Q. Okay. Hold on a second. Let's back that up a 16 little bit. 17 You were taught that an immediate threat 18 is something that could happen right then; right? 19 A. Yes. 20 Q. Not something that had happened in the past? 21 A. Oh, right, right. No. 22 Q. Not something that had happened a couple of 23 minutes before? 24 A. Well, it could happen a couple of minutes 25 before or --</p>	<p style="text-align: right;">Page 27</p> <p>1 that immediate threat goes away you can't shoot 2 somebody? 3 A. Yes. Depending on the situation, yes. 4 Q. Well, what do you mean, "depending upon the 5 situation"? 6 A. Well, I mean, the -- the threat might not be 7 there right there, but then all a sudden it can come 8 back. 9 Q. Right. But coming back means it's there again? 10 A. Right. 11 Q. Okay. But were you ever taught that you cannot 12 shoot somebody if the immediate threat is no longer 13 present? 14 A. As long as they have a knife and you're in fear 15 of your life and you feel like, you know, they're going 16 to -- just as a threat to your life. 17 Q. So all of the training that you received at 18 Bexar County leads you to believe that it's the Bexar 19 County policy that even if you're not under an immediate 20 threat of serious bodily harm or injury, you could shoot 21 somebody because they had a knife? 22 A. Well, it depends on the situation. I mean, I'm 23 not going to say here that, you know, it's a different 24 situation, I mean. 25 Q. Well, you said that -- you said that even if</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. If something -- 2 A. I mean, it could be immediate, and then it 3 could go to where it's not immediate, and then immediate 4 again. 5 Q. Okay. So you -- you understood a fluid 6 situation? 7 A. Fluid? 8 Q. Did anybody -- did anybody ever tell you, sir, 9 that when you are -- as part of your training, that when 10 you are out there, it's a fluid situation? 11 A. I don't remember the word "fluid." 12 Q. Did you ever -- did anybody ever give you 13 instructions that the situation may change? 14 A. Oh, yeah. It changes. It depends on -- you 15 know, on the situation. It always changes. 16 Q. Right. The entire scenario, I mean -- 17 A. Yes. 18 Q. -- an event can change during the course of the 19 event; right? 20 A. Oh, yes, sir. 21 Q. Were you taught that you might be in an 22 immediate threat at one point, but then not in an 23 immediate threat again? 24 A. Yes. 25 Q. Okay. And were you taught, then, that once</p>	<p style="text-align: right;">Page 28</p> <p>1 the immediate threat is not there, if they have a knife, 2 you can shoot them? 3 A. No. I said that every situation is different, 4 and that if you're in fear of your life, then you have a 5 right to protect yourself. 6 Q. Well, what was -- what were you taught about 7 what the term "immediate threat" means? 8 A. It means it can happen right there. 9 Q. Immediately, like (indicating) -- 10 A. Yes. Immediately, yes. 11 Q. -- like snapping my fingers? 12 A. Yes, immediate. 13 Q. So let's say, for example, somebody had swung a 14 knife at an officer -- 15 A. Uh-huh. 16 Q. -- seven minutes before. 17 A. Uh-huh. 18 Q. Could you shoot somebody then? 19 A. If I felt that he was still a threat to that 20 officer or somebody else, and to protect the life of 21 somebody else and that officer or myself, yes. 22 MR. WILSON: Okay. Let me object to that 23 as being nonresponsive. 24 Q. (By Mr. Wilson) Based upon the infor -- based 25 upon the notion --</p>

Page 29	Page 31
<p>1 A. Uh-huh.</p> <p>2 Q. -- that seven minutes earlier --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- somebody had swung a knife at an officer --</p> <p>5 A. Right.</p> <p>6 Q. -- and you knew that, could you then shoot him</p> <p>7 based upon the fact that he had done that seven minutes</p> <p>8 ago?</p> <p>9 MR. FRIGERIO: Objection to form. It</p> <p>10 doesn't give enough detail as to what was happening at</p> <p>11 the time.</p> <p>12 Q. (By Mr. Wilson) My question is very specific.</p> <p>13 Just based upon the idea that seven minutes ago somebody</p> <p>14 had swung a knife at somebody --</p> <p>15 A. Uh-huh.</p> <p>16 Q. -- at an officer, could you use that as your</p> <p>17 basis to shoot them then?</p> <p>18 A. As long as he's still a threat to the officer</p> <p>19 or to a third party or to myself.</p> <p>20 Q. In other words, there has to be a -- a threat</p> <p>21 right then --</p> <p>22 A. Each --</p> <p>23 Q. -- at the time of the shooting?</p> <p>24 A. All situations are different.</p> <p>25 Q. Okay. Well, I understand.</p>	<p>1 seven minutes ago, even though he's standing still at</p> <p>2 the time, you could shoot him?</p> <p>3 A. Does he still have a knife?</p> <p>4 Q. Still has a knife in his hand.</p> <p>5 A. Well, as long as he's a threat to me, to</p> <p>6 another officer, or to the family member, yes, he's a</p> <p>7 threat.</p> <p>8 MR. WILSON: Okay. Object to that as</p> <p>9 being nonresponsive.</p> <p>10 Q. (By Mr. Wilson) Is it your understanding, sir,</p> <p>11 that when a man has a knife he is always an immediate</p> <p>12 threat which would justify you killing him?</p> <p>13 A. It depends on the situation. I mean, all</p> <p>14 situations are different.</p> <p>15 Q. All right. Does it also depend, for example,</p> <p>16 on how far away you are?</p> <p>17 A. It depends, like -- say that again.</p> <p>18 Q. Does it depend upon on how far away you are?</p> <p>19 A. Oh, how far I am?</p> <p>20 Q. Yes, sir.</p> <p>21 A. Well, as long as the threat is there and I feel</p> <p>22 that he could threaten somebody else that might be</p> <p>23 closer to him.</p> <p>24 Q. Okay. Just please answer my question. Does it</p> <p>25 depend upon how far you are?</p>
Page 30	Page 32
<p>1 A. You know what I mean? I mean, the threat could</p> <p>2 be right there and it could not be right there and it</p> <p>3 could be right there, you know.</p> <p>4 Q. Okay. I under -- please understand my</p> <p>5 question.</p> <p>6 A. Uh-huh.</p> <p>7 Q. Is it your understanding, sir, that the only</p> <p>8 time you could legally shoot a suspect with a knife is</p> <p>9 if he is giving you an immediate threat of harm?</p> <p>10 A. As long as he's still a threat and he has a</p> <p>11 knife in his hand and he just finished trying to kill</p> <p>12 another officer, or he might go back and finish killing</p> <p>13 a family member, or he might still kill me with that</p> <p>14 knife, then, yes, he's still a threat.</p> <p>15 MR. WILSON: Object to that as being</p> <p>16 nonresponsive, sir.</p> <p>17 Q. (By Mr. Wilson) You threw in potential harm</p> <p>18 and past harm and past threats.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Okay. So let me -- let me break that up.</p> <p>21 Is it your understanding, sir, that if</p> <p>22 nothing -- nothing else happening, a guy standing still,</p> <p>23 but seven minutes ago had tried to stab an officer --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- based upon the fact that he had done that</p>	<p>1 A. No. As long as he's a threat.</p> <p>2 Q. So you could be 40 feet away from a man with a</p> <p>3 knife --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- and you feel like you could have an</p> <p>6 immediate threat of harm and shoot him?</p> <p>7 A. To me?</p> <p>8 Q. Uh-huh.</p> <p>9 A. No. But he could be a threat to others.</p> <p>10 Q. All right. Let's add. Let's say that there's</p> <p>11 two officers out in the street --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- and they're both 20-plus feet away.</p> <p>14 A. Okay.</p> <p>15 Q. Do you think you could shoot somebody just</p> <p>16 because he's standing there with a knife?</p> <p>17 A. As long as I feel he's a threat and I'm in</p> <p>18 immediate danger of my life, yes.</p> <p>19 Q. Are you telling me that it's your training from</p> <p>20 Bexar County that if you and another officer are more</p> <p>21 than 20 feet away and a man is standing still, just</p> <p>22 because he's holding a knife, he is under -- an</p> <p>23 immediate threat justifying you shooting him?</p> <p>24 A. Well, you've got to look at the whole thing.</p> <p>25 Q. No, I don't. I'm looking at --</p>

Page 33

1 **A. Yeah. You've got to look at the whole thing,**
 2 **because -- the whole situation when it leads up to that.**
 3 **I mean --**
 4 Q. Okay. So you're telling me that past actions
 5 can equal immediate threat at the time you pull your
 6 trigger?
 7 **A. Past, present, future.**
 8 Q. All right. So your training tells you that you
 9 don't have to base it upon an immediate threat? You can
 10 base it upon past actions and potential threats?
 11 MR. FRIGERIO: Objection; form.
 12 **A. I'm saying the whole thing. I'm saying you've**
 13 **got to look at the whole thing.**
 14 Q. (By Mr. Wilson) Okay. So you're saying that
 15 your training allows you to not base it upon an
 16 immediate threat at the time you pull the trigger?
 17 **A. Repeat that again.**
 18 Q. You're saying that your training through Bexar
 19 County and Bexar County's policy is, is that you do not
 20 have to base it upon an immediate threat at the time you
 21 pull the trigger?
 22 **A. No. You have to look at the whole thing.**
 23 Q. So even if he's doing nothing at the time,
 24 standing still, not doing a thing, you think you could
 25 shoot him because of the actions he had taken in the

Page 34

1 past and what you think he could do in the future?
 2 **A. No. You have to look at the whole situation.**
 3 Q. But -- so if he is standing still, not doing a
 4 thing, just holding a knife above his head at the time,
 5 and he's not moving towards you or any other officer,
 6 you think you could shoot him?
 7 **A. Like I said, if the situation is where**
 8 **there's -- as long as he has a knife, he's a threat. I**
 9 **mean, there's somebody and that officer there or -- or a**
 10 **family member, as long as he has that knife, he -- he's**
 11 **a threat.**
 12 Q. Do you understand the difference between a
 13 threat and an immediate threat?
 14 **A. Well, I guess a threat is -- I mean, it's going**
 15 **to happen right away, and I'm not -- I mean, an**
 16 **immediate threat. I'm not sure what just a threat**
 17 **you're trying --**
 18 Q. Because --
 19 **A. -- to refer to.**
 20 Q. -- you keep saying he's still a threat.
 21 **A. Right. He's -- he's a threat because --**
 22 Q. But is he an immediate threat if he's just
 23 standing still?
 24 **A. Well, it depends on the situation, sir. I keep**
 25 **telling you that. It depends on the situation.**

Page 35

1 **When he was going at Officer Vasquez, I**
 2 **mean, he was going at him like this. (Indicating.)**
 3 Q. You didn't -- he wasn't shot then?
 4 **A. Hmm?**
 5 Q. He wasn't shot then.
 6 **A. Well, sir --**
 7 Q. He wasn't --
 8 **A. I mean, he was too close to Officer Vasquez. I**
 9 **mean --**
 10 Q. He wasn't shot then.
 11 **A. No, because he was too close to Officer**
 12 **Vasquez.**
 13 Q. We'll go through --
 14 **A. He was going like this.**
 15 Q. -- when you -- when you and Officer Vasquez
 16 decided to kill this man. But my question is: The --
 17 is it your training, based upon all of the training that
 18 you received at Bexar County, that even if he is
 19 standing still with a knife with his hands above his
 20 head and he is not advancing towards any officer, and
 21 he's more than 21 feet away from you and Officer
 22 Vasquez, and he's not moving towards the car and he's
 23 not moving towards the house, just because he has a
 24 knife in his hand, you could legally shoot him?
 25 **A. As long as he has the knife, he's still a**

Page 36

1 **threat.**
 2 Q. Is the answer "yes" to my question?
 3 **A. No.**
 4 Q. Okay. So let me go through the question again.
 5 I'm going to add all of the facts up.
 6 A man is standing still --
 7 **A. Uh-huh.**
 8 Q. -- hands above his head --
 9 **A. Right.**
 10 Q. -- doesn't make a move towards you, doesn't
 11 make a move towards Mr. -- Deputy Vasquez, doesn't move
 12 his hands in any manner, doesn't move his feet in any
 13 manner, is not moving towards the house and is not
 14 moving towards the car, and he has his hands above his
 15 head, just because he's holding a knife and you and
 16 Deputy Vasquez are more than 20 feet away, is it your
 17 testimony, sir, that you could legally and
 18 Constitutionally shoot and kill him in conformance with
 19 Bexar County policy?
 20 **A. Well, if you're referring to Mr. Flores, he was**
 21 **moving. He was a threat. He was making movements.**
 22 Q. That wasn't my question.
 23 Based upon everything I told you --
 24 **A. Uh-huh.**
 25 Q. -- could you have legally, within the Bexar

Page 37

1 County policy and the law the way you were taught it,
 2 shoot and kill that person?
 3 **A. As long as I feel that he's a threat to my life**
 4 **or to Deputy Vasquez or to a family member, yes.**
 5 Q. Okay. So based upon your subjective belief,
 6 you believe that you could still shoot him?
 7 **A. As along as he's a threat.**
 8 Q. Even though he's not making any movement
 9 towards anybody?
 10 **A. I believe he was always making movements. He**
 11 **was making movements although -- all through the**
 12 **situation.**
 13 Q. All right. We're going to get through when you
 14 actually decided to pull the trigger.
 15 But you're saying that even if he's
 16 standing completely still at the time you shoot him --
 17 **A. He -- he wasn't standing still. He was**
 18 **always -- he was -- if it wasn't verbally, he was**
 19 **looking this way. He was -- at one point he was**
 20 **taunting Deputy Sanchez [sic].**
 21 Q. Are you saying you could shoot somebody for a
 22 verbal provocation?
 23 **A. No, because he had a knife.**
 24 Q. Are you saying that if somebody yells at you
 25 happens to be holding a knife you could legally shoot

Page 38

1 him?
 2 **A. As long as I -- Every situation is different.**
 3 **Okay? If I feel he's an immediate -- immediate threat**
 4 **to deputies, officers, to family members, to myself,**
 5 **yes, we have a right to -- if we fear for our lives,**
 6 **yes.**
 7 Q. So based upon your subjective belief, you could
 8 pull the trigger?
 9 **A. As long as he is a threat --**
 10 Q. As long as you believe --
 11 **A. -- and has that knife.**
 12 Q. As long as you believe he was?
 13 **A. Well, as long as he has that knife.**
 14 Q. And even if a reasonably prudent officer
 15 wouldn't have objective facts to make that same
 16 determination, you think you were taught you could shoot
 17 him --
 18 **A. I think --**
 19 Q. -- and kill him?
 20 **A. I think a reasonably prudent officer will look**
 21 **at the whole thing.**
 22 Q. Okay. So your position is Bexar County has
 23 taught you that you could base it upon past actions?
 24 **A. Past, present.**
 25 Q. And potential?

Page 39

1 **A. And potential, yes.**
 2 Q. It doesn't -- and it's your position that you
 3 were never taught that once the immediate threat goes
 4 away, you can no longer use deadly force?
 5 **A. As long as he has a knife in his hand, that**
 6 **threat has not gone away.**
 7 Q. Were you taught, sir, that any time someone has
 8 a knife they are always an immediate threat?
 9 **A. Again, you have to look at the whole situation.**
 10 Q. Okay. So you weren't taught that?
 11 **A. Weren't taught what?**
 12 Q. You were never taught that as long as someone
 13 holds a knife, they are always an immediate threat?
 14 **A. And, again, I'm telling you it depends on the**
 15 **whole situation.**
 16 Q. So let me tell -- and then let's break it down.
 17 What were you taught about a man with a
 18 knife that would justify the feeling of an immediate
 19 threat?
 20 **A. When I went through the scenarios, whether it**
 21 **was the video or whether it was role playing, we were**
 22 **taught that all situations are different. And that when**
 23 **someone is -- pulls a knife and is trying to stab an**
 24 **officer, when someone has finished stabbing someone,**
 25 **when somebody has -- making threats to you and making**

Page 40

1 **movements all around, then I have the right to not only**
 2 **protect myself but other parties.**
 3 Q. Okay. You -- you threw a lot in there. You
 4 know, the actual act of stabbing; right?
 5 **A. Uh-huh.**
 6 Q. That's an immediate threat?
 7 **A. Okay.**
 8 Q. Okay? You agree with that?
 9 **A. Uh-huh.**
 10 Q. Are you telling me that once the stabbing is
 11 over and he's just standing still, the immediate threat
 12 is still there that would justify shooting?
 13 **A. Once the stabbing is over?**
 14 Q. Uh-huh.
 15 **A. No. Well, no, he's a threat. I mean, he just**
 16 **stabbed somebody.**
 17 Q. Is he an immediate threat to you at that point?
 18 **A. Yeah. He has a knife.**
 19 Q. So were you taught in Bexar County that the
 20 mere fact that he had a knife makes him an immediate
 21 threat to justify --
 22 **A. Again --**
 23 Q. -- lethal force?
 24 **A. -- not the mere fact, but the whole totality of**
 25 **the circumstances.**

Page 41	Page 43
<p>1 Q. So were you told that you have to take into</p> <p>2 account the total totality of the circumstances even if</p> <p>3 the immediate threat is no longer there?</p> <p>4 A. That as long as he has the knife in his hand,</p> <p>5 the immediate threat is always there.</p> <p>6 Q. So you were taught that as long as he's still</p> <p>7 holding the knife, he's still an immediate threat,</p> <p>8 regardless of what his actions are at the time you pull</p> <p>9 the trigger?</p> <p>10 A. As long as you look at the whole totality of</p> <p>11 the situation, yes.</p> <p>12 Q. Okay. So let me -- I want to make sure I get a</p> <p>13 complete answer, a correct answer to the question I'm</p> <p>14 asking.</p> <p>15 Were you taught at Bexar County that it's</p> <p>16 Bexar County Sheriff's Department policy that you could</p> <p>17 base a shooting on the totality of the circumstances</p> <p>18 while a man is holding a knife, even if at the time you</p> <p>19 pull the trigger he is not doing anything that's</p> <p>20 threatening?</p> <p>21 A. As long as he has the knife.</p> <p>22 Q. That's what you were taught?</p> <p>23 A. Are you saying -- does he have a knife?</p> <p>24 Q. Yes.</p> <p>25 A. As long as he's a threat, yes.</p>	<p>1 to you or someone else that you would be violating Bexar</p> <p>2 County policy?</p> <p>3 A. Are you referring to this situation, or are you</p> <p>4 just saying in general?</p> <p>5 Q. In general.</p> <p>6 A. I agree, yes.</p> <p>7 Q. Are you familiar with the Bexar County use of</p> <p>8 force policy?</p> <p>9 A. Sure. I've gone over it, sir.</p> <p>10 Q. Have you gone over it since this lawsuit was</p> <p>11 filed, or was it part of your training?</p> <p>12 A. No. It's part of my training.</p> <p>13 Q. Let me show you what was marked as Exhibit 3 to</p> <p>14 Vasquez's deposition, Officer Vasquez's deposition. Do</p> <p>15 you see that?</p> <p>16 A. Uh-huh.</p> <p>17 Q. I'll put that on the screen if we can.</p> <p>18 A. (Indicating.)</p> <p>19 Q. You understand that to be the "Use of Force"</p> <p>20 policy?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Now, I'm going to point out B, "In each</p> <p>23 instance of the use of force, the officer should exhaust</p> <p>24 every reasonable means of employing the minimum amount</p> <p>25 of force to affect an objective before escalating to the</p>
Page 42	Page 44
<p>1 Q. No. That wasn't my question, sir.</p> <p>2 A. Uh-huh.</p> <p>3 Q. Were you taught at Bexar County that, based</p> <p>4 upon the totality of the circumstances, as long as a man</p> <p>5 is holding a knife, even if he's standing still and not</p> <p>6 doing anything to anybody at that moment, you could,</p> <p>7 within policy and within the Constitution, shoot and</p> <p>8 kill him?</p> <p>9 A. As long as you are in fear for your life or the</p> <p>10 fear of other -- of somebody else's life, you have the</p> <p>11 right to defend yourself.</p> <p>12 Q. Okay. And so that's based upon your subjective</p> <p>13 belief at the time?</p> <p>14 A. My subjective belief?</p> <p>15 Q. That's what you were taught.</p> <p>16 A. That you have to look at the whole thing.</p> <p>17 Q. Okay.</p> <p>18 A. That --</p> <p>19 Q. Fair enough. Would you agree, sir, that if you</p> <p>20 used lethal force when there was no immediate threat of</p> <p>21 harm to you or others that you would be violating Bexar</p> <p>22 County policy?</p> <p>23 A. Could you say that again?</p> <p>24 Q. Sure. Would you agree with me that if you used</p> <p>25 lethal force when there was no immediate threat of harm</p>	<p>1 next, more forceful method."</p> <p>2 Do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What is your understanding of that?</p> <p>5 A. Officer Vasquez in this situation used the</p> <p>6 Taser, and it escalated to --</p> <p>7 Q. That wasn't my question, about this incident.</p> <p>8 A. Okay.</p> <p>9 Q. What is your understanding of that?</p> <p>10 A. In there's -- we should start with the minimum</p> <p>11 force, the least force -- the least lethal force; and if</p> <p>12 it escalates, use the more lethal force.</p> <p>13 Q. And then it says, "However, an officer is not</p> <p>14 required to engage in prolonged combat or struggle</p> <p>15 rather than resorting to that method which will most</p> <p>16 quickly and safely bring the situation under control."</p> <p>17 What is your understanding of that?</p> <p>18 A. That if we get into a situation where we're</p> <p>19 dealing with an individual who does not obey our</p> <p>20 commands, who -- or we -- or, you know, different --</p> <p>21 like I said, situations are different.</p> <p>22 Or we're in a situation where we think</p> <p>23 we're in imminent fear -- or we're in fear of our lives,</p> <p>24 then we have a right to use deadly force.</p> <p>25 Q. It doesn't say that anywhere in there.</p>

Page 45

1 **A. No. But I still -- you asked me if that's what**
 2 **I --**
 3 Q. Okay.
 4 **A. -- what I interpret.**
 5 Q. So you understand, sir, that this means that
 6 you could go -- you don't have to go through a prolonged
 7 combat or struggle --
 8 **A. Right.**
 9 Q. -- rather than resorting to lethal force,
 10 because that could quickly and safely bring the
 11 situation under control?
 12 **A. Right.**
 13 Q. And by that, "safely," you mean safely for you
 14 and the officers or other people?
 15 **A. Yes, sir.**
 16 Q. Not safety for the guy that you're shooting?
 17 **A. Not safety for the guys that we're shooting?**
 18 **Well --**
 19 Q. Yeah.
 20 **A. -- I mean, obviously he's the one attacking.**
 21 Q. Right. But -- well -- but what I'm saying is
 22 this policy, when you're talking -- when this says the
 23 words "safely under control," your understanding is not
 24 for the perpetrator and his safety, but for the safety
 25 of officers or other people?

Page 46

1 **A. Yes.**
 2 Q. All right. So you don't care about the safety
 3 of the perpetrator?
 4 **A. Oh, we -- I won't say we don't care. I'm just**
 5 **saying we're -- at that point, we -- we're in fear of**
 6 **our lives and --**
 7 Q. Okay. Well, this section --
 8 **A. -- says we have a right to use deadly force.**
 9 Q. Where in this section does it say, "as long as
 10 you're in fear for your life"?
 11 **A. It doesn't. But I would think that if you're**
 12 **in prolonged combat and we're in a struggle, you know,**
 13 **I'm going to be in fear for my life.**
 14 Q. What if it's a struggle that wouldn't cause you
 15 serious bodily injury or harm, could you still just
 16 shoot somebody because you don't want to go into a
 17 prolonged battle?
 18 **A. No. So that don't make sense.**
 19 Q. What's -- well, is that what your understanding
 20 is?
 21 **A. Of that?**
 22 Q. Uh-huh.
 23 **A. No.**
 24 Q. Okay. So are you saying then, when you talk
 25 about "safely," we're talking about safety of officers

Page 47

1 and others, but not the perpetrator involved?
 2 **A. No, not necessarily.**
 3 Q. Okay. Now, then it says D, "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 What is your understanding of that policy?
 8 **A. We tell the person, "Drop your weapon, get on**
 9 **the ground," we cuff them. That's it.**
 10 Q. And if they don't comply --
 11 **A. Uh-huh.**
 12 Q. -- even if you don't feel the need for
 13 self-defense --
 14 **A. Uh-huh.**
 15 Q. -- by this policy, you could use lethal force?
 16 **A. As long as the -- they had complied -- if they**
 17 **don't comply, you said?**
 18 Q. Yes.
 19 **A. No. If they don't comply, then they're not**
 20 **following that then.**
 21 Q. No, no, no. Let me -- let me -- listen to my
 22 question, sir.
 23 **A. Okay. Yeah.**
 24 Q. Is it your understanding of this particular
 25 section that just because someone doesn't comply, even

Page 48

1 though there's no immediate or apparent danger calling
 2 for self-defense, you could use lethal force?
 3 **A. No.**
 4 Q. Okay. So it's not your position, then, that
 5 just because someone doesn't comply that you could shoot
 6 them?
 7 **A. As long as they're not a threat and don't have**
 8 **the knife, I -- yes, I do.**
 9 Q. Okay. So it's -- the mere noncompliance is not
 10 enough; is that your posi -- is that your understanding?
 11 **A. The mere noncompliance?**
 12 Q. Yeah. You give him a command, he doesn't
 13 comply with it. That, in and of itself, would not be
 14 enough to shoot him?
 15 **A. As long as he doesn't have a knife or a weapon,**
 16 **yes, I agree with that.**
 17 Q. Okay. Well, let's -- let's say he's got a
 18 knife --
 19 **A. Uh-huh.**
 20 Q. -- and he doesn't drop the knife when you tell
 21 him.
 22 **A. Uh-huh.**
 23 Q. Even though there's no apparent danger calling
 24 for self-defense --
 25 **A. Uh-huh.**

<p style="text-align: right;">Page 49</p> <p>1 Q. -- do you think this section would allow you to</p> <p>2 shoot him?</p> <p>3 A. I think as long as he has a knife, he's still a</p> <p>4 threat. And you're saying whether this says we're</p> <p>5 allowed to use -- Well, it says reasonable force. It</p> <p>6 doesn't say deadly force. So --</p> <p>7 Q. "Deputies may use reasonable force."</p> <p>8 A. Right.</p> <p>9 Q. But in this particular instance --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- is it your understanding that this section</p> <p>12 would allow you to use lethal force if a guy is holding</p> <p>13 a knife, even though there's no apparent -- immediate or</p> <p>14 apparent danger calling for self-defense?</p> <p>15 A. Sir, that's -- that's -- you know, like again,</p> <p>16 that's -- that's -- I mean, I don't see how him having a</p> <p>17 knife he's not a -- he's -- you know, he's -- you know,</p> <p>18 how he's not a threat, you know.</p> <p>19 Q. It doesn't say "threat."</p> <p>20 A. I know it doesn't say "threat." But you're</p> <p>21 saying he has a knife. So as long as he has a knife.</p> <p>22 Q. Is it your testimony, sir, that every threat</p> <p>23 level is the same?</p> <p>24 A. No. Every -- there's different --</p> <p>25 Q. There is different --</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. A knife is not necessarily a remote weapon?</p> <p>3 A. Yeah. Well, they're both still threats,</p> <p>4 though.</p> <p>5 Q. That wasn't my question.</p> <p>6 A. Okay.</p> <p>7 Q. A knife is less of a threat than a gun? You --</p> <p>8 A. Yeah.</p> <p>9 Q. -- recognize that; right?</p> <p>10 A. Yeah.</p> <p>11 MR. FRIGERIO: Objection; form.</p> <p>12 Q. (By Mr. Wilson) Someone swinging a knife is</p> <p>13 more of a threat than someone just standing there 20</p> <p>14 feet away holding it; would you agree with that?</p> <p>15 A. I --</p> <p>16 Q. You would agree?</p> <p>17 A. They're -- I would say it's more of a threat to</p> <p>18 the person he's swinging at.</p> <p>19 Q. Right.</p> <p>20 A. Uh-huh.</p> <p>21 Q. And so if he -- if he's just standing there</p> <p>22 holding a knife, he's less of a threat than a person</p> <p>23 who's closer in proximity and swinging a knife?</p> <p>24 A. Well, I understand what you're saying.</p> <p>25 Q. Is that a --</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Yes. Yes, sir.</p> <p>2 Q. -- threat levels; right?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Someone with a gun is a different --</p> <p>5 A. Oh, yes, sir.</p> <p>6 Q. -- threat than someone with a knife --</p> <p>7 A. Right.</p> <p>8 Q. -- right?</p> <p>9 A. Uh-huh.</p> <p>10 THE REPORTER: Excuse me. You're starting</p> <p>11 to talk over each other.</p> <p>12 Q. (By Mr. Wilson) Let me finish my question --</p> <p>13 A. Okay.</p> <p>14 Q. -- and I'll let you do the same.</p> <p>15 You understand, sir, that a knife is a</p> <p>16 different threat than a gun?</p> <p>17 A. Yes, sir.</p> <p>18 Q. If you're 20-odd plus feet away from a man with</p> <p>19 a knife --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- that's less of a threat to you than someone</p> <p>22 20 feet away with a gun?</p> <p>23 A. Oh, yes, sir.</p> <p>24 Q. Because that -- a gun is a remote weapon;</p> <p>25 right?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. It's just --</p> <p>2 Q. -- "yes" or a "no"?</p> <p>3 A. No.</p> <p>4 Q. You don't agree with that?</p> <p>5 A. No.</p> <p>6 Q. So it's your testimony that a man standing</p> <p>7 still holding a knife is equal in threat to someone who</p> <p>8 is swinging a knife at somebody in close proximity?</p> <p>9 A. It depends on the situation. You have to look</p> <p>10 at the whole thing. You can't just say because he's</p> <p>11 swinging -- swinging a knife he's -- he is a threat and</p> <p>12 he's not -- and he's holding it and he's not a threat,</p> <p>13 because things can change very quickly out there.</p> <p>14 Q. My question -- That wasn't my question. I'm</p> <p>15 saying, is the level of threat the same?</p> <p>16 A. No. The level of threat is, of course,</p> <p>17 different. Yeah, it's different.</p> <p>18 Q. Right. And the immediate danger of serious</p> <p>19 bodily injury is different; correct?</p> <p>20 MR. FRIGERIO: Objection; form.</p> <p>21 A. I think the immediate -- when he's swinging at</p> <p>22 somebody, of course, it's immediate.</p> <p>23 Q. (By Mr. Wilson) If he's standing still just --</p> <p>24 holding his knife, just standing still, not advancing</p> <p>25 towards anybody, that's not immediate, is it?</p>

<p style="text-align: right;">Page 53</p> <p>1 A. Well, you've got to look at --</p> <p>2 MR. FRIGERIO: Objection; form.</p> <p>3 A. You've got to look at the whole thing. I</p> <p>4 can't -- I can't just tell you. You know, you have to</p> <p>5 look at the whole thing. You can't just --</p> <p>6 Q. (By Mr. Wilson) Based upon that alone,</p> <p>7 standing still, not advancing towards anybody, that's</p> <p>8 not an immediate threat just because he's holding a</p> <p>9 knife; right?</p> <p>10 A. Yeah. Again --</p> <p>11 MR. FRIGERIO: Objection; form.</p> <p>12 A. Again, every situation is different. Things</p> <p>13 change real quick. Things can go real bad real quick</p> <p>14 right away, you know.</p> <p>15 Q. (By Mr. Wilson) Okay. But you're saying what</p> <p>16 can happen. Okay. I'm --</p> <p>17 A. What can happen --</p> <p>18 Q. My question is very clear. A man just standing</p> <p>19 still holding a knife, not advancing towards anybody or</p> <p>20 trying to swing it at anybody, are you telling me that</p> <p>21 the mere fact that he's standing there with a knife is</p> <p>22 an immediate threat of harm?</p> <p>23 A. Yeah. It depends on the situation. Every</p> <p>24 situation is different.</p> <p>25 Q. That -- just those set of facts by themselves,</p>	<p style="text-align: right;">Page 55</p> <p>1 advancing towards you or in any way swinging that knife</p> <p>2 towards you, is that person an immediate threat of</p> <p>3 serious bodily injury to you as an officer?</p> <p>4 MR. FRIGERIO: Objection; form.</p> <p>5 A. All I can respond to you is that those</p> <p>6 situations are different and he could be an immediate</p> <p>7 threat.</p> <p>8 Q. (By Mr. Wilson) So in some circumstances that</p> <p>9 person could still be an immediate threat?</p> <p>10 A. Oh, yes, sir.</p> <p>11 Q. Even if they're just standing still?</p> <p>12 A. But you have to look at the whole situation,</p> <p>13 because --</p> <p>14 Q. That wasn't my question.</p> <p>15 Were you taught, sir, in your training</p> <p>16 that even if a person is standing still --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- just holding a knife and standing still as a</p> <p>19 stone, that person is an immediate threat which would</p> <p>20 justify the use of lethal force?</p> <p>21 A. I was taught that someone with a knife is a</p> <p>22 threat to you. Whether it's immediate or whether he had</p> <p>23 just used the knife or whether he throws the knife, he's</p> <p>24 a threat.</p> <p>25 Q. But you understand the difference between an</p>
<p style="text-align: right;">Page 54</p> <p>1 is it your testimony that that's an immediate threat of</p> <p>2 serious bodily injury?</p> <p>3 MR. FRIGERIO: Objection; form.</p> <p>4 A. I believe that you have to look at the whole</p> <p>5 thing. You can't just say someone just standing there</p> <p>6 is -- is -- is not a threat.</p> <p>7 You have to look at the whole situation.</p> <p>8 All situations are different. This situation is</p> <p>9 different than other situations.</p> <p>10 MR. WILSON: Object to that as being</p> <p>11 nonresponsive.</p> <p>12 Q. (By Mr. Wilson) Earlier you told me that</p> <p>13 there's an immediate threat of serious bodily injury</p> <p>14 when someone is swinging a knife at you; correct?</p> <p>15 A. Correct.</p> <p>16 Q. And what you're now telling me is that it's</p> <p>17 your opinion that someone who's standing still with a</p> <p>18 knife more than 20 feet away from you not swinging at</p> <p>19 anybody is also an immediate threat?</p> <p>20 A. No, sir. I'm saying that all situations are</p> <p>21 different and that you have to look at the whole total</p> <p>22 situation.</p> <p>23 Q. If you could please answer this question with a</p> <p>24 yes or no: If someone is just standing still with a</p> <p>25 knife more than 20 feet away from you and is not</p>	<p style="text-align: right;">Page 56</p> <p>1 immediate threat and not an immediate threat; right?</p> <p>2 A. Well, yes.</p> <p>3 Q. You were taught that; right?</p> <p>4 A. The difference?</p> <p>5 Q. Yes.</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. What were you taught about the</p> <p>8 difference between potential threat and immediate</p> <p>9 threat?</p> <p>10 A. What was I taught?</p> <p>11 Q. Yes, sir.</p> <p>12 A. I think that's just something that you -- you</p> <p>13 know, that immediate is right there, potential is that</p> <p>14 he has the potential to be immediate or the potential to</p> <p>15 go get a gun or the potential to do other stuff.</p> <p>16 Q. You can't shoot and kill somebody for a</p> <p>17 potential threat, can you?</p> <p>18 A. Well, if he's a threat and you feel that you're</p> <p>19 in fear of your life.</p> <p>20 Q. Okay. So you were taught by Bexar County that</p> <p>21 even if someone is a potential threat and you had a</p> <p>22 subjective fear of harm, you could legally shoot them?</p> <p>23 A. Again, all circumstances are different and you</p> <p>24 have to look at the totality of the situation.</p> <p>25 Q. Okay. That wasn't my question, sir.</p>

Page 57

1 You told me that as long as you still fear
 2 for your life, if there was a potential threat, you
 3 could legally shoot somebody?
 4 **A. As long as you look at the whole situation,**
 5 **yes, sir.**
 6 Q. What about a past threat?
 7 **A. Past threat?**
 8 Q. Yeah. What were you taught about what is a
 9 past threat?
 10 **A. I don't remember what I was taught for the past**
 11 **threat.**
 12 **(Exhibit Number 3 was marked.)**
 13 Q. (By Mr. Wilson) Okay. Let me show you what is
 14 marked as Sanchez Exhibit 3.
 15 **A. 3.**
 16 Q. Do you recall that document, sir?
 17 **A. (Reviewing document.)**
 18 **I'm not sure, but it has my initials.**
 19 Q. All right. And it actually has a date on it,
 20 doesn't it?
 21 **A. Oh, yes, sir.**
 22 Q. What is the date on that?
 23 **A. January 8th, 2016.**
 24 Q. Why did you go through that on January 8th,
 25 2016?

Page 58

1 **A. I think it was my inservice.**
 2 Q. All right.
 3 **A. I want to say inservice, yes.**
 4 Q. Did you go through same with -- was Deputy
 5 Vasquez there with you?
 6 **A. No. Everybody goes different.**
 7 Q. So that was part of your inservice?
 8 **A. Yes, sir.**
 9 Q. And that happened to be about four months after
 10 this incident with Mr. Flores; correct?
 11 **A. Yeah, that's when it was**
 12 Q. Was that a coincidence, or were you told you
 13 had to go through this?
 14 **A. No, no. It's -- I guess it was my time for**
 15 **inservice. I was probably already scheduled.**
 16 Q. All right. And that -- that is an actual
 17 inservice form that talks about the "Use of Force"
 18 policy in Bexar County; correct?
 19 **A. Correct.**
 20 Q. Do you have previous "Use of Force" policies
 21 where you initialed them like that?
 22 **A. I might have. I'm not -- I don't quite**
 23 **remember.**
 24 Q. Any time you go through an inservice, do they
 25 go through the "Use of Force" policy?

Page 59

1 **A. Yes. I'm unsure if every one, every inservice.**
 2 **It might be every other one.**
 3 Q. Because I looked on your TCLEOSE records and it
 4 looks like you went through -- in 2012, you went through
 5 a "Use of Force (non-intermediate core course)."
 6 Would that be part of an inservice?
 7 **A. Probably so, sir.**
 8 Q. That would be 2012. And the next time I see it
 9 is in 2014.
 10 **A. Okay.**
 11 Q. And then, again, in May of 2016. Did you go
 12 through another course like that in May of 2016?
 13 **A. I don't remember.**
 14 Q. And then you went through this course in
 15 January of 2016.
 16 Is it your testimony that this January
 17 2016 was not part of any sort of remedial training
 18 following this shooting?
 19 **A. No, sir. It was yearly training.**
 20 Q. Nobody had told you to go through anything like
 21 that?
 22 **A. No.**
 23 Q. By the way, was -- since you became a patrol
 24 officer, was this the first time you ever had to
 25 discharge your weapon on a citizen?

Page 60

1 **A. Yes, sir.**
 2 Q. And had you been disciplined ever during your
 3 career up until this point?
 4 **A. Disciplined?**
 5 Q. Yes, sir.
 6 **A. I might have been written up.**
 7 Q. For like what?
 8 **A. I wrecked my car driving.**
 9 Q. Okay.
 10 **A. I think one time I -- I forgot to give a**
 11 **juvenile her backpack. I think mainly stuff like that.**
 12 Q. So let me see the exhibit.
 13 **A. This one?**
 14 Q. Yes, sir.
 15 **A. (Indicating.)**
 16 Q. Exhibit 3, do you see I there?
 17 **A. Yes, sir.**
 18 Q. Are those your initials after the I?
 19 **A. Yes, sir, those are my initials.**
 20 Q. Okay. And it says, "Once the immediate danger
 21 of death or serious bodily injury to an officer or
 22 another person has passed, deadly force shall not be
 23 used."
 24 **A. Right.**
 25 Q. So you're expected to understand the difference

Page 61	Page 63
<p>1 between an immediate danger and potential danger or past</p> <p>2 danger; correct?</p> <p>3 A. Oh, yes, sir.</p> <p>4 Q. Okay. And you understand that only when</p> <p>5 there's an immediate danger of serious death or serious</p> <p>6 bodily injury to an officer or another person can you</p> <p>7 use deadly force?</p> <p>8 A. No. Only when there's immediate?</p> <p>9 Q. Yeah.</p> <p>10 A. No.</p> <p>11 Q. That -- you weren't taught that you could only</p> <p>12 use deadly force when there's an immediate threat of --</p> <p>13 A. No.</p> <p>14 Q. -- harm to you or somebody else?</p> <p>15 A. Again, I was taught that you have to -- you</p> <p>16 look at everything, the whole situation.</p> <p>17 Q. So Bexar County taught you that you can leth --</p> <p>18 leth -- use lethal force even though there's no</p> <p>19 immediate threat based upon the totality of the</p> <p>20 circumstances?</p> <p>21 A. No.</p> <p>22 Q. You were not taught that?</p> <p>23 A. No.</p> <p>24 Q. I didn't think you were.</p> <p>25 A. Huh-uh.</p>	<p>1 A. Again, I'm going to tell you it depends on the</p> <p>2 situation.</p> <p>3 Q. So are you telling me that even though the</p> <p>4 policy is once the immediate threat has passed you can't</p> <p>5 use lethal force, you were really taught that that's</p> <p>6 based upon circumstances?</p> <p>7 A. You said you can?</p> <p>8 Q. Cannot.</p> <p>9 A. Once -- once -- it says, "Once the immediate</p> <p>10 danger of death or serious bodily injury to the officer</p> <p>11 or another person has passed, deadly force shall not be</p> <p>12 used."</p> <p>13 Q. Right. You were --</p> <p>14 A. Right.</p> <p>15 Q. -- taught that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. But what you also say is that it depends upon</p> <p>18 the circumstances?</p> <p>19 A. No. No, sir. I think you're getting -- either</p> <p>20 you're trying to confuse me or you're getting confused,</p> <p>21 sir.</p> <p>22 Q. I'm not. I'm really not. Because you keep</p> <p>23 throwing in "based upon the circumstances."</p> <p>24 A. Right.</p> <p>25 Q. Okay. I want to know something very clear.</p>
Page 62	Page 64
<p>1 Q. You were taught that you could only use lethal</p> <p>2 force when there's an immediate threat of serious bodily</p> <p>3 injury or death?</p> <p>4 A. No. Sir, again, you're trying to say that I</p> <p>5 was taught that. When there's an immediate threat, you</p> <p>6 can use deadly force and, say, yes, and the whole</p> <p>7 circumstances you have -- you have to look, yes.</p> <p>8 Q. But you were also taught that an immediate</p> <p>9 danger of death, once it passes, you cannot use lethal</p> <p>10 force?</p> <p>11 A. Say that again.</p> <p>12 Q. You were also taught that once that immediate</p> <p>13 danger of death or serious bodily injury to an officer</p> <p>14 or another person has passed, deadly force shall not be</p> <p>15 used?</p> <p>16 A. Right. I initialed it, yes, sir.</p> <p>17 Q. Correct. You were taught that?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So even though this episode may still be going</p> <p>20 on --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- the man or the person is not under arrest,</p> <p>23 once the immediate threat of serious bodily injury or</p> <p>24 death to an officer or another person has passed, you</p> <p>25 can't shoot your weapon?</p>	<p>1 A. Okay.</p> <p>2 Q. You were taught that the only time you could</p> <p>3 use lethal force is when there's an immediate danger of</p> <p>4 seriously bodily injury or death to an officer or</p> <p>5 another person?</p> <p>6 A. I was taught that as long as you're in fear of</p> <p>7 your life and there is -- and the situation is that</p> <p>8 you're in fear of your life or somebody else's life,</p> <p>9 then you can use deadly force.</p> <p>10 Q. But once that immediate danger has passed, can</p> <p>11 you still use deadly force, even if you're thinking</p> <p>12 yourself --</p> <p>13 A. Well, it depends on the situation, sir.</p> <p>14 Q. All right. No. Let me finish my question.</p> <p>15 A. Okay.</p> <p>16 Q. So is it your understanding that you were</p> <p>17 taught by Bexar County that even though the immediate</p> <p>18 threat of force is no longer there, as long as you feel</p> <p>19 that you're still in danger, you could -- you could use</p> <p>20 deadly force?</p> <p>21 MR. FRIGERIO: That's not what he said. I</p> <p>22 object.</p> <p>23 A. Again, I'm telling you that I was taught that</p> <p>24 as long as the individual is still a threat and you are</p> <p>25 in fear of your life or the life of somebody else, that</p>

Page 65

1 **you have a right to use deadly force.**
 2 Q. (By Mr. Wilson) And once that force -- that
 3 immediate threat has passed, you no longer can?
 4 **A. Once that threat has -- yes.**
 5 Q. That's correct; right?
 6 **A. Uh-huh.**
 7 Q. Once that lethal -- that immediate threat of
 8 force is gone, you can no longer use lethal force;
 9 correct? That's what you were --
 10 **A. Correct.**
 11 Q. -- taught?
 12 **A. Correct.**
 13 Q. Did anybody explain to you what an "immediate
 14 threat" means?
 15 **A. I'm sure when -- you know, I can't recall**
 16 **exactly who or when, but I'm sure we talked and we went**
 17 **over immediate threats.**
 18 Q. Okay.
 19 **A. Some immediate threats.**
 20 Q. Because the reason I -- I asked that question
 21 is because another part of this document is in, "The
 22 following are examples which may be considered deadly
 23 force situations depending upon the circumstances."
 24 Do you see that?
 25 **A. Yes.**

Page 66

1 Q. And one of which is "shooting at, or stabbing
 2 an officer"; right?
 3 **A. Right.**
 4 Q. Okay. That's the actual -- the actual act of
 5 in the process of stabbing somebody?
 6 **A. Yes.**
 7 Q. That -- you were taught that that's considered
 8 a deadly force situation?
 9 **A. Yes.**
 10 Q. But that's an immediate threat which would
 11 justify the use of deadly force?
 12 **A. Yes, sir.**
 13 Q. Okay. And then you were taught -- or one of
 14 the other examples that you were given was "Advancement
 15 towards an officer by a suspect exhibiting a firearm,
 16 knife or club in a manner and in close enough proximity
 17 to the officer to give reason to believe that the
 18 officer may be assaulted"; right?
 19 **A. Right.**
 20 Q. Now, that doesn't say merely holding a knife is
 21 enough, does it?
 22 **A. No.**
 23 Q. It doesn't say standing still with a knife is
 24 enough, does it?
 25 **A. I don't see that there.**

Page 67

1 Q. It says advancing towards an officer with a
 2 knife?
 3 **A. Right.**
 4 Q. And it says advancing towards an officer with a
 5 knife in close enough proximity for the officer to
 6 believe that he may be assaulted?
 7 **A. (Reading to self.) Yes.**
 8 Q. It doesn't say standing still with a knife, not
 9 moving, in far enough proximity away where you wouldn't
 10 feel like you were going to be assaulted, does it?
 11 **A. No, sir, it doesn't say that.**
 12 Q. So where did you learn that standing still with
 13 a knife and not moving or advancing towards an
 14 officer --
 15 **A. Uh-huh.**
 16 Q. -- where the officer is more than 20 feet away
 17 is a situation which would justify the use of deadly
 18 force?
 19 **A. Again, I looked at the whole circumstances, the**
 20 **totality of the circumstances and -- to make that**
 21 **decision to use deadly force.**
 22 Q. That wasn't my question, sir.
 23 MR. WILSON: I object as being
 24 nonresponsive.
 25 Q. (By Mr. Wilson) Where you ever taught that

Page 68

1 standing still -- not advancing towards an officer, but
 2 standing still, holding a knife, was a situation which
 3 would justify the use of deadly force?
 4 **A. Again, I was taught you have to look at the**
 5 **whole situation to use deadly force, whether he was**
 6 **advancing, looking down, looking away, bringing his**
 7 **hands up or down, you know, where you fear for your life**
 8 **or my partner's life or the life of family members.**
 9 Q. You threw a lot in there. My question -- so
 10 really --
 11 MR. WILSON: And I object to that as being
 12 nonresponsive.
 13 Q. (By Mr. Wilson) My question was really
 14 simple -- more simple than that.
 15 Were you ever taught that a man standing
 16 still, holding a knife, not advancing towards anybody
 17 else, was enough of a threat to justify the use of
 18 deadly force?
 19 **A. I was taught that as long as an individual has**
 20 **a knife and he is a threat to myself, to another**
 21 **officer, to a family member, and that he had shown that**
 22 **he was a threat and that he had attempted to stab**
 23 **somebody, then he's a threat and I can use deadly force.**
 24 Q. And I'm not talking about the situation with
 25 Mr. Flores.

<p style="text-align: right;">Page 69</p> <p>1 A. Okay.</p> <p>2 Q. We're going to get into that.</p> <p>3 A. Okay.</p> <p>4 Q. I'm talking about your training. Were you ever</p> <p>5 trained, sir, that it's consistent with Bexar County</p> <p>6 Sheriff's Department policy and the law, as it was</p> <p>7 explained to you, that a person standing still, holding</p> <p>8 a knife, not advancing towards any officer or making any</p> <p>9 moves to that effect, is an immediate threat of harm</p> <p>10 which would justify the use of deadly force?</p> <p>11 A. Again, sir, I was trained that you look at the</p> <p>12 whole circumstances in that situation --</p> <p>13 Q. So --</p> <p>14 A. -- and that --</p> <p>15 Q. Okay. So even if that's what he's doing at the</p> <p>16 time you decide to pull the trigger, you think you are</p> <p>17 acting within the law based on your training?</p> <p>18 A. Say that again.</p> <p>19 Q. Even if all he's doing is standing there and</p> <p>20 you're more than 20 feet away and he's not doing</p> <p>21 anything but holding a knife, based upon the totality of</p> <p>22 the past circumstances and the potential of what may</p> <p>23 happen in the future, you think you're within the law,</p> <p>24 based on your training, to shoot and kill that man?</p> <p>25 A. Oh, it's -- as long as he has a knife in his</p>	<p style="text-align: right;">Page 71</p> <p>1 you got the call to head out to where this incident</p> <p>2 occurred on Walnut Pass?</p> <p>3 A. You mean where was I?</p> <p>4 Q. Yes, sir.</p> <p>5 A. Me and Deputy Vasquez, I think, were working a</p> <p>6 major accident on 211 and Culebra Road, right at the --</p> <p>7 right at the County line when actually we got a</p> <p>8 disturbance, I think it was just a verbal domestic</p> <p>9 disturbance.</p> <p>10 And Deputy Vasquez said he was on the way,</p> <p>11 and I -- I put myself en route with him also.</p> <p>12 And then while we were en route at that</p> <p>13 time to that disturbance, another disturbance came out.</p> <p>14 Actually, the toner went off in our vehicle saying that</p> <p>15 now there was a disturbance with a knife, a woman was</p> <p>16 bleeding, and that I think that's -- that's how it came</p> <p>17 out on the radio.</p> <p>18 Deputy Vasquez put himself en route and</p> <p>19 then I put myself en route there, too.</p> <p>20 Q. All right. So let's -- let's do this. When</p> <p>21 you first hear of something happening on Walnut Pass,</p> <p>22 you hear it through the radio; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. You're not privy to the 911 calls that are</p> <p>25 going on, are you?</p>
<p style="text-align: right;">Page 70</p> <p>1 hand and he's a threat.</p> <p>2 Q. Please listen to my question.</p> <p>3 A. I'm sorry.</p> <p>4 Q. I included that in my question. Let me</p> <p>5 rephrase it.</p> <p>6 You were taught, consistent with law and</p> <p>7 the training and the policy of Bexar County Sheriff's</p> <p>8 Department, that as long as a man is just standing there</p> <p>9 with a knife, not moving, not advancing, not making any</p> <p>10 move towards anybody, just standing there, based upon</p> <p>11 his past actions and what he might do in the future, you</p> <p>12 could use deadly force?</p> <p>13 A. I was taught that as long as a man is -- is a</p> <p>14 threat.</p> <p>15 Q. You were taught you could -- under those</p> <p>16 circumstances you could shoot him?</p> <p>17 A. Right. Well --</p> <p>18 Q. That's what you were taught?</p> <p>19 A. -- depending on the whole situation. You have</p> <p>20 to look, again, at the totality of the situation.</p> <p>21 Q. And basically, yes, that's what you were</p> <p>22 taught?</p> <p>23 MR. FRIGERIO: Objection; form.</p> <p>24 A. Yes.</p> <p>25 Q. (By Mr. Wilson) Okay. Now, when was it that</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Oh, no, sir.</p> <p>2 Q. You just hear what's relayed to you from</p> <p>3 dispatch?</p> <p>4 A. Yes, sir.</p> <p>5 Q. So when you hear what's relayed to you from</p> <p>6 dispatch, what is it that you learn about what had gone</p> <p>7 on in the house?</p> <p>8 A. I just -- I had learned that a woman was</p> <p>9 bleeding from her head and that there was a disturbance</p> <p>10 with a knife. And then somewhere between there and</p> <p>11 almost halfway or a quarter of the way to that location</p> <p>12 dispatch said something to the effect that the</p> <p>13 individual was going to do suicide by cop.</p> <p>14 Q. So you had learned -- and that was the extent</p> <p>15 of your knowledge when you drove up on the scene?</p> <p>16 A. Yes, uh-huh. A woman was --</p> <p>17 Q. So you didn't -- you didn't hear anything about</p> <p>18 Mr. Flores' background?</p> <p>19 A. Oh, no, sir.</p> <p>20 Q. Or nothing about any sort of criminal history</p> <p>21 he had?</p> <p>22 A. No, sir.</p> <p>23 Q. That was not within your wealth of knowledge at</p> <p>24 the time you drive up -- drove up to the scene; correct?</p> <p>25 A. Correct.</p>

Page 73	Page 75
<p>1 Q. You didn't learn about any of that stuff until</p> <p>2 after the fact; is that right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. So all you knew is that there had been an</p> <p>5 assault with a knife and a woman was bleeding and that</p> <p>6 somebody wanted to commit suicide by cop?</p> <p>7 A. Yes.</p> <p>8 Q. Now, when someone says "suicide by cop," what</p> <p>9 does that mean to you?</p> <p>10 A. It means that the individual is going to do</p> <p>11 whatever he can to entice the officer to kill him.</p> <p>12 Q. Do you recognize that to be a mental health</p> <p>13 crisis situation?</p> <p>14 A. Yes.</p> <p>15 Q. And you have received crisis intervention</p> <p>16 training; correct?</p> <p>17 A. I went through some, yes.</p> <p>18 Q. You didn't get the 40 hours, though, did you?</p> <p>19 A. No, not the 40 hours.</p> <p>20 Q. You didn't get the 40 hours.</p> <p>21 A. Huh-uh.</p> <p>22 Q. So you had received some crisis intervention</p> <p>23 training, enough to know that that means that there's</p> <p>24 someone who is going through some sort of mental issue</p> <p>25 at the time?</p>	<p>1 minute.</p> <p>2 (Exhibit Number 4 was marked.)</p> <p>3 Q. (By Mr. Wilson) Did you -- other than your</p> <p>4 witness statement, did you review anything else?</p> <p>5 A. There was another one, and I forgot what it was</p> <p>6 called, but it had --</p> <p>7 MR. FRIGERIO: Interrogatories.</p> <p>8 A. Interrogatories, then, yes.</p> <p>9 Q. (By Mr. Wilson) Your interrogatory answers?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. Anything else?</p> <p>12 A. No.</p> <p>13 Q. Did you review any of the criminal</p> <p>14 investigation reports that was submitted -- that was</p> <p>15 prepared by Bexar County?</p> <p>16 A. No, sir.</p> <p>17 Q. Have you ever seen that?</p> <p>18 A. No, sir.</p> <p>19 Q. Nobody has ever showed that to you?</p> <p>20 A. Huh-uh.</p> <p>21 Q. And have you ever seen the video taken by the</p> <p>22 neighbor?</p> <p>23 A. Yes.</p> <p>24 Q. All right. When was the first time you saw the</p> <p>25 video taken by the neighbor? Not the gentleman in the</p>
Page 74	Page 76
<p>1 A. Yes, sir.</p> <p>2 Q. And part of your goal is to save him from</p> <p>3 being -- committing suicide by cop; right?</p> <p>4 A. Oh, yes, sir.</p> <p>5 Q. That's what you're trained to do?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Because you have to take that into</p> <p>8 consideration?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And so we have the Incident Detail Report,</p> <p>11 which was Exhibit 5 to Mr. Vasquez's deposition. Have</p> <p>12 you seen that before?</p> <p>13 A. Can I see it?</p> <p>14 Q. (Indicating.)</p> <p>15 A. No.</p> <p>16 Q. Okay. Nobody has ever shown that to you</p> <p>17 before?</p> <p>18 A. It doesn't ring -- it doesn't look familiar.</p> <p>19 Q. By the way, sir, have -- did you review any</p> <p>20 documents before your deposition here today?</p> <p>21 A. My report.</p> <p>22 Q. Okay. Your witness statement?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I'll go ahead and mark that as Exhibit 4</p> <p>25 now for housekeeping purposes, but we'll get to it in a</p>	<p>1 car, but the neighbor.</p> <p>2 A. Yeah. Probably the day that it came out in the</p> <p>3 media.</p> <p>4 Q. All right. Was that something that you just</p> <p>5 looked at on your own?</p> <p>6 A. Yes.</p> <p>7 Q. You just pulled it up on YouTube or wherever</p> <p>8 and looked at it?</p> <p>9 A. Yes.</p> <p>10 Q. Nobody from Bexar County Sheriff's Department</p> <p>11 ever sat you down and went through that with you?</p> <p>12 A. No.</p> <p>13 Q. Nobody ever came to you after your witness</p> <p>14 statement was given and said, "Hey, you need to look at</p> <p>15 this video" --</p> <p>16 A. No.</p> <p>17 Q. -- "to see if it matches"?</p> <p>18 A. No.</p> <p>19 Q. By the way, when was the first time you had</p> <p>20 learned that there was a video of this event?</p> <p>21 A. I think that after we finished giving our</p> <p>22 statements we were called to the Sheriff's Office and</p> <p>23 she mentioned about a video.</p> <p>24 Q. The Sheriff herself?</p> <p>25 A. Yes.</p>

Page 77	Page 79
<p>1 Q. Okay. And what did she say?</p> <p>2 A. Just that there was a video out there and that</p> <p>3 the media was going to show it or something like that.</p> <p>4 Q. Did she indicate why she was telling you that?</p> <p>5 A. No. She just said that she heard it.</p> <p>6 Q. And after that, none of the investigators came</p> <p>7 to you and said that they had looked at the video and</p> <p>8 needed to ask you additional questions?</p> <p>9 A. After that, no, sir.</p> <p>10 Q. And did anybody from the Professional</p> <p>11 Integrity Unit ever interview you?</p> <p>12 A. Not -- not that I recall.</p> <p>13 Q. You know that there was a report done by the</p> <p>14 Professional Integrity Unit; correct?</p> <p>15 A. No, I didn't know it.</p> <p>16 Q. Nobody ever told you that?</p> <p>17 A. No, sir.</p> <p>18 Q. And just so -- while we're on the topic, so the</p> <p>19 shooting takes place and then CID arrives; is that</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then when CID arrives, are you placed in a</p> <p>23 separate patrol car from Deputy Vasquez?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And then does your CLEAT lawyer show up?</p>	<p>1 Q. In all fairness, sir, I've seen pictures of you</p> <p>2 standing still.</p> <p>3 A. Oh, they did?</p> <p>4 Q. Yes.</p> <p>5 A. I don't remember everything.</p> <p>6 Q. I'm not trying to trick you.</p> <p>7 A. I think they did take my weapon, too, I think.</p> <p>8 Q. They took your weapon --</p> <p>9 A. Okay.</p> <p>10 Q. -- and then they took your picture --</p> <p>11 A. Oh.</p> <p>12 Q. -- standing still.</p> <p>13 And after you were done in the evidence</p> <p>14 van, what happened?</p> <p>15 A. I think we went back to our vehicles.</p> <p>16 Q. To your own vehicle?</p> <p>17 A. I think so. We might have, at that time, gone</p> <p>18 to a vehicle with an investigator and they drove us</p> <p>19 downtown.</p> <p>20 Q. Okay. So where did you go when you went</p> <p>21 downtown?</p> <p>22 A. To CID.</p> <p>23 Q. And then when you went to CID, who did you talk</p> <p>24 to?</p> <p>25 A. Well, there was Investigator Perez. He's the</p>
Page 78	Page 80
<p>1 A. Yes, each of them.</p> <p>2 Q. Did you go through a walk-through of the crime</p> <p>3 scene with anybody?</p> <p>4 A. I think with the investigators, yes, I remember</p> <p>5 something like that.</p> <p>6 Q. Okay. So you think you went through a</p> <p>7 walk-through?</p> <p>8 A. Yes.</p> <p>9 Q. Was your CLEAT lawyer there as well?</p> <p>10 A. I think so.</p> <p>11 Q. What was your CLEAT lawyer's name?</p> <p>12 A. I just remember him as Carl.</p> <p>13 Q. Carl?</p> <p>14 A. Yeah. I can't recall his last name.</p> <p>15 Q. Okay. And so then did you -- you went through</p> <p>16 a walk-through at the scene?</p> <p>17 A. Yes.</p> <p>18 Q. And then were you placed back in a patrol car?</p> <p>19 A. No. I think they took us to the evidence truck</p> <p>20 they had there.</p> <p>21 Q. Fair enough. You went to the evidence van --</p> <p>22 A. Yeah.</p> <p>23 Q. -- and your picture was taken?</p> <p>24 A. No. I think they dusted our hands for</p> <p>25 residuals from the weapon, I think.</p>	<p>1 one that took my statement. Basically, just him.</p> <p>2 Q. All right. When you were giving your statement</p> <p>3 to Mr. Perez, were you alone in the room with him?</p> <p>4 A. No. It was me and Carl.</p> <p>5 Q. All right. Your CLEAT lawyer was in the room</p> <p>6 with you?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And your -- Carl represented you; right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. He didn't represent Bexar County? You</p> <p>11 understood him to be your lawyer?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And so how did this statement come about?</p> <p>14 A. Detective Perez said, "Start from the</p> <p>15 beginning, give your name" -- basically that, "Start</p> <p>16 from the beginning and how you got the call and" --</p> <p>17 yeah.</p> <p>18 Q. All right. So I want to show you Exhibit 4.</p> <p>19 Is that the statement that you gave at the CID?</p> <p>20 A. Yes. It sure looks like it, yes.</p> <p>21 Q. Okay. Were there -- was there any drafts of</p> <p>22 that statement?</p> <p>23 A. Drafts, I don't know, sir.</p> <p>24 Q. Well, did you read one and then have it to be</p> <p>25 changed or modified in any way?</p>

<p style="text-align: right;">Page 81</p> <p>1 A. I think he did it on a typewriter, a computer.</p> <p>2 Q. Okay.</p> <p>3 A. So he might have, you know, gone back and</p> <p>4 forth, but --</p> <p>5 Q. Well, I guess that was my question.</p> <p>6 A. Uh-huh.</p> <p>7 Q. So how did -- how did the process go? Did you</p> <p>8 just start dictating to him?</p> <p>9 A. Yes.</p> <p>10 Q. Did he ask you questions along the way?</p> <p>11 A. No. He just told me, you know, "Tell me the</p> <p>12 beginning and then what happened."</p> <p>13 Q. Okay. But did he sit there passively and just</p> <p>14 write what you told him, or did he --</p> <p>15 A. Uh-huh.</p> <p>16 Q. -- ask you questions along the way?</p> <p>17 A. He might have asked me a question like, "What</p> <p>18 do you mean?" or, you know, stuff, like that.</p> <p>19 But, no. I just -- "Tell me, you know,</p> <p>20 what happened, start at the beginning, you know, go --</p> <p>21 details and like that."</p> <p>22 Q. And did he print out a draft for you to look at</p> <p>23 to make sure it was correct before you signed it?</p> <p>24 A. I think so, yes, sir.</p> <p>25 Q. Did you make any changes or modifications to</p>	<p style="text-align: right;">Page 83</p> <p>1 to tell the truth when you gave a witness statement like</p> <p>2 that; correct?</p> <p>3 A. Yes, sir, I understand.</p> <p>4 Q. Not only would it be a violation of Bexar</p> <p>5 County policy, because it would be an untruthful</p> <p>6 document as part of an investigation, it would be a</p> <p>7 crime?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And you knew that going in?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. And so how long was it after the</p> <p>12 shooting that -- was it that you sat down and did your</p> <p>13 statement?</p> <p>14 A. I think it was a long time, because -- a few</p> <p>15 hours, because I -- what time the shooting happened</p> <p>16 about noon or right before noon. And then by the</p> <p>17 time -- at least a few hours. I think maybe 4, 5:00.</p> <p>18 But I'm not sure.</p> <p>19 Q. Well --</p> <p>20 A. Maybe later.</p> <p>21 Q. -- this one says -- it actually has a time on</p> <p>22 it --</p> <p>23 A. Oh, it does?</p> <p>24 Q. -- up at the top right-hand corner, 15:25</p> <p>25 hours. Is that 3:25?</p>
<p style="text-align: right;">Page 82</p> <p>1 it?</p> <p>2 A. I don't recall.</p> <p>3 Q. You don't recall whether anything was changed</p> <p>4 and had to be redone?</p> <p>5 A. I -- I don't recall. I might have, but I don't</p> <p>6 recall.</p> <p>7 Q. Okay. So there could be other printed versions</p> <p>8 of your statement that you needed to modify and change</p> <p>9 before you signed the final one; is that correct?</p> <p>10 A. There could be.</p> <p>11 Q. You don't recall it, but there could be?</p> <p>12 A. No. Yes.</p> <p>13 Q. Okay. Now, when you signed that statement --</p> <p>14 A. Uh-huh.</p> <p>15 Q. I'll show it on the screen real quick.</p> <p>16 A. Oh.</p> <p>17 Q. You're -- you're stating that you have read the</p> <p>18 entire statement and declare that it is true and correct</p> <p>19 to the best of your knowledge and recall; is that</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. So you're basically swearing that it's the</p> <p>23 truth?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And you understand that it would be a crime not</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Okay.</p> <p>2 Q. Is that right?</p> <p>3 A. Yeah, uh-huh.</p> <p>4 Q. So that's about three and a half hours after</p> <p>5 the shooting took place?</p> <p>6 A. Okay.</p> <p>7 Q. Is that right?</p> <p>8 A. Probably, sir, yes.</p> <p>9 Q. Is the intent of your statement to be from</p> <p>10 start to finish of the incident --</p> <p>11 A. Yes.</p> <p>12 Q. -- in a chronological fashion?</p> <p>13 A. Chronological, yes.</p> <p>14 Q. So if we start at the beginning of your</p> <p>15 statement and we go to the end, that's supposed to be</p> <p>16 chronologically how this event unfolded according to</p> <p>17 your statement; is that correct?</p> <p>18 A. According to how it unfolded with me, yes, yes.</p> <p>19 Q. Okay. In other words, you're telling us what</p> <p>20 happened in a chronological fashion?</p> <p>21 A. Yes.</p> <p>22 Q. Did your counsel read that statement before you</p> <p>23 signed it?</p> <p>24 A. I think he did.</p> <p>25 Q. Did he ask you to change it in any way?</p>

Page 85	Page 87
<p>1 MR. FRIGERIO: Objection; form. He's not</p> <p>2 going to talk about it. It's attorney-client</p> <p>3 privileged.</p> <p>4 MR. WILSON: Fair enough.</p> <p>5 Q. (By Mr. Wilson) Do you recall any changes</p> <p>6 being made to this statement after your lawyer read it?</p> <p>7 A. No, sir.</p> <p>8 Q. And the purpose of your initials on each -- on</p> <p>9 each page --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- and by each paragraph, what is that?</p> <p>12 A. To show that it was me that said those words.</p> <p>13 Q. And that you read them?</p> <p>14 A. That I've read them and --</p> <p>15 Q. And you --</p> <p>16 A. -- I approve of them.</p> <p>17 Q. -- stood by them --</p> <p>18 A. Stood by them.</p> <p>19 Q. -- as being the truth?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. And it was after you gave this statement</p> <p>22 that you learned that there was a video of the event?</p> <p>23 A. After, yes. After, yes.</p> <p>24 Q. So getting to the incident report --</p> <p>25 A. Okay.</p>	<p>1 A. Uh-huh.</p> <p>2 Q. And Delta 23, that's you?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Is that correct?</p> <p>5 A. Uh-huh.</p> <p>6 Q. All right. So any time we see, throughout this</p> <p>7 incident report, anything that refers to Delta 20, it's</p> <p>8 referring to Deputy Vasquez; right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And then if it's Delta 23, it's referring to</p> <p>11 you?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Is that correct?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Okay. So -- so going to the next page, it</p> <p>16 looks like at 11:28 there's a call that comes in to 911</p> <p>17 saying that a woman is crying on the phone and that she</p> <p>18 is bleeding; correct?</p> <p>19 A. Correct.</p> <p>20 Q. And then we go all the way down to 11:32:47,</p> <p>21 saying he wants to commit suicide by cop. Do you see</p> <p>22 that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And that was shared to you over dispatch; is</p> <p>25 that right?</p>
Page 86	Page 88
<p>1 Q. -- what time did you receive the call that</p> <p>2 something was going on at Walnut Pass?</p> <p>3 A. You want the exact time or --</p> <p>4 Q. Yes, sir.</p> <p>5 A. Okay. I'm not sure how to read this.</p> <p>6 (Reviewing document.)</p> <p>7 Q. Well, let me show you something.</p> <p>8 A. Okay.</p> <p>9 Q. It will be easier because I know where -- what</p> <p>10 time I'm looking for.</p> <p>11 A. Okay.</p> <p>12 Q. So, first of all, let's do this, so we know</p> <p>13 what we're talking about. This is the Incident Detail</p> <p>14 Report. It's Bexar County Bates stamp 72691 there at</p> <p>15 the bottom.</p> <p>16 A. Okay.</p> <p>17 Q. It's Vasquez Exhibit 5. And first I want to</p> <p>18 show you this. Do you see this list of people?</p> <p>19 A. Okay.</p> <p>20 Q. "Personnel assigned."</p> <p>21 Unit 1D20, that's Delta 20; right?</p> <p>22 A. Uh-huh.</p> <p>23 Q. That's Deputy Vasquez; correct?</p> <p>24 A. Uh-huh.</p> <p>25 Q. D30 is Deputy Estrada; right?</p>	<p>1 A. Yes. I remember hearing it.</p> <p>2 Q. Okay. And then at 11:33:36 is when you learned</p> <p>3 that the suspect has a knife; is that correct?</p> <p>4 "Complainant says that subject has a knife."</p> <p>5 A. I think the first time it came out,</p> <p>6 "Disturbance with a knife." I think. But it could have</p> <p>7 been, yes, that's the first time.</p> <p>8 Q. Okay. But at this point, you had not been</p> <p>9 assigned the call?</p> <p>10 A. I think I was already assigned --</p> <p>11 Q. So --</p> <p>12 A. -- as soon as --</p> <p>13 Q. Look at 11:33 --</p> <p>14 A. 36?</p> <p>15 Q. -- 11:33:51, that's when Deputy Vasquez is</p> <p>16 assigned the call; is that correct?</p> <p>17 Maybe I'm reading that for somebody else.</p> <p>18 When does it say that you're assigned the call?</p> <p>19 A. Well, where it states Delta 23, but I don't see</p> <p>20 myself there.</p> <p>21 Q. Okay.</p> <p>22 A. Can you point out Delta 23 for me?</p> <p>23 Q. Let's see here. I have it on my notes that you</p> <p>24 were assigned the call at 11:34 --</p> <p>25 A. Once you have a 4 --</p>

Page 89	Page 91
<p>1 Q. All right. Well, let's -- let's move on to --</p> <p>2 You would report that you were en route;</p> <p>3 correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. And then you would report when you</p> <p>6 arrived at the scene; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did you learn anything else about Mr. Flores'</p> <p>9 past or what he had done prior to arriving on the scene?</p> <p>10 A. Other -- no. Other than what's on the radio,</p> <p>11 no.</p> <p>12 Q. Okay. So would you report when you arrived on</p> <p>13 the scene?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And I have some indications that you</p> <p>16 arrived on the scene at 11:47:43. I'm not sure it's on</p> <p>17 this particular incident report, but maybe it's on</p> <p>18 your -- do you have a dispatch record where you would</p> <p>19 show that?</p> <p>20 A. I don't know. I haven't seen all that, sir.</p> <p>21 Q. Okay. But let's do this, is it your</p> <p>22 understanding that Deputy Vasquez showed up first?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And, to your recollection, do you know how long</p> <p>25 he had been at the scene prior to you arriving?</p>	<p>1 the Flores house at that point?</p> <p>2 A. No, I did not, really.</p> <p>3 Q. When you -- did you immediately get out of your</p> <p>4 patrol car?</p> <p>5 A. When I made that left turn, I saw a fire truck</p> <p>6 in the corner with two fire -- firemen outside.</p> <p>7 When I made the left at the corner, I</p> <p>8 immediately saw Deputy Vasquez with his shield and</p> <p>9 Flores doing this to Deputy Vasquez, kind of like, to</p> <p>10 me, my opinion, he was going to town with him. He was</p> <p>11 just going at him. (Indicating.)</p> <p>12 Q. Okay. My question was a little -- was not</p> <p>13 that.</p> <p>14 MR. WILSON: I object to that as being</p> <p>15 nonresponsive.</p> <p>16 Q. (By Mr. Wilson) When you -- when you pulled</p> <p>17 around the corner, you parked your vehicle; correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did you stay in your vehicle? That was my</p> <p>20 question.</p> <p>21 A. Oh, no, sir. I got out.</p> <p>22 Q. Okay. Did you get out immediately?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And when you got out, did you take your car</p> <p>25 keys?</p>
Page 90	Page 92
<p>1 A. To me it seemed probably a long time. Maybe a</p> <p>2 few minutes.</p> <p>3 Q. Okay.</p> <p>4 A. I was trying to get there as quick as I could</p> <p>5 to assist him.</p> <p>6 Q. Right. But you don't have any direct knowledge</p> <p>7 of how long he was on the scene before you got there?</p> <p>8 A. I'm sorry, sir. No.</p> <p>9 Q. And then when you arrived, what is it that --</p> <p>10 where do you park your car?</p> <p>11 A. I think it was based a house or two from</p> <p>12 Flores' house.</p> <p>13 Q. So you round the corner on to Walnut Pass?</p> <p>14 A. I -- I round the corner, yes.</p> <p>15 Q. Did you park your car in the street?</p> <p>16 A. Yes.</p> <p>17 Q. And it was a couple of houses before --</p> <p>18 A. Yes.</p> <p>19 Q. -- the Flores house?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Okay. Did you see Deputy Vasquez's patrol car?</p> <p>22 A. Yes.</p> <p>23 Q. And where do you recall his patrol car being?</p> <p>24 A. Parked in front of a house, the house.</p> <p>25 Q. And did you know at what point -- which one was</p>	<p>1 A. I don't remember.</p> <p>2 Q. Do you understand that there is a Bexar County</p> <p>3 policy as to whether you need to secure your vehicle</p> <p>4 when you leave it?</p> <p>5 A. There might be, yes, sir.</p> <p>6 Q. And do you understand that that -- securing</p> <p>7 that vehicle means that you remove the car keys?</p> <p>8 A. Well, in that situation, I wasn't thinking</p> <p>9 about that, sir. I was thinking about Deputy Vasquez</p> <p>10 being attacked.</p> <p>11 Q. That wasn't my question, sir.</p> <p>12 A. I understand.</p> <p>13 MR. WILSON: I object to that as being</p> <p>14 nonresponsive.</p> <p>15 Q. (By Mr. Wilson) Do you understand that part of</p> <p>16 securing your vehicle is to remove the car keys from the</p> <p>17 vehicle?</p> <p>18 A. Yes.</p> <p>19 Q. And that Bexar County policy would be that</p> <p>20 before you step out of your vehicle you turn it off and</p> <p>21 you take the keys with you?</p> <p>22 A. Okay, yes.</p> <p>23 Q. Do you understand that?</p> <p>24 A. Uh-huh.</p> <p>25 Q. And that you -- if feasible, you shut the door</p>

Page 93

1 and you lock it?
2 **A. If feasible, yes.**
3 Q. Right?
4 **A. Lock the door? Yeah, I guess.**
5 Q. I mean, did you have a weapon in your vehicle?
6 **A. Just my duty weapon.**
7 Q. You didn't have any sort of rifle or shotgun?
8 **A. No, sir, I don't carry it.**
9 Q. Okay. So when you got out of your vehicle, if
10 you were following policy, you would have turned your --
11 you would have taken your keys -- turned your vehicle
12 off and taken the keys?
13 **A. Yes.**
14 Q. But you don't recall whether you did that or
15 not?
16 **A. No, sir, I don't recall.**
17 Q. Okay. Now, we do know that -- that Deputy
18 Vasquez did leave the keys in his vehicle?
19 **A. Okay.**
20 Q. Do you understand that?
21 **A. Yes, sir.**
22 Q. Because you went out and got them?
23 **A. Yes, sir.**
24 Q. Okay. We'll get into that in some -- in a
25 little bit later. But when you -- did you actually turn

Page 94

1 his vehicle off?
2 **A. Yes.**
3 Q. So he had left it running --
4 **A. I think so.**
5 Q. -- with the keys in it?
6 **A. Yes, sir.**
7 Q. And that would be a violation of Bexar County
8 policy; correct?
9 **A. I think so.**
10 Q. Because he had not secured his vehicle?
11 **A. Right.**
12 Q. So when you show up, you're in your patrol car.
13 Now tell me what it is you see.
14 **A. Again, I saw Deputy Vasquez with his shield. I**
15 **saw Mr. Flores with a knife. He's trying to stab him.**
16 **I mean, even going around him, trying to stab him.**
17 **(Indicating.)**
18 **That's what -- as soon as I turned, that's**
19 **exactly what I saw.**
20 Q. All right. And how many yards down the street
21 was that?
22 **A. Oh, I couldn't -- Yards?**
23 Q. I mean, it was several houses; correct?
24 **A. Yeah.**
25 Q. Okay.

Page 95

1 **A. I think at least one, one and a half, or maybe**
2 **two houses.**
3 Q. And where were Deputy Vasquez and Mr. Flores
4 standing when this was going on?
5 **A. In the middle of the street --**
6 Q. All right.
7 **A. -- and in front of the house, the Flores house.**
8 Q. Okay. But it was in the middle of the
9 street --
10 **A. Yes, sir.**
11 Q. -- is your recollection?
12 **A. Uh-huh.**
13 Q. Okay. And do you recall how many times it was
14 that you saw Mr. Flores swing the knife towards the
15 shield of Deputy Vasquez?
16 **A. I didn't count them. It was just numerous**
17 **times. He was going at him. (Indicating.)**
18 Q. Did you hear anything?
19 **A. I think when I got off of the vehicle all I**
20 **heard in the radio was -- because I checked out, "I'm**
21 **out," I think I might have just said that, I heard**
22 **something like "Close the channel" again or "All units,"**
23 **something like that. (Indicating.)**
24 Q. "Close the channel"?
25 **A. Yeah.**

Page 96

1 Q. Okay. You made a movement with your hand
2 toward your hip. Is that where you turn your radio on?
3 **A. Yes. (Indicating.)**
4 Q. Okay. If I understand it correctly, sir,
5 there --
6 You have a radio on your body right now;
7 right?
8 **A. Uh-huh.**
9 Q. That's what you had at the time?
10 **A. Yes, sir.**
11 Q. It's on -- by your shoulder here? We see it in
12 the video.
13 **A. Yes, sir.**
14 Q. But until you want to transmit something, you
15 have to press a button; right?
16 **A. Right.**
17 Q. It's not an ongoing open mic --
18 **A. Correct.**
19 Q. -- to where we can hear everything that's being
20 said?
21 **A. Correct.**
22 Q. Is that right?
23 **A. Uh-huh.**
24 Q. You have to -- in order for there to be audio
25 of this event, you would have had to press your mic

Page 97

1 button?

2 **A. Yes, sir.**

3 Q. And so you do that by pressing at something

4 near your hip area; is that right?

5 **A. Yes.**

6 Q. Okay. Because, frankly, I've seen you on the

7 film occasionally where there's a radio transmission

8 being made and you're appearing to be reaching towards

9 something on your hip.

10 **A. Uh-huh.**

11 Q. That's what you're doing; right?

12 **A. Yes. I'm pressing the button right here and**

13 **I'm talking from here. (Indicating.)**

14 Q. Okay. So until you do that, nobody knows

15 what's being said by anybody unless they're within

16 earshot?

17 **A. Yes.**

18 Q. It doesn't appear on any radio or audio

19 transmissions?

20 **A. Yes. Probably not.**

21 Q. And did you have a dash cam in your car?

22 **A. No.**

23 Q. To your knowledge, did Mr. Vasquez have a dash

24 cam in his Tahoe?

25 **A. To my knowledge, I don't think he did.**

Page 98

1 Q. To your knowledge, did Deputy Estrada have a

2 dash cam in his vehicle?

3 **A. To my knowledge, I don't think he did.**

4 Q. And you didn't have body cams at that point?

5 **A. No, no body cams.**

6 Q. So there would be no video of any of this

7 altercation which you say took place in the street,

8 unless it was by an out -- bystander?

9 **A. Yes.**

10 Q. No official video from dash cams or body

11 cameras from Bexar County; correct?

12 **A. Correct.**

13 Q. All right. So the only evidence we have of

14 that happening is you and Deputy Vasquez's oral

15 testimony that it occurred --

16 **A. Correct.**

17 Q. -- is that right?

18 **A. Uh-huh.**

19 Q. So it's your testimony that they were standing

20 in the middle of the street?

21 **A. Uh-huh.**

22 Q. Do you -- and you get out of your patrol car.

23 Do you start running towards them?

24 **A. Yes, sir.**

25 Q. Do you pull your service handgun?

Page 99

1 **A. Yes, sir.**

2 Q. So you pull it out of the holster?

3 **A. Uh-huh.**

4 Q. Do you say anything?

5 **A. No. I'm just running towards -- towards them.**

6 Q. Do you hear Deputy Vasquez say anything?

7 **A. Well, I stopped my vehicle. I got off. I**

8 **heard something in the radio. It might have been "Close**

9 **the channel" or it might have been, I think -- I think**

10 **at that time -- I'm trying to recall now -- I think it**

11 **said something about an officer being attacked or**

12 **something like that, something to that effect.**

13 Q. Okay. Did you say "Officer being attacked"?

14 **A. No, no, no. The dispatch. Because --**

15 Q. How --

16 **A. -- I think -- to my best recollection, I think**

17 **the firemen were relaying that to dispatch, and they**

18 **were -- and I heard something. Because they're kind of**

19 **connected towards each other, so, you know, we can hear**

20 **them, they can hear us.**

21 **So I think I heard that, "Officer in**

22 **trouble," something like that, "Officer needs**

23 **assistance," something like that.**

24 Q. Okay. Well, there's a big difference between

25 "Officer needs assistance" --

Page 100

1 **A. Yeah.**

2 Q. -- and "Officer being attacked"; right?

3 **A. Well, no. I think the -- What I saw was him**

4 **being attacked. But what the dispatch was saying is**

5 **"Officer needing assistance."**

6 Q. Okay. So let's kind of break that up a little

7 bit. You're -- you see this in the middle of the

8 street, according to your testimony; correct?

9 **A. Uh-huh.**

10 Q. But do you see -- do you hear Deputy Vasquez

11 saying anything?

12 **A. No. Not at that point, no.**

13 Q. Do you hear Mr. Flores saying anything?

14 **A. No.**

15 Q. And you have pulled your service revolver;

16 correct?

17 **A. I have pulled my service revolver, yes.**

18 Q. And you're running towards the scene?

19 **A. Yes, sir.**

20 Q. And you don't say anything?

21 **A. No.**

22 Q. You don't shout or anything like that?

23 **A. No. Not that I recall.**

24 Q. How close did you get to the two of them in the

25 middle of the street?

Page 101

1 **A. I think I was about -- let's say the Flores**
2 **house is here, there's a neighbor and there's another**
3 **car. I think I parked my car in front of this house, if**
4 **I'm not mistaken. (Indicating.)**
5 **I think I was almost halfway between the**
6 **neighbor's house when -- when I -- I see Flores. He saw**
7 **me and he saw me with my weapon. He stops. He turns**
8 **around and starts heading towards the house.**
9 **(Indicating.)**
10 Q. Okay. So you had gone about --
11 **A. Yeah.**
12 Q. -- half of a house length --
13 **A. Yeah.**
14 Q. Okay.
15 -- towards them when you say you saw
16 Mr. Flores look at you?
17 **A. Yes. He saw me. Yes.**
18 Q. And at this time, did you see whether Deputy
19 Vasquez had -- he had a shield in his hand; correct?
20 **A. Correct.**
21 Q. Did you see if he had anything else in his
22 hand?
23 **A. I don't know if he had his Taser or his gun**
24 **out. I'm not sure.**
25 Q. Okay. Well, did you see anything in his other

Page 102

1 hand?
2 **A. Besides the shield?**
3 Q. Right.
4 **A. I couldn't tell you what it was, if it was the**
5 **Taser or it was his weapon.**
6 Q. Okay.
7 **A. It happened so fast.**
8 Q. All right. But I want to be clear.
9 **A. Okay.**
10 Q. You saw something in his hand --
11 **A. Yes, uh-huh.**
12 Q. -- other than the shield?
13 **A. Right.**
14 Q. Do you know whether his shield was in his right
15 hand or his left hand?
16 **A. I want to say it was in his left.**
17 Q. And in his right hand you saw something?
18 **A. Yes.**
19 Q. But you don't know what it was?
20 **A. No.**
21 Q. Did you later find out what it was?
22 **A. I -- I don't recall. No, sir.**
23 Q. You don't know whether it was his Taser or his
24 handgun?
25 **A. I can't recall.**

Page 103

1 Q. Okay.
2 **A. I want to say it might have been his Taser, but**
3 **then I'm not too sure.**
4 Q. Okay. So you're still more than a house width
5 away from the altercation, approximately?
6 **A. Yes, approximately.**
7 Q. And Mr. Flores breaks away from Deputy Vasquez?
8 **A. Yes.**
9 Q. And when he breaks away from Deputy Vasquez,
10 what does he do?
11 **A. Flores?**
12 Q. Yes, Mr. Flores.
13 **A. He makes a beeline back towards the house**
14 **(Indicating.)**
15 Q. Okay. And he's -- is he running towards the
16 house?
17 **A. Yes.**
18 Q. And, at that point, what happens?
19 **A. I see him. He sees me. He stops attacking.**
20 **He stops the motion with the knife. (Indicating.) He**
21 **sees me. He turns around. He makes a beeline to the**
22 **house. (Indicating.)**
23 **I come around this way trying to stop him.**
24 **(Indicating.)**
25 Q. And just what do you mean, "come around this

Page 104

1 way"?
2 **A. There was two vehicles --**
3 Q. You moved towards the house?
4 **A. Yes.**
5 Q. Okay. You move around one of the vehicles
6 parked --
7 **A. I moved around one of the vehicles, yes.**
8 Q. -- on the street?
9 **A. Well, he had a -- I was heading this way, he**
10 **was heading straight, so I had to turn this way.**
11 **(Indicating.)**
12 **And he was almost halfway to the house**
13 **when I got around that vehicle.**
14 Q. Okay. You're using your hands and we can't --
15 **A. Oh.**
16 Q. -- that doesn't translate well. Okay? I'm
17 sorry.
18 So you were running down the middle of the
19 street; correct?
20 **A. Uh-huh.**
21 Q. The altercation was happening in the middle of
22 the street; right?
23 **A. Yes, sir.**
24 Q. You say Mr. Flores breaks away from Deputy
25 Vasquez --

Page 105

1 **A. Uh-huh.**
2 Q. -- and starts going towards the house?
3 **A. Uh-huh.**
4 Q. Is that right?
5 **A. Yes, sir.**
6 Q. And then -- so you turn to the right to get
7 around the car that's on the street --
8 **A. Yes, sir.**
9 Q. -- and get into the yard or on the driveway of
10 the neighbor?
11 **A. Yeah. Not the dri -- I was just going around**
12 **the car. I'm not sure if I even got to the yard or**
13 **not --**
14 Q. Okay.
15 **A. -- made it to the yard.**
16 Q. And did you hear Deputy Vasquez say anything at
17 that point?
18 **A. Yeah. I heard him say something to the effect**
19 **of like, "Get him, Bobby. Get him."**
20 Q. Okay.
21 **A. Uh-huh.**
22 Q. And did you -- how did you interpret that?
23 **A. I needed to stop him.**
24 Q. Okay. Well, he wasn't attacking Deputy Vasquez
25 anymore, was he?

Page 106

1 **A. No. But he could have gone inside and attacked**
2 **the other people that were still in there.**
3 Q. Okay. So what do you do?
4 **A. I fire my weapon.**
5 Q. Okay. And you fired your weapon based upon
6 what?
7 **A. A couple of things. One, that he still had a**
8 **knife. He was still a threat. He was going to go**
9 **inside the house. And I didn't know if he was going to**
10 **go finish the job or what, or -- or whether he saw me**
11 **with a gun so he decided he's going to go get a gun.**
12 **That's why I fired.**
13 Q. So part of the reason why you fired is because
14 of the potential threat to the people in the house?
15 **A. Yes.**
16 Q. You don't know whether at that particular point
17 Mr. Flores was an immediate threat to the people in the
18 house, do you?
19 **A. If he was an immediate threat?**
20 Q. Yeah.
21 **A. He was running pretty fast, so he could have**
22 **been an immediate threat.**
23 Q. But your concern was what he could do --
24 **A. Oh, yes.**
25 Q. -- not what he was doing?

Page 107

1 **A. What he could do, yes.**
2 Q. Okay. So it was based upon what he could do
3 that you fired your weapon?
4 **A. Yes.**
5 Q. And you missed; is that correct?
6 **A. Yes, sir.**
7 Q. Now, the -- it hits a brick pole or column in
8 the house; is that correct?
9 **A. It hit a brick in the house. I saw it hit**
10 **the -- it missed Vasquez and hit the brick, yes.**
11 Q. And so at that point, what did you do?
12 **A. Well, my thought was, "Okay. I missed. He's**
13 **inside -- it looks like he's made it inside the house.**
14 **I need to take cover," because I'm thinking he's going**
15 **to get a gun.**
16 Q. Right. Well, you had no indication that he had
17 a gun; right? But you were just --
18 **A. No.**
19 Q. -- thinking that he could have gotten one?
20 **A. Oh, yes, sir.**
21 Q. He had not expressed any sort of indication to
22 you that "I'm running in to get a gun"?
23 **A. Right.**
24 Q. He didn't verbally say that?
25 **A. No, sir.**

Page 108

1 Q. He didn't have a gun on his person when you saw
2 him?
3 **A. No.**
4 Q. You didn't know if there was any guns in the
5 house?
6 **A. No, I didn't know.**
7 Q. All right. So you just basically thought,
8 "There could be a gun in there"?
9 **A. Or he could be going and finishing what he**
10 **was -- started.**
11 Q. Okay. Well, you didn't run into the house, did
12 you?
13 **A. Oh, no, sir.**
14 Q. Well, if you were worried about people in the
15 house being injured, why didn't you go into the house to
16 try to save them?
17 **A. That's a good question. When he ran into the**
18 **house, I felt that, by me taking that shot, I needed to**
19 **take cover first, you know.**
20 Q. Okay. Well, he had given you no indication
21 that he had a gun or was going to get one; right? That
22 was just something you thought?
23 **A. Right.**
24 Q. And you -- but you thought that he was
25 potentially doing more harm to the people --

<p style="text-align: right;">Page 109</p> <p>1 A. Uh-huh.</p> <p>2 Q. -- inside the house? But you didn't go into</p> <p>3 the house to save them?</p> <p>4 A. Huh-uh, no, sir.</p> <p>5 Q. Right? You made no move to go into the house</p> <p>6 to try to save them?</p> <p>7 A. Well, sir, you know, in that situation, I mean,</p> <p>8 it's a traumatic situation. Things slowed down for me.</p> <p>9 I mean, things just -- again, you have to look at the</p> <p>10 whole thing. Things slowed down. It was a traumatic</p> <p>11 situation when I took that shot.</p> <p>12 A lot of things came to my mind. I didn't</p> <p>13 know if he already had a gun or if there was a gun</p> <p>14 around in the bush there or it was the gun -- he had the</p> <p>15 gun ready. I didn't know none of that.</p> <p>16 My thought right there besides that, okay,</p> <p>17 I missed, I didn't know what he was going to do, I</p> <p>18 better take some cover because I don't want to just run</p> <p>19 in there and then I get shot or he comes and stabs me.</p> <p>20 MR. WILSON: Object to that as being</p> <p>21 nonresponsive.</p> <p>22 Q. (By Mr. Wilson) My question was: You</p> <p>23 didn't -- you thought that he could be harming the</p> <p>24 people in the house but you made no attempt to go in the</p> <p>25 house to save them; correct?</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. Okay. Where did you take cover?</p> <p>2 A. I tried to take it behind one of the vehicles</p> <p>3 there in front.</p> <p>4 Q. And then what happened next?</p> <p>5 A. I remember Deputy Vasquez passing like on</p> <p>6 the -- I was trying to get cover. I saw Deputy Vasquez</p> <p>7 turn like going past me or towards me, actually on the</p> <p>8 street.</p> <p>9 I remember hearing him say something on</p> <p>10 the radio like, "We need negotiators," stuff like that.</p> <p>11 Q. Did -- did Deputy Vasquez ever tell you, "Hey,</p> <p>12 don't shoot towards that house, there's people in</p> <p>13 there"?</p> <p>14 A. I think so. I think he might have said that,</p> <p>15 yes, I think.</p> <p>16 Q. I don't see that anywhere in your statement.</p> <p>17 A. Well --</p> <p>18 Q. Is there a reason why you left that out of your</p> <p>19 statement?</p> <p>20 A. No.</p> <p>21 Q. But it's not in there, is it?</p> <p>22 A. I don't know. I haven't -- if you say it's not</p> <p>23 in there, then I guess it's not in there.</p> <p>24 Q. It's not in there.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 110</p> <p>1 A. Well, I made an attempt by trying to stop him</p> <p>2 when I made shots at him.</p> <p>3 Q. Once he got into the house and you thought he</p> <p>4 might be hurting somebody, you didn't go in to try to</p> <p>5 save them?</p> <p>6 A. To tell you the truth, sir, I'm not even</p> <p>7 sure if -- you know, I know he was -- he got to the</p> <p>8 house. I'm not sure how far he went in. I'm not</p> <p>9 sure -- you know, I -- I -- when I took that shot, like</p> <p>10 I said, it was a traumatic situation.</p> <p>11 I said, "Okay. You know, I don't know</p> <p>12 what he's going to do. I better get cover if -- you</p> <p>13 know -- you know, this guy, he's already attacking my</p> <p>14 partner, you know, he's already budgit [phonetic] his --</p> <p>15 a woman and she's bleeding. I don't know what he's</p> <p>16 going to do. Maybe he has a rifle or something right</p> <p>17 there. I need to take cover. You know, I need to make</p> <p>18 sure I have cover so that" --</p> <p>19 MR. WILSON: I object to that as being</p> <p>20 nonresponsive.</p> <p>21 Q. (By Mr. Wilson) Simply yes or no. You thought</p> <p>22 that he could have been in there injuring the people in</p> <p>23 the house, but you took cover instead of going to the</p> <p>24 house or inside the house to try to save them?</p> <p>25 A. I took cover, yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. So you never put in your statement, sir, that</p> <p>2 Deputy Vasquez said, "Hey, there's people in that house,</p> <p>3 don't shoot towards the house" --</p> <p>4 A. No.</p> <p>5 Q. -- or "Be careful" or words to that effect?</p> <p>6 A. Oh, well, you know, I can't remember every --</p> <p>7 every detail. I tried to. But I -- again, it was a</p> <p>8 traumatic situation.</p> <p>9 Q. Three hours after the event happened --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- you never said that?</p> <p>12 A. Sir, three hours, four hours, it's still</p> <p>13 traumatic.</p> <p>14 Q. That wasn't my question, sir.</p> <p>15 A. Uh-huh.</p> <p>16 Q. Please listen to my question.</p> <p>17 A. I understand.</p> <p>18 Q. Three and a half hours after this event</p> <p>19 happened, you never put anywhere in your statement that</p> <p>20 Deputy Vasquez had told you not to shoot towards the</p> <p>21 house?</p> <p>22 A. Correct.</p> <p>23 MR. FRIGERIO: Objection; argu --</p> <p>24 argumentative.</p> <p>25 Q. (By Mr. Wilson) Is that correct?</p>

Page 113

1 **A. Correct.**

2 Q. So how long were you and he standing by --
3 you -- your statement said you-all were standing by
4 these two vehicles taking cover; correct?

5 **A. I don't know that the -- is that what the**
6 **statement says?**

7 Q. It says here --

8 **A. I know I was.**

9 Q. -- "I heard Deputy Vasquez telling dispatch
10 that he needs the negotiators to make the scene. I
11 started to take cover behind the light-colored vehicle
12 while he started taking cover behind the dark-colored
13 vehicle."

14 **A. Correct.**

15 Q. Okay?

16 **A. I think so, yes.**

17 Q. So what happened after that?

18 **A. He -- he came out.**

19 Q. Who -- "he" meaning Mr. Flores?

20 **A. Mr. Flores, yes.**

21 Q. All right. And what -- what happened?

22 **A. Well, he still had his knife. He was cussing.**
23 **He was yelling. He was raising his hand, he was**
24 **lowering it.**

25 Q. Okay.

Page 114

1 **A. You know, that's what I remember.**

2 Q. An how far away were you from him?

3 **A. I couldn't say, sir. I was behind the vehicle.**
4 **He was coming out from the house.**

5 Q. At least the length of the yard --

6 **A. Oh, yes.**

7 Q. -- is that right?

8 **A. Uh-huh.**

9 Q. Because he was on the porch and you were on the
10 other side of the vehicle parked on the street?

11 **A. Correct.**

12 Q. So that's the distance you were away?

13 **A. Yes, sir.**

14 Q. And he had a knife?

15 **A. Yes, sir.**

16 Q. And you didn't shoot him?

17 **A. I didn't shoot him, no, sir.**

18 Q. Because he was no immediate threat to you, was
19 he?

20 MR. FRIGERIO: Objection; form.

21 **A. I have -- I looked at the whole situation, and**
22 **at that point he -- he was a threat.**

23 Q. (By Mr. Wilson) That wasn't my question.

24 You didn't shoot him because you knew that
25 he was not an immediate threat of harm to you or --

Page 115

1 **A. No.**

2 Q. -- Officer Vasquez?

3 **A. I think immediate -- when you say "immediate,"**
4 **you're trying to say, okay, he's just -- he's close to**
5 **you so he's not an immediate threat. Immediate --**
6 **immediate, it's going on right there. It's an immediate**
7 **threat, because he could do anything immediately.**

8 Q. He could?

9 **A. Yeah.**

10 Q. Or he could do nothing?

11 **A. Uh-huh. But you're saying immediate.**

12 Q. That's right.

13 **A. Okay.**

14 Q. He could immediately stand still?

15 **A. He could immediately not stand still and throw**
16 **the knife and --**

17 Q. My point is this, sir. He's standing there --

18 **A. Uh-huh.**

19 Q. -- on a porch --

20 **A. Right.**

21 Q. -- with a knife --

22 **A. Right.**

23 Q. -- not advancing towards you and Deputy --

24 **A. Oh --**

25 Q. -- Vasquez.

Page 116

1 **A. -- he's advancing. He's coming and he's --**

2 Q. Okay. So even -- even when he advancing --

3 **A. Uh-huh.**

4 Q. -- towards you with a knife --

5 **A. Uh-huh.**

6 Q. -- you don't shoot him?

7 **A. No.**

8 Q. You didn't feel like there was enough --
9 sufficient of a threat to justify shooting him at that
10 point, did you?

11 **A. Well, I had already taken one shot. And we --**
12 **we thought, "Well, okay, he didn't come out with a gun,**
13 **so -- he came out with a knife, so let's try to -- this**
14 **threat with the knife, let's try to see if we can**
15 **control the situation."**

16 Q. That wasn't my question, sir.

17 And you said, "We thought."

18 **A. Uh-huh.**

19 Q. Did you ever have a discussion with Deputy
20 Vasquez as to what he thought at this time period?

21 **A. At that point?**

22 Q. Yeah.

23 **A. No. I'm just saying "we" because he was with**
24 **me at the time.**

25 Q. You just mean you?

Page 117

1 **A. No. Well, you know, we -- you know -- well,**
2 **like you said, we didn't use -- we didn't shoot right**
3 **now. I didn't shoot. He didn't shoot. So --**
4 Q. My ques -- so my point is, neither you nor
5 Deputy Vasquez at that point thought that even though he
6 was advancing towards you with a knife he was a
7 sufficient threat to justify shooting him?
8 **A. He was a threat, sir. He was a sufficient**
9 **threat. He was an immediate threat. He was a threat**
10 **all around.**
11 Q. So wherever you guys were and wherever he
12 was --
13 **A. Uh-huh.**
14 Q. -- in the yard --
15 **A. Uh-huh.**
16 Q. -- and your -- it's your testimony --
17 **A. Uh-huh.**
18 Q. -- that he was always an immediate threat?
19 **A. He was -- he was a threat, yes, sir. As long**
20 **as he has the knife and he's not complying and he's**
21 **not -- and we're telling him, "Put down the knife."**
22 Q. Please listen to my question, sir. You
23 understand that -- We talked about immediate threat.
24 **A. Yes, sir.**
25 Q. And it's your testimony that --

Page 118

1 **A. Uh-huh.**
2 Q. -- as long as he's got that knife in the
3 yard --
4 **A. Uh-huh.**
5 Q. -- whether you're near him or far away from
6 him, he's enough of an immediate threat for you to
7 legally shoot him?
8 **A. Now, this -- you have to look at this whole**
9 **situation. And, to me, he was an immediate threat.**
10 **And, I mean, he -- he was a threat all -- all along.**
11 Q. An immediate threat all along?
12 **A. All along. Immediate, not immediate. I mean,**
13 **you're talking about immediate just because he's in a**
14 **close proximity. Well --**
15 Q. I'm talking about immediate --
16 **A. Yeah.**
17 Q. -- because you were --
18 **A. Because it was happening right there. It could**
19 **immediately happen.**
20 Q. Sir --
21 **A. Things happen immediately --**
22 Q. Sir, you understand --
23 **A. -- in a split second, sir.**
24 Q. Please let me finish my question.
25 **A. Okay.**

Page 119

1 Q. I'll try not to interrupt you.
2 You understand that -- according to the
3 law that you understand, that you've been taught, you
4 can only shoot when there's an immediate threat.
5 So is it your testimony that throughout
6 this entire ten-minute episode, at any given moment you
7 could have legally shot Gilbert Flores?
8 **A. As long as I'm in fear of my life and --**
9 Q. Is the answer "yes"?
10 **A. Use deadly force, yes.**
11 Q. All right. So this entire ten-minute
12 episode --
13 **A. Uh-huh.**
14 Q. -- even if you and Deputy Vasquez are 50 feet
15 away from him --
16 **A. Uh-huh.**
17 Q. -- and he is standing still in the yard, you
18 could shoot him?
19 **A. Well, I -- again --**
20 Q. No. You said the entire episode.
21 **A. Okay.**
22 Q. So is it your testimony, sir, that the
23 entire --
24 **A. But we did in the end.**
25 Q. I know you did.

Page 120

1 **A. Okay.**
2 Q. We're going to talk about that.
3 But is it your testimony, sir, that during
4 this entire seven, eight, nine-minute episode, even if
5 you and Deputy Vasquez are more than 50 feet away from
6 him and he's standing still in the yard yelling at you,
7 you could -- you could legally use force, according to
8 your training?
9 **A. Well, at some point we moved away and we didn't**
10 **use force there. But at the end -- you said, the entire**
11 **ten minutes. At the end, we did use deadly force.**
12 Q. I -- please --
13 MR. WILSON: Nonresponsive to my question.
14 Q. (By Mr. Wilson) You testified just a minute
15 ago that during this entire episode, he was an immediate
16 threat of serious bodily injury or death to you and
17 Mr. -- Deputy Vasquez?
18 **A. Yes, sir.**
19 Q. That's your testimony?
20 **A. Yes.**
21 Q. Your -- based on your training, based upon what
22 you understand the law to mean, based upon how you've
23 been taught at Bexar County, the entire episode, he is
24 forming an immediate threat which would justify the use
25 of lethal force?

<p style="text-align: right;">Page 121</p> <p>1 A. Not just an immediate threat to me. He could 2 be an immediate threat to the family members, he could 3 be an immediate threat -- 4 Q. During this -- 5 A. He was an immediate threat to Deputy Vasquez at 6 one point. 7 Q. I'm not talking about at one point. You 8 testified during this entire episode. 9 A. Uh-huh. 10 Q. It's your testimony that based upon your 11 understanding of your training -- 12 A. Uh-huh. 13 Q. -- and according to the Bexar County Sheriff's 14 Academy pol -- or Sheriff's County policy -- 15 A. Uh-huh. 16 Q. -- during this entire episode, everything 17 that's going on there, he's always an immediate threat 18 which would justify the use of lethal force? 19 A. As long as he has the knife in his hand and 20 he's not obeying our orders to surrender, to put the 21 knife down, he is a threat. 22 Q. Okay. Not just -- 23 A. And he's a threat -- 24 Q. -- not just a threat -- 25 A. -- and it -- sometimes it goes from immediate</p>	<p style="text-align: right;">Page 123</p> <p>1 County policy to be? 2 A. Again, what I was taught is that you have to 3 look at everything. 4 Q. Please just answer my question yes or no. 5 A. Uh-huh. 6 Q. That's what you understand the Bexar County 7 Sheriff's Department policy to be? 8 A. When you look at everything, yes. 9 Q. All right. So you're behind the vehicles. 10 He's come out on the front porch. What happens next? 11 A. We're going back and forth. We talking to him. 12 I'm telling him, "Go ahead, put the gun -- I mean, put 13 the knife down. There's no" -- you know -- you know, I 14 even asked him, I said, "Hey, at least let us check the 15 people in there." 16 He goes, "Ah, they're okay." He's -- he 17 was cussing. He was saying, "Fuck you. No way. I'm 18 not going back to prison. Fuck you." 19 He had -- he was taunting Deputy Vasquez. 20 He was -- he was like taunting. He had a -- he had a -- 21 he was just looking at him like, "I'm going to get you." 22 And he said in Spanish" (speaking Spanish). "Come on." 23 He was saying all of those things. 24 He was a threat. I felt it a threat. I 25 felt fear for my life, for Deputy Vasquez's life. I</p>
<p style="text-align: right;">Page 122</p> <p>1 to non-immediate. 2 Q. That's -- see, but that's my point, sir. 3 A. Okay. 4 Q. You testified that during this entire episode 5 in your opinion he was an immediate threat which would 6 have justified the use of lethal force? 7 A. Yeah. I mean -- 8 Q. Is that a "yes"? 9 A. Yes. 10 Q. Okay. So regardless of what he's doing, 11 regardless of where he is, regardless of where you are, 12 the mere fact that he has a knife and he's not complying 13 you believe justifies killing him? 14 A. I believe that as long as he is not putting 15 down the knife and surrendering, he is -- I am in fear 16 of my life. 17 Q. And based on your training on -- just because 18 of that, you think you could -- he -- you're in 19 immediate threat and in immediate threat to where you 20 could legally shoot him? 21 A. As long as I'm in fear for my life, yes, sir. 22 Q. Okay. And that's how you were taught at the 23 Academy? 24 A. Yes, sir. 25 Q. So -- and that's what you understand Bexar</p>	<p style="text-align: right;">Page 124</p> <p>1 felt for the life of the people in there. 2 He never, never showed that he was not a 3 threat. He was always a threat. Whether immediate or 4 not, he was always a threat. 5 MR. WILSON: Object to that as being 6 nonresponsive. 7 Q. (By Mr. Wilson) All right. So let me -- so 8 what do you and Deputy Vasquez do next? He's -- he's in 9 the yard. You're -- 10 A. We go back and forth. 11 Q. Okay. 12 A. We're trying to back up. We're trying to give 13 him a chance to surrender. He's not surrendering. He's 14 not complying. 15 He even goes and gets the Taser. I didn't 16 know even know the Taser was there, to tell you truth. 17 And then the next thing I see he has the Taser. 18 And Deputy Vasquez said, "Hey, he has the 19 Taser. Get back, Bobby." 20 Oh, okay. You know, we're getting back. 21 And I might have said something about, "He's got the 22 Taser?" 23 And then he comes back around the car. 24 He's looking. He's playing with the Taser. I hear it 25 going off. And all of a sudden he just throws it across</p>

Page 125	Page 127
<p>1 the street. He goes back.</p> <p>2 And I think at one point he went to open</p> <p>3 the back door of Deputy Vasquez's car and he slams it</p> <p>4 shut --</p> <p>5 Q. Hold on --</p> <p>6 A. -- and --</p> <p>7 Q. Hold on, hold on.</p> <p>8 A. Okay.</p> <p>9 Q. I want to break you up there.</p> <p>10 Okay. You and Deputy Vasquez, as he's</p> <p>11 approaching you, you were backing up --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- correct?</p> <p>14 A. At one point, yeah, some point, we're --</p> <p>15 Q. How close were you and Deputy Vasquez together?</p> <p>16 A. At some times we were right next to each other.</p> <p>17 At times we were, you know, a couple of feet apart.</p> <p>18 Q. Were you having conversations with each over?</p> <p>19 A. No, I -- Well, yeah. I wouldn't say</p> <p>20 conversations. I think most of the conversation was I</p> <p>21 was trying to relay what was going on to -- over the</p> <p>22 radio.</p> <p>23 And I know Deputy Vasquez -- I know, since</p> <p>24 he was being attacked, he had this tunnel vision of</p> <p>25 "Man, this guy is trying to kill me." You know, he was</p>	<p>1 away from you and I'm calling you names and cussing at</p> <p>2 you, saying, "You're going to have to shoot me, that's</p> <p>3 enough justification in your mind to shoot me?"</p> <p>4 A. Well, it depends on the situation. All</p> <p>5 situations are different, sir. I keep trying to tell</p> <p>6 you that.</p> <p>7 You can't just say, "Well, I'm 40 feet</p> <p>8 away, I have a knife and I'm taunting you, are you going</p> <p>9 to shoot?"</p> <p>10 Of course we're going to look at the whole</p> <p>11 thing. Where are you standing. You just stabbed</p> <p>12 somebody. Are you getting ready to stab somebody else?</p> <p>13 You know, I had to look at the whole situation, sir, not</p> <p>14 just one situation and say, "Oh, yeah, we're not going</p> <p>15 to shoot," because -- you know, oh, we have to look at</p> <p>16 everything. And then something like that is very</p> <p>17 traumatic and --</p> <p>18 Q. Were you --</p> <p>19 A. -- it goes real quick -- I'm sorry -- it goes</p> <p>20 real quick.</p> <p>21 Q. Were you ever taught in the Academy that</p> <p>22 situations like this are fluid? I think we've asked you</p> <p>23 that before.</p> <p>24 A. What?</p> <p>25 Q. Fluid. That they change.</p>
Page 126	Page 128
<p>1 just looking. And he was taunting him at the same time.</p> <p>2 (Indicating.)</p> <p>3 Q. Well, you understand that taunting is not</p> <p>4 enough to shoot somebody?</p> <p>5 A. Taunting?</p> <p>6 Q. Yeah.</p> <p>7 A. With a knife?</p> <p>8 Q. Taunting, you said taunting.</p> <p>9 A. Oh, no, not just taunting. I mean --</p> <p>10 Q. Right.</p> <p>11 A. -- there's a difference between taunting and</p> <p>12 having -- taunting and having a knife and --</p> <p>13 (Indicating.)</p> <p>14 Q. You're telling me that if I had a knife in my</p> <p>15 hand --</p> <p>16 A. Uh-huh.</p> <p>17 Q. -- and I was 40 feet away from you and I was</p> <p>18 calling you names --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- that you could shoot me?</p> <p>21 A. If I felt that you -- I was in danger of my</p> <p>22 life or there was other people.</p> <p>23 Q. If I'm --</p> <p>24 A. Yes, it was danger for us.</p> <p>25 Q. If I'm standing on the driveway and I'm 40 feet</p>	<p>1 A. Yes.</p> <p>2 Q. And that you're supposed to always recalibrate</p> <p>3 your thinking as to what force you can use?</p> <p>4 A. Right.</p> <p>5 Q. You were taught that; right?</p> <p>6 A. Uh-huh.</p> <p>7 Q. So you were taught to always view the change of</p> <p>8 circumstances to calibrate in your mind whether you</p> <p>9 could use lethal force or whether you no longer could</p> <p>10 use lethal force; right?</p> <p>11 A. Yeah. I think so, yeah.</p> <p>12 Q. Right. So you were taught that it's not just</p> <p>13 the totality of the circumstance, it's what's happening</p> <p>14 at the moment you decide to discharge your weapon?</p> <p>15 MR. FRIGERIO: Objection; form.</p> <p>16 A. I think I was taught that you have to look at</p> <p>17 everything.</p> <p>18 Q. (By Mr. Wilson) Okay. So you were taught,</p> <p>19 look at everything --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- not just what's happening at the time you</p> <p>22 use your weapon?</p> <p>23 A. Right.</p> <p>24 Q. All right. And so even at the time you decide</p> <p>25 to shoot your -- discharge your weapon, if all he's</p>

Page 129	Page 131
<p>1 doing is standing there taunting you, but he in the past</p> <p>2 had attacked Deputy Vasquez, you felt like you could</p> <p>3 legally shoot him?</p> <p>4 A. Again, I'm in fear of my life and I look at the</p> <p>5 whole situation.</p> <p>6 Q. Even if at the moment he's not doing anything</p> <p>7 to put you in fear for your life?</p> <p>8 A. As long as I'm in fear for my life and I</p> <p>9 believe that he could at any moment hurt me, Deputy</p> <p>10 Vasquez, or anybody else.</p> <p>11 Q. Even if at the exact moment that you decided to</p> <p>12 pull your trigger he's not doing anything that puts you</p> <p>13 in that fear, but you're basing it upon what could</p> <p>14 happen in the future and what happened in the past?</p> <p>15 A. I -- I look at the situation and --</p> <p>16 Q. And that's what you were taught?</p> <p>17 A. You have to look at the whole situation,</p> <p>18 because we don't know, we can't read his mind. We don't</p> <p>19 know exactly what he's going to do. He could do</p> <p>20 anything.</p> <p>21 Q. So you could shoot -- you were legal -- you</p> <p>22 were taught that you could legally shoot somebody based</p> <p>23 upon what he could do, not what he was doing?</p> <p>24 A. No. I was taught that if you're in fear of</p> <p>25 your life and you have to look at the whole situation --</p>	<p>1 videotape. And you've seen -- you were here when we</p> <p>2 went through it with --</p> <p>3 A. Yes.</p> <p>4 Q. -- Deputy Vasquez; right?</p> <p>5 And you're out there. A supervisor is</p> <p>6 asking for status reports --</p> <p>7 A. Okay.</p> <p>8 Q. -- do you recall that?</p> <p>9 A. I think so.</p> <p>10 MR. WILSON: Okay. We can take a break</p> <p>11 and we'll cue that up.</p> <p>12 THE VIDEOGRAPHER: We're off the record at</p> <p>13 5:30 p.m.</p> <p>14 (Recess from 5:30 until 5:39.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record at 5:39 p.m.</p> <p>17 Q. (By Mr. Wilson) All right, sir. We just took</p> <p>18 a short break, and I put up on the screen the video from</p> <p>19 the neighbor that was taken of this incident. We refer</p> <p>20 to it in this litigation as the Fleming video.</p> <p>21 And was this the video that you saw on</p> <p>22 YouTube?</p> <p>23 A. Yes.</p> <p>24 Q. Did you also see the shorter video, the first</p> <p>25 video that came out from a Mr. Thomas, who had taken it</p>
Page 130	Page 132
<p>1 Q. Even --</p> <p>2 A. -- and you --</p> <p>3 Q. Even if that fear is only based upon what he</p> <p>4 could do in the future?</p> <p>5 A. No. On the whole situation.</p> <p>6 Q. You were never taught that you recalibrate your</p> <p>7 thinking to look at what he's doing at the moment you</p> <p>8 decide to pull the trigger?</p> <p>9 A. You recalibrate your thinking all the time. A</p> <p>10 lot of things are going in your mind, not just one</p> <p>11 thing. You're mind is going a lot of things.</p> <p>12 I'm thinking a lot of things. I'm</p> <p>13 thinking, "I want to go home. I want to see my</p> <p>14 nine-year-old daughter."</p> <p>15 Q. So you see him throw the Taser; correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. So the Taser is no longer a potential threat?</p> <p>18 A. No. Right.</p> <p>19 Q. Right. And then he -- does he go back towards</p> <p>20 the house?</p> <p>21 A. No. He goes like towards -- back towards back</p> <p>22 of the cars, those two cars --</p> <p>23 Q. Okay.</p> <p>24 A. -- between the car and the house.</p> <p>25 Q. All right. Now, we've seen you on this</p>	<p>1 from his vehicle?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So before we start playing this video,</p> <p>4 the first time that you ever saw this video was --</p> <p>5 And, by the way, this is not the full</p> <p>6 Fleming video. I don't want to trick you into anything.</p> <p>7 We received this from Bexar County, and it has the radio</p> <p>8 transmissions superimposed over it.</p> <p>9 A. Okay.</p> <p>10 Q. Okay. So this is from Bexar County. It's a</p> <p>11 portion of that video; okay?</p> <p>12 A. Okay.</p> <p>13 Q. Just so that you know.</p> <p>14 A. Okay.</p> <p>15 Q. But before I start playing it, as we look at</p> <p>16 the scene, the vehicle -- the Tahoe that is off to the</p> <p>17 right, that's your vehicle; correct?</p> <p>18 A. Correct.</p> <p>19 Q. That's where you had parked it before you</p> <p>20 headed towards the incident; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then the other Tahoe that we see, the other</p> <p>23 Bexar County patrol vehicle, that's Deputy Vasquez's</p> <p>24 vehicle; correct?</p> <p>25 A. Correct.</p>

Page 133

1 Q. And the house where Mr. Flores is, is the
2 one -- the red brick house right behind the two vehicles
3 parked on the street?
4 **A. Correct.**
5 Q. Is that your understanding?
6 **A. Yes, sir.**
7 Q. Okay. So I guess this gives our -- gets us our
8 bearings.
9 So --
10 (Video playing.)
11 Q. (By Mr. Wilson) Now, that was your voice;
12 correct?
13 **A. Yes.**
14 Q. And you said "Delta 31"?
15 **A. Uh-huh.**
16 Q. What -- who is -- what is that referring to?
17 **A. I think I was referring to another unit that**
18 **might be on the way. I'm not sure.**
19 **I might have been mistaken, because I'm**
20 **sometimes Delta 23, sometimes I'm Delta 31, sometimes**
21 **I'm Delta 21.**
22 Q. Okay. So you could have been referring to
23 yourself.
24 Is it typical of these communications for
25 you to announce who's doing it before you say whatever

Page 134

1 you're going to say?
2 **A. Is it typical?**
3 Q. Well, is it part of your training to say,
4 "Delta 23" --
5 **A. Yes.**
6 Q. -- and then saying what you're going to say?
7 **A. Yes, sir.**
8 Q. So that's how you identify yourself?
9 **A. Yes.**
10 Q. Okay. So when you said "Delta 31" --
11 **A. Uh-huh.**
12 Q. -- you could have been referring to yourself by
13 accident?
14 **A. Yes, sir.**
15 Q. All right. The reason I ask that is you were
16 not saying, "Hey, Delta 31" -- whoever that might be --
17 "this is what I'm telling you"? You were identifying
18 yourself?
19 **A. I think so, sir.**
20 Q. Okay. And you said -- do you recall who you
21 were telling that to?
22 **A. Dispatch.**
23 Q. Is there a policy regarding giving status
24 reports throughout an event such as this?
25 **A. Not that I know of.**

Page 135

1 Q. So you don't have any sort of obligation to
2 inform your supervisors as to what's going on?
3 **A. Like the way I did there?**
4 Q. Yes, sir.
5 **A. No.**
6 Q. Was that something that you just did on your
7 own?
8 **A. I think that's something we were taught while**
9 **on training, you know, if you can give details over the**
10 **radio, do them, let whoever is coming know what's going**
11 **on.**
12 Q. All right. So there is some policy to give
13 status reports?
14 **A. I'm not sure if it's in policy or not or it's**
15 **just something that's implied when we train.**
16 Q. More of a custom?
17 **A. Yeah.**
18 Q. Maybe not written in policy, but a custom to
19 give ongoing communication to let other people who
20 aren't there know what's going on?
21 **A. Yes.**
22 Q. And would that also include your supervisor?
23 **A. Yes.**
24 Q. So would it be the custom of Bexar County for
25 you to relay to the supervisor what's going on at the

Page 136

1 scene?
2 **A. Yes.**
3 Q. And is that so that the supervisor can give you
4 instructions?
5 **A. No, not necessarily.**
6 Q. Is that so he can give -- if a supervisor gave
7 you an order at this -- during this incident, would you
8 need to follow that?
9 **A. If I felt that -- yes, I would follow it.**
10 Q. All right. And I understand it has to be a
11 lawful order. Is that what you were --
12 **A. Right, right.**
13 Q. -- hesitating with?
14 **A. I guess so.**
15 Q. Okay. But the reality is, if the supervisor
16 who's not at the scene gives you instructions, you're
17 expected to follow those instructions; correct?
18 **A. Yes.**
19 Q. Does that act as like a -- for lack of a better
20 term, a green light to do something? Do you understand
21 what I'm saying?
22 **A. Yes. I'm not sure if it acts as a green light**
23 **to do something.**
24 Q. Authorization?
25 **A. Okay, yes.**

Page 137	Page 139
<p>1 Q. Is that right?</p> <p>2 A. I think in certain situations, yes, I think --</p> <p>3 Q. Okay.</p> <p>4 A. -- it could be authorized.</p> <p>5 Q. So, for example, you are giving the supervisor,</p> <p>6 who is --</p> <p>7 In this particular instance, was your</p> <p>8 supervisor Sergeant Pedraza?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And then was his supervisor the Lieutenant?</p> <p>11 A. Lieutenant von Muldau.</p> <p>12 Q. Okay. And so they were both listening to what</p> <p>13 was going on; correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And if they gave you an instruction, they would</p> <p>16 expect you to follow it; right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And that instruction would be based upon the</p> <p>19 information you were relaying to them on the scene;</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. All right. So if they said, "Shoot him," that</p> <p>23 would be authorization to shoot him?</p> <p>24 A. That would be authorization to shoot him, yes.</p> <p>25 Q. Even though they weren't there?</p>	<p>1 custom is to relay the information.</p> <p>2 Q. And then the other custom is whatever they say,</p> <p>3 you do?</p> <p>4 A. Well, I -- I -- not -- I mean, you have to ask</p> <p>5 them. I -- I -- I follow orders, yes.</p> <p>6 Q. That's what I mean.</p> <p>7 A. Okay. Yes.</p> <p>8 Q. You -- you tell them what's going on, they give</p> <p>9 you an order, you follow it?</p> <p>10 A. Yes.</p> <p>11 Q. Even if your own -- would you follow that even</p> <p>12 if your own judgment was different?</p> <p>13 A. That's a good question. I'd say, depending on</p> <p>14 the situation, I -- I might not. Yes.</p> <p>15 Q. But, in other words, if they said, "Shoot</p> <p>16 him" --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- that would be authorization for you to shoot</p> <p>19 them based on what you had told them even though they</p> <p>20 weren't on the scene and even if your judgment would be</p> <p>21 not to?</p> <p>22 A. Can you say it one more time?</p> <p>23 Q. Sure. You would follow that order --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- right? If they said, "Shoot him," you'd</p>
Page 138	Page 140
<p>1 A. Even though they weren't there, yes.</p> <p>2 Q. Even though they weren't on the ground with</p> <p>3 their own eyes seeing what was happening?</p> <p>4 A. Yes.</p> <p>5 Q. And that's part of the custom of Bexar County,</p> <p>6 that a supervisor can give you an instruction like that</p> <p>7 and they expect you to follow it?</p> <p>8 A. I think the custom is to relay the information.</p> <p>9 As far as them giving the orders to shoot him, that's</p> <p>10 not -- I don't know. I mean, you have to ask the</p> <p>11 sergeants.</p> <p>12 Q. Well, based upon your understanding --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- you tell them what's going on and he says,</p> <p>15 "Take him down"?</p> <p>16 A. Uh-huh --</p> <p>17 Q. That would --</p> <p>18 A. -- right.</p> <p>19 Q. -- be authorization for you to take him down?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And it would be the custom of Bexar County that</p> <p>22 a supervisor could give that order; right?</p> <p>23 A. I'm not sure. I'm not sure if it's the custom</p> <p>24 for them to say something like that. It would have to</p> <p>25 be the supervisor. I'm not a supervisor. But the</p>	<p>1 follow that order?</p> <p>2 A. Depends.</p> <p>3 Q. And under what circumstances would you not?</p> <p>4 A. Like you said, if I felt at that time -- I --</p> <p>5 I -- I think when they said that, we didn't shoot right</p> <p>6 away. We had already been telling him for a while,</p> <p>7 so --</p> <p>8 Q. But that was the authorization to shoot him?</p> <p>9 A. I guess so. You --</p> <p>10 Q. Okay.</p> <p>11 A. Whether it's a authorization, whether it's</p> <p>12 their custom, I -- I can't say. I'm not a supervisor.</p> <p>13 Q. I understand. But you're a deputy who's</p> <p>14 following orders?</p> <p>15 A. I follow -- try to follow the orders, yes, sir.</p> <p>16 Q. Okay. And you understand that a supervisor's</p> <p>17 orders, when they're remote, is only as good as the</p> <p>18 information you give them; right?</p> <p>19 A. Right.</p> <p>20 Q. In other words, if you don't give them valid</p> <p>21 information, they can't give you a valid order?</p> <p>22 A. True.</p> <p>23 Q. If situations change and you don't tell them</p> <p>24 the situation has changed and you're relying upon a</p> <p>25 previous order, that's not right?</p>

Page 141

1 **A. Yeah, I would say.**

2 Q. I mean, in other words --

3 **A. Yeah.**

4 Q. -- in order for them to give you a valid order
5 to do something, you have to give them complete,
6 up-to-date information; right?

7 **A. As best as I can, yes.**

8 Q. Yes. And if the information -- if the
9 situation changes and that threat is no longer there,
10 the supervisor is basing -- giving an order based on
11 false information; right?

12 Let me rephrase that.

13 **A. Yeah.**

14 Q. In other words, it's incumbent upon you as the
15 person on the scene to give them up-to-date, correct
16 information?

17 **A. I guess it's -- I don't know -- I don't know if
18 it's policy, but, like you said, I would say custom
19 or --**

20 Q. Okay.

21 **A. -- it's usually what we do in especially
22 situations like this, yes.**

23 Q. Right. And so the custom is for you to give
24 ongoing status reports as to what's going on. And
25 it's -- it's part of your obligation, when you do that,

Page 142

1 if the situation changes, to let them know the situation
2 has changed; correct?

3 **A. Correct.**

4 Q. Okay. And based upon the information that you
5 relay to them, the custom is that they give you
6 instructions?

7 **A. I don't know. Like, again, I --**

8 Q. Well, that's happened to you in the past;
9 right? You give them information, they give you an
10 instruction on what to --

11 **A. If --**

12 Q. -- do?

13 **A. -- I'm asking, like sometimes -- like in
14 this -- this situation is totally different.**

15 **There might be a time I might ask
16 something else, like maybe at an accident scene or
17 something, something is going on --**

18 Q. Okay.

19 **A. -- or -- you know, or --**

20 Q. Well, let's -- let's kind of talk about this
21 situation, because you -- a little bit later we're going
22 to hear a transmission where the lieutenant says, "Don't
23 let him get back in that house" --

24 **A. Right.**

25 Q. -- right? You heard that?

Page 143

1 **A. Yes, sir.**

2 Q. Because you're telling him he's heading back
3 into the house; right?

4 **A. Right.**

5 Q. Okay. When he says, "Don't" get -- "Don't let
6 him get back in that house," how did you interpret that?

7 **A. Don't let him get back into the house. Make
8 sure he doesn't -- because he had already gone one time.
9 Don't let him go back into -- the other time, next time.**

10 Q. Did you interpret that that you could use
11 lethal force to prevent him from going back into the
12 house?

13 **A. If I felt that at that point I needed to use
14 lethal force, yes.**

15 Q. And that -- was that because the lieutenant had
16 told you, "Don't let him go back in that house"?

17 **A. No. It's because at that time I felt that I
18 needed to use lethal force to stop him.**

19 Q. All right. And you would be following your
20 lieutenant's orders not to let him back in the house?

21 **A. Yes, sir.**

22 Q. Okay. Later on we're going to hear an
23 instruction where Sergeant Pedraza says, "Stop him. By
24 all means, stop him," in relation to getting into that
25 vehicle. Do you recall that?

Page 144

1 **A. Yes.**

2 Q. How did you interpret that?

3 **A. Make sure he doesn't get into the vehicle. I
4 mean, I may use deadly force if I have to.**

5 Q. And when he says "by all means" --

6 **A. "By all means."**

7 Q. -- was that authorization for you to use deadly
8 force to prevent him from getting into that vehicle?

9 **A. I think, yes.**

10 Q. That's how you interpreted that?

11 **A. Yes.**

12 Q. All right. Would he have to be getting --
13 trying to get into the vehicle at the time you followed
14 that instruction?

15 **A. Not necessarily.**

16 Q. Could he be standing just next to the vehicle?

17 **A. I think it was, whether he's standing next to
18 the vehicle or he's trying to get in, make sure he
19 doesn't get into the vehicle.**

20 Q. So it's your understanding that based upon
21 Sergeant Pedraza's instructions, "Stop him. By all
22 means, stop him," even if he was just standing next to
23 the car, not trying to get in at the moment, you could
24 legally -- you could shoot him, based on that
25 instruction?

Page 145

1 **A. Again, if I felt that I was in immediate danger**
2 **for my life, I could use deadly force.**
3 Q. My question was not that.
4 My question was: Doctor -- Sergeant
5 Pedraza had said, "Stop him. By all means, stop him,"
6 what you interpreted to mean lethal force?
7 **A. Yes.**
8 Q. Use lethal force to prevent him from getting
9 into the vehicle; right?
10 **A. Yes.**
11 Q. And you interpreted that to mean even if he was
12 just standing next to the car, not trying to get in, at
13 the time you pulled the trigger, you could use lethal
14 force?
15 MR. FRIGERIO: Objection; form.
16 **A. If I felt that he was a threat.**
17 Q. (By Mr. Wilson) So you would still need to
18 feel the immediate threat of --
19 **A. Yes.**
20 Q. -- serious bodily injury to yourself or others?
21 **A. Yes, sir.**
22 Q. Regardless of what Sergeant Pedraza had said?
23 **A. Regardless?**
24 Q. Yeah.
25 **A. Yes.**

Page 146

1 **(Video playing.)**
2 Q. (By Mr. Wilson) All right. So that's dispatch
3 relaying what you had told them; correct?
4 **A. I think so.**
5 **(Video playing.)**
6 Q. (By Mr. Wilson) All right. So do you see
7 Mr. Flores anywhere in this video right now?
8 **A. I think he's right behind that bush.**
9 Q. Okay. So we stopped the tape. Now --
10 **A. Uh-huh.**
11 Q. -- he is standing behind the bush; right?
12 **A. Uh-huh.**
13 Q. In your opinion, sir, is he an immediate threat
14 to justify the use of lethal force right now?
15 **A. It depends on -- if he still has the knife, I'd**
16 **say he could have be an immediate threat, yes.**
17 Q. Okay. So him standing on the porch with you
18 and Deputy Vasquez where they are right now --
19 **A. Uh-huh.**
20 Q. -- just because he has a knife in his hand, you
21 believe, based on your training and experience and what
22 you were taught, that you could use lethal force?
23 **A. Well, when you say "immediate," maybe not to**
24 **us, maybe the people inside the house. (Indicating.)**
25 Q. So standing where he is right now --

Page 147

1 **A. Uh-huh.**
2 Q. -- you could shoot him with -- and be within
3 Bexar County policy and your training?
4 **A. If I feel that he's an immediate threat to**
5 **somebody inside the house, maybe, yes.**
6 Q. Just seeing from what we see now.
7 **A. Well, I just see him standing there, right.**
8 Q. You could shoot him?
9 **A. Yeah. But you've got to look at everything,**
10 **sir. You can't just say, "Okay. Here's a frozen frame**
11 **and, okay, you can shoot him there."**
12 **I mean, he's moving. I mean, you don't**
13 **see him moving, but he was moving, he was yelling, he**
14 **was saying all kinds of things.**
15 **And I don't know what's behind him. I**
16 **don't know if he still has a gun in the -- somewhere**
17 **around there.**
18 Q. My --
19 **A. He might still have a gun --**
20 Q. My point --
21 **A. -- so he's an immediate threat.**
22 Q. All right. So just based upon what you know at
23 this point --
24 **A. Uh-huh.**
25 Q. -- in your opinion, based upon your training

Page 148

1 and experience and your understanding --
2 **A. Uh-huh.**
3 Q. -- of the law the way you've been taught --
4 **A. Uh-huh.**
5 Q. -- based on what you know at this point, you
6 could shoot him?
7 **A. If he's an immediate threat to my life?**
8 Q. Is he, is my question?
9 **A. I don't -- He could be. He could be if he has**
10 **a gun right there.**
11 Q. You told me that during this entire ten-minute
12 episode he was an immediate threat.
13 **A. Okay.**
14 Q. This is part of that ten minutes.
15 **A. Right.**
16 Q. So you could legally -- in your opinion, based
17 upon what you know, you could shoot him right now?
18 **A. If I felt that my life was in danger --**
19 Q. But you --
20 **A. -- or somebody else's, I could use deadly**
21 **force.**
22 Q. Did you?
23 **A. I didn't use deadly force, no.**
24 Q. So you didn't think so?
25 **A. A lot of things were going through my mind. I**

Page 149	Page 151
<p>1 think we just went through that. A lot of things were</p> <p>2 going through my mind.</p> <p>3 Q. But you didn't think he was an immediate threat</p> <p>4 at this point?</p> <p>5 A. I knew he was a threat.</p> <p>6 Q. Okay.</p> <p>7 (Video playing.)</p> <p>8 Q. (By Mr. Wilson) So at this time Mr. Flores is</p> <p>9 yelling at you and Deputy Vasquez; correct?</p> <p>10 A. Right. He's saying a lot of things.</p> <p>11 (Video playing.)</p> <p>12 Q. (By Mr. Wilson) "Close in," did you hear that?</p> <p>13 A. Yes.</p> <p>14 Q. Was that --</p> <p>15 A. He means -- he means to close the channel so</p> <p>16 only me and Deputy Vasquez can be heard talking.</p> <p>17 Q. Okay. I didn't --</p> <p>18 A. Yeah.</p> <p>19 Q. I wanted to make clear that wasn't "Close in"</p> <p>20 like --</p> <p>21 A. No. He meant close -- like close the</p> <p>22 channel --</p> <p>23 Q. Got you.</p> <p>24 A. -- because people were still talking.</p> <p>25 (Video playing.)</p>	<p>1 Q. When that altercation was going on, did</p> <p>2 Mr. Flores have a metal chair in his -- in his hand?</p> <p>3 A. Yes. I remember at one point he did have a</p> <p>4 metal chair.</p> <p>5 Q. You saw that while -- when you were running up?</p> <p>6 A. No, no, no. Afterwards, I think.</p> <p>7 Q. Sometime later he got a metal chair?</p> <p>8 A. Yes.</p> <p>9 Q. So when you saw them in the middle of the</p> <p>10 street, he did not have a metal chair in his hand?</p> <p>11 A. No. He was going at Deputy Vasquez with the</p> <p>12 knife. (Indicating.)</p> <p>13 Q. Okay. So is it Bexar County Sheriff's</p> <p>14 Department policy to only use a Taser when there's</p> <p>15 backup?</p> <p>16 A. I don't think so.</p> <p>17 Q. You've never been told that?</p> <p>18 A. Only when there's backup?</p> <p>19 Q. Right.</p> <p>20 A. Like only when you have somebody backing you</p> <p>21 up?</p> <p>22 Q. When there's another officer there acting as</p> <p>23 backup.</p> <p>24 A. Can you say it again?</p> <p>25 Q. Have you ever been -- do you understand that</p>
Page 150	Page 152
<p>1 A. Same thing. "Close it. Hold the air."</p> <p>2 Q. (By Mr. Wilson) And the purpose of that is so</p> <p>3 that there's no other chatter besides you-all going on?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 (Video playing.)</p> <p>7 Q. (By Mr. Wilson) You still have your service</p> <p>8 revolver drawn; is that correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And Deputy Vasquez does as well; correct?</p> <p>11 A. I think so, sir. Yes, sir.</p> <p>12 Q. And you're keeping your distance from him;</p> <p>13 right?</p> <p>14 A. Yes, sir. And I don't have a shield.</p> <p>15 Q. Right. Did you not have one in your vehicle?</p> <p>16 A. No.</p> <p>17 Q. By the way, let me ask you a question. Let's</p> <p>18 pause this for a second.</p> <p>19 You never saw Deputy Vasquez use his</p> <p>20 Taser; correct?</p> <p>21 A. I don't remember. I don't -- I don't -- I'm</p> <p>22 not sure.</p> <p>23 Q. All right. You saw the altercation, you say,</p> <p>24 going on.</p> <p>25 A. Right.</p>	<p>1 it's Bexar County Sheriff's Department policy to only</p> <p>2 use a Taser, non-lethal force like that, when there is</p> <p>3 backup present?</p> <p>4 A. I -- I don't remember.</p> <p>5 Q. If, in fact, that's the policy -- Well, let me</p> <p>6 rephrase it.</p> <p>7 You never were present when you saw Deputy</p> <p>8 Vasquez shoot his Taser?</p> <p>9 A. Sir, I -- I couldn't say. I don't remember.</p> <p>10 Q. Because look at this tape.</p> <p>11 A. Okay.</p> <p>12 Q. And I can't point to it, but if you'll see --</p> <p>13 A. Oh, the Taser down there?</p> <p>14 Q. The Taser on the street.</p> <p>15 A. Oh, okay.</p> <p>16 Q. See the Taser on the street?</p> <p>17 A. Yeah.</p> <p>18 Q. It's already been used.</p> <p>19 A. Oh, okay.</p> <p>20 Q. Okay? So if, in fact, the policy is that you</p> <p>21 cannot use a Taser without backup being present and</p> <p>22 Deputy Vasquez used his Taser before you arrived, that</p> <p>23 would be a violation of policy; correct?</p> <p>24 MR. FRIGERIO: Objection; form.</p> <p>25 A. I don't think so.</p>

Page 153

1 Q. (By Mr. Wilson) Not the way you've been
2 taught?
3 **A. Right.**
4 Q. Or not the way that you can recall?
5 **A. Yes.**
6 Q. All right.
7 (Video playing.)
8 Q. (By Mr. Wilson) So this is -- what are you --
9 now, what are you telling -- you can recall telling
10 Mr. Flores during this time?
11 **A. I'm just trying to calm him down. I'm -- you**
12 **know, he's yelling and screaming. I'm telling him to**
13 **put the knife down. And he's cussing and he's yelling.**
14 **He's saying --**
15 **I think I might have asked him at some**
16 **point during that, you know, "Who's in the house? Can I**
17 **see the person in the house? Come" --**
18 **"No. They're okay. Don't worry.**
19 **They're -- they're nothing," whatever. And he's just**
20 **cussing at us and saying he's not going back to prison.**
21 Q. And you say -- you're telling him to drop the
22 knife?
23 **A. I'm not sure at that point I'm saying that.**
24 Q. Okay. Does -- is Deputy Vasquez telling him to
25 drop the knife? Do you?

Page 154

1 **A. I'm -- I'm not sure either.**
2 Q. All right. You don't recall if either of you
3 are telling him to drop the knife at that point?
4 **A. No, I don't recall.**
5 Q. Okay.
6 (Video playing.)
7 Q. (By Mr. Wilson) Okay. One -- so somebody is
8 asking for a status check.
9 **A. Right.**
10 Q. Do you recall who that is?
11 **A. It sounds like the lieutenant, Lieutenant von**
12 **Muldau.**
13 Q. All right. And then I see you reach towards
14 your hip.
15 **A. Yes.**
16 Q. All right.
17 (Video playing.)
18 Q. (By Mr. Wilson) Okay. So you're telling the
19 lieutenant he's just talking to you and he still has the
20 knife in his hand?
21 **A. Yes.**
22 Q. That's you telling him that; correct?
23 **A. Yes, sir.**
24 Q. Okay.
25 (Video playing.)

Page 155

1 Q. (By Mr. Wilson) Hold on a second.
2 Now, you saw where this tape started;
3 right? You had already fired your --
4 **A. Yes.**
5 Q. -- weapon before this --
6 **A. Uh-huh.**
7 Q. -- had shown up; correct?
8 **A. Yes, sir.**
9 Q. Okay. Now he's coming out into the yard. Do
10 you see him coming out into the yard?
11 **A. Yes, sir.**
12 Q. He's advancing towards you, at least, or Deputy
13 Vasquez as well. Do you see that?
14 **A. Yes, sir.**
15 Q. Even though he's advancing towards you, you do
16 not feel he's an immediate enough threat to use lethal
17 force at that point; correct?
18 MR. FRIGERIO: Objection; form.
19 **A. This car was blocking a lot of stuff.**
20 Q. (By Mr. Wilson) Okay. So --
21 **A. Uh-huh.**
22 Q. -- my point is, even though he's advancing
23 towards you with a knife and closing the distance
24 between you at this point, you did not feel there was an
25 immediate enough threat to you in order to justify the

Page 156

1 use of lethal force?
2 **A. Well, I can't --**
3 MR. FRIGERIO: Objection; form.
4 **A. -- I can't say that because that car, like I**
5 **said, was blocking a lot -- a lot of things. Like, you**
6 **know, I was -- he caught me off guard, actually, when I**
7 **saw -- or -- or when thought about that.**
8 **So, yeah, I think he was an immediate**
9 **threat.**
10 Q. (By Mr. Wilson) But you didn't use lethal
11 force?
12 **A. At that point, no, I didn't.**
13 (Video playing.)
14 Q. (By Mr. Wilson) Okay. Now, you say he's
15 coming towards you. He's actually walking around the
16 car at that time; correct?
17 **A. Well, towards us, or around the car where we**
18 **were. (Indicating.)**
19 Q. Okay. So you're saying he's coming towards
20 you?
21 **A. Towards us, yes.**
22 Q. All right. And the purpose of telling --
23 giving that status report is what?
24 **A. To let them know where we're at at this point.**
25 Q. Okay. And you guys back up; right?

Page 157

1 **A. Yes, sir.**
2 Q. And this is when he picks up the Taser; right?
3 **A. And that's when I first noticed the Taser was**
4 **there, right.**
5 **(Video playing.)**
6 Q. (By Mr. Wilson) Now, while he's got the Taser
7 in his hand, does Deputy Vasquez say anything to you,
8 that you can recall?
9 **A. What? Yes. I'm sorry. Say that again.**
10 Q. When Mr. Flores has the Taser in his hand --
11 **A. Uh-huh.**
12 Q. -- does -- do you recall Deputy Vasquez saying
13 anything to you?
14 **A. He might have said something like, "Watch it,**
15 **Bobby. He has the Taser."**
16 Q. Okay. Might have, or do you have any
17 recollection of that?
18 **A. He might have. I don't --**
19 Q. You don't recall it?
20 **A. I recall something like that.**
21 Q. Do you recall it because you heard him say it
22 today?
23 **A. No, no. I --**
24 Q. You didn't put that in your statement?
25 **A. No, probably not. I don't know. I didn't?**

Page 158

1 Q. No.
2 **A. Okay. Well, then I didn't, no, sir.**
3 **(Video playing.)**
4 Q. (By Mr. Wilson) Okay. Now, you say he says
5 he's -- you're going to have to shoot him.
6 **A. Right. He told us, "You're going to have to**
7 **shoot me."**
8 Q. Right. Just because he said that doesn't mean
9 you need to do it; right?
10 **A. Oh, yeah, right.**
11 Q. I mean, the object is not to have that happen?
12 **A. Yeah. We don't want that to happen.**
13 Q. Right. Even though he's expressing that sort
14 of comment to you, you're supposed to just ignore it?
15 **A. No. We don't ignore it. We --**
16 Q. That's a lack of -- that's not a good term.
17 You don't say, "Okay. If that's what you
18 want, I'm going to shoot you" --
19 **A. Oh, yes.**
20 Q. -- right?
21 **A. No, we don't. We don't.**
22 Q. You understand that he is having some sort of
23 mental issue at that point, and your idea is to -- your
24 training is to de-escalate that; correct?
25 **A. I understand that he's saying a lot of things,**

Page 159

1 **and mental -- I guess so, yes.**
2 Q. In other words, you've had some crisis
3 intervention training; right?
4 **A. Yes, sir.**
5 Q. And you've had some training on de-escalation?
6 **A. Yes, sir.**
7 Q. When a situation like this goes on, the idea is
8 to try to de-escalate it?
9 **A. Yes, sir.**
10 Q. Just because he says, "You're going to have to
11 shoot me" --
12 **A. Right.**
13 Q. -- doesn't give you the green light to shoot
14 him?
15 **A. Correct.**
16 Q. Your job is to not do that?
17 **A. Right.**
18 Q. Okay. And you -- then you say, "He's got a
19 knife," and you start, "and he's got" -- but you never
20 say --
21 **A. Huh.**
22 Q. Do you want to hear that again?
23 **A. Yes.**
24 **(Video playing.)**
25 Q. (By Mr. Wilson) You say, "Now he has," and

Page 160

1 then you don't finish that?
2 **A. I guess I was going to say Taser.**
3 Q. Right. Do you recall why you never finished
4 that, that he's got a Taser?
5 **A. No, I don't know. No.**
6 Q. Would that have gotten somebody --
7 **A. Maybe I let go too early --**
8 Q. Okay.
9 **A. -- and it didn't come out.**
10 Q. Would that have gotten Deputy Vasquez in
11 trouble if he had part of his weapons?
12 **A. Say that again.**
13 Q. Sure. I mean, obviously it's -- your goal is
14 to not let somebody like Mr. Flores get any of your
15 weapons, the Taser or otherwise?
16 **A. Right.**
17 Q. So did you stop saying "He's got a Taser" for
18 any reason other than an accident?
19 **A. No. It was probably an accident, sir.**
20 Q. Okay. Now, at this point, you guys are off the
21 screen; right?
22 **A. Yes, sir.**
23 Q. You-all have backed far away?
24 **A. Yes, sir.**
25 Q. Do you have any estimate of how far away you

<p style="text-align: right;">Page 161</p> <p>1 are?</p> <p>2 A. No, sir, I couldn't.</p> <p>3 Q. Now, based on your previous testimony, this is</p> <p>4 still during that same ten-minute period --</p> <p>5 A. Okay.</p> <p>6 Q. -- where you've testified that even in this</p> <p>7 situation where you're that far away off the screen,</p> <p>8 he's an immediate threat which would justify the use of</p> <p>9 lethal force?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay.</p> <p>12 (Video playing.)</p> <p>13 Q. (By Mr. Wilson) Okay. Now, that was the</p> <p>14 instruction from who?</p> <p>15 A. I -- it's, I want to say, Lieutenant von</p> <p>16 Muldau.</p> <p>17 Q. And that's the instruction that gives you</p> <p>18 authorization to make sure that you use whatever force</p> <p>19 is necessary not to let him go back in that house;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Which means that's the instruction from an</p> <p>23 offsite supervisor authorizing you to use lethal force</p> <p>24 to prevent him from going back in that house?</p> <p>25 A. I guess so.</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. Uh-huh.</p> <p>2 A. Before I say that and right when I say that.</p> <p>3 Q. Yeah, sure.</p> <p>4 (Video playing.)</p> <p>5 A. I think I said, "He said he's going to go back</p> <p>6 in the house."</p> <p>7 Q. (By Mr. Wilson) Okay.</p> <p>8 (Video playing.)</p> <p>9 A. He might have been yelling that.</p> <p>10 Q. (By Mr. Wilson) But he's not; right? He's --</p> <p>11 he's --</p> <p>12 A. No.</p> <p>13 Q. -- walking away.</p> <p>14 A. No, it doesn't look like it, sir.</p> <p>15 Q. Okay. And you guys are way off screen; right?</p> <p>16 A. Yes.</p> <p>17 Q. Are you and Deputy Vasquez having any</p> <p>18 conversations during this time period?</p> <p>19 A. Not that I can recall.</p> <p>20 Q. Are you guys reaching the conclusion between</p> <p>21 the two of you that you need to put an end to this?</p> <p>22 A. No, not -- not at that time, I don't think so.</p> <p>23 I think we were just trying to back off and still trying</p> <p>24 to, you know, back off and didn't want to --</p> <p>25 Q. Now, he's --</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. That's how you interpreted it?</p> <p>2 A. Yes.</p> <p>3 Q. And that's the custom of Bexar County, that an</p> <p>4 offsite supervisor can give you that kind of</p> <p>5 instruction?</p> <p>6 A. Like, again, it's a custom to talk on the radio</p> <p>7 and, you know, let them know what's going on.</p> <p>8 Whether it's a custom for a supervisor to</p> <p>9 come on the radio and say something like that, I -- I</p> <p>10 don't know.</p> <p>11 Q. But it is -- it is a custom that if he gives</p> <p>12 you an instruction like that, you're expected to follow</p> <p>13 it?</p> <p>14 A. Yes.</p> <p>15 (Video playing.)</p> <p>16 Q. (By Mr. Wilson) Now, you say, "He's going to</p> <p>17 go back in the house right now."</p> <p>18 Is he making any move to go back in the</p> <p>19 house right now?</p> <p>20 A. I don't know.</p> <p>21 Q. Let's keep playing.</p> <p>22 (Video playing.)</p> <p>23 Q. (By Mr. Wilson) He's actually walking away</p> <p>24 from the house, isn't he?</p> <p>25 A. Can you roll it back?</p>	<p style="text-align: right;">Page 164</p> <p>1 A. -- injure anybody.</p> <p>2 Q. -- he's walking away from you, and --</p> <p>3 Do you see that? Do you want to see it</p> <p>4 again?</p> <p>5 A. Okay. And I am, too, that I'm walking.</p> <p>6 (Indicating.)</p> <p>7 Q. Okay. Let's do this again. He's -- you guys</p> <p>8 are off screen.</p> <p>9 A. Okay.</p> <p>10 Q. He's yelling at you --</p> <p>11 A. Right.</p> <p>12 Q. -- saying whatever he's saying.</p> <p>13 And now he's walking away from you and</p> <p>14 you're walking towards him.</p> <p>15 As he's walking away from you, that's</p> <p>16 during this same ten-minute period where you say he was</p> <p>17 always an immediate threat and even at this point you</p> <p>18 could have used lethal force against him?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And that's based on your training and</p> <p>21 understanding of the law based upon what Bexar County</p> <p>22 has told you?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And your understanding of Bexar County policy?</p> <p>25 A. Yes.</p>

Page 165

1 Q. Okay. And then he goes back towards the house
2 and you're walking even further back?

3 **A. Uh-huh.**

4 Q. Why are you walking further back? You've been
5 told not to let him get back in the house. Why are you
6 moving away?

7 **A. We were going back and forth, sir. I don't
8 know. I couldn't tell you, other than maybe we're
9 trying to de-escalate it.**

10 **And at that point, even though he had told
11 us, "I'm going back in the house," he didn't. So then
12 when I saw him coming towards me, we moved back. We
13 moved back. We tried, you know, to move closer.**

14 Q. Now, at this point you guys are way far away
15 from him; right?

16 **A. Uh-huh.**

17 Q. If you look over by the tree, off to the edge,
18 do you see shadows underneath there and it looks like
19 feet? Do you want me to point it out to you?

20 **A. Could you, please?**

21 Q. Uh-huh. Do you see right here? Do you see the
22 shadow right here? (Indicating.)

23 **A. Okay.**

24 Q. And watch this move. Is that -- is that where
25 you guys are?

Page 166

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

2 Q. Okay.

3 (Video playing.)

4 **A. Yeah, it looks like it's part of our shadow.**

5 Q. (By Mr. Wilson) That's how far away you guys
6 were from him; right?

7 **A. Yes.**

8 Q. And at this point you see that he's got two
9 metal chairs in his hands; correct?

10 **A. Yeah, I think so.**

11 Q. Okay. And this is part of that same ten-minute
12 period that you say you could have used lethal force.
13 So even right now, based upon your understanding of the
14 law and your training and Bexar County policy, right at
15 this moment, you could have shot and killed him?

16 **A. Well, things happen in a split second, sir,
17 so --**

18 Q. Wasn't my question.

19 Right now you could have shot and killed
20 him?

21 **A. Things happen in a split second and I don't
22 know what's going to happen. I can't --**

23 Q. I'm not saying what could have happened.

24 **A. Uh-huh.**

25 Q. Right now, based upon everything you've told

Page 167

1 me, you could shoot him? That is your understanding?

2 **A. If -- when you look at the situation, it was
3 going real quick --**

4 Q. That wasn't --

5 **A. -- and --**

6 Q. -- my question.

7 **A. -- it could have happened real quick --**

8 Q. Wasn't my --

9 **A. -- yes.**

10 Q. -- question.

11 Based upon everything you've said,
12 during --

13 **A. Uh-huh.**

14 Q. -- that entire ten-minute period --

15 **A. Uh-huh.**

16 Q. -- right at this moment, you could have used
17 lethal force?

18 **A. If I felt that he had -- might have had gone
19 back there. I don't know.**

20 Q. Okay. Based upon what even you don't know, you
21 said you could have used lethal force?

22 **A. What I don't know?**

23 Q. That's what you said. He could have a gun, you
24 don't know?

25 **A. Right. I don't know.**

Page 168

1 Q. So based upon what you don't know, you could
2 use lethal force?

3 **A. If I felt I was in danger.**

4 Q. Okay. Even based on information you don't
5 have?

6 MR. FRIGERIO: Objection. Harassing the
7 witness.

8 Q. (By Mr. Wilson) In other words, you -- he's
9 not expressed any -- he doesn't have a gun, he's never
10 shown a gun; right?

11 **A. Okay.**

12 Q. Up to this -- up to this point, he's never said
13 he had a gun, never showed a gun, nothing; right?

14 **A. Okay.**

15 Q. Right? Am I correct?

16 **A. Right.**

17 Q. But you're saying, in your mind, if you thought
18 he could have had a gun back there, you could shoot him
19 right now?

20 **A. If I felt that my life was in danger and he was
21 going to --**

22 Q. The comment you made, sir, was, he could -- "If
23 he -- thought he had a gun back there, I could shoot
24 him"?

25 **A. Well, if -- if -- not just have the gun, but if**

Page 169

1 **my life was in -- if my life -- I felt my life was in**
 2 **danger, yes.**

3 Q. So even though he had not expressed any --
 4 having a gun or getting a gun or reaching for a gun,
 5 none --

6 **A. Uh-huh.**

7 Q. -- of that, if you, in your mind, thought he
 8 could have a gun back there and you --

9 **A. Uh-huh.**

10 Q. -- felt threatened, you could shoot him?

11 **A. If I felt that my life was in danger, yes.**

12 **(Video playing.)**

13 Q. (By Mr. Wilson) Okay. Now you guys are
 14 starting to -- now you guys are starting to close in on
 15 him.

16 **A. Okay.**

17 Q. Why are you starting to close in on him now?

18 **A. Because he's moving towards the vehicle.**

19 Q. Well, you don't know -- at this point, you
 20 don't know where he's going; right?

21 **A. Well, no. Yeah. He's going that way, towards**
 22 **the vehicle.**

23 Q. Okay. Did you and Deputy Vasquez have any kind
 24 of conversation up to this point to say, "Okay" --

25 **A. Yeah. I don't recall.**

Page 170

1 Q. -- "Let me get in this thing"?

2 **A. We might have, yes.**

3 Q. You might be saying, "This is going on too
 4 long"?

5 **A. "This is going on too long"?**

6 Q. "He's not complying"?

7 **A. We might have been saying that.**

8 Q. Saying, "This is -- this is -- this is taking
 9 too long"?

10 **A. I think we were -- I think my thought there --**
 11 **Can I give you my thought?**

12 Q. Uh-huh.

13 **A. That he's trying to get into the vehicle.**

14 Q. Okay. But I'm talking about before this. You
 15 guys are closing in on him?

16 **A. Right.**

17 Q. Had you-all had conversation in the past
 18 saying, "This guy is not -- he's not listening to us" --

19 **A. Right. He's not.**

20 Q. -- "We need to end this thing"?

21 **A. Right.**

22 Q. You-all had had those conversations; right?

23 **A. I'm not sure. I mean, we might have.**

24 **(Video playing.)**

25 Q. (By Mr. Wilson) Okay. And then you tell --

Page 171

1 then you get on and give a status report that he's going
 2 towards the car --

3 **A. Right.**

4 Q. -- right?

5 And who are you telling -- you're telling
 6 that to anybody who's listening, I guess; right?

7 **A. Dispatch.**

8 Q. Dispatch. Okay. And just so we know, it's
 9 Deputy Vasquez with the shield in front and then you
 10 back behind him; correct?

11 **A. Correct.**

12 Q. Now --

13 **(Video playing.)**

14 Q. (By Mr. Wilson) Okay. Now, when you relay
 15 that, he was not trying to get into the vehicle;
 16 correct?

17 **A. Oh, well, he had had -- yeah, he had tried --**

18 Q. Wasn't my question, sir.

19 **A. Uh-huh.**

20 Q. You said, "He's trying to get into our
 21 vehicle."

22 **A. Right.**

23 Q. But at the time you relayed that, he was not?

24 **A. Well, sir, you know, I -- it's a time thing,**
 25 **you know. I -- you know, a lot of things are going in**

Page 172

1 **my mind. And I said it because I had saw it.**

2 **I mean, yes, there was a delay of a few**
 3 **seconds, but --**

4 Q. But he's actually walking away from the vehicle
 5 when you relay that information; correct?

6 **A. At -- at that time, he might have been -- it**
 7 **might look like he's walking away. But when I saw it,**
 8 **he was trying to get into the vehicle.**

9 Q. My question is: When you relay the information
 10 to your supervisor, he's not trying to get in the
 11 vehicle, he's actually walking away from it?

12 **A. Well -- well, like I said, I mean, there's a**
 13 **delay there because --**

14 Q. Is it yes or --

15 **A. -- you know, I'm moving, I'm walking, I have my**
 16 **gun in my hand.**

17 MR. WILSON: Object --

18 **A. I'm thinking a lot of things. So then I say**
 19 **that, because he was trying to get in there.**

20 MR. WILSON: Object to that as being
 21 nonresponsive.

22 Q. (By Mr. Wilson) Sir, my question is: At the
 23 time you relayed the information to your supervisor that
 24 he's trying to get into the vehicle, in reality, he's
 25 walking away from the vehicle; correct?

<p style="text-align: right;">Page 173</p> <p>1 MR. FRIGERIO: Objection; form.</p> <p>2 A. I --</p> <p>3 Q. (By Mr. Wilson) Do you want to, you know,</p> <p>4 watch it again?</p> <p>5 A. No. I see it.</p> <p>6 The reason I say -- I said it at that</p> <p>7 time, is it -- do -- can I explain that why?</p> <p>8 Q. Just answer my question yes or no first.</p> <p>9 At the time you relayed the information to</p> <p>10 your supervisor that he's trying to get into the</p> <p>11 vehicle, in reality, he's walking away from the car?</p> <p>12 MR. FRIGERIO: Objection. That</p> <p>13 misconstrues the evidence.</p> <p>14 Q. (By Mr. Wilson) Do you want to watch it?</p> <p>15 A. Oh, okay. Yes. I --</p> <p>16 (Video playing.)</p> <p>17 A. Yeah. Yeah, he had just done that.</p> <p>18 Q. (By Mr. Wilson) But at the time you relayed</p> <p>19 that information, he wasn't doing that; correct?</p> <p>20 A. Oh, okay. Yes.</p> <p>21 (Video playing.)</p> <p>22 Q. (By Mr. Wilson) Okay. Now, who is that?</p> <p>23 A. It sounds like Sergeant Pedraza.</p> <p>24 Q. All right. And did you interpret that "Stop</p> <p>25 him. By all means, stop him" to use lethal force to</p>	<p style="text-align: right;">Page 175</p> <p>1 attempts to open the vehicle door. At this time, I</p> <p>2 started thinking that Deputy Vasquez might have had an</p> <p>3 AR rifle in that vehicle."</p> <p>4 A. Uh-huh.</p> <p>5 Q. All right. So you didn't know it, but you</p> <p>6 thought he might?</p> <p>7 A. No, I knew it.</p> <p>8 Q. But you wrote your statement that you think he</p> <p>9 might have had it?</p> <p>10 A. Well, you know --</p> <p>11 Q. I'm just saying you word your --</p> <p>12 A. -- it's a traumatic situation. I might have</p> <p>13 said "might."</p> <p>14 Q. Okay. Just using the words you used --</p> <p>15 A. Right.</p> <p>16 Q. -- that you thought he might have it. Okay?</p> <p>17 So had you ever seen that AR -- that</p> <p>18 assault rifle in Deputy Vasquez's vehicle?</p> <p>19 A. Yes.</p> <p>20 Q. And where did he normally keep it?</p> <p>21 A. There's -- all Tahoes -- the majority, if not</p> <p>22 all, have a rack where he can put them there. It's a --</p> <p>23 I think it's one for the rifle and one for the shotgun.</p> <p>24 Q. Did he carry both?</p> <p>25 A. I'm not sure. I -- I knew he had an AR. I'm</p>
<p style="text-align: right;">Page 174</p> <p>1 prevent him from getting into that vehicle?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. And, in your mind, it would have been</p> <p>4 justified to use lethal force, based upon your training</p> <p>5 and Bexar County policy, to prevent him from getting</p> <p>6 into that vehicle, to use lethal force?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Now, at any time up to this point were</p> <p>9 you aware if whether or not Deputy Vasquez had had any</p> <p>10 weapons in that vehicle?</p> <p>11 A. Yes. I knew he had weapons in that vehicle.</p> <p>12 Q. How did you know that?</p> <p>13 A. I work with Deputy Vasquez. We work together.</p> <p>14 I know what he carries in his car.</p> <p>15 Q. Well, in your statement you don't -- this is</p> <p>16 what you say.</p> <p>17 A. Okay.</p> <p>18 Q. And I'll just show it to you instead of the</p> <p>19 screen.</p> <p>20 MR. WILSON: Can you switch it?</p> <p>21 THE VIDEOGRAPHER: Uh-huh.</p> <p>22 Q. (By Mr. Wilson) Do you see where you say, "The</p> <p>23 male continued to wave the knife motioning his hands up</p> <p>24 and down. The male reaches Deputy Vasquez's vehicle and</p> <p>25 he starts to pull the front passenger door handle in</p>	<p style="text-align: right;">Page 176</p> <p>1 not sure about the shotgun.</p> <p>2 Q. And on those -- you don't have one in your</p> <p>3 vehicle --</p> <p>4 A. No.</p> <p>5 Q. -- correct?</p> <p>6 A. The racks? Yes, I do.</p> <p>7 Q. And are those racks locked?</p> <p>8 A. No. You -- you put them there and you can</p> <p>9 press a button and they come out. They're not --</p> <p>10 they're not locked.</p> <p>11 Q. And -- and is the button on the driver's side?</p> <p>12 A. There's a button in your panel and there's a</p> <p>13 button right there, if I'm not mistaken. (Indicating.)</p> <p>14 Q. And if you were looking at the driver's side</p> <p>15 seat, could you see a rifle? Like if I'm looking at the</p> <p>16 door --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- from the driver's side, could I see a rifle</p> <p>19 if it was there?</p> <p>20 A. From the driver's side?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. I'd see the butt of the rifle?</p> <p>24 A. The -- No, not the butt. I think they're</p> <p>25 pointed up, so it's the front.</p>

Page 177

1 Q. So the barrel is pointing up?
 2 **A. The barrel, yes.**
 3 Q. And how high does the barrel point up from the
 4 computer that's there?
 5 **A. I don't know.**
 6 Q. But you could clearly see it?
 7 **A. Oh, yes.**
 8 Q. If it was there --
 9 **A. Uh-huh.**
 10 Q. -- and there was a rifle in that holder --
 11 **A. Right.**
 12 Q. -- and I was looking at the driver's side --
 13 standing at an open door of the driver's side, looking
 14 directly --
 15 **A. Uh-huh.**
 16 Q. -- towards the passenger's side, I could
 17 clearly see that rifle?
 18 **A. Yes, sir.**
 19 Q. There would be no mistaking it?
 20 **A. Right.**
 21 Q. I could see that it was there?
 22 **A. Right.**
 23 Q. The computer wouldn't block it?
 24 **A. No.**
 25 Q. Okay. Now, sir, you're standing with your feet

Page 178

1 spread.
 2 **A. Uh-huh.**
 3 Q. Do you see that?
 4 **A. Uh-huh.**
 5 Q. Is that a shooter's stance for you?
 6 **A. Yeah, probably.**
 7 Q. All right. So at this particular point
 8 you're -- you're standing that way for what reason?
 9 **A. Balance, maybe.**
 10 Q. Well, I mean, are you planning to shoot him at
 11 this point?
 12 **A. I think at that point I was giving him**
 13 **commands, and I guess you could say I was planning to**
 14 **make sure that he did not get into the vehicle.**
 15 **(Indicating.)**
 16 Q. Did you tell him, "Don't get in that vehicle"?
 17 **A. No, I don't think I said that.**
 18 Q. So that wasn't one of the commands you gave
 19 him; right?
 20 **A. I told him, "Put the knife down."**
 21 Q. That wasn't my question, sir.
 22 **A. Okay.**
 23 Q. You never gave him the command, "Don't get in
 24 that vehicle"?
 25 **A. I said no, sir.**

Page 179

1 Q. Okay. So the only commands you were giving him
 2 were "Drop the knife"?
 3 **A. That was "Drop the knife."**
 4 Q. Okay. And -- but you were already in a
 5 shooter's stance; is that correct?
 6 **A. Yes.**
 7 Q. Okay. So you were already preparing to shoot
 8 him at this point, getting your body prepared?
 9 **A. I guess you could say that.**
 10 Q. Okay. Had you already made the decision that
 11 if he didn't drop that knife you'd shoot him?
 12 **A. I'm not sure.**
 13 Q. Well --
 14 **A. I think I was thinking that if he made a move**
 15 **to the car or moved towards us or he wasn't dropping**
 16 **that knife, that, yes, I'm going to have to.**
 17 Q. Okay. Those are three different things. Okay?
 18 **A. Well, they all came to my mind, sir.**
 19 Q. Okay. But my point is, you were thinking in
 20 your mind, "If he makes a move to the car, I'll shoot
 21 him"?
 22 **A. Right.**
 23 Q. "If he makes a move towards us, I'll shoot
 24 him"?
 25 **A. Right.**

Page 180

1 Q. "If he doesn't drop the knife, I'll shoot him"?
 2 **A. Correct.**
 3 Q. "So even if he stands still and doesn't make a
 4 move at all, but doesn't follow my commands, I'm going
 5 to shoot him"?
 6 **A. I -- I have to look at the whole thing, because**
 7 **I can't just say that he's standing completely -- I**
 8 **mean, in a picture he might be standing completely**
 9 **still. But in real life he's not standing still. He's**
 10 **moving. He's going up and down. He's --**
 11 MR. WILSON: I object to that --
 12 **A. -- looking --**
 13 MR. WILSON: I object to that as being
 14 nonresponsive.
 15 Q. (By Mr. Wilson) Sir, listen to my question.
 16 **A. Well, sir, I'm trying to tell you what I saw.**
 17 Q. I'm not asking you that.
 18 You said in your mind -- three things came
 19 to -- came to your mind.
 20 "If he makes a move towards the car, I'm
 21 going to shoot him"; right?
 22 **A. I said that those three things came to my mind,**
 23 **and, yeah, I might have to shoot him, yes.**
 24 Q. So one of those things is, "If he makes a move
 25 towards the car, I'm going to shoot him -- I might have

Page 181

1 to shoot him"; "If he makes a move towards Deputy
 2 Vasquez or myself, I'll shoot him"; and "If he doesn't
 3 drop the knife, I'll shoot him"?
 4 **A. Correct.**
 5 Q. Okay. So one of those three things is, is if
 6 he doesn't follow your command to drop the knife, you
 7 are going to shoot him?
 8 **A. If he doesn't -- yes.**
 9 Q. Even if he's not making any sort of physical
 10 move otherwise?
 11 **A. But -- but he was all the time.**
 12 Q. That wasn't my question.
 13 **A. Uh-huh.**
 14 Q. If he doesn't follow your command, you're --
 15 you think you're within policy and your training to
 16 shoot him?
 17 **A. Well, he was -- he never followed our commands.**
 18 Q. That wasn't my question.
 19 **A. Uh-huh.**
 20 Q. At this moment, when you're getting into your
 21 shooter's position --
 22 **A. Uh-huh.**
 23 Q. -- you've already made the decision that he if
 24 he doesn't follow your commands to drop the knife,
 25 you're going to shoot him?

Page 182

1 **A. Or if he reaches for the car or if he's --**
 2 Q. Those are three different things?
 3 **A. Right.**
 4 Q. One of those things is standing still and just
 5 not following your commands?
 6 **A. I mean, I -- he was standing still because**
 7 **of -- you know, but in real life he's not standing**
 8 **still. He's -- he's standing there -- still right**
 9 **there. But he's moving, he's looking around, he's**
 10 **looking in the car with his eyes, looking at that rifle,**
 11 **to me.**
 12 Q. Okay. So -- Okay. So you're telling me that
 13 if he just looks at the rifle, you'd shoot him?
 14 **A. If he makes a move to get to the vehicle.**
 15 Q. Two different things. You said he's turning
 16 his head --
 17 **A. No --**
 18 Q. -- looking --
 19 **A. -- I --**
 20 Q. -- at the rifle.
 21 **A. -- didn't say if he looks at it that --**
 22 **he'll -- I'm going to shoot him.**
 23 **I said that he's -- he's moving, he's not**
 24 **just standing still.**
 25 Q. All right. Now, let's go through the actual

Page 183

1 shooting.
 2 (Video playing.)
 3 Q. (By Mr. Wilson) Now, are you telling him --
 4 Now, he's not moving towards you at all at
 5 this point, is he? His legs aren't moving?
 6 **A. No.**
 7 Q. He's not advancing towards you, is he?
 8 **A. No.**
 9 Q. He is not swinging a knife at you, is he?
 10 **A. No.**
 11 Q. He is not looking towards the vehicle? He's
 12 looking at you or Mr. -- or Deputy Vasquez?
 13 **A. I'm not --**
 14 Q. Right -- right now.
 15 **A. At that still picture?**
 16 Q. Yeah.
 17 **A. Okay. Yes.**
 18 Q. His hands are up in the air; correct?
 19 **A. Correct.**
 20 Q. As if he's surrendering?
 21 MR. FRIGERIO: Objection.
 22 **A. Not with a knife in his hand.**
 23 Q. (By Mr. Wilson) Okay. He doesn't -- he's
 24 not -- he's standing there straight with his hands up in
 25 the air?

Page 184

1 **A. With a knife in his hand.**
 2 Q. He has -- granted, he's got a knife in his
 3 hand.
 4 **A. Yes.**
 5 Q. But he's not swinging that knife towards you,
 6 is he?
 7 **A. But with a knife in his hand, that's not**
 8 **surrendering, sir.**
 9 Q. That's in your opinion; correct?
 10 **A. I think that's --**
 11 Q. You don't -- you don't know what's in --
 12 **A. -- everybody's --**
 13 Q. -- his mind?
 14 **A. -- opinion.**
 15 **Hmm?**
 16 Q. You don't know what's in his mind?
 17 **A. I know what's in his hand.**
 18 Q. You don't know whether he's starting to comply
 19 with you, do you?
 20 **A. I don't think -- he was -- never complied, sir.**
 21 Q. My point is, he's -- he's stepped away from the
 22 vehicle, hasn't he?
 23 **A. A little bit.**
 24 Q. He is not trying to get into the passenger
 25 door?

<p style="text-align: right;">Page 185</p> <p>1 A. At that point, he might -- he might have been 2 looking with his glance of his eyes. 3 Q. He's not making a move towards that car? 4 A. At the standstill picture, no. 5 Q. He's not making a move towards you or the 6 deputies? 7 A. Okay. 8 Q. Right? He's not swinging that knife in any 9 direction? 10 A. Okay. No. 11 Q. He's raising his hands up above his head? 12 A. With a knife. 13 Q. That's what he's doing; correct? 14 A. Yes. 15 Q. That's the movement he's making? 16 A. Yes. 17 Q. And you get -- let me back up just a second. 18 (Video playing.) 19 Q. (By Mr. Wilson) You get in -- you get into 20 more of a crouch. And now, at this point, you're giving 21 him a command to drop the knife; right? 22 A. I think I was giving him -- I gave him at least 23 three commands. 24 Q. Did you say, "If you don't drop that knife, I'm 25 going to shoot you"?</p>	<p style="text-align: right;">Page 187</p> <p>1 A. (Reviewing document.) 2 Okay. 3 Q. (By Mr. Wilson) Do you see that -- 4 A. Yeah and then 60, I think. Do I still have a 5 turn? 60, 61, I might have turned back. 6 Q. Right. So you turn -- right before you shoot, 7 you turn towards Deputy Vasquez? 8 A. Okay. I don't know. I mean, yes, this 9 picture -- 10 Q. The video -- 11 A. -- shows, yeah -- 12 Q. -- shows that, right? 13 A. The picture shows it, yeah. 14 Q. So you turn away from Mr. Flores and you turn 15 towards Deputy Vasquez. Do you say anything to him? 16 A. To who? 17 Q. Deputy Vasquez. 18 A. I -- I don't recall. 19 Q. I mean, do you say anything like, "Okay," or do 20 you give him any sort of signal? 21 A. You know what, sir? I don't know. I mean, it 22 could have just been -- I don't know how -- What's the 23 time frame? 24 Q. I'll show you. 25 A. Is it a second or two or --</p>
<p style="text-align: right;">Page 186</p> <p>1 A. I said, "Drop the knife. We're giving you a 2 chance. Drop the knife. I'm giving you another 3 chance." 4 Q. Did you ever say, "If you don't drop that 5 knife, I'm going to shoot you"? 6 A. I don't know. I might have said that. I'm not 7 sure. 8 Q. You don't have any recollection of that; right? 9 A. I can't say. 10 Q. And you didn't put anything like that in your 11 statement; correct? 12 A. No. I think I put, "I'm giving you a chance. 13 Drop the knife." 14 Q. Now, I'm going to show you something. I'm 15 going to mark this whole thing as Sanchez Exhibit 5. 16 It's what we produced to you today. It's the -- it's a 17 frame-by-frame breakdown of the shooting. 18 (Exhibit Number 5 was marked.) 19 Q. (By Mr. Wilson) And I'm going to show you a 20 series of frames. And it's starting with Frame 41 of 21 this. And go through this -- there's about -- it kind 22 of adds up, but there's 41 through 62. 23 And I want you to look at those because it 24 says, "Officer 2" -- meaning you, turn your head. And 25 you can see that frame by frame.</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. I'll show you. It's coming up. 2 Okay. The reason why I wanted you to go 3 through the still frames is because you can see it and 4 now you can look for yourself doing it. Okay? 5 (Video playing.) 6 A. Okay. 7 Q. (By Mr. Wilson) See? 8 A. Yeah. 9 Q. And then you shoot him? 10 A. Yeah. 11 Q. So immediately before Vasquez shoots and you 12 shoot, you turn towards Vasquez. Was that like your 13 signal? 14 A. I can't say. It was -- I had given him the -- 15 the commands. He wasn't following them. I might have 16 looked real quick, you know -- 17 Q. So that's -- 18 A. -- you know, he's -- he's not -- 19 Q. It was like "Okay"? 20 A. It could be, sir. 21 Q. It could be like, "All right. He's not 22 listening"? 23 A. Right. 24 Q. That's what you-all did? 25 A. Right.</p>

Page 189

1 Q. Okay. Now, you've gone through a lot of
2 reasons why you shot Mr. Flores when you did, and
3 specifically tell me what the immediate threat was at
4 the time you pulled that trigger?
5 **A. Immediate threat?**
6 Q. Yes.
7 **A. That he might get a weapon.**
8 Q. Okay.
9 **A. Specifically, the rifle in Greg's vehicle.**
10 Q. Okay. So that was the immediate threat that
11 you think justified shooting him at that point?
12 **A. Yes, sir.**
13 Q. All right. Even though he was standing away
14 from the vehicle, wasn't reaching towards that vehicle,
15 wasn't reaching towards any gun in that vehicle, none of
16 that was happening at the time?
17 **A. I recall he had his hands up and he was**
18 **glancing this way. (Indicating.)**
19 Q. Ahh.
20 **A. And then he brings his hands down, like he was**
21 **going to -- (Indicating.)**
22 Q. You're saying he brought his hands down before
23 you shot him?
24 **A. Well, it kind of came down like this in a split**
25 **second. (Indicating.) They're split-second decisions.**

Page 190

1 Q. Hold on. Let's go through it.
2 **A. Okay.**
3 Q. Let's see if we can even see that split-second
4 move.
5 (Video playing.)
6 **A. He's -- he has his hands up.**
7 Q. (By Mr. Wilson) So you shoot him. His hands
8 are up. His hands don't move.
9 **A. Maybe the film didn't capture, but --**
10 Q. Yeah, the film is the film.
11 **A. Yeah.**
12 Q. You're not saying that film is wrong, are you?
13 **A. No. I'm saying between the film and being**
14 **there in person, you see a lot of things that you don't**
15 **catch on the film. I mean, the situation here was --**
16 Q. Or maybe you think you saw something that
17 didn't happen?
18 **A. No. I -- I know what I saw. I know what I --**
19 Q. Anywhere on that film do you see him move his
20 hands in any way?
21 **A. Yeah. He's -- he's --**
22 Q. Before you shoot him?
23 **A. He -- he always had his hands moving and --**
24 Q. I'm -- I'm not talking about five minutes
25 earlier.

Page 191

1 **A. Uh-huh.**
2 Q. I'm talking about the second you pulled the
3 trigger.
4 **A. Uh-huh.**
5 Q. Did he move his hands in any way, shape or
6 form --
7 **A. Yeah.**
8 Q. -- the second before you pulled the trigger?
9 **A. I think -- I felt he was moving his hand and**
10 **looking and glancing, because it happened in a split**
11 **second.**
12 Q. Well, let me see if he even moved his head.
13 (Video playing.)
14 Q. (By Mr. Wilson) You tell me where he moves his
15 head towards that vehicle. He doesn't, does he?
16 **A. Well, he could have moved his eyes and looked**
17 **that way.**
18 Q. Oh, please. You're telling me --
19 **A. Uh-huh.**
20 Q. -- that you shot him because he moved his eyes?
21 **A. No. Because he was -- he had a knife in his**
22 **hand and I was in fear -- in fear of my life, that's**
23 **why.**
24 Q. Okay. You said that the reason why -- the
25 immediate threat of harm to you was him getting into

Page 192

1 that vehicle for -- to get a weapon?
2 **A. Right.**
3 Q. We know he wasn't doing that at the time you
4 shot him.
5 **A. But --**
6 Q. So now you're saying --
7 **A. -- he had -- he had just done that. He had**
8 **just tried to get in there.**
9 Q. So you're telling me your training says that
10 you can do that while he's standing still because he
11 tried to do in the past?
12 **A. My training says that if he has a knife in his**
13 **hand and I'm in fear for my life, then I have a right to**
14 **protect myself, we have a right to protect ourselves.**
15 Q. So what was he doing that made you in fear for
16 your life, other than just holding a knife?
17 **A. Not obeying our command. Not dropping the**
18 **knife. He was going back and forth. He had tried to**
19 **open the car. He -- he said --**
20 **All -- all -- you have to look at the**
21 **whole thing sir.**
22 Q. Okay. So your training tells you that even
23 though he's standing still, not making any move towards
24 you at the time --
25 **A. My training says that you look at the whole**

Page 193	Page 195
<p>1 situation.</p> <p>2 Q. Okay.</p> <p>3 A. It wasn't just that one situation, one still</p> <p>4 film, one still shot. It was everything.</p> <p>5 We had given him a lot of chances. You</p> <p>6 know, we -- we -- He was cussing. He had tried -- he</p> <p>7 attacked him. He was doing all -- he had just attacked</p> <p>8 a woman and cut her.</p> <p>9 We have to look at everything. You're</p> <p>10 trying to say just one second that he -- he had his</p> <p>11 hands up, and you're saying that he was standing still</p> <p>12 and that we just shot him because he was standing still.</p> <p>13 No. We shot him because of the totality</p> <p>14 of the circumstances. And I feared for my life, I</p> <p>15 feared for Deputy Vasquez's life, I feared for the</p> <p>16 people in the house's life.</p> <p>17 Q. You understand, sir --</p> <p>18 MR. WILSON: I object to that as being</p> <p>19 nonresponsive.</p> <p>20 Q. (By Mr. Wilson) You understand, sir, that as</p> <p>21 an officer you have to make decisions at the moment?</p> <p>22 A. In a split second.</p> <p>23 Q. Exactly. And you have to base it upon what's</p> <p>24 happening at the time?</p> <p>25 A. In a split second, yes.</p>	<p>1 commands. I'm fearing for my life. He just -- he had</p> <p>2 just finished attacking Deputy Vasquez.</p> <p>3 Q. (By Mr. Wilson) Sir, what is he doing at the</p> <p>4 moment you pulled the trigger that makes you fear for</p> <p>5 your life?</p> <p>6 Not what he had done in the moments</p> <p>7 before. Not what had happened inside that house.</p> <p>8 At the moment you pulled the trigger, what</p> <p>9 is he physically doing to make you in fear of your life?</p> <p>10 A. I have to look at the whole circumstance.</p> <p>11 MR. WILSON: Object to the responsiveness.</p> <p>12 Q. (By Mr. Wilson) My question is: At the moment</p> <p>13 you pulled the trigger --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- what is he doing to make you physically fear</p> <p>16 for your life? What is he physically doing at that</p> <p>17 second?</p> <p>18 A. He has a knife in his hand.</p> <p>19 Q. And that's enough for you?</p> <p>20 A. And I looked at the whole circumstance.</p> <p>21 Q. Okay. Now, in your statement you say,</p> <p>22 "Deputy" -- "I noticed that Deputy Vasquez fired his</p> <p>23 duty handgun towards the male" --</p> <p>24 A. Can you tell me where is that at?</p> <p>25 Q. It's at -- it's right here. (Indicating.)</p>
Page 194	Page 196
<p>1 Q. Because even if he had murdered somebody in</p> <p>2 that house and was standing still on the driveway, you</p> <p>3 couldn't shoot him?</p> <p>4 A. If --</p> <p>5 MR. FRIGERIO: Objection; form.</p> <p>6 A. Again --</p> <p>7 Q. (By Mr. Wilson) Listen to my question.</p> <p>8 A. -- you're saying now that he murdered somebody?</p> <p>9 Q. No, no, no. Listen to my question.</p> <p>10 You said you were upset about what had</p> <p>11 happened in that house --</p> <p>12 A. He might have murdered somebody. I didn't know</p> <p>13 if the lady was dead.</p> <p>14 Q. My question is this: Even if you knew he had</p> <p>15 murdered somebody in that house --</p> <p>16 A. Uh-huh.</p> <p>17 Q. -- he's standing still with his hands raised</p> <p>18 above his head --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- you could not legally shoot him, could you?</p> <p>21 A. Again --</p> <p>22 MR. FRIGERIO: Objection; form. Assumes</p> <p>23 facts not in evidence.</p> <p>24 A. Again, if -- if I -- if he had murdered that</p> <p>25 lady and she had died. And he's not obeying the</p>	<p>1 A. Okay.</p> <p>2 Q. "The male refused to drop the knife and I was</p> <p>3 afraid that the male was going to get into the vehicle</p> <p>4 and get a weapon. I noticed that Deputy Vasquez fired</p> <p>5 his duty handgun towards the male and I also" my --</p> <p>6 "fired my duty handgun just after Deputy Vasquez fired</p> <p>7 his handgun."</p> <p>8 A. Okay.</p> <p>9 Q. So did you fire because Deputy Vasquez did?</p> <p>10 A. No.</p> <p>11 Q. Did you fire based upon your own judgment?</p> <p>12 A. Yes.</p> <p>13 Q. So you're saying that you didn't fire just</p> <p>14 because he did?</p> <p>15 A. Right.</p> <p>16 Q. And it's for the reasons that we stated?</p> <p>17 A. Yes.</p> <p>18 Q. Now, if Deputy Vasquez had not fired his</p> <p>19 weapon, would you have still fired yours?</p> <p>20 A. I'd say so.</p> <p>21 Q. Okay. Do you know where your weapon -- or your</p> <p>22 bullet struck Mr. Flores?</p> <p>23 A. No, I don't, sir.</p> <p>24 Q. He was struck once in the groin area and once</p> <p>25 in the chest.</p>

Page 197

1 **A. Okay.**
2 Q. You don't know which bullet was which?
3 **A. No, sir.**
4 Q. Do you know where you were aiming?
5 **A. Usually in our training, we try and aim for the**
6 **center of mass, body mass. (Indicating.)**
7 Q. Did you ever try to figure out which bullet was
8 the fatal shot?
9 **A. No, sir.**
10 Q. Had you ever made an attempt to do that?
11 **A. No, sir.**
12 Q. Now, based upon what you've seen, would you
13 agree with me that Mr. Flores was more than 6 to 8 feet
14 away from you?
15 **A. More than 6 to 8 feet?**
16 Q. Yes.
17 **A. I can't say, but it could be, yes.**
18 Q. Well, you know -- you're trained to judge
19 distances; right?
20 **A. Not necessarily. I mean --**
21 Q. As part --
22 **A. What do you mean?**
23 Q. As part of your Bexar County training to become
24 a deputy patrol officer, you're not trained to just --
25 just to determine distances?

Page 198

1 **A. No, there's no measurement. I mean, we -- they**
2 **don't give us like, "Okay. You're -- you're measure**
3 **you're 10 -- you're whatever feet. I mean, we just --**
4 Q. When you're attempting to assess the threat of
5 a situation, you're never taught to put distance into
6 that equation?
7 **A. Oh, yeah, yeah. I thought you -- like give a**
8 **number or something.**
9 Q. Well, I mean, some general idea.
10 **A. A general idea, yeah --**
11 Q. Right.
12 **A. -- but you said --**
13 Q. But you know that you were more than 6 to 8
14 feet away; right?
15 **A. Yeah, like if you say and if the -- if the**
16 **measurement says that I'm more than 6 to 8 feet, then I**
17 **guess I'm more than 6 to 8 feet.**
18 Q. Yeah, but you can see yourself on tape more
19 than 6 or 8 feet away; right?
20 **A. I guess, yeah.**
21 Q. And Deputy Vasquez is more than 6 or 8 feet
22 away; right?
23 **A. Yeah.**
24 Q. Okay. Had you ever been taught about the
25 21-foot rule with a man with a knife?

Page 199

1 **A. I -- yes, I've seen films on it, and --**
2 Q. What is your understanding of that?
3 **A. Well, that if an individual with a knife is 21**
4 **or under feet, he can still kill you.**
5 Q. If he is 21 feet away or farther, he's less of
6 a threat than if he's 21 feet -- or within 21 feet;
7 correct?
8 **A. I guess you could say that, yeah.**
9 Q. And that's from a weapon with a holster; right?
10 Is that how you were taught it, that it takes into
11 account the reaction time --
12 **A. Okay. Yes. Yes, sir.**
13 Q. -- of you getting your gun out of a holster, he
14 could close that distance in 21 feet?
15 **A. I'm not sure if it's holster or you have**
16 **already your gun.**
17 Q. You don't recall?
18 **A. No.**
19 Q. But your holster was already out?
20 **A. Yes.**
21 Q. You are already pointing the gun at him?
22 **A. Right.**
23 Q. And if he was more than 21 feet away from you
24 while you're already pointing the gun at him --
25 **A. Uh-huh.**

Page 200

1 Q. -- there is no way he could close that gap
2 without you shooting him; right?
3 MR. FRIGERIO: Objection; form. Calls for
4 speculation.
5 **A. Unless I miss.**
6 Q. (By Mr. Wilson) Unless you miss?
7 **A. Right.**
8 Q. It wouldn't be a situation where you had to
9 unholster your ve -- your weapon?
10 **A. No, because it was already out.**
11 Q. It was already out?
12 **A. Yeah.**
13 Q. So if he had made any move towards you --
14 **A. Uh-huh.**
15 Q. -- you could have dropped him before he ever
16 closed that gap, assuming you didn't miss?
17 **A. Right.**
18 Q. But as we saw, he never made a move towards
19 you?
20 MR. FRIGERIO: Objection; form.
21 **A. I --**
22 Q. (By Mr. Wilson) When you pulled the trigger.
23 **A. I felt, in that situation, no.**
24 Q. It wasn't what you felt. What you saw.
25 **A. What I saw was him with a knife, looking,**

Page 201	Page 203
<p>1 glancing at the vehicle. I felt that -- and I thought</p> <p>2 that he might make a move to the car or he might make a</p> <p>3 move to Deputy Vasquez or towards me.</p> <p>4 Q. He -- Yeah, he might.</p> <p>5 Now, let me tell you -- let's see if we</p> <p>6 can't get some agreements as to what really happened,</p> <p>7 not what could have happened. Okay?</p> <p>8 At the time you pulled the trigger,</p> <p>9 Mr. Flores had moved away from the passenger side of</p> <p>10 that patrol car?</p> <p>11 A. Okay.</p> <p>12 Q. He wasn't near the door anymore; correct?</p> <p>13 A. Correct.</p> <p>14 Q. He was standing on the driveway?</p> <p>15 A. Okay.</p> <p>16 Q. Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. He was not trying to run into the house?</p> <p>19 A. Right.</p> <p>20 Q. He was not trying to open any of the doors of</p> <p>21 the patrol car?</p> <p>22 A. At that time?</p> <p>23 Q. Yes.</p> <p>24 A. Yes.</p> <p>25 Q. He was standing still?</p>	<p>1 Q. Is that right?</p> <p>2 A. Yes.</p> <p>3 Q. And he was not moving his arms in an effort to</p> <p>4 throw the knife at you or Deputy Vasquez? In other</p> <p>5 words --</p> <p>6 A. I don't --</p> <p>7 Q. -- he had not got his hands back where he was</p> <p>8 going to throw that knife? That wasn't going on?</p> <p>9 A. Okay. Yes.</p> <p>10 Q. Is that right?</p> <p>11 A. Yes.</p> <p>12 Q. He was further than 6 feet away from you?</p> <p>13 A. I guess.</p> <p>14 Q. Apparently?</p> <p>15 A. Apparently. If you say that's more than</p> <p>16 6 feet, yes.</p> <p>17 Q. And he was not making any threatening moves</p> <p>18 towards you or Deputy Vasquez?</p> <p>19 A. As long as he had the knife in his hand, yes,</p> <p>20 it was a threat.</p> <p>21 Q. But he was not making any physical moves that</p> <p>22 you could interpret as threatening?</p> <p>23 A. Well, sir, as long as you have the knife in</p> <p>24 your hand, I consider it a threat.</p> <p>25 Q. Okay. So it is your understanding of Bexar</p>
Page 202	Page 204
<p>1 A. I don't know about standing still.</p> <p>2 Q. You saw him. Did you see his feet move?</p> <p>3 A. I saw his hands move.</p> <p>4 Q. Did you see his feet move? That was my -- my</p> <p>5 question.</p> <p>6 A. I don't know. I don't recall. I mean, in the</p> <p>7 film, no.</p> <p>8 Q. Do you want to see it again?</p> <p>9 A. Do you want to show it?</p> <p>10 Q. Sure.</p> <p>11 (Video playing.)</p> <p>12 Q. (By Mr. Wilson) Let me back up a couple.</p> <p>13 Let's go with this. All right?</p> <p>14 A. His feet aren't moving.</p> <p>15 Q. His feet -- his feet are standing still;</p> <p>16 correct? He's not making -- His feet aren't moving at</p> <p>17 all --</p> <p>18 A. Okay.</p> <p>19 Q. -- right?</p> <p>20 A. Yes.</p> <p>21 Q. So he's standing still?</p> <p>22 A. Well, his feet are.</p> <p>23 Q. He's not making an advancement move towards you</p> <p>24 at all; you agree with that?</p> <p>25 A. Advancement move, okay. I'll --</p>	<p>1 County policy that a man who is standing still, holding</p> <p>2 a knife, more than 20 feet away from you, with his hands</p> <p>3 raised, and not moving in any manner other than to raise</p> <p>4 his hands, in what could be interpreted as surrendering,</p> <p>5 can be shot and killed?</p> <p>6 A. If he has the knife in his hand, and if you</p> <p>7 look at the whole circumstances, and if you're in fear</p> <p>8 for your life, yes.</p> <p>9 Q. That's your understanding of the policy?</p> <p>10 A. Yes.</p> <p>11 Q. And you believe that this would be a justified</p> <p>12 shooting according to the training that you had received</p> <p>13 from Bexar County?</p> <p>14 A. Yes.</p> <p>15 Q. And it was your understanding of the law, the</p> <p>16 way Bexar County trained you, that that was the law when</p> <p>17 you can kill somebody?</p> <p>18 A. Yes. You can use deadly force, yes.</p> <p>19 Q. Did you testify before the Grand Jury?</p> <p>20 A. No.</p> <p>21 Q. Do you have any indication as to -- or did</p> <p>22 anybody ever tell you what happened --</p> <p>23 A. No.</p> <p>24 Q. -- at the Grand Jury?</p> <p>25 A. No, sir.</p>

Page 205	Page 207
<p>1 Q. Did you get indications that you were</p> <p>2 no-billed?</p> <p>3 A. The lawyer called me --</p> <p>4 Q. The lawyer --</p> <p>5 A. -- on the phone.</p> <p>6 Q. -- called you?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Prior to that point, did you know that your</p> <p>9 case was going to go to the Grand Jury?</p> <p>10 A. Yes.</p> <p>11 Q. And who told you that?</p> <p>12 A. My lawyer.</p> <p>13 Q. Had you been charged with anything at that</p> <p>14 point to go to the Grand Jury?</p> <p>15 A. I don't think so.</p> <p>16 Q. Were you disciplined -- ever disciplined for</p> <p>17 this shooting?</p> <p>18 A. No, sir.</p> <p>19 Q. Were you aware that Professional Integrity Unit</p> <p>20 had done an investigation?</p> <p>21 A. No, I was not aware.</p> <p>22 Q. Nobody from the Professional Integrity Unit</p> <p>23 ever contacted you?</p> <p>24 A. Not to my recollection, no.</p> <p>25 Q. And other than the interview you had with the</p>	<p>1 just have a couple of questions for you.</p> <p>2 I'm going to show you what was marked as</p> <p>3 Exhibit 6 to Officer Vasquez's deposition. And we have</p> <p>4 been told that that is a PowerPoint presentation of the</p> <p>5 "Use of Force" training used by the Bexar County</p> <p>6 Sheriff's Academy.</p> <p>7 Do you recall seeing that PowerPoint</p> <p>8 presentation?</p> <p>9 A. I might have, sir. I don't really recall this</p> <p>10 one, but it looks similar to ones we do.</p> <p>11 Q. Okay. So that one could have been one that you</p> <p>12 were --</p> <p>13 A. Yes.</p> <p>14 Q. -- taught from?</p> <p>15 Okay. But you don't recall when it would</p> <p>16 have been?</p> <p>17 A. Probably when I was inservice.</p> <p>18 Q. One of the years that you were inservice?</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. Yeah. I mean, we go through it either once --</p> <p>22 we go through inservice once a year.</p> <p>23 Q. I understand.</p> <p>24 A. Okay.</p> <p>25 Q. But we've looked at your TCLEOSE records, and</p>
Page 206	Page 208
<p>1 sergeant who took your statement --</p> <p>2 A. I think it was investigator.</p> <p>3 Q. Investigator. I'm sorry.</p> <p>4 Did you have any communication with</p> <p>5 anybody involved in the investigation after that point?</p> <p>6 A. No, sir.</p> <p>7 Q. And prior to that point, your only involvement</p> <p>8 had been to go to the CID evidence wagon and do a</p> <p>9 walk-through?</p> <p>10 A. Yes.</p> <p>11 Q. All right. So the full extent of your</p> <p>12 involvement in the investigation was the walk-through,</p> <p>13 the CID wagon --</p> <p>14 A. Right.</p> <p>15 Q. -- at the scene, obtaining the witness</p> <p>16 statement, and that was it?</p> <p>17 A. Yes.</p> <p>18 MR. WILSON: Let's take a break real</p> <p>19 quick.</p> <p>20 THE VIDEOGRAPHER: We're off the record at</p> <p>21 6:47 p.m.</p> <p>22 (Recess from 6:47 until 6:53.)</p> <p>23 THE VIDEOGRAPHER: We're back on the</p> <p>24 record at 6:53 p.m.</p> <p>25 Q. (By Mr. Wilson) All right. Mr. Sanchez, I</p>	<p>1 sometimes those include use of force, sometimes they</p> <p>2 apparently do not.</p> <p>3 A. Yeah, I think it just, you know, depends on the</p> <p>4 training, what they decide to train.</p> <p>5 Q. Sure.</p> <p>6 A. Yeah.</p> <p>7 Q. And during one of those times you believe that</p> <p>8 you could have gotten that PowerPoint presentation which</p> <p>9 is Vasquez Exhibit 6?</p> <p>10 A. Yes, sir.</p> <p>11 Q. But you don't have any independent recollection</p> <p>12 of it?</p> <p>13 A. No.</p> <p>14 Q. You can look through it and see if it refreshes</p> <p>15 your memory.</p> <p>16 A. They look -- they look similar to what -- I</p> <p>17 don't -- I can't say this is exactly the one.</p> <p>18 Q. Okay.</p> <p>19 A. It might have been one similar to one like</p> <p>20 this, yes.</p> <p>21 Q. Okay. All right. Sir, thank you. That's all</p> <p>22 the questions I have.</p> <p>23 A. Okay.</p> <p>24 MR. FRIGERIO: We'll reserve our</p> <p>25 questions.</p>

Page 209	Page 211
1 MS. BOWEN: We'll reserve our questions	1 CHANGES AND SIGNATURE
2 for trial.	2 DEPUTY ROBERT SANCHEZ - JANUARY 10, 2017
3 THE VIDEOGRAPHER: We're off the record on	3 PAGE LINE CHANGE REASON
4 January the 10th, 2017 at 6:55 p.m.	4 _____
5 (Deposition concluded at 6:55 p.m.)	5 _____
6	6 _____
7	7 _____
8	8 _____
9	9 _____
10	10 _____
11	11
12	12 I declare under penalty of perjury that the
13	13 foregoing is true and correct.
14	14
15	15 _____
16	16 DEPUTY ROBERT SANCHEZ
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25

Page 210	Page 212
1 CHANGES AND SIGNATURE	1 THE STATE OF TEXAS:
2 DEPUTY ROBERT SANCHEZ - JANUARY 10, 2017	2 COUNTY OF BEXAR:
3 PAGE LINE CHANGE REASON	3
4 _____	4 I, Denise Ganz Byers, Certified Shorthand
5 _____	5 Reporter in and for the State of Texas, do hereby
6 _____	6 certify that the facts stated by me in the caption
7 _____	7 hereto are true; that the foregoing deposition of
8 _____	8 DEPUTY ROBERT SANCHEZ, the witness hereinbefore named,
9 _____	9 was taken by me in machine shorthand, the said witness
10 _____	10 having been by me first duly cautioned and sworn to tell
11 _____	11 the truth, the whole truth and nothing but the truth,
12 _____	12 and later transcribed from machine shorthand to
13 _____	13 typewritten form by me.
14 _____	14 I further certify that the above and
15 _____	15 foregoing deposition, as set forth in typewriting, is
16 _____	16 a full, true and correct transcript of the proceedings
17 _____	17 had at the time of taking said deposition.
18 _____	18 I further certify that I am neither
19 _____	19 attorney or counsel for, nor related to or employed
20 _____	20 by any of the parties to the action in which this
21 _____	21 deposition is taken, and further that I am not a
22 _____	22 relative or employee of any attorney or counsel
23 _____	23 employed by the parties hereto, or financially
24 _____	24 interested in the action.
25 _____	25

Page 213

1 I further certify that charges for the
2 preparation of the foregoing completed deposition were
3 \$_____ for the original thereof, charged to
4 Attorney(s) for the Plaintiffs.

5 GIVEN under my hand and seal of office on
6 this, the 16th day of January, 2017.

7

8

9

10 _____
11 Denise Ganz Byers, CSR, RPR, RMR, CRR
12 Texas CSR No. 2037
13 Expiration Date: 12/31/18
14 DepoTexas - Firm Registration No. 539
15 100 N.E. Loop 410, Suite 955
16 San Antonio, Texas 78216
17 210-481-7575
18
19
20
21
22
23
24
25