

Sergeant Jennifer Baeza

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Page 1

1 UNITED STATES DISTRICT COURT FOR
2 THE WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION
4 MARITZA AMADOR,)
5 INDIVIDUALLY AND AS)
6 REPRESENTATIVE OF THE)
7 ESTATE OF GILBERT FLORES,)
8 AND AS NEXT FRIEND OF)
9 MINOR R.M.F., VANESSA)
10 FLORES, MARISELA FLORES,)
11 CARMEN FLORES AND)
12 ROGELIO FLORES,)
13 Plaintiffs,) CA NO.: 5:15-CV-00810RP
14 VS.)
15 BEXAR COUNTY, BEXAR)
16 COUNTY SHERIFF'S OFFICE,)
17 GREGORY VASQUEZ,)
18 INDIVIDUALLY AND IN HIS)
19 OFFICIAL CAPACITY AND)
20 ROBERT SANCHEZ,)
21 INDIVIDUALLY AND IN HIS)
22 OFFICIAL CAPACITY,)
23 Defendants.)
24
25 ORAL AND VIDEOTAPED DEPOSITION OF
SERGEANT JENNIFER BAEZA
MARCH 17, 2017
ORAL AND VIDEOTAPED DEPOSITION OF SERGEANT
JENNIFER BAEZA, produced as a witness at the instance of
the Plaintiffs, and duly sworn, was taken in the
above-styled and numbered cause on March 17, 2017, from
9:13 a.m. until 12:03 p.m., before Denise Ganz Byers,
CSR, RPR, CRR, RMR, in and for the State of Texas,
reported by machine shorthand, at the Bexar County
Justice Center, 300 Dolorosa, San Antonio, Texas,
pursuant to the Federal Rules of Civil Procedure.

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1 ORAL AND VIDEOTAPED DEPOSITION OF
2 SERGEANT JENNIFER BAEZA
3 MARCH 17, 2017
4 Examination by Mr. Wilson
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1 THE VIDEOGRAPHER: Going on record. The
2 time is 9:13. Today's date is March 17th, 2017.
3 SERGEANT JENNIFER BAEZA
4 was called as a witness by the Plaintiffs and, having
5 been first duly sworn, was examined and testified as
6 follows:
7 EXAMINATION
8 BY MR. WILSON:
9 Q. Good morning, ma'am. My name is Robert Wilson.
10 Could you please introduce yourself?
11 A. Sergeant Jennifer Baeza.
12 Q. And, Sergeant Baeza, what is your address,
13 please?
14 A. My address?
15 Q. Yes.
16 A. 154 Osprey, O-S-P-R-E-Y, Haven, H-A-V-E-N, San
17 Antonio, Texas 78253.
18 Q. I ask that only because in the event you no
19 longer work for Bexar County at the time of trial, if -
20 A. Okay.
21 Q. - we need to subpoena you. That's why I do
22 that.
23 A. (Moving head up and down.)
24 Q. And who is your employer?
25 A. Bexar County Sheriff's Office.

EXHIBIT

J

DepoTexas, Inc.

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<p>1 Q. And what is your position?</p> <p>2 A. I am currently assigned to Professional</p> <p>3 Standards and Integrity.</p> <p>4 Q. Do you have a rank?</p> <p>09:12 5 A. Sergeant.</p> <p>6 Q. Okay. Could you tell us, have you ever had</p> <p>7 your deposition taken before?</p> <p>8 A. A traffic accident and criminal court.</p> <p>9 Q. Okay. So you've testified in criminal court,</p> <p>09:12 10 but --</p> <p>11 A. Uh-huh, yes.</p> <p>12 Q. -- only one deposition in a traffic accident</p> <p>13 case?</p> <p>14 A. Right.</p> <p>09:12 15 Q. All right. Well, just let me tell you a couple</p> <p>16 things. If I ask you a question you don't understand,</p> <p>17 tell me.</p> <p>18 A. Okay.</p> <p>19 Q. I'll be happy to rephrase it to make sure you</p> <p>09:13 20 understand the questions that you are answering. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. And, also, I'll try not to talk over you and</p> <p>23 let you finish your answer if you'll let me finish my</p> <p>24 question. Then we'll get a clearer transcript. Okay?</p> <p>09:13 25 A. Okay.</p>	<p>1 Q. And so for about four years, you did other</p> <p>2 things before you went to work for Bexar County?</p> <p>3 A. I did.</p> <p>4 Q. And was Bexar County your first law enforcement</p> <p>09:14 5 job?</p> <p>6 A. Yes.</p> <p>7 Q. When did you obtain your peace officer's</p> <p>8 license?</p> <p>9 A. In 2002.</p> <p>09:14 10 Q. When you started working for Bexar County in</p> <p>11 November of 1999, what was your job title?</p> <p>12 A. Detention officer.</p> <p>13 Q. So you started in the jail?</p> <p>14 A. I did.</p> <p>09:14 15 Q. And then did you get, for lack of a better</p> <p>16 term, a jailer's license or a detention officer's</p> <p>17 license?</p> <p>18 A. I did.</p> <p>19 Q. And that's different from a peace officer</p> <p>09:14 20 license?</p> <p>21 A. Yes, sir.</p> <p>22 Q. So prior to that time, had you had any formal</p> <p>23 training on law enforcement or how to be a sheriff's</p> <p>24 deputy?</p> <p>09:14 25 A. No.</p>
Page 6	Page 8
<p>1 Q. Finally, even though we have a videographer</p> <p>2 here, make sure all of your answers are oral/verbal</p> <p>3 responses so we can get an accurate transcript. All</p> <p>4 right?</p> <p>09:13 5 A. Yes.</p> <p>6 Q. Now, you said you work for the Bexar County</p> <p>7 Sheriff's Department. When did you start there?</p> <p>8 A. November of 1999.</p> <p>9 Q. And could you tell me your educational</p> <p>09:13 10 background after high school?</p> <p>11 A. Some college.</p> <p>12 Q. And where did you go to college?</p> <p>13 A. Whalen Baptist, San Antonio College. That's</p> <p>14 it.</p> <p>09:13 15 Q. And did you obtain a degree?</p> <p>16 A. No.</p> <p>17 Q. And what were you studying?</p> <p>18 A. Criminal justice.</p> <p>19 Q. And so when were you studying that? What time</p> <p>09:13 20 period?</p> <p>21 A. It's been over the course of probably the last</p> <p>22 seven years.</p> <p>23 Q. And so when you -- when did you graduate high</p> <p>24 school?</p> <p>09:14 25 A. '95.</p>	<p>1 Q. So since that time, did you go through the</p> <p>2 Bexar County Sheriff's Academy?</p> <p>3 A. To obtain my peace officer?</p> <p>4 Q. Well, let me rephrase that.</p> <p>09:15 5 When you became a jailer, did you get</p> <p>6 training from Bexar County?</p> <p>7 A. I did.</p> <p>8 Q. And then when you became a peace officer and</p> <p>9 actually moved over to Sheriff's Department as a deputy,</p> <p>09:15 10 I would imagine; is that correct?</p> <p>11 A. Well, you don't actually transfer. You obtain</p> <p>12 a license, but you're still assigned to the detention</p> <p>13 side of it.</p> <p>14 Q. Did you go through the Bexar County Sheriff's</p> <p>09:15 15 Department at that -- Sheriff's Academy at that time?</p> <p>16 A. I did not. I went through San Antonio College.</p> <p>17 Q. So you obtained your initial training to become</p> <p>18 a jailer through Bexar County; correct?</p> <p>19 A. Yes.</p> <p>09:15 20 Q. And then when you went to get your peace</p> <p>21 officer's license you did your training through San</p> <p>22 Antonio College?</p> <p>23 A. Correct.</p> <p>24 Q. And then since that time, has your training</p> <p>09:15 25 been through Bexar County, any on -- continuing training</p>

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<p>1 as you've gone through your career?</p> <p>2 A. Yes.</p> <p>3 Q. So how long were you a jailer?</p> <p>4 A. From 1999 to Two Thousand -- late 2006.</p> <p>09:15 5 Q. And did you -- what were your jobs during -- as</p> <p>6 a jailer? I mean, were you always a detention officer,</p> <p>7 or did it change over the course of those seven years?</p> <p>8 A. Well, no. You're a detention officer the</p> <p>9 entire time.</p> <p>09:16 10 Q. So what were your -- what were your duties?</p> <p>11 What would you do?</p> <p>12 A. Maintain the inmates, security of the inmates.</p> <p>13 That's -- no matter what position you're in there,</p> <p>14 that's pretty much what you're doing, maintaining the</p> <p>09:16 15 security of them.</p> <p>16 Q. Did that include any investigations?</p> <p>17 A. No.</p> <p>18 Q. So during that seven years, you would not have</p> <p>19 investigated use of force issues involved in the jail</p> <p>09:16 20 system?</p> <p>21 A. Correct.</p> <p>22 Q. So when you no longer were a jailer in 2006,</p> <p>23 what did you transfer to?</p> <p>24 A. Patrolman.</p> <p>09:16 25 Q. And how long were you a patrolman?</p>	<p>1 Q. And so when you were a patrolman from 2006 to</p> <p>2 2010, did you ever have to use force?</p> <p>3 A. At some point I'm sure I did. I don't remember</p> <p>4 a specific incident.</p> <p>09:17 5 Q. Did you ever have to use deadly force?</p> <p>6 A. No.</p> <p>7 Q. Did you ever have to discharge your weapon at a</p> <p>8 suspect?</p> <p>9 A. No.</p> <p>09:18 10 Q. And during that time, were you ever</p> <p>11 investigated for the use of force?</p> <p>12 A. No.</p> <p>13 Q. Were you ever involved in any police officer</p> <p>14 use of force investigations?</p> <p>09:18 15 A. No, not that I recall.</p> <p>16 Q. So in 2010, how did your position change?</p> <p>17 A. I promoted to investigator.</p> <p>18 Q. And did you -- did you have a change in rank at</p> <p>19 that time?</p> <p>09:18 20 A. From patrolman to investigator.</p> <p>21 Q. And how long were you an investigator?</p> <p>22 A. From 2010 to 2015, five -- about five years.</p> <p>23 Q. And were you involved in any sort of department</p> <p>24 as an investigator?</p> <p>09:18 25 A. What do you mean?</p>
Page 10	Page 12
<p>1 A. Until 2010.</p> <p>2 Q. And I assume you went through additional</p> <p>3 training to become a patrolman; is that correct?</p> <p>4 A. Yes. They send you through a patrol</p> <p>09:16 5 orientation.</p> <p>6 Q. And how long is that?</p> <p>7 A. I believe it was approximately eight weeks. I</p> <p>8 don't remember exactly.</p> <p>9 Q. And backing up, when you became a jailer, did</p> <p>09:17 10 part of your training include when it's Constitutionally</p> <p>11 permissible to use force against an inmate or a suspect?</p> <p>12 A. Yes.</p> <p>13 Q. And then when you became a patrolman and you</p> <p>14 went through an orientation class, did you obtain</p> <p>09:17 15 additional training --</p> <p>16 A. Yes.</p> <p>17 Q. -- on how to use use of force?</p> <p>18 A. How to use it?</p> <p>19 Q. Or -- or when it was Constitutionally</p> <p>09:17 20 permissible to use force.</p> <p>21 A. Yes.</p> <p>22 Q. And when you went through San Antonio Academy,</p> <p>23 did you receive training on the Constitutional use of</p> <p>24 force?</p> <p>09:17 25 A. Yes.</p>	<p>1 Q. Well, some people are involved in homicide</p> <p>2 investigations or --</p> <p>3 A. I was assigned first to general investigations</p> <p>4 and I later moved to violent crimes.</p> <p>09:18 5 Q. When did you move to violent crimes?</p> <p>6 A. About a year later, I think.</p> <p>7 Q. Approximately 2011?</p> <p>8 A. '11, maybe.</p> <p>9 Q. And did you stay in the violent crimes part of</p> <p>09:19 10 the investigative unit until 2015?</p> <p>11 A. I did.</p> <p>12 Q. During that time period, did you ever get</p> <p>13 involved in any use of force investigations?</p> <p>14 A. On the investigating side of it or being</p> <p>09:19 15 investigated?</p> <p>16 Q. Well, let's start with on the investigative</p> <p>17 side of it.</p> <p>18 A. Yes.</p> <p>19 Q. And could you tell me how many times you were</p> <p>09:19 20 involved as an investigator on a use of force</p> <p>21 investigation?</p> <p>22 A. I don't know specifically.</p> <p>23 Q. Do you know generally?</p> <p>24 A. No, not really. I mean, assaults that involved</p> <p>09:19 25 force. Are you specifically -- like specifically with</p>

<p style="text-align: right;">Page 13</p> <p>1 officers --</p> <p>2 Q. Yes.</p> <p>3 A. -- or just overall in general?</p> <p>4 Q. And that's a fair -- that's a fair</p> <p>09 : 20 5 characterization. I'm talking about investigations</p> <p>6 where police officers are being investigated when</p> <p>7 they've used force.</p> <p>8 A. Okay. I would say maybe between 10 and 15 that</p> <p>9 I can remember specifically.</p> <p>09 : 20 10 Q. And we have in this particular case a criminal</p> <p>11 investigation report that was done by an Officer Perez.</p> <p>12 Would you have been a part of --</p> <p>13 And that involved a lot of different</p> <p>14 officers --</p> <p>09 : 20 15 A. Uh-huh.</p> <p>16 Q. -- providing pieces to that report. Is that</p> <p>17 how you would be involved, you would be providing</p> <p>18 statements as a part of an overall investigation?</p> <p>19 A. It depends on the investigation. I could have</p> <p>09 : 20 20 been the lead investigator on some or I could have been,</p> <p>21 yes, a supplement, providing a supplement.</p> <p>22 Q. And do you recall any time when you were the</p> <p>23 lead investigator on a police use of force</p> <p>24 investigation?</p> <p>09 : 20 25 A. Yes.</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. All right. So some of those were</p> <p>3 officer-involved shootings?</p> <p>4 A. Correct.</p> <p>09 : 21 5 Q. Now, did you -- at any time that the officer</p> <p>6 was involved in a shooting and you were the lead</p> <p>7 investigator, you never found that that shooting was</p> <p>8 unjustified or was a crime; is that correct?</p> <p>9 A. Correct.</p> <p>09 : 22 10 Q. In all of the investigations that you've done</p> <p>11 involving use of force from officers, have you ever</p> <p>12 reached the conclusion that the shooting or the use of</p> <p>13 force was unjustified?</p> <p>14 A. Say it again.</p> <p>09 : 22 15 Q. Sure.</p> <p>16 A. I'm sorry.</p> <p>17 Q. In all of the investigations that you've been</p> <p>18 involved in where a police officer or a deputy sheriff</p> <p>19 is being investigated for the use of force, did you ever</p> <p>09 : 22 20 reach the conclusion that it was unjustified?</p> <p>21 A. No.</p> <p>22 Q. At any time you've been involved in an</p> <p>23 investigation where there was an officer-involved</p> <p>24 shooting, whether providing a supplemental report or the</p> <p>09 : 22 25 lead investigator --</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. Do you recall any names of the officers that</p> <p>2 were being investigated?</p> <p>3 A. Marty Perez was one. Manny Herrera. De la</p> <p>4 Garza, I believe, was one also. Those are the ones I</p> <p>09 : 21 5 can remember just off the top of my head --</p> <p>6 Q. Sure.</p> <p>7 A. -- specifically.</p> <p>8 Q. And in any of those investigations, did you</p> <p>9 find that there was a violation of Bexar County</p> <p>09 : 21 10 Sheriff's Department use of force policy by the officer?</p> <p>11 A. Okay. At that point I would have only been</p> <p>12 investigating criminal. I would not have been looking</p> <p>13 at policy violations.</p> <p>14 Q. All right. Did you find any violations of any</p> <p>09 : 21 15 crimes?</p> <p>16 A. No.</p> <p>17 Q. All right. So in all of those investigations</p> <p>18 that you were the lead investigator on, you did not</p> <p>19 reach the conclusion that the officer had violated any</p> <p>09 : 21 20 crimes --</p> <p>21 A. No.</p> <p>22 Q. -- is that correct?</p> <p>23 A. Correct, yes.</p> <p>24 Q. And so were any of those involving use of</p> <p>09 : 21 25 deadly force?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Uh-huh.</p> <p>2 Q. -- did you ever reach the conclusion that that</p> <p>3 shooting was unjustified?</p> <p>4 A. No.</p> <p>09 : 22 5 Q. The entire time that you were an investigator</p> <p>6 that you were aware of other officer-involved shootings,</p> <p>7 have you ever become aware of Bexar County ever reaching</p> <p>8 the conclusion that their officer unjustifiably shot a</p> <p>9 suspect?</p> <p>09 : 23 10 A. Not that I'm aware of or was involved in.</p> <p>11 Q. So in all of the investigations you were aware</p> <p>12 of, the conclusion reached was that the shooting was</p> <p>13 justified?</p> <p>14 A. That I was involved in. Aware of specifically,</p> <p>09 : 23 15 I don't know.</p> <p>16 Q. Are you aware -- being a Bexar County</p> <p>17 Sheriff's deputy since 19 -- or 2006, I guess, and not</p> <p>18 including the time in the jail, are you aware of any</p> <p>19 time a Bexar County Sheriff's deputy has been found to</p> <p>09 : 23 20 have been involved in a shooting where the department</p> <p>21 determined it was unjustified?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. So every -- every shooting that you were aware</p> <p>24 of where an officer discharged his weapon at a suspect,</p> <p>09 : 23 25 in every -- in every indication and every time, Bexar</p>

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<p>1 County Sheriff's reached the conclusion that it was 2 justified? 3 A. At some point somebody did, whether they do it 4 or they sent it to the D -- it gets sent to the DA's 5 office for that final determination. 6 Q. Okay. So when you were an investigator and you 7 investigated these, you reached the conclusions, based 8 upon -- you were investigating a crime; is that correct? 9 A. Correct. 10 Q. So when we're involved in officer-involved 11 shootings, I assume if the suspect survives, what crime 12 are you investigating? 13 A. An aggravated assault. 14 Q. And then, of course, if the suspect passes 15 away, then you're investigating a homicide -- 16 A. Correct. 17 Q. -- is that correct? 18 And so as an investigator who's doing 19 that, do you reach a conclusion? 20 A. Well, and let me clarify something before we 21 pass that. 22 At the point where I was assigned in 23 violent crimes, the only shootings that I would handle, 24 if it was an officer-involved, was if the person who was 25 actually shot survived. So mine were not the homicide.</p>	<p>1 determination as to whether or not there's probable 2 cause that a crime existed so that you can turn it over 3 to the DA? 4 A. Yeah. You're going to have to -- 5 Q. Sure. 6 A. -- clarify that. 7 Q. In situations where there's not an officer 8 involved -- 9 A. Uh-huh. 10 Q. -- it's just a normal citizen and you do your 11 investigation, do you simply turn it over to the DA to 12 make determinations? 13 A. Well, you file a charge either way. Whether 14 it's an officer or it's not an officer, the 15 investigation is handled the same way. 16 Q. That's what I'm trying to get at -- 17 A. Yeah. 18 Q. -- in a very inartful way. 19 When you turn it over to the DA, are you 20 saying, "We believe this person should be charged with 21 aggravated assault"? 22 A. You're being -- you turn it over for review -- 23 Q. Okay. 24 A. -- for a review. 25 Q. And so the Sheriff's Department doesn't make a</p>
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<p>1 If -- if there was a homicide, it was 2 passed over to the Homicide Unit. They would handle 3 those. 4 Q. Fair enough. That makes sense. 5 But when -- so then let's talk about the 6 ones where it was just somebody survived. 7 A. Right. 8 Q. So you're investigating an aggravating assault. 9 As the lead investigator, do you reach a conclusion? 10 A. No. You pretty much gather the facts and 11 that's it. You gather the facts, you put all the 12 evidence together that you can gather, and you send it 13 over to the District Attorney's office. 14 They make a determination of whether it 15 was ultimately justified or not justified. You're 16 filing a charge. 17 Q. Right. When you -- that's where I get 18 confused. When you're filing a charge, what are you -- 19 let me -- let me -- I guess I need to get some 20 clarification. 21 Let's say it's not involving an officer. 22 It's just involving another crime where somebody has 23 committed an aggravated assault. 24 A. Uh-huh. 25 Q. Do you do the investigation? Do you make a</p>	<p>1 determination one way or the other as to whether or not 2 a crime was committed? 3 A. Well, yes. If -- if you can determine by the 4 facts that you have in front of you that there's, you 5 know, absolutely nothing, then, yes, at some point you 6 may not file a charge. 7 Every single report that you get that has 8 an offense listed doesn't always come to the DA's 9 office. Obviously, on higher levels, usually anything 10 that involves weapons and things like that, especially 11 when weapons are actually fired, that usually comes 12 either way. 13 Obviously something happened. And this is 14 whether it's an officer or a person, a general, you 15 know, person, those usually end up over here regardless. 16 Not that I know of has ever a case like that just been 17 disposed of. 18 Q. Okay. So the investigator does the criminal 19 investigation and makes no determination one way or the 20 other as to what they believe the investigation shows; 21 is that correct? 22 A. They can make a determination. It's just not 23 always the case. I mean, if it's a fine line between 24 something, again, they'll send it over here and the DA's 25 office makes that final whether they're indicted or not</p>

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<p>1 indicted. That's something that we do at the Sheriff's</p> <p>2 Office. You gather the facts, you put it together in</p> <p>3 that form that you have there and it's sent over.</p> <p>4 Q. So let's talk about officer-involved uses of</p> <p>09 : 28 5 force, whether it ends up in an aggravated assault or a</p> <p>6 death.</p> <p>7 A. Uh-huh.</p> <p>8 Q. You understand that sometimes that can amount</p> <p>9 to a crime?</p> <p>09 : 28 10 A. Uh-huh.</p> <p>11 Q. And sometimes that can just amount to a</p> <p>12 Constitutional violation of somebody's rights; correct?</p> <p>13 A. Sure.</p> <p>14 Q. Do you understand that there is a distinction</p> <p>09 : 28 15 between an officer committing a crime and an officer</p> <p>16 violating someone's Constitutional rights?</p> <p>17 A. I didn't hear you. I'm sorry.</p> <p>18 Q. Sure. Do you understand that there is -- what</p> <p>19 is the -- what do you have to prove to show a homicide?</p> <p>09 : 28 20 What are the elements of a homicide?</p> <p>21 A. Causing death, usually by recklessness or -- it</p> <p>22 just escaped me. I don't have the definition.</p> <p>23 Q. Well, homicide is someone -- okay --</p> <p>24 A. Unjustifiably.</p> <p>09 : 29 25 Q. So what is the -- what is the -- when does</p>	<p>1 Q. Okay. So I'm going to ask you questions based</p> <p>2 upon your law and the law that you know as of your</p> <p>3 training --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- all right?</p> <p>6 Because you're out there with a weapon and</p> <p>7 you have to know when you can Constitutionally discharge</p> <p>8 that weapon and when you cannot --</p> <p>9 A. Right.</p> <p>09 : 30 10 Q. -- correct?</p> <p>11 Okay. So, that being said, would it be --</p> <p>12 do you believe that if you decide to shoot someone</p> <p>13 during the course of your job that there is a difference</p> <p>14 between committing the crime of homicide versus</p> <p>09 : 30 15 violating someone's Constitutional rights or, in your</p> <p>16 mind, are they the same?</p> <p>17 MR. LOPEZ: Well, I'm going to object. It</p> <p>18 calls for a legal conclusion.</p> <p>19 MR. SAENZ: Same objection.</p> <p>09 : 30 20 A. I don't know. I don't know how to answer that</p> <p>21 question. I don't know if I just fully don't understand</p> <p>22 the way you're asking it or --</p> <p>23 Q. (By Mr. Wilson) Okay. Well, do you know --</p> <p>24 you do know the elements of homicide; correct?</p> <p>09 : 30 25 A. Right.</p>
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<p>1 someone -- when does a police officer violate someone's</p> <p>2 Constitutional rights when they use force? What is the</p> <p>3 standard for that?</p> <p>4 A. I'm not sure I understand what you're asking</p> <p>09 : 29 5 me.</p> <p>6 Q. Well, do you think that there -- that an</p> <p>7 officer would have to commit the criminal crime of</p> <p>8 homicide before he could violate someone's</p> <p>9 Constitutional rights if he decides to shoot them?</p> <p>09 : 29 10 MR. LOPEZ: Objection. That calls for a</p> <p>11 legal conclusion.</p> <p>12 MR. SAENZ: Same objection.</p> <p>13 A. Well, I still don't understand exactly what</p> <p>14 you're asking. Can they violate someone's right without</p> <p>09 : 29 15 shooting them? Is that what you're asking me?</p> <p>16 Q. (By Mr. Wilson) Well, no. Let me -- and I</p> <p>17 apologize for my -- my questioning, but let me -- this</p> <p>18 is what I'm trying to get at.</p> <p>19 You learned what the law was on when you</p> <p>09 : 29 20 could Constitutionally use force as a police officer;</p> <p>21 correct?</p> <p>22 A. Right.</p> <p>23 Q. That was some -- so you know what -- you've</p> <p>24 been taught the law?</p> <p>09 : 29 25 A. Right.</p>	<p>1 Q. All right. Because when you're investigating a</p> <p>2 homicide, for example, you would have to know what those</p> <p>3 elements are?</p> <p>4 A. Well, and I've never investigated a homicide.</p> <p>09 : 30 5 Q. Let's say aggravated assault.</p> <p>6 A. Uh-huh.</p> <p>7 Q. So let's say aggravated assault. You know what</p> <p>8 the elements of aggravated assault are; right?</p> <p>9 A. Right.</p> <p>09 : 31 10 Q. Okay. So if you were investigating a citizen</p> <p>11 who's not a member of the Sheriff's Department, you</p> <p>12 would know what the elements of aggravated assault were</p> <p>13 and what you'd have to prove in order to convict</p> <p>14 somebody of that; correct?</p> <p>09 : 31 15 A. Right.</p> <p>16 Q. And what the evidence would have to show?</p> <p>17 A. Right.</p> <p>18 Q. And what the standard would have to be;</p> <p>19 correct?</p> <p>09 : 31 20 A. Right. And there's no difference in that from</p> <p>21 a police officer. It doesn't make a difference.</p> <p>22 Q. So I understand that. But there is a crime</p> <p>23 that's in violation of Penal Code; correct?</p> <p>24 A. Uh-huh.</p> <p>09 : 31 25 Q. And then there's somebody's Constitutional</p>

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<p>1 rights under the Constitution in terms of whether their</p> <p>2 rights have been violated; correct?</p> <p>3 A. Right.</p> <p>4 Q. And, in your mind, are they the same?</p> <p>09 : 31 5 A. I don't know that they're the same.</p> <p>6 Q. Okay. And here's what I'm getting at: During</p> <p>7 the course of these investigations at Bexar County, when</p> <p>8 you do the investigation, you're doing them in the</p> <p>9 investigation of a crime; correct?</p> <p>09 : 31 10 A. Right.</p> <p>11 Q. Is there any separate investigation done to</p> <p>12 determine whether someone's Constitutional rights have</p> <p>13 been violated short of committing a crime?</p> <p>14 A. I think if that happens, it's brought up</p> <p>09 : 32 15 through the course of the investigation.</p> <p>16 Q. How would it be brought up during the course --</p> <p>17 A. If your question is, is there a separate</p> <p>18 investigation, I think the answer to that would be no.</p> <p>19 Q. Okay. So as far as -- when there is an</p> <p>09 : 32 20 officer-involved shooting, am I correct in understanding</p> <p>21 that Bexar County investigates them as a crime to go</p> <p>22 over to the DA's office?</p> <p>23 A. Right, yes.</p> <p>24 Q. But there's no separate investigation to</p> <p>09 : 32 25 determine whether or not someone's Constitutional rights</p>	<p>1 therefore, have not violated someone's Constitutional</p> <p>2 rights, or can those be different in your mind?</p> <p>3 A. They can be different.</p> <p>4 Q. Okay. So knowing that they can be different,</p> <p>09 : 33 5 do you know if Bexar County ever does any investigation</p> <p>6 of an officer-involved shooting to determine whether or</p> <p>7 not someone's Constitutional rights have been violated</p> <p>8 even though a crime may not have been committed?</p> <p>9 A. I would say if that happens, it happens in that</p> <p>09 : 33 10 initial investigation.</p> <p>11 Q. Okay. Because have you -- as -- when you did</p> <p>12 it as a lead investigator on an aggravated assault --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- did you ever investigate it from the</p> <p>09 : 34 15 viewpoint of whether or not that person's Constitutional</p> <p>16 rights were violated, or did you always do it as to</p> <p>17 whether or not a crime had been committed?</p> <p>18 A. Well, you're investigating the crime. Now, in</p> <p>19 the process of that, if you see something that would</p> <p>09 : 34 20 lead you to believe, that, hey, you know, their rights</p> <p>21 were violated, then, yeah, that's brought up at that</p> <p>22 time.</p> <p>23 Q. Okay. And how would it be brought up? Where</p> <p>24 would we see it?</p> <p>09 : 34 25 A. Well, you could bring -- I mean, you bring it</p>
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<p>1 have been violated even though a crime may not have been</p> <p>2 committed?</p> <p>3 A. There's no secondary investigation unless</p> <p>4 that's something that comes up during the initial</p> <p>09 : 32 5 investigation.</p> <p>6 Q. Right. So do you believe that there are</p> <p>7 certain situations where an officer may not have had the</p> <p>8 mens rea to commit homicide but at the same time still</p> <p>9 violated someone's Constitutional rights?</p> <p>09 : 33 10 MR. LOPEZ: I object to the question.</p> <p>11 "Constitutional rights" is too broad here.</p> <p>12 MR. WILSON: Well, the Constitutional --</p> <p>13 MR. LOPEZ: Federal Constitution or State</p> <p>14 Constitution?</p> <p>09 : 33 15 Q. (By Mr. Wilson) Federal Constitutional rights</p> <p>16 and violations of the Fourth Amendment, unreasonable and</p> <p>17 unnecessary use of force. You understand those; right?</p> <p>18 A. Uh-huh.</p> <p>19 Q. You've been taught that?</p> <p>09 : 33 20 A. Right.</p> <p>21 Q. Graham vs. Connor and the other Supreme Court</p> <p>22 cases you've been told about?</p> <p>23 A. Right.</p> <p>24 Q. Okay. So do you believe that there is a same</p> <p>09 : 33 25 standard that if you do not commit a homicide, you,</p>	<p>1 up to, I would say, probably a supervisor. And at that</p> <p>2 point they may hand that particular type of</p> <p>3 investigation over to someone else. Then maybe there</p> <p>4 would be a secondary.</p> <p>09 : 34 5 Q. Would that -- have you ever been -- in your</p> <p>6 history, has that ever happened?</p> <p>7 A. It hasn't happened to me. Anyone else, I don't</p> <p>8 know.</p> <p>9 Q. And, to your knowledge, in any of the</p> <p>09 : 34 10 investigations you have become aware of or been involved</p> <p>11 in, has that ever happened?</p> <p>12 A. I don't know.</p> <p>13 Q. And so, as far as you know, what happens is you</p> <p>14 do the investigation and you turn it over to the DA to</p> <p>09 : 35 15 determine whether or not there's going to be an</p> <p>16 indictment?</p> <p>17 A. Correct.</p> <p>18 Q. And beyond that, it would have to be some</p> <p>19 extra step that you're aware of -- you're not aware of</p> <p>09 : 35 20 has ever happened?</p> <p>21 A. Not that I know of.</p> <p>22 Q. Okay. So when you turn it over to the DA, how</p> <p>23 is it actually turned over to the DA? That's a process</p> <p>24 I'm unaware of. What's the actual process?</p> <p>09 : 35 25 A. You bring it over here. You sign it in to --</p>

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<p>1 well, and there's -- obviously, there's different</p> <p>2 sections of the District Attorney's office. So if it</p> <p>3 involves an officer, then it goes to their White Collar</p> <p>4 unit.</p> <p>09:35 5 And, again, I've been away from Criminal</p> <p>6 Investigations for 2-1/2 years already. So if the</p> <p>7 process has changed, I don't know of that.</p> <p>8 Q. That's fine.</p> <p>9 A. You come over, you bring it, you discuss the</p> <p>09:35 10 situation with them. You give them the case and they</p> <p>11 review it.</p> <p>12 If it doesn't involve an officer, you give</p> <p>13 it to the intake, they forward it to whoever is going to</p> <p>14 get assigned that case. Ultimately, I'm assuming -- I</p> <p>09:35 15 don't know what happens after that. They still review</p> <p>16 it. And if they have questions, they call you; and if</p> <p>17 they don't, they handle it.</p> <p>18 Q. All right. So am I correct in understanding</p> <p>19 that if it's an officer-involved case, it goes to the</p> <p>09:36 20 White Collar?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. So whatever the D -- the assistant DA's</p> <p>23 that were involved in the White Collar Division would be</p> <p>24 the ones that would be handling it?</p> <p>09:36 25 A. I don't know what happens after that. I know</p>	<p>1 You were still a part of the Professional</p> <p>2 Standards and Integrity Division at that time; correct?</p> <p>3 A. Correct.</p> <p>4 Q. This has been presented to us. It's Bates</p> <p>09:37 5 stamped 70795.</p> <p>6 Are those the members of Professional</p> <p>7 Integrity & Standards Division [sic] as of August 28th,</p> <p>8 2015?</p> <p>9 A. (Reviewing document.)</p> <p>09:37 10 Yes.</p> <p>11 Q. Is there a person who is the supervisor of this</p> <p>12 division?</p> <p>13 A. The lieutenant.</p> <p>14 Q. So that would be Mr. Treviño?</p> <p>09:38 15 A. Correct.</p> <p>16 Q. And the civilian, she's -- she's a --</p> <p>17 A. Office assistant.</p> <p>18 Q. Doesn't do any investigations?</p> <p>19 A. No.</p> <p>09:38 20 Q. She's more of a supervisor -- administrative --</p> <p>21 A. A clerk.</p> <p>22 Q. -- role? Okay.</p> <p>23 A. Uh-huh.</p> <p>24 Q. So the people that would actually be doing the</p> <p>09:38 25 investigations are yourself and the other sergeants, I</p>
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<p>1 you take -- give it to an intake person, they review it,</p> <p>2 and you leave.</p> <p>3 Q. Okay.</p> <p>4 A. I don't know what happens after that.</p> <p>09:36 5 Q. And only if the DA has any questions would they</p> <p>6 then contact you again as the investigator?</p> <p>7 A. Unless it comes to pretrial and court and</p> <p>8 things like that, yeah.</p> <p>9 Q. Sure. Are you involved in the Grand Jury</p> <p>09:36 10 process at all?</p> <p>11 A. No.</p> <p>12 Q. You, as the investigator, have never testified</p> <p>13 before the Grand Jury?</p> <p>14 A. No.</p> <p>09:36 15 Q. All right. So then you said that -- when were</p> <p>16 you transferred to the Professional Standards and</p> <p>17 Integrity Division?</p> <p>18 A. 2015.</p> <p>19 Q. Do you recall when in 2015?</p> <p>09:37 20 A. April 23rd.</p> <p>21 Q. And I'm going to hand you what we've marked as</p> <p>22 Exhibit 1.</p> <p>23 (Exhibit Number 1 was marked.)</p> <p>24 Q. (By Mr. Wilson) The incident that we're here</p> <p>09:37 25 on today took place today on August 28th, 2015.</p>	<p>1 guess, as well as Mr. Treviño?</p> <p>2 A. And the lieutenant doesn't normally -- wouldn't</p> <p>3 normally do an investigation. He's the commander --</p> <p>4 Q. Would he --</p> <p>09:38 5 A. -- of that unit.</p> <p>6 Q. Would he supervise the investigations?</p> <p>7 A. Yes, he may.</p> <p>8 Q. Okay. So tell me, what -- did you receive any</p> <p>9 training to become a member of the Professional</p> <p>09:38 10 Standards Division?</p> <p>11 A. No.</p> <p>12 Q. How was it that you got -- you were selected</p> <p>13 for that division?</p> <p>14 A. They just sent me over there.</p> <p>09:38 15 Q. Okay. It wasn't something you asked for?</p> <p>16 A. No.</p> <p>17 Q. It was just something --</p> <p>18 A. No.</p> <p>19 Q. -- that came?</p> <p>09:38 20 A. Right.</p> <p>21 Q. And is this -- I've heard the term "Internal</p> <p>22 Affairs."</p> <p>23 A. Uh-huh.</p> <p>24 Q. Is that basically what this is?</p> <p>09:38 25 A. It's the same thing. It's just a different</p>

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<p>1 name.</p> <p>2 Q. And so what is the purpose of the Internal</p> <p>3 Affairs Division or Professional Integrity here in Bexar</p> <p>4 County? What is -- what is the purpose of it?</p> <p>09 : 39 5 A. The main purpose is to investigate complaints</p> <p>6 or monitor certain investigations, look for malpractice</p> <p>7 or misconduct.</p> <p>8 Q. And so when you say "investigate complaints,"</p> <p>9 are those complaints from citizens?</p> <p>09 : 39 10 A. They can be.</p> <p>11 Q. Or maybe complaints from other officers?</p> <p>12 A. They can be.</p> <p>13 Q. And when -- what are you actually</p> <p>14 investigating? Is it violations of policy?</p> <p>09 : 39 15 A. Yes.</p> <p>16 Q. Anything other than violations of policy?</p> <p>17 A. No.</p> <p>18 Q. So when you do a Professional Standards</p> <p>19 investigation, it's to determine whether or not the</p> <p>09 : 39 20 officer has committed a violation of policy; is that</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And then if there has been a violation of</p> <p>24 policy, who makes the determination as to what</p> <p>09 : 39 25 discipline would be?</p>	<p>1 their separate investigation.</p> <p>2 Q. So an officer-involved shooting such as the one</p> <p>3 we're here on today, does it automatically get reviewed</p> <p>4 by the Professional Standards unit?</p> <p>09 : 41 5 A. A review, yes.</p> <p>6 Q. All right. And so nobody has to make a formal</p> <p>7 complaint --</p> <p>8 A. They --</p> <p>9 Q. -- before --</p> <p>09 : 41 10 They can?</p> <p>11 A. They can, yes.</p> <p>12 Q. But in this particular instance, there was no</p> <p>13 complaint made before you got involved; correct?</p> <p>14 A. Correct.</p> <p>09 : 41 15 Q. It was something that was -- was it something</p> <p>16 that was part of policy that you automatically become</p> <p>17 involved?</p> <p>18 A. Yes.</p> <p>19 Q. And what was it -- what part of the policy</p> <p>09 : 41 20 indicates that you would be become automatically</p> <p>21 involved?</p> <p>22 A. Chapter 14.</p> <p>23 Q. All right.</p> <p>24 (Exhibit Number 2 was marked.)</p> <p>09 : 41 25 Q. (By Mr. Wilson) I'm going to show you your</p>
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<p>1 A. That goes back to the division chief.</p> <p>2 Q. So, for example, if we're talking --</p> <p>3 I'm -- I'm sorry. Go ahead.</p> <p>4 A. Go ahead. I'm sorry. Their division chief.</p> <p>09 : 40 5 Q. Right. So if we were talking about a complaint</p> <p>6 against an officer in the Homicide Division --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- Professional Standards would do the</p> <p>9 investigation. And if you reached the conclusion that</p> <p>09 : 40 10 policy was violated, you would report that back to the</p> <p>11 division head who would then determine what discipline,</p> <p>12 if any, was necessary?</p> <p>13 A. Right.</p> <p>14 Q. And so is this -- is that the only thing that</p> <p>09 : 40 15 can happen if there's a violation of policy, is some</p> <p>16 sort of disciplinary action?</p> <p>17 A. What do you mean, "the only thing that could</p> <p>18 happen"?</p> <p>19 Q. Well, I mean, you're -- you're investigating</p> <p>09 : 40 20 whether there was a violation of policy, and then the</p> <p>21 remedy for that is some sort of disciplinary procedure;</p> <p>22 is that correct?</p> <p>23 A. If, in the process of investigating that</p> <p>24 there's a criminal offense found, then it will be</p> <p>09 : 40 25 transferred to the Criminal Investigations Division for</p>	<p>1 Exhibit Number 2, which is Chapter 14.</p> <p>2 A. (Reviewing document.)</p> <p>3 I don't know if you want this attached.</p> <p>4 Oh, that's not stapled.</p> <p>09 : 42 5 Q. Okay. Well, that probably explains why I</p> <p>6 couldn't find that.</p> <p>7 A. This is not part of policy. (Indicating.)</p> <p>8 Q. Okay. Good. So I need to ask you about that,</p> <p>9 too, so that's good.</p> <p>09 : 42 10 All right. So now we have -- is that the</p> <p>11 full Chapter 14 --</p> <p>12 A. I believe so.</p> <p>13 Q. -- that you have now as Exhibit 2?</p> <p>14 A. (Reviewing document.)</p> <p>09 : 43 15 Q. All right. I'm sorry. That's the only copy</p> <p>16 I've got so we can probably put it over here.</p> <p>17 (Indicating.)</p> <p>18 So if we can put this on the screen --</p> <p>19 MR. WILSON: Is there any way to get rid</p> <p>09 : 43 20 of that glare?</p> <p>21 Q. (By Mr. Wilson) All right. This is -- this is</p> <p>22 the Chapter 14. This is the policy that is part of the</p> <p>23 Professional Standards; correct? This is the policy</p> <p>24 under which it works; right?</p> <p>09 : 43 25 A. Correct.</p>

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<p>1 Q. And the ultimate policy is "The responsibility"</p> <p>2 as -- "The responsibility for receiving and</p> <p>3 investigating all complaints of alleged malpractice or</p> <p>4 misconduct by personnel of the Sheriff's Office."</p> <p>09 : 43 5 And that's placed within this unit; is</p> <p>6 that correct?</p> <p>7 A. Right.</p> <p>8 Q. Within this division?</p> <p>9 A. (Moving head up and down.)</p> <p>09 : 44 10 Q. Does that include a determination as to whether</p> <p>11 or not someone's Constitutional rights have been</p> <p>12 violated?</p> <p>13 A. It can be if they come and make a complaint or</p> <p>14 if a complaint even comes from administration that can</p> <p>09 : 44 15 be found.</p> <p>16 Q. So do you ever reach the conclusion that</p> <p>17 someone's Constitutional rights were violated, or is the</p> <p>18 conclusion always whether or not policy was violated?</p> <p>19 A. Usually if their -- if their rights have been</p> <p>09 : 44 20 violated, it would violate some -- some sort of policy.</p> <p>21 Q. So is it your understanding that if there is no</p> <p>22 violation of policy, there would be no violation of</p> <p>23 someone's Constitutional rights?</p> <p>24 A. It's possible.</p> <p>09 : 44 25 Q. Well, when you're investigating a use of force</p>	<p>1 actions of any member of the Sheriff's Office."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Now, explain to me what that means. What's the</p> <p>09 : 46 5 purpose behind that?</p> <p>6 A. Exactly what it says there, that you monitor</p> <p>7 and make sure all the facts are there.</p> <p>8 Q. And by "facts," you also mean evidence;</p> <p>9 correct?</p> <p>09 : 46 10 A. Correct.</p> <p>11 Q. And is the purpose behind that to try to ensure</p> <p>12 that the investigation into an officer-involved shooting</p> <p>13 is done as transparent as possible?</p> <p>14 A. That any investigation is done.</p> <p>09 : 46 15 Q. Right. But particularly you're pointing --</p> <p>16 they're pointing out when it comes with officer-involved</p> <p>17 shootings --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- that that's a concern; correct?</p> <p>09 : 46 20 A. Correct.</p> <p>21 Q. Okay. And I -- There we go. (Indicating.)</p> <p>22 And so you -- are -- you oversee the</p> <p>23 gathering of the evidence and the gathering of the facts</p> <p>24 to make sure that nothing is left out; correct?</p> <p>09 : 46 25 A. No. I oversee what is turned in once their</p>
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<p>1 by a police officer, if you reach the conclusion that</p> <p>2 there was no policy violated, are you also reaching the</p> <p>3 conclusion based upon, under this div -- under your</p> <p>4 department that there was no Constitutional rights</p> <p>09 : 45 5 violation?</p> <p>6 MR. LOPEZ: I'm going to object. It calls</p> <p>7 for a legal conclusion.</p> <p>8 Q. (By Mr. Wilson) Or do you know?</p> <p>9 A. I don't know.</p> <p>09 : 45 10 Q. Okay. You're just determining whether or not</p> <p>11 someone -- whether or not the policy was violated?</p> <p>12 A. Correct.</p> <p>13 Q. So when it comes to the use of force and you</p> <p>14 reach the determination that the policy wasn't violated,</p> <p>09 : 45 15 are you not -- you're not making a call one way or the</p> <p>16 other whether someone's Constitutional rights are</p> <p>17 violated; is that correct?</p> <p>18 A. No, I don't. I'm just making whether policy</p> <p>19 was violated or not.</p> <p>09 : 45 20 Q. Okay. So under H, "In the case of a deputy</p> <p>21 shooting where an officer wounds or kills a person, or a</p> <p>22 possible breach of the law by a deputy, Professional</p> <p>23 Standards and Integrity shall monitor as to insure that</p> <p>24 all facts of the case are clearly defined and that no</p> <p>09 : 46 25 facts are omitted which might cast a suspicion on the</p>	<p>1 case has been completed and that's monitored. Also, I</p> <p>2 go to the scene and monitor the scene. But it's not my</p> <p>3 job to collect any evidence.</p> <p>4 Q. Right. But then you say -- part of this</p> <p>09 : 47 5 says -- it says that "all facts of the case are clearly</p> <p>6 defined and that no facts are omitted."</p> <p>7 A. Right.</p> <p>8 Q. So what does that part mean, "no facts are</p> <p>9 omitted"?</p> <p>09 : 47 10 A. What it says, "no facts are omitted."</p> <p>11 Q. In other words, if there are facts that are --</p> <p>12 that are developed during the course of the</p> <p>13 investigation, part of your responsibility is to make</p> <p>14 sure that those facts are included --</p> <p>09 : 47 15 A. Right.</p> <p>16 Q. -- in the investigation?</p> <p>17 A. Right.</p> <p>18 Q. That you don't want those facts to be ignored?</p> <p>19 A. Of course.</p> <p>09 : 47 20 Q. Okay. And so you don't want to -- if there's</p> <p>21 evidence that gets developed during the course of the</p> <p>22 investigation, part of your responsibility is to make</p> <p>23 sure that that evidence is included in the</p> <p>24 investigation?</p> <p>09 : 47 25 A. Right.</p>

<p style="text-align: right;">Page 41</p> <p>1 Q. All right. For example, if a video of the</p> <p>2 event shows up --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- you would want to make sure, as part of your</p> <p>09 : 47 5 job, that that video is properly accounted for in the</p> <p>6 course of the investigation; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And that that video is not excluded or the</p> <p>9 effects of that video is not excluded from the</p> <p>09 : 48 10 investigation; correct?</p> <p>11 A. Correct.</p> <p>12 Q. If, in fact, a video of the event was not</p> <p>13 included in the investigation, what would you do as part</p> <p>14 of your responsibilities?</p> <p>09 : 48 15 A. Well, I would have to first know that there is</p> <p>16 a video. And once that was found out, I would question</p> <p>17 as to why it wasn't included.</p> <p>18 Q. All right. What --</p> <p>19 All right. So how would you -- who would</p> <p>09 : 48 20 you do that to? How would you go follow that up?</p> <p>21 A. They would be brought in. I mean, I can call a</p> <p>22 witness in if I need to if I have a question.</p> <p>23 Q. I mean, and who would you -- would you talk to</p> <p>24 the main investigator?</p> <p>09 : 48 25 A. If I thought they might be responsible for</p>	<p style="text-align: right;">Page 43</p> <p>1 violation also try to make a determination as to whether</p> <p>2 the officers giving the statements have given truthful</p> <p>3 statements?</p> <p>4 A. Of course.</p> <p>5 Q. All right. And so if you find out that an</p> <p>6 officer hasn't given a truthful statement, what would</p> <p>7 you do?</p> <p>8 A. Then they could be called in.</p> <p>9 Q. Okay. So would you look at the criminal</p> <p>09 : 50 10 investigation file and try to compare whether or not the</p> <p>11 statements given match the other evidence?</p> <p>12 A. I don't -- I do an overview. I don't</p> <p>13 reinvestigate the case. That's not my job.</p> <p>14 Q. No. But what if something is obvious?</p> <p>15 Let's say, for example, an officer says</p> <p>16 one thing and a video shows another --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- what would you do?</p> <p>19 A. That could be called in to be clarified if I</p> <p>09 : 50 20 felt that that was necessary.</p> <p>21 Q. Okay. And so because you would want the</p> <p>22 determination to determine whether or not policy has</p> <p>23 been violated in terms of giving truthful statements;</p> <p>24 correct?</p> <p>09 : 50 25 A. Right.</p>
<p style="text-align: right;">Page 42</p> <p>1 that.</p> <p>2 Q. Okay. Well, who else would you talk to besides</p> <p>3 the main investigator?</p> <p>4 A. Well, it depends on the information I got.</p> <p>09 : 49 5 Q. Okay. Well, let's say, for example, you have a</p> <p>6 video that shows up and then you read the criminal</p> <p>7 investigation report and you see no mention of that</p> <p>8 video.</p> <p>9 A. Uh-huh.</p> <p>09 : 49 10 Q. What would you do?</p> <p>11 A. Well, it's not only -- I mean, when they --</p> <p>12 when I get the file, the file is complete. So if</p> <p>13 there's supposed to be a video within that file and it's</p> <p>14 not there, then I would ask for it. I would ask about</p> <p>09 : 49 15 it. I would ask if it exists.</p> <p>16 Q. All right. Now, one of the policies of the</p> <p>17 Bexar County Sheriff's Department is if you are an</p> <p>18 office involved in an investigation and you give a</p> <p>19 statement, that statement has to be completely truthful;</p> <p>09 : 49 20 correct?</p> <p>21 A. Right.</p> <p>22 Q. You cannot lie or hide facts?</p> <p>23 A. Right.</p> <p>24 Q. And would part of your investigation for</p> <p>09 : 49 25 determining whether or not there's been a policy</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And -- All right. Now, I'm going to show you</p> <p>2 14.06.</p> <p>3 I don't know if I can get this to where</p> <p>4 there's not as much glare because it's hard to read.</p> <p>09 : 51 5 But do you see that?</p> <p>6 A. Uh-huh.</p> <p>7 Q. What is a follow-up investigation?</p> <p>8 A. That part of our policy pretty much refers to</p> <p>9 people who come in and file a complaint.</p> <p>09 : 51 10 Q. All right. So would this be not included in a</p> <p>11 self-directed officer-investigative shooting?</p> <p>12 A. It could be included if it was felt necessary.</p> <p>13 Q. Okay. So you as the Professional Standards</p> <p>14 Division could on your own instigate a follow-up</p> <p>09 : 51 15 investigation?</p> <p>16 A. Yes.</p> <p>17 Q. And is this follow-up investigation separate</p> <p>18 and apart from the original investigation you would</p> <p>19 conduct just because there was an officer-involved</p> <p>09 : 52 20 shooting, or would it be part of the same thing?</p> <p>21 A. No. You can do a follow up to the original --</p> <p>22 to the initial investigation.</p> <p>23 Q. Can you do these particular steps as part of</p> <p>24 your first investigation? In other words, when you're</p> <p>09 : 52 25 called out to a scene of an officer-involved shooting</p>

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<p>1 and you start your investigation, could these be the</p> <p>2 steps that you --</p> <p>3 A. No. Because if you continue on into the policy</p> <p>4 of this particular section --</p> <p>09:52 5 Q. Uh-huh.</p> <p>6 A. -- it tells you that our job for Professional</p> <p>7 Standards is to simply go and monitor. Monitor the</p> <p>8 investigation. Monitor the crime scene. We go to the</p> <p>9 crime scene. We don't do anything there but watch.</p> <p>09:52 10 Q. But then after that --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- you do your own investigation to determine</p> <p>13 whether or not you determined there was a violation of</p> <p>14 policy; correct?</p> <p>09:52 15 A. I do a review of what happened, yes.</p> <p>16 Q. And if you thought that the criminal</p> <p>17 investigation didn't dig deep enough into something or</p> <p>18 didn't acknowledge something correctly, then you could</p> <p>19 do a follow-up investigation?</p> <p>09:52 20 A. I could.</p> <p>21 Q. And that -- under this follow-up investigation,</p> <p>22 could that include looking at a witness' statement, for</p> <p>23 example, an officer's statement to determine whether it</p> <p>24 was truthful or not?</p> <p>09:53 25 A. Yes.</p>	<p>1 A. Uh-huh.</p> <p>2 Q. And what is the IAPro System?</p> <p>3 A. It's a database.</p> <p>4 Q. Is that a database of your Professional</p> <p>09:54 5 Division report?</p> <p>6 A. Yes.</p> <p>7 Q. So that's like Internal Affairs?</p> <p>8 A. It's -- that's what the IA is for, Internal</p> <p>9 Affairs. And we're the same. It's just a different</p> <p>09:54 10 name.</p> <p>11 Q. Right. That's why I said that. Because IA,</p> <p>12 that's what --</p> <p>13 A. Yeah. The IA Pro, we didn't invent that</p> <p>14 system. It's a system that we purchased --</p> <p>09:54 15 Q. Okay.</p> <p>16 A. -- to keep track of the cases and better --</p> <p>17 have better data on them.</p> <p>18 Q. All right. So every use of force or every</p> <p>19 Professional Standards report is in that system?</p> <p>09:54 20 A. Not every single one. We didn't purchase that</p> <p>21 until 2013, I believe.</p> <p>22 Q. Fair enough.</p> <p>23 A. Since then, yes, if a report is -- when we get</p> <p>24 a report, it's given a number, whether it's for review</p> <p>09:54 25 or an investigation, and those reports are put into that</p>
Page 46	Page 48
<p>1 Q. And if you reached the conclusion that you</p> <p>2 think there are certain discrepancies, then you could</p> <p>3 follow up on that?</p> <p>4 A. I could.</p> <p>09:53 5 Q. Could that include bringing the officer in and</p> <p>6 saying, "Hey, explain this to me"?</p> <p>7 A. Yes, it could.</p> <p>8 Q. Could it be talking to the lead investigator</p> <p>9 and saying, "How did you try to reconcile these?"</p> <p>09:53 10 A. Reconcile --</p> <p>11 Q. What I'm seeing --</p> <p>12 A. -- like the discrepancy?</p> <p>13 Q. Yeah. The discrepancy between what he said in</p> <p>14 the statement and what I'm seeing.</p> <p>09:53 15 A. I could, yes.</p> <p>16 Q. All right. And then it says, "The investigator</p> <p>17 should follow any lead that will bring any facts that</p> <p>18 may be pertinent to the case." Right?</p> <p>19 A. Right.</p> <p>09:53 20 Q. So you -- if you see that the lead investigator</p> <p>21 has ignored something or hasn't given it the proper</p> <p>22 scrutiny, then you could actually do that on your own?</p> <p>23 A. I could.</p> <p>24 Q. And then the last part of this is, is that you</p> <p>09:53 25 file your report; right?</p>	<p>1 database.</p> <p>2 Q. All right. So the correct way I should have</p> <p>3 asked my question is: From 2013 forward, every</p> <p>4 investigation that your division has done would be in</p> <p>09:55 5 that system?</p> <p>6 A. Should be, yes.</p> <p>7 Q. Okay. Fair enough.</p> <p>8 And then it says that "Professional</p> <p>9 Standards and Integrity shall also assist the District</p> <p>09:55 10 Attorney's Office in conducting further investigation on</p> <p>11 cases submitted to them by the Division."</p> <p>12 What does -- so, in other words, if you</p> <p>13 determine that there's been a reason for something to go</p> <p>14 to the DA, then you would assist them? Is that how --</p> <p>09:55 15 am I reading that correctly?</p> <p>16 A. No. I -- what that means is the DA's office,</p> <p>17 their different units that they have, some are integrity</p> <p>18 units, they may call and ask for certain files. And</p> <p>19 that's what our assistant does. That's what -- she</p> <p>09:55 20 provides those files. They subpoena them. She provides</p> <p>21 files to them.</p> <p>22 Q. Okay. So if in case -- if you found a</p> <p>23 violation of policy that also turned out to be a crime,</p> <p>24 you may not be involved in the DA's investigation?</p> <p>09:55 25 A. No, I would not. Well, only -- I mean, they</p>

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<p>1 might subpoena my records or have me come and testify to</p> <p>2 what I do.</p> <p>3 But any time there's a criminal offense</p> <p>4 found, it will go back to CID. We don't do the criminal</p> <p>09:56 5 side of it.</p> <p>6 Q. All right. So I'm assuming if you are</p> <p>7 investigating violations of policy, then you must know</p> <p>8 what those policies mean?</p> <p>9 A. Right.</p> <p>09:56 10 Q. Because you would have to?</p> <p>11 A. Right.</p> <p>12 Q. I think that's a fair assumption.</p> <p>13 So you know about the use of force policy</p> <p>14 for Bexar County Sheriff's Department; correct?</p> <p>09:56 15 A. Correct.</p> <p>16 Q. And I'm assuming that you also know the policy</p> <p>17 on giving truthful statements during the course of an</p> <p>18 investigation?</p> <p>19 A. Right.</p> <p>09:56 20 Q. And do you know the policy on how to properly</p> <p>21 secure your vehicle at a scene?</p> <p>22 A. No.</p> <p>23 Q. You don't know that?</p> <p>24 A. No. I don't believe there is one --</p> <p>09:56 25 Q. There's not?</p>	<p>1 A. Uh-huh.</p> <p>2 Q. -- that sounds like a subjective belief?</p> <p>3 A. Well, that's my --</p> <p>4 MR. LOPEZ: Hold it. Objection;</p> <p>09:58 5 argumentative.</p> <p>6 Q. (By Mr. Wilson) Here's my question: What do</p> <p>7 you mean when you say when you think?</p> <p>8 A. Well, you asked me what I think it is.</p> <p>9 Q. I'm asking you based on policy.</p> <p>09:58 10 A. That's what I'm saying. If -- if someone is</p> <p>11 coming at me and I'm scared that they're going to hurt</p> <p>12 me, cause serious bodily injury to me or death, then,</p> <p>13 yes, I would use deadly force on them.</p> <p>14 Q. Okay. So your fear --</p> <p>09:58 15 A. Uh-huh.</p> <p>16 Q. -- is that completely subjective, or does it</p> <p>17 have to be based upon objective reasonable facts?</p> <p>18 A. Well, a reasonable person would believe that I</p> <p>19 was in fear.</p> <p>09:58 20 Q. In other words, you can't have just a pure</p> <p>21 subjective belief in your own mind, it has to be based</p> <p>22 upon what somebody else might say would be a threat?</p> <p>23 MR. LOPEZ: Yeah. I'll --</p> <p>24 A. Maybe.</p> <p>09:58 25 MR. LOPEZ: -- object to that question.</p>
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<p>1 A. -- that refers directly to that, no.</p> <p>2 Q. Okay. So you don't know whether or not an</p> <p>3 officer has an obligation to secure their vehicle as a</p> <p>4 part of policy when they reach a scene?</p> <p>09:56 5 A. Not that I know of there's a policy that refers</p> <p>6 directly to that.</p> <p>7 Q. Okay. So what is your understanding of Bexar</p> <p>8 County policy as to when a sheriff's deputy can use</p> <p>9 deadly force?</p> <p>09:57 10 A. When they reasonably feel that their life is in</p> <p>11 danger or that of a third party is in danger, that they</p> <p>12 fear risk of serious bodily injury or death.</p> <p>13 Q. And when you say "reasonable," what do you</p> <p>14 mean?</p> <p>09:57 15 A. "Reasonable," the same as somebody else may</p> <p>16 feel.</p> <p>17 Q. In other words, an objective standard?</p> <p>18 A. Right.</p> <p>19 Q. And how -- define that threat for me based upon</p> <p>09:57 20 the policy. What is your understanding of the threat</p> <p>21 that's necessary?</p> <p>22 A. The simplest way is if I think you're going to</p> <p>23 really hurt or kill me or someone else, then, yes, I can</p> <p>24 use force on you, and deadly force if that's necessary.</p> <p>09:58 25 Q. And so when you say you think --</p>	<p>1 Argumentative.</p> <p>2 Q. (By Mr. Wilson) Is that fair?</p> <p>3 A. I would say maybe.</p> <p>4 Q. Okay. Well, you're the one enforcing the</p> <p>09:58 5 policy.</p> <p>6 A. Uh-huh.</p> <p>7 Q. So that's why I'm asking you the questions.</p> <p>8 MR. LOPEZ: Well, mischaracterizes the</p> <p>9 testimony. Objection, about her enforcing the policy.</p> <p>09:59 10 Q. (By Mr. Wilson) You're the one investigating</p> <p>11 the violations of policy?</p> <p>12 A. Right.</p> <p>13 Q. That's why I'm asking you these questions. And</p> <p>14 you did it here.</p> <p>09:59 15 And just so we can cut to the chase, you</p> <p>16 found no violation of policy in relation to the shooting</p> <p>17 death of Gilbert Flores; correct?</p> <p>18 A. Correct.</p> <p>19 Q. All right. And so in your mind, when these</p> <p>09:59 20 officers decided to pull the trigger and shoot and kill</p> <p>21 Gilbert Flores, you said that did not violate Bexar</p> <p>22 County Sheriff's Department policy?</p> <p>23 A. That they were justified in using deadly force.</p> <p>24 Q. Well, that wasn't my question.</p> <p>09:59 25 Your report says they didn't violate</p>

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09:59	<p>1 policy?</p> <p>2 A. Right.</p> <p>3 Q. So their shooting of him was completely within</p> <p>4 the Bexar County Sheriff's Department use of force</p> <p>5 policy --</p> <p>6 A. Yes.</p> <p>7 Q. -- in your opinion?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, the -- you said initially that you</p>	10:02	<p>1 role as an investigator in the Professional Division is</p> <p>2 to see whether that policy has been violated?</p> <p>3 A. Right.</p> <p>4 Q. Okay. So the very first part of this, 9.01,</p> <p>5 says --</p>
09:59	<p>6 A. Yes.</p> <p>7 Q. -- in your opinion?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, the -- you said initially that you</p> <p>10 had to have a reasonable fear that your life was being</p> <p>11 threatened or -- or serious bodily injury either to</p> <p>12 yourself or someone else; correct?</p>	10:02	<p>6 MR. WILSON: Is there a way I can make</p> <p>7 that --</p> <p>8 A. I think it's just because of that light right</p> <p>9 above it.</p> <p>10 Q. (By Mr. Wilson) I think it's probably -- yeah,</p> <p>11 maybe it is.</p>
10:00	<p>12 yourself or someone else; correct?</p> <p>13 A. Uh-huh.</p> <p>14 Q. That fear has to be reasonable; correct?</p> <p>15 A. Right.</p> <p>16 Q. And under what basis is that fear reasonable?</p> <p>17 A. Well, it would depend on the circumstances of</p> <p>18 the situation that you're in.</p>	10:02	<p>12 All right. "It is the policy of the Bexar</p> <p>13 County Sheriff's Office that deputies use only the force</p> <p>14 that reasonably appears necessary to effectively bring</p> <p>15 an incident under control, while protecting the lives of</p> <p>16 the officer and others the use of force must be</p> <p>17 objectively reasonable." All right?</p>
10:00	<p>18 the situation that you're in.</p> <p>19 Q. I understand. But what -- in your</p> <p>20 understanding, what constitutes reasonable fear?</p> <p>21 A. Well, I can't just answer that. I mean, there</p> <p>22 has to be some circumstance surrounding that of the</p> <p>23 situation that's taken into, you know, a full account of</p> <p>24 everything that happened.</p>	10:02	<p>18 A. Uh-huh.</p> <p>19 Q. So what does it mean when it says that the</p> <p>20 force reasonably appears necessary?</p> <p>21 A. That the force reasonably appears necessary?</p> <p>22 Q. Yes, ma'am.</p> <p>23 A. "Only the force that reasonably appears</p> <p>24 necessary to effectively bring" -- the amount of force</p>
10:00	<p>25 Q. Do you understand the difference between</p>	10:03	<p>25 that could -- "reasonably," I believe the definition is</p>
	Page 54		Page 56
10:00	<p>1 objective and subjective belief?</p> <p>2 A. No.</p> <p>3 Q. You don't?</p> <p>4 A. No.</p> <p>5 Q. Okay. Is it your opinion that someone -- that</p> <p>6 an officer's fear can be entirely based upon his</p> <p>7 subjective belief which would justify shooting someone?</p> <p>8 A. You're going to have to break that down a</p> <p>9 little bit more.</p>	10:03	<p>1 even in here in policy somewhere. But to another</p> <p>2 prudent person, as -- where it says on the bottom there,</p> <p>3 "reasonably prudent officer would under the same</p> <p>4 circumstances -- same or similar."</p> <p>5 Q. Okay. So, in other words, that's an objective</p> <p>6 standard; correct?</p> <p>7 A. Right.</p> <p>8 Q. In other words, someone else has to be looking</p> <p>9 at all of the facts at the time the force is used to</p> <p>10 determine whether that officer was acting as a</p> <p>11 reasonably prudent officer; correct?</p> <p>12 A. Yes.</p> <p>13 Q. It's not the officer's subjective belief of his</p> <p>14 fear; correct?</p> <p>15 A. Well, at the time of the shooting, if that</p> <p>16 officer reasonably believes, then -- then yes.</p> <p>17 Q. Okay. So that -- you're kind of -- I think</p> <p>18 we're confusing two things.</p> <p>19 If that officer says, "I was in fear of my</p> <p>20 life," but a reasonably prudent officer wouldn't --</p> <p>21 wouldn't think that, is that a violation of policy?</p> <p>22 A. No. You can't justify what he thinks or</p> <p>23 doesn't think.</p> <p>24 Q. Okay.</p> <p>25 A. It's not my -- it's not my job to determine the</p>
10:00	<p>5 Q. Okay. Is it your opinion that someone -- that</p> <p>6 an officer's fear can be entirely based upon his</p> <p>7 subjective belief which would justify shooting someone?</p> <p>8 A. You're going to have to break that down a</p> <p>9 little bit more.</p> <p>10 Q. Okay. Well, do you understand the policy says</p> <p>11 that it has to be an objective -- let me -- the use of</p> <p>12 force must be objectively reasonable? Do you understand</p> <p>13 that?</p> <p>14 A. What is -- what are you referring to?</p>	10:03	<p>5 Q. Okay. So, in other words, that's an objective</p> <p>6 standard; correct?</p> <p>7 A. Right.</p> <p>8 Q. In other words, someone else has to be looking</p> <p>9 at all of the facts at the time the force is used to</p> <p>10 determine whether that officer was acting as a</p> <p>11 reasonably prudent officer; correct?</p> <p>12 A. Yes.</p> <p>13 Q. It's not the officer's subjective belief of his</p> <p>14 fear; correct?</p> <p>15 A. Well, at the time of the shooting, if that</p> <p>16 officer reasonably believes, then -- then yes.</p> <p>17 Q. Okay. So that -- you're kind of -- I think</p> <p>18 we're confusing two things.</p> <p>19 If that officer says, "I was in fear of my</p> <p>20 life," but a reasonably prudent officer wouldn't --</p> <p>21 wouldn't think that, is that a violation of policy?</p> <p>22 A. No. You can't justify what he thinks or</p> <p>23 doesn't think.</p> <p>24 Q. Okay.</p> <p>25 A. It's not my -- it's not my job to determine the</p>
10:01	<p>15 Q. Sure.</p> <p>16 (Exhibit Number 4 was marked.)</p> <p>17 Q. (By Mr. Wilson) I'll show Exhibit 4. It's</p> <p>18 Chapter 9, the Use of Force policy for Bexar County</p> <p>19 Sheriff's Department. And if you need a second, I'll</p> <p>20 let you review that.</p> <p>21 A. (Reviewing document.)</p> <p>22 Okay.</p> <p>23 Q. You're familiar with that; correct?</p> <p>24 A. Yes.</p>	10:03	<p>15 A. Well, at the time of the shooting, if that</p> <p>16 officer reasonably believes, then -- then yes.</p> <p>17 Q. Okay. So that -- you're kind of -- I think</p> <p>18 we're confusing two things.</p> <p>19 If that officer says, "I was in fear of my</p> <p>20 life," but a reasonably prudent officer wouldn't --</p> <p>21 wouldn't think that, is that a violation of policy?</p> <p>22 A. No. You can't justify what he thinks or</p> <p>23 doesn't think.</p> <p>24 Q. Okay.</p> <p>25 A. It's not my -- it's not my job to determine the</p>
10:01	<p>25 Q. That's one of the policies that part of your</p>	10:04	<p>25 A. It's not my -- it's not my job to determine the</p>

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<p>1 amount of fear or something that the officer was in.</p> <p>2 If he reasonably believed that his life</p> <p>3 was in danger and there's circumstances that are</p> <p>4 surrounding that, then he's justified in what he did.</p> <p>10:04 5 Q. Okay. So that answers my -- I guess that begs</p> <p>6 my question.</p> <p>7 If the officer says, "I was in fear of my</p> <p>8 life" --</p> <p>9 A. Uh-huh.</p> <p>10:04 10 Q. -- and you look at that and say, "That's not</p> <p>11 reasonable" --</p> <p>12 A. Right.</p> <p>13 Q. -- he is violating the policy; right?</p> <p>14 A. He could be.</p> <p>10:04 15 Q. Well, is he or is he not?</p> <p>16 A. Well, he could be. It depends on the</p> <p>17 circumstance. I'm not going to say, yes, he does</p> <p>18 without knowing -- I mean, just because -- it's -- even</p> <p>19 in those shoot-don't shoot scenarios that you see on TV</p> <p>10:04 20 all the time where news reporters and stuff go through,</p> <p>21 your amount of fear -- just because I'm thinking, you</p> <p>22 don't know. There's a lot of things you don't know.</p> <p>23 You need to gather all the circumstances before you can</p> <p>24 say, you know, yes, someone else thought that or, no,</p> <p>10:04 25 they didn't.</p>	<p>1 that even if a reasonably prudent officer would not use</p> <p>2 force, if the subjective belief of the officer involved</p> <p>3 was such that he was in fear of his life he could use</p> <p>4 force?</p> <p>10:05 5 A. Yes. If that officer feels like he needs to</p> <p>6 use force because he is in fear of his safety, then,</p> <p>7 yes, he can use force at that time.</p> <p>8 Q. Even if a reasonably prudent officer wouldn't</p> <p>9 have under the same or similar circumstances?</p> <p>10:06 10 A. They may not. They can think that, but, I</p> <p>11 mean, if you're the one that's in that situation and</p> <p>12 you're fearing for your life at that moment, that</p> <p>13 serious bodily injury or death could occur, then you're</p> <p>14 going to be justified in using the force. Maybe the guy</p> <p>15 next to you doesn't feel that way.</p> <p>10:06 16 Q. Okay. All right. So as far as your</p> <p>17 understanding of Bexar County policy, even if a</p> <p>18 reasonably prudent officer under the same or similar</p> <p>19 circumstances would not have used force, if you as the</p> <p>10:06 20 officer involved had the subjective belief that your</p> <p>21 life is in danger, you could use force and not violate</p> <p>22 policy?</p> <p>23 MR. LOPEZ: Object to the --</p> <p>24 A. Could you say that -- That's really long. And</p> <p>10:06 25 I think that's the same question that we just went</p>
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<p>1 Q. Well, I'm just talking about this one standard.</p> <p>2 A. Uh-huh.</p> <p>3 Q. "The deputy must only use that force which a</p> <p>4 reasonably prudent officer would use under the same or</p> <p>10:05 5 similar circumstances."</p> <p>6 A. Right. I understand that.</p> <p>7 Q. Okay. So that's --</p> <p>8 A. But that's also not one little piece of policy.</p> <p>9 You have to take into account everything.</p> <p>10:05 10 Q. I understand that, ma'am. But I'm trying to</p> <p>11 just make the distinction between, I'm an officer --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- I come up to you as a Professional Division</p> <p>14 and I say, "I was in threat of my life" --</p> <p>10:05 15 A. Uh-huh.</p> <p>16 Q. -- you look at all the facts and say, "Well,</p> <p>17 that's not reasonable," where does my subjective</p> <p>18 belief -- are you saying even -- because I felt it, I'm</p> <p>19 okay?</p> <p>10:05 20 A. At some point, yes, if you feel it. At some</p> <p>21 point that may be okay --</p> <p>22 Q. Okay. So --</p> <p>23 A. -- depending on the circumstances surrounding</p> <p>24 it.</p> <p>10:05 25 Q. So is your understanding of Bexar County policy</p>	<p>1 over --</p> <p>2 MR. LOPEZ: Yes. I'm going --</p> <p>3 A. -- answered several times.</p> <p>4 MR. LOPEZ: -- to object that it's been</p> <p>10:06 5 asked and answered several times.</p> <p>6 Q. (By Mr. Wilson) All right. I -- All right.</p> <p>7 Now, B says, "In each instance of the use of force, the</p> <p>8 officer should exhaust every reasonable means of</p> <p>9 employing the minimum amount of force to effect an</p> <p>10:06 10 objective before escalating to the next, more forceful</p> <p>11 method."</p> <p>12 I have heard of something called the</p> <p>13 continuum of force. Is that what this is referring to?</p> <p>14 A. Yes.</p> <p>10:07 15 Q. But then it says, "However, an officer is not</p> <p>16 required to engage in prolonged combat or struggle</p> <p>17 rather than resorting to that method which will most</p> <p>18 quickly and safely bring the situation under control."</p> <p>19 Do you see that?</p> <p>10:07 20 A. Yes.</p> <p>21 Q. When it talks about "bringing the situation</p> <p>22 quickly and safely under control," what does that mean?</p> <p>23 A. That could mean several things. It could mean</p> <p>24 stop the risk. It could mean getting the person under</p> <p>10:07 25 arrest. It could mean different things.</p>

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<p>1 Q. Are you concerned about the safety of the</p> <p>2 person you're trying to arrest?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So, in other words, in your opinion, the</p> <p>10:07 5 officer could not use the quickest method to get a</p> <p>6 situation under control that would be unsafe for the</p> <p>7 person that he's trying to arrest?</p> <p>8 A. Well, no, that's not my opinion. Because</p> <p>9 sometimes there's not -- you can't always do that</p> <p>10:07 10 safely. There's just -- sometimes in the process of</p> <p>11 that, things happen.</p> <p>12 Q. Right. So, in other words, an officer could</p> <p>13 escalate to the highest use of force, including deadly</p> <p>14 force, to bring a situation under control?</p> <p>10:08 15 A. Yes.</p> <p>16 Q. All right. Now, then it says D down here,</p> <p>17 "Deputies may use reasonable force to overcome</p> <p>18 resistance in the lawful performance of duties, even</p> <p>19 though there is no immediate or apparent danger calling</p> <p>10:08 20 for self-defense." What does that mean?</p> <p>21 A. (Reviewing document.)</p> <p>22 That could be referring to somebody who --</p> <p>23 like third party. Just because it's not self-defense,</p> <p>24 it's not directly for them. But if there's a third</p> <p>10:08 25 party involved, they can use force at that point.</p>	<p>1 A. It just depends on the circumstances. We're</p> <p>2 going line by line of this policy and we don't -- I</p> <p>3 mean, the policy is used as a whole --</p> <p>4 Q. I under -- I --</p> <p>10:09 5 A. -- depending on the circumstances surrounding</p> <p>6 the incident --</p> <p>7 Q. I --</p> <p>8 A. -- every incident.</p> <p>9 Q. I understand that. But if you have a situation</p> <p>10:10 10 where there is no need for self-defense, there's no --</p> <p>11 but the suspect is not complying, the officer could use</p> <p>12 deadly force?</p> <p>13 A. What would that be? What circumstance would</p> <p>14 that be? I mean, I -- I don't understand. If this is a</p> <p>10:10 15 scenario --</p> <p>16 Q. Uh-huh.</p> <p>17 A. -- then --</p> <p>18 Q. Yeah. You have -- you have a suspect who is</p> <p>19 refusing to comply with an -- with an officer's</p> <p>10:10 20 commands.</p> <p>21 A. Uh-huh.</p> <p>22 Q. There would have to be more to that in order</p> <p>23 for him to use deadly force; correct?</p> <p>24 A. Sure.</p> <p>10:10 25 Q. Okay. In other words, he can't use that simply</p>
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<p>1 Q. What if there is no third party around?</p> <p>2 There's nobody -- there's no third party in the</p> <p>3 vicinity? It's just the officers and the suspect.</p> <p>4 A. Okay. That still goes back to the situation.</p> <p>10:08 5 Q. All right. So can an officer use force to</p> <p>6 overcome resistance?</p> <p>7 A. Yes.</p> <p>8 Q. Even though there's no need for self-defense of</p> <p>9 the officers themselves?</p> <p>10:09 10 A. Reasonable force.</p> <p>11 Q. Would that up to be -- include deadly force?</p> <p>12 A. It could.</p> <p>13 Q. Because then it says -- let me put it this</p> <p>14 way -- "Every reasonable opportunity to comply with the</p> <p>10:09 15 request for cooperation must be given to the person and</p> <p>16 force used" after -- "only after all other reasonable</p> <p>17 means have failed to produce compliance."</p> <p>18 Does that mean that someone could use</p> <p>19 deadly force if a witness is not -- if a suspect is not</p> <p>10:09 20 complying?</p> <p>21 A. Yes. At some point. Again, if --</p> <p>22 Q. Even if there's no need --</p> <p>23 MR. LOPEZ: Well, let --</p> <p>24 Q. (By Mr. Wilson) Let me finish -- let you</p> <p>10:09 25 finish your answer. I'm sorry.</p>	<p>1 because he doesn't comply with his commands? That's</p> <p>2 what you're telling me?</p> <p>3 A. Depending on what those commands are. Again, I</p> <p>4 mean --</p> <p>10:10 5 Q. Sure. Well, let's get right to the scenario</p> <p>6 that we're involved with here today. You have a</p> <p>7 gentleman -- you have a suspect who's 20, almost 30 feet</p> <p>8 away from the officers, standing still, holding a knife.</p> <p>9 A. Uh-huh.</p> <p>10:10 10 Q. The mere fact that he refuses to drop the</p> <p>11 knife, would that be enough to shoot and kill him?</p> <p>12 A. With the other circumstances involved, yes.</p> <p>13 Q. Okay. So even though at that moment he's not</p> <p>14 being aggressive and he's not advancing towards the</p> <p>10:11 15 officers, he's just standing there not dropping the</p> <p>16 knife, in your opinion, they could -- he could be shot?</p> <p>17 A. Yes.</p> <p>18 MR. SAENZ: Objection; form.</p> <p>19 Mischaracterizes the evidence.</p> <p>10:11 20 Q. (By Mr. Wilson) Even what happened five</p> <p>21 minutes ago, the fact that he's standing still at that</p> <p>22 time and simply refusing to drop a knife, he could be</p> <p>23 shot and killed?</p> <p>24 A. If we're going with everything else that</p> <p>10:11 25 happened.</p>

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<p>1 Q. Okay. So you're telling me that the totality</p> <p>2 of the circumstances, even though there's no immediate</p> <p>3 threat at the time --</p> <p>4 A. There was -- Go ahead. I'm sorry.</p> <p>10:11 5 Q. Let me finish my question.</p> <p>6 So you're telling me that a gentleman</p> <p>7 standing still, holding a knife, even though he's not</p> <p>8 advancing towards the officers at the time and he's</p> <p>9 simply refusing to comply with the demands to drop the</p> <p>10:11 10 knife, they could shoot and kill him?</p> <p>11 MR. LOPEZ: Objection; form.</p> <p>12 A. Under the totality of the circumstances, yes.</p> <p>13 Q. (By Mr. Wilson) All right. What about -- what</p> <p>14 is it about the totality of the circumstances that at</p> <p>10:11 15 the time they pull the trigger they have that</p> <p>16 justification?</p> <p>17 A. That at the time they pull the trigger?</p> <p>18 Q. Yes.</p> <p>19 A. At that specific time they were in fear for</p> <p>10:12 20 their safety.</p> <p>21 Q. Okay. What was he doing at that particular</p> <p>22 moment?</p> <p>23 A. He was still holding a knife in his hand.</p> <p>24 Q. So what? What else was he doing besides</p> <p>10:12 25 holding a knife at that point?</p>	<p>1 Q. "An officer can" -- "Once the immediate danger</p> <p>2 of death or serious bodily injury to an officer or</p> <p>3 another person has passed, deadly force shall not be</p> <p>4 used."</p> <p>10:13 5 Do you see that?</p> <p>6 A. Yes, I see that.</p> <p>7 Q. So an officer could be under an immediate</p> <p>8 threat of death or serious bodily injury one minute, and</p> <p>9 then once that has passed, he cannot use deadly force;</p> <p>10:13 10 right?</p> <p>11 A. That's what this says, yes.</p> <p>12 Q. That's -- that would be consistent with policy;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>10:13 15 Q. And if he uses deadly force once that immediate</p> <p>16 threat is gone, he's violated policy; right?</p> <p>17 A. Yes.</p> <p>18 Q. And based upon your understanding of the law,</p> <p>19 he's violated someone's Constitutional rights; correct?</p> <p>10:13 20 A. Possibly.</p> <p>21 Q. So, in other words, you have a situation where</p> <p>22 the threat level during the course of an event changes;</p> <p>23 correct?</p> <p>24 A. Uh-huh.</p> <p>10:13 25 Q. Do you understand that?</p>
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<p>1 A. Well, again, it's all the circumstances</p> <p>2 surrounding. It's not that -- we can't snapshot that</p> <p>3 specific moment and say -- make -- make a decision about</p> <p>4 everything that happened on that specific moment. You</p> <p>10:12 5 would need to consider everything else that happened.</p> <p>6 Q. All right. So my question --</p> <p>7 MR. WILSON: Let me object to the</p> <p>8 responsiveness.</p> <p>9 Q. (By Mr. Wilson) My question was: What was he</p> <p>10:12 10 doing at that particular second when they decided to</p> <p>11 pull the trigger?</p> <p>12 A. Holding a knife.</p> <p>13 Q. And that was enough --</p> <p>14 A. At that point --</p> <p>10:12 15 Q. -- based upon everything that happened before?</p> <p>16 MR. LOPEZ: Objection; asked and answered.</p> <p>17 A. Well, again, yes, that's the same thing that</p> <p>18 we've asked and answered. But the threat wasn't gone.</p> <p>19 Q. (By Mr. Wilson) So what was -- now, you</p> <p>10:12 20 understand, ma'am, that you can only use deadly force</p> <p>21 when there's an immediate threat; correct?</p> <p>22 A. Yes.</p> <p>23 Q. So that's part of the policy. It's under</p> <p>24 9.10(i). Do you see that on the screen?</p> <p>10:13 25 A. Uh-huh.</p>	<p>1 A. Yes.</p> <p>2 Q. And that you -- you as an officer have an</p> <p>3 obligation to consistently recalculate the level of</p> <p>4 force that you're under -- the level of threat that</p> <p>10:13 5 you're under; correct?</p> <p>6 A. Correct.</p> <p>7 Q. And if that immediate threat is no longer</p> <p>8 there, it doesn't exist at the time you decide to pull</p> <p>9 the trigger and you do pull the trigger, then you've</p> <p>10:14 10 violated policy?</p> <p>11 A. Correct.</p> <p>12 Q. Regardless of what the totality of the</p> <p>13 circumstances showed before; correct?</p> <p>14 A. No. If the guy is still holding the knife, the</p> <p>10:14 15 threat is still there. That -- that -- you're asking my</p> <p>16 opinion, that's my opinion.</p> <p>17 Q. So your opinion is a gentleman who's holding</p> <p>18 still, not advancing towards an officer at the time you</p> <p>19 decide to pull the trigger, that's an immediate threat?</p> <p>10:14 20 MR. LOPEZ: Object --</p> <p>21 MR. SAENZ: Objection; form.</p> <p>22 Mischaracterizes the evidence.</p> <p>23 MR. LOPEZ: -- mischaracterizes the</p> <p>24 evidence.</p> <p>10:14 25 A. I said -- you --</p>

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<p>1 MR. LOPEZ: I don't know why --</p> <p>2 A. -- keep asking --</p> <p>3 MR. LOPEZ: I'm going to object. You're</p> <p>4 trying to rephrase her question.</p> <p>10:14 5 She answered the question. Asked and</p> <p>6 answered. There is no need to rephrase her answer. The</p> <p>7 answer is clear, and she has repeated the same answer to</p> <p>8 several questions.</p> <p>9 Q. (By Mr. Wilson) What was the imme --</p> <p>10:14 10 Well, you've investigated this particular</p> <p>11 incident. We're going to go through --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- some of the details in a minute.</p> <p>14 But based upon your investigation, what</p> <p>10:14 15 was the immediate threat at the time Officer Vasquez and</p> <p>16 Officer Sanchez pulled the trigger?</p> <p>17 A. The immediate threat at that time is he still</p> <p>18 has a knife in his hand with, of course, the totality of</p> <p>19 the circumstances.</p> <p>10:15 20 Q. So what was he doing at the time they pulled</p> <p>21 the trigger, other than holding a knife, which</p> <p>22 constituted the immediate threat?</p> <p>23 A. Well, that is the immediate threat. You keep</p> <p>24 asking me the same thing. That is the immediate threat.</p> <p>10:15 25 He's --</p>	<p>1 to be moving towards the officers --</p> <p>2 A. I think --</p> <p>3 Q. -- at that time?</p> <p>4 A. -- he could -- if he is moving, that's a --</p> <p>10:16 5 even more so.</p> <p>6 Q. Okay. But -- well, let's assume for the sake</p> <p>7 of my question that he's not moving towards the</p> <p>8 officers.</p> <p>9 A. Okay. And I keep answering it. Yes, I</p> <p>10:16 10 believe --</p> <p>11 Q. Okay.</p> <p>12 A. -- they're justified to --</p> <p>13 Q. Standing --</p> <p>14 A. -- fire.</p> <p>10:16 15 Q. -- still?</p> <p>16 A. Standing still, holding the knife in his hand,</p> <p>17 yes.</p> <p>18 Q. More than 20 feet away?</p> <p>19 A. I don't know how far it was.</p> <p>10:16 20 Q. Did you ever determine how far away it was?</p> <p>21 A. Not specifically.</p> <p>22 Q. You didn't do that as part of your</p> <p>23 investigation to determine whether there was an</p> <p>24 immediate threat?</p> <p>10:16 25 A. The immediate threat is the knife --</p>
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<p>1 Q. Okay.</p> <p>2 A. He has the totality of all of the stuff that</p> <p>3 has happened, he still has the knife in his hand</p> <p>4 without -- I mean, I guess we're going to get to that</p> <p>10:15 5 point of everything else that happened. But if -- the</p> <p>6 threat could have been gone had he dropped the knife.</p> <p>7 The knife is still in his hand. The</p> <p>8 threat is still there.</p> <p>9 Q. So --</p> <p>10:15 10 A. It doesn't matter how many times I ask the</p> <p>11 question -- or answer it, it's going to be the same</p> <p>12 answer.</p> <p>13 Q. Well, no, and I understand that. I want to be</p> <p>14 very clear.</p> <p>10:15 15 It's your understanding of Bexar County</p> <p>16 policy and the law the way you understand it that you've</p> <p>17 been taught by Bexar County --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- is that a person who is simply standing</p> <p>10:15 20 still holding a knife, even if he had been involved in</p> <p>21 dangerous activities in the past, is justifiably shot</p> <p>22 and killed?</p> <p>23 A. With the totality of those circumstances to</p> <p>24 this particular situation that we're talking about, yes.</p> <p>10:16 25 Q. Okay. It's your opinion that he doesn't have</p>	<p>1 Q. What --</p> <p>2 A. -- and totality of circumstances.</p> <p>3 Q. What if he's 50 feet away with a knife, is that</p> <p>4 an immediate threat?</p> <p>10:16 5 A. It could be if he has some kind of background</p> <p>6 that could cause that threat. It could very well be.</p> <p>7 Q. All right. So it's your opinion as part of the</p> <p>8 Professional Standards Division investigator that if a</p> <p>9 gentleman is 50 feet away, holding a knife, that's an</p> <p>10:16 10 immediate threat which would justify shooting and</p> <p>11 killing him?</p> <p>12 MR. LOPEZ: I'm going to object.</p> <p>13 A. I'm not going to answer that, sir, not with</p> <p>14 those circumstances that you're giving me.</p> <p>10:16 15 Q. (By Mr. Wilson) Well, let's --</p> <p>16 A. We keep going over the same question.</p> <p>17 MR. LOPEZ: Yes.</p> <p>18 A. We're getting farther and farther away.</p> <p>19 Q. (By Mr. Wilson) Actually, we're not --</p> <p>10:17 20 MR. LOPEZ: Yes, you are. I'm going to</p> <p>21 object and, number two -- I'm going to object to any</p> <p>22 questions that try to elicit testimony as a</p> <p>23 representative of the Sheriff's Department, because</p> <p>24 she's not a corporate representative of the Sheriff's</p> <p>10:17 25 Department. She's just here in her individual capacity</p>

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<p>1 as an employee.</p> <p>2 Q. (By Mr. Wilson) It was your determination</p> <p>3 whether policy was violated; right? You reached a</p> <p>4 conclusion?</p> <p>10:17 5 A. That they did not violate any policies.</p> <p>6 Q. Right. So you felt that there was an immediate</p> <p>7 threat?</p> <p>8 A. Yes.</p> <p>9 MR. LOPEZ: Objection; asked and answered.</p> <p>10:17 10 Q. (By Mr. Wilson) So you're --</p> <p>11 MR. LOPEZ: Counsel, we need to move on.</p> <p>12 MR. WILSON: I'm going to ask my questions</p> <p>13 however I want to, Mr. Lopez.</p> <p>14 MR. LOPEZ: Well, you know, you objected</p> <p>10:17 15 yesterday for me repeating the question twice. I'm</p> <p>16 going to give you here a leeway, but I think that what</p> <p>17 is good for the goose is good for the gander. And I'm</p> <p>18 giving leeway, but we just -- I'm not going to allow her</p> <p>19 to keep answering the same question over and over. It's</p> <p>10:17 20 the same question.</p> <p>21 Q. (By Mr. Wilson) So the basis for your</p> <p>22 conclusion, ma'am --</p> <p>23 First of all, the -- we have your</p> <p>24 report -- we have two reports from you. One is</p> <p>10:18 25 Exhibit 3.</p>	<p>1 immediately say, "Wow, they're violating policy and that</p> <p>2 needs to be addressed," no, I did not observe anything</p> <p>3 like that.</p> <p>4 Q. So does this report indicate that based upon</p> <p>10:19 5 your review of this situation, just by observing the</p> <p>6 scene at the time, you reached the conclusion at that</p> <p>7 point that neither Officer Vasquez nor Sanchez violated</p> <p>8 policy?</p> <p>9 A. Well, I wouldn't know any of those more</p> <p>10:19 10 details. I would just know what I could see at the</p> <p>11 time.</p> <p>12 Q. Okay. I understand that. But does that</p> <p>13 opinion include the actions of Vasquez and Sanchez?</p> <p>14 A. That had already happened, and I don't have the</p> <p>10:19 15 full knowledge of that. So does that include the --</p> <p>16 No. I would say it doesn't include</p> <p>17 anything that has to do with them.</p> <p>18 Q. So what that comment is referring to is what</p> <p>19 you're seeing as a part of the investigation ongoing,</p> <p>10:19 20 that's unfolding in front of you?</p> <p>21 A. Right.</p> <p>22 Q. Okay.</p> <p>23 A. To monitor. Just like the policy states --</p> <p>24 Q. Fair enough.</p> <p>10:19 25 A. -- is to monitor.</p>
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<p>1 (Exhibit Number 3 was marked.)</p> <p>2 Q. (By Mr. Wilson) That was a preliminary report</p> <p>3 that you did; correct?</p> <p>4 A. Uh-huh. Yes.</p> <p>10:18 5 Q. And what is the date of that report?</p> <p>6 A. September the 3rd.</p> <p>7 Q. What investigation had you done up to that</p> <p>8 point?</p> <p>9 A. Only what I have here. I went to the scene.</p> <p>10:18 10 Q. And then do you reach a conclusion in that</p> <p>11 report?</p> <p>12 A. No immediate policy violations were noted at</p> <p>13 the scene.</p> <p>14 Q. So what do you mean by that?</p> <p>10:18 15 A. That means as I'm there standing, observing</p> <p>16 from afar, I don't see anything that would cause me to</p> <p>17 believe that policy was being violated right then at</p> <p>18 that time.</p> <p>19 Q. By anybody?</p> <p>10:19 20 A. Correct.</p> <p>21 Q. Would that also include the shooting by</p> <p>22 Officer Vasquez and Sanchez?</p> <p>23 A. From what I know. I mean, this -- this is</p> <p>24 pretty much just an overview.</p> <p>10:19 25 And do I see anything that would</p>	<p>1 Q. Okay. I just -- so nothing was done on the</p> <p>2 location of the investigation while you were there which</p> <p>3 would indicate a violation of policy the way the</p> <p>4 investigation was being conducted?</p> <p>10:20 5 A. Right.</p> <p>6 Q. That's what that really refers to?</p> <p>7 A. Uh-huh.</p> <p>8 Q. All right. So when someone does an</p> <p>9 investigation, criminal investigation that you were</p> <p>10:20 10 monitoring, it includes the collection of evidence;</p> <p>11 correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Does it also include the preservation of the</p> <p>14 scene?</p> <p>10:20 15 A. Yes.</p> <p>16 Q. And is there a policy that says the scene needs</p> <p>17 to be preserved until it's documented --</p> <p>18 A. Yes.</p> <p>19 Q. -- through either video or photograph or</p> <p>10:20 20 however you can document it?</p> <p>21 A. Right.</p> <p>22 Q. Okay. In other words, whatever the scene</p> <p>23 looked like at the time, nobody touch anything or move</p> <p>24 anything unnecessarily until we can document it?</p> <p>10:20 25 A. As well as can be, yes.</p>

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<p>1 Q. Right. I mean, obviously if there's a safety</p> <p>2 issue or something, you might do something.</p> <p>3 But, in other words, who is -- who's got</p> <p>4 the responsibility to go in and start documenting that?</p> <p>10 : 21 5 For example, taking photographs of the scene.</p> <p>6 A. Crime Scene.</p> <p>7 Q. And so you wouldn't be involved in that?</p> <p>8 A. No.</p> <p>9 Q. Because I've been given throughout the course</p> <p>10 : 21 10 of the discovery in this case some crime scene</p> <p>11 photographs and I've also been given a video of someone</p> <p>12 walking around with a video --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- kind of documenting. There's a bunch of</p> <p>10 : 21 15 little --</p> <p>16 A. That's --</p> <p>17 Q. -- snippets of --</p> <p>18 A. -- Crime Scene.</p> <p>19 Q. That's Crime Scene?</p> <p>10 : 21 20 A. Uh-huh.</p> <p>21 Q. Okay. So when it's involved -- an</p> <p>22 officer-involved shooting where the patrol car of the</p> <p>23 officer was part of the incident --</p> <p>24 A. Uh-huh.</p> <p>10 : 21 25 Q. -- and I guess part of, I guess, the crime</p>	<p>1 the shooting as it was at the time these photographs</p> <p>2 were taken?</p> <p>3 A. As much as reasonable, yes.</p> <p>4 Q. That's fair?</p> <p>5 A. Yeah.</p> <p>6 Q. Okay.</p> <p>7 MR. WILSON: I'm going to write several of</p> <p>8 these just so that I can --</p> <p>9 MR. LOPEZ: When you think that we can</p> <p>10 : 23 10 take a break --</p> <p>11 MR. WILSON: Sure. I'm at a good -- I'm</p> <p>12 at a good stopping point.</p> <p>13 THE WITNESS: Great. Me, too.</p> <p>14 THE VIDEOGRAPHER: Going off record. The</p> <p>10 : 23 15 time is 10:24.</p> <p>16 (Exhibit Number 5 was marked.)</p> <p>17 (Recess from 10:24 until 10:34.)</p> <p>18 THE VIDEOGRAPHER: Going back on record.</p> <p>19 The time is 10:34.</p> <p>10 : 33 20 Q. (By Mr. Wilson) Ma'am, before we took our</p> <p>21 break we were talking about Crime Scene investigators</p> <p>22 who document the scene following an incident such as</p> <p>23 this.</p> <p>24 I'm going to show you what's been marked</p> <p>10 : 33 25 as your Exhibit Number 5 which has been produced to us</p>
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<p>1 scene, would that mean that nothing in that patrol car</p> <p>2 could be moved until it was documented?</p> <p>3 A. It -- Say it again.</p> <p>4 Q. Sure. In this particular instance, you know</p> <p>10 : 21 5 that part of the facts involve Officer Vasquez's</p> <p>6 vehicle?</p> <p>7 A. Right.</p> <p>8 Q. And so that was part of the crime scene, per</p> <p>9 se?</p> <p>10 : 22 10 A. Right.</p> <p>11 Q. Okay. Does that mean, then, that nothing in</p> <p>12 that vehicle should be moved or -- until Crime Scene</p> <p>13 investigators come and document that vehicle?</p> <p>14 A. Well, you want to preserve it as much as</p> <p>10 : 22 15 possible.</p> <p>16 Q. In other words, nothing should be moved from</p> <p>17 inside that vehicle until they document it, if nec -- if</p> <p>18 you can?</p> <p>19 A. If -- if -- yes.</p> <p>10 : 22 20 Q. Okay. And what I'm getting at is, is that</p> <p>21 there have been some photographs taken of the inside of</p> <p>22 that vehicle.</p> <p>23 A. Uh-huh.</p> <p>24 Q. If policy was being followed, the inside of</p> <p>10 : 22 25 that vehicle should have been the same at the time of</p>	<p>1 as the -- it's on the screen, but you know what would be</p> <p>2 easier, probably if you looked at it that way. It's</p> <p>3 harder to see that way. (Indicating.)</p> <p>4 That's been produced to us as a photograph</p> <p>10 : 33 5 taken of Officer Vasquez's patrol car during the course</p> <p>6 of the investigation.</p> <p>7 Consistent with policy, that should have</p> <p>8 been the status of the inside of his vehicle as of the</p> <p>9 time of the incident; correct?</p> <p>10 : 34 10 MR. SAENZ: Objection; form.</p> <p>11 Mischaracterizes the evidence.</p> <p>12 A. Yes, as much as possible.</p> <p>13 Q. (By Mr. Wilson) In other words, nothing should</p> <p>14 have been moved from the inside of that vehicle?</p> <p>10 : 34 15 A. Unless there was a reason, correct.</p> <p>16 Q. Unless there was a reason?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And that reason would have been documented;</p> <p>19 correct?</p> <p>10 : 34 20 A. It could have been explained. But, yes, I</p> <p>21 mean, there would -- you would think somebody would</p> <p>22 explain if that question was asked.</p> <p>23 Q. Well, in other words, if someone -- if someone</p> <p>24 moves something from the inside of a vehicle before it's</p> <p>10 : 34 25 documented, they would have to explain why they did</p>

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<p>1 that; correct?</p> <p>2 A. Right.</p> <p>3 Q. And it would have to be documented somewhere in</p> <p>4 the investigation?</p> <p>10:34 5 A. Right, if somebody asked that question. If</p> <p>6 somebody knew that it -- it wasn't there and it had been</p> <p>7 moved, or if it was something of significance, yes.</p> <p>8 Q. Right. Well, for example, if someone is saying</p> <p>9 that there is a rifle in the center holder between the</p> <p>10:34 10 passenger side and the driver's side, do you see a rifle</p> <p>11 in this photo?</p> <p>12 A. No.</p> <p>13 Q. And so if, in fact, that rifle was not in the</p> <p>14 center console during the course of this incident, that</p> <p>10:35 15 could be an important fact; correct? Whether it was or</p> <p>16 it wasn't.</p> <p>17 A. Yeah. I guess if there was some significance</p> <p>18 to the rifle.</p> <p>19 Q. Right. And so if that -- if that rifle was</p> <p>10:35 20 significant and its location was significant and it was</p> <p>21 moved from the inside holder to somewhere else, that</p> <p>22 would have to be explained, would it not?</p> <p>23 A. I would think so, yes.</p> <p>24 Q. There would have to be some reference in the</p> <p>10:35 25 report that said the rifle was here at the time of the</p>	<p>1 and testified -- and I can tell you, if you look at the</p> <p>2 video at 1:40:24, 1:49:16 of the video in his deposition</p> <p>3 he testified he was sure the rifle was in the car, he's</p> <p>4 100 percent positive the rifle was in the car at the</p> <p>10:36 5 time.</p> <p>6 And he also testified that -- in that</p> <p>7 photograph, when you showed it to him -- when Henry</p> <p>8 showed it to him, he testified that somehow someone had</p> <p>9 moved the rifle to the back of --</p> <p>10:36 10 MR. WILSON: Okay.</p> <p>11 MR. SAENZ: -- the vehicle.</p> <p>12 MR. WILSON: So -- so when you just said</p> <p>13 on the record that he moved it, you're actually not --</p> <p>14 that's not how -- that's not what he testified to.</p> <p>10:37 15 MR. SAENZ: No. I'm -- I'm just telling</p> <p>16 you that -- that you're mischaracterizing the testimony</p> <p>17 of the -- in this case.</p> <p>18 MR. WILSON: Well, okay. Here's what I</p> <p>19 understand: I understand your officer says that's where</p> <p>10:37 20 it was. I'm pointing out that the photograph says it's</p> <p>21 not there.</p> <p>22 MR. SAENZ: Yes. But you're trying to get</p> <p>23 her to commit that because that photo doesn't show the</p> <p>24 rifle it was never there. She can't testify to that.</p> <p>10:37 25 That's speculation.</p>
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<p>1 shooting but we since moved it before CID could come and</p> <p>2 do their crime scene investigation photos; right?</p> <p>3 There would be some reference to that in</p> <p>4 the report somewhere?</p> <p>10:35 5 A. Right.</p> <p>6 Q. Right. So if there is no reference that the</p> <p>7 rifle was moved and these photos were taken shortly</p> <p>8 after the shooting, is it fair to say that that's the</p> <p>9 condition that the vehicle was in at the time of the</p> <p>10:35 10 shooting?</p> <p>11 MR. SAENZ: Objection; form. Speculation</p> <p>12 and mischaracterizes the evidence.</p> <p>13 MR. WILSON: How does it mischaracterize</p> <p>14 the evidence?</p> <p>10:36 15 MR. SAENZ: Because there's been testimony</p> <p>16 from our deputy that that rifle was 100 -- he was</p> <p>17 100 percent sure that rifle was in that -- in between</p> <p>18 the -- in that holder at the time before -- at the time</p> <p>19 of the incident and that it was moved to the back of the</p> <p>10:36 20 patrol vehicle.</p> <p>21 MR. WILSON: He never said that.</p> <p>22 MR. SAENZ: Yes, he did. I have -- I've</p> <p>23 seen the testimony. I went back -- after you raised</p> <p>24 this issue in the last deposition, I went back and</p> <p>10:36 25 reviewed his deposition, and he -- he specifically said</p>	<p>1 Q. (By Mr. Wilson) Ma'am, if that rifle was there</p> <p>2 at the time of the shooting and it was moved, there</p> <p>3 would be a record of it somewhere, shouldn't there be?</p> <p>4 A. Yes, there should be some record.</p> <p>10:37 5 Q. And if they -- if somebody moves it and doesn't</p> <p>6 record it, that's not -- that's not following policy;</p> <p>7 correct?</p> <p>8 A. Well, if they have a reason to move it and it's</p> <p>9 explained somewhere, then, no, it may not be a violation</p> <p>10:37 10 of policy.</p> <p>11 Q. Well, I know. But you said if they explain it</p> <p>12 somewhere.</p> <p>13 A. Right. It could be explained to me when I get</p> <p>14 there or to an investigator when they get there, if</p> <p>10:37 15 that's the case.</p> <p>16 Q. I haven't -- I've looked at the entire criminal</p> <p>17 investigation report and nobody ever says they moved</p> <p>18 that rifle from the time of the shooting until the time</p> <p>19 that these photos were taken.</p> <p>10:38 20 A. Okay.</p> <p>21 Q. So without that explanation, then we have</p> <p>22 photos taken shortly after the event where that rifle is</p> <p>23 not there; correct?</p> <p>24 A. If that's the way that you're saying that you</p> <p>10:38 25 know it was there, then I don't see a rifle in the</p>

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<p>1 picture, no.</p> <p>2 Q. Okay. That's my -- that's my point.</p> <p>3 A. If it got moved, should someone have at least</p> <p>4 talked about it? Yes.</p> <p>10:38 5 Q. All right. So we have a situation where</p> <p>6 Officer Vasquez says that's where it was. If we have a</p> <p>7 report that doesn't show anybody noting down anywhere</p> <p>8 that they moved it, and then we have these photos taken,</p> <p>9 that could be the -- then it's a possibility that it was</p> <p>10:38 10 not there at the time of the shooting?</p> <p>11 MR. SAENZ: Objection; form.</p> <p>12 Mischaracterizes the evidence.</p> <p>13 A. All I can tell you is in this picture -- I</p> <p>14 mean, there's no rifle in the picture.</p> <p>10:38 15 Q. (By Mr. Wilson) Right.</p> <p>16 A. Was it there before, I don't know.</p> <p>17 Q. Well, if it was there before, we'd have to have</p> <p>18 something other than Officer Vasquez saying it? We'd</p> <p>19 have to have --</p> <p>10:38 20 MR. SAENZ: Objection.</p> <p>21 Q. (By Mr. Wilson) We'd have to have somebody</p> <p>22 writing somewhere that they moved it?</p> <p>23 MR. SAENZ: Objection; form.</p> <p>24 A. Well, not even necessarily in writing. I mean,</p> <p>10:38 25 there's been circumstances where things have been moved</p>	<p>1 No.</p> <p>2 (Exhibit Numbers 7 and 8 were marked.)</p> <p>3 Q. (By Mr. Wilson) But Exhibit 8, in the back of</p> <p>4 this vehicle, Officer Vasquez's vehicle, we have a rifle</p> <p>10:39 5 case; correct?</p> <p>6 A. Do we have a Number 7?</p> <p>7 Q. I have it right here. (Indicating.)</p> <p>8 A. Oh, okay.</p> <p>9 Yeah.</p> <p>10:40 10 Q. Is that correct?</p> <p>11 A. I see a rifle case, yes.</p> <p>12 Q. Okay. So -- now, part of the statement that</p> <p>13 Mr. -- that Officer Vasquez gave --</p> <p>14 You read his statement; correct?</p> <p>10:40 15 A. Right.</p> <p>16 Q. His statement says he was concerned that</p> <p>17 Mr. Flores was moving towards the patrol car and -- and</p> <p>18 that he could get his rifle. Do you understand that?</p> <p>19 A. Okay.</p> <p>10:40 20 Q. Do you recall that as part of his --</p> <p>21 A. I don't recall directly exactly what his</p> <p>22 statement said.</p> <p>23 Q. Okay.</p> <p>24 A. If you have it or --</p> <p>10:40 25 Q. I do have it as a matter of fact.</p>
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<p>1 and people explain why they've been moved.</p> <p>2 I don't -- I'm not sure when -- if this</p> <p>3 came up like in deposition and I'm trying to answer</p> <p>4 someone else's --</p> <p>10:39 5 Q. (By Mr. Wilson) No --</p> <p>6 A. -- question or --</p> <p>7 Q. -- it's not that, ma'am. I'm trying to figure</p> <p>8 out what the policy is in investigating a crime.</p> <p>9 A. To try to preserve the crime scene. Now, if</p> <p>10:39 10 there's a reason for things to be moved, then sometimes</p> <p>11 that happens.</p> <p>12 Q. And there should be someone who marks that;</p> <p>13 right? Because that's an important piece of evidence?</p> <p>14 A. Well, if -- if Crime Scene is not there when it</p> <p>10:39 15 initially is moved, it may not be marked.</p> <p>16 Q. What we do know is that in that photo it's not</p> <p>17 there?</p> <p>18 A. Correct.</p> <p>19 Q. And you would see it?</p> <p>10:39 20 A. Sure.</p> <p>21 (Exhibit Number 6 was marked.)</p> <p>22 Q. (By Mr. Wilson) Okay. And just for the</p> <p>23 record, there's Exhibit 6, another photo. And you don't</p> <p>24 see it in that photo either, do you?</p> <p>10:39 25 A. (Reviewing document.)</p>	<p>1 Well, before we get into the details of</p> <p>2 that, let me do this. You said you went to the scene?</p> <p>3 A. Uh-huh.</p> <p>4 Q. And how long did you stay there?</p> <p>10:40 5 A. I really don't know. A short period of time.</p> <p>6 Probably -- I can't even estimate. I don't remember.</p> <p>7 I don't know.</p> <p>8 Q. Your preliminary report which we looked at</p> <p>9 earlier indicates that you talked to Lieutenant -- or</p> <p>10:41 10 Officer Mahon; correct?</p> <p>11 A. Investigator.</p> <p>12 Q. I'm sorry. Investigator Mahon. He told you</p> <p>13 the gist of what he had learned at that time; correct?</p> <p>14 But you didn't do any interviews?</p> <p>10:41 15 A. Right.</p> <p>16 Q. So when you didn't do any interviews, you</p> <p>17 monitored and watched what was going on for -- how long</p> <p>18 did you say?</p> <p>19 A. I didn't say.</p> <p>10:41 20 Q. Okay. How long were you there?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay. And then you left?</p> <p>23 A. Right.</p> <p>24 Q. Okay. When was the next time that you became</p> <p>10:41 25 involved in this in your capacity as a Professional</p>

<p style="text-align: right;">Page 89</p> <p>1 Integrity investigator?</p> <p>2 A. Probably not until Detective Perez brought me</p> <p>3 his CD with like all the reports and stuff on it.</p> <p>4 Q. Would that be the entire criminal investigation</p> <p>10:42 5 report conducted by --</p> <p>6 A. Right.</p> <p>7 Q. -- Officer --</p> <p>8 A. Crime scene photos and --</p> <p>9 Q. -- Investigator Perez?</p> <p>10:42 10 A. Right.</p> <p>11 Q. Okay. And so when you got that, what did you</p> <p>12 do?</p> <p>13 A. Specifically, I don't know. But what would</p> <p>14 normally happen is I would just start reviewing</p> <p>10:42 15 everything that's in there.</p> <p>16 Q. And then did you do any additional</p> <p>17 investigation outside of that report?</p> <p>18 A. Well, his report contains everybody's stuff.</p> <p>19 Q. I understand that.</p> <p>10:42 20 A. Yeah.</p> <p>21 Q. But once you read his report --</p> <p>22 A. Uh-huh.</p> <p>23 Q. -- did you do any further investigation on your</p> <p>24 own?</p> <p>10:42 25 A. What do you mean specifically?</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Well, my question was more specific than that.</p> <p>2 Did you look at Officer Vasquez's</p> <p>3 statement and compare it to the Fleming video and see</p> <p>4 whether that statement matched the video?</p> <p>10:43 5 A. I don't think I compared them at the same exact</p> <p>6 time or --</p> <p>7 Were they both considered in my</p> <p>8 investigation? Yes.</p> <p>9 Q. Okay.</p> <p>10:43 10 A. Did I compare them side by side, frame by</p> <p>11 frame? No.</p> <p>12 Q. Well, did you ever look at that video and</p> <p>13 determine whether or not what Officer Vasquez says in</p> <p>14 that video did not match in some respects?</p> <p>10:43 15 A. Did I determine that?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Wouldn't that be part of your policy</p> <p>19 determination, as to whether or not that video and</p> <p>10:44 20 Officer Vasquez's statement match?</p> <p>21 A. If that was something that was necessary, then,</p> <p>22 yes, I could call him in.</p> <p>23 Q. Well, when would you consider it necessary?</p> <p>24 A. Well, what specific part are you speaking</p> <p>10:44 25 about?</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. Did you call in any witnesses?</p> <p>2 A. No.</p> <p>3 Q. Did you call in any officers?</p> <p>4 A. No.</p> <p>10:42 5 Q. Did you follow up on any of the statements that</p> <p>6 were contained in there?</p> <p>7 A. Statements from --</p> <p>8 Q. From the other officers, for example.</p> <p>9 A. No.</p> <p>10:42 10 Q. Did you review any videotapes?</p> <p>11 A. Yes, whatever video was submitted to me.</p> <p>12 Q. Did you review the Fleming videotape of the</p> <p>13 shooting?</p> <p>14 A. I don't know specifically which one is which.</p> <p>10:43 15 Q. The one that was taken from the neighbor.</p> <p>16 A. From the house?</p> <p>17 Q. Yes.</p> <p>18 A. Yes.</p> <p>19 Q. You reviewed that?</p> <p>10:43 20 A. Yes.</p> <p>21 Q. Okay. And did you compare that video to</p> <p>22 Officer Vasquez's statement?</p> <p>23 A. Some of it, yes. Not -- I mean, not frame by</p> <p>24 frame or --</p> <p>10:43 25 Was it taken into consideration? Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Well, for example, one of the things that</p> <p>2 you've said that you need to investigate is whether or</p> <p>3 not the officers who are giving these statements give</p> <p>4 truthful statements?</p> <p>10:44 5 A. Uh-huh. I reviewed his statement, and I didn't</p> <p>6 find that it was untruthful.</p> <p>7 Q. Okay. So you reviewed his statement, and even</p> <p>8 after comparing it with the Fleming video, you didn't</p> <p>9 see anything that was untruthful?</p> <p>10:44 10 A. I didn't see anything that was untruthful, no.</p> <p>11 Q. Okay. So based upon that, you found no</p> <p>12 violation of policy to give truthful statements?</p> <p>13 A. Well, not based only upon that. I based my</p> <p>14 investigation on the entirety of everything that</p> <p>10:44 15 happened.</p> <p>16 Q. Right. But my question was specific about</p> <p>17 giving truthful statements.</p> <p>18 A. You asked me if I thought his statement was</p> <p>19 truthful and I said, yes, I thought the statement he</p> <p>10:45 20 gave was truthful.</p> <p>21 Q. Okay. So if you've got a statement that says</p> <p>22 his rifle was in the center holder between the passenger</p> <p>23 and driver's seat of his vehicle and you see photos</p> <p>24 where it's not there, did you do further investigation</p> <p>10:45 25 to determine if he was being truthful --</p>

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<p>1 A. Can you show me his statement? Can I see his 2 statement? 3 Q. Sure. This will be your -- Exhibit Number 9. 4 (Exhibit Number 9 was marked.) 10:45 5 MR. LOPEZ: I'm sorry. I didn't sleep 6 last night. 7 Q. (By Mr. Wilson) Let me show you Exhibit 9, 8 which is Officer Vasquez's statement. 9 And then while we're doing that, I'll also 10:46 10 mark for you Officer Sanchez's statement. 11 A. Okay. 12 (Exhibit Number 10 was marked.) 13 A. (Reviewing document.) 14 In here is where he said that -- he says 10:50 15 his rifle is in there? 16 Q. (By Mr. Wilson) In all honesty, that might 17 have come from his deposition. That's what he was 18 concerned about. 19 A. Oh, okay. 10:50 20 Q. Okay. It was Officer Sanchez that mentions the 21 rifle in his statement, which is Exhibit 10. 22 A. Okay. So -- but what was the original -- the 23 original question was -- 24 Q. Let me -- I'll get there. Let me rephrase the 10:50 25 question.</p>	<p>1 Q. I apologize. Exhibit -- Officer Sanchez is -- 2 A. 10. 3 Q. -- Exhibit 10. 4 I take it you reviewed Officer Sanchez's 10:51 5 statement? 6 A. I did. 7 Q. And am I correct in understanding that you 8 never went and interviewed Officer Sanchez? 9 A. I did not. 10:51 10 Q. You never talked to him personally about this 11 investigation? 12 A. I did not. 13 Q. You reviewed the Fleming video. And then once 14 you saw that, you never went back to Officer Sanchez to 10:51 15 see -- ask him any questions about any discrepancies 16 that might exist? 17 A. No, I did not. 18 Q. And it's your opinion that everything Officer 19 Sanchez says in that statement in your belief is true? 10:51 20 A. I don't think that he lied in his statement, if 21 that's the question. No, I don't. 22 Q. Okay. Well, what is the difference between 23 everything is in there is true versus you don't think he 24 lied? 10:51 25 A. I don't know. I just -- the way the question</p>
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<p>1 So the -- Officer Vasquez, you read his 2 statement as part of your investigation; correct? 3 A. Correct. 4 Q. All right. You didn't talk to him personally? 10:50 5 A. No. 6 Q. You didn't interview him? 7 A. No. 8 Q. You didn't -- after you saw the Fleming video, 9 you never went back and asked him questions about his 10:50 10 statement or anything about what's seen in the video? 11 A. Correct. 12 Q. All right. And it's your testimony that 13 everything he says in that statement you believe to be 14 the truth? 10:51 15 A. Uh-huh. 16 Q. Is that correct? 17 A. Yes. Everything he puts in his statement. 18 Q. And you say that even after you've reviewed the 19 video? 10:51 20 A. Correct. 21 Q. Okay. Then Officer Sanchez, same thing -- 22 A. Okay. But there was a question about the 23 gun -- 24 Q. I'll get back to it. 10:51 25 A. Okay.</p>	<p>1 was asked, I mean, I'm just saying, do I believe his 2 statement is true the way he wrote it, yes. 3 Q. Well, is there -- is there something different 4 about the way he wrote it versus -- is there something 10:52 5 you're thinking of that there might be a difference, but 6 you don't think it's a lie? 7 A. No. Just the way that you asked the question. 8 I was just trying to clarify it, so -- 9 Q. Okay. All right. And then before we go any 10:52 10 further, I want to do this. Exhibit 7 is your report. 11 A. Okay. 12 Q. And I'm going to give you a copy of this. 13 First of all, the approving administrator 14 is H.R. Pollard? 10:52 15 A. That is the new lieutenant. This lieutenant 16 has since retired. That's the new lieutenant that came 17 in. (Indicating.) 18 Q. Okay. Because this report was dated February 19 9th, 2016. So by that point, Mr. Treviño -- 10:52 20 A. Had gone. 21 Q. -- has gone? Okay. 22 A. Uh-huh. 23 Q. So this is who you turned it in to? 24 A. Correct. 10:52 25 Q. So between September or August and February,</p>

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<p>1 did your complete investigation involve reviewing the</p> <p>2 report from Officer Perez?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Nothing more?</p> <p>10:52 5 A. What do you mean? No. I -- what -- what</p> <p>6 deputy -- Detective Perez gave me is a CD containing</p> <p>7 basically his entire file.</p> <p>8 Q. Right.</p> <p>9 A. That's what --</p> <p>10:53 10 Q. So that was your --</p> <p>11 A. So I --</p> <p>12 Q. -- investigation?</p> <p>13 A. -- reviewed all of it.</p> <p>14 Q. Okay. So that's my point.</p> <p>10:53 15 A. Uh-huh.</p> <p>16 Q. Other than reviewing his file from August 28th</p> <p>17 to February 9th, you didn't conduct any additional</p> <p>18 investigation?</p> <p>19 A. No.</p> <p>10:53 20 Q. You didn't talk to anybody? You didn't</p> <p>21 interview anybody? You just viewed what he gave you?</p> <p>22 A. I did.</p> <p>23 Q. And so I'm looking at your report. You can</p> <p>24 review it if you wish.</p> <p>10:53 25 A. (Reviewing document.)</p>	<p>1 saying why you did the investigation?</p> <p>2 A. Why I was there.</p> <p>3 Q. And then you outline the 911 call. And I'm</p> <p>4 assuming that that's your rendition of the transcript of</p> <p>10:54 5 that call --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then you have "Radio Communication."</p> <p>10:54 10 That's the dispatch --</p> <p>11 A. Right.</p> <p>12 Q. -- communications?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And then you have the "Walnut Pass," which was</p> <p>10:54 15 the location of it. Is that the investigation that was</p> <p>16 done there?</p> <p>17 A. That's just the address of where everything</p> <p>18 takes place.</p> <p>19 And, actually, if you go back to that</p> <p>10:54 20 "Radio Communication" or "Radio traffic from dispatch,"</p> <p>21 the dispatch audio --</p> <p>22 Q. Yes.</p> <p>23 A. -- I don't know specifically, I can't remember,</p> <p>24 it may say there, if I obtained that myself. Because</p> <p>10:55 25 you asked if I did any other. I don't want there to be</p>
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<p>1 I've looked over it.</p> <p>2 Q. Okay.</p> <p>3 A. I mean, I guess when we get to a specific</p> <p>4 something --</p> <p>10:53 5 Q. Okay.</p> <p>6 A. -- if I need to go back to it.</p> <p>7 Q. All right. So it looks to me like you put this</p> <p>8 report in some sort of order. For example, you start</p> <p>9 with "Findings. Sheriff's Office Policy and</p> <p>10:53 10 Procedures," you said "None."</p> <p>11 A. Uh-huh.</p> <p>12 Q. Was that a conclusion, that you didn't find</p> <p>13 any --</p> <p>14 A. Policy violations.</p> <p>10:54 15 Q. You put that at the very beginning. And then</p> <p>16 it says, "Sheriffs Civil Service Rules - None"?</p> <p>17 A. Right. It's just a briefing of the end at the</p> <p>18 beginning, basically.</p> <p>19 Q. That's what I was trying to get at.</p> <p>10:54 20 A. Uh-huh.</p> <p>21 Q. And then you do your version of details of the</p> <p>22 events?</p> <p>23 A. Uh-huh.</p> <p>24 Q. And then you say "Responsibility of</p> <p>10:54 25 Investigation." And so that's Chapter 14 where you're</p>	<p>1 a conflict.</p> <p>2 I may have requested that myself or it may</p> <p>3 have been included in what Investigator Perez gave me --</p> <p>4 Q. Okay.</p> <p>10:55 5 A. -- just so there's no --</p> <p>6 Q. Sure. I understand. I've seen that, and I</p> <p>7 don't know if it came as part of the original</p> <p>8 investigation file or if it was just discovery to us.</p> <p>9 So fair enough.</p> <p>10:55 10 So -- but under the section that talks</p> <p>11 about the location, you say, "Deputy Gregory Vasquez and</p> <p>12 Deputy Robert Sanchez provided statements to</p> <p>13 Investigator J. Perez immediately after the shooting</p> <p>14 occurred, and with their representation present."</p> <p>10:55 15 That means their lawyers were present;</p> <p>16 correct?</p> <p>17 A. Right.</p> <p>18 Q. And that's pursuant to the union contract, that</p> <p>19 you guys have lawyers present when these type of things</p> <p>10:55 20 happen; correct?</p> <p>21 A. Well, and their rights.</p> <p>22 Q. Well, I mean, they -- they -- they immediately</p> <p>23 had a lawyer on the scene within minutes while everybody</p> <p>24 was still investigating; correct?</p> <p>10:56 25 A. Right.</p>

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<p>1 Q. Okay. "I reviewed each of the statements that</p> <p>2 were included in the packet I received from Investigator</p> <p>3 Perez. After reviewing the statements that were</p> <p>4 provided by deputies regarding their actions at the</p> <p>10:56 5 scene, I did not see any violations to the Bexar County</p> <p>6 Sheriff's Office policy and procedures." And</p> <p>7 then you --</p> <p>8 So was that based just upon what Deputy</p> <p>9 Vasquez and Deputy Sanchez says?</p> <p>10:56 10 A. At this point when I'm writing this, I've</p> <p>11 already reviewed everything.</p> <p>12 Q. Okay. But the way that's worded, it sounds</p> <p>13 like you reviewed their statements and you didn't see a</p> <p>14 violation of policy?</p> <p>10:56 15 A. Right.</p> <p>16 Q. Okay. And so nothing else that was gathered</p> <p>17 changed your opinion based upon what they said?</p> <p>18 A. It didn't change my opinion of their statement,</p> <p>19 no.</p> <p>10:56 20 Q. Okay. And then you talk about an overall</p> <p>21 review of Bexar County Sheriff's Office policy, and you</p> <p>22 talk about firearms and training.</p> <p>23 So they were prop -- they were qualified</p> <p>24 with their firearms?</p> <p>10:57 25 A. Right. As well as their Taser as well as the</p>	<p>1 they complied with?</p> <p>2 A. Right.</p> <p>3 Q. Then you say, "is not required to engage in</p> <p>4 prolonged combat or struggle rather than resorting to</p> <p>10:58 5 that method which will most quickly and safely bring the</p> <p>6 situation under control."</p> <p>7 So you quote that, too --</p> <p>8 A. Right.</p> <p>9 Q. -- correct?</p> <p>10:58 10 Now, where do you ever quote the portion</p> <p>11 in here that says they were under an immediate threat of</p> <p>12 death or serious bodily injury to justify the use of</p> <p>13 deadly force?</p> <p>14 A. Did I quote that in there?</p> <p>10:58 15 Q. Yes.</p> <p>16 A. I don't see it, unless it's on a different --</p> <p>17 MR. LOPEZ: What page are you in?</p> <p>18 Q. (By Mr. Wilson) In that section you didn't</p> <p>19 quote that. I'm going to get to the next section.</p> <p>10:59 20 A. Okay.</p> <p>21 Q. In that section, you didn't quote it; correct?</p> <p>22 So then we've got -- let me just make</p> <p>23 sure --</p> <p>24 A. And what this is, the way that I -- my report</p> <p>10:59 25 has been written, it explains the policy that we're</p>
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<p>1 AR.</p> <p>2 Q. Right. And then you say, "Use of Force," and</p> <p>3 you -- so you go through the various portions of the Use</p> <p>4 of Force policy, including some of the ones that we</p> <p>10:57 5 looked at before.</p> <p>6 You know, you say, "Deputies may use</p> <p>7 reasonable force to overcome resistance in the lawful</p> <p>8 performance of duties, even though there is no immediate</p> <p>9 or apparent danger calling for self-defense."</p> <p>10:57 10 You quote that section?</p> <p>11 A. Uh-huh.</p> <p>12 Q. And then you say, "In each instance of the use</p> <p>13 of force, the officer should exhaust every reasonable</p> <p>14 means of employing the minimum amount of force to affect</p> <p>10:57 15 an objective before escalating to the next, more</p> <p>16 forceful method."</p> <p>17 You use that as part of your justification</p> <p>18 of their shooting; correct?</p> <p>19 A. Uh-huh.</p> <p>10:57 20 Q. And then you say, "However, an officer" --</p> <p>21 A. This is all just quoting policy.</p> <p>22 Q. I know. But this is your justification for why</p> <p>23 they didn't violate policy; correct?</p> <p>24 A. Uh-huh.</p> <p>10:58 25 Q. That's the part of the policy you're saying</p>	<p>1 looking at.</p> <p>2 Q. Okay.</p> <p>3 A. So I'm not --</p> <p>4 Q. That's all right.</p> <p>10:59 5 A. -- sure what the --</p> <p>6 Q. Well, here's my point.</p> <p>7 A. -- question is.</p> <p>8 Q. When you're talking about policy --</p> <p>9 They -- they used deadly force; correct?</p> <p>10:59 10 A. They did.</p> <p>11 Q. So -- but when you're quoting Bexar County</p> <p>12 policy, you don't quote Section 9.10 under -- the</p> <p>13 circumstances under which deadly force can be used;</p> <p>14 correct?</p> <p>10:59 15 A. Okay. I guess not. If it's not on there, then</p> <p>16 no.</p> <p>17 Q. And so you don't quote the portion that says</p> <p>18 that "Once the immediate threat of death or serious</p> <p>19 bodily injury has passed, deadly force cannot be used"?</p> <p>10:59 20 You don't quote that part, do you?</p> <p>21 A. No.</p> <p>22 Q. Okay. Because -- and actually, if you'll look</p> <p>23 at the remainder of your report, that's the next -- the</p> <p>24 very last page, you quote the Penal Code, but you don't</p> <p>11:00 25 quote the other portion of Bexar County policy --</p>

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<p>1 A. Okay.</p> <p>2 Q. -- correct?</p> <p>3 Is there a reason why you didn't quote any</p> <p>4 portion of the policy that deals with the need for</p> <p>11:00 5 immediate threat at the time deadly force is used?</p> <p>6 A. Is there a re -- no, there's not a specific</p> <p>7 reason.</p> <p>8 Q. Do you ever use -- you can look at your entire</p> <p>9 report, ma'am -- and I will ask you, do you ever use the</p> <p>11:00 10 term: They were under an immediate threat of harm at</p> <p>11 the time they decided to pull the trigger?</p> <p>12 A. I don't recall putting that in there. I'll</p> <p>13 review it. But unless you saw that, I don't think I</p> <p>14 wrote that in there.</p> <p>11:00 15 Q. Okay. And you never -- so -- but you never --</p> <p>16 when you say they didn't violate policy, that's not one</p> <p>17 of the conclusions that you've outlined in your report?</p> <p>18 A. Say that again.</p> <p>19 Q. When you decided that they didn't violate</p> <p>11:00 20 policy --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- that was not one of the policies that you</p> <p>23 identified in your report?</p> <p>24 A. No, I didn't identify that policy.</p> <p>11:01 25 Q. Okay. Because they would have to be under that</p>	<p>1 (Reviewing document.)</p> <p>2 No, I don't believe I mention the video --</p> <p>3 Q. Is there a reason why not?</p> <p>4 A. -- the videos.</p> <p>5 No.</p> <p>6 Q. Well, is that not an important piece of</p> <p>7 evidence that needs to be taken into consideration?</p> <p>8 A. That video was reviewed, and it's not</p> <p>9 identified with a specific piece of policy and it's just</p> <p>10 not included. I didn't find it necessary to refer to</p> <p>11 the video.</p> <p>12 Q. Well, that video shows exactly what happened;</p> <p>13 correct?</p> <p>14 A. It shows a view of what happened, yes.</p> <p>11:04 15 Q. Well, it's -- it's a -- it's a --</p> <p>16 A. It doesn't contain everything that happened.</p> <p>17 Q. Well, my point is: At the time of the</p> <p>18 shooting, it's actually caught on video; correct?</p> <p>19 A. Yes.</p> <p>11:04 20 Q. That video shows what happened at the time the</p> <p>21 shooting took place, does it not?</p> <p>22 A. A view of it, yes.</p> <p>23 Q. Okay. What do you mean, "a view of it"?</p> <p>24 A. Well, that video -- I believe the Fleming one</p> <p>11:04 25 is from the house --</p>
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<p>1 immediate threat in order to comply with policy;</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. At the time they pulled the trigger?</p> <p>11:01 5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 A. Which they were.</p> <p>8 Q. We're going to get into that.</p> <p>9 A. Do you need these back or do I hold them?</p> <p>11:01 10 Q. Hold on to those for right now.</p> <p>11 A. Okay.</p> <p>12 Q. Where in here do you mention, in Exhibit 7, the</p> <p>13 Fleming video?</p> <p>14 A. I don't think that I probably identified these</p> <p>11:01 15 videos by name.</p> <p>16 Q. Do you -- do you identify the fact that there</p> <p>17 was a video of the shooting at all in your report?</p> <p>18 A. I don't -- Let me read this. I don't recall.</p> <p>19 (Reviewing document.)</p> <p>11:03 20 I'm trying to just go kind of through</p> <p>21 this.</p> <p>22 Q. Sure.</p> <p>23 A. That way --</p> <p>24 Q. Sure.</p> <p>11:03 25 A. -- I'm not --</p>	<p>1 Q. Uh-huh.</p> <p>2 A. -- right? And so it is a distance away.</p> <p>3 Q. Well, is there anything about that distance</p> <p>4 which says it's not accurate as to what happened?</p> <p>11:04 5 A. Only movement.</p> <p>6 Q. In what way?</p> <p>7 A. I think there's con -- been a question already</p> <p>8 about movement.</p> <p>9 Q. Well, what -- well, you said you saw the video.</p> <p>11:05 10 A. Uh-huh.</p> <p>11 Q. So are you saying that that distance means</p> <p>12 there could be movement that's not depicted?</p> <p>13 A. Yes.</p> <p>14 Q. And based upon what do you say that?</p> <p>11:05 15 A. Well, because of the distance of the video.</p> <p>16 Q. Do you have any technical knowledge to say --</p> <p>17 A. No --</p> <p>18 Q. -- that that's --</p> <p>19 A. -- I do not.</p> <p>11:05 20 Q. -- the case?</p> <p>21 A. Huh-uh.</p> <p>22 Q. Do you have any sort of analysis that the Bexar</p> <p>23 County Sheriff's Department has done that, reached the</p> <p>24 conclusion that because of the distance of the Fleming</p> <p>11:05 25 video there was movement that's not depicted on the</p>

<p style="text-align: right;">Page 109</p> <p>1 video?</p> <p>2 A. Is there anything that says that?</p> <p>3 Q. Any analysis you did as a result of your</p> <p>4 investigation.</p> <p>11:05 5 A. Not -- no.</p> <p>6 Q. Or that anybody -- as any part of the criminal</p> <p>7 investigation that you were aware of, did Bexar County</p> <p>8 ever say, "That Fleming video is of such a distance that</p> <p>9 there has to have been movement that's just not seen"?</p> <p>11:05 10 A. I don't know if anyone says that. Not that I</p> <p>11 know of.</p> <p>12 Q. And you didn't see that as part of your</p> <p>13 investigation that you reviewed?</p> <p>14 A. I reviewed the video. And you're asking me if</p> <p>11:05 15 I had that in my report, did I include it? I answered,</p> <p>16 no, I did not. I didn't include it. I didn't feel that</p> <p>17 it was necessary in my report to speak specifically</p> <p>18 about the video.</p> <p>19 Q. Well, or -- well, that really wasn't my</p> <p>11:06 20 question.</p> <p>21 My question was: You said that in your</p> <p>22 opinion the video -- there could be movement --</p> <p>23 A. That was --</p> <p>24 Q. -- that's not --</p> <p>11:06 25 A. -- after you said that, but, yes.</p>	<p style="text-align: right;">Page 111</p> <p>1 A. Uh-huh.</p> <p>2 Q. And during the course of that, he gets shot?</p> <p>3 A. Right.</p> <p>4 Q. All right. Now, did you ever do a</p> <p>11:07 5 determination as to what the actual distance was?</p> <p>6 A. No.</p> <p>7 Q. Did you see that Bexar County did a</p> <p>8 determination as to what the actual distance was?</p> <p>9 A. The actual specific distance, I don't remember.</p> <p>11:08 10 Yes, I know that they mapped it out.</p> <p>11 Q. And they mapped it out, and it was in excess of</p> <p>12 20 feet; correct?</p> <p>13 A. What was the exact feet? Because I don't</p> <p>14 recall that.</p> <p>11:08 15 Q. Well, I don't know if I have that with me.</p> <p>16 I'll see. Oh, yeah, I do.</p> <p>17 Ignore -- I'm not going to mark this as an</p> <p>18 exhibit because we already have it and it has notes on</p> <p>19 the bottom. (Indicating.)</p> <p>11:08 20 But do you remember seeing the photograph</p> <p>21 like that?</p> <p>22 A. Uh-huh.</p> <p>23 Q. And that's the actual mapping; right?</p> <p>24 A. Well, yeah, the Leica, the production of a</p> <p>11:08 25 Leica.</p>
<p style="text-align: right;">Page 110</p> <p>1 Q. Okay. Right. Okay. Who told you that?</p> <p>2 A. I watched that video over and over and over --</p> <p>3 Q. Okay.</p> <p>4 A. -- several times. And to me does it look like</p> <p>11:06 5 there's movement? Yes, it looks like there's movement.</p> <p>6 Can I make that determination from that</p> <p>7 video? Not really.</p> <p>8 Q. All right. Now, when you read Officer</p> <p>9 Vasquez's statement --</p> <p>11:06 10 A. Uh-huh.</p> <p>11 Q. -- what does he say about what Gilbert Flores</p> <p>12 is doing at the time he decided to pull the trigger?</p> <p>13 A. (Reviewing document.)</p> <p>14 He says, "While still holding the knife in</p> <p>11:07 15 his hand, (unknown -- unknown hand). The male started</p> <p>16 advancing towards Deputy Sanchez and me. I would say</p> <p>17 the male was about 6 to 8 feet away from us. Knowing</p> <p>18 the situation had kept escalating, I believed it was the</p> <p>19 male's intent to kill me."</p> <p>11:07 20 Q. Okay. So what is your impression of what</p> <p>21 Mr. Flores is doing at the time Mr. -- Deputy Vasquez</p> <p>22 decides to pull the trigger?</p> <p>23 A. Well, from his statement it says that he's</p> <p>24 advancing towards him.</p> <p>11:07 25 Q. And he's 6 to 8 feet away?</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. And that actually shows that the distance for</p> <p>2 both Officer Sanchez and Officer Vasquez is in excess of</p> <p>3 20 feet; correct?</p> <p>4 A. Correct.</p> <p>11:08 5 Q. Okay. So we do know that the actual distance</p> <p>6 was not 6 to 8 feet away; correct?</p> <p>7 A. Correct.</p> <p>8 Q. All right. So when you saw this mapping and</p> <p>9 you saw Vasquez's statement that he was 6 to 8 feet</p> <p>11:09 10 away, did you not think there was a discrepancy?</p> <p>11 A. No.</p> <p>12 Q. Why not?</p> <p>13 A. Because in these type of situations it's been</p> <p>14 seen often before where officers miscalculate how far</p> <p>11:09 15 away they are from things, they don't hear things that</p> <p>16 are said, they can't remember specific things about the</p> <p>17 incident.</p> <p>18 So in reviewing this, I don't think he was</p> <p>19 lying by saying he was this close or that close. Maybe</p> <p>11:09 20 his perception was different of it.</p> <p>21 Q. All right. So his perception is wrong;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. His perception is off by 14 feet --</p> <p>11:09 25 A. Uh-huh.</p>

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<p>1 Q. -- or so?</p> <p>2 But you don't think he's lying about it</p> <p>3 because of the circumstances; is that a fair --</p> <p>4 A. Right. I don't --</p> <p>11:09 5 Q. -- characterization of what --</p> <p>6 A. Yeah.</p> <p>7 Q. -- you're saying?</p> <p>8 A. I don't think he's lying about it. I think</p> <p>9 that's what he thought at the time.</p> <p>11:09 10 Q. Okay. All right. But his thought and his</p> <p>11 perception is factually incorrect; would you agree with</p> <p>12 that?</p> <p>13 A. I guess so, but that's still --</p> <p>14 Q. Okay.</p> <p>11:09 15 A. I don't believe he's lying.</p> <p>16 Q. I understand that. But we are in agreement</p> <p>17 that his perception is factually wrong?</p> <p>18 A. Well, I don't agree that -- Yeah, yeah.</p> <p>19 He's -- he says he's this far away and this mapping</p> <p>11:10 20 shows that he's a different distance away.</p> <p>21 But I don't think that he's lied,</p> <p>22 intentionally lied to say -- I think his -- his</p> <p>23 interpretation of how far away was incorrect because of</p> <p>24 the amount of stress he was under at that particular</p> <p>11:10 25 moment.</p>	<p>1 threat is higher than it really is?</p> <p>2 MR. SAENZ: Objection; form.</p> <p>3 MR. LOPEZ: Yeah. That calls for</p> <p>4 speculation.</p> <p>11:11 5 A. I don't know. They may. I don't know. They</p> <p>6 may not.</p> <p>7 Q. (By Mr. Wilson) Have you ever heard of the</p> <p>8 21-foot rule when it comes to a knife?</p> <p>9 A. Yes, I've participated in some of those</p> <p>11:11 10 examples.</p> <p>11 Q. And what are you taught in relation to the</p> <p>12 21-foot rule?</p> <p>13 A. Well, every circumstance -- again, I say the</p> <p>14 same thing. Every circumstance is different.</p> <p>11:11 15 If we're in a class of 20 people, some of</p> <p>16 those people will shoot the person within 21 feet when</p> <p>17 they're coming at them with a knife and some will not.</p> <p>18 Q. Does -- does -- Okay.</p> <p>19 MR. WILSON: Object to the</p> <p>11:11 20 nonresponsiveness of that answer.</p> <p>21 Q. (By Mr. Wilson) My question is: What were you</p> <p>22 taught in terms of 21-foot rule?</p> <p>23 A. Within 21 feet, someone can harm you, they can</p> <p>24 kill you, they can cause risk of serious bodily injury,</p> <p>11:12 25 and outside of 20 feet as well.</p>
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<p>1 MR. WILSON: Object to the nonresponsive</p> <p>2 portion of that answer.</p> <p>3 Q. (By Mr. Wilson) I think we are -- I'm just</p> <p>4 going to -- we are in agreement that the way that Deputy</p> <p>11:10 5 Vasquez wrote his statement and the perception that he</p> <p>6 wrote into his statement, that perception is wrong,</p> <p>7 factually?</p> <p>8 A. That's your -- that's your opinion of it. I</p> <p>9 don't agree that -- I mean --</p> <p>11:10 10 Q. I --</p> <p>11 A. -- is it -- was it 6 to 8 feet? No --</p> <p>12 Q. Okay. That's --</p> <p>13 A. -- it wasn't.</p> <p>14 Q. -- all I'm getting at.</p> <p>11:10 15 A. Okay.</p> <p>16 Q. His perception is factually wrong --</p> <p>17 A. Okay.</p> <p>18 Q. -- right?</p> <p>19 A. 6 to 8 feet away, he was not 6 to 8 feet away.</p> <p>11:11 20 Q. Which means that the level of threat is</p> <p>21 sometimes based upon the distance that someone is away</p> <p>22 from you; correct?</p> <p>23 A. Could be.</p> <p>24 Q. So if someone is thinking that they're closer</p> <p>11:11 25 than they really are, then they think that the level of</p>	<p>1 Q. So you were taught it didn't matter?</p> <p>2 A. Well, I wasn't taught it didn't matter.</p> <p>3 Q. Okay. Well, I think that's the -- I don't want</p> <p>4 that impression left.</p> <p>11:12 5 MR. LOPEZ: Well --</p> <p>6 Q. (By Mr. Wilson) You were taught that --</p> <p>7 MR. LOPEZ: Hold on then. I'll make an</p> <p>8 objection. Argumentative.</p> <p>9 Q. (By Mr. Wilson) My question is, ma'am: When</p> <p>11:12 10 you were taught about the 21-foot rule, that is the</p> <p>11 rule-of-thumb distance that someone with a knife can</p> <p>12 close that distance before an officer can unholster his</p> <p>13 weapon and -- and shoot the officer to -- shoot the</p> <p>14 suspect to protect himself; correct?</p> <p>11:12 15 MR. LOPEZ: I -- I --</p> <p>16 A. Yes, that can happen.</p> <p>17 Q. (By Mr. Wilson) Okay. So -- and that's</p> <p>18 basically an idea of telling an officer, this is the</p> <p>19 threat level, when a person with a knife is within</p> <p>11:12 20 21 feet, you need to understand they can close that</p> <p>21 distance in the time it would take you to unholster your</p> <p>22 weapon and stop that threat; correct?</p> <p>23 A. But, more importantly, they tell you someone</p> <p>24 with the knife is the threat. It doesn't -- if that guy</p> <p>11:12 25 runs faster than the other guy, it might be 25 feet.</p>

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<p>1 I'm -- I'm not going to answer specifically to that to</p> <p>2 say, yes, they're outside of 21 feet.</p> <p>3 Q. I'm not trying --</p> <p>4 A. I mean --</p> <p>11:13 5 Q. I'm not trying to get to that. My point is --</p> <p>6 A. But that's what it sounds like. But, I mean,</p> <p>7 I'm not going to get to that.</p> <p>8 MR. LOPEZ: Well, yeah. And it's</p> <p>9 argumentative.</p> <p>11:13 10 Q. (By Mr. Wilson) Let me ask --</p> <p>11 MR. LOPEZ: And it mischaracterizes her</p> <p>12 understanding of what was taught --</p> <p>13 MR. WILSON: I -- I --</p> <p>14 MR. LOPEZ: -- which is different from</p> <p>11:13 15 your definition.</p> <p>16 Q. (By Mr. Wilson) Ma'am, obviously you're taught</p> <p>17 that distance so that you can determine the amount of</p> <p>18 threat you're under; correct?</p> <p>19 A. Well, at that distance you're taught that that</p> <p>11:13 20 could be a substantial risk, but that's not</p> <p>21 all-inclusive as to 21 feet.</p> <p>22 Q. So you're taught that a person with a knife</p> <p>23 who's 21 feet away can close that distance; therefore,</p> <p>24 you can consider them to be an immediate threat?</p> <p>11:13 25 MR. LOPEZ: Hold on. Don't answer that</p>	<p>1 Were these exact measurements? I mean --</p> <p>2 Q. Well, the investigation done by Bexar County,</p> <p>3 the mapping done by Bexar County --</p> <p>4 A. Uh-huh.</p> <p>11:14 5 Q. -- attempting to reflect how far away</p> <p>6 Mr. Flores was shows in excess of 20 feet.</p> <p>7 A. Yes. On this page, that's exactly what it</p> <p>8 shows.</p> <p>9 Q. And --</p> <p>11:14 10 A. And it is more than 6 to 8 feet away.</p> <p>11 Q. Okay. And, of course, if a person with a knife</p> <p>12 is 6 to 8 feet away, they are more of a threat than</p> <p>13 someone who is more than 20 feet away; would you agree</p> <p>14 with that?</p> <p>11:15 15 A. Under certain circumstances, they could be.</p> <p>16 Q. Okay. I'm not marking that, so --</p> <p>17 A. Okay.</p> <p>18 Q. Because we already have that.</p> <p>19 A. (Indicating.)</p> <p>11:15 20 Q. In addition to that, Officer Vasquez says he</p> <p>21 was advancing towards them; correct?</p> <p>22 A. Yes, he did.</p> <p>23 Q. Now, how did you interpret "advancing"?</p> <p>24 A. Movement.</p> <p>11:15 25 Q. Okay. So was it your interpretation of that</p>
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<p>1 question.</p> <p>2 You have asked and answered. You're just</p> <p>3 rephrasing the -- the -- the question. If you want to</p> <p>4 ask her that particular question, but don't rephrase her</p> <p>11:13 5 answer, because you're -- you're misleading her by</p> <p>6 rephrasing her answer. That's not what she said.</p> <p>7 And we keep going -- doing this over and</p> <p>8 over and over. I don't know why that is necessary.</p> <p>9 Q. (By Mr. Wilson) I'm trying to get your</p> <p>11:14 10 understanding of what -- and the reason why I keep</p> <p>11 asking the question is because you add words like</p> <p>12 "maybe" and "could be."</p> <p>13 MR. LOPEZ: Well, that's part of the</p> <p>14 answer. That's the answer.</p> <p>11:14 15 MR. WILSON: Fair enough.</p> <p>16 Q. (By Mr. Wilson) So in this particular</p> <p>17 instance, you understood that Mr. -- that Deputy Vasquez</p> <p>18 wrote his report, based upon his perception, Mr. Flores</p> <p>19 was 6 to 8 feet away, when in reality, when the</p> <p>11:14 20 investigation was conducted, he was at least 20-plus</p> <p>21 feet away; correct?</p> <p>22 A. Well, he was more than 6 to 8 feet away, yes.</p> <p>23 I understand that's not what you asked,</p> <p>24 but that's what I'm answering to. He -- he was more</p> <p>11:14 25 than 6 to 8 feet away.</p>	<p>1 statement that Officer Vasquez is attempting to say</p> <p>2 Mr. Flores was moving towards them and had closed that</p> <p>3 gap to 6 to 8 feet away and that's why they shot him?</p> <p>4 A. I don't think that's the only reason. I think</p> <p>11:15 5 as a whole, yes.</p> <p>6 Q. But as far as when they decided to pull the</p> <p>7 trigger --</p> <p>8 A. Uh-huh.</p> <p>9 Q. -- the impression left from that statement is</p> <p>11:16 10 he's got a knife, he's moving towards us, and he's 6 to</p> <p>11 8 feet away, so we shot him?</p> <p>12 MR. LOPEZ: Okay. Are you asking --</p> <p>13 MR. WILSON: Or Vas -- Vasquez.</p> <p>14 MR. LOPEZ: -- Vasquez's impression or her</p> <p>11:16 15 impression? Because you're -- you're mixing both of</p> <p>16 them. And I'm going to object that it's confusing, it's</p> <p>17 vague.</p> <p>18 Q. (By Mr. Wilson) When you read that</p> <p>19 statement --</p> <p>11:16 20 A. Uh-huh.</p> <p>21 Q. -- was your impression that Officer Vasquez is</p> <p>22 saying: He's got a knife, he's moving towards us, he's</p> <p>23 6 -- when he gets 6 to 8 feet from us, we decide -- I</p> <p>24 decide to shoot him?</p> <p>11:16 25 A. Well, I see that he says, "The male started</p>

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<p>1 advancing."</p> <p>2 The only thing, when I read this statement</p> <p>3 or any statement, being involved in these type of</p> <p>4 situations, I understand that they don't go exactly</p> <p>11:16 5 frame by frame by frame.</p> <p>6 So if it's 2 seconds before that we're</p> <p>7 comparing this video to and he says, "The male started</p> <p>8 advancing towards me," then, again, I think we're trying</p> <p>9 to say, "Oh, he's lying or he's not lying."</p> <p>11:16 10 The male did advance towards him. And at</p> <p>11 this specific moment he says he's still holding the</p> <p>12 knife. That's what I look at, he's -- he's still</p> <p>13 holding the knife, with the totality of the</p> <p>14 circumstances. And if he started moving towards them --</p> <p>11:17 15 Q. What if he's not moving towards them at the</p> <p>16 time they pull --</p> <p>17 A. He still has the knife in his hand. That's the</p> <p>18 other question --</p> <p>19 Q. Let me rephrase my qu --</p> <p>11:17 20 A. -- that we're talking about.</p> <p>21 Q. Let me finish my question, please, ma'am.</p> <p>22 A. Uh-huh.</p> <p>23 Q. What if he's not moving towards the officers at</p> <p>24 the time they decided to pull the trigger?</p> <p>11:17 25 A. Okay.</p>	<p>1 didn't," because that's not the way our policy -- you</p> <p>2 have to read the whole entire policy in order to -- to</p> <p>3 get it.</p> <p>4 Q. Ma'am, is it fair to say that if an officer</p> <p>11:18 5 uses deadly force when there is no immediate threat --</p> <p>6 A. When they --</p> <p>7 Q. Let me finish my question.</p> <p>8 A. Okay.</p> <p>9 Q. If an officer uses deadly force when there is</p> <p>11:18 10 no immediate threat of harm to that officer, that would</p> <p>11 be a violation of policy?</p> <p>12 A. The immediate threat is the knife.</p> <p>13 Q. That wasn't my question, ma'am. Please listen</p> <p>14 to my question.</p> <p>11:18 15 A. Okay.</p> <p>16 Q. If an officer uses force, deadly force, when</p> <p>17 there is no immediate threat of harm to that officer or</p> <p>18 a third party, that's a violation of policy?</p> <p>19 A. It depends on the circumstances surrounding</p> <p>20 that.</p> <p>11:18 21 Q. That's --</p> <p>22 A. I understand the question.</p> <p>23 Q. I'm quoting the policy.</p> <p>24 A. Okay. And I've explained, too, the policy is</p> <p>11:19 25 not line by line. I mean, I don't know if we can agree</p>
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<p>1 Q. The mere fact that he has the knife and based</p> <p>2 upon everything that had happened in the past is enough?</p> <p>3 A. Yeah, at that point.</p> <p>4 Q. Okay. So even -- so it's your testimony that</p> <p>11:17 5 even though Officer Vasquez leaves the impression that</p> <p>6 he's moving towards them when in reality if he's not,</p> <p>7 you're okay with that?</p> <p>8 A. No, no. Don't -- don't try and turn my words</p> <p>9 around. I don't like that. I've already explained this</p> <p>11:17 10 to you.</p> <p>11 Q. Okay.</p> <p>12 A. We've gone over the knife in his hand. That is</p> <p>13 the threat.</p> <p>14 Q. Okay.</p> <p>11:17 15 A. Okay.</p> <p>16 Q. So --</p> <p>17 A. When I do my investigation, this is a review.</p> <p>18 I don't redo the criminal investigation.</p> <p>19 You're asking me, I think, questions that</p> <p>11:18 20 maybe you should be asking somebody else. Those -- some</p> <p>21 of those questions you're asking me are not what I would</p> <p>22 specifically deal with.</p> <p>23 When I do the policy violations I look at</p> <p>24 the policy as a whole. I don't go one line by one line</p> <p>11:18 25 and say, you know, "Yes, they did this" or "No, they</p>	<p>1 to disagree, but --</p> <p>2 Q. We certainly --</p> <p>3 A. -- my --</p> <p>4 Q. We certain --</p> <p>11:19 5 A. -- answer isn't going to --</p> <p>6 MR. LOPEZ: I think if you ask her to -- a</p> <p>7 quote on policy and ask her to disregard the other parts</p> <p>8 of the policy, maybe you can narrow what you're trying</p> <p>9 to --</p> <p>11:19 10 Q. (By Mr. Wilson) Well, then let's do it this</p> <p>11 way: You're telling me that based upon the totality of</p> <p>12 the circumstances, even if there is no immediate threat</p> <p>13 of harm to the officer or third party at the time he</p> <p>14 uses deadly force, he's still acting within policy?</p> <p>11:19 15 A. If there was no immediate threat and all of the</p> <p>16 other stuff had already happened?</p> <p>17 Q. Yeah. Is that a violation of policy?</p> <p>18 A. It could be, depending on all of the</p> <p>19 circumstances.</p> <p>20 Again, I'm not -- I'm not going to narrow</p> <p>21 it down to one little specific incident without having</p> <p>22 factual details. I didn't look at one portion of my</p> <p>23 investigation and say, "Oh, they're clear."</p> <p>24 Q. So it's your --</p> <p>11:19 25 A. So I'm not going to do that now to answer</p>

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<p>1 one -- one question about it.</p> <p>2 Q. Okay. I am really talking about a more general</p> <p>3 question regarding Bexar County policy over which you</p> <p>4 have the obligation to investigate --</p> <p>11:20 5 A. Right.</p> <p>6 Q. -- and determine whether it's violated.</p> <p>7 A. Right. And you've asked me that over and over</p> <p>8 if --</p> <p>9 MR. LOPEZ: Yeah.</p> <p>11:20 10 A. -- if they were justified at that --</p> <p>11 MR. LOPEZ: And I agree with the witness.</p> <p>12 A. -- specific time, and I've said over and over</p> <p>13 they were justified --</p> <p>14 MR. LOPEZ: Ask -- ask a different</p> <p>11:20 15 question or otherwise I'm going to ask the witness not</p> <p>16 to -- to -- not to answer the question.</p> <p>17 Q. (By Mr. Wilson) Well, I guess -- here's, I</p> <p>18 guess, what I'm getting confused about -- and maybe it's</p> <p>19 my fault, ma'am. I apologize.</p> <p>11:20 20 MR. LOPEZ: Well, it's not -- you're not</p> <p>21 confused. Nobody is confused. You know, you're just</p> <p>22 going -- it's a circular argument.</p> <p>23 MR. WILSON: It's -- Mr. Lopez, I object</p> <p>24 to the sidebar.</p> <p>11:20 25 MR. LOPEZ: Well --</p>	<p>1 Q. (By Mr. Wilson) -- next to the car --</p> <p>2 MR. LOPEZ: -- the Fleming video? I mean,</p> <p>3 you said that that's the slow-motion video that we</p> <p>4 produced or that's the Fleming video that you are</p> <p>11:21 5 playing in slow motion?</p> <p>6 MR. WILSON: The Fleming video I'm playing</p> <p>7 in slow motion.</p> <p>8 MR. LOPEZ: Okay. Because we didn't</p> <p>9 produce a video in slow motion.</p> <p>11:21 10 MR. WILSON: Okay. You've produced an</p> <p>11 FBI-enhanced. Right.</p> <p>12 MR. LOPEZ: Okay.</p> <p>13 MR. WILSON: Right.</p> <p>14 (Video playing.)</p> <p>11:21 15 Q. (By Mr. Wilson) So here's a slow-motion</p> <p>16 version of the Fleming video.</p> <p>17 Now, do you see Officer Vasquez and</p> <p>18 Officer Sanchez?</p> <p>19 A. I do.</p> <p>11:21 20 Q. Okay. Now, they haven't pulled the trigger</p> <p>21 yet. At this particular point, is Mr. Flores advancing</p> <p>22 towards them?</p> <p>23 A. No.</p> <p>24 Q. Okay. At this particular point, is he 6 to 8</p> <p>11:21 25 feet away?</p>
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<p>1 MR. WILSON: It's --</p> <p>2 MR. LOPEZ: That's my objection. It's a</p> <p>3 circular argument that you're making.</p> <p>4 MR. WILSON: It's not. In all honesty,</p> <p>11:20 5 the circular arguments come from the other side of this</p> <p>6 table, so --</p> <p>7 MR. SAENZ: Objection to the sidebar.</p> <p>8 MR. WILSON: -- you know --</p> <p>9 Q. (By Mr. Wilson) I'm going to show you -- this</p> <p>11:20 10 is the slow-motion video -- slow-motion version of the</p> <p>11 Fleming video that was given to us by Bexar County. All</p> <p>12 right.</p> <p>13 A. Okay.</p> <p>14 (Video playing.)</p> <p>11:20 15 Q. Have you reviewed the slow-motion version?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Do you see Officer Sanchez?</p> <p>18 A. I do.</p> <p>19 Q. Do you see -- Well, Officer Vasquez is not</p> <p>11:21 20 seen in this particular clip, but he's off by the car.</p> <p>21 You understand that?</p> <p>22 A. Okay. Yes.</p> <p>23 Q. You see Mr. Flores' head? You see that; right?</p> <p>24 I don't know if you can see it, but isn't his head --</p> <p>11:21 25 MR. LOPEZ: Is that --</p>	<p>1 A. No.</p> <p>2 Q. All right. So the immediate threat --</p> <p>3 A. At this point, does he have the knife in his</p> <p>4 hand?</p> <p>11:22 5 Q. Yes.</p> <p>6 A. Okay.</p> <p>7 Q. So even though he's not advancing at this point</p> <p>8 and he is not 6 to 8 feet away, your determination of</p> <p>9 the immediate threat would be what?</p> <p>11:22 10 A. That he has a knife in his hand.</p> <p>11 Q. Okay. So standing still like that, with his</p> <p>12 hands up, more than 6 to 8 feet away, is enough of an</p> <p>13 immediate threat in your opinion to use deadly force and</p> <p>14 not be a violation of Bexar County policy?</p> <p>11:22 15 A. With the totality of the circumstances, yes --</p> <p>16 Q. Okay.</p> <p>17 A. -- I do.</p> <p>18 Q. All right. So, now, what does he do --</p> <p>19 A. He lowers his hands.</p> <p>11:22 20 Q. Before or after he's shot?</p> <p>21 A. It's too quick to tell.</p> <p>22 Q. Actually, you can.</p> <p>23 A. I mean, you can slow it down. I've watched</p> <p>24 this video several times myself.</p> <p>11:22 25 Q. Uh-huh.</p>

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<p>1 A. And in my opinion of the video, his hands start</p> <p>2 to move down.</p> <p>3 Q. Well, did you ever make that determination as</p> <p>4 to whether that was in response to being shot in the</p> <p>11:23 5 groin or was it beforehand?</p> <p>6 A. Well, from the video that I received and the</p> <p>7 best way that I could look at that video --</p> <p>8 Q. Okay. Tell me what part of his hands move</p> <p>9 before he's shot.</p> <p>11:23 10 A. Okay. The -- the problem with this video is</p> <p>11 that if he did make the slightest movement -- and I know</p> <p>12 it's going to be, "Well, they didn't say that" or</p> <p>13 whatever -- if he did lower his hands, you're not going</p> <p>14 to be able to see it from where that video was taken.</p> <p>11:23 15 And I understand -- I mean, the officer</p> <p>16 doesn't say that. That's what I saw when I watched the</p> <p>17 video. The point of it is he still has the knife in his</p> <p>18 hand.</p> <p>19 Q. Ma'am, I understand. Let me get to my</p> <p>11:23 20 question. Okay?</p> <p>21 MR. WILSON: I object to that as being</p> <p>22 nonresponsive. There was no question pending.</p> <p>23 (Video playing.)</p> <p>24 Q. (By Mr. Wilson) This is the actual Fleming</p> <p>11:23 25 video, ma'am.</p>	<p>1 Q. Ma'am, just let me finish my question.</p> <p>2 At the time he is shot, he is not</p> <p>3 advancing towards the officers; correct?</p> <p>4 MR. LOPEZ: That question was asked and</p> <p>11:24 5 answered.</p> <p>6 Q. (By Mr. Wilson) Yet Mr. -- Deputy Vasquez says</p> <p>7 that at the time he shot, he was advancing towards the</p> <p>8 officers.</p> <p>9 Now, does that -- in your mind, you're</p> <p>11:25 10 saying that that is not a discrepancy in his statement</p> <p>11 versus what the video shows; correct?</p> <p>12 MR. LOPEZ: Objection; asked and answered.</p> <p>13 Q. (By Mr. Wilson) You can answer.</p> <p>14 MR. LOPEZ: For the last time. Go ahead.</p> <p>11:25 15 A. So say it again. I'm sorry.</p> <p>16 Q. (By Mr. Wilson) Yes.</p> <p>17 A. I was listening to you guys.</p> <p>18 Q. You said -- you just acknowledged that on that</p> <p>19 video at the time he's shot he's not advancing towards</p> <p>11:25 20 the officers?</p> <p>21 A. Right. It doesn't look like he's moving --</p> <p>22 Q. Deputy --</p> <p>23 A. -- in that video.</p> <p>24 Q. Deputy Vasquez says he was advancing towards</p> <p>11:25 25 them.</p>
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<p>1 A. Okay.</p> <p>2 Q. Look at this video. You've said you've</p> <p>3 reviewed it many times.</p> <p>4 A. Uh-huh.</p> <p>11:24 5 Q. At this point, Mr. Flores is not advancing</p> <p>6 towards them, is he?</p> <p>7 A. No.</p> <p>8 Q. Okay. All right. So what Mr. -- what Officer</p> <p>9 Vasquez tells you in his statement is incorrect? At the</p> <p>11:24 10 time of the shooting he's not advancing, is he?</p> <p>11 MR. SAENZ: Objection; form.</p> <p>12 A. That's what I don't agree -- I don't -- I'm not</p> <p>13 going to say, yes, he was, or, no, he wasn't because if</p> <p>14 he started to move --</p> <p>11:24 15 Was he within 6 to 8 feet? No. We've</p> <p>16 already gone over that.</p> <p>17 If he started to move to cause that</p> <p>18 reaction, overall, he still had the knife in his hand.</p> <p>19 MR. WILSON: Well, object as being</p> <p>11:24 20 nonresponsive.</p> <p>21 Q. (By Mr. Wilson) My question -- my question was</p> <p>22 very simple.</p> <p>23 A. Okay.</p> <p>24 Q. You've already said at the time --</p> <p>11:24 25 A. And I've already answered the same question.</p>	<p>1 A. He says -- see, but I don't -- I don't -- I</p> <p>2 don't like to answer that question because, again, I</p> <p>3 know that when these officers -- not particularly these</p> <p>4 officers, any officers in that situation, they don't go</p> <p>11:25 5 frame by frame by frame by frame by frame.</p> <p>6 So he -- I don't see where he says, "He</p> <p>7 took a step and was 6 to 8 feet from me and that is</p> <p>8 exactly when I pulled the trigger." So I don't agree</p> <p>9 with the question that you're asking me.</p> <p>10 Q. My question --</p> <p>11 MR. WILSON: I object to that as being</p> <p>12 nonresponsive.</p> <p>13 Q. (By Mr. Wilson) Deputy Vasquez says "He was</p> <p>14 advancing towards us"; correct?</p> <p>11:26 15 A. Yes.</p> <p>16 Q. At the time he was shot, he was not; correct?</p> <p>17 A. On that video you're showing me, no.</p> <p>18 Q. Okay. So to the extent that Officer Vasquez is</p> <p>19 indicating in his statement, at the time he pulled the</p> <p>11:26 20 trigger, Mr. Flores was advancing towards them, that</p> <p>21 statement is incorrect?</p> <p>22 MR. LOPEZ: I have --</p> <p>23 MR. SAENZ: Objection; form.</p> <p>24 MR. LOPEZ: I have -- she answered that</p> <p>11:26 25 question. Asked and answered.</p>

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<p>1 You don't have to answer it again.</p> <p>2 Q. (By Mr. Wilson) Okay. So you -- when you</p> <p>3 viewed the video, you didn't go back and try to say --</p> <p>4 and ask Mr. -- Deputy Vasquez what he meant by the term</p> <p>11 : 26 5 "advancing"?</p> <p>6 A. No, I did not.</p> <p>7 Q. And when you saw that video, you didn't try to</p> <p>8 determine from Mr. -- Deputy Vasquez again what the</p> <p>9 sequence of events was, what he meant when he was</p> <p>11 : 26 10 saying, "He was advancing towards us and was 6 to 8 feet</p> <p>11 away and we decided to pull the trigger"?</p> <p>12 A. No, I did not.</p> <p>13 Q. You didn't go back and try to clear up any</p> <p>14 apparent discrepancies between the video and the</p> <p>11 : 26 15 statement?</p> <p>16 A. I did not.</p> <p>17 Q. Okay. And so now -- what you're basically</p> <p>18 saying now is, even though the video doesn't reflect it,</p> <p>19 there must have been some movement that Deputy Vasquez</p> <p>11 : 27 20 saw?</p> <p>21 A. Well, I'm not saying anything that -- what he</p> <p>22 did or didn't. I wasn't there. I don't know what he</p> <p>23 saw.</p> <p>24 Q. So Deputy Vasquez doesn't say anywhere in his</p> <p>11 : 27 25 statement, "Flores was standing still with his hands up,</p>	<p>1 circumstances; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So what you're telling me is that, based</p> <p>4 upon this video, when a man is standing with his hands</p> <p>11 : 28 5 up and he's not advancing towards an officer, if that</p> <p>6 officer believes he's under threat based upon everything</p> <p>7 that happened before then, under that circumstances at</p> <p>8 that time he could shoot them, pull the trigger?</p> <p>9 A. With a knife in his hand.</p> <p>11 : 28 10 Q. That's what you're telling me? Yeah, with a</p> <p>11 knife in his hand.</p> <p>12 A. But, yeah. I mean, I just -- because you said</p> <p>13 the whole statement again and left that part out.</p> <p>14 Yes. Mine --</p> <p>11 : 28 15 Q. Okay.</p> <p>16 A. Mine is based on an overall circumstance --</p> <p>17 Q. Okay.</p> <p>18 A. -- of everything.</p> <p>19 Q. So what you're telling me is that the immediate</p> <p>11 : 28 20 threat that existed to Officer Vasquez and Officer</p> <p>21 Sanchez at the time they pulled the trigger was</p> <p>22 equivalent to the immediate threat that existed in other</p> <p>23 parts of this event?</p> <p>24 MR. LOPEZ: I'm going to objection --</p> <p>11 : 28 25 object to the question. Vague, argumentative and</p>
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<p>1 but his arm moved towards me and, therefore, we thought</p> <p>2 he was going to do -- do us harm"?</p> <p>3 MR. LOPEZ: Objection; argumentative.</p> <p>4 MR. SAENZ: Same objection.</p> <p>11 : 27 5 Q. (By Mr. Wilson) He doesn't say that, does he?</p> <p>6 A. He says, "I believe it was the male's intent to</p> <p>7 kill me."</p> <p>8 Q. Based --</p> <p>9 A. "I fired one round at the male."</p> <p>11 : 27 10 Q. What is -- when you read that statement, what</p> <p>11 is the intent to kill based upon, what actions of</p> <p>12 Mr. Flores?</p> <p>13 A. I don't know. I can't answer that.</p> <p>14 MR. LOPEZ: Yeah. I'm going to object</p> <p>11 : 27 15 as --</p> <p>16 A. He wrote this report. I didn't.</p> <p>17 MR. LOPEZ: -- speculation.</p> <p>18 Q. (By Mr. Wilson) Well, but, ma'am, you have an</p> <p>19 obligation to --</p> <p>11 : 27 20 A. I do. And my obligation is to say whether they</p> <p>21 violated the policy.</p> <p>22 Q. Okay. Let me finish my question.</p> <p>23 That policy says their fear has to be</p> <p>24 based upon objective reasonable facts that a reasonably</p> <p>11 : 27 25 prudent officer would fear under the same or similar</p>	<p>1 compound --</p> <p>2 MR. SAENZ: Same objection.</p> <p>3 MR. LOPEZ: -- and mischaracterizes her --</p> <p>4 his -- her testimony.</p> <p>11 : 28 5 Q. (By Mr. Wilson) Ma'am, earlier we had</p> <p>6 indicated there is a contin -- there is a -- different</p> <p>7 levels of force during the course of an event; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And that the officer has an obligation to</p> <p>11 : 29 10 continually recalculate the level of force so he can</p> <p>11 make a determination as to what force he can use under</p> <p>12 the circumstances; correct?</p> <p>13 A. Yes.</p> <p>14 Q. He has to be able to determine the threat that</p> <p>11 : 29 15 exists at the time he makes the determination to use the</p> <p>16 force; correct?</p> <p>17 MR. LOPEZ: Objection; asked and answered.</p> <p>18 Q. (By Mr. Wilson) Now, you understand that?</p> <p>19 A. Uh-huh.</p> <p>11 : 29 20 Q. So if four minutes earlier Deputy Vasquez was</p> <p>21 in a physical altercation with officer -- with</p> <p>22 Mr. Flores, are you telling me that that altercation</p> <p>23 four minutes earlier would justify shooting him later</p> <p>24 just because he's still holding a knife?</p> <p>11 : 29 25 A. With the fact that he tried to kill him with a</p>

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<p>1 knife earlier and he still has the hand -- his knife in</p> <p>2 his hand and he's still not complying with the orders,</p> <p>3 then yes.</p> <p>4 Q. So even though he's not physically doing</p> <p>11:29 5 anything that's --</p> <p>6 A. Again --</p> <p>7 Q. -- a threat?</p> <p>8 A. -- yes.</p> <p>9 Q. Okay. Is that right?</p> <p>11:29 10 MR. LOPEZ: She answered the question.</p> <p>11 Why do you have to rephrase our question and ask it</p> <p>12 back? If you want to ask a question, go ahead and ask</p> <p>13 the question.</p> <p>14 MR. WILSON: I'll ask them however I want</p> <p>11:30 15 to.</p> <p>16 MR. LOPEZ: Well, go ahead and ask your</p> <p>17 question.</p> <p>18 Q. (By Mr. Wilson) Even though he's not doing</p> <p>19 anything physically at that time to express a threat</p> <p>11:30 20 towards the officers other than holding a knife and not</p> <p>21 complying; right?</p> <p>22 A. With the rest of the circumstances, yes.</p> <p>23 Q. Okay. And you think that's consistent with the</p> <p>24 law --</p> <p>11:30 25 A. That's the same answer that I keep on giving.</p>	<p>1 A. So I think I would have the same answer.</p> <p>2 Q. And the answer is yes?</p> <p>3 A. No. The answer is that I'm not a legal</p> <p>4 representative of any of this --</p> <p>11:30 5 Q. I understand that.</p> <p>6 A. -- to answer that question.</p> <p>7 I've already answered -- the way you've</p> <p>8 asked it like 15 times, I've answered it. You've asked</p> <p>9 me over and over if it was my opinion, if it was why I</p> <p>11:31 10 justified the policy, were they -- the threat is still</p> <p>11 there.</p> <p>12 MR. LOPEZ: Yeah.</p> <p>13 Q. (By Mr. Wilson) All right. But as an officer</p> <p>14 you said you know the law.</p> <p>11:31 15 A. Yes.</p> <p>16 Q. Okay. So that's what -- based upon your</p> <p>17 knowledge of the law of when you can use deadly force,</p> <p>18 it's your opinion that something that happens a few</p> <p>19 minutes earlier can justify the use of deadly force at</p> <p>11:31 20 the time even though that suspect is standing still and</p> <p>21 not posing any immediate physical threat to the officer?</p> <p>22 A. It is my --</p> <p>23 MR. SAENZ: Objection; form.</p> <p>24 A. -- that if they're -- it is my opinion that</p> <p>11:31 25 these officers were justified if they reasonably</p>
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<p>1 MR. LOPEZ: Well, and --</p> <p>2 MR. WILSON: Hold on. Let me finish my</p> <p>3 question.</p> <p>4 MR. LOPEZ: Hold it --</p> <p>11:30 5 Q. (By Mr. Wilson) And you think that's</p> <p>6 consistent with the law the way you've been taught?</p> <p>7 MR. LOPEZ: Hold it.</p> <p>8 MR. WILSON: Let me finish my question</p> <p>9 and --</p> <p>10 MR. LOPEZ: No, no, no.</p> <p>11 MR. WILSON: -- then you can object all</p> <p>12 day long.</p> <p>13 MR. LOPEZ: I'm going -- I'm asking her to</p> <p>14 hold the answer until I get the objection. Go ahead</p> <p>11:30 15 and --</p> <p>16 Q. (By Mr. Wilson) And you --</p> <p>17 MR. LOPEZ: -- ask your question.</p> <p>18 Q. (By Mr. Wilson) And you think that that's</p> <p>19 consistent with the law and Bexar County policy?</p> <p>11:30 20 MR. LOPEZ: And that calls for a legal</p> <p>21 conclusion about the law.</p> <p>22 MR. SAENZ: Same objection.</p> <p>23 Q. (By Mr. Wilson) And you can answer.</p> <p>24 MR. LOPEZ: And that's my objection.</p> <p>11:30 25 Q. (By Mr. Wilson) You can answer.</p>	<p>1 believed at that specific time that their -- they were</p> <p>2 in fear of serious bodily injury or death, were they</p> <p>3 justified, yes. That is how I got it.</p> <p>4 I don't know -- I mean, you could ask it a</p> <p>11:31 5 different way every time. That's still my answer.</p> <p>6 Q. (By Mr. Wilson) Okay.</p> <p>7 A. I -- I feel like they were justified in what</p> <p>8 they did and I do not feel like they violated policy as</p> <p>9 a totality of all the circumstances and all the policies</p> <p>11:32 10 as I provided them in my statement.</p> <p>11 MR. LOPEZ: Okay.</p> <p>12 Q. (By Mr. Wilson) So --</p> <p>13 MR. LOPEZ: So can we move on to another</p> <p>14 area?</p> <p>11:32 15 MR. WILSON: Uh-huh.</p> <p>16 MR. LOPEZ: Thank you.</p> <p>17 MR. WILSON: I like the answers I've</p> <p>18 gotten already.</p> <p>19 Q. (By Mr. Wilson) So did you review the video to</p> <p>11:32 20 determine if Deputy Vasquez was correct on when the keys</p> <p>21 were removed from his vehicle?</p> <p>22 A. No.</p> <p>23 Q. Do you see in his statement where he says that</p> <p>24 the keys were removed prior to the shooting?</p> <p>11:32 25 A. Yes.</p>

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<p>1 Q. Did you ever review the video to make sure if</p> <p>2 that was accurate or not?</p> <p>3 A. I see when the keys are removed from the</p> <p>4 vehicle.</p> <p>11:32 5 Q. And what -- when were they removed?</p> <p>6 A. And it's -- it's not accurate, no.</p> <p>7 Q. So his statement is wrong?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So did you just ignore that?</p> <p>11:32 10 A. No.</p> <p>11 Q. What did you do when you found out that he</p> <p>12 wasn't telling the truth about when the keys were</p> <p>13 removed?</p> <p>14 A. I don't think --</p> <p>11:32 15 MR. SAENZ: Objection; form.</p> <p>16 A. -- that he was not telling the truth.</p> <p>17 Q. (By Mr. Wilson) Okay. So he can say something</p> <p>18 that's not truthful but not be lying?</p> <p>19 A. If he's saying something -- if that's his</p> <p>11:33 20 perception of -- of the events and the order that they</p> <p>21 occurred --</p> <p>22 Q. Well, doesn't the perception have to be based</p> <p>23 on --</p> <p>24 A. And on top of that, when I look at this, the</p> <p>11:33 25 keys being removed from the vehicle, I understand -- he</p>	<p>1 see on here that they were removed after"?</p> <p>2 You saw the discrepancy and just thought</p> <p>3 it wasn't important?</p> <p>4 A. That's correct. Yes.</p> <p>11:34 5 Q. Okay. You saw that discrepancy and you thought</p> <p>6 there would be no reason to clear that up, that his</p> <p>7 statement was inaccurate in that respect?</p> <p>8 A. Well, his statement is not inaccurate. The</p> <p>9 keys are removed from the vehicle.</p> <p>11:34 10 Q. Well, it's certainly inaccurate as to when?</p> <p>11 A. Okay.</p> <p>12 Q. Right?</p> <p>13 A. Yes.</p> <p>14 Q. But you didn't think that was important?</p> <p>11:34 15 A. Not to my policy violation review, no.</p> <p>16 Q. Okay. Even though the policy -- is it within</p> <p>17 policy for an officer to show up at a scene like this,</p> <p>18 supposedly with a rifle in his vehicle, to leave the car</p> <p>19 running with the keys in it?</p> <p>11:34 20 A. There's nothing in policy about that.</p> <p>21 Q. Okay. So would you agree with me that one of</p> <p>22 the levels of threat here that they've expressed was the</p> <p>23 fact that Mr. Flores attempted to get into that vehicle?</p> <p>24 A. Yes.</p> <p>11:35 25 Q. And that if, in fact, Officer Vasquez had</p>
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<p>1 says they're removed from the vehicle in his statement.</p> <p>2 Is it at that point when they are removed?</p> <p>3 No, it's not.</p> <p>4 So is he going through an emotional event</p> <p>11:33 5 that maybe he mixed up some of the order of this?</p> <p>6 MR. WILSON: Object to the responsiveness.</p> <p>7 Q. (By Mr. Wilson) Ma'am, my question was very</p> <p>8 simple. He says one thing in his statement that you</p> <p>9 know by the video is not accurate?</p> <p>11:33 10 A. Right. And I said that, yes.</p> <p>11 Q. Okay. Did you put that in your report?</p> <p>12 A. No.</p> <p>13 MR. LOPEZ: Well, her report speaks for</p> <p>14 itself. If it's not in the report, she didn't put it in</p> <p>11:33 15 the report.</p> <p>16 Q. (By Mr. Wilson) And my question is: Why</p> <p>17 didn't you?</p> <p>18 MR. LOPEZ: Okay.</p> <p>19 A. It's not necessary to include that in my</p> <p>11:33 20 report. I -- as you notice in my report, I don't have</p> <p>21 every single detail. And I -- again, I'm not going to</p> <p>22 reinvestigate what the criminal investigator's job was.</p> <p>23 Q. (By Mr. Wilson) I -- would it take a</p> <p>24 reinvestigation to say, "Hmm, Deputy Vasquez says the</p> <p>11:34 25 keys were removed prior to the time that we shot him. I</p>	<p>1 locked his vehicle, that level of threat would be less?</p> <p>2 MR. LOPEZ: Well, that calls --</p> <p>3 A. That's --</p> <p>4 MR. LOPEZ: -- for speculation.</p> <p>11:35 5 A. But, again --</p> <p>6 MR. SAENZ: Objection; form. Speculation.</p> <p>7 A. -- that's not a policy violation.</p> <p>8 Q. (By Mr. Wilson) That wasn't my question,</p> <p>9 ma'am.</p> <p>11:35 10 A. But that's what I reviewed.</p> <p>11 Q. Ma'am, we have to --</p> <p>12 Okay. So what you're telling me is that</p> <p>13 one of the levels of threat involved in this incident</p> <p>14 was the idea that these officers thought, "He could get</p> <p>11:35 15 into our car"?</p> <p>16 MR. LOPEZ: Well --</p> <p>17 Q. (By Mr. Wilson) Get into Officer Vasquez's</p> <p>18 vehicle; correct?</p> <p>19 MR. LOPEZ: I'm going to object. She has</p> <p>11:35 20 not testified about that.</p> <p>21 Don't answer that question.</p> <p>22 If you want to ask a question directly,</p> <p>23 but --</p> <p>24 Q. (By Mr. Wilson) You read the statements;</p> <p>11:35 25 right, ma'am?</p>

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<p>1 A. Uh-huh.</p> <p>2 Q. Didn't Officer Sanchez and Officer Vasquez say</p> <p>3 that one of the things they were concerned about was the</p> <p>4 fact that Mr. Flores was attempting to get into this</p> <p>11:35 5 vehicle?</p> <p>6 A. Yes.</p> <p>7 Q. And that one of the things they were concerned</p> <p>8 about was that there could be a rifle that he could get</p> <p>9 to; correct?</p> <p>11:36 10 A. I didn't see that about the rifle in here. I</p> <p>11 think you said that came --</p> <p>12 Q. Sanchez says --</p> <p>13 A. -- up in deposition.</p> <p>14 Q. Sanchez says it --</p> <p>11:36 15 A. Okay.</p> <p>16 Q. -- that he was concerned that he could have an</p> <p>17 AR in that vehicle --</p> <p>18 A. Yes.</p> <p>19 Q. -- that Mr. Flores could get to.</p> <p>11:36 20 A. Right.</p> <p>21 Q. Okay. Now, if, in fact, Officer Vasquez had</p> <p>22 properly secured his vehicle and locked it when he was</p> <p>23 walking to the house, then that level of threat would be</p> <p>24 less, would it not?</p> <p>11:36 25 MR. LOPEZ: That -- Objection. That one</p>	<p>1 the car running; correct?</p> <p>2 A. I'm not going to agree with that because I</p> <p>3 don't think that's what he was thinking about when he</p> <p>4 got there.</p> <p>11:37 5 I think he was worried about the welfare</p> <p>6 of the people inside the house calling 911 for help. I</p> <p>7 don't think he was thinking about, "Let me lock -- my</p> <p>8 keys."</p> <p>9 Q. The decision that he made to leave the car in</p> <p>11:37 10 the condition it was in when he left it, that was one of</p> <p>11 the issues involved in this entire event; correct?</p> <p>12 A. I guess if that's -- I mean, you're saying it's</p> <p>13 an issue. I don't know that it was an issue.</p> <p>14 Q. Well, they say it was. Remember, you saw --</p> <p>11:37 15 you saw the supervisor say, "Don't let him" --</p> <p>16 MR. LOPEZ: Who is "they"?</p> <p>17 MR. WILSON: Vasquez and Sanchez.</p> <p>18 MR. LOPEZ: Well, just Sanchez, not</p> <p>19 Vasquez.</p> <p>11:37 20 Q. (By Mr. Wilson) Well, let me ask you this,</p> <p>21 ma'am: You saw in part of the dispatch records that</p> <p>22 Deputy Vasquez -- Sanchez says, "He's trying to get into</p> <p>23 the patrol car," and then one of the supervisors says,</p> <p>24 "Don't let him do that"?</p> <p>11:38 25 A. Uh-huh.</p>
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<p>1 calls for speculation.</p> <p>2 A. I don't know.</p> <p>3 MR. SAENZ: Same objection.</p> <p>4 Q. (By Mr. Wilson) Can someone get into a vehicle</p> <p>11:36 5 that's locked as easily as one that's running with the</p> <p>6 car -- with the keys in it?</p> <p>7 A. No.</p> <p>8 Q. Could someone such as Mr. Flores drive off in</p> <p>9 this vehicle if Mr. -- if Deputy Vasquez had taken the</p> <p>11:36 10 keys with him?</p> <p>11 A. Probably not.</p> <p>12 Q. Okay. So the fact that Deputy Vasquez left</p> <p>13 this vehicle running with the keys in it is what made</p> <p>14 that a concern at the scene, that Mr. Flores could get</p> <p>11:36 15 into it and do something with it; correct?</p> <p>16 A. I think Mr. Flores' behavior is what made</p> <p>17 that --</p> <p>18 Q. Certainly that's part of it.</p> <p>19 But if Officer Vasquez decided -- if he</p> <p>11:37 20 had said, "Oh, my car is secure because I have the</p> <p>21 keys," that would be less of a threat, wouldn't it?</p> <p>22 A. Sure.</p> <p>23 Q. Okay. So part of the issue here that we're</p> <p>24 dealing with is that Deputy Vasquez decided, when he got</p> <p>11:37 25 to the scene, to leave his keys in his vehicle and leave</p>	<p>1 Q. "By all means stop him," words to that effect?</p> <p>2 A. Okay.</p> <p>3 Q. Is it within policy for a supervisor to give a</p> <p>4 remote instruction like that?</p> <p>11:38 5 A. It's not in policy not to.</p> <p>6 Q. In other words, it's something that's done?</p> <p>7 A. It could be done. It was done.</p> <p>8 Q. I understand. But is it something --</p> <p>9 A. There's not a policy that -- that prohibits it.</p> <p>11:38 10 Q. Okay. And it's -- but it is -- is it a</p> <p>11 practice that happens?</p> <p>12 A. I haven't heard it happen. I mean, it happened</p> <p>13 that day. I don't know if it's a practice or a policy</p> <p>14 or -- I know that it's not a policy.</p> <p>11:38 15 Q. Well, you were a patrol person for --</p> <p>16 A. I don't know if it's a practice.</p> <p>17 Q. You were a patrol person for a number of years?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Would you give -- would you be given</p> <p>11:38 20 instructions from your offsite remote supervisors?</p> <p>21 A. Sometimes.</p> <p>22 Q. And those were -- and they were orders that you</p> <p>23 expected to follow?</p> <p>24 A. Sometimes, yes.</p> <p>11:38 25 Q. Okay. So it happens?</p>

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<p>1 A. Uh-huh.</p> <p>2 Q. Okay. And nothing in the policy prevents it</p> <p>3 from happening?</p> <p>4 A. Right.</p> <p>11:38 5 Q. All right. And it's something that you as a</p> <p>6 patrol person knows happens on occasion, where these</p> <p>7 officers -- offsite supervisors give instructions --</p> <p>8 A. Give direction.</p> <p>9 Q. -- to people on the scene --</p> <p>11:39 10 A. Yes.</p> <p>11 Q. -- correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Okay. And so in this particular instance, one</p> <p>14 of the instructions that's given is, "Don't let him get</p> <p>11:39 15 in that vehicle"; right?</p> <p>16 A. Okay.</p> <p>17 Q. You understand that?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And did you ever determine whether or not that</p> <p>11:39 20 instruction -- Well, let me rephrase that.</p> <p>21 Did you look into that instruction at all</p> <p>22 to determine whether it was justified or not?</p> <p>23 A. No.</p> <p>24 Q. Okay. Did you make any sort of investigation</p> <p>11:39 25 into whether or not at the time of the shooting</p>	<p>1 MR. SAENZ: Objection; form.</p> <p>2 A. I don't think he -- that -- I don't know where</p> <p>3 that was brought up as a justification, to answer that.</p> <p>4 Q. (By Mr. Wilson) Well --</p> <p>11:40 5 A. Is he trying to get in the car? No.</p> <p>6 Q. Okay. Well, the supervisor says, "Don't let</p> <p>7 him get in that patrol car. Stop him. By all means</p> <p>8 stop him." Okay?</p> <p>9 A. Okay.</p> <p>11:40 10 Q. So, clearly, at that time they were giving</p> <p>11 orders to stop him from getting in the patrol car;</p> <p>12 correct?</p> <p>13 A. Right.</p> <p>14 Q. But at the time they shot him, he wasn't trying</p> <p>11:41 15 to get in the patrol car; correct?</p> <p>16 A. Right.</p> <p>17 Q. So whatever order that they were --</p> <p>18 authorization that they were given by the supervisor,</p> <p>19 that immediate threat would have already passed;</p> <p>11:41 20 correct?</p> <p>21 A. I guess so. He wasn't trying to get in the car</p> <p>22 at that point.</p> <p>23 Q. Okay.</p> <p>24 MR. LOPEZ: Can we take a break or --</p> <p>11:41 25 MR. WILSON: Sure.</p>
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<p>1 Mr. Flores was still attempting to get into that patrol</p> <p>2 car?</p> <p>3 A. No.</p> <p>4 Q. Would you agree with me that at the time he is</p> <p>11:39 5 shot he is not attempting to get into the patrol car?</p> <p>6 A. Yes.</p> <p>7 Q. So if that was the justification, that he's</p> <p>8 tried to get into the patrol car, that justification</p> <p>9 would have passed at the time they decided to shoot him;</p> <p>11:40 10 correct?</p> <p>11 MR. SAENZ: Objection; form.</p> <p>12 A. I don't think -- at that point was he trying to</p> <p>13 get in the vehicle? I don't know if --</p> <p>14 Q. (By Mr. Wilson) Right.</p> <p>11:40 15 A. I mean, obviously he was not at that specific</p> <p>16 moment trying to get into the vehicle.</p> <p>17 Q. Right. So if that's the justification, that he</p> <p>18 was -- "He's trying to get into our patrol car" --</p> <p>19 A. Well, whose justification is that?</p> <p>11:40 20 Q. Just let me ask and answer my -- please let me</p> <p>21 ask my question, ma'am.</p> <p>22 If one of the justifications for the</p> <p>23 shooting is "He's trying to get into the patrol car,"</p> <p>24 that jus -- that threat would have passed at the time</p> <p>11:40 25 the actual shooting took place; correct?</p>	<p>1 MR. LOPEZ: -- are you close to the end?</p> <p>2 MR. WILSON: I'm pretty close, but we can</p> <p>3 take a break so I can review my notes.</p> <p>4 MR. LOPEZ: Okay.</p> <p>11:41 5 THE VIDEOGRAPHER: Going off the record.</p> <p>6 The time is 11:43.</p> <p>7 (Recess from 11:43 until 11:59.)</p> <p>8 THE VIDEOGRAPHER: Going back on record.</p> <p>9 The time is 11:59.</p> <p>11:57 10 Q. (By Mr. Wilson) Ma'am, you turned in your</p> <p>11 report in February of 2016. At the time you turned in</p> <p>12 your report, if my understanding is correct, you did a</p> <p>13 review of all of the written materials but you did not</p> <p>14 talk to anybody?</p> <p>11:58 15 A. Correct.</p> <p>16 Q. And after you turned in your report, did</p> <p>17 anybody ever come to you and ask you any questions about</p> <p>18 your findings?</p> <p>19 A. No.</p> <p>11:58 20 Q. And after you turned in your report, did you</p> <p>21 have any communication with anybody from the Bexar</p> <p>22 County District Attorney's office?</p> <p>23 A. No.</p> <p>24 Q. Now, you have been involved in -- since you</p> <p>11:58 25 have been a member of this division, this Professional</p>

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<p>1 Standards Division, have you investigated other use of</p> <p>2 force situations involving officers? I think you said</p> <p>3 you had; correct?</p> <p>4 A. Yes.</p> <p>11:58 5 Q. And I believe you testified -- and I don't mean</p> <p>6 to repeat it, but I just want to set the standard for</p> <p>7 this question -- you have never found a violation of</p> <p>8 policy in all of the ones you've investigated?</p> <p>9 A. No. That's incorrect.</p> <p>11:58 10 Q. Okay.</p> <p>11 A. And while being in Professional Standards and</p> <p>12 Integrity, people, yes, have -- officers have been</p> <p>13 founded for use of force.</p> <p>14 Q. Okay. Can you tell me any officer that you can</p> <p>11:59 15 recall that has been found to violate Bexar County</p> <p>16 policy when they've used deadly force, to your</p> <p>17 knowledge?</p> <p>18 A. Under my investigation?</p> <p>19 Q. Or under -- any time you've been a part of this</p> <p>11:59 20 division.</p> <p>21 A. I don't know. I don't know.</p> <p>22 Q. Can you recall of any?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Okay. Now, you say that other people have been</p> <p>11:59 25 accused of use of force who have found violation of</p>	<p>1 I mean --</p> <p>2 Q. Well, then let me -- let me narrow it down.</p> <p>3 In a use of force situation, has there</p> <p>4 ever been a use of force situation where you've turned</p> <p>12:00 5 in the criminal investigation to the DA's office, no</p> <p>6 criminal charges were brought forward or indictment was</p> <p>7 made, but, nevertheless, Bexar County determined that</p> <p>8 there -- that that use of force was a violation of</p> <p>9 policy and, therefore, discipline needed to take place?</p> <p>12:01 10 A. I don't know.</p> <p>11 Q. Can you think of any?</p> <p>12 A. I don't know the answer to that. No. I can't</p> <p>13 think of any.</p> <p>14 Q. Okay. And you've not been involved in a</p> <p>12:01 15 situation where that's happened --</p> <p>16 A. No.</p> <p>17 Q. -- in all of the investigations you've</p> <p>18 conducted?</p> <p>19 A. Not that I can recall right now.</p> <p>12:01 20 Q. Do you have any knowledge, ma'am, of who at the</p> <p>21 DA's office handled this investigation?</p> <p>22 A. No. I mean, on the civil side, the people that</p> <p>23 I've talked to, of course.</p> <p>24 Q. Yes, ma'am. And I'm not referring to them.</p> <p>12:01 25 A. Oh, no.</p>
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<p>1 policy?</p> <p>2 A. Right.</p> <p>3 Q. Have those been in situations other than</p> <p>4 situations of deadly force?</p> <p>11:59 5 A. Yes.</p> <p>6 Q. Have you ever had a situation where the DA has</p> <p>7 decided not to prosecute someone for a crime but your</p> <p>8 department went ahead and suggested a violation of</p> <p>9 policy?</p> <p>11:59 10 A. I'm sure that it has happened. Specifically, I</p> <p>11 don't remember.</p> <p>12 Q. Do you -- as we sit here today, can you recall</p> <p>13 of any situation where you've turned -- you know, the</p> <p>14 criminal investigation was turned in to the DA's office,</p> <p>12:00 15 the DA's office decided not to indict or not to move</p> <p>16 forward with it, but you went ahead -- your department</p> <p>17 went ahead and said, regardless of that, there was a</p> <p>18 violation of policy?</p> <p>19 A. I'm sure that has happened. I can't recall</p> <p>12:00 20 specifically.</p> <p>21 Q. Why are you sure that it's happened if you</p> <p>22 can't recall any?</p> <p>23 A. Because, I mean, people get arrested for DWI</p> <p>24 sometimes or assault and things like that, and maybe</p> <p>12:00 25 it's not only one portion of the policy. I don't know.</p>	<p>1 Q. I'm talking about -- That's a fair</p> <p>2 clarification.</p> <p>3 As far as in relation to the criminal</p> <p>4 side, you don't know who it was?</p> <p>12:01 5 A. No.</p> <p>6 Q. Thank you, ma'am. That's all the questions I</p> <p>7 have.</p> <p>8 MR. LOPEZ: I'm going to reserve my</p> <p>9 questions until the time of trial.</p> <p>12:02 10 MR. SAENZ: We'll reserve ours also.</p> <p>11 THE VIDEOGRAPHER: Going off the record.</p> <p>12 The time is 12:03.</p> <p>13 (Deposition concluded at 12:03.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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

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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 23rd day of March, 2017.
 7
 8
 9 _____
 10 Denise Ganz Byers, CSR, RPR, RMR, CRR
 11 Texas CSR No. 2037
 12 Expiration Date: 12/31/18
 13 DepoTexas - Firm Registration No. 539
 14 100 N.E. Loop 410, Suite 955
 15 San Antonio, Texas 78216
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