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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FLORENTINA PELAYO,)
individually, and as successor)
in interest to decedent PETRICA)
MUNTEAN,)
)
Plaintiff,)
)
vs.)
)
CITY OF ANAHEIM, KENNETH)
JOHNSON, ALEXANDRIA)
GONZALEZ, DARREN LEE, PETER)
WANN, MICHAEL FLEET, BRENDAN)
THOMAS, HEATHER SCAGLIONE,)
BARTMAN HORN, and DOES 1 through)
10, inclusive,)
)
Defendants.)
_____)

No. 8:19-cv-02318
MCS (ADSx)

DEPOSITION BY ZOOM OF BARTMAN HORN, taken on behalf of
the PLAINTIFF, commencing at 3:03 p.m., on
December 17th, 2020, before Michael G. McMorran,
CSR No. 13735.

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I N D E X

WITNESS: Bartman Horn

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By Mr. Steering	4

E X H I B I T S

EX.	DESCRIPTION	PAGE
202	Officer Safety Bulletin	11
203	E-mail dated 04/12/18	9
208	Officer Horn's body-worn camera footage	28
265	Anaheim Police Department Policy Manual	32
353	Officer Horn's DA interview transcript	13
358	Photographs	16
361	Officer Horn's DA interview audio file	17
367	Photographs	65

I N F O R M A T I O N R E Q U E S T E D

None.

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DECEMBER 17TH, 2020; 3:03 P.M.

* * *

BARTMAN HORN,

having been first duly sworn, was examined and testified as follows:

-oOo-

EXAMINATION

BY MR. STEERING:

Q Okay. Hello, Officer Horn. How are you?

A I'm fine. How are you?

Q Okay. Can I have your full legal name, please, sir?

A Yes. My first name is Bartman, B-a-r-t-m-a-n, middle name Isamu, I-s-a-m-u. Last name is Horn, H-o-r-n.

Q What's your date of birth, Officer Horn?

A August 2nd, 1984.

Q Okay. And are you presently employed with the Anaheim Police Department, sir?

A Yes.

Q And are you employed as a sworn police officer?

A Yes.

Q And how long have you been employed as a sworn police officer with the Anaheim Police Department?

1 A Approximately five years.

2 Q And were you with some other police agency --
3 well, have you ever worked for another police agency?

4 A Yes.

5 Q And which police agency did you work for?

6 A I worked for the Santa Cruz County Sheriff's
7 Department and the Pasadena Police Department.

8 Q Is it Pasadena or South Pasadena?

9 A Pasadena.

10 Q Pasadena. Have you ever been sued for actions
11 or omissions by you alleging -- have you ever been sued
12 for allegations of actions by you or omissions by you
13 for actions done in the course of your employment as a
14 peace officer?

15 A Yes --

16 MR. JOHNSON: Objection. Relevance.

17 MR. STEERING: It's 404(b).

18 BY MR. STEERING:

19 Q Okay. And who sued you?

20 A I mean, I don't exactly remember all the
21 attorneys involved or who sued me.

22 Q No. I mean the plaintiff.

23 A I can't think of his name.

24 Q Paris Holloway --

25 A Yes.

1 Q Was it -- is Paris Holloway a man or a woman?

2 A A man.

3 Q What did he allege that you did to him?

4 MR. JOHNSON: Objection. Overbroad.

5 THE WITNESS: I mean, I'm not sure what he's
6 alleging I did in terms of impropriety, but I can tell
7 you what the basis of being sued was about.

8 BY MR. STEERING:

9 Q Was the basis of you being sued that on
10 October 11th, 2013, while you were working as a police
11 officer for the Pasadena Police Department, that you
12 pursued Paris Holloway on foot after he fled your
13 attempt to speak with him?

14 Is that one of the allegations?

15 MR. JOHNSON: Objection. Overbroad.

16 THE WITNESS: I mean, I would --

17 BY MR. STEERING:

18 Q I'm not saying that's what happened. I'm just
19 saying was that one of the allegations by --

20 A I don't remember what the allegation was. And
21 I would, obviously, be concerned to marrying myself to
22 terms with speaking to him and things like that.

23 But, yes, you are definitely in the ballpark
24 of he fled from me during a police encounter, which
25 culminated in an officer-involved shooting.

1 Q And you shot Mr. Holloway?

2 A Yes.

3 Q And did you shoot him because he ran away from
4 you?

5 MR. JOHNSON: Objection. Argumentative.

6 THE WITNESS: No.

7 BY MR. STEERING:

8 Q Yes? Why did you shoot him?

9 MR. JOHNSON: Objection. Relevance.

10 THE WITNESS: During my encounter with him, he
11 presented a firearm and pointed it at me.

12 BY MR. STEERING:

13 Q Was there any kind of recording of that
14 incident?

15 MR. JOHNSON: Objection. Vague.

16 THE WITNESS: There was no body-camera
17 recording, no.

18 BY MR. STEERING:

19 Q And he alleged that -- that is Mr. Holloway
20 alleged, that he fled from you and that you shot him
21 and he got paralyzed, right?

22 MR. JOHNSON: Objection. Lack of foundation.
23 Calls for speculation.

24 THE WITNESS: I mean, that is what happened.
25 Yes.

1 BY MR. STEERING:

2 Q Did you shoot him in the back?

3 MR. JOHNSON: Objection. Lack of foundation.
4 Calls for speculation.

5 THE WITNESS: No, actually.

6 BY MR. STEERING:

7 Q Okay. Where did you shoot him?

8 A In his front area.

9 Q Okay. Was he pointing a gun at you?

10 MR. JOHNSON: Objection. Asked and answered.

11 THE WITNESS: Yes.

12 BY MR. STEERING:

13 Q Okay. What happened with that case? Did it
14 go to trial, or was it resolved without going to trial?

15 MR. JOHNSON: Objection. Lack of foundation.
16 Calls for speculation.

17 THE WITNESS: I believe it's on appeal right
18 now.

19 BY MR. STEERING:

20 Q Well, I mean, was there a trial?

21 A No. No trial.

22 Q So there hasn't been a trial yet; it's just on
23 appeal before trial; is that your understanding?

24 MR. JOHNSON: Objection -- go ahead.

25 THE WITNESS: That's my understanding.

1 BY MR. STEERING:

2 Q Okay. What documents and recordings have you
3 reviewed in preparation for your testimony today?

4 A I reviewed my body-camera footage that was on
5 at the time of the incident, as well as my statement,
6 voluntary statement to the DA shooting team and
7 investigators at the time.

8 Q Okay. Any other -- any other items that you
9 reviewed in preparation for your testimony today,
10 Officer Horn?

11 A No. That's it.

12 Q Okay. All right. The first part -- don't
13 worry. This isn't going to take all that long.

14 In the first part of the -- not that you were
15 worried anyway, but anyway. The first part of the
16 deposition, I'm just going to -- I've done this with
17 all the depositions here. You're the seventh one in
18 two days.

19 I'm just going to show you some items for the
20 purpose of having you identify the items as, you know,
21 genuine items. Okay?

22 A Okay.

23 Q Okay.

24 MR. STEERING: Okay. Showing you Exhibit 203.

25 (Exhibit 203 was marked.)

1 BY MR. STEERING:

2 Q And I can make the type bigger so you can read
3 it. I don't know if that's big enough. Can you read
4 the type?

5 A Yes.

6 Q Okay. And I can move the document with a
7 slider at the bottom so you can read the whole thing.
8 Just let me know when you want me to move it if you do.
9 Okay?

10 A Okay. You can probably -- I don't know if you
11 made it a little smaller if it would make it so you
12 don't have to scroll. No, you still would.

13 Q Yeah. Minus well leave the letters.

14 A Correct. Okay.

15 Q Just let me know when you want me to move it.

16 A Okay. Can you scroll to the side, please?

17 Q Just let me know when you want me to move it
18 back.

19 A You can move it back. And you can move it
20 again. Okay. And back. And one more time. Okay.

21 Q Okay. Do you recognize Exhibit 203, sir?

22 A Yes.

23 Q And do you remember -- well, did somebody ever
24 send you an e-mail of Exhibit 203?

25 A Yes.

1 Q And did you read the e-mail prior to coming
2 into contact with Petrica Muntean on April 13th, 2018?

3 A Yes.

4 Q Okay. I'll show you another exhibit.

5 MR. STEERING: Okay. Let me show you
6 Exhibit 202.

7 (Exhibit 202 was marked.)

8 BY MR. STEERING:

9 Q And it's got a picture of Petrica Muntean on
10 the bottom. And I'll ask you to take a look at that
11 and see if you've seen this item before.

12 A Are you wanting me to look at the picture of
13 him? Because that's --

14 Q Oh, yeah. Absolutely. I can't fit it in just
15 one viewing, that's all, without sliding.

16 A Oh, I'm sorry. Okay.

17 Q Here's the picture. And I said it was
18 Petrica Muntean. So I'm just -- I'm showing you the
19 text above the picture. That's all.

20 A Okay. Okay. All right.

21 Q Okay. Have you seen Exhibit 202 before, sir?

22 A I thought this was -- other than the picture,
23 this looks like what I just read in the previous
24 exhibit.

25 Q Yeah. I'm not suggesting it isn't. It's just

1 this one has got a picture on it, and it's got -- it
2 may not be materially different at all?

3 A Right.

4 Q Okay. Anyway, do you remember seeing this
5 document on April 13th, 2018?

6 A To be honest, I remember reading an e-mail,
7 but I'm having a hard time remembering or
8 distinguishing between the e-mail you -- or the exhibit
9 you previously showed me and this one.

10 Q Okay. I understand. Don't worry. We've had
11 plenty -- it's not like there's a big dispute between
12 myself and Mr. Johnson as to the authenticity of the
13 documents.

14 A Yes.

15 Q Nobody expects your memory is going to be
16 perfect. In fact, you might have even given the most
17 honest answer of everybody because it's tough to
18 remember these things.

19 I'm sure you've had -- are you a patrol
20 officer, sir?

21 A Yes.

22 Q Okay. So you've probably run into these
23 e-mails and officer safety bulletins and briefing
24 documents all the time; is that fair?

25 A Yes, I do.

1 Q Okay. Okay. And you've probably had, I don't
2 know, a hundred arrests, 200 arrests between the
3 Petrica Muntean incident and the present time; is that
4 fair?

5 A I wouldn't know if it's that amount or not or
6 in the ballpark of that.

7 Q Okay. Okay. Am I putting somebody to sleep?
8 Who am I putting to sleep?

9 THE REPORTER: I yawned, Jerry.

10 MR. STEERING: Am I putting Moses to sleep?

11 THE REPORTER: No, it's the court reporter.

12 MR. JOHNSON: The most supportive person.

13 MR. STEERING: I didn't get a whole lot of
14 sleep last night either. I would have liked to.

15 Okay. Let's see. Okay. I'll show you
16 Exhibit 353.

17 (Exhibit 353 was marked.)

18 BY MR. STEERING:

19 Q And whatever you want to do -- I can scroll
20 through this exhibit fast. I can scroll through it
21 slow. I can do it a page at a time. Whatever you want
22 to do.

23 I'm just trying to get you to authenticate
24 Exhibit 353, which it appears to be a transcript of
25 your audio recorded interview.

1 A Okay.

2 MR. JOHNSON: You going to show us, Jerry?

3 MR. STEERING: Yep.

4 BY MR. STEERING:

5 Q On April 23rd, 2018. Just let me know when
6 you want me to scroll, please.

7 A Okay.

8 MR. JOHNSON: You got to show it to us, Jerry.

9 Are you going to share the document?

10 THE WITNESS: I'm not sure if you're still
11 trying to pull it up.

12 BY MR. STEERING:

13 Q No, no. Do you see it? Oh, you don't see it?

14 A No, we don't.

15 Q Oh, I'm sorry. I thought it was up. Sorry
16 about that.

17 MR. JOHNSON: It's okay.

18 MR. STEERING: I thought you said when you
19 share it, I thought you were talking about --

20 MR. JOHNSON: No. I meant, like, you're going
21 to show us?

22 MR. STEERING: Yeah.

23 THE WITNESS: Yes, if just generally scroll at
24 a slow pace, I could -- that would be a little fast,
25 but, yeah, I could -- okay. Yeah. You can keep going.

1 Okay. I mean, at this point, this is
2 definitely resonating to me as the statement that I
3 gave as transcribed.

4 I don't know if there's some necessity to go
5 through the whole thing. But at this point, it looks
6 like my statement that I gave.

7 BY MR. STEERING:

8 Q Okay. Okay. Thank you.

9 No, I'm not trying to torment you with
10 scrolling pages. I'm just trying to --

11 A Okay. Yes.

12 Q We have to do certain things in cases like
13 this. Just like you have to have a chain of custody
14 for evidence, you know, police work --

15 A Understand.

16 Q -- we got to authenticate stuff. So that's
17 all it is. I'm not trying to bug you with it. Okay.
18 All right.

19 Okay. There's a boo-boo in there. Bear with
20 me, please. I was trying to make a download of the
21 District Attorney's and Anaheim's photos of you in your
22 uniform, and it looks like I got the number mixed up
23 with another number; so if you could just bear with me
24 for a second, I sure would appreciate it.

25 A Okay.

1 Q I see it now.

2 (Off-the-record discussion held.)

3 BY MR. STEERING:

4 Q Okay. Okay. Here we go. Okay. I'm about to
5 show you -- I would be surprised if it was something
6 other than this.

7 It looks like the Anaheim Police Department
8 and the Orange County DA -- well, did -- did the DA's
9 office and/or the Anaheim Police Department take photos
10 of you on April 13th, 2018, showing your -- the uniform
11 you had on, how you looked, and the equipment you had
12 on during the incident with Mr. Muntean?

13 MR. JOHNSON: Objection. Compound. Vague as
14 to time.

15 THE WITNESS: Yes.

16 BY MR. STEERING:

17 Q Okay. Is that a photo of you, that second
18 page on 358?

19 (Exhibit 358 was marked.)

20 THE WITNESS: I'm sorry. Did you ask is that
21 me in Exhibit 358 in front of me?

22 BY MR. STEERING:

23 Q Yes, sir.

24 A Yes.

25 Q Okay. And I'm just going to -- there's 32

1 photos; so I'm just going to zip through these. Okay.
2 We went through them.

3 Are these photographs of you and your
4 equipment that you had with you during the April 13th,
5 2018, incident involving you and Mr. Muntean?

6 A Yes.

7 Q Okay.

8 MR. STEERING: We'll call this 361.

9 (Exhibit 361 was marked.)

10 BY MR. STEERING:

11 Q Okay. Okay. Exhibit 361 -- I'm just going to
12 tell you is supposed to be an interview of you from
13 which that transcript was made, but let me play it and
14 see if you can identify the recording. Okay? I'll
15 start it on 0:00.

16 Okay. I stopped it at a minute and 42
17 seconds. I mean, I'll play the whole thing if you want
18 to, but --

19 A No, that's --

20 Q I'm sorry. Does that sound like the recorded
21 interview of you of April 29th, 2018, regarding the
22 Petrica Muntean incident?

23 A Yes.

24 Q Okay. All right. Did you author any type of
25 police report about the shooting of Petrica Muntean?

1 A No.

2 Q Okay. Okay. What drew your attention to the
3 Petrica Muntean incident on April 13th, 2018?

4 MR. JOHNSON: Objection. Vague.

5 THE WITNESS: Are you asking me the incident
6 as far as me being aware of the overall situation
7 regarding him or the specific incident that happened
8 that morning?

9 BY MR. STEERING:

10 Q What I would like to know is, in other words,
11 there was at some point you ended up chasing after
12 Petrica Muntean in Anaheim on April 13th, 2018, right?

13 A Yes.

14 Q Okay. And I think that started out with a
15 call about a Carl's Jr. and somebody causing some kind
16 of disturbance there, and then Officer Johnson and
17 Gonzalez go to the scene.

18 So I'm talking about --

19 A Okay. I understand.

20 Q Okay. So in other words, what first drew your
21 attention to that incident, I guess, the beginning of
22 which was Officer Ken Johnson and
23 Officer Alexandria Gonzalez over at the Carl's Jr. with
24 Mr. Muntean?

25 What first drew your attention to that, sir?

1 A Officer Johnson's radio transmission.

2 Q And do you remember the nature of the radio
3 transmission, sir?

4 A He wanted the channel to be clear to give him
5 the radio because he stated he believed he had
6 Peter Muntean.

7 Q Okay. Was -- I guess, to call him "Peter" or
8 "Petrica" -- his name is Petrica or Petrica, but Peter
9 is fine.

10 A Yes.

11 Q Do you recall the morning briefing about
12 Petrica Muntean and the incident that happened the
13 night before on April 12th, 2018?

14 A Yes.

15 Q And what do you recall about that briefing
16 regarding Mr. Muntean?

17 A The incident was spoken about.

18 Q Do you recall any of the specifics about what
19 was spoken, sir?

20 A It was essentially what the e-mail I
21 identified earlier had laid out, that patrol officers
22 had encountered this individual, and that the
23 information, more or less, in the e-mail transpired.

24 Q I forgot to ask you this. You were in the
25 Marine Corps, sir?

1 A Yes.

2 Q When were you in the Marine Corps?

3 A I was in the Marine Corps Reserves from about
4 2010 to 2016.

5 Q Okay. Were you in the infantry?

6 A Yes.

7 Q The Reserve? Okay. And then when you were
8 with Pasadena PD, were you on the SWAT team?

9 A Yes.

10 Q And how long were you on the SWAT team?

11 A Approximately two years, I believe.

12 Q Okay. And -- all right. So there was this
13 morning briefing of Mr. Petrica Muntean.

14 Did -- either in the form of a document or a
15 recording or verbally, did anyone mention anything to
16 you or that you heard about the gun that Mr. Muntean
17 supposedly had was a fake gun?

18 MR. JOHNSON: Objection. Lack of foundation.
19 Calls for speculation.

20 THE WITNESS: No.

21 BY MR. STEERING:

22 Q Would you have wanted to know something like
23 that during your pursuit of Mr. Muntean?

24 MR. JOHNSON: Objection. Overbroad.
25 Incomplete hypothetical.

1 THE WITNESS: I think based on the nature of
2 my job, that would -- if I could ever have an absolute
3 answer to something like that, I would like to know
4 that.

5 BY MR. STEERING:

6 Q Okay. And were you ever briefed on or did any
7 Anaheim Police Department personnel say to you or say
8 that you heard -- you know, say something that you
9 heard about Petrica Muntean having some kind of mental
10 or emotional illness?

11 MR. JOHNSON: Objection. Lack of foundation.
12 Calls for speculation.

13 THE WITNESS: No.

14 BY MR. STEERING:

15 Q Okay. Would you have wanted to know something
16 like that during your pursuit of Mr. Muntean if --
17 let's say he was mentally ill.

18 Would you have wanted to know that during your
19 pursuit of him?

20 MR. JOHNSON: Same objections. Overbroad.
21 Incomplete hypothetical.

22 THE WITNESS: Yes.

23 BY MR. STEERING:

24 Q Okay. Are you trained on -- by Anaheim PD
25 about dealing with mentally ill people?

1 A Yes.

2 Q And can you -- I mean, briefly summarize the
3 nature of that training, please?

4 MR. JOHNSON: Objection. Overbroad.

5 THE WITNESS: Well, not specifically by
6 Anaheim PD, but there's a component of mental health
7 training in the academy.

8 There was a -- I don't remember what the class
9 was labeled, but it was -- it was a class, two-day
10 class, not put on by Anaheim PD, but dealing with
11 people with mental health issues.

12 We have POST learning domains that we do
13 online that deal with that as well as informal
14 discussions and analysis constantly of situations that
15 deal with mental illness.

16 BY MR. STEERING:

17 Q Are you taught to deal with mentally ill
18 people differently than people that aren't mentally
19 ill?

20 MR. JOHNSON: Objection. Overbroad.
21 Incomplete hypo.

22 THE WITNESS: Yes.

23 BY MR. STEERING:

24 Q And if you can, can you describe how you're
25 supposed to treat mentally ill people differently than

1 people that are not mentally ill when you -- when you
2 have some type of encounter with them on the streets?

3 MR. JOHNSON: Objection. Overbroad.

4 THE WITNESS: Well, I wouldn't say it's
5 necessarily treating them differently. It's just
6 considering different factors because the nature of the
7 situation may not afford you the opportunity to treat
8 them any differently under the context of that
9 situation that someone who isn't mentally ill is.

10 But I will say that there are factors,
11 understanding that their thought process may not be
12 coherent. They may be having auditory or visual
13 hallucinations and that you're competing with voices
14 that they may be hearing in their heads, and therefore
15 you're just dealing with a lot of different factors in
16 terms of having a clear line of communication with that
17 person and trying to reason with them so that they can
18 make rational decisions.

19 BY MR. STEERING:

20 Q Okay. Have you ever had to evaluate in your
21 duties as a patrol police officer either with Pasadena
22 or with Anaheim whether or not a person was suffering
23 from a mental disorder?

24 Have you ever had to make that determination?

25 MR. JOHNSON: Objection. Vague. Overbroad.

1 Incomplete hypothetical.

2 THE WITNESS: Again, I wouldn't put it in that
3 context because I'm not a mental health professional.
4 I've had to make determinations of whether or not
5 somebody was a danger to their self or other people. A
6 mental health issue may have, you know, played to that
7 decision, but I wouldn't be able to evaluate it solely
8 based on that.

9 BY MR. STEERING:

10 Q Okay. Well, are you familiar with
11 Section 5150 of the Welfare and Institutions Code?

12 A Yes.

13 Q And that's civil protective custody?

14 A Yes.

15 MR. JOHNSON: Objection. Statute speaks for
16 itself.

17 BY MR. STEERING:

18 Q Okay. Okay. And in order to take someone
19 into civil protective custody under Section 5150 of the
20 Welfare and Institutions Code, the officer has to
21 determine that -- well, has to have probable cause to
22 believe that as a result of a mental disorder, a person
23 is either a danger to one's self, a danger to others,
24 or gravely disabled; is that correct?

25 MR. JOHNSON: Objection. Misstates the

1 statute.

2 MR. STEERING: No, that's exactly what the
3 statute says, but go ahead.

4 MR. JOHNSON: Calls for a legal conclusion.

5 THE WITNESS: I mean, I don't remember word
6 for word what that Welfare and Institution Code says.
7 And, obviously, I have to know a lot of laws that I
8 don't know verbatim.

9 But the general gist of that, which is
10 pertinent to my duties, would be the danger to self or
11 others or gravely disabled by what means that person
12 is -- that is where I am not going to necessarily say
13 verbatim that's something that I recall it saying, but
14 I'm familiar with that Welfare and Institution Code.

15 BY MR. STEERING:

16 Q Okay. Well, I mean, in order to take somebody
17 into civil protective custody, don't you have to make a
18 judgment call as to whether or not somebody is laboring
19 under a mental disorder?

20 MR. JOHNSON: Objection. Misstates the
21 statute. Calls for speculation.

22 THE WITNESS: Well, again, like I said, they
23 don't -- it doesn't necessarily have to be because they
24 have a clinical mental health illness.

25 It could be just a person who's in a certain

1 emotional state that is making certain decisions that
2 lead them to be a danger to themselves or others.

3 So I understand what you're asking me. I'm
4 just telling you --

5 BY MR. STEERING:

6 Q I understand. When you take them into a 5150
7 civil protective custody seizure, I mean, you're taking
8 them in to be mentally evaluated, right? Isn't that
9 the point of the thing?

10 A Yes, to be mentally evaluated, but that
11 doesn't -- I mean, mental illness is what -- by my
12 understanding if you use that terminology based on some
13 clinical diagnosis have some pretty specific
14 parameters.

15 So I guess what I'm just trying to say is that
16 people can be a danger to themselves or others or
17 gravely disabled and not be -- have a clinical mental
18 health diagnosis.

19 So under the context of what you're asking me,
20 I'm familiar with that code, but I don't . . .

21 Q Does Anaheim PD have a form, a 5150 form, like
22 a declaration you fill out and you leave at the
23 hospital?

24 A Well, there's a state form.

25 Q Right. And the state form reads right at the

1 top printed that, "I believe as a result of a mental
2 disorder, this person is either a danger to self,
3 danger to others, or gravely disabled," right?

4 MR. JOHNSON: Objection. Form speaks for
5 itself.

6 THE WITNESS: I don't have it in front of me.
7 I haven't memorized it verbatim. I think, you know,
8 that phrase in and of itself, as well as many documents
9 that exist -- there's some degree of hyperbole and
10 general intent.

11 Because I can tell you from personal
12 experience that people can be put on that -- a 5150
13 hold and not have a clinical mental health diagnosis.

14 So I don't know if you're asking me if
15 everybody that I 5150'd has a mental health disorder
16 that I'm familiar with --

17 BY MR. STEERING:

18 Q I'm not saying that. No, what I'm saying is
19 isn't it true that the form, the state form that the
20 officer has to sign under penalty of perjury, says
21 that, "I believe that as a result of a mental disorder,
22 the person is either danger to self, danger to others,
23 or gravely disabled"?

24 Isn't that what it says?

25 MR. JOHNSON: Objection. Misstates the

1 statute and the form. Form speaks for itself.

2 THE WITNESS: I don't have it in front of me.
3 I haven't memorized it verbatim.

4 BY MR. STEERING:

5 Q Okay.

6 A So, I mean . . .

7 Q All right. Did Petrica Muntean appear to you
8 to be -- have some kind of mental or emotional disorder
9 on April 13th, 2018?

10 MR. JOHNSON: Objection. Lack of foundation.
11 Calls for speculation. Overbroad.

12 THE WITNESS: No.

13 MR. STEERING: Okay. I just need to find a
14 number. Just bear with me, please. Okay.

15 I'm going to bring up Exhibit 208.

16 (Exhibit 208 was marked.)

17 BY MR. STEERING:

18 Q Okay. So I'm going to start playing
19 Exhibit 208, and hopefully you can hear it. Let me
20 start it to see if you can hear it.

21 A Okay.

22 Q It may take a little while.

23 A I can hear it now. Yeah.

24 Q Okay. Okay. And there's a 30-second lag time
25 between the beginning of the video recording and the

1 time when the sound kicks in?

2 A Yes.

3 Q Okay. Okay. Let's start it at 0:00. Now, it
4 looks like -- I mean, we're five seconds, six seconds,
5 seven seconds. It looks like you're driving and
6 putting your gloves on at the same time; is that
7 correct?

8 A Yes.

9 Q Why are you putting your gloves on? And these
10 are like -- they're thin latex gloves; is that it?

11 A Yes.

12 Q Why are you putting gloves on?

13 A I do that every time that I'll potentially
14 have to contact anyone in the public.

15 Q Okay. And now it looks like your vehicle
16 stopped, and you're getting something out of the trunk.

17 Do you remember what you were getting out of
18 the trunk, if anything?

19 A Yes.

20 Q What were you getting out of the trunk?

21 A The less than lethal shotgun.

22 Q Okay. And why were you doing that?

23 A One was asked for at one point over the radio.

24 Q Okay. Do you know who asked for it?

25 A I believe it was -- actually, I just -- I

1 don't remember who asked for it. It was a male voice.
2 I just remember it being asked for.

3 Q Okay. I'll pick it up at 35 seconds, the
4 recording. Okay. I stopped it at one minute, four
5 seconds.

6 Do you know who the lady officer is on the
7 right of the image at one minute, four seconds?

8 A Yes.

9 Q Who is that, please?

10 A Officer Scaglione.

11 Q Okay. Had you seen her shoot Mr. Muntean with
12 a beanbag gun at all during this incident?

13 A I didn't see it.

14 Q Did you hear it?

15 A I heard a less than lethal shotgun, or what I
16 assumed was a less than lethal shotgun being
17 discharged.

18 Q Is that sound, a less than lethal shotgun
19 being discharged different, in your opinion, from a
20 regular 12-gauge shotgun being discharged?

21 A Yes.

22 Q And is it like -- you can tell the difference
23 listening to the two, right?

24 A Yes, the noise is subdued.

25 Q Okay. In a nutshell, the less lethal

1 shotgun -- is it some kind of nylon bag with lead shot
2 in it that's supposed to knock, you know -- I'll say
3 knock down a person rather than kill them?

4 MR. JOHNSON: Objection. Vague. Overbroad.

5 THE WITNESS: Yeah, it's -- well, it's a less
6 than lethal tool; so it's a means of force that's a
7 less than lethal force.

8 BY MR. STEERING:

9 Q Okay. Now, we see you running in the video,
10 and were you running with a less than lethal shotgun
11 also?

12 A Yes.

13 Q Okay. And how many rounds had you put in the
14 gun?

15 A I don't remember the exact amount of rounds I
16 put into it. I would assume that --

17 MR. JOHNSON: Don't assume, Officer. If you
18 have an estimate, that's fine. Don't guess.

19 THE WITNESS: I would -- I would estimate that
20 I put approximately the to capacity, which is four.

21 BY MR. STEERING:

22 Q Okay. Have you ever shot a person with a
23 beanbag gun before?

24 A No.

25 Q I assume you were trained on it?

1 A Yes.

2 Q Do you -- at the time that you were running
3 after Mr. Muntean with your less than lethal beanbag
4 shotgun, had you been made aware of any standards of
5 the Anaheim Police Department regarding the use of
6 beanbag shotguns on civilians by
7 Anaheim Police Department police officers?

8 MR. JOHNSON: Objection. Overbroad. Vague as
9 to time.

10 THE WITNESS: Yes.

11 BY MR. STEERING:

12 Q And let me show you --

13 MR. STEERING: Putting Moses to sleep again.

14 MR. JOHNSON: Oh, sorry.

15 MR. STEERING: It's okay. You can sleep if
16 you want to. It's okay with me.

17 MR. JOHNSON: I'll be asking for a break soon.

18 MR. STEERING: Okay. Okay. Oh, God. Did I
19 just zip out of this thing? Okay. Okay. Okay. This
20 is Exhibit 265. It's the Anaheim Police Department
21 policy manual.

22 (Exhibit 265 was marked.)

23 BY MR. STEERING:

24 Q And this is the section on kinetic energy
25 projectile guidelines.

1 Is that the section that includes beanbag
2 shotguns, Officer Horn?

3 A Yes.

4 Q Okay. And are you familiar with this section?

5 MR. JOHNSON: Objection. Vague as to time.
6 Overbroad.

7 THE WITNESS: I'm familiar with it.

8 BY MR. STEERING:

9 Q Okay. And are you familiar with these
10 circumstances appropriate for deployment of a beanbag
11 shotgun?

12 MR. JOHNSON: Objection. Overbroad.

13 BY MR. STEERING:

14 Q I'll highlight them here. Okay. Look at the
15 four, please, A through D, the four different
16 circumstances that are -- that allow for deployment of
17 a beanbag shotgun, I guess, in addition to other
18 circumstances.

19 Are you familiar with those -- those
20 criterion, sir?

21 A Yes.

22 Q Okay. And do you believe those were the same
23 criterion that were in existence for
24 Anaheim Police Department officers to use beanbag
25 shotguns on April 13th, 2018?

1 MR. JOHNSON: Objection. Lack of foundation.
2 Calls for speculation.

3 THE WITNESS: I would say the scope of the
4 tactical situation that unfolded at that time is within
5 the realm of some of these considerations.

6 BY MR. STEERING:

7 Q But what I was asking you is, you know, these
8 circumstances -- where it says "circumstance
9 appropriate for deployment include but are not limited
10 to situations in which," and then A, B, C, D -- were
11 those criterion in existence as
12 Anaheim Police Department policy at the time of this
13 incident with Mr. Muntean?

14 MR. JOHNSON: Same objections.

15 THE WITNESS: Well, the way you're wording it
16 is those criterion as if each one -- each of those
17 criteria there were in play, which not all of them
18 were; so --

19 BY MR. STEERING:

20 Q No, I'm not suggesting that at all.

21 I'm just asking if the criterion that are
22 shown on the Anaheim Police Department Policy Manual
23 now -- just these limited four criterion that I'm
24 showing you --

25 A Yes.

1 Q -- were they the same criterion that
2 Anaheim Police Department policy included in April of
3 2018?

4 MR. JOHNSON: Same objections. Vague as to
5 time.

6 THE WITNESS: Again, yes, under the criteria
7 that's listed that you have highlighted, I believe were
8 germane to the situation that was unfolding at that
9 time.

10 BY MR. STEERING:

11 Q Okay. I'm not asking you about the situation
12 that unfolded at the time. All I'm asking you about is
13 the criterion that existed. That's it. I'm not asking
14 you about whether or not they applied to our situation.

15 A I'm sorry. Can you ask one more time because
16 that's what I thought you were asking?

17 Q Yeah. No, I'm not asking that.

18 I'm just asking whether or not -- okay. This
19 is -- we're in December of 2020. The incident took
20 place 32 months ago. Okay? Almost three years ago.

21 So things might change in three years. I'm
22 just asking if these four criterion for use of a
23 beanbag shotgun that are shown in the
24 Anaheim Police Department policy manual are the same
25 four criterion that existed at the time of this

1 incident with Mr. Muntean.

2 That's all I'm asking for.

3 A Okay. I understand now. Yes.

4 Q Okay. Thanks. And I'm sure there's other
5 things you got to take into account like -- like the
6 next section: Deployment consideration, distance and
7 angle to target, type of munitions employed, type and
8 thickness of the subject's clothing, proximity to
9 others, location of the subject, whether the actions
10 dictate a need for an immediate response, that type of
11 thing.

12 Now, there's another one after "Criterion" --
13 this is page 70 of Exhibit 265. It says (As read:) A
14 verbal warning of the intended use of the device should
15 precede its application unless it would otherwise
16 endanger the safety of others -- or excuse me, the
17 safety of officers or when it is not practical given
18 the circumstances.

19 Now, this particular sentence, okay, do you
20 know whether or not Officer Scaglione warned
21 Mr. Muntean that if he didn't stop running away, that
22 he was going to get shot with a beanbag shotgun?

23 MR. JOHNSON: Objection. Overbroad. Vague as
24 to time.

25 THE WITNESS: Well, one, at the time, I wasn't

1 close enough at the time of that incident to hear or
2 know that, as well as my understanding of this sentence
3 that you highlighted is -- we're trained is that it's a
4 verbal warning to the officers that are around so
5 that --

6 BY MR. STEERING:

7 Q Oh, okay. I see.

8 A -- they don't discharge their service weapons.

9 Q Okay. So, in other words, when you're yelling
10 out like "less than lethal" or "beanbag" or something
11 like that, you're saying it to warn the other officers
12 that it's not a gunshot; that it's a less than lethal
13 shot; is that fair?

14 A Yes.

15 Q Okay. All right. Then the next sentence says
16 (As read:) The purpose of the warning is to give
17 individual -- give the individual a reasonable
18 opportunity to voluntarily comply and to warn other
19 officer and individuals that the device is being
20 deployed.

21 So in addition to warning the officers, it's
22 also a warning to the person who might get shot by the
23 beanbag shotgun if they don't do what the officer says;
24 is that fair?

25 MR. JOHNSON: Objection. The policy speaks

1 for itself.

2 THE WITNESS: Yes. That's my understanding of
3 it.

4 BY MR. STEERING:

5 Q Okay. Let's go back to the video.

6 Okay. We'll pick it up at one minute, four
7 seconds of Exhibit 208 on the body cam video.

8 Now, at one minute, seven seconds of the body
9 cam video, it looks like a male officer to your right
10 that seems to be running toward where the other
11 officers ran to, that is toward Mr. Muntean.

12 Do you know who that officer is, sir?

13 A Yes. As I'm looking at it now, that's
14 Officer Thomas.

15 Q Okay. Okay. And I'll pick it up at one
16 minute, seven seconds.

17 Now, there's somebody that said -- did you
18 hear him say, "Get on the fucking ground"?

19 A Yes.

20 Q Do you know who said that, sir?

21 A Yes. I did.

22 Q Okay. And I stopped it at one minute and 11
23 seconds. We're looking at the back of that white Honda
24 that was parked in front of that garage.

25 And to the upper left of that, kind of off in

1 the distance of the top center of the image is that
2 gray Honda.

3 Now, when you reached this position that's
4 shown by the body cam at one minute, 11 seconds, and it
5 shows 14:13:23 hours on the recording, could you see
6 Mr. Muntean at that point in time?

7 A It's hard -- I'd say when I said "Get on the
8 fucking ground" is definitely an indication of when I
9 saw him.

10 So I would say since I heard me say that, and
11 you paused it pretty much right after, then, yes, I saw
12 him.

13 Q But, I mean, you wouldn't have said it -- you
14 wouldn't have told him to get on the ground if he was
15 on the ground, right?

16 A Correct.

17 Q And you wouldn't have told him to get on the
18 ground unless you saw him in some way, right?

19 A Yes.

20 Q Okay. Did you see Mr. Muntean run behind the
21 car, the gray Honda?

22 And when I say "behind," I'm not talking about
23 the rear of the car. I'm talking about the car, the
24 gray Honda being between you and Mr. Muntean; so he's
25 actually standing in the front of the hood or sitting

1 or doing whatever he's doing in the front of the hood,
2 and the rear of the car is facing you.

3 So when I say in "back of the Honda," the gray
4 Honda, I mean -- I mean, basically, in front of the
5 hood of the Honda.

6 A I understand.

7 Q Okay. Now, so let me back it up just a few
8 seconds. It was at 1:11. Was there something you
9 wanted to say, sir?

10 A Well, you asked me a question. I didn't see
11 him run to the front of the Honda.

12 Q Okay. So when you turned the corner -- the
13 street that you were running down ultimately is a dead
14 end, right?

15 A Correct.

16 MR. JOHNSON: Objection. Vague as to time.

17 BY MR. STEERING:

18 Q Okay. Well, the street where Mr. Muntean is
19 behind that gray Honda and then you and all the
20 officers running down there and the street that he got
21 shot on -- that's a dead-end street, right?

22 MR. JOHNSON: Objection. Vague as to time.

23 THE WITNESS: Yes.

24 BY MR. STEERING:

25 Q Okay. So I'm just going to back it up a short

1 bit.

2 Now, I stopped it at one minute, ten seconds.
3 It looks like that's the point in time where you
4 reached, I guess, as far as -- or you became even or
5 even might have gone ahead of Officer Thomas in terms
6 of him running toward Mr. Muntean; is that fair?

7 MR. JOHNSON: Objection. Lack of foundation.
8 Calls for speculation.

9 THE WITNESS: I mean, based on the video I'm
10 looking at, I have passed Officer Thomas.

11 BY MR. STEERING:

12 Q Okay. And so it's one minute and ten seconds.
13 I'll hit it again.

14 So you're yelling "Get on the fucking ground,"
15 but I didn't -- I mean, maybe I'm missing something,
16 but I didn't see Mr. Muntean from your body-worn camera
17 at any time prior to or contemporaneous with you're
18 yelling "Get on the fucking ground."

19 Did you see him in the video?

20 MR. JOHNSON: Objection. Lack of foundation.
21 Calls for speculation. Body-worn camera speaks for
22 itself.

23 THE WITNESS: I mean, I'm pretty sure I see
24 him in the footage right now where you have it paused.

25 /////

1 BY MR. STEERING:

2 Q Is that -- where it says "Stop Share" at the
3 top, that little red button, is that -- it looks like
4 there's something -- like there's on this gray Honda,
5 looks like there's some sunlight reflecting. It looks
6 like a little -- I don't know if you call it a dot or a
7 little round -- I don't know if it's round, but a
8 little gray something on the top of the roof of the
9 car.

10 Is that Mr. Muntean?

11 A It looks like his head.

12 Q Okay. I'm just wondering if that -- I mean,
13 you were there, sir; I wasn't. So -- and this -- you
14 wore your body-worn camera -- was it your waist or
15 midsternum?

16 A Waist.

17 Q Okay. So, you know, I'm sure your eyes could
18 see more over the car than what the camera sees from
19 your waist; is that fair?

20 A Yes.

21 Q Okay. And when you yelled at Mr. Muntean to
22 get on the ground -- I don't need to use the expletive
23 to get the point across, although it doesn't bother me
24 too much -- what was -- I mean, he's behind the car. I
25 guess maybe that's the top of his head.

1 Other than being behind the car, did you
2 notice anything that he was doing behind the car, sir?

3 MR. JOHNSON: Objection. Vague as to time.

4 THE WITNESS: Yes.

5 BY MR. STEERING:

6 Q And what did you notice, sir?

7 A Well, he was looking straight at us. He was
8 darting his upper body and head back and forth. And he
9 was holding in his hand what I could clearly see what I
10 felt was a firearm.

11 And he was indexing it out and pointing it
12 towards us. And then he put it under his chin and then
13 he pointed it back at us.

14 Q Who's "us"?

15 A Well, all the officers -- I mean, me, but,
16 ostensibly, the other officers that were -- what I
17 could sense were in my close proximity to the left and
18 my right and my peripheral vision.

19 Q Oh, okay. At one minute, 11 seconds of
20 Exhibit 210, your body-worn camera video, do you
21 know -- do you know whether there were any other
22 officers that could see the Honda at all, the gray
23 Honda?

24 MR. JOHNSON: Objection. Vague as to time.

25 Argumentative.

1 THE WITNESS: I couldn't speak as to what they
2 could see at that time.

3 BY MR. STEERING:

4 Q Do you know if any of these other officers
5 were in a position where you believe they could have
6 seen Mr. Muntean where it's shown at one minute and 11
7 seconds of your body-worn camera recording?

8 MR. JOHNSON: Objection. Vague as to time.
9 Overbroad. Argumentative.

10 THE WITNESS: Again, I can't speak to what
11 they saw. I mean, whether they were in a good position
12 or the sun was in their eyes.

13 But where they were in proximity to me, I
14 would have -- well, you know, I can't say what they
15 could have seen or not seen. They were to the left and
16 right of me.

17 BY MR. STEERING:

18 Q Okay. When you ran into the condominium
19 complex, did you make a decision to shoot
20 Petrica Muntean with your beanbag gun?

21 MR. JOHNSON: Objection. Vague as to time.
22 Lack of foundation. Calls for speculation.

23 THE WITNESS: No.

24 BY MR. STEERING:

25 Q Did you tell the investigators that when you

1 gave your recorded statement?

2 A They never asked me a question in the same
3 verbiage that you just asked me.

4 Q Okay. We'll pick it up at one minute and 11
5 seconds of Exhibit 208. I said 210 before, but I think
6 it's 208.

7 Okay. We just heard a bunch of shots. All
8 right. Do you know whose shots we just heard?

9 MR. JOHNSON: Objection. Lack of foundation.
10 Calls for speculation. Overbroad.

11 THE WITNESS: Well, I know there was another
12 officer who did fire rounds at that time or during this
13 incident.

14 So I can't speak to the audible noise of those
15 rounds which -- which or both those rounds were coming
16 from at this particular moment.

17 BY MR. STEERING:

18 Q When you said that Mr. Muntean indexed the gun
19 toward you, what do you mean? What does that mean?
20 What does "index" mean?

21 A It just means he pointed it towards me to
22 where the muzzle, the end of the barrel, is pointing at
23 me, and he's pointing it straight out.

24 Q So your testimony that he pointed it -- he's
25 behind the car. He pointed it underneath his own chin,

1 then he pointed it at you, and then he pointed it back
2 underneath his own chin?

3 MR. JOHNSON: Objection. Misstates his
4 testimony.

5 BY MR. STEERING:

6 Q Go ahead.

7 A Yes, whether you want to use the term "index"
8 or "pointing it" in my statement, I believe I used the
9 term "index," but they're more or less the same -- same
10 concept.

11 Q Well, I'll just give you a quote. I mean, we
12 can look it up. It's on page 9 of your report, of the
13 transcript recording.

14 It says -- "would you say that you saw Mr." --
15 well, let me ask you, would you say you saw
16 Petrica Muntean in the back of the gray Honda bobbing
17 for defensive position?

18 A I'm sorry. Did you ask did I say that or --

19 Q Yeah. Did you say that?

20 A Yes.

21 Q And what do you mean by "bobbing"? You mean,
22 like standing up and down kind of thing, or, you know,
23 raising his body up and raising it -- lowering it down?

24 Is that what you meant?

25 A Well, I use the term -- I'll explain

1 "bobbing," but if you -- based on the nature of him
2 being behind the car and the angle, the front of it,
3 and the windshield, and the angle we're at, I said
4 "bobbing" because he had to kind of, yes, move his
5 upper body down and up and to the left and to the right
6 to see around the angles of the car.

7 And the reason I said "defensive position" is
8 because from a tactical standpoint, he's trying to
9 assess what's happening where -- in my mind where we
10 are as opposed to just standing in a static position.

11 Q Well, I mean how far was he moving? Like a
12 lot? A little?

13 MR. JOHNSON: Objection. Argumentative.
14 Vague.

15 THE WITNESS: Well, he's not moving outside
16 the left and right lateral limits of the hood of the
17 car.

18 And he's not, obviously, somehow elevating his
19 body over the car. He's confined to that space. But
20 he's rapidly moving his upper body up and down and to
21 the left and right within the confines of the front of
22 the hood of the car, never leaving from behind the car.

23 BY MR. STEERING:

24 Q Okay. How long was he bobbing for? Like, you
25 know, how many seconds or fractions thereof would you

1 estimate?

2 A I mean, this is all happening very fast. So
3 if you look at the time on the body camera video, it
4 would maybe give you some more accurate indication of
5 time.

6 But it was somewhere in between when I said
7 "Get on the fucking ground" to when I started firing my
8 weapon within that time frame. He never stopped.

9 Q Never stopped what? Bobbing?

10 A Yes, moving around, bobbing.

11 Q Okay. We'll pick it up at a minute and 16
12 seconds.

13 Now, I stopped it at a minute and 23 seconds.
14 It looks like a bullet hole by the A-pillar of the
15 driver side of the car.

16 Does that look like that to you?

17 A Yes.

18 Q Is that bullet hole made by your gun?

19 MR. JOHNSON: Objection. Lack of foundation.
20 Calls for speculation.

21 THE WITNESS: I don't know.

22 BY MR. STEERING:

23 Q Well, was there anyone else on the left side
24 of the car that could have made that bullet hole by
25 firing directly at Mr. Muntean?

1 MR. JOHNSON: Objection. Vague as to time.

2 THE WITNESS: I don't know. I don't know
3 where -- I mean, I'm obviously not a crime scene
4 investigator, and I don't know exactly where
5 Officer Thomas is standing at this point; so I can't
6 speak to whether that would be physically impossible.

7 I don't know. So that's why I can't say
8 who's -- who made that impact on the vehicle.

9 BY MR. STEERING:

10 Q Did you shoot the window out of the gray
11 Honda?

12 MR. JOHNSON: Objection. Vague.

13 THE WITNESS: The window?

14 BY MR. STEERING:

15 Q Yeah.

16 A I don't know. I don't recall a window -- ever
17 seeing a window that was shattered or anything like
18 that.

19 Q How about broken glass on the ground from a
20 car window? You ever seen anything like that next to
21 the gray Honda?

22 A I don't recall seeing any broken glass.

23 Q Okay. So, now we look -- we stopped it at a
24 minute and 23 seconds. And right in front of the
25 Honda, it looks like one of Mr. Muntean's legs?

1 Is that what that is?

2 A That's what it looks like to me as I'm looking
3 at it right now.

4 Q Okay. We're going to pick it up at a minute
5 and 23 seconds on Exhibit 208 of Officer Horn's
6 body-worn camera video.

7 Now, I think we just heard two or three shots
8 between a minute and 23 seconds and a minute and 25
9 seconds. I stopped it at a minute and 25.

10 Were those shots by you or were those shots by
11 Officer Thomas or both?

12 MR. JOHNSON: Objection. Lack of foundation.
13 Calls for speculation. Overbroad.

14 THE WITNESS: Again, I don't know exactly if
15 those -- if some of those audible pops could have been
16 from him.

17 I know I was continuing to fire as I was
18 maneuvering around the vehicle.

19 BY MR. STEERING:

20 Q How far -- when I say "left," I'm meaning the
21 driver side of the gray Honda. Okay?

22 A Okay.

23 Q How far -- how far -- and let's say -- let's
24 say the gray Honda we're drawing a line from the middle
25 of the front to the middle of the back, and then we're

1 going to draw a line perpendicular from that straight
2 out. Okay?

3 So how far away from the gray Honda -- well,
4 how far to the driver side of the gray Honda did you
5 get away from the gray Honda?

6 In other words, how far away from the driver
7 side were you when you were shooting at Mr. Muntean?

8 MR. JOHNSON: Objection. Vague as to time.
9 Overbroad.

10 THE WITNESS: You're asking me at the point
11 that I was advancing towards where he was how far did I
12 swing out to the left of the driver side?

13 BY MR. STEERING:

14 Q Yes, sir.

15 A I mean, I would have to, obviously,
16 approximate that. But, I mean, if he -- you know, if
17 you take into consideration what the true distance is
18 from that Honda to the east, you know, wall, that's
19 there, that's kind of like an eastern boundary, I don't
20 know what that would be.

21 But in my mind, you know, obviously I didn't
22 go as far as to go to the far end of the opposing wall
23 on my east side. Somewhere in the middle of that.

24 Q Let's do this. How about I stop 208 at a
25 minute and 25 seconds. Let me bring up another video.

1 MR. STEERING: Now, here's 356. This is
2 Officer Thomas's video. We just went over this one.

3 BY MR. STEERING:

4 Q Now, at three minutes and eight seconds of the
5 video, that is Officer Thomas's video, is that you
6 passing him?

7 A Nothing is up on the screen right now.

8 MR. JOHNSON: Jerry, you're not showing it.

9 MR. STEERING: Well, I guess I messed that up,
10 but I'll cure it right now. Let me back it up a little
11 bit.

12 BY MR. STEERING:

13 Q This one isn't showing it too well.

14 What I was trying to ask you was -- I stopped
15 it at three minutes and eight seconds. And this looks
16 like -- this is Officer Thomas's video, so it looks
17 like somebody went by him.

18 Was that you that's on the right side of the
19 image of Exhibit whatever it is, Thomas's video at
20 three minutes and eight seconds?

21 Is that you passing him?

22 A Yes.

23 Q Okay. Let's see. All right. Let's try a
24 different one. Let's try Sergeant Lee's. There you
25 go. Actually, I don't have it.

1 MR. STEERING: Let's try Michael Fleet's
2 video, Exhibit 213.

3 BY MR. STEERING:

4 Q I got 213 up. No. That's not it. Let's try
5 Johnson.

6 MR. STEERING: Here's 210. This is Johnson's
7 body-worn video.

8 THE WITNESS: Okay. It's -- I don't know if
9 it's not supposed to be up yet, but it's not up.

10 MR. STEERING: Oh, right. Okay. Sorry. I'm
11 going to get it up. Thank you.

12 No. That's not going to show it.

13 Okay. I got Gonzalez's video,
14 Alexandria Gonzalez. We may have to use Fleet's, but
15 we don't have that yet.

16 BY MR. STEERING:

17 Q Here's Gonzalez's video. I'll start it at
18 five minutes, 26 seconds. That didn't do it. We'll
19 have to find another one some other time.

20 Okay. Do you believe you should have -- well,
21 did you approach Michael -- excuse me, did you approach
22 Petrica Muntean from a position of cover?

23 MR. JOHNSON: Objection. Vague as to time.

24 BY MR. STEERING:

25 Q Well, just before you shot him, how about

1 that? When you were approaching him and then you end
2 up shooting him -- how about during that period of
3 time?

4 MR. JOHNSON: Same objection.

5 BY MR. STEERING:

6 Q Did you approach him from a position of cover?

7 A I wasn't in a position of cover.

8 Q Were you taught to be in a position of cover
9 if you're approaching someone who you feel might shoot
10 you?

11 A I mean, that's kind of a broad question. I
12 don't know how to -- there's so many factors. I would
13 say if it's appropriate, and there's cover, actual hard
14 cover, not just concealment or something that's not
15 going to stop bullets and you're able to utilize that
16 to your tactical advantage and it's appropriate, then
17 you should --

18 Q Well --

19 A -- conceptually.

20 Q When you saw -- when you first saw Mr. Muntean
21 bobbing from the back of the gray Honda, how far were
22 you from the Honda?

23 MR. JOHNSON: Objection. Vague.

24 THE WITNESS: I was approximately 10 yards.

25 /////

1 BY MR. STEERING:

2 Q And -- okay. Were you off to the -- if we're
3 looking at the Honda from the direction of the officers
4 running up the street and approaching the Honda, would
5 it be to the left of the Honda you were?

6 MR. JOHNSON: Objection. Vague as to time.

7 THE WITNESS: You mean from my vantage point?

8 BY MR. STEERING:

9 Q Yes, sir.

10 A I think I was slightly to the right by my
11 vantage point.

12 Q To the right of the gray Honda?

13 A The one that he was behind, Muntean was
14 behind?

15 Q Yeah.

16 A When I came around the corner and I saw him, I
17 would say I was offset slightly to the right of it.

18 Q Okay. And then you kind of swung around to
19 the left of the vehicle?

20 MR. JOHNSON: Objection. Vague as to time.

21 THE WITNESS: Yes, I went -- I went around to
22 the left.

23 BY MR. STEERING:

24 Q Why?

25 A I'm sorry? Say that again.

1 Q Why?

2 A Well, the reason I -- I went towards him in
3 any fashion was I had made that decision at that point
4 to use lethal force.

5 And I felt that I had to move in some sort of
6 nonlinear straight fashion to give myself a tactical
7 advantage to not get shot.

8 Q Why didn't you just stay back with
9 Officer Thomas and call out to Mr. Muntean to try to
10 talk to him?

11 MR. JOHNSON: Objection. Overbroad.
12 Incomplete hypothetical. Argumentative.

13 THE WITNESS: Well, to set the context, I'm
14 running in a full sprint. My mindset, as I came around
15 that corner and saw him -- Muntean, and saw the
16 vehicle -- just prior to that, my thought was that I
17 was going to be continuing to chase him and that we
18 were going to continue to be running down that street.

19 So I don't know either physically or what the
20 other officers were processing or just that I was
21 running faster as to why I passed them.

22 But in my mind, as I just explained, I was
23 continuing to chase him. And when I rounded the
24 corner, I felt that I was -- continued to be chasing
25 him until I saw him in the position that he was in.

1 So, obviously, I started to try to put the
2 breaks on my momentum. But at that point, it was too
3 late. I was already in a position that I felt I was
4 exposed.

5 And I did not see any immediate viable cover
6 that would stop bullets that I could tactically get
7 behind, nor did I feel it was safe or tactically sound
8 to try to then, as I'm pausing my momentum going
9 forward, take the time to somehow back up or turn
10 around and move away.

11 That's if he made the decision to start
12 shooting at me with what I saw in his hand was a gun,
13 that -- even those microseconds to process that and try
14 to move to a different position rather than engage
15 him -- he would have had the advantage on me and could
16 have struck me with gunfire.

17 BY MR. STEERING:

18 Q Would you say that -- well, had you been in
19 that townhouse complex before April 13th, 2018?

20 A Never.

21 Q Okay. And the final leg of that little street
22 that you were on where the gray Honda was parked at the
23 end, there's a wall in back of the gray Honda and then
24 a fence on top of that, and then these condo buildings
25 to the right of it, right?

1 A Yes.

2 Q Okay. So Mr. -- so when you ran down the
3 street and then you turned the corner -- is that the
4 first time you realized it was a dead-end street?

5 MR. JOHNSON: Objection. Vague as to time.

6 THE WITNESS: Yes. When I turned the corner,
7 I saw that it was a dead end.

8 BY MR. STEERING:

9 Q Okay. And then you were running and then you
10 realized it was a dead end, and by that time, you were
11 already out in the open; so then you made a decision to
12 kill Mr. Muntean?

13 Is that what happened?

14 MR. JOHNSON: Objection. Misstates his
15 testimony. He never said he intended to kill.

16 MR. STEERING: Well, when you intend to use
17 lethal force on somebody with a pistol, you intend to
18 kill them.

19 MR. JOHNSON: Well, that's argumentative.

20 MR. STEERING: Well, it makes a whole a lot
21 of -- well, you can call it whatever you want. Okay?

22 BY MR. STEERING:

23 Q How about this? When when you turned the
24 corner, and you saw it was a dead-end street and now
25 you're out in the open, is that when you made the

1 decision to shoot Mr. Muntean with your pistol?

2 A Yeah, I intended to use lethal force at that
3 time to stop the threat that I perceived.

4 Q Well, I mean, you ran quite a ways toward
5 that -- the end of that street with your beanbag
6 shotgun in your hands, right?

7 A Yes.

8 Q And then after you passed Officer Thomas, you
9 ran another, what, 50 feet before you tossed the
10 shotgun down?

11 MR. JOHNSON: Objection. Misstates his
12 testimony.

13 MR. STEERING: I'm not citing his testimony.
14 He's the opposite party. I get to cross-examine him.
15 I get to put words in his mouth.

16 Mr. Reporter, do you remember the question?

17 THE WITNESS: I do remember the question.

18 BY MR. STEERING:

19 Q Okay. Go ahead.

20 A I couldn't say that it was 50 feet. I mean,
21 it wasn't a whole -- it was a fairly minor distance
22 that I passed Officer Thomas before I saw what I saw
23 and made the decision to use lethal force.

24 Q Why did you say to the investigator that
25 Mr. Muntean took a defensive position?

1 A Again, as I stated earlier, you know, I can't
2 speak to what he was thinking or the reason he was
3 doing anything, but I perceived it as a defensive
4 position.

5 And the reason I explained it that way was
6 because by definition, there's some sort of tactical
7 advantage to being in the defense.

8 Whether you choose to be in the defense or
9 you're forced to be in the defense, you're setting
10 yourself up to be in the best position you can be given
11 the context of the situation.

12 If he had just been standing in a static
13 position or he had his hands up or he was turned around
14 away from me, he would still be in the position that he
15 was in, but I wouldn't consider him in the defense by
16 the nature of what he was doing.

17 But by moving around the car and trying to
18 orientate himself to our positions and what we were
19 doing, that's why I called it -- and also just using
20 the cover of the vehicle, that's why I called it a
21 defensive position.

22 Q Okay. And did you use the term "hunker down"
23 regarding Mr. Muntean with the investigators, "hunker
24 down"?

25 A I don't remember if I used that exact word.

1 Q Well, do you use that term?

2 MR. JOHNSON: Objection. Vague. Overbroad.

3 THE WITNESS: I mean, I'm familiar with what
4 that term means.

5 BY MR. STEERING:

6 Q Well, what does it mean to you? Sorry. What
7 does it mean to you? Sorry about cutting you off.

8 What does it mean to you, sir?

9 A I think it's kind of just more of a -- I don't
10 know what the right word to use is, but just casual
11 vernacular in terms of describing what I just described
12 as a defensive position.

13 You know, you're -- I mean, I guess in
14 different context, you could use "hunker down" in
15 different meanings. But in the context of this one, it
16 would -- well, you know what? I don't remember if I
17 said that; so I don't want to speak to what I assumed I
18 meant about something I'm not sure that I said, but,
19 yeah.

20 Q Okay. So when you saw the gun extended out
21 toward you by Mr. Muntean, were you standing -- I mean
22 near Officer Thomas?

23 MR. JOHNSON: Objection. Misstates his
24 testimony.

25 MR. STEERING: That was a question.

1 MR. JOHNSON: He never said he was standing.
2 He said he was running.

3 MR. STEERING: I just asked. Listen, I'm
4 going to get Moses -- I got a whistle on a key chain,
5 I'm going to get you a whistle; so you can coach your
6 clients. Okay? I'm going to mail it to you as a
7 Christmas present.

8 BY MR. STEERING:

9 Q Okay. So after you saw the -- well, I guess
10 you were going to answer the question; so I'm sorry to
11 cut you off.

12 What were you going to say, please, sir?

13 A No. I mean, you know, again, relative
14 terminology, but, I mean, I was -- I was aware that
15 somebody at that time, not necessarily to my, you know,
16 recollection in that moment that there was officers
17 that I was passing that were in near proximity to my
18 left and my right.

19 Q Okay. I'm going to read a quote from you.
20 This is page -- pages 10 through 11 of your transcript,
21 of your recorded statement.

22 And it says (As read:) It appeared that he
23 was trying to get away the whole time to the point
24 where I assumed that beanbag rounds had impacted him.
25 And that didn't deter him from giving up. And now he

1 encountered a dead end, and I had come around, and I'm
2 facing him.

3 (As read:) And he's in what, like I said,
4 appeared to be in a defensive position and the gun is
5 indexed out toward where we are.

6 Okay. So I'm going to stop it at that point.
7 When you said "towards where we are," was that -- were
8 you near officer Thomas when he was pointing the gun
9 toward you or your position?

10 A Well, like I said before, if, you know, I'm
11 speaking to the statement that I gave, which was,
12 obviously, a recollection of what I was thinking and
13 processing at the time, I couldn't say who the officer
14 was to my left and right.

15 I only know just by peripheral vision that
16 there were officers to my left and right and the gun;
17 therefore, if being pointed in my general direction is
18 the general direction of all of us because we're all
19 standing in that direction to some extent.

20 Q You mean near Officer Thomas by that white
21 car?

22 MR. JOHNSON: Objection. Vague.

23 THE WITNESS: Like I said, I don't -- I don't
24 process at that moment if he's, you know, by the white
25 car or where he is exactly when I'm seeing the gun

1 pointed at me.

2 I just -- you know, we're all more or less in
3 the same area. So if I'm seeing it pointed towards me,
4 it's a threat to all of us, not just myself.

5 BY MR. STEERING:

6 Q Okay. Then I'll pick up the sentence.

7 (As read:) And the gun is extended out
8 towards where we are -- this is all one sentence -- and
9 I'm out of cover. And I have to make an option.
10 Essentially, at this point that in my mind, this is a
11 lethal force encounter, and I have to ingress towards
12 and engage him before he engages me.

13 Now, do you remember making that statement,
14 that you had to -- that you decided to ingress toward
15 Mr. Muntean and engage him before he engaged you?

16 Do you remember making that statement?

17 A Yes, I do.

18 Q And does that mean that you saw the gun, you
19 thought there was a lethal force situation because you
20 had a gun, that he's in this defensive position; so you
21 decided to move towards him and shoot him, right?

22 MR. JOHNSON: Objection. Misstates his
23 testimony.

24 THE WITNESS: I decided at that time, kind of
25 like I explained in one of your earlier questions from

1 the tactical standpoint of why I made that decision, to
2 use lethal force and start firing my weapon at him.

3 BY MR. STEERING:

4 Q Okay. Well, the question is -- you say,
5 quote, "At this point that" -- (As read:) At this
6 point that in my mind, this is a lethal force
7 encounter, and I have to ingress toward and engage him
8 before he engages me.

9 Now, does that mean that when you were
10 approaching Mr. Muntean, that he was not engaging you?

11 MR. JOHNSON: Objection. Vague.

12 THE WITNESS: I'm not sure what you mean by
13 that. I could say that as I was approaching him and
14 engaging him, I definitely was not sure if he was
15 exchanging gunfire with me as well.

16 BY MR. STEERING:

17 Q Okay. Well, let's -- let's do this.

18 THE REPORTER: Jerry, I'm going to need a
19 break pretty soon.

20 MR. STEERING: Yeah, let's take one right now.

21 (Off the record from 4:59 p.m. to
22 5:09 p.m.)

23 MR. STEERING: Now, here's Exhibit 367.

24 (Exhibit 367 was marked.)

25 /////

1 BY MR. STEERING:

2 Q And I guess I can make it bigger, let's see
3 what I can do here. Okay. Now, the time is on the
4 counter. This is from -- what video is it? Well,
5 somebody's video. Anyway, now, in exhibit -- can you
6 see Exhibit 367, Officer Horn?

7 A Yes.

8 Q Okay. Now, it looks like there's that white
9 Honda. This is probably Officer Thomas. And then
10 there's an officer all the way next to that garage,
11 which is to the back left of the white Honda.

12 Is that you where I got the cursor there, sir?

13 A I don't know. It's hard to tell, just kind
14 of -- it's grainy.

15 Q Okay. Do you know -- let's just -- if we
16 assume that this is Officer Thomas next to the white
17 car, and there's another Anaheim police officer there,
18 could it have been anyone other than you?

19 MR. JOHNSON: Objection. Vague as to time.

20 THE WITNESS: Yeah, it could have.

21 BY MR. STEERING:

22 Q So who could it have been?

23 A I don't know. I mean, any -- I don't know
24 where the -- all the officers were at that time, any of
25 the officers that were on scene.

1 Q Did you go far enough away from the gray Honda
2 that you believe you could have been in that position
3 shown by the officer furthest away in Exhibit 367?

4 A I mean, I definitely went to the left, which
5 is the direction where that officer is. In my mind, I
6 honestly never looked at anything like this picture
7 here; so I didn't feel like I went that far in my mind
8 at the time, but . . .

9 Q Okay. I mean, nobody -- you know, it's a
10 traumatic event. Nobody expects your memory is going
11 to be perfect.

12 Okay. Well, this is what I'm trying to find
13 out. We saw your prior -- I read your prior testimony.
14 I would be glad to show you. Mr. Johnson has your
15 transcript there, and he can show it to if you'd like,
16 or I can show it to you if you would like, and it would
17 be no problem to do so.

18 But what I'm trying to figure out is this:
19 Petrica Muntean is in back of that gray Honda that is
20 on the other side of the Honda from the deputies.

21 And then you see him point a pistol. And then
22 you said -- "and I have to" -- (As read:) And at this
23 point in my mind, this is a lethal force encounter, and
24 I have to ingress towards and engage him before he
25 engages me.

1 So at that point in time, was Mr. -- when you
2 were circling around, that is, you know, made kind of a
3 left-hand -- you know, move to the left and then come
4 back around toward the gray Honda, was Mr. Muntean
5 crouched down behind the gray Honda at that time?

6 MR. JOHNSON: Objection. Vague as to time.

7 THE WITNESS: Well, there was a point where he
8 was crouched down prior to me actually drawing my
9 handgun. And there was a point, as I was moving in
10 that left end fashion, that he disappeared from my view
11 behind the bumper, front bumper of the vehicle.

12 BY MR. STEERING:

13 Q Okay. And then when you said you wanted to
14 engage him before he engaged you, do you think you
15 might have gone far enough to the left and far enough
16 toward the back of the Honda that you could have
17 been -- that you would be able to see him if he was
18 crouched down behind the back of the Honda, the gray
19 Honda?

20 MR. JOHNSON: Objection. Calls for
21 speculation. Vague.

22 THE WITNESS: Well, there's kind of a
23 disparity of time because the decision is made in
24 microseconds to where he already has his gun out. I
25 don't have my handgun out.

1 I have a less than lethal shotgun, which is
2 not an appropriate thing for me to have anymore, which
3 I have to throw and draw my gun.

4 At the point that I started to try to engage
5 him, my tactic was to not make myself a static target
6 or be directly in line with where he was so that he
7 could hit me easier.

8 So I started to move to the left and in
9 towards him. As I shot, there was a point where his
10 body disappeared behind the hood of the car.

11 BY MR. STEERING:

12 Q Did you shoot him in the head?

13 MR. JOHNSON: Objection. Vague as to time.

14 BY MR. STEERING:

15 Q How about ever? How about that?

16 A Can you ask the question again?

17 Q Did you shoot Petrica Muntean in the head?

18 MR. JOHNSON: Objection. Lack of foundation.
19 Calls for speculation.

20 THE WITNESS: He was struck in the head, but
21 there was two of us shooting; so I can't say which --
22 which of those rounds were the ones that struck him in
23 that particular place.

24 BY MR. STEERING:

25 Q Well, did you look at Mr. Muntean on the

1 ground for bullet holes after you gentlemen and ladies
2 approached him on the ground, sir?

3 A Are you asking did I -- was I able to
4 ascertain where he was struck after the shooting
5 stopped?

6 Q Well, I know that you pulled his right leg
7 out, and then you gentlemen and ladies pulled him out
8 from, you know, behind the Honda to do CPR on him or
9 whatever you're doing on him.

10 So I'm just wondering if you saw any bullet
11 holes in him?

12 A Yes.

13 Q Where did you see bullet holes on him?

14 A I mean, I -- somewhere like in the head area.
15 I can't remember specifically where.

16 Q Okay. Okay. Let me -- let me do this.

17 Let's bring up Exhibit 353 again, and let's
18 look at pages 12 -- okay. So we'll start with 353,
19 page 9. There are no line numbers on it, but it's
20 really the last two sentences on page 9, and we'll move
21 on to page 10 of Exhibit 353.

22 So on the last two sentences of page 9 of
23 Exhibit 353 is (As read:) I mean, I didn't think
24 that -- to me, I didn't view him as a suicidal subject.
25 I felt like based upon what I heard about the night

1 before and what he was doing now, that -- that was a
2 tactic to get away whatever he was doing.

3 (As read:) And at any moment if he was
4 cornered or it didn't work, that he might change his
5 tactic to engaging me with some, you know, lethal force
6 and gunfire, and he was cornered.

7 Stop. (As read:) And so I never -- he
8 didn't -- he didn't call us for help. He never stood
9 there in a static position telling me don't come any
10 closer, or I'll shoot myself, and, you know, I need
11 help.

12 Stop. (As read:) It appeared that he was
13 trying to get away the whole time to the point where I
14 assumed that beanbag rounds had impacted him and didn't
15 deter him from giving up. And now he had encountered a
16 dead end, and I had come around it, and I'm facing him.
17 And he's in what I said -- like I said, appeared to be
18 a defensive position.

19 (As read:) And the gun is indexed out toward
20 where we are, and I'm out of cover. And I have to make
21 an option to essentially at this point in my mind this
22 is a lethal force encounter. I have to ingress toward
23 and engage him before he engages me.

24 (As read:) So at that point, I made, you
25 know, being in fear for my life, you know, everybody

1 else who is now coming up behind me out into the open
2 where he was cause I could see in my peripheral vision
3 some officers to my left, which would be the north,
4 like I said, based on all the circumstances and also,
5 you know, I think this goes into why we were initially
6 trying to apprehend him to begin with.

7 Stop. (As read:) But, obviously, there's a
8 public safety concern for other people to where I can't
9 just let walk away and say, hey, this is getting too
10 much on our end so I'm just going to let you go out
11 into the public where there's a school around a corner
12 and all these things behaving this way.

13 Stop. (As read:) But anyways primarily like
14 I said, at that point, I felt like it was a deadly
15 force situation, and that I needed to engage him in
16 deadly force before he began to engage me, which is
17 what I was fairly certain he would do.

18 (As read:) So I think I had my beanbag
19 shotgun in my left -- in my left hand, but I had it
20 shouldered on my left because I shoot shoulder-fired
21 weapons on my left side because I'm left-side dominant.

22 (As read:) And to back up, when I came around
23 the corner, I was indexed with less lethal shotgun just
24 because when I come around corners, I'm going to be
25 indexed. And that's when I saw him in the position

1 that he was -- and that's when I saw him in the
2 position that he was, and that's when I clearly saw the
3 gun. And I made a decision as he continued to move the
4 way he was and point the gun towards us and back at
5 himself and over to us.

6 (As read:) So I gave him a command that I
7 think, you know, it was like "Get on the fucking
8 ground," but I couldn't see the gun -- no, but I could
9 see the gun. And as I was saying that.

10 Stop. (As read:) And as I started to throw
11 less lethal shotgun off my left side and began to draw
12 my pistol in my right hand, and I believe I was saying
13 "Gun" as I was doing that. And at that point, I
14 started firing my handgun at him. And my kind of
15 general scheme of maneuver that I was right in front of
16 him in the open.

17 Stop. (As read:) So if I kind of did like a
18 button hook as ingressed on him, I felt that would --
19 that maneuver would give me a little bit of chance of
20 not getting hit, as well as closing the distance
21 because since he -- and since he was behind the car --
22 this car, I didn't have, like, as good of sight picture
23 as he was behind cover if I was moving straight at him.

24 (As read:) So I did, like I said, like a
25 button hook. So we looped around -- looped out or

1 around to what would be like if he was facing me. His
2 right side coming around the front bumper of the car.

3 (As read:) And I just remember thinking well,
4 you know, I'm going to obviously assess as I'm shooting
5 around and, you know, if I could see him go down in
6 front of me, the gun is out of his hand or whatever,
7 then I'm going to stop shooting.

8 Then there's page 12 of 353.

9 (As read:) But as I saw him, you know, at
10 what round I don't know that, what this was -- what
11 this was, but I was maneuvering around the car, and I
12 saw him kind of like drop behind the front bumper of
13 the car. But, you know, I didn't know if he had been
14 hit or had ducked down.

15 (As read:) And I don't know if he's firing
16 the weapon cause I can hear someone. You know,
17 obviously, I'm firing my weapon, and maybe somebody
18 else is firing. So I'm thinking we have to continue to
19 maintain fire on his position until I can maneuver
20 around and neutralize him.

21 When you say "neutralize him," you mean kill
22 him, right?

23 MR. JOHNSON: Objection. Misstates his
24 testimony.

25 MR. STEERING: There is no testimony.

1 THE WITNESS: No.

2 BY MR. STEERING:

3 Q So you just want to shoot him until he's not
4 moving at all, right?

5 MR. JOHNSON: Objection. Vague as to time.

6 THE WITNESS: Until there is no more threat.

7 BY MR. STEERING:

8 Q And then it picks up on page 12 of page 353.
9 (As read:) And so I'm firing as I'm going around the
10 car. And as I go around the car, I see that he's down.
11 So I stop firing and just maintain lethal over him --
12 on him while the other officers come up.

13 Okay. So, I mean, a couple of times you said
14 you were going to engage him before he engages you.
15 And "engage him" means to shoot him, right?

16 A Yes.

17 Q Okay. Okay. Let me look at my notes here.

18 So after you turned the corner, did you see
19 Mr. Muntean crouching down in front of the front bumper
20 of the gray Honda, and that he would pop up and look
21 around? Did you see him do that?

22 MR. JOHNSON: Objection. Vague as to time.

23 THE WITNESS: Yes.

24 BY MR. STEERING:

25 Q How many bullets did you fire at Mr. Muntean,

1 Officer Horn?

2 A Are you asking me how many did I think I fired
3 at the time, or how many it was determined to be fired
4 based on the investigation?

5 Q Okay. Well, do you know how many bullets you
6 had in your pistol at the time that you accosted
7 Mr. Muntean, that is before you shot any of the
8 bullets?

9 A 18.

10 Q Was that, like, 17 and one in the chamber, or
11 just 18 in the clip and none in the chamber?

12 A 17, plus one in the chamber.

13 Q Okay. And did you count the bullets after you
14 shot Mr. Muntean?

15 MR. JOHNSON: Objection. Lack of foundation.
16 Calls for speculation.

17 THE WITNESS: I didn't personally count them,
18 and I believe they were counted by the DA
19 investigators.

20 BY MR. STEERING:

21 Q How many bullets were left?

22 A I believe eight.

23 Q Okay. So it's a reasonable inference that you
24 shot at Mr. Muntean ten times; is that fair?

25 A Yes.

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Q Okay.

MR. STEERING: I think I'm done.

MR. JOHNSON: All right.

MR. STEERING: Well, actually -- yeah, yeah.
Yeah. I'm done.

MR. JOHNSON: All right. We're going by the
federal rules; so we're done.

MR. STEERING: Okay.

MR. JOHNSON: You're done, Officer Horn, and I
need a certified copy.

MR. STEERING: Okay. Well, thank you very
much, Officer Horn, and may you have a long and safe
career as a police officer.

THE WITNESS: Thank you.

(Proceedings concluded at 5:30 p.m.)

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STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, the undersigned, say that I have read the foregoing deposition, and I declare, under penalty of perjury, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this _____ day of _____,
20__ at _____, California.

BARTMAN HORN

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Michael McMorran, hereby certify:

I am a duly qualified Certified Shorthand Reporter, in the state of California, holder of Certificate Number CSR 13735 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a

/ / /

1 true record of the testimony given by the witness.
2 (Fed. R. Civ. P. 30(f)(1)).


3 Before completion of the deposition, review of
4 the transcript [X] was [] was not requested. If
5 requested, any changes made by the deponent (and
6 provided to the reporter) during the period allowed,
7 are appended hereto. (Fed. R. Civ. P. 30(e)).

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9 Dated: 12/29/2020

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MICHAEL G. MCMORRAN, CSR No. 13735

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