

SUMMARY OF INVESTIGATION AND LEGAL ANALYSIS OF
THE FATAL SHOOTING OF AMILCAR PEREZ-LOPEZ
ON FEBRUARY 26, 2015



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FACTUAL SUMMARY

On the evening of February 26, 2015, Amilcar Perez-Lopez (Perez-Lopez) and a second man (Abraham P.) were involved in an altercation which resulted in a knife chase down the 2800 block of Folsom Street. Different accounts have surfaced regarding what led to the knife chase. Abraham P. told investigators that Perez-Lopez wanted to buy his bike and chased him with a knife when he refused to sell it to him. Press accounts reported that Perez-Lopez chased Abraham P. with a knife because Abraham P. had taken his cell phone. (The cell phone was later located by police in Perez-Lopez's pocket.) A roommate of Perez-Lopez told investigators that Abraham P. had been arguing with Perez-Lopez about whether Perez-Lopez lived at 2843 Folsom Street and had blocked Perez-Lopez from entering the house, when Perez-Lopez walked away but then returned, ran into the house to get a knife, and then ran out of the house and chased Abraham P. down Folsom Street, yelling "Aren't you macho!" This last account is supported by a MUNI bus video which appears to show Perez-Lopez and Abraham P. standing and facing each other inside the gated area of 2843 Folsom Street, with Abraham P. possibly blocking the entrance to the home.

As described in detail in the witness statements below, the knife chase was observed by a neighbor who was out for a jog and by a woman who was waiting for a bus. At 9:44 p.m., the neighbor called 911, described what he had seen, and said he was located at 24th and Folsom Streets, near the bus stop. He described both men as Latin males, five feet, five inches tall, in their thirties, and he gave the address of the house on Folsom Street he believed they may have come out of. The witness described the knife the man was carrying as approximately 12-inches long and shiny, and said both men were running very fast.

Based on the 911 call, at 9:45 p.m. SFPD dispatch broadcasted a report of a person with a knife at 24th and Folsom Streets. A marked police unit and a backup unit immediately began a Code 3 response (lights and sirens activated) to the scene. Dispatch further advised officers that the reporting person said that a man was chasing another man with a knife, now running towards 25th Street; that both men were around 5 foot 5 inches tall wearing beanies; and that the men were yelling in Spanish and may have come out of a house on Folsom Street. Additional police units began responding to the scene in Code 3.

STATEMENTS OF OFFICERS INVOLVED IN THE SHOOTING

Officers Eric Reboli (Star # 1651) and Craig Tiffe (Star # 1312) were in plainclothes and travelling in an unmarked police car near 24th and Harrison Streets when they heard the first broadcast. Officer Reboli was driving and Officer Tiffe was in the front passenger seat. At 9:46 p.m. Officer Tiffe used the computer in their car to electronically place them on the call as a backup responder. Because they were so close to the location, they did not make a Code 3 response.

According to Officer Reboli, as they reached the intersection of 25th and Folsom Streets, he saw movement mid-block on the east side of Folsom Street which looked like people running around in the street. He turned the car and proceeded northbound on Folsom Street. Approximately mid-block he saw a male (Abraham P.) standing in the lane of traffic while

leaning against a parked car (a blue Nissan), and a second male (Perez-Lopez) standing on the sidewalk, on the opposite side of the parked car. He alerted Officer Tiffe to the presence of the two men, and then parked one to two car lengths behind the blue Nissan. He got out of the driver's side of the unmarked police car and went to make contact with Abraham P., who was still standing in the lane of traffic. Officer Reboli was wearing his police star clipped to his belt directly in front of his holstered firearm. He announced himself as a police officer and then immediately grabbed Abraham P. by both arms and pinned his arms together in case he was the man with the knife, referenced in the broadcast. Officer Reboli observed that Abraham P. was breathing hard, seemed "almost exhausted," and was saying something he did not understand. Officer Reboli told Abraham P. they were going to get out of the street and figure out what was going on, and then walked him towards the sidewalk, between the blue Nissan and a silver Toyota parked in front of it.

As he was walking Abraham P. in between the two parked cars towards the sidewalk to get him out of the lane of traffic, he glanced over the car at the sidewalk and saw Officer Tiffe speaking to Perez-Lopez, who had his back to Officer Reboli. A few seconds later, Officer Reboli glanced over again and saw Officer Tiffe trying to take Perez-Lopez down to the ground and Perez-Lopez "violently resisting." Officer Reboli immediately let go of Abraham P. and ran to assist his partner. Once he was five or six feet away from Officer Tiffe and Perez-Lopez, he saw Officer Tiffe lunge backwards and put his hands up with his palms facing outward, "saw a flash of a very large silver knife," and thought Officer Tiffe may have been stabbed.

After he saw Officer Tiffe lunge backwards and saw the flash of the knife, Officer Reboli saw Perez-Lopez turn, face him and start to run in his direction. Officer Reboli stopped, took one or two large steps backwards and reached for his pepper spray and firearm at the same time. He drew his firearm but was unable to get the pepper spray out of his pocket.¹ He then shouted either "Police, drop the knife" or "Drop the knife," at which point Perez-Lopez momentarily stopped, looked at him and then back at Officer Tiffe, and then continued to advance towards Officer Reboli while holding the knife and making slashing motions. Officer Reboli could not recall in which hand Perez-Lopez held the knife, but thought the knife was held with the blade facing out and upward. Officer Reboli said Perez-Lopez was still on the sidewalk, but near the curb, approximately five to six feet away from him. As Perez-Lopez came towards him, he feared he was about to be stabbed. He also feared for the life of his partner, who he thought may have been stabbed, and for the life of Abraham P., who he believed was still in very close proximity.

Officer Reboli said he discharged his firearm at Perez-Lopez to stop the threat to his life and to the lives of his partner and Abraham P. Officer Reboli explained that, once he started to discharge his firearm, Perez-Lopez began turning toward the street, then took a step or two before collapsing, face-down between the two parked cars. Officer Reboli saw the knife fall from Perez-Lopez' grip and watched as it came to rest in the street, above Perez-Lopez' left shoulder but within his reach.

¹ Photos taken of Officer Reboli right after the shooting show what appears to be the top of a pepper spray canister in his right rear pocket, the same side on which his firearm was carried.

According to Officer Tiffe, as he and Officer Reboli drove down Folsom Street in response to the 911 dispatch, he initially only saw Abraham P. standing near the driver's side door the blue Nissan, close to the side-view mirror. As he exited the passenger side of the police car, he saw Perez-Lopez near the side-view mirror on the passenger side of the blue Nissan. At that point, both males were facing each other from opposite sides of the car. Officer Tiffe had his police star displayed on his chest, hanging from a silver chain on the outside of his jacket. He approached Perez-Lopez on the sidewalk from the rear passenger side of the blue Nissan, as Perez-Lopez stood leaning on the car with his body facing towards the street, leaving only his left side visible to Officer Tiffe.

As Officer Tiffe reached the rear bumper of the blue Nissan, Perez-Lopez looked over his left shoulder and made eye contact with him. Officer Tiffe said he thought Perez-Lopez appeared to be in some type of altered state and described the look on his face as "bloodlust crazed." He announced himself as a police officer as he walked towards Perez-Lopez and asked him to step away from the car. He continued walking towards Perez-Lopez, who did not move away from the car as commanded and did not acknowledge him. Officer Tiffe then pointed to the star on his chest, in case Perez-Lopez did not speak English, but he could not tell if Perez-Lopez looked at it or understood he was a police officer since he said nothing and simply appeared to "look through" him. Officer Tiffe believed that Perez-Lopez was either "on something" or too engaged in what he was doing to respond to verbal commands, so he decided to make physical contact with him.

As Officer Tiffe got close to Perez-Lopez, he saw Perez-Lopez's left hand go up, so he grabbed Perez-Lopez's left arm and his right, back shoulder area, and pulled him away from the car. He then saw Perez-Lopez holding something in his right hand, which was down by his side. Officer Tiffe ordered Perez-Lopez to "Get on the ground!" and spun him around to try to forcibly take him down to the ground. As Officer Tiffe did this, Perez-Lopez suddenly lunged up at him with his right hand. Officer Tiffe disengaged from Perez-Lopez by pushing him about three feet away, and then he saw Perez-Lopez swipe at his chest with the object in his right hand. Once the swipe was completed, Officer Tiffe could see that the object in Perez-Lopez' right hand was "a very large knife," which Perez-Lopez was now waving around in the air with the blade pointing up.

Officer Tiffe said he knew by this point that Officer Reboli had come to his aid and was on the sidewalk to his right, behind Perez-Lopez. As soon as he saw the knife in Perez-Lopez's hand, Officer Tiffe drew his firearm and yelled either "Put down the knife" or "Put down the knife or I'll shoot." Officer Tiffe said he believed at that moment that Perez-Lopez was going to kill him if given the opportunity, and kill anybody in his way.

As Officer Tiffe was shouting commands for Perez-Lopez to drop the knife and focusing on the knife "flailing in the air," he heard Officer Reboli also yelling something, saw Perez-Lopez take a step in Officer Reboli's direction with the knife raised, and heard shots. Officer Tiffe recalled that, as the shots were being fired, Perez-Lopez was "kind of moving in different directions," was at some point "facing, at some point he was turning away," and appeared to fixate on

something in the street, south of where he was standing. He then saw Perez-Lopez take a step between the two parked cars, and raise the knife, either in an outstretched or overhead manner. He didn't know exactly where Abraham P. was at that point but believed he was very close and thought that Perez-Lopez was going after him, so he fired his weapon one time and saw Perez-Lopez fall to the ground. Officer Tiffe recalled that he next saw Abraham P. "cowering down" on the driver's side of the blue Nissan, near the driver's side rear tire, being talked to by Officer Cabillo, who had arrived at the scene moments after the shooting.

STATEMENTS OF OFFICERS RESPONDING AFTER THE SHOOTING

Officer Dominique Ellis (Star # 1614) and Officer Josh Cabillo (Star # 1014) were in full uniform, in a marked police vehicle, when they responded to the call of a man chasing another man with a knife on Folsom Street. Officer Ellis drove east on 24th Street and made a right turn, southbound onto Folsom Street. They had travelled just south of 24th Street when they heard gunshots.

Officer Cabillo said he heard four to five shots, did not know where they were coming from, and initially thought someone might be shooting at them. Once Officer Ellis stopped the car, Officer Cabillo got out, drew his service weapon, walked south on the west sidewalk scanning the area to see where the shots were coming from, and then saw a group of four people standing across the street along the east curb. As he approached the group, he immediately recognized two of the people as Mission Station plainclothes officers and could see they had their guns drawn on a person face down on the ground with a knife about two to three feet from his head. Officer Cabillo saw Abraham P. behind a parked vehicle along the east curb line and told Officer Ellis to detain him since he was unsure of his involvement. Officer Cabillo then requested an ambulance via his police radio and told units to start blocking off the streets.

Officer Cabillo then spoke to Abraham P. who told him, "That Officer saved my life; the officer in the tan pants just saved my life." Officer Cabillo looked over and immediately recognized the person Abraham P. was referring to as Officer Reboli. Officer Cabillo took out his cell phone and recorded an initial statement from Abraham P., in which he says that the man shot by the police wanted his bike and tried to kill him with the knife, and repeated that the officer saved his life. Abraham P. also stated that he had never seen Perez-Lopez before that night.

Officer Ellis said she exited the police car and was running behind Officer Cabillo when she heard him yell, "Blue on blue" "Blue on blue" (a shorthand way of letting her know that the two men with guns drawn were plainclothes officers). She looked left and saw Perez-Lopez down on the ground and some plainclothes officers standing near him. Directly to her right, Officer Ellis saw Abraham P. lying on the ground and immediately went over and handcuffed and began to search him. Thereafter, Officer Ellis said that she saw Officer Joseph Obidi performing CPR on Perez-Lopez who was lying on the ground.

Officer Michael Mayo (Star # 2308) said he arrived at the scene and saw Officer Ellis attempting to detain Abraham P. approximately 25 feet away from Perez-Lopez, and he immediately assisted Officer Ellis. He then walked over to where Officer Obidi was administering CPR to

Perez-Lopez, saw a “large silver butcher knife” lying in the street approximately five feet away from Perez-Lopez, and remained with the knife until the scene was safely secured.

Officer Joseph Obidi (Star # 2328) said he was responding to a call of a man chasing another man with a knife when he heard another police unit advise that shots had been fired. Officer Obidi arrived on scene immediately after the shooting and saw Perez-Lopez lying face down with his legs in between two parked cars and his torso in the street. Officer Obidi turned Perez-Lopez onto his back and began to perform CPR, but Perez-Lopez was unresponsive and had no pulse. As he was performing CPR, he observed a kitchen knife approximately three feet from Perez-Lopez’ head. Medics with the San Francisco Fire Department arrived and took over aid for Perez-Lopez.

STATEMENT OF VICTIM OF ASSAULT WITH DEADLY WEAPON

Abraham P. said he was walking with his bicycle on the east side of Folsom Street, from 24th Street towards 25th Street, when Perez-Lopez appeared from in between parked vehicles and said he wanted to buy his bike. Abraham P. said he first told Perez-Lopez the bike wasn’t for sale, then said he would sell it for \$50, but Perez-Lopez said he would only pay \$20. Abraham P. said he then told Perez-Lopez he would not sell the bike to him and started to leave, at which point Perez-Lopez became upset and produced a large silver knife and then demanded the bike. Abraham P. said that he believed Perez-Lopez wanted to kill him, so he let go of the bike, and started to run around the cars as Perez-Lopez ran after him. As Perez-Lopez followed after him, Abraham P. jumped over a car so Perez-Lopez couldn’t reach him, but Perez-Lopez continued to follow him and try to stab him. Abraham P. said that, as he was being chased, Perez-Lopez said “Hey, wait, wait,” to which Abraham P. responded, “Why would I stop, for you to kill me?”

According to Abraham P., two officers arrived in an unmarked police vehicle as Perez-Lopez was chasing him mid-block on Folsom Street. He said he knew the men were police officers because of the car that they drove and because, during the altercation between the officers and Perez-Lopez, he could see they were wearing badges. Abraham P. said that both officers approached Perez-Lopez, who was standing on the sidewalk, slightly to the rear of the midpoint of the parked car. Abraham P. first said that one of the officers attempted to grab Perez-Lopez, at which point Perez-Lopez got upset and pushed the officer. Abraham P. later said that both officers tried to grab Perez-Lopez and that Perez-Lopez pushed both of them.

Abraham P. said that, as Perez-Lopez pushed away from the officers and started to run towards the “corner” (the front passenger side) of the parked car, Abraham P. thought Perez-Lopez might be coming after him so Abraham P. ran to the driver’s side of the parked car. Abraham P. said that the officers then took a few steps towards Perez-Lopez and ordered him to stop, but Perez-Lopez continued towards Abraham P. with the knife raised in his right hand above his head. When asked if Perez-Lopez had raised the knife in the officer’s direction, Abraham P. stated, “No, at, I think at me....” Abraham P. said he knew that the officer in the tan pants (Officer Reboli) fired at Perez-Lopez and believed that he shot him in the back. He said the second officer was aiming his weapon but he didn’t know if he fired. Abraham P. said that the

officers and Perez-Lopez were approximately 8 to 10 feet apart at the time of the shooting. He said that Perez-Lopez was on the sidewalk when he was shot, and that Perez-Lopez then took a step and collapsed face down in the street in between the two parked cars.

Abraham P. said that, immediately after Perez-Lopez was shot, uniformed officers stopped and ordered him to "Get down!" He was then handcuffed, moved to the curbside, and ordered to sit there until he was un-cuffed later. Abraham P. said he had consumed half of a 24-ounce beer approximately 10 to 15 minutes before the incident; however, the investigator noted the smell of alcohol coming from Abraham P. at the time of his interview several hours later.

STATEMENTS OF INDEPENDENT WITNESSES

Neighbor Who Called 911

The man who had called 911 to report the knife chase later told investigators he was returning home from a jog when he saw one man run out of a house on the east side of Folsom mid-block, being chased by another man. He said he heard something in Spanish by both men, could not understand what was said, but thought they were fighting. As he neared both men, he saw one Hispanic man with a knife in his right hand chasing another Hispanic man around a parked car in front of 2863 Folsom. The witness described the knife as a shiny chrome knife about nine inches long and two inches wide. He said the man with the knife had an angry look on his face, and told investigators, "This was not just a fight ... He had a serious look like, I'm going to get him." The witness said the man being chased did not have anything in his hands. As the witness stopped by a tree and watched the "merry-go-round" in front of him, the man with the knife ran within six feet of the witness, causing the witness to run back towards 24th Street near Philz Coffee House.

When the 67 MUNI bus stopped, the witness ran over and said to the bus driver, "Hey! He's running with a knife over there. Two guys. When they saw me calling they stopped ... I hope." The bus driver told him to call the police, closed the door and drove off. When the witness looked back down the street he saw that both men had crossed over to the west side of Folsom Street, but could see the man with the knife still chasing the other man. At 9:44 p.m. the witness called 911 and reported what he had seen. While speaking with the 911 dispatcher, a woman on the street told him to "Tell the police to get here and stop asking so many questions." He later told investigators, "When I called 911, it was not ending; I had to get out of there."

The witness told investigators he was still on the phone with police dispatch when he heard four gunshots. (The sound of gunfire was also picked up on the recording of the 911 call.) The witness said he did not see where the gunshots came from because he was on the ground behind the bus shelter facing in the opposite direction, and he did not hear anything before the shots were fired but within 60 to 120 seconds he heard sirens.

Woman Waiting for the Bus

A woman who had been waiting for the 67 bus at the corner of Folsom and 24th Streets told investigators that, prior to the shooting, a man came running and said, "Help! There's a couple of guys trying to stab each other!" She said she told him to call 911 and he told her he already had them on the line. She then stepped into the street and looked towards 25th Street and saw two young men chasing one another "with shiny instruments in their hands," although she said it was too far away to see what they were holding. She said the shorter man was wearing a light colored hat and a light colored shirt (Perez-Lopez), and the taller one was possibly wearing a hoodie (Abraham P.).

The witness said she saw the taller man wrapping a t-shirt or jacket around his right arm or hand as he approached and made stabbing motions at the shorter man. In her written statement she said, "From what I could see as they were going around in circles by the cars the taller one had the short one against the garage door then the way it looked the shorter one swing with his right hand looked like he had a shiny object (knife) in his hand." The witness told investigators that the two men then broke away from each other and were saying a few words back and forth when "the tall one backed up and the little one went after him." When asked who was chasing whom, she said she thought the shorter man was chasing the taller one because the shorter one didn't stop. "He kept it up. It was just the tall one stopped and he says something to him, the short one is, wait, again went crazy and started chasing him again. But they were just chasing each other."

The witness told investigators that the two men were still chasing each other when police came from the direction of 25th Street and got out of their car. She said that very soon after seeing the first set of officers arrive, she saw more police arrive from the direction of 24th Street. After the first two officers exited their car, she said they had one or both of the men against the truck or car, when she heard an officer yell, "Put the knife down, put it down now!" She then heard four or five gunshots and saw the 911 caller take off running. The witness said her attention was then drawn to a family in a white truck that drove up. After warning them not to go down the street, she turned back towards the street and saw the taller man run southbound on Folsom Street towards 25th Street being chased by police who yelled, "Get down! Get down now!" The witness said more police units arrived quickly on scene.

Women Walking Home Eating Pizza

Two roommates told investigators that, moments before the shooting, they were eating pizza while walking home along the east sidewalk of Folsom Street from 24th Street towards 25th Street. One roommate recalled walking past "two Hispanic dudes" standing in the patio area behind a "half wall" near the door of a house set back from the street. She said she continued walking down the street another 15 to 20 feet and saw a bike in the middle of the sidewalk in front of the next house. She and her roommate walked around the bike and passed two men on the sidewalk, near the bike. She said she didn't hear the men say anything as she passed, nor did she see a knife or notice a car double parked in the street. After continuing roughly another 10 feet, she heard, "Get down on the ground" possibly two times, and then

approximately five gunshots. She said she started running towards her house and didn't look back.

The second roommate said she saw two men come out of a light blue house and stand on the patio inside a little gate. She felt that the situation was tense. She then saw a bicycle on the ground almost blocking the sidewalk, and walked around the bicycle. She said it was very dark out, but that she had a general recollection that there was a person near a parked car, on the street side, and more people there, but could not recall any details. She walked approximately one house further when she heard something to the effect of, "Get down on the ground," then heard four to six rapid gunshots, and then she "just ran."

Neighbor In House Directly Across the Street

A neighbor located by SFPD officers canvassing on the night of the shooting said she was watching television with her mother when she heard yelling coming from across the street, looked out the window and saw a grey sedan park across the street. She then saw what she thought were two police officers approach two men and shine their flashlights towards them. The witness stated that one man had a bicycle and was wearing a grey jacket and black hat, and the other was wearing a black jacket. She said the officers were approaching the men when the one in the grey jacket began to "tussle" with the officer and tried to get away. She then saw someone holding a gun in his hand so she moved away from the window, and then heard an unknown number of gunshots and what sounded like bullets hitting her mother's home.

In a follow-up interview later that night by SFPD Homicide inspectors, the witness explained that she recognized the grey sedan as an undercover police car because she has family members in the SFPD. She said that when the officers exited their car and directed their flashlights at the two men, she turned and went to sit down, thinking that the men must be drinking. She then heard one officer yelling something and then heard gunshots. She said she thought that maybe the officer was yelling because the "little guy" was running, but that she did not actually see him run. She speculated that he "must have ran because he wasn't over here on this no more. He was right there between." She explained that she did not see anyone with a gun, but thought that one of the officers was pointing something which could have been a gun.

A final interview was conducted by DA investigators 11 months later, at which time the witness was accompanied by an attorney for the Perez-Lopez family. The witness said she looked out the window and saw "Amilcar" walking with a bike, then saw him drop the bike, walk over to the sidewalk and lean on the front hood of a parked car as he talked to "his friend" (Abraham P.) who was standing in the street, on the opposite side of the car, holding onto the side view mirror. She then saw a grey undercover police car stop near the two men. One officer exited the driver's side and was closing the car door and one officer exited the passenger side and was walking on the sidewalk, when she turned away from the window to change the television channel for her mother. When she returned to the window, she saw an officer with a gun, so she turned away from the window and told her mother, "He's got a gun. She then heard six or seven gunshots. This time the witness said she did not recall hearing any yelling or commands prior to the shots being fired.

Man by Corner of Folsom and 25th Street

A witness located 11 months after the shooting told investigators he was standing by the liquor store on the corner of Folsom and 25th Street when a “police narcotics car” turned onto Folsom Street from 25th Street and stopped near 2865 Folsom Street. The witness said he crossed over to the southeast corner of the street and saw two officers get out of the car. He said that one officer walked along the sidewalk and the other in the street, and that one officer had his gun out. The witness said the officers approached two or three people standing in front of 2863 Folsom Street, when someone ran in a northbound direction and, when he got in between two cars, was shot by the shorter officer who was on the sidewalk. The witness said there were only two shots, both which hit the house across the street. He said he did not hear the police say anything before the shooting, but said he did not hear well and was far away. He also said he saw no one other than the police officer in the street at the time of the shooting.

The witness said that it was dark and the street lights were turning off and on. He pointed out the exact spot where he was standing when the shooting occurred, which investigators determined to be 180 feet from the scene. The investigators also determined that, from the location the witness said he was standing, his view of the street side of the blue Nissan would have been blocked by several large trees. The witness (whose statement is very close to that of the woman who lived across the street from the scene) told the investigators that he and that neighbor and “everyone” got together after the shooting and summarized what they’d seen and heard “to be sure.”

Additional Independent Witnesses

In addition to the woman in the house across from the scene, five neighbors reported seeing Abraham P. being detained immediately after the shooting. One neighbor was in his home on Folsom near 24th Street when he heard four loud shots, waited four to five seconds, and then looked out his second story window and saw a uniformed police officer running southbound down the street with his weapon “held high” and screaming, “Get the fuck down!,” followed by a uniformed female police officer. A second neighbor heard gunshots, looked outside his window and saw one man on the ground and another man, in close proximity to the first man, being ordered to the ground by police. A third neighbor heard four to six gunshots, looked out his window and saw a uniformed police officer yell at a subject to get on the ground and then saw the subject get on the ground. A fourth neighbor heard “panicked” shouting of a different male voices immediately followed by a series of five shots, looked out the window and saw someone face down on the ground, between the parked cars, and also saw another man lying on the ground about 10 to 15 feet away being apprehended by someone on his knees. A fifth neighbor heard six gunshots, looked out her window and saw a body in the street, and a subject hunched over talking to a police officer.

An additional three neighbors reported hearing someone being ordered to get down after the shots were fired. One said he first heard sirens, then several loud firework sounds, and finally someone yell “Get down!” The second said he first heard the sound of screeching tires, then

four gunshots and finally someone yell "Get on the ground!" The third said she heard a siren and then four shots, and then heard what sounded like a police officer yelling "Get down."

Two neighbors provided information relevant to whether the badges worn by Officers Tiffe and Reboli were visible at the time of the shooting. One witness reported coming out of his house within seven to ten seconds after the shooting and seeing badges on both plainclothes officers. No one reported hearing officers identify themselves as police.

A total of 15 witnesses (including those already discussed), provided information relevant to whether Officers Tiffe and Reboli shouted commands at Perez-Lopez before discharging their weapons. Four witnesses reported hearing some version of "Put the knife down," prior to shots being fired; five witnesses heard some version of "Get on the ground!" prior to shots being fired; and six witnesses heard yelling or shouting prior to shot being fired, but did not hear or remember the words said.

STATEMENTS OF ROOMMATES OF PEREZ-LOPEZ

Delfino V. and David D. lived at 2843 Folsom Street with Perez-Lopez. They were contacted by SFPD Sgt. Gordon (Star # 1913) at 11:47 p.m. on the night of the shooting, at which time they said they did not see the incident but that they heard multiple gunshots. They also informed Sgt. Gordon that they believed the person shot might be their roommate, Perez-Lopez, because he had not returned home yet for the evening. They explained that Perez-Lopez works for a construction company and would normally be home at this time in the evening. Ten months later, both roommates provided statements to DA investigators in which they claim to have witnessed at least part of the shooting. The roommates said they declined to be interviewed by the police because they were afraid. Their presence near the scene is consistent with the statements of the witnesses who were walking home eating pizza (detailed above) who recalled passing two men standing behind a small fence of a house set back from the street before walking past a bicycle and several men, seconds before the shooting.

Delfino V.

According to Delfino V., sometime after 9 p.m., he was leaving the house to get some food when he saw Perez-Lopez with a man he recognized as someone who sometimes hung around outside his house with others getting drunk and making noise (Abraham P.). When he returned home about 15 to 20 minutes later, Abraham P. and Perez-Lopez were arguing about whether Perez-Lopez still lived at 2843 Folsom Street, and Abraham P. was blocking Perez-Lopez from going inside the house. As Delfino V. was telling Abraham P. to stop causing problems, he saw Perez-Lopez walk away from the house and then run back, jump the small fence in front of their house, and run inside the house. Perez-Lopez then came back out of the house holding a knife and started chasing Abraham P. with the knife while saying, "Aren't you macho." Delfino V. told investigators it looked as if they were "kind of joking around." He said he then lost sight of the two men as they ran down towards the corner of Folsom and 24th Streets.

Delfino V. then went inside the house and told David D. that Perez-Lopez ran out of the house with a knife chasing “the guy with long hair.” Both men went outside and stood at the fence, with David D. standing on the left side of Delfino V. They then saw Perez-Lopez coming from 25th Street, back towards the house. Delfino V. said he believed that Perez-Lopez still had the knife in his hand because he could see the reflection of the light on the knife. Delfino V. then saw two men approach Perez-Lopez from behind, from the direction of 25th Street. One of the men came around and positioned himself by a tree with his back towards Delfino V. and David D., while the other man moved along the sidewalk along the cars towards Perez-Lopez. Although Delfino V. did not see this from where he was standing, David D. told Delfino V. that one of the men grabbed Perez-Lopez from behind, but Perez-Lopez was able to get away.

Delfino V. said that the next thing he was able to see was that both men were pointing their guns. He then heard each officer separately yell for Perez-Lopez to “Drop the knife!” one right after the other. He did not hear the men say they were the police, but thought they might be based on how they told Perez-Lopez to drop the knife. When asked if he saw whether the police were wearing police stars or something that identified them as police officers, Delfino V. said he did not, but explained that he was not that close and “couldn’t see clearly in that instant.” He also said that one of the officers had his back to him, so he could not see his front. Delfino V. estimated he was 15 to 20 yards (45 to 60 feet) away from Perez-Lopez and the officers.²

Delfino V. said that, after the officers told Perez-Lopez to drop the knife, he and David D. “heard the noise when he threw the knife, but at the moment of the noise, we heard the bullets.” When asked about the noise, Delfino V. said, “It could be the knife.” He also said it all happened “really fast.” When asked further about the timing, Delfino V. said, “[S]o then, well, the knife dropped. At the same time, they also release their bullets.” When asked whether Perez-Lopez dropped the knife at the same time the officers shot him, Delfino V. said “Yes.”

As for whether he could see what Perez-Lopez did after the officers shouted for him to drop the knife, Delfino V. said, “Well, in that instant, we couldn’t see exactly what it was that he did. Like I’m telling you, we heard the sound of the knife. There was a truck, well, that almost covered him.” Delfino V. said he did not see Perez-Lopez lunge towards or raise the knife at the officers, but also said he did not think he would have been able to see that because Perez-Lopez was “very short” and the “truck that was there was very big.” Delfino V. said he did not see Abraham P. again that night after losing sight of him as Perez-Lopez chased him down Folsom Street before the police came.

² The actual distance between where the roommates said they were standing and the location of the shooting was determined by DA investigators to be approximately 90 feet. Investigators also determined that the trunk of a large tree would likely have blocked both roommates’ views of: (1) at least some movements made by Perez-Lopez as he travelled north along the passenger side of the blue Nissan before turning and stepping into the street; (2) Perez-Lopez once he stepped between the two parked cars; and (3) Abraham P. standing on the driver’s side of the blue Nissan.

David D.

According to David D., sometime after 9 p.m., Delfino V. ran into his room and said that Perez-Lopez came into the house to get a knife because he was going to fight someone in the street. David D. got dressed and ran outside with Delfino V., hoping he could stop Perez-Lopez from fighting. He ran into the street, looked to his left towards 25th Street and saw Perez-Lopez walking alone on the sidewalk towards their house, on their side of the street. He then saw two men get out of a car behind Perez-Lopez with guns in their hands. David D. said he saw the front of both men as they walked by Perez-Lopez and did not see a badge or star on either of them. He said he could not see if Perez-Lopez was holding a knife because he was walking with his hands at his sides. He then saw one of the officers attempt to grab Perez-Lopez from behind and saw Perez-Lopez free himself by sliding under him. David D. said he did not hear the men identify themselves as police officers and was not sure if they were police officers. Once Perez-Lopez freed himself, he ended up standing between two parked cars, at which point David D.'s view was obstructed and he lost sight of Perez-Lopez but could still see the two officers.

David D. then saw the officer who had grabbed Perez-Lopez walking while pointing his gun, saw him drop his flashlight and bend down to pick it up, and then heard one of the officers yell either "Drop the weapon!" or "Drop the knife!," immediately followed by gunfire. David said, "They fired on him immediately. When they said that, drop the weapon, they didn't give him time and they fired at him." When asked if he felt that Perez-Lopez did not have the time to throw down the knife before the officers shot him, David D. said that was what he believed. However, at the very end of the interview, David D. said he could hear the knife drop right before the shots rang out, and questioned why the officers would shoot Perez-Lopez if they saw him drop the knife.

David D. said he was about 20 to 30 meters (65 to 100 feet) away at the time of the shooting. He said he never saw Perez-Lopez threaten the officers with the knife. However, when asked whether he could see all three men from where he was standing as the shots rang out, he said "No, Amilcar, I didn't manage to see him. I managed to see the police officers." David D. said he did not see Abraham P. at any point that night. David D. said that, right after the shooting, he and Delfino V. went inside the house, but then came right back out again. He said that, by then, two other police officers were headed over from the direction of 24th Street with their guns drawn. One of these two officers came up to where he was standing and told him that he didn't see anything and needed to go back inside the house. David D. said he didn't go back out again because he was afraid.

MUNI BUS VIDEOS

Nine videos were recovered from three separate MUNI buses which traversed Folsom Street between 24th and 25th Streets during the relevant period of time. Each of the buses was equipped with multiple cameras, both inward and outward facing, which captured both audio and video. Of these videos, the following relevant events have been recorded:

At 9:39:21 p.m., the northbound 12 bus passes 2843 Folsom Street and captures two individuals matching the descriptions of Abraham P. and Perez-Lopez standing near the steps to the house. The image from the video shown below may depict the beginning of the altercation between Perez-Lopez and Abraham P. as described by Perez-Lopez's roommate, Delfino V.



At 9:43:51 p.m., while the southbound 67 bus is stopped at the bus stop, the 911 caller comes into view from the south on Folsom Street holding his cell phone. At 9:43:58, someone can be heard yelling "Hey!" The bus driver opens the door and asks the man, "What's that?" The man replies, "He's running with a knife over there. Two guys. When they saw me calling they stopped, so... I hope." The bus driver tells him to call the police, closes the door and drives off southbound in the direction of 2843 Folsom Street.



At 9:44:28 p.m., 37 seconds after the 67 bus left the 911 caller, the bus video captured what appears to be Abraham P. standing in the street in front of 2843 Folsom and looking towards Perez-Lopez, who is standing on the sidewalk, to the left of the garage. The silver Toyota and blue Nissan (where the shooting occurred three minutes later) are visible at the top right of the image.



PHILZ COFFEE HOUSE VIDEO

Philz Coffee House is located on the southwest corner of Folsom Street, at 24th Street. One of its outdoor video cameras includes a view of the bus shelter on Folsom at 24th Streets and has a view towards, but not including, the scene of the shooting. The video establishes a clear timeline for the key events described by the 911 caller and the woman waiting for the bus, and for the arrival of responding Officers Ellis and Cabillo. It also establishes where the 911 caller and the woman were standing, and the direction that they were facing, during the critical moments before and after the shots were fired. The times recorded by this video were determined to be fast by nine minutes and 29 seconds when compared to identical events captured by sources with verified time stamps, including the ShotSpotter recording and the recording of the 911 call, and when compared to the MUNI videos. The times referenced below are adjusted to reflect that actual time of the events.

At 9:43:53 p.m., the video shows a man running towards the southbound 67 bus stopped at the shelter, the doors opening, the man speaking with the bus driver and pointing south, the doors closing and the bus driving off south down Folsom. The man continues to talk on his phone while standing at the curb and looking south down Folsom. He then backs up towards 24th Street, while still looking south. At 9:44:38, a woman at the bus shelter walks towards the man, then looks south down Folsom. Both witnesses continue looking south down Folsom while standing several yards away from each other.

At 9:44:56, the woman starts to walk south while the man continues to look south down Folsom. At 9:45:21, the woman stops by a car parked several feet north of the bus shelter and again looks south. At 9:45:30, the man continues to look south while talking on the phone and walking backwards towards 24th Street until he is out of the camera's view. At 9:45:55, the woman walks back towards the bus shelter, then returns to the curb seconds later and resumes looking south. At 9:46:12, as the man comes back into view, the woman turns north to face him as he walks along the building towards the bus shelter while still talking on the phone.

At 9:47:16, the woman starts to turn to face south again as a pedestrian comes into view walking southbound on Folsom from 24th Street. Three seconds later, a marked police car with its overhead lights activated arrives and travels south on Folsom. The woman turns to look at the car as it passes. At 9:47:21 (the time ShotSpotter recorded the gunshots), just as the police car passes the bus shelter, the pedestrian abruptly turns and runs north on Folsom. At the same time, the 911 caller drops to the ground by the bus shelter and then gets up and runs north. The woman stays by the curb near the bus shelter and looks south down Folsom again. At 9:47:25, the police car stops a few car lengths south of the bus shelter. The passenger exits from the passenger side of the car and walks quickly towards the east sidewalk, followed three seconds later by the driver.

At 9:47:54, a white truck drives down Folsom from 24th Street and stops south of the bus shelter. The woman walks over to the truck as a second police car with lights activated drives south down Folsom and passes the truck. At 9:48:22, the woman walks away from the truck

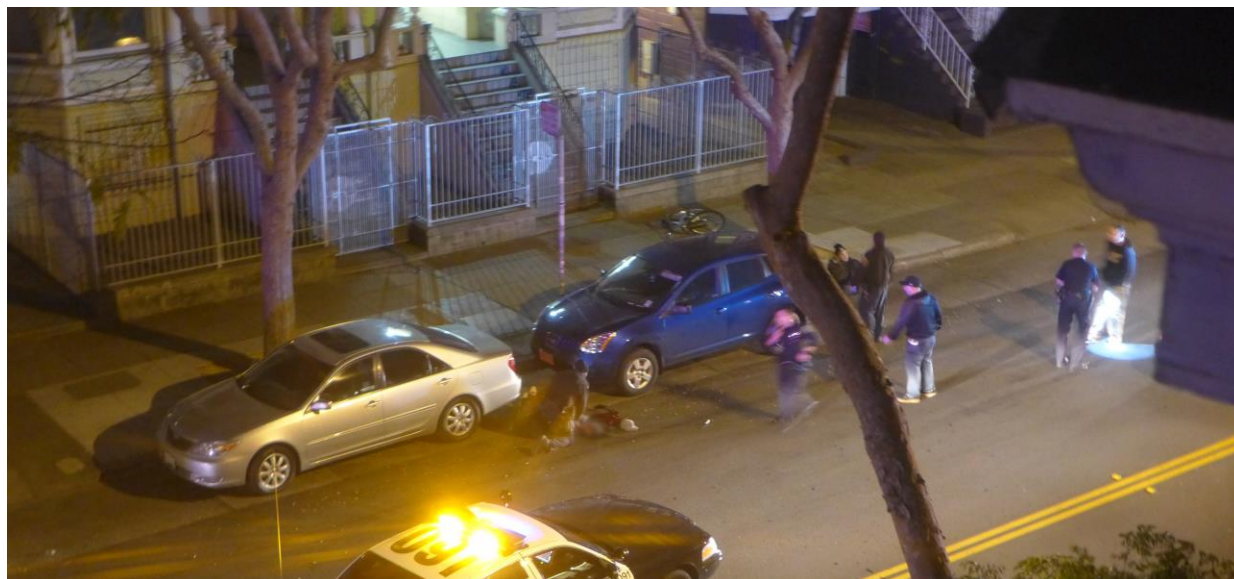
and returns to the street near the bus shelter as the truck's reverse lights come on. The video then captures the arrival of seven additional police cars and two Fire Department vehicles over the next three minutes.

SHOTSPOTTER RECORDING

The ShotSpotter system was activated by the shots fired by Officers Reboli and Tiffe at 9:47:21 p.m. In addition to the automatic detection, location, classification and reporting of the officers' gunshots, the ShotSpotter system captured the raw audio of the shots fired as well as some words shouted just before the gunshots were fired. It captured the sound of one or more people shouting something inaudible, immediately followed by six gunshots.

EARLY PHOTO OF THE SCENE

A photo taken by a witness who lives across from the scene of the shooting shows CPR being administered to Perez-Lopez by SFPD prior to the arrival of medics. A silver knife is visible in the lane of traffic several feet west of the front driver's side tire of the blue Nissan. Abraham P. is sitting on the curb at the back of the blue Nissan talking to an officer.



SFPD CRIME SCENE INVESTIGATION

Investigators from SFPD's Crime Scene Investigations Unit reported that they observed two parked cars in front of 2857 Folsom Street facing northbound towards 24th Street; a silver Toyota parked in front of a blue Nissan with both cars facing northbound separated by several

feet. Perez-Lopez was on the ground partially between the two parked cars, with his feet were in line with the driver's side of the parked cars and his torso and head extended past the cars into Folsom Street. A large silver knife was located several feet south of Perez-Lopez on Folsom Street, abreast from the Nissan's front tire. The knife was photographed with a ruler, showing it to measure 13 inches from end to end, with the blade measuring eight inches.



Also observed were a total of six bullet casings, five located on the sidewalk and one located under the Toyota. A comparison of the number of rounds of ammunition possessed by the officers prior to the incident with the number of rounds recovered from their firearms and magazines after the incident indicates that a total of six shots were fired, five by Officer Reboli and one by Officer Tiffe. The placement of the bullet casings is consistent with the officers' and Abraham P.'s statements that the officers were on the sidewalk when they fired the shots.

MEDICAL EXAMINER'S REPORT

The autopsy of Mr. Perez-Lopez was conducted by Dr. Ellen Moffett, Assistant Medical Examiner of the Office of the Chief Medical Examiner of San Francisco. Dr. Moffett concluded that Mr. Perez-Lopez died as a result of multiple gunshot wounds. Offering no opinion as to the order of the gunshot wounds, Dr. Moffett detailed the location and trajectory of the six gunshot wounds as follows: One to the left back of the head which traveled from back to front, left to right and slightly downward; one to the left back which traveled from back to front, slightly downward; one to the right upper back which traveled from the back to front, right to left and slightly downward; one to the right back which traveled from left to right, slightly upward; one gunshot to the right back which traveled from back to front, and left to right; and one to the right dorsal arm which traveled from back to front. An autopsy was also conducted by forensic pathologist A. Jay Chapman, M.D., at the request the Perez-Lopez family. Both reports essentially agreed on the location and trajectory of the six gunshots wounds.

TOXICOLOGY REPORT

Director and Chief Forensic Toxicologist Nikolas P. Lemos, Ph.D., authored a report detailing the findings of the toxicology testing upon Perez-Lopez. The results were positive for caffeine, nicotine and alcohol. Perez-Lopez' blood alcohol content was .19%. Dr. Lemos told investigators that this blood alcohol level indicates Perez-Lopez was very intoxicated at the time of the incident. Dr. Lemos also explained that a person with a blood alcohol level of .19% would exhibit one of more of the following symptoms: state of confusion or excitement; emotional instability; and loss of critical judgment and understanding.

LEGAL ANALYSIS AND CONCLUSION

RELEVANT LEGAL PRINCIPLES

The California District Attorney's Uniform Crime Charging Standards Manual directs that criminal charges shall not be brought unless the prosecutor, based upon a complete investigation and thorough consideration of all the pertinent information, is satisfied that the subject is guilty of the crimes to be charged and that the evidence will show beyond a reasonable doubt that the subject is in fact guilty of the crimes to be charged. The evidence proving each element of such a crime or crimes must be legally admissible and of such convincing force that the fact finder could convict, even after consideration of plausible, reasonable and foreseeable defenses that could be raised under the facts of the case.

Possible criminal charges against an officer involved in a fatal shooting include murder and voluntary manslaughter. Several justifications may apply in any given case. In order to charge an officer with any of these crimes, the prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that no legal justifications existed for the officer's actions. The justification pertinent to this case is use of force in self- defense or in defense of others.

California law permits the use of deadly force in self-defense or in defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed he or others were in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731. In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. CALCRIM 3470. A person is not required to retreat when faced with such a threat. *Id.*

ANALYSIS

In this case, Officers Tiffe and Reboli heard the dispatch report of an active knife chase down Folsom Street and were several blocks away when they responded, reaching the scene within two minutes of the initial dispatch broadcast. Upon their arrival, they saw two men fitting the description provided by dispatch, pulled over and exited their undercover police vehicle as the two men were standing on opposite sides of a parked vehicle.

As set forth in greater detail above, Officer Reboli stated that he approached Abraham P. in the street and was moving him out of the lane of traffic when he saw Perez-Lopez struggling with Officer Tiffe on the sidewalk. As he went to assist his partner, he saw Perez-Lopez swipe at Officer Tiffe with a knife, thought Officer Tiffe could have been stabbed, and then saw Perez-Lopez turn towards him. Officer Reboli said that, fearing for his life, he stepped backwards and reached for his firearm and pepper spray and ordered Perez-Lopez to drop the knife. When Perez-Lopez did not drop the knife, Officer Reboli said he thought he was going to stab him or try to stab Officer Tiffe again, so he discharged his weapon to stop him. Officer Reboli fired his weapon five times, each time striking Perez-Lopez.

Officer Tiffe stated that he approached Perez-Lopez, identified himself as a police officer, and ordered him to step away from the car. When they made eye contact, he saw what he described as a "bloodlust crazed" look on Perez-Lopez's face and thought he might be in altered state. When Perez-Lopez didn't respond, he grabbed Perez-Lopez and pulled him away from the car, at which point he could see Perez-Lopez holding something in his right hand. As he ordered Perez-Lopez to "Get on the ground!" and tried to forcibly take him down, Perez-Lopez suddenly lunged up at him with his right hand. As Officer Tiffe pushed away to disengage, Perez-Lopez swiped at his chest with a large knife. As Perez-Lopez waived the knife around in the air, Officer Tiffe drew his firearm, yelled for Perez-Lopez to drop the knife, heard Officer Reboli also yelling something, saw Perez-Lopez take a step in Officer Reboli's direction with the knife raised, and heard shots. As the shots were being fired, Officer Tiffe saw Perez-Lopez moving in different directions and then appear to fixate on something in the street, take a step between the two parked cars, and raise the knife. Believing that Perez-Lopez was about to go after Abraham P., Officer Tiffe fired his weapon one time to stop the threat, striking Perez-Lopez who then fell forward to the ground.

In the absence of evidence calling into question the credibility of these statements, each officer's account of the incident supports the legal justification of self-defense or defense of others. Officer Reboli reported that he drew his weapon and started to shoot as Perez-Lopez was coming toward him with the knife, and that at some point during the shooting sequence, Perez-Lopez started to turn. Based on these facts, it was objectively reasonable for Officer Reboli to fire at Perez-Lopez to stop him from advancing further and killing or seriously injuring him, or from turning and killing or seriously injuring his partner or Abraham P. Officer Tiffe reported that, at the time he decided to shoot, he believed that Perez-Lopez was heading in the direction of Abraham P. and saw him raise the knife. Officer Tiffe fired one shot to eliminate the threat that he believed Perez-Lopez posed to the life of Abraham P. Based on these facts, Officer Tiffe's actions were objectively reasonable in order to prevent Perez-Lopez from killing or seriously injuring Abraham P.

Thus, the analysis turns on whether the officers' statements are consistent with other evidence obtained during the course of this investigation.

The officers' accounts describing what they observed *as they reached the scene* are consistent with the evidence. Contrary to stories circulated in the community that the altercation had been amicably resolved and Perez-Lopez was casually walking home alone by the time the officers showed up, overwhelming evidence confirms that the knife chase was still very much in progress when Officers Tiffe and Reboli arrived. This evidence includes Abraham P.'s statement that he was being chased mid-block on Folsom Street when the officers arrived; statements by the 911 caller and the woman at the bus stop describing the knife chase as ongoing as the police arrived; video from Philz Coffee House corroborating the accounts provided by the witnesses to the knife chase and establishing the extremely short timeline; MUNI bus video which captures Abraham P. and Perez-Lopez standing on opposite sides of a car located in front of 2843 Folsom less than three minutes before the shots were fired; the statement of the neighbor across the street describing the two men facing each other on opposite sides of the parked car as the officers arrived; statements of neighbors who saw or heard Abraham P. being ordered to the ground moments after the shooting; and statements of the officers who detained Abraham P. seconds after the shooting.

The only potentially inconsistent evidence consists of statements made by Perez-Lopez's roommates, both of whom said that they did not see Abraham P. once the police arrived. While this may reflect on the credibility of these witnesses, it also may be that they simply could not see Abraham P. from where they were standing. Both witnesses said their view of the street was blocked by a tree and a vehicle, which would explain why they did not see Abraham P. standing on the street side of the blue Nissan. They also said they never moved beyond their fence and were ordered back into their house shortly after the shooting, which would explain why they did not see Abraham P. sitting handcuffed on the curb after the shooting.

The officers' accounts describing what they observed *between the time they exited their vehicle and the moments before they drew their weapons* are largely consistent with the evidence.

Where inconsistent evidence was also found, it was not of such force as to affect the credibility of the officers' statements:

- The officers' statements that they did not have their weapons drawn when they exited their car and approached the two men are consistent with the statement of the neighbor across the street, who said she looked out her window and saw the officers exit their car with flashlights in their hands,³ and that it was only when she returned to the window a second time that she possibly saw a gun being pointed by one of the officers, turned away and then immediately heard the sound of shots being fired. Inconsistent evidence was provided by David D., who said the officers exited their car with guns in their hands. David D. also said, however, that he saw Officer Tiffe grab Perez-Lopez from behind, which would have been extremely difficult and dangerous if Officer Tiffe was holding his firearm at the time.⁴
- The officers' statements that they were wearing their police badges outside their clothing are consistent with the statement of a neighbor who reported coming out of his house within seven to ten seconds after the shooting and seeing badges on both plainclothes officers; and with the statement of Abraham P., who said he knew the men were police officers because of the car that they drove and because, during the altercation between the officers and Perez-Lopez, he could see they were wearing badges. Inconsistent evidence was provided by David D., who said he did not see the officers' badges and did not know they were police officers as they approached Perez-Lopez.
- Officer Tiffe's statement that Perez-Lopez seemed to have a "bloodlust crazed look" in his eyes is consistent with the statement by the 911 caller who said that when Perez-Lopez came within six feet of him minutes before the shooting, he saw his face and thought: "This was not just a fight." "He had a serious look like, I'm going to get him." It is also consistent with Abraham P.'s statement that he believed Perez-Lopez wanted to kill him. Inconsistent evidence was provided by Delfino V., who said it looked like the men were "kind of joking around." However, David D. told investigators that Delfino V. said that Perez-Lopez ran out of the house with a knife because he was going to "fight someone in the street."
- Officer Tiffe's statement that Perez-Lopez seemed to be in "an altered state" or "on something" is consistent with forensic evidence showing Perez-Lopez had a blood alcohol of .19 percent, and with Dr. Lemos' opinion that this is a high level of intoxication which may have caused Perez-Lopez to be in a confused or exited state.

³ Neither officer was specifically asked during their interviews whether they were holding flashlights when they exited their car. When asked whether the officers illuminated anyone with flashlights when they arrived, Officer Tiffe said he did not but could not recall if Officer Reboli did. Officer Reboli was not asked about this.

⁴ The witness by the liquor store located 180 feet away from the scene said he saw the officer walking on the street (Officer Tiffe) with his gun out, but did not specify when in relation to the shots being fired he first saw the gun. Based on where the witness said he was standing, several trees would have blocked his view of Officer Tiffe as he exited the car.

- The officers' descriptions of a physical struggle between Perez-Lopez and Officer Tiffe is consistent with the statement of the neighbor in the house across the street, who said the officers were approaching the men when "the one in the grey jacket" began to "tussle" with the officer and tried to get away. It is also consistent with the statement of David D., who said he saw one of the officers attempt to grab Perez-Lopez from behind and saw Perez-Lopez free himself by sliding under him; and with the first statement of Abraham P., who said that one of the officers attempted to grab Perez-Lopez, at which point Perez-Lopez got upset and pushed the officer. Abraham P. later said that both officers tried to grab Perez-Lopez and that Perez-Lopez pushed them both.
- Officer Tiffe's statement that he ordered Perez-Lopez to "Get on the ground!" once he saw him holding an object in his right hand is consistent with the statements of five witnesses who reported hearing some version of "Get on the ground" before hearing the gunshots. Officer Tiffe's statement that he then saw that the object in Perez-Lopez's hand was a knife is consistent with Delfino V.'s statement that he saw the reflection of the light on the knife in Perez-Lopez's hand right before the officers approached him from behind.
- The officers' statements that they each ordered Perez-Lopez to drop the knife as they drew their firearms are consistent with the statement of Delfino V., who said that as both officers were pointing their guns he heard each officer separately yell "Drop the knife!," one right after the other. They are also consistent with the statement of David D., who said he heard one of the officers yell either "Drop the weapon!" or "Drop the knife!," immediately followed by gunfire; and with the statement of the woman at the bus stop, who said she heard, "Put the knife down, put it down now," before the shots were fired. The ShotSpotter recording, which captured the sound of shouting just before the sound of shots being fired is also consistent with these statements.

However, two key areas were identified relating to the officers' accounts describing what they observed *the moments just before the shots were fired* where it was not immediately clear whether the officers' accounts could be squared with other evidence. These two areas were subject to intense analysis, including close examination by a use of force expert. This analysis led us to the conclusion that the potential inconsistencies in the evidence do not establish that the officers' accounts of the critical moments that led to their decisions to discharge their weapons were fabricated or even inconsistent with what the officers may have perceived at the time.

The first potential inconsistency involves Officer Reboli's statement that Perez-Lopez was coming towards him when he began to fire his weapon. This statement was examined in light of the findings of the Medical Examiner that five of the six shots that struck Perez-Lopez struck him in the back, and with the statement of Abraham P., who said that Perez-Lopez had his back to the officers when he was shot.⁵ In order to determine whether Officer Reboli's statement

⁵ We also considered the fact that neither Abraham P. nor Perez-Lopez's roommates saw Perez-Lopez turn and threaten Officer Reboli with the knife. We concluded that none of these witnesses may have been in a position to have seen this. Abraham P. stated that, as Perez-Lopez pushed away from the officers, Abraham P. thought he might come after him so he ran from the sidewalk to the driver side of the parked car. Thus, at the moment that

could be reconciled with this evidence, we consulted with Charles J. Key, Sr., a respected use force expert retained by our office to assist in this investigation.

According to Mr. Key, two factors explain how Perez-Lopez may have been facing Officer Reboli at the moment the officer made his decision to shoot, yet turned away from the officer when the shots were actually fired, without the officer being aware of this. The first factor is reaction time. According to Mr. Key, "A subject can turn one hundred eighty degrees more quickly than the fact that he/she has turned can be comprehended; thus, the shooter who has decided to fire may not recognize that the person has turned and, perhaps, no longer presents a threat and be able to stop shooting."

The second factor involves the mechanics of shooting. According to Mr. Key, "Once the decision to shoot is made, the shooter's focus is on shooting the weapon effectively rather than on the specific actions of the individual. Given the necessity for the shooter to focus on the mechanics of shooting in order to shoot accurately, the shooter's recollection of the event will, also, be more specific as to what caused her/him to shoot rather than what the subject was specifically doing after the time the decision to shoot was made and during the time the shots are being fired." Mr. Key explained that in this case all six shots were fired in approximately two seconds. Each of Officer Reboli's five shots were fired in an average time of four-tenths of a second. According to Mr. Key, "[Officer Reboli] would not have had time to note the specific position of Perez-Lopez's body during that firing sequence."

The manner in which the dual factors of reaction time and mechanics of shooting described by Mr. Key may have impacted this event is illustrated by the forensic animation created by Jason Fries, of 3D-forensic, Inc.

Mr. Key ultimately answered the question as follows: "The fact that five of the six bullets fired by Reboli and Tiffe struck Perez-Lopez from the back, with the sixth striking him from the side, can be reconciled with Reboli's account of the events by reference to the ... studies relating to action versus reaction time and the mechanics of shooting accurately. In other words, Reboli may have accurately recalled that Perez-Lopez was facing him when he made the decision to shoot and started the process of taking the first shot, but based on action versus reaction time, Perez-Lopez would have been able to turn 90 to 180 degrees by the time the first bullet hit him. Further, once Reboli saw Perez-Lopez coming toward him with the knife and decided to shoot, his focus would have turned to the mechanics of shooting accurately and he may have at that point lost sight of the exact position of Perez-Lopez as he started firing."

The second potential inconsistency involves the officers' statements that Perez-Lopez was still holding the knife when they discharged their weapons. Officer Reboli said he saw the knife in Perez-Lopez's hand as he fired his weapon and then saw the knife fall from Perez-Lopez' grip and watched as it came to rest in the street. Officer Tiffe said that, after hearing the shots fired

Officer Reboli says Perez-Lopez ran towards him with the knife, Abraham P. was likely facing the street heading for the driver side of the parked car. Both of Perez-Lopez's roommates stated that they could not see what Perez-Lopez was doing as the officers shouted for him to drop the knife.

by Officer Reboli, he saw Perez-Lopez raise the knife as he took a step between the two parked cars at which point he fired one shot to prevent Perez-Lopez from stabbing Abraham P. These statements were examined in light of statements made by Perez-Lopez's two roommates, both of whom reported hearing the sound of a knife fall, with David D. placing the sound a moment before the gunfire and Delfino V. placing the sound simultaneous with the gunfire.

The weight of the evidence is consistent with the officers' statements that Perez-Lopez was still holding the knife when they discharged their firearms. According to Abraham P., Perez-Lopez was holding the knife over his head and headed in his direction as the shots rang out. Delfino V., who was standing next to David D., described hearing something fall which "could be the knife" at about the same time as hearing the gunfire.

In addition, the location where the knife came to rest in the street is consistent with Perez-Lopez still holding the knife when the officers discharged their weapons. If the knife had been dropped before the shots were fired, it would likely have landed either at the edge of the sidewalk, where Perez-Lopez was standing before he turned and stepped off the curb into the street, or in the street, between the two parked cars. Instead, the evidence establishes that the knife landed in the street, well into the lane of traffic.

Finally, both officers recalled that Officer Reboli dropped his radio at some point during the incident, leaving room for the possibility that the object which David D. and Delfino V. said they heard drop from 90 feet away was the radio and not the knife.

The evidence is also consistent with the officers' *belief* that Perez-Lopez was still in possession of the knife when they discharged their weapons, even if the evidence supported a finding that the knife had in fact dropped a moment before the shots were fired. Based on the ShotSpotter recording and the statements of numerous witnesses, there was just a moment's pause between the shouting for Perez-Lopez to drop the knife and the sound of the gunshots. According to Mr. Key, under this set of facts, the delay caused by reaction time would have prevented the officers from recognizing that Perez-Lopez no longer was in possession of the knife.

EXPERT OPINION RE USE OF DEADLY FORCE

Based on the officers' statements of the events, Charles J. Key ultimately concluded that the use of deadly force by Officers Tiffe and Reboli was objectively reasonable and consistent with accepted standards of police policies, practices and training. He stated:

As for Tiffe, he acknowledged that Perez-Lopez was facing away from him as he discharged his weapon. At the time he decided to shoot, he believed that Perez-Lopez was heading in the direction of Abraham P. and saw him raise the knife. Tiffe fired one shot to eliminate the threat that he believed Perez-Lopez posed to the life of Abraham P. Based on this set of facts, Tiffe's actions were objectively reasonable and consistent with accepted standards of police policies, practices, and training in order to prevent Perez-Lopez from killing or seriously injuring Abraham P.

Regarding Reboli, he reported that he drew his weapon and started to shoot as Perez-Lopez was coming toward him with the knife, and that at some point during the shooting sequence, Perez- Lopez started to turn. Based on this set of facts, it was objectively reasonable and consistent with accepted standards of police policies, practices, and training for Reboli to fire at Perez-Lopez to stop him from continuing to advance with the knife in order to prevent Perez-Lopez from killing or seriously injuring him, or from turning and killing or seriously injuring his partner or Abraham P.

CONCLUSION

Based on the facts, circumstances and applicable law in this matter, there is insufficient evidence to file any criminal charges against Officer Reboli or Officer Tiffe.