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MIDDLESEX, SS. COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT

* * * * *
MIDDLESEX D.A.'S OFFICE
v.
THOMAS CELONA
* * * * *

FILED
OCT 12 2021
Woburn District Court

* Docket No. 2153IN000001

CONFERENCE
BEFORE THE HONORABLE PETER F. DOYLE

APPEARANCES:

For the Commonwealth:
By Christopher Tarrant, Assistant District Attorney
Middlesex District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

For the Decedent's Family:
By Debra Dewitt Ahern, Attorney at Law
Ahern Law Offices
97 Central Street
Lowell, MA 01852

Woburn, Massachusetts
Held Virtually
October 6, 2021

Written Record Produced By
Quaverly H. Rothenberg, Q & A Transcripts
Approved Court Transcriber

APPEARANCES (Continued):

For the Subject:

By Kenneth Anderson, Attorney at Law
Anderson Goldman Tobin & Pasciucco, LLP
50 Redfield Street
Boston, MA 02122

For the AOTC:

By Kristen Stone, Deputy General Council
Administrative Office of the Trial Court
2 Center Plaza, Suite 540
Boston, MA 02108

1 [On the record at 3:03:17 p.m.]

2 [Appearances Noted]

3 THE COURT: What did you want to bring up, Attorney Tarrant?

4 MR. TARRANT: So, there's a few issues. Nothing --
5 Everything, I think, is resolvable. There's nothing that should
6 impede going forward on the scheduled date. But I just wanted to
7 bring it to the clerk's attention, let the clerk know what I'm
8 doing, and if there's any issues we can address them.

9 But -- So we should be all set for the view the morning of
10 the 18th. There is a new tenant in the apartment where the
11 incident occurred. My -- So, getting into the building: no
12 problem. Getting up to the floor should be no problem. I am
13 going to send some police officers to the tenants in the
14 apartment. Well, we're going to contact the landlord first to let
15 them know that we will be coming, to hopefully -- Hopefully they
16 have no objection to that, to let us into the apartment. So I
17 just -- I don't -- If there's any issues with that, I can let the
18 Court know how that goes. But I don't know if they know that this
19 happened in their apartment.

20 THE COURT: Okay. If it does become problematic, then we may
21 postpone the view or do whatever we have to do on the view. But
22 we -- if we don't do the view, we will start the hearing Monday
23 morning.

24 MR. TARRANT: Okay. And I can let everybody know by e-mail
25 if that's all set. But they're going to go probably meet with the

1 | people by the end of this week to see. They've notified the board
2 | of directors and landlord; we're just waiting on the actual
3 | tenants, to let them know.

4 | THE COURT: Next issue?

5 | MR. TARRANT: William Gaffney, the security guard who was
6 | very involved with this situation, has passed away. My feeling
7 | would be to submit, if the Court would accept, his -- the summary
8 | that I drafted in lieu of his testimony, if there are no
9 | objections or if there are any issues or if somebody needs to add
10 | or subtract from that statement, and then we could all maybe come
11 | to an agreement as to what his potential testimony would have
12 | been, --

13 | THE COURT: Okay.

14 | MR. TARRANT: -- because I think he's a very important
15 | witness. So, something for everybody to think about.

16 | Susan Dunn, she's the resident who lived across the hall from
17 | Mr. Celona and interacted with the police when they arrived. I
18 | received a letter, which I can certainly provide to everyone. But
19 | I'm hoping it won't be necessary. I received a letter from her
20 | physician or psychotherapist indicating that she suffers from
21 | severe anxiety and it would be detrimental to her health to appear
22 | in court. I --

23 | THE CLERK: Oh, we can't hear you.

24 | MR. TARRANT: And based on that conversation, she assured me
25 | after speaking with me that she would appear in person. So I'm

1 | hoping it won't be an issue. But I do have that note. And the
2 | request in the doctor's letter was that she testify remotely,
3 | either by phone or potentially by Zoom. It doesn't say that
4 | specifically, but it's indicated in the letter that that would be
5 | preferential to appearing. But she did say she would appear. I'm
6 | just hoping she doesn't have second thoughts before the 18th.

7 | THE COURT: Okay. So, the plan right now would be for her to
8 | appear in court.

9 | MR. TARRANT: Right.

10 | THE COURT: If that becomes impossible due to her anxiety, I
11 | will let her testify, but it would need to be by Zoom video.

12 | MR. TARRANT: You would allow that.

13 | THE COURT: By Zoom video.

14 | MR. TARRANT: Okay.

15 | THE COURT: Not audio.

16 | MR. TARRANT: Right. Okay. So Zoom would be okay.

17 | THE COURT: Video.

18 | MR. TARRANT: Yep, video.

19 | THE CLERK: That's Ms. Dunn?

20 | MR. TARRANT: That would be Susan Dunn, yes.

21 | I also forwarded to everybody -- Onto the next issue: I
22 | can -- There we go -- correspondence I received from Linda
23 | Copeland. She is from Unit 325, which shared a wall with Mr.
24 | Celona. She raises some concerning issues that I wanted everybody
25 | to be aware of. And I have my opinion on those. But I did meet

1 with her as well. What's contained in her e-mail is essentially a
2 memory she says she had after speaking with me. But she is --
3 she's difficult, difficult to control. And I'm just -- I'm not
4 sure I want to call her as a witness. But given that her
5 statement -- I think, well, the Court's going to certainly have to
6 evaluate the veracity of anything any witness says. But I don't
7 know what to do about her as a witness, just -- I'm trying to put
8 this delicately, Your Honor, but she's difficult.

9 THE COURT: Okay.

10 MR. TARRANT: And I just wanted you to be aware.

11 I think all the -- For the next issues: the transcripts have
12 been uploaded; the one missing transcript is Jeff Latores. I
13 thought I had it. I thought it was uploaded. I could not find
14 it. So I have re-requested it, but I should have it by the end of
15 the week. And that should be up there, if it wasn't already. I
16 thought it was, but I didn't see it. So I'm going to make sure
17 that's there.

18 THE COURT: Okay.

19 MR. TARRANT: And, finally, use-of-force expert Charles
20 DiChiara, I have -- I -- well, I've uploaded his résumé. But I
21 expect to call Charles DiChiara from the Waltham Police Department
22 as an expert on use of force. I do not intend to elicit an
23 opinion from him on any of the events that are subject to the
24 inquest. It would be more of a general description of
25 use-of-force training, use-of-force scenarios. And I can reduce

1 that to writing as well, if the Court wishes.

2 But that was -- that would be all the things that I wanted to
3 bring up today.

4 THE COURT: All right. Excellent. Thank you very much.

5 Attorney Dewitt Ahern, any issues or any problems or anything
6 you need to bring to the Court's attention? You need to unmute.

7 THE CLERK: You're muted.

8 MS. DEWITT AHERN: Sorry, Judge.

9 THE COURT: No problem.

10 MS. DEWITT AHERN: There are a couple issues I will discuss
11 with Mr. Tarrant, and then if we need to do it further we can
12 bring it to the Court. I do have a scheduling conflict on the
13 Monday afternoon at two o'clock. I couldn't get out of it. It's
14 a Superior Court matter. And I tried to get it rescheduled but
15 could not. I just want to let [sic] the Court aware of that. And
16 I have to apologize. I can try again, if the Court --

17 THE COURT: Is it a trial?

18 MS. DEWITT AHERN: No, it's a motion to suppress, Judge.

19 THE COURT: Who's the Superior Court judge?

20 MS. DEWITT AHERN: I'm not sure of the judge that will be
21 hearing it, Judge. The judge what we -- rescheduled it for was
22 with Judge Deakin. I can certainly readdress the issue with the
23 Superior Court and come back to this court if I need some
24 assistance. Initially, the A.D.A. and I were looking at something
25 in November, but the court wanted something sooner.

1 THE COURT: Okay. Attorney Tarrant, how many witnesses do
2 you anticipate calling on Monday?

3 MR. TARRANT: I think this will actually go fairly quick,
4 Judge. Maybe --

5 THE COURT: Okay.

6 MR. TARRANT: -- five. Maybe less. I mean, --

7 THE COURT: Okay.

8 MR. TARRANT: -- I don't think this is -- I don't think we
9 have a whole lot of witnesses, to begin with.

10 THE COURT: Well, let me ask you this: do you think -- I
11 guess it'd be a lot easier if the Superior Court could just -- I
12 mean, this is -- We scheduled this inquest a while ago. And
13 there's a lot of moving parts. So I guess what I'd say is if you
14 can take one last stab at it and just tell the judge, you know,
15 this is pretty important and there's a lot of pieces involved
16 and --

17 MS. DEWITT AHERN: I will absolutely do that, Judge.

18 THE COURT: All right. I appreciate it. And if it becomes a
19 problem, then speak to A.D.A. Tarrant. And perhaps if need be we
20 can go from nine to one and -- on Monday and then resume on
21 Tuesday. That's -- I prefer not to, just so we can keep it
22 moving. But if that's what we have to do, that's something we can
23 entertain. And --

24 MS. DEWITT AHERN: Thank you, Judge. I will take care of
25 that as soon as we get off the Zoom.

1 THE COURT: Great, thanks. Anything else?

2 MS. DEWITT AHERN: Nothing right now, Judge.

3 THE COURT: Attorney Anderson?

4 MR. ANDERSON: A couple of quick things, Judge. First of
5 all, I -- I've been communicating a lot with A.D.A. Tarrant. And
6 there's no -- we're very cooperative in this, I think. And I
7 obtained a copy of the Winchester police use-of-force policy that
8 I sent to him that I think is relevant because it goes to the
9 officers' training in this area in addition to what they've
10 learned at the, you know, academy and in services. So I would ask
11 that that be part of the record, an exhibit in this.

12 THE COURT: Sure. That's fine.

13 MR. TARRANT: Yeah, I have no objection to that either. I
14 think I can introduce it. We can either agree on it or introduce
15 it through one of the officers.

16 THE COURT: All right. Just make sure Attorney Dewitt Ahern
17 gets a copy.

18 MR. TARRANT: Yep.

19 MS. DEWITT AHERN: Thank you.

20 MR. ANDERSON: Second, there's been -- there were two prior
21 instances involving Mr. Celona that Officer Latores was involved
22 in, the second of which occurred on October 14th of 2020, a little
23 bit over two and a half weeks before our incident, where he was
24 found wandering around, trying to get into houses, disheveled, not
25 wearing shoes, wasn't quite sure where he was, how he had gotten

1 there. His legs were cut up. And in the front of his hooded
2 sweatshirt was a large knife that was taken from him. And it was
3 the second time that Officer Latores had interaction with Mr.
4 Celona where he had been in possession of a knife.

5 On that call, he was taken to the Winchester Hospital. And I
6 spoke with A.D.A. Tarrant; I think it's -- it would be important
7 for us to get those records from the Winchester Hospital, just to
8 see A) what statements were made, if any, about his mental health;
9 B) if there's any admissions about drug use, you know, what
10 brought him there, what put him in this state; and C) if there's
11 nothing that may indicate he was, like, suicidal or if there's
12 a -- an angle to this, maybe a suicide-by-police angle.

13 I don't know if those records will ultimately be admissible.
14 And I know this is a weird procedure, where it's not a criminal
15 procedure, it's not a civil procedure; the rules don't apply to
16 either one. But without having those records and knowing what's
17 in them, I can't really make an articulate argument that they're
18 relevant or not relevant. So if there's a way we could get a
19 subpoena off to the Winchester Hospital, to at least review these
20 records --

21 THE COURT: Attorney Tarrant?

22 MR. TARRANT: I think it would have to be coming -- I think
23 it would have to come from the Court, Your Honor. I don't know
24 that I have the subpoena power for those. But if -- Or I can do a
25 trial subpoena, I suppose, if that counts in this situation.

1 THE COURT: So, I guess what I'll ask you, Attorney Anderson,
2 and maybe Kristen, to do is: if you can just draft a subpoena, and
3 I'll sign it. I'm not saying I'm letting them in. All I'm saying
4 is I'll give all three of you a chance to look at them. And then
5 you -- we can go from there, as far as what you think should come
6 in or shouldn't come in.

7 MR. ANDERSON: I think that makes sense. I mean, without
8 knowing what's in them, you know, I just --

9 THE COURT: Right. And as I'm sure --

10 MR. ANDERSON: I don't know --

11 THE COURT: I don't think I have to tell you it cuts both
12 ways, you know, as far as your client goes, as far as his client
13 of mental health issues versus, you know, volatility and tendency
14 towards violence. So we'll see. But I think it make sense for at
15 least the three of you to look at it, and then we'll go from
16 there.

17 MR. ANDERSON: Okay.

18 THE COURT: So if you could all cooperate with Attorney
19 Stone, and then she can maybe e-mail me something. And I'll sign
20 it, and I think I'll get it to you, Attorney Tarrant. And you can
21 have it served on the hospital.

22 MR. TARRANT: That's fine.

23 THE CLERK: Just make sure I get a copy as well, just for the
24 file.

25 THE COURT: Absolutely.

1 THE CLERK: Thank you.

2 MR. TARRANT: And I understand the clerk's having difficulty
3 printing out any attachments. I do -- I'll provide hard copies to
4 the Court through the clerk's office, all the additional items
5 that have not been provided thus far --

6 THE CLERK: Thank you.

7 MR. TARRANT: -- in hard copy. I will endeavor -- just try
8 to save myself multiple trips. But will try to get everything to
9 the clerk --

10 THE CLERK: Okay, just as long as we get them by --

11 MR. TARRANT: -- in the next few days.

12 THE COURT: Very good. Attorney Anderson, anything else?

13 MR. ANDERSON: Just along the same lines, Judge, in the
14 discovery that's been provided there was some information from Mr.
15 Celona's former girlfriend that he had been incarcerated in 2016.
16 There've been a couple reports, you know, from the Winchester
17 police where he was arrested or brought to court. And then there
18 were a couple Woburn police reports that came in. What I did was
19 a spoke to A.D.A. Tarrant about getting his board of probation
20 record. He said that he had it but didn't know if he could give
21 it to me.

22 I went online to the various District and Superior Courts and
23 just found dockets with his name, and I've written to those courts
24 to get the dockets. I have something from Suffolk Superior that
25 I've forwarded by e-mail to A.D.A. Tarrant. I got something from

1 | the Boston Municipal Court that didn't seem particularly helpful.
2 | But I would request a copy of the board of probation record just
3 | to see -- again, without knowing what these cases are about,
4 | what -- if I have all the cases, if they fit into the puzzle or
5 | not.

6 | THE COURT: Okay. Again, it's something that I'll order.

7 | THE CLERK: Can he send me a motion, Judge?

8 | THE COURT: Would it be easiest to get your probation
9 | department to do it, if I make the order?

10 | THE CLERK: Yeah. If he can just send me a motion, I can
11 | mark it "allowed," and then I'll give it to Probation, and then
12 | I'll get a copy to him. If you can just --

13 | THE COURT: Right.

14 | THE CLERK: -- e-mail me that request, Attorney Anderson.

15 | MR. ANDERSON: Sure.

16 | THE CLERK: Thanks.

17 | THE COURT: All right. Any other issues for you, Attorney
18 | Anderson?

19 | MR. ANDERSON: I think that was all I had, Judge.

20 | THE COURT: Okay. So, as of right now, we'll plan on meeting
21 | in Winchester about 9:00 a.m. on October 18. If it becomes -- If
22 | the view becomes problematic, then we'll try to reschedule for
23 | later that week. But we will proceed with the inquest at Woburn.
24 | What courtroom are we going to be in, Clerk, do you know?

25 | THE CLERK: Courtroom 3.

1 THE COURT: Courtroom 3.

2 THE CLERK: Yes. Upstairs, on the second floor.

3 THE COURT: And, again, that will not be open to the public.

4 THE CLERK: Correct.

5 THE COURT: Attorney Dewitt Ahern, I will allow you to have
6 the parents in it, if you prefer.

7 MS. DEWITT AHERN: That's what I was going to ask you, Judge.
8 I've been in contact with Mr. and Mrs. Celona. Mr. Celona would
9 like to be present. Mrs. Celona is actually contemplating and I'm
10 discussing with her -- and I've mentioned this to A.D.A.
11 Tarrant -- the possibility of Mrs. Celona testifying.

12 THE COURT: Okay.

13 MS. DEWITT AHERN: The other thing is, Judge, just for the
14 record, the Celonas did hire an investigator who spoke to some
15 witnesses I can provide. One of them actually is the decedent
16 that Mr. Tarrant raised. I can give him the information also that
17 my investigator got from this person and put it together, the
18 information, if that would be helpful to Mr. Tarrant.

19 THE COURT: Yeah. I think what makes sense is if you have
20 both of the statements, and then maybe we can stipulate to both of
21 them.

22 MS. DEWITT AHERN: Okay. Yeah, I texted my investigator, and
23 he's going to get the stuff to me, Judge.

24 THE COURT: Okay. Sounds good.

25 THE CLERK: And, Judge, --

1 THE COURT: Okay.

2 THE CLERK: Oh, I just had a logistical question about the
3 view. Should we meet at -- I don't even -- Do we know the
4 apartment number? Should we meet downstairs? I know it's
5 secured.

6 THE COURT: We should meet in the parking lot --

7 MR. TARRANT: Yes.

8 THE COURT: -- right outside the apartment.

9 THE CLERK: And then we'll all --

10 MR. TARRANT: So, there's a security gate --

11 THE CLERK: I know.

12 MR. TARRANT: -- prior to getting into the property. But I
13 believe there's a parking lot just before the security gate, and
14 there's on-street parking.

15 THE CLERK: It's just to the right.

16 MR. TARRANT: Yep. So we can -- I would say we can meet --
17 we could meet outside the front door nearest the security gate.

18 THE CLERK: Okay.

19 MR. TARRANT: That's my suggestion.

20 THE COURT: Okay. All right. Thank you all very much.

21 THE CLERK: Thank you.

22 THE COURT: I look forward to seeing you on October 18th.

23 MR. TARRANT: All right. Thank you, Your Honor.

24 MS. DEWITT AHERN: Thank you, Your Honor.

25 MR. ANDERSON: Thank you.

1 MS. DEWITT AHERN: Stay well, all.

2 MR. ANDERSON: Thank you.

3 THE COURT: Stay safe, all.

4 [Adjourned at 3:21:06 p.m.]

C E R T I F I C A T I O N

I, Quaverly H. Rothenberg, an Approved Court Transcriber, do hereby certify that the foregoing is a true and accurate transcript of the audio recording of the above-entitled matter provided to me in the form of an electronic sound recording.

I, Quaverly H. Rothenberg, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Quaverly H. Rothenberg, further certify that I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.



December 20, 2021

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I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
GEORGE ELIOPOULOS				
By Mr. Tarrant	15			
By Mr. Anderson		27		
THOMAS CARD				
By Mr. Tarrant	29/45			
By Mr. Anderson		44/47		
By Ms. Dewitt Ahern		56		
LINDA COPELAND				
By Mr. Tarrant	62			
By Mr. Anderson		78		
By Ms. Dewitt Ahern		82		
By Mr. Anderson				83
KEVIN LOWRY				
By Mr. Tarrant	87			
OFFICER HYDEN MEILER				
By Mr. Tarrant	94			
By Mr. Anderson		106		
By Ms. Dewitt Ahern		107		
2:				
HEATHER DERBY				
By Mr. Tarrant	111			
By Ms. Dewitt Ahern		120		
SERGEANT RYAN MAWN				
By Mr. Tarrant	122/164			
By Mr. Anderson		173		
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By Mr. Anderson				203
By the Court		204		
OFFICER ANDREW RICCIO				
By Mr. Tarrant	206			
By Mr. Anderson		240		
By Ms. Dewitt Ahern		245		
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1 [Case Called at 9:45:27 a.m.] --

2 [Appearances Noted, Ms. Dewitt Ahern not present]

3 [Mr. Paul Celona & Mrs. Alyce Celona present]

4 THE COURT: Do you know who your first witness is going to
5 be?

6 MR. TARRANT: Yes, Your Honor. In fact, I created another
7 witness list. The original witness list was a list of potential
8 witnesses. And I whittled it down to the witnesses that will be
9 testifying. And I've tried to -- I don't know that -- Did I
10 provide it to the Court?

11 THE COURT: It has -- Let's see.

12 MR. TARRANT: George Eliopoulos would be the first witness.

13 THE COURT: Yes.

14 MR. TARRANT: Oh, did I give that to you?

15 THE CLERK: No, I didn't --

16 MR. TARRANT: Oh.

17 THE CLERK: Unless it was in the packet you just handed me
18 today.

19 MR. TARRANT: No, I don't think it was. So, I tried to -- My
20 witness list is also my potential batting order of witnesses. So,
21 I hope to call in that order. There are a couple -- Well, one
22 witness notified us that she got called into work. That's Susan
23 Dunn [phonetic]. And she's asking to come tomorrow morning. She
24 is also the woman that I told the Court suffers from extreme
25 anxiety and was potentially going to do her testimony via Zoom.

1 THE COURT: Right.

2 MR. TARRANT: She has agreed to come in person, --

3 THE COURT: Excellent.

4 MR. TARRANT: -- so I'm trying to accommodate her as much as
5 possible.

6 THE COURT: She's in Unit 325?

7 MR. TARRANT: Yes.

8 THE COURT: Okay. Is she still in Unit 325?

9 MR. TARRANT: I believe so, yes.

10 THE COURT: Okay.

11 MR. TARRANT: Other than that, the only other witness issue
12 that we could have is: the use-of-force expert, Charles DiChiara,
13 who I was anticipating coming tomorrow, has been called out of
14 town. He thought he would be able to come back and testify in the
15 afternoon. But it doesn't look like that's going to be possible.
16 Mr. Anderson and I are trying to coordinate with him for potential
17 Zoom testimony, if that's possible, if that's appropriate, or if
18 that's approved by the Court.

19 THE COURT: On what day?

20 MR. TARRANT: He -- We're thinking tomorrow afternoon.

21 THE COURT: That's fine.

22 MR. TARRANT: And -- Yeah.

23 THE COURT: Just, planning-wise, I'm prepared to go to four
24 o'clock every day except Wednesday. Wednesday, we'll have to stop
25 at one.

1 MR. TARRANT: Okay.

2 THE COURT: But other than that --

3 MR. TARRANT: I anticipate we will either be finished
4 tomorrow or Wednesday morning.

5 THE COURT: Excellent.

6 MR. TARRANT: Tomorrow, the only scheduled witnesses I have,
7 other than anybody that's leftover from today, is Dr. Atkinson
8 from the Medical Examiner's Office is scheduled to testify at
9 9:00 a.m.; and then I anticipate Susan Dunn to follow; and
10 depending on how far we get today, if we have remaining witnesses
11 today they will follow Susan Dunn, tomorrow.

12 THE COURT: Okay. Attorney Anderson, do you anticipate
13 calling any witnesses?

14 MR. ANDERSON: I may call -- he's now "Sergeant" Latores.
15 That's something we'll probably decide today. If not, I'll
16 probably just play the audio of his interview.

17 THE COURT: That's fine. And are we set up to do that
18 audio-visual and all that, or --

19 MR. ANDERSON: Well, the audio is -- I have a laptop with a
20 speaker; I could just play the --

21 THE COURT: Fine.

22 MR. ANDERSON: It's just audio.

23 THE COURT: Okay.

24 MR. TARRANT: I've never been assigned to this court, Judge,
25 so I've actually never been here, other than the clerk's office.

1 So --

2 THE COURT: I haven't been here in twenty years, so --

3 MR. TARRANT: But I know if there's something we need, I'm
4 sure I can find somebody to get it.

5 [Ms. Dewitt Ahern Present]

6 THE COURT: I'm sure we'll be able to do it. Okay. Attorney
7 Dewitt, do you need a moment?

8 MS. DEWITT AHERN: Just a second, Judge, please.

9 THE COURT: Sure.

10 MS. DEWITT AHERN: Hi.

11 THE COURT: Just for the record, is that how -- I know it's
12 "Dewitt Ahern," but what --

13 MS. DEWITT AHERN: "Dewitt" is fine.

14 THE COURT: "Dewitt" is fine?

15 MS. DEWITT AHERN: "Dewitt" is fine.

16 THE COURT: Okay.

17 MS. DEWITT AHERN: Thank you, Judge.

18 MR. TARRANT: And, Judge, there's -- when we came this
19 morning I believe I told the witnesses to be here by ten. Just,
20 I'm hoping --

21 THE COURT: Okay.

22 MR. TARRANT: -- that's okay. But I expect to be able to
23 start at ten or as close to ten as --

24 THE COURT: Okay.

25 MR. TARRANT: But I don't know that anybody's arrived yet.

1 THE COURT: All right.

2 MR. TARRANT: I just don't know.

3 THE COURT: Whoever -- Again, whatever order you want to go
4 in. Are there any other issues that you want to address at this
5 time?

6 MR. TARRANT: I don't think so.

7 THE COURT: Okay. Attorney Anderson?

8 MR. ANDERSON: I just -- Just back to the use-of-force
9 expert, I think he's -- He hasn't been uncooperative. I think he
10 just had a difficult time. He's now with the federal law
11 enforcement training center in Georgia. I know him; I've worked
12 with him in other cases, and I consider myself a friend of his. I
13 called him this morning and I texted saying, like, "What's your
14 schedule?" He said he's going to call at the next break. I don't
15 know when that break is. But if we can figure out when we're
16 going to get his information, if we could maybe have a brief break
17 just to communicate with him.

18 THE COURT: You let me know at some point either between
19 examinations of witnesses -- Just ask, "Judge, can we take a break
20 now?" I usually -- My M.O. is to go straight through unless
21 somebody needs a break. So, at any point, you just let me know
22 and I'm happy to take a break.

23 MR. ANDERSON: And how strict is the mask policy going to be
24 in this?

25 MR. TARRANT: There's -- I was told the other day that if

1 | you're --

2 | THE COURT: So, the rule of thumb is if you're vaccinated and
3 | you're more comfortable removing your mask, you may do so when
4 | you're speaking. So I think if you're all right with that, that's
5 | what we'll do. If you're speaking, you can remove your mask. But
6 | if you're in the courtroom -- Witnesses can remove their mask when
7 | testifying.

8 | MR. TARRANT: Is it required?

9 | THE COURT: I'm sorry?

10 | MR. TARRANT: Is it required or not required, Judge?

11 | THE COURT: It is not required unless somebody has, you know,
12 | an objection or somebody wants the mask.

13 | MR. TARRANT: I can find out before the witnesses testify,
14 | but I think they're --

15 | THE COURT: Is that what you were --

16 | MR. ANDERSON: Well, I just -- I know there's one witness,
17 | Your Honor, that's very mask-conscious.

18 | THE COURT: My feeling is that since I'm going to be the
19 | finder of fact -- that I have no problem with them keeping their
20 | mask on.

21 | MR. ANDERSON: Okay.

22 | THE COURT: If you want them to remove the mask, I will ask
23 | them if they're comfortable. And if they're comfortable, they'll
24 | remove it.

25 | MR. TARRANT: No, I'm --

1 MR. ANDERSON: Okay.

2 MR. TARRANT: I'm fine, Judge. There's no jury here, so
3 obviously --

4 THE COURT: All right. Does that --

5 MR. ANDERSON: Yeah. And that's first.

6 THE COURT: Okay. While you're all just sitting there with
7 Sergeant Latores, you should keep the mask on.

8 MR. ANDERSON: Okay.

9 THE COURT: But when you're addressing the Court, you -- or
10 if you're speaking at any point, asking questions, you can remove
11 the mask.

12 MR. ANDERSON: Okay.

13 THE COURT: Okay? Does that -- Is that all right with you?

14 MS. DEWITT AHERN: That is fine, Judge. That's pretty much
15 the way we've been doing it for the last few months in most courts
16 now.

17 THE COURT: Okay. All right. So we'll stay with that
18 policy.

19 [Mr. James Celona Present]

20 THE COURT: And just for the record, are you James?

21 MR. CELONA: Okay. Thank you.

22 THE COURT: So the record will reflect that James Celona,
23 brother of Thomas, has also appeared.

24 All right. Do you want to go check to see if any of your
25 witnesses are here?

1 MR. TARRANT: Yes, Your Honor. Thank you.

2 THE COURT: Okay. I'm going to stay right here, so --

3 MR. TARRANT: Oh, okay. I'll just excuse myself.

4 THE COURT: Take your time.

5 MR. TARRANT: I do have an advocate working with me. Her
6 name is Anne Foley. She may -- I don't know if she's going to be
7 in the courtroom, but she may.

8 THE COURT: What's her name again?

9 MR. TARRANT: Anne Foley.

10 THE COURT: Anne Foley? Yep, she's welcome to come in, as
11 long as we know who's here, because, as you're all aware, it's a
12 closed proceeding.

13 MR. TARRANT: All right.

14 [Mr. Tarrant exiting]

15 MS. DEWITT AHERN: Judge, I'm going to take a two-minute
16 break.

17 THE COURT: Sure.

18 MS. DEWITT AHERN: Thank you.

19 THE COURT: No problem.

20 [Ms. Dewitt Ahern exiting]

21 [Pause]

22 [Mr. Tarrant and Ms. Dewitt Ahern entering]

23 THE CLERK: So, Counsel, Attorney Tarrant and -- We didn't
24 get the medical records today.

25 MR. TARRANT: Okay.

1 THE CLERK: But they'll keep an eye out.

2 MR. TARRANT: Yep. I know they received a subpoena and
3 they're responding to it, so --

4 THE CLERK: Okay.

5 [Pause]

6 MR. TARRANT: So, Your Honor, I have two witnesses here, and
7 I can begin whenever the Court is ready.

8 THE COURT: Ready.

9 MR. TARRANT: Ready? So, first witness I'll call is George
10 Eliopoulos.

11 MR. ANDERSON: Judge, actually --

12 MR. TARRANT: The use-of-force expert is calling now.. Take
13 it.

14 MR. ANDERSON: Could we --

15 THE COURT: Go ahead, take it, sure.

16 MR. ANDERSON: Okay. I'm just going to take a phone call
17 really quick.

18 [Mr. Anderson exiting]

19 [Pause]

20 [Mr. Anderson entering]

21 MS. DEWITT AHERN: Your Honor, there was one issue, and I
22 apologize for not bringing it up. Mrs. Celona, Thomas's mother,
23 is in the court. I had indicated to the Court, whether she could
24 sit and if she were potentially a witness, that she would not be a
25 fact-based witness.

1 THE COURT: So, can you clarify what you mean by "she's not
2 a --"

3 MS. DEWITT AHERN: She wouldn't actually have anything to
4 testify to as to the events of the night of November 2nd, 2020.
5 It would go more to Thomas Celona's mental health issues.

6 THE COURT: Okay. I think that's fine. Do you have a
7 problem with it?

8 MR. TARRANT: No, Your Honor.

9 THE COURT: Do you have a problem?

10 MR. ANDERSON: I don't have a problem. I would -- And,
11 again, this is a unique procedure, but I would probably object to
12 the relevancy of her testimony, because there was nothing that
13 Sergeant Latores was aware of. I mean, he was aware of two prior
14 instances --

15 THE COURT: Okay.

16 MR. ANDERSON: -- with Mr. Celona, but he -- I think beyond
17 that it's -- it doesn't --

18 THE COURT: So --

19 MR. ANDERSON: -- offer for the Court -- But I know you're
20 running this procedure, so --

21 THE COURT: So, let's see how things go. I'm going to allow
22 her to remain in the courtroom. When it comes time, if she wants
23 to testify, you'll probably have to make an offer of proof. And
24 based upon what I've heard and the evidence, I'll make a
25 determination, whether I think it'll be pertinent or relevant.

1 MS. DEWITT AHERN: Thank you.

2 THE COURT: Okay?

3 MS. DEWITT AHERN: Thank you, Your Honor.

4 THE COURT: All right. You're welcome.

5 [GEORGE ELIOPOULOS, Sworn.]

6 THE COURT: You can have a seat, thank you. And it's
7 completely up to you: you may leave your mask on. If you're more
8 comfortable, you may remove your mask. It's completely up to you.

9 THE WITNESS: Okay.

10 THE COURT: Go ahead.

11 MR. TARRANT: Thank you.

12 **DIRECT EXAMINATION OF WITNESS, GEORGE ELIOPOULOS**

13 BY MR. TARRANT:

14 Q Sir, can you please state your name, spelling both your first
15 and last name?

16 A George Eliopoulos, G-E-O-R-G-E, last name Eliopoulos, E-L-
17 I-O-P-O-U-L-O-S.

18 Q And, sir, how far have you gone in school?

19 A I have my -- I graduated from Babson College with my
20 bachelor's.

21 THE COURT: Hold on one second; is it O-S or A-S?

22 THE WITNESS: O-S.

23 BY MR. TARRANT:

24 Q And what is your degree in?

25 A Accounting and economics.

1 Q Okay. And how are you currently employed?

2 A My family owns a pizza place in Winchester.

3 Q And how long -- So what do you do at the pizza place in
4 Winchester?

5 A Manage -- I do everything.

6 Q And how long have you been doing that?

7 A Since I was a kid.

8 Q And what is the name of your family's pizza place?

9 A Andrea's Pizza.

10 Q And where is that located?

11 A 883 Main Street in Winchester, on the corner of Main Street
12 and Swanton Street.

13 THE COURT: Sir, did you say "Hungry Guy's Pizza"?

14 THE WITNESS: No, Andrea's Pizza.

15 THE COURT: Andrea's Pizza?

16 THE WITNESS: Yeah, A-N-D-R-E-A-S.

17 BY MR. TARRANT:

18 Q And are you familiar with 200 Swanton Street?

19 A Yes, I can --

20 Q And how are you familiar with 200 Swanton Street?

21 A We have deliveries there every day. We have many customers
22 from that building.

23 Q And how far is that building from your restaurant?

24 A Five-minute walk.

25 Q And prior to working in your family business, did you do any

1 other type of work?

2 A I did. I was in investing. I was a stockbroker for five
3 years, out of college.

4 Q And then after doing that for five years, is it fair to say
5 you returned to your family's business?

6 A Yes.

7 Q And you've been doing that ever since?

8 A Yes. [Indiscernible at 10:02:33 a.m. - speaking away from
9 microphone].

10 Q And what kind of restaurant does your family own?

11 A Pizza, pizza and takeout, subs.

12 Q And what are the hours of operation of your family's
13 restaurant?

14 A So, currently, because of COVID, it's been 11:00 a.m. until
15 10:00 p.m. every night. We used to stay open later, but now it's
16 10 o'clock, since COVID started.

17 Q And back on November of 2020, what were your hours of
18 operation at that time?

19 A Same, eleven to ten every day.

20 Q And, sir, if I direct your attention to November 2nd, 2020,
21 do you recall that day?

22 A November 2nd?

23 Q Yes.

24 A Just by date? No.

25 Q Okay. Do you recall a date about a year ago where an -- a

1 significant event happened in relation to your relationship?

2 A Well, you're saying the -- what happened -- Okay. I didn't
3 know --

4 Q Okay.

5 A -- the actual date. But, yes, of course.

6 Q Okay. And was there a date approximately one year ago that
7 police came and spoke to you?

8 A Right after the incident.

9 Q Okay. And other than conversations with me, have the police
10 been back to speak to you since that time?

11 A I think the detective just came once or twice, right after
12 that happened.

13 Q So that was approximately one year ago?

14 A Yes.

15 Q And it was in relation to a specific incident?

16 A Yes.

17 Q Do you recall what that incident was?

18 A That there was a shooting at the Parkview.

19 Q At the Parkview?

20 A Yeah.

21 Q And is the Parkview the apartment complex at 200 Swanton
22 Street?

23 A Yes.

24 Q And so, directing your attention to that particular day where
25 the officers came to speak with you, --

1 A Yeah.

2 Q -- do you recall what you did on that day?

3 A Yes.

4 Q Were you working, on that day?

5 A I was working.

6 Q And what shift were you working?

7 A I -- I start the morning shift, I -- I leave for a little
8 bit, and I come back and work until about eight o'clock on
9 Mondays.

10 Q And this is --

11 A It was a Monday.

12 Q And this is at Andrea's pizza, that you're working?

13 A Yes.

14 Q And if I direct your attention to approximately five o'clock
15 in the evening, or the early evening, do you recall anything of
16 significance happening on November 2nd, 2020, at that time?

17 A Yes. I -- I had an incident with the -- the -- the person
18 that you guys are speaking about. He came into the store. This
19 is his third time into the store not wearing a mask. The first
20 time, you know, it was his first time in the store. He had no --
21 You know, we said, "You need to wear a mask." A couple days
22 later, he showed up again and he put his shirt over his face. I
23 said, "That's okay, but you need to wear a mask next time."

24 So, the third time was this night that, you know, he came in.
25 And I was a little agitated because this is the third -- I have,

1 you know, older parents that are in the store, you know, a
2 seventy-two-year-old dad that's, you know, working seven days a
3 week. I said, "Buddy, you need to wear a mask." And, you know, I
4 did raise my voice to him.

5 Q And if I could stop you there.

6 MR. TARRANT: And if I could approach the witness, Your
7 Honor.

8 THE COURT: Yes.

9 BY MR. TARRANT:

10 Q Sir, I'm going to place a photograph in front of you, ask you
11 if you recognize --

12 A That's him.

13 Q That's who?

14 A I just -- I didn't know his name, but --

15 Q Is that the person you're speaking of, --

16 A Yes.

17 Q -- that came in without wearing the mask?

18 A Yeah.

19 Q And you met this person on three occasions?

20 A Three occasions, yes.

21 Q And how much time had passed between the first occasion and
22 the third occasion?

23 A Not a long time. I -- I can't know for sure. Maybe a couple
24 weeks. I know the first two times were really close, because I
25 just told him, "Hey, you know," -- He -- It was his first time in

1 the store, and he actually had said -- he ordered and he said, "I
2 just live across the street," because I told him you're supposed
3 to order before you -- you know, you're supposed -- We had a
4 policy, like: --

5 Q Right.

6 A -- call in the orders and just come and pick up. And he had
7 ordered there; we let him. He said, "I just live across the
8 street." And then he -- he didn't even come back to pick up his
9 food until after I left. It took --

10 Q Okay.

11 A -- a few hours. But --

12 Q I'm going to slow you down there and just ask you -- Do you
13 recognize the person in that photograph?

14 A Yes. Three times, the same person.

15 Q And that's the person you're speaking of that you had met
16 three times in your restaurant?

17 A Yes.

18 MR. TARRANT: Your Honor, may this be marked as the first
19 exhibit?

20 THE COURT: Exhibit 1.

21 **[Photograph Marked as Exhibit No. 1]**

22 BY MR. TARRANT:

23 Q And so, sir, can you just describe the circumstances in which
24 you found -- in which you first met the person now depicted in
25 Exhibit 1?

1 A The first meeting?

2 Q Yes.

3 A He came in, again, the first time that I knew of, you know,
4 that I -- I -- I had met him. And he came in. He wasn't wearing
5 a mask. You know, we had signs that said, "Please wear a mask."
6 And he came in. We just said to him, "Hey, you know, you need to
7 wear a mask next time." And he ordered.

8 Q Okay. And did he comply with your request at that time?

9 A Yes.

10 Q Okay. And was he acting appropriate at that time?

11 A The first time, yes.

12 Q Do you recall what he ordered?

13 A I'm pretty sure it was a steak tagine [phonetic]. I think he
14 did the same thing the first and the third time.

15 Q Okay.

16 A The second time, I think he just got a soda.

17 Q And so the first time he ordered a steak --

18 A Steak tagine.

19 Q -- tagine. And then when he came in the second time, do you
20 recall that occasion? How much time had passed between the
21 first --

22 A I think it was --

23 Q -- and second?

24 A -- shortly, because I just remembered talking to him about
25 wearing a mask the first time. So it was -- it had to have been a

1 week, you know, not -- not -- not probably too much longer after
2 that.

3 Q Okay. And was he wearing a mask on the second occasion?

4 A No. He pulled his shirt or sweatshirt over his face to kind
5 of, you know, -- A lot of people try to do that, as a temporary
6 mask. He pulled it up and --

7 Q Okay.

8 A -- went and grabbed his drink and then came over. And I said
9 to him, "Next time, please, you know, have a mask on."

10 Q And so that's not unusual, for somebody to lift their shirt
11 up?

12 A People will try to do it. I mean, we don't constitute that
13 as being a mask. You know, it's a -- it's -- You've got to pay
14 and, you know, now you're trying to keep your mask up and trying
15 to pay at the same time. So we'd like people to wear a real mask.

16 Q Okay.

17 A We've been pretty strict at the store. We don't want to
18 allow any dining-in or anything like that while COVID's been going
19 on.

20 Q And so the second time this person came in, he just ordered a
21 soda or a drink?

22 A As far as I remember, it was just a drink, because I remember
23 him going straight to the -- And he kind of did, like, a swoosh,
24 you know, put his mask over because he knew, like, you know, we
25 said, "Hey, you got to wear a mask." And he did kind of like a

1 swish over --

2 Q Okay.

3 A -- and then grabbed his soda and came. That's all I
4 remember, the second time that he -- what he ordered. I don't
5 remember if he actually ordered food or not.

6 Q So, now directing your attention to the third time that you
7 met this individual: can you describe the circumstances on that
8 occasion?

9 A So, this is the -- obviously the third time he's walking in
10 with no mask. And at that time I'm agitated because, you know,
11 I've asked him twice before to wear a mask. And he comes over and
12 I said, you know, -- I said, "Buddy, I told you you got to wear a
13 mask." And he hands over the funds, again, no mask on. And he's
14 breathing. He makes three big, deep breaths. And his hand's
15 shaking like he's either agitated at me because of how I spoke to
16 him or he's trying to calm himself down. And I grabbed a mask and
17 I handed it to him. I said, "You got to put this on." And after,
18 you know, he put it on. And he ordered his food after.

19 Q And do you know what he ordered?

20 A I think the steak tagine [phonetic] again.

21 Q And did he wait while his food was being prepared in the
22 restaurant, or did he leave and come back?

23 A No, we don't -- we don't allow people to wait. Yeah, not at
24 that time. We used to say, you know, you were supposed to be
25 calling it in. And we either would bring it outside to you or we

1 just told them to come back in, like, fifteen or twenty minutes,
2 whatever we told them at the time.

3 Q Okay. Now, you described that he appeared -- he may have
4 appeared agitated. Did he appear that way before you asked him to
5 put on the mask, or only after?

6 A No, I think after. After I -- I mean, he walked in. And
7 right when I saw him, because I recognized, you know, the same
8 person I just talked to two other times, you know, I said
9 something right away to him. You know, and he came right up. And
10 that's when he -- you know, he was breathing like that.

11 Q And did you prepare his food?

12 A Yes.

13 Q And what was his -- what did you prepare?

14 A Steak tagine.

15 Q And did he pick it up?

16 A He did.

17 Q Did he pay for it?

18 A Yep.

19 Q Do you recall how he paid for it?

20 A I don't remember.

21 Q And how do you pack -- Did he take it to go?

22 A Took it to go.

23 Q And how do you package your to-go orders?

24 A I mean, the container -- The steak tagine comes in a plastic
25 VERSAtainer. It's a black with a clear top. And then we put it

1 in a white bag.

2 Q Okay.

3 MR. TARRANT: And if I may, Your Honor.

4 BY MR. TARRANT:

5 Q Show you a picture, this photograph. And specifically
6 directing your attention to the bottom right-hand corner of that
7 photograph.

8 A That looks like us.

9 Q That looks like your what?

10 A That looks like what a dinner would look like, wrapped up.

11 Q From Andrea's Pizza?

12 A From -- From Andrea's Pizza, yes.

13 Q All right.

14 MR. TARRANT: Your Honor, based on that, I'd either ask this
15 to be marked for --

16 THE COURT: Exhibit 2.

17 MR. TARRANT: Thank you.

18 **[Photograph Marked as Exhibit No. 2]**

19 BY MR. TARRANT:

20 Q And, sir, at some point that evening did you learn that
21 something had occurred --

22 A Yes.

23 Q -- with respect to the person that you had met?

24 A So, I -- I usually go around eight o'clock, depending on if I
25 can leave at that second, you know, give or take, you know, twenty

1 minutes, you know, depending on how busy it is. So I got home and
2 saw on the news --

3 Q Saw something on the news?

4 A -- that something had happened at the Parkview.

5 Q Okay. And that specifically -- You remembered seeing that
6 person earlier in the day?

7 A So, they just said age, and I didn't see a picture yet. But
8 once I heard the age, I said, "I bet you -- You know, I -- I -- I
9 bet you it's that kid," you know, because I had known -- I know
10 for the first visit he said, "I live across the street, at the
11 Parkview." And then I found out the next day that that's where it
12 was.

13 Q Thank you.

14 MR. TARRANT: Your Honor, that's all the questions I have for
15 this witness.

16 THE COURT: Attorney Anderson, would you like to ask any
17 questions?

18 MR. ANDERSON: Just very briefly.

19 **CROSS EXAMINATION OF WITNESS, GEORGE ELIOPOULOS**

20 BY MR. ANDERSON:

21 Q Just in terms of -- And my name's Ken Anderson. I represent
22 Jeffrey Latores in this matter. In terms of the proximity from
23 Andrea's Pizza to the Parkview Apartments, it's fair to say you're
24 in the very corner of Main Street and Swanton Street, correct?

25 A Yep.

1 Q So if walk outside, you could see the building?

2 A I can see the building, yes.

3 Q So you said it was about a five-minute walk. Do you think
4 it's actually a lot closer than that?

5 A I mean, you know, it -- it -- I don't know how you actually
6 get in that. I haven't been in the building in a long time. But
7 I think there's like -- You have to go through the gate or you
8 have -- There's two entrances. So I guess depending on what
9 entrance you are in the building -- But it's fairly close.

10 Q Okay. But you could see the gate and you could see the
11 building --

12 A I could see the building.

13 Q -- from outside of your --

14 A Clear, yeah, from -- from Andrea's Pizza.

15 MR. ANDERSON: I have nothing else.

16 THE COURT: Attorney Dewitt, any questions?

17 MS. DEWITT AHERN: No thank you, Your Honor.

18 THE COURT: All right. Mr. Eliopoulos, thank you very much
19 for being here. You're excused.

20 THE WITNESS: Thank you.

21 THE COURT: Next witness, please.

22 MR. TARRANT: Thomas Card.

23 [THOMAS CARD, Sworn.]

24 THE COURT: Good morning, Mr. Card.

25 THE WITNESS: Good morning.

1 THE COURT: If you're comfortable, you can leave your mask
2 on. If you prefer, while you're testifying, you can remove your
3 mask.

4 THE WITNESS: Okay.

5 THE COURT: It's completely up to you.

6 THE WITNESS: Thank you.

7 THE COURT: Okay?

8 **DIRECT EXAMINATION OF WITNESS, THOMAS CARD**

9 BY MR. TARRANT:

10 Q Good morning, sir. Could you please state your name,
11 spelling both your first and last name?

12 A Thomas, T-H-O-M-A-S, Card, C-A-R-D.

13 Q And, sir, are you employed?

14 A I am. I'm working for a martial arts school.

15 Q And what do you do for the martial arts school?

16 A I'm a sensei. I -- I teach. I go through different things,
17 a lot of classes.

18 Q And how long have you been doing that?

19 A Probably about -- about four years now.

20 Q And how far have you gone in school?

21 A In the school? I've -- I've earned my black belt.

22 Q Okay. School -- Well, you're a black belt at the marital
23 arts school?

24 A Yes. I haven't earned any other degrees after that yet.

25 Q Okay. How about your formal education?

1 A Oh, okay; excuse me.

2 Q That's all right.

3 A Some high school. I -- Excuse me; I finished high school.
4 Some college.

5 Q And, sir, where do you currently reside?

6 A Right now, I'm living in the Swanton Street apartments.

7 Q Okay. What apartment?

8 A 313.

9 Q And how long have you lived there?

10 A I moved there April -- I want to say 2019.

11 Q Okay.

12 A So, just a little over two years, now.

13 Q And where is Unit 313 located within the Parkview building?

14 A Right from the east entrance when you're going up the stairs,
15 third floor, --

16 Q Okay.

17 A -- a few doors off the elevator.

18 Q And when you say "the east entrance," is that the first
19 entrance from inside the gate?

20 A Yes.

21 Q Come into the gate, it would be to the left?

22 A Correct.

23 Q And do you know how many floors there are at the Parkview
24 apartment?

25 A Seven.

1 Q Seven? Do you know how many units are on each floor?

2 A I'm not sure.

3 Q But would it be fair to say that yours is fairly close to the
4 stairway when you come up?

5 A Oh, yeah. I take -- I take the stairs, most days.

6 Q And, sir, if I direct your attention to November 2nd, 2020,
7 do you recall that day?

8 A I do.

9 Q Do you recall what you did that day?

10 A I remember most of what I did that day.

11 Q Okay. If I direct your attention to the early -- to the
12 evening hours at approximately eight o'clock/p.m., do you recall
13 what you were doing on that day at that time?

14 A Yes. That was -- I had just gotten home, made some dinner,
15 about to sit down on the couch and eat said dinner, --

16 Q Yeah.

17 A -- and that's when I heard some knocking on my door.

18 Q And hearing the knocking on the door, what did you do?

19 A I got up and I opened the door.

20 Q Okay. Now, does your door come with a peephole or something
21 you can look out before --

22 A It does.

23 Q Did you --

24 A I don't know. Kind of living in Winchester and being
25 comfortable with the building as long as I was, I didn't really

1 | expect it to be what I opened to.

2 | Q And --

3 | A Kind of expected, you know, somebody who needed help.

4 | Q Okay. So you hear a knock on your door, you open your door.
5 | What did you observe when you opened the door?

6 | A I saw a gentleman standing there with a couple of knives in
7 | his hands. And he was bleeding from either one or both of his
8 | hands. I couldn't tell at the time.

9 | Q Okay. And had you met this person before?

10 | A I had not.

11 | Q Had you seen this person before?

12 | A No.

13 | Q Did you know whether or not this person was a resident of the
14 | Parkview Apartments at that time?

15 | A At the moment, I did not.

16 | Q And you said he was -- had something in each hand?

17 | A He did. He was holding onto two kitchen knives.

18 | Q Okay. And can you describe what the kitchen knives looked
19 | like?

20 | A I remember one of them was -- was kind of long. The other
21 | one was a little shorter. But, again, it's -- it's kind of hard
22 | to say.

23 | Q Okay. Do you remember the color of the knives?

24 | A I think one of them may -- may have had a red handle. I'm
25 | not -- I'm not sure.

1 Q Okay. And you said you observed injuries on this person?

2 A Yes. So, when I opened the door, I asked him to put the
3 knives in his pocket so I could kind of assess a little further.
4 I noticed that he did have a little bit of a gash across his hand.

5 Q And was that -- That gash, was it bleeding?

6 A Yes.

7 Q Did the blood look fresh or dried?

8 A A little bit of both.

9 MR. TARRANT: Your Honor, if I could just have Exhibit 1.

10 BY MR. TARRANT:

11 Q And I'm showing you what's been marked as Exhibit 1. Do you
12 recognize the person depicted in this photograph?

13 A Yes. I believe that's the gentleman at my door.

14 Q Okay.

15 MR. TARRANT: Thank you, Your Honor.

16 THE COURT: Thank you.

17 BY MR. TARRANT:

18 Q And so did you have any conversation with this person at that
19 time?

20 A When he was at the door still?

21 Q Yes.

22 A Yes. I just mentioned that, you know, "I don't really know
23 who you are. Do you mind stepping back a little bit?" He had the
24 knives in his hands, seemed like he needed them. I asked him if
25 he could put them behind his -- in his back pocket. And --

1 Q Okay. What --

2 A -- he did.

3 Q Do you recall what he was wearing?

4 A It was like a tracksuit.

5 Q Okay.

6 A Yeah. I think it was all --

7 Q And so when you asked this person to put the knives in his
8 back pocket, did he comply with that?

9 A He did.

10 Q And were his hands free at that time?

11 A They were.

12 Q And so what happened next?

13 A So, that was when I -- Well, I closed my door at that point,
14 because he said there was someone in his apartment and he needed
15 help.

16 Q Okay. And --

17 A And that's --

18 Q Did he describe anything about the person in his apartment?

19 A He said there was a -- a black -- black individual, black
20 man, who broke in and took some of his things.

21 Q And did he say specifically what was taken?

22 A At this time, I -- I'm really kind of blurry.

23 Q That's fine.

24 A I thought he mentioned his stereo and some certain things;
25 I'm not really positive on that.

1 Q And --

2 A But he said that the gentleman who had broken in had escaped
3 on foot upstairs, up the stairs. So I grabbed something wooden to
4 stick in my sleeve, and I continued down the hall with that
5 gentleman.

6 Q When you say "something wooden," can you --

7 A Oh, just a little wooden stick.

8 Q Okay. And what was that for?

9 A Just to protect arteries, in case -- because I had never met
10 this person before who was at my door. So I don't know -- At any
11 point, he could attack me. So I was just trying to be safe.

12 Q Okay. So once you put the wooden stick in your sleeve, what
13 did you do?

14 A I walked my door and I followed him to see -- see what was
15 going on in his police.

16 Q And where did you go?

17 A I walked further down my hallway, going towards the west
18 side. And I forget how far we went. It was a good walk.

19 Q Okay.

20 A Passed a whole bunch of apartments on the way. Then by the
21 time we got there, we looked down the hall, I had him go first.
22 He kept bringing the knives back out, so I wanted him to stay away
23 from me. We looked in his apartment. It didn't look like -- The
24 door looked fine. There was stuff a lot of the ground. It was
25 kind of trashed.

1 Q The apartment was trashed, or the --

2 A The apartment was, yeah.

3 Q Okay. Was the door open when you got there?

4 A It was.

5 Q And could you go inside?

6 A I did go inside, yes.

7 Q And do you recall what the lighting was like inside the
8 apartment?

9 A The bedroom was dark. But all the apartments are kind of set
10 up the same way. So right when I opened the door, the bathroom
11 was right across. So I was able to turn the light on there, turn
12 some lights on.

13 Q Okay. So you turned lights on?

14 A I turned lights on, yes.

15 Q And when you turned the lights on, could you see the
16 condition of the apartment?

17 A Yes.

18 Q And could you just describe what you saw?

19 A I mean, there were things on the floor that didn't belong.
20 It looked like somebody may have been cooking, and some of that
21 meal was on the floor. Just not clean.

22 Q How about the furniture? What was the condition of the
23 furniture?

24 A That, I can't really speak to.

25 Q So once you made those -- And where was the individual that's

1 depicted in Exhibit 1? Where was he when you first walked in?

2 A When we first walked in, I had him walk to the kitchen.

3 Q And where would that be in relation --

4 A And he showed me -- So, right when you walk in, to the left.
5 So, if you walk in, the bathroom's across from you. The bedroom's
6 to the right. And then the kitchen area and balcony are to the
7 left.

8 Q And where did you -- And so that's where this individual
9 went?

10 A So I sent him to the left. I went in to the right, looked in
11 the bedroom, and there was no one in there. Walked back out. He
12 was still trying to clean up and kind of do some things in there.

13 Q Okay. And can you recall where the knives were at this
14 point?

15 A Either in his hands or in his pocket, at the time.

16 Q And so once you made those observations, what did you do?

17 A So, I told him, "All right. Looks like nobody's here. I'm
18 going to call security, have them come up here, because there's --
19 I mean, I'm just a regular guy: not much else I can do, at this
20 point." So we called security, or I called security. I asked him
21 to go in the bathroom and start cleaning up his wounds. So he
22 went on and did that. And I was hanging out on the hallway
23 while -- when the security guard's getting up.

24 Q And did somebody show up?

25 A Yes.

1 Q And did you come to learn who that person was?

2 A So, yes, that gentleman identified himself as the security
3 guard of the building. So I knew who he was, yes.

4 Q Okay. Did he state his name?

5 A He did.

6 Q And what was his name?

7 A Will.

8 Q Do you know his last name?

9 A Gaffney.

10 Q And did you have a conversation with Mr. Gaffney?

11 A I did. I mentioned kind of play-by-play everything, how --
12 everything leading up to where I was then. There actually was a
13 brief interruption. A neighbor in the same hallway had popped out
14 while I was waiting for the security guard. And she mentioned
15 that, you know, nobody else is here, he doesn't seem right, "he's
16 been in there for hours" kind of thing.

17 Q Okay. And did you see where that person came from?

18 A She just came out of the door right next to him.

19 Q When you say "next to him," you mean across the hall?

20 A Yeah. Like, the doors are --

21 Q The doors --

22 A -- here and here. They're right across from each other, --

23 Q Right.

24 A -- in one hallway.

25 Q Right. They face each other; is that fair to say?

1 A Yes.

2 Q And a single female came out?

3 A Yes.

4 Q Did you know her?

5 A I didn't know her, no.

6 Q Do you know her now?

7 A No.

8 Q So you don't know her. Do you know her name?

9 A I -- I'm pretty private; I keep to myself in that building.

10 Q No, that's fine. So, after this woman came out, what did
11 she -- and said that to you and Mr. Gaffney, did she retreat back
12 into her apartment?

13 A She did. It was very brief, just to let us know kind of
14 "watch out," just to give those quick details. And she closed the
15 door back up.

16 Q And then what happened?

17 A So at that point Will was up-to-speed on everything that was
18 going on. So he tried to talk to the gentleman whose apartment it
19 was, tried to calm him down, make sure everything's good in his
20 headspace and just that he was quieting down and kind of done for
21 the night. Will --

22 Q Okay. And were you there for that?

23 A I was there for that. Will asked him if he'd like to call
24 the police because he couldn't tell if anything was stolen, but,
25 again, that it was still an incident so "let's try to get it

1 cleared up." He didn't want to have the police involved, which we
2 said okay to. And we kind of parted ways at that point.

3 Q Okay.

4 A The gentleman closed his door. Will and I walked away.

5 Q And you and Will walked away together?

6 A Yes. We walked in the direction of where he said the person
7 breaking in went off.

8 Q Okay. Which --

9 A So we went in that direction.

10 Q -- direction was that? Which direction was that, once you
11 leave the apartment?

12 A Another left.

13 Q Another left?

14 A Yes.

15 Q And how far did you go?

16 A We went all the way to the stairwell.

17 THE COURT: That's the stairwell that's not enclosed? It's
18 kind of on the outside?

19 THE WITNESS: Oh, no, it is enclosed. We went to the
20 stairwell where the elevator is, on the west side of the building.

21 THE COURT: Okay, I got it. Okay.

22 BY MR. TARRANT:

23 Q Okay. So when you walk in from the apartment you were just
24 at, you walked down a corridor to the hallway?

25 A Yes.

- 1 Q Did you take a right at the hallway or a left?
- 2 A At what point? You're talking when Will and I exited?
- 3 Q Right, correct.
- 4 A Oh, at that point, we went downstairs together.
- 5 Q Downstairs to the stairway to the right or to the left? So,
- 6 you're at the unit --
- 7 A I'm not sure I understand.
- 8 Q You're at the unit and you walk down a corridor?
- 9 A Yep.
- 10 Q That corridor meets a hallway?
- 11 A Yes.
- 12 Q And at the hallway you can go right to the elevator.
- 13 A Oh, you can either go into the elevator or you can go up and
- 14 down the stairs.
- 15 Q Okay.
- 16 A Those are the options.
- 17 Q How many elevators are there at the apartment?
- 18 A There's two, one on each side of the building.
- 19 Q And did you go to the elevator closer to your apartment?
- 20 A Did I go to it?
- 21 Q Go towards -- So when you and Mr. Gaffney leave this unit --
- 22 A I wish I had a map of the building.
- 23 Q You know, you're right. Did you walk in the direction of
- 24 your own apartment?
- 25 A I did not. I walked the opposite direction.

1 Q The opposite, all right.

2 A Because we went in the direction of where he said the person
3 escaped.

4 Q Okay, which would be the opposite direction of walking to
5 your apartment.

6 A Right.

7 Q And what did you observe when you made that walk?

8 A Didn't really see anything. Will and I talked a little bit.
9 He gave me his ideas of what was going on.

10 Q And --

11 A And he seemed like, from what he had seen earlier in the
12 night, he didn't think this kid was going to cause any problems
13 for anybody and it was okay to just kind of shut the door on him,
14 let him go to bed and sleep it off.

15 Q Okay. And then what did you do?

16 A At that point I went back to my apartment, closed the door,
17 and it's kind of fuzzy from there.

18 Q Did you leave your apartment again that night?

19 A I did. I took out some trash. And that happened to be when
20 the police did arrive.

21 Q When you took out your trash, did you go outside?

22 A Yeah, the trash is all the way at the top of the parking lot.
23 So once you leave the building, here's all the cars, and then the
24 trash is right at the top.

25 Q And when you left the building, did you see police cars?

- 1 A When I left, yeah, I saw a few.
- 2 Q And what if anything occurred as you were taking out your
3 trash?
- 4 A I heard some of the noise of the pounding, asking him to open
5 up.
- 6 Q You could hear that from outside?
- 7 A We could hear all that from outside, yes.
- 8 Q Okay. And could you hear the words that were spoken?
- 9 A It was -- They were kind of muttered [sic]. It was hard to
10 hear. Muffled.
- 11 Q And then what happened?
- 12 A Heard some noises. Heard some commotion. And then the only
13 raise I stayed up there so long: I happened to bump into Will, so
14 we were just kind of shooting -- about what was happening. And,
15 yeah, so, we heard him come out and then we see him come out into
16 the ambulance there.
- 17 Q Okay. Did you hear anything prior to somebody being brought
18 to the ambulance?
- 19 A Yeah. We heard some commotion, some loud noises, and I think
20 I heard a pop or two.
- 21 Q And when you say you heard a pop or two, --
- 22 A A gunshot.
- 23 Q Is that what you thought you heard, was --
- 24 A That's what I thought I heard.
- 25 Q Do you know how many gunshots you heard?

1 A I think I heard two.

2 Q And later that evening, did you speak to the police?

3 A Yes.

4 Q Okay. And did you essentially tell them your experience that
5 day?

6 A Yes.

7 Q And with respect to Mr. Gaffney, do you know where he is now?

8 A Unfortunately, he's no longer with us.

9 Q Okay. Did he pass away recently?

10 A He did.

11 MR. TARRANT: I think that's all the questions I have for
12 this witness, Your Honor.

13 THE COURT: Attorney Anderson?

14 MR. ANDERSON: Yeah, I do have some.

15 **CROSS EXAMINATION OF WITNESS, THOMAS CARD**

16 BY MR. ANDERSON:

17 Q Mr. Gaffney [sic], my name's Ken Anderson and I represent
18 Officer Latores or Sergeant Latores in this matter.

19 You told us that you put a wooden stick up your arm to
20 protect your arteries, and then you went down to Mr. Celona's
21 apartment?

22 A Yes.

23 Q And if I told you we were there this morning and it was
24 approximately eight hallways down, does that seem about correct to
25 you?

1 A Yeah, sounds about right.

2 Q Okay. And each hallway was two units --

3 A Yes.

4 Q -- at the ends of --

5 THE COURT: So just so we correct the record -- And I just
6 think it might be simple for everybody if we refer to the hallway
7 as the long thing, and then corridors lead to the apartment. I
8 think it just might make it clear.

9 THE WITNESS: Sure. Yes.

10 THE COURT: So the corridor's the short thing.

11 THE WITNESS: Yes.

12 THE COURT: And the hallway's the long thing, --

13 THE WITNESS: The long one, yeah.

14 THE COURT: -- with the corridors off of it.

15 MR. ANDERSON: Right.

16 THE COURT: All right? Okay.

17 MR. ANDERSON: Perfect.

18 MR. TARRANT: Can I interrupt Mr. Anderson's questioning just
19 to put a photograph in that might --

20 THE COURT: Sure.

21 MR. TARRANT: -- help out?

22 MR. ANDERSON: Sure.

23 MR. TARRANT: All right.

24 **CONT. DIRECT EXAMINATION OF WITNESS, THOMAS CARD**

25 BY MR. TARRANT:

1 Q Sir, I'm showing you this photograph and asking if you
2 recognize what's depicted there.

3 A Yes.

4 Q And what is that?

5 A I believe that would be the hallway where I was down trying
6 to help the gentleman.

7 Q Okay. Is that a hallway at the Parkview Apartments at 200
8 Swanton Street?

9 A Yes.

10 Q Is that a fair and accurate depiction of what the hallways
11 look like at that building?

12 A Yes. Every -- They all look the same.

13 Q Okay. And looking straight down that hallway to the left, do
14 you see an entranceway?

15 A Right here?

16 Q Yeah.

17 A Yes.

18 Q And fair to -- I think what the judge was referring to --
19 would be referring to that as a corridor.

20 A So that would be the corridor, down there. And this is the
21 hallway, here, yes.

22 Q The hallway's straight ahead, corridor's to the left, and
23 then at the end of that corridor are there two apartments that you
24 had described earlier?

25 A Yes.

1 Q Thank you.

2 THE COURT: Okay.

3 MR. TARRANT: Your Honor, may that be marked?

4 THE COURT: That would be 3. Thank you.

5 **[Photograph Marked as Exhibit No. 3]**

6 MR. ANDERSON: I appreciate it.

7 **CONT. CROSS EXAMINATION OF WITNESS, THOMAS CARD**

8 BY MR. ANDERSON:

9 Q You have no idea why Mr. Celona picked your apartment door to
10 come knock on, do you?

11 A Oh, well, no, I've actually -- I had checked, and he had
12 knocked on all the other doors leading up to mine.

13 Q So let me --

14 A So, he had blood on his hands. So, he had knocked on all the
15 doors leading up to mine. So I think he did knock on everybody
16 else's. But by the time he got to mine, I was just the only one
17 to open it.

18 Q Okay. So let me -- Pretend you're at Mr. Celona's apartment,
19 the one that you went into that I'm going to ask you in a few
20 minutes --

21 A Sure.

22 Q When you described it as being trashed and having stuff on
23 the ground -- If you were to leave his apartment down the
24 corridor, what we're calling a corridor, and then take a right
25 down the hallway --

1 A That brings me back to my place.

2 Q Right. And you'd go back seven other corridors before you
3 get to your corridor, correct?

4 A Yeah, yeah, sure.

5 Q And each of those corridors would have doors on both sides,
6 for the apartments.

7 A Correct.

8 Q And you went and checked all of those different apartments
9 down those seven corridors?

10 A Yeah, when I was coming down the hallway.

11 Q And they all had blood on them?

12 A They did, yes.

13 Q So is it your belief that he came to your apartment because
14 nobody else answered the door at the other apartments?

15 A That is correct.

16 Q And do you --

17 A I said that to the officers that evening, as well.

18 Q Okay. And do you know if those people were home and just
19 didn't open the door because they saw a bleeding man with two
20 knives in the hands or if they just -- nobody was home?

21 A I couldn't tell you.

22 Q Okay. But in any event, you put a piece of wood up your arm
23 to protect your arteries?

24 A That's correct.

25 Q And then you went down with him, but at a distance because he

1 | had the two knives.

2 | A Correct.

3 | Q And you had directed him to put the knives in his back
4 | pockets, and at times he had the knives in the back pockets?

5 | A He did.

6 | Q But at times he had the knives in both hands?

7 | A At certain times, he was pulling them back out, yes.

8 | Q And what distance did you keep from him at this time?

9 | A Probably about 6 feet.

10 | Q And is that because of COVID or is that because of the
11 | knives?

12 | A That was because of the knives.

13 | Q And when you said you got down to his apartment, it was dark
14 | when you first got to the apartment?

15 | A Yes.

16 | Q And you were the one who turned -- Did he go in first or you
17 | went in first?

18 | A He went in first. So, the hallway has lights, and the
19 | corridor has lights. So you can see a little bit. But inside the
20 | apartment it was dark. So I had him go into the apartment first,
21 | since he had the knives. Once he was inside and I could see that
22 | I would be safe, I turned on the lights and took a look around.

23 | Q So when you opened the door to his apartment, there's a
24 | bathroom that's directly in front of you?

25 | A Yes.

1 Q And then to the right is the bedroom, and to the left would
2 be the kitchen and the living area?

3 A Yes.

4 Q And which way did he go when he went into that apartment?

5 A He went to the left.

6 Q And he was at least in, then you came in and you turned the
7 light on?

8 A Correct.

9 Q And you made observations down to the left at that time?

10 A Yes.

11 MR. ANDERSON: And if I could approach.

12 BY MR. ANDERSON:

13 Q So let me ask you if you recognize what's depicted in this
14 photograph. I'd represent to the right of the card is Mr.
15 Celona's apartment.

16 A Okay.

17 Q And do you see there's some -- like, a tray with shoes?

18 A Yes.

19 Q Was that present when you were there?

20 A I can't remember.

21 Q Okay. And this is the view from the other direction, looking
22 at the door on the right. Do you recognize what's depicted in
23 that photograph?

24 A Yeah, it looks familiar.

25 Q Okay. And would that be part of the clutter, the shoes that

1 | were in there?

2 | A Yeah, it could have been. I don't think I would have called
3 | that clutter. I would have called the -- like, the papers and the
4 | cooking pans and all that junk on the floor clutter.

5 | Q Okay. Well, let me show you this photograph. It depicts,
6 | like, overturned furniture.

7 | A Yeah, yes.

8 | Q And was it in disarray like this when you were there?

9 | A Correct.

10 | Q And a picture that's taken down the other end of the room,
11 | does that look familiar with how it was?

12 | A That looks familiar.

13 | Q Is that a fair and accurate representation of how it was?

14 | A Sure.

15 | Q And just another photograph of overturned furniture. Let me
16 | ask you, towards the end there down on the left, there's a window
17 | with the shades drawn, sliding glass door.

18 | A Sure.

19 | Q And your apartment has the same way out, correct?

20 | A [No audible response.]

21 | Q You just have to --

22 | A Yes.

23 | Q -- answer in words, because it's being recorded.

24 | A Sure.

25 | Q Just when you nod your head, it doesn't come out on the tape

1 recorder.

2 A I understand you now.

3 Q Okay.

4 A Okay.

5 Q Were the shades drawn when you were there, if you recall?

6 A I don't remember.

7 Q And do you recall if there was any broken glass down in that
8 area?

9 A I think there may have been. I'm not sure.

10 Q Okay.

11 MR. ANDERSON: Your Honor, if I could offer these. I have
12 one, two, three, four, --

13 THE COURT: Five photographs?

14 MR. ANDERSON: Five photographs.

15 THE COURT: Do you want them as one exhibit, or do you want
16 them as multiple?

17 MR. ANDERSON: We could make them 4A, B, C, D, E, if that --

18 THE COURT: That makes sense.

19 MR. ANDERSON: Okay.

20 THE COURT: You can give them to the clerk.

21 **[Five Photographs Marked as Exhibit No. 4]**

22 THE COURT: So that -- It's Unit 326.

23 MR. ANDERSON: Yeah.

24 BY MR. ANDERSON:

25 Q And it was from that apartment that you called Mr. Gaffney,

1 and Mr. Gaffney came and spoke?

2 A That's correct.

3 Q And the female that came out, when was that in the
4 interaction?

5 A That was when we were in the hall, in the hallway waiting
6 for -- excuse me -- in the corridor, waiting for Mr. Gaffney to
7 get there.

8 Q And she opened the door, and what did she say, precisely?

9 A Something to the effect of "He's been in there for hours
10 making a lot of noise. I don't think anyone else was here."
11 That's what she said.

12 Q Okay. And then she went back into her apartment?

13 A Yes.

14 Q And do you recall what this woman looked like?

15 A Older woman. Not really sure. It was late at night. Curly
16 hair.

17 Q Okay. And then he told the same story to Mr. Gaffney, and
18 then you went in the direction of where this other person had
19 supposedly fled to?

20 A Correct.

21 Q The black male?

22 A Yes.

23 Q And that is -- If you went down the corridor, that would be
24 taking a left down the hallway.

25 A Correct.

1 Q Going further away from your unit.

2 A Yes.

3 Q And you said there's seven stories in this building?

4 A Yeah.

5 Q And you don't know how many units there are per floor,
6 correct?

7 A No.

8 Q But it's not uncommon when you're walking down those hallways
9 to bump into people who are coming and going?

10 A Oh, I'm sure you do.

11 Q Because that's the main egress in and out of the building.

12 A Right.

13 Q And if someone were to live down past Mr. Celona, they would
14 cross in the hallway.

15 A Correct.

16 Q And because of the curvature, you can't see if anyone's
17 coming, because it's a very short distance you can see.

18 A Right.

19 Q Now, let me -- I just want to in my mind just kind of
20 clarify: when you took out the trash -- just because, again, we
21 were there this morning. I'm trying to get a lay of the land
22 there. Where exactly is the trash in relationship to, for
23 instance, the stairway? If we came into the building through the
24 gate, the main gate, and came through that little lobby area where
25 people get their packages delivered --

1 A Yes.

2 Q -- and went up those stairs, where is the trash in
3 relationship to that area?

4 A So, again, the trash is in the parking lot. There's no
5 inside trash; it's all outside.

6 Q And is that in the same area, like where you come through
7 that main gate?

8 A Yeah. You come through the gate. There's a room that brings
9 you all the way around the building. And then past that there's
10 parking all up and down.

11 Q Yep.

12 A And then at the very top, past the parking, there's the
13 dumpsters.

14 Q So when we come through the gate, we're looking at the main
15 entrance. Which way is the dumpsters? To the right or to the
16 left?

17 A The left is the building.

18 Q Yeah.

19 A So the dumpsters would be to the right.

20 Q And then distance-wise, how far do you think that would have
21 been from that main entryway?

22 A About 100 yards, about a football field or so, give or take.

23 Q And so from 100 yards from that entryway, you're outside and
24 you can hear police inside the building, yelling, "Open the door,
25 open the door"?

1 A We heard something to that effect, yes.

2 Q And you heard the police knocking on the door?

3 A Yes.

4 Q So it's obviously very loud, the knocking.

5 A Right, yeah.

6 Q And then after that, did you hear any other commotion inside
7 the unit from out by the dumpster?

8 A So, at that point I was closer from the dumpster. Like I
9 said, I bumped into Mr. Gaffney out there. I'm sorry; what was
10 the question?

11 Q If you heard additional -- After the "open the door, open the
12 door, open the door," which is then the pounding --

13 A Right, yeah, so, we heard pounding and then heard some
14 commotion, heard some noises, and then we heard some loud noises.

15 Q And then you heard what sounded like a pop --

16 A Yes.

17 Q -- or gunshot?

18 MR. ANDERSON: Just give me a second.

19 [Pause]

20 MR. ANDERSON: I don't have any additional questions.

21 THE COURT: Attorney Dewitt?

22 MS. DEWITT AHERN: Yes, if I may, Judge, please.

23 **CROSS EXAMINATION OF WITNESS, THOMAS CARD**

24 BY MS. DEWITT AHERN:

25 Q Good morning. My name is Attorney Dewitt. I'm here on

1 | behalf of the Celona family.

2 | A Good morning.

3 | Q How are you?

4 | A Doing well. How are you?

5 | Q Thank you. Mr. Card, so, when Mr. Celona first came to your
6 | door, knocking on the door, and you encountered him, you -- didn't
7 | you say he had two knives in his hands?

8 | A Yes.

9 | Q And when you told -- you had a discussion with him, you asked
10 | him to put it in his pockets, and he put them in his back pocket?

11 | A He did, yes.

12 | Q And he explained to you that someone had broken into his
13 | apartment, two people, correct?

14 | A Yes. He told me one person had.

15 | Q One person had. And he was asking you to go help him.

16 | A Yes.

17 | Q And in fact you did accompany him back to his apartment.

18 | A Yes.

19 | Q And you testified when you got to his apartment you didn't
20 | see any -- in your opinion, there was no break-in since there was
21 | no damage to the door.

22 | A Correct.

23 | Q And you could tell that just from looking at the door; fair
24 | to say?

25 | A Pretty fair, yes.

1 Q Okay. And you testified that you got the -- I hope I don't
2 mess this up -- the corridor that goes into the two apartments.

3 A Yes.

4 Q And there was some light in that corridor?

5 A Correct.

6 Q And the hallway that comes around, there's some lights in
7 that hallway also, the major hallway?

8 A Yes.

9 Q So when you get to Mr. Celona's door at 326, he opens the
10 door, you open the door?

11 A The door was already opened.

12 Q It was already opened?

13 A Yes.

14 Q And the apartment -- You could see in the apartment a little
15 bit because of the light from the corridor?

16 A Correct.

17 Q You went into the apartment with Mr. Celona?

18 A Yes.

19 Q And you turned on the lights?

20 A Yes.

21 Q And you looked around the apartment?

22 A Yes.

23 Q And you didn't see anything there?

24 A Nothing.

25 Q And Mr. Celona at this point in time was being cooperative

1 with you?

2 A He's being very provocative [sic] with me.

3 Q Mr. Celona did not want you to call the police?

4 A Yes.

5 Q But he did give you a phone number to call?

6 A Yes.

7 Q Okay. And, in fact, asked if there was someone that you
8 could call for him?

9 A I -- Yes.

10 Q And you, in fact, did that, correct? But you also called a
11 security guard; fair to say?

12 A Correct.

13 Q Let me back up a minute, Mr. Card. Do you recall the name of
14 the person that you called for Mr. Celona?

15 A I -- We never spoke to anyone.

16 Q All right.

17 A I just asked him if there was anybody we could reach out to
18 who could help him out.

19 Q All right.

20 A I didn't get anybody's name.

21 Q Okay. Thank you. And then you called Mr.
22 Gaffney [phonetic].

23 A Yes.

24 Q And, now, when Mr. Gaffney came upstairs, he came up to Mr.
25 Celona's apartment?

1 A Yes.

2 Q And you explained to him everything that happened, fair to
3 say? That Mr. Celona had came to your apartment, you and Mr.
4 Celona went into his apartment, you looked around, you didn't see
5 anyone?

6 A Correct, yes.

7 Q And Mr. Gaffney was at Mr. Celona's apartment also?

8 A He was.

9 Q And both of you walked down the corridor to the hall, fair to
10 say? You went down the little corridor but by the apartments, to
11 the main hallway, and you took a left?

12 A I took a left with Mr. Gaffney, yes.

13 Q And you were doing this because that was the direction that
14 Mr. Celona said that someone had gone to?

15 A Yes.

16 Q But you didn't see anyone?

17 A No.

18 Q While you were speaking in the corridor with Mr. Celona --
19 I'm sorry -- Mr. Gaffney -- the woman that lived across, the door
20 right across Mr. Celona, came out and said -- and you were
21 present -- that he didn't seem right?

22 A Right.

23 Q Is that fair to say?

24 A That is fair to say.

25 Q And Mr. --

1 THE COURT: I'm sorry; who said that?

2 THE WITNESS: The neighbor who had came out, across the
3 corridor.

4 MS. DEWITT AHERN: The door across from Mr. Celona's, Your
5 Honor.

6 THE COURT: 325?

7 MS. DEWITT AHERN: Yes.

8 THE COURT: Okay.

9 BY MS. DEWITT AHERN:

10 Q And that's when Mr. Gaffney was there also?

11 A Yes, I believe.

12 Q And you and Mr. Gaffney ultimately walk downstairs together?

13 A Yes.

14 Q And during that time, Mr. Gaffney indicated to you that he
15 believed everything would be okay, that there wouldn't be any more
16 issues with Mr. Celona?

17 A Yes, that's correct.

18 MS. DEWITT AHERN: Just one moment, please, Your Honor.

19 THE COURT: Sure.

20 [Pause]

21 BY MS. DEWITT AHERN:

22 Q And just -- I'm not sure if -- Just for clarification, you
23 explained to Mr. Gaffney everything that you had done and seen
24 with Mr. Celona that evening, fair to say?

25 A Yes, of course.

1 MS. DEWITT AHERN: Thank you; I have nothing else.

2 THE COURT: Anything else, anyone?

3 MR. TARRANT: Thank you, Your Honor.

4 THE COURT: All right. Mr. Card, you're all set. Thank you
5 very much for being here.

6 THE WITNESS: All right. Thank you.

7 THE COURT: Appreciate it.

8 [Witness steps down]

9 THE COURT: Next witness, please.

10 MR. TARRANT: Linda Copeland.

11 [LINDA COPELAND, Sworn.]

12 THE COURT: Ms. Copeland, you can leave your mask on, if
13 you'd like. If you would prefer to take it off during testimony,
14 you may do that as well.

15 THE WITNESS: Okay.

16 THE COURT: Whatever you're comfortable doing.

17 THE WITNESS: Okay. Thank you.

18 THE COURT: You can have a seat.

19 THE WITNESS: Thank you.

20 MR. TARRANT: If I may proceed, Your Honor.

21 THE COURT: You may.

22 MR. TARRANT: Thank you.

23 **DIRECT EXAMINATION OF WITNESS, LINDA COPELAND**

24 BY MR. TARRANT:

25 Q Good morning.

1 A Good morning. Do you want this, or no?

2 THE COURT: No, you can actually -- It would be helpful to
3 just pull it towards you. Thank you. It'll pick up; you don't
4 have to lean into it.

5 THE WITNESS: [Adjusting microphone.]

6 BY MR. TARRANT:

7 Q Good morning.

8 A Hi.

9 Q Could you please state your name, spelling both your first
10 and last name?

11 A Linda, L-I-N-D-A, Copeland, C-O-P as in Paul E-L-A-N-D.

12 Q Ma'am, can you just tell us a little bit about your
13 educational background?

14 A Yes. I say I'm a self-made person, because I put myself
15 through all of my education. I have a BA and MA, a licensed
16 mental health counselor license. It is now expired because I
17 moved from Florida and chose -- It was a 2017 request to renew,
18 and I knew I was moving from Florida and it would not apply in
19 Massachusetts. I am a clinical hypnotherapist, and I'm also a
20 qualified sex therapist.

21 Q And are you -- So, are you currently employed?

22 A I'm partly employed, doing some hypnosis.

23 Q And that's in Massachusetts?

24 A Yes.

25 Q And how long have you been doing that?

1 A Well, here, it's -- it's -- I don't want to get into that.
2 But here it's not real relevant, because of COVID, et cetera. And
3 I've only been where I -- in my current town a short while. I was
4 doing it in Arlington. I was subletting from a clinical
5 psychol -- actually, a clinical social worker, as I had clients.
6 And -- But overall I've done -- You want -- Just about the
7 hypnosis, right?

8 Q Well, --

9 A Any of it? Oh, any of it --

10 Q Just any kind of employment --

11 A Any of it's over -- Over forty years, because there was a lot
12 of counseling before I had my formal LMHC license.

13 Q Okay. And so prior to moving to Massachusetts, where did you
14 live?

15 A Close to St. Pete Beach.

16 Q Okay. In Florida. And you were working down there?

17 A No.

18 Q Okay. Were you working in Florida?

19 A Yes.

20 Q What did you do in Florida?

21 A Prior to marrying in approximately 2006, I was -- The last
22 position I had, I was self-employed in private practice, not with
23 other colleagues. I was totally by myself in Orlando for -- just
24 doing that, on my own, for about 12 years. And prior to that, I
25 had extensive employment as a therapist in psychiatric settings

1 in -- had a lot of child experience with a state agency that got
2 funding to help with DCF cases. So it wasn't DCF, but I handled
3 those kind of cases extensively. And my whole caseload was sexual
4 abuse. And that was approximately three years of my life. I was
5 an itinerant therapist. This is all prior to Orlando, being solo.
6 And as an itinerant, I -- it was only serving children, but it was
7 all sexual abuse. And prior to -- I have all kinds of other
8 experience. So, how far back --

9 Q Okay.

10 A -- do you want me to go?

11 Q Well, point being is that you were a psychotherapist?

12 A Yes.

13 Q And how long were you a psychotherapist for?

14 A At least thirty years. I still consider myself one now, but
15 I'm retired.

16 Q And at some point you moved to Massachusetts --

17 A Correct.

18 Q -- from Florida? When did you move to Massachusetts?

19 A January 11, 2017.

20 Q And where are you currently residing?

21 A Winchester.

22 Q Okay. And what's your address in Winchester?

23 A 200 Swanton Street, Unit 327, Winchester.

24 Q And is that also known as the Parkview Apartments?

25 A Correct.

1 Q And how long have you lived at the Parkview Apartments?

2 A Since 11/22/2019.

3 Q And do you live with anyone at that apartment?

4 A I do not.

5 Q And does your apartment -- What -- So you're in Unit 325?

6 A I'm in Unit 327.

7 Q Oh; I'm sorry. Can you --

8 A I own my unit. That building's about occupied by renters
9 and -- I'm -- I'm just, you know, saying -- about half by owners.

10 Q Okay.

11 A My unit is almost central in the building. Looking out, I --
12 You know, if you looked at the back of the building, where the
13 balconies are, I'm almost in the middle.

14 Q And in Unit 327, do you share a wall with any other units?

15 A I do.

16 Q And which unit do you share a wall with?

17 A 326.

18 Q And did you -- Are you aware if anybody is currently residing
19 in Unit 326?

20 A Yes. I don't -- Yes.

21 Q Do you know who it is?

22 A I know the name. I've met her about twice.

23 Q Okay. And do you know how long that person had been living
24 there?

25 A Can't say. I -- I -- I recognize it's this year, probably,

1 and I'll leave it at that.

2 Q Okay. And --

3 A The -- That unit was vacant for a while. Then then, now,
4 this lady's there.

5 Q Okay. And prior to that unit being vacant, did you know who
6 resided in Unit 326?

7 A Yes.

8 Q And who was that?

9 A Thomas Celona.

10 MR. TARRANT: And if I could just have Exhibit 1.

11 BY MR. TARRANT:

12 Q Ma'am, I'm showing you what's now been marked as Exhibit 1.

13 Is this the person you know as Thomas Celona?

14 A That feels like a mugshot, and that's not the kid I knew.
15 But probably.

16 Q Okay.

17 A You know, I'm -- I'm being serious: he looked a lot better
18 than that.

19 Q Okay. What if I told you this a Registry of Motor Vehicles
20 photo?

21 A Got it.

22 Q So it's not a mugshot.

23 A Thank you.

24 Q Okay. I just want to make that clear.

25 A He looked a lot better than that.

1 Q So did you know Thomas Celona?

2 A Yes.

3 Q And do you recall when you first met him?

4 A Yes.

5 Q When did you first meet Thomas Celona?

6 A Tommy? I met Tommy the weekend he was moving into the
7 Parkview. I do not know if it was his very first attempt to try
8 to get his stuff in the door. It might have been. It might have
9 been his very first attempt, because we have a master key and --
10 And I was leaving the building, and he was near the entrance, in
11 his -- He stepped outside of his car. I think his car was parked
12 very near. There's a lot of parking near -- near the mailroom,
13 where I was exiting, the entrance. And this was in February, I
14 think, of 2020. I had moved in, myself, November 22nd, 2019. And
15 he approached me about -- asking me -- telling me he couldn't get
16 in the building, because he was missing his key.

17 Q Okay. And did you let him into the building?

18 A I did.

19 Q And that was the first time you had met him?

20 A Yes. I --

21 Q Okay. And this was about three months after you moved in?

22 A Yes.

23 Q And so, did you have occasion to see him after that time?

24 A Well, I think it -- If you don't mind, I think it's
25 significant, my first encounter with him. But if you don't want

1 me to address it.

2 THE COURT: For right now, just answer his questions.

3 THE WITNESS: Thank you.

4 BY MR. TARRANT:

5 Q So, after meeting him on that day in approximately February,
6 did you have occasion to see him again?

7 A Randomly.

8 Q Okay. And so could you describe, like, your relationship
9 with him, how well you got to know him?

10 A I got to know him better by his -- the shared wall, the noise
11 and stuff. However, when I encountered him in person, he knew who
12 I was. He was a -- I want to say "a quick study." He was a smart
13 kid. I was nice to him; he was nice to me. He always had a huge
14 smile on his face.

15 Q Okay. And if I direct your attention to November 2nd, 2020,
16 do you recall that day?

17 A Yes.

18 Q Did you see Thomas Celona on that day?

19 A I only heard him.

20 Q And when you said you "heard" him, where were you when you
21 heard him?

22 A I can't say for sure the time. But it was daylight. I was
23 sitting on my couch when something began happening, in my opinion,
24 with him, due to what I was hearing.

25 Q And what were you hearing?

1 A Initially, I was hearing behavior I had heard sometime --
2 sometimes prior to -- What I heard was him on the telephone
3 with -- I thought it was probably our guard. He was -- Tommy was
4 extremely distraught. I felt -- Some of this is feeling, you
5 know, is hearing.

6 Q Okay.

7 A That he -- I felt like he didn't think he was being heard by
8 this fellow. And then I -- just not -- that the fellow did not
9 understand how serious, I want to say, Tommy felt his plight was
10 at the moment.

11 Q And do you recall approximately what time of day that was?

12 A All I can say is: feels like things started -- because he --
13 He left his place and came back and left and came back. It feels
14 like -- It -- It seemed like he went to talk probably to the guard
15 after, like, an -- like, "Something's up." But what I would hear
16 is huge door-slamming and upset because the -- I knew the guard
17 wasn't helping him. Whatever he needed, the guard was not helping
18 him.

19 Q And so when you're hearing a door slam, is that you
20 indicating that you feel that he was leaving the apartment?
21 Meaning you didn't see him leave the apartment.

22 A I did not. None of this was seen. I have -- I have nearly
23 hypervigilant hearing, having come from a difficult childhood and
24 being a therapist. I'm very aware. And --

25 Q And --

1 A -- he was, like, running towards the door, slamming the door,
2 leaving. And I'm like, "Okay, now he's gone for a while. What's
3 next?" Came back, and back on the phone, very upset. I -- I
4 didn't hear distinct words, but it was shouting in his phone. And
5 there -- there were at least two door slams, that I thought the
6 door -- And I had encountered other things in the past. I thought
7 the door might come off the hinge, that it could.

8 Q Okay. And so you heard the door slamming, yelling on the
9 phone. Could you hear any other kinds of noises coming from the
10 apartment?

11 A Not then.

12 Q Okay. Did this continue later on into the evening?

13 A It felt like -- Well, I was on alert at that point. I --
14 I -- I had no intention to leave my place, anyway. I was in. And
15 so I just -- I was vigilant, not trying to hear, but -- It felt
16 like a progression from that first phone call. And I can't tell
17 you what time it was.

18 Q Okay.

19 A Just say, like, there was daylight and then it just kept
20 going.

21 Q And did you call anybody to report it?

22 A I did not.

23 Q Okay. And at some point are you aware that the police
24 arrived?

25 A Yes.

1 Q And how did you become aware that the police arrived?

2 A The sounds of their voices.

3 Q And could you hear them speaking?

4 A Yes. I'm getting a piece of gum, here.

5 Q Okay. And --

6 A You don't have to stop.

7 Q How did you first learn that the police showed up?

8 A I pretty much stayed on my couch, as it all unraveled, and
9 heard -- I don't remember if I heard knocking or what. But I was
10 comforted that there were some professionals in the room or near
11 him. There are certain things I heard. And I actually had a
12 flashback after I talked to you, when you interviewed me.

13 Q Okay. Well, --

14 A And they kind of cued me into what was happening, because
15 I -- I thought it was the police. I -- You know.

16 Q Well, what did you hear?

17 A The things I heard are -- are -- are just snippets.

18 Q And do you remember any words?

19 A I don't know if there was a female cop there, but I felt like
20 I heard a female voice. I felt like there were three people. I
21 felt like there were two at the door, and one trying to approach
22 Tommy. And at some point, as things were getting really heated --
23 Well, "heated" is not a great word, because I never heard the cops
24 say anything or act, for my hearing, in any way that was
25 aggressive.

1 Q Okay. So --

2 A And --

3 Q -- how would you describe the police officer's --

4 A I felt like --

5 Q -- demeanor?

6 A -- they were begging him. And it almost brings tears to my
7 eyes, because it was a two-way beg. They were begging him; I'm
8 not sure -- I think they probably wanted him to just calm down and
9 come with them. That's what I -- That's pretty much -- I heard
10 something like that. And it was -- It was more than kindly said.
11 It was -- I felt like, due to the tone, that these people knew
12 him, maybe. And they were treating him in a -- in the best way
13 they could, trying to calm him. And I could only think to help
14 him, to get him some help somehow. And then -- So we had the
15 two-way.

16 Q And when you say "two-way" --

17 A He was now begging them. And it was like a child. And this
18 really has been difficult, because I've had this really clear
19 memory.

20 Q And so what did you -- what -- So, this memory that you're
21 speaking now, when did you first have this memory?

22 A I feel like it was toward the end of the encounter.

23 Q No, I -- Well, --

24 A When? I don't know the time. I was sitting on my couch,
25 basically fairly transfixed. We went from daylight to dark. I

1 had -- I don't know times.

2 Q But you're saying now today that you heard Tom speaking to
3 the police?

4 A I did.

5 Q Okay. Do you remember speaking to the police a year ago,
6 when this happened?

7 A Yes, that was a flashback after I spoke with you that Monday.

8 Q Okay. So, back when you spoke to the police a year ago, you
9 did not recall hearing Tom speak to the police --

10 A I don't recall if I -- what I said.

11 Q Okay. But after speaking to me recently, --

12 A I had a very powerful flashback.

13 Q Okay. So this is a new memory that you've had recently?

14 A It just brought back what happened, because I had very much
15 compartmentalized it.

16 Q And so, showing you a photograph, asking if you recognize
17 what's depicted there.

18 A Yep.

19 Q What is that?

20 A That's my interior, my living room wall. And I was in the
21 middle of the couch, under the mirror.

22 Q And in the bottom right-hand corner is your couch?

23 A Mm-hmm.

24 Q And is that the couch you're referring to?

25 A Mm-hmm.

1 Q And the mirror is hanging on the wall?

2 A Mm-hmm.

3 Q And what's on the other side of that wall, where that mirror
4 is?

5 A Tommy's apartment.

6 Q And fair to say you provided me with this photograph
7 recently?

8 A Correct.

9 MR. TARRANT: Your Honor, may this be marked?

10 THE COURT: 5, Madam Clerk.

11 THE CLERK: Yes, Judge. Thank you.

12 **[Photograph Marked as Exhibit No. 5]**

13 THE WITNESS: May I have some water, please?

14 THE COURT: Thank you. Sure.

15 BY MR. TARRANT:

16 Q Did you hear the officers using any specific words or do you
17 know --

18 A Yes.

19 Q -- what was said?

20 A Yes. It -- I -- It --

21 Q What did you hear them say?

22 A The -- The one -- I felt like it was one approaching Tommy.

23 And then I felt like there were two or, you know, the expanse
24 of -- It's, like, 21 feet for the entirety of this unit, from the
25 living room. And I felt like two were at the door. And I could

1 kind of hear them chatting to each other.

2 THE WITNESS: Do we -- Do we have some water, please?

3 THE CLERK: Someone's --

4 THE COURT: The court officer went to get some.

5 THE WITNESS: They went to get it; thank you. Nobody said
6 anything. Thank you.

7 BY MR. TARRANT:

8 A I could hear the two. And it wasn't distinct. But they were
9 calm, chatting at the door. But I didn't know what they were
10 saying.

11 Q Okay.

12 A Then I heard the one approaching him. And I remember -- I
13 probably remembered that when I talked to you. But then the
14 flashback was him begging and saying, no, he's not coming with
15 them.

16 Q Okay. And this --

17 A And -- And he sounded like a child.

18 Q And this is the memory you had after speaking with me?

19 A Yes. And -- And it was more than that, but --

20 Q But what about what the officer was saying?

21 A The officer was entreating Tommy. Whoever was -- And I was
22 concerned, whoever was closer -- People were at the door.
23 People -- You know, maybe one was near Tommy. So I was very
24 concerned about that officer being closer to him, because I knew
25 he was very upset. And -- Say again?

1 Q At any point, did you leave your apartment?

2 A No.

3 THE WITNESS: Thank you.

4 MR. TARRANT: Okay.

5 BY MR. TARRANT:

6 A I'm sorry. Common sense. Sorry.

7 THE WITNESS: Thank you so much.

8 BY MR. TARRANT:

9 Q How did it end for you, this evening?

10 A Just one second.

11 Q Sure.

12 [Pause]

13 A It was the first time I knew there were law enforcement
14 visiting him. And I was glad, because I had endured six -- six or
15 seven months -- seven months of episodes, sporadic episodes. So
16 how did it end for me? It ended that -- The police were in there.
17 It was a very difficult situation. There was more I heard from
18 him that had me concerned, that you didn't ask --

19 Q That night?

20 A Yeah. I sent my memory -- I believed he was backing out --

21 Q Well, --

22 A Okay.

23 Q Did you --

24 A He was --

25 Q Did you --

1 A -- begging. He was -- "No, man. No. No." He was --
2 that -- I mean, we're talking that kind of stuff.

3 Q Okay. And did you ever see Tommy anywhere that night?

4 A No.

5 Q I know you heard what you heard.

6 A No, I knew --

7 Q But did you see --

8 A -- if I went out on my balcony or even looked through my
9 12-foot slider I could see him, because he was on the balcony.
10 And there's plenty of room to see, without being --

11 Q How do you know he was on the balcony?

12 A From hearing him.

13 Q But you didn't see him on the balcony; is that right?

14 A No.

15 MR. TARRANT: Thank you. I have nothing further, Your Honor.

16 THE COURT: Attorney Anderson?

17 MR. ANDERSON: Yes.

18 **CROSS EXAMINATION OF WITNESS, LINDA COPELAND**

19 BY MR. ANDERSON:

20 Q Good morning, Ms. Copeland. My name's Ken Anderson. I
21 represent one of the Winchester police officers that is subject
22 for this matter.

23 You mentioned -- Is it fair to assume that the walls there
24 are not that soundproof?

25 A No, that is incorrect. That is incorrect. I had -- When I

1 | moved there, I had a handyman who was trying to put that mirror
2 | up. And he and his father are both in good shape. And they said
3 | to me by the time it got done, which took two or three visits and
4 | two or three drill bits, that that wall is actually 12 inches
5 | thick, of cement.

6 | Q Okay. So it was difficult for you to hear stuff that was
7 | going in the next apartment, then?

8 | A It was not difficult to hear screaming, throwing, big
9 | commotion, door-slamming. I have acute hearing. It was not --
10 | that -- none of that was difficult.

11 | Q Okay. You --

12 | A I heard specific words, like "Tommy, Tommy." And I heard him
13 | like, "No, man. No, man." Those, I specifically heard.

14 | Q But you mentioned somewhere along the line of your testimony
15 | that there had been six or seven months of sporadic episodes --

16 | A Correct.

17 | Q -- that you heard. And what would happen in those six or
18 | seven months of sporadic episodes?

19 | A The first time, I don't know how long he had lived there. I
20 | was totally terrorized because -- He shared my bedroom wall. And
21 | there was a woman who lived a couple doors down, and I assumed
22 | that they'd been getting together. They -- They seemed like they
23 | were attracted easily to each other. Whatever. And the first
24 | episode I heard, I knew there was a female with him. I didn't
25 | know that he had these episodes.

1 And the two of them ran through the unit. And it felt like
2 furniture was tipping over. It felt like -- At first, I was -- I
3 think I was asleep. It was a Sunday morning. And I do know it
4 was 7:30 when she exited the door. I believe she had to get to
5 work. And the noise was so profound. All that went through my
6 mind at the -- Oh, my heart was coming out of my chest because --
7 If it had just been him by himself: tear up your apartment. But
8 it was -- there was a woman in there with him. And he was a very
9 fit young man. And I knew they were having some kind of quarrel.
10 And I could definitely hear things turning over. I -- I
11 thought -- It felt like a -- an orangutan was in that place. It
12 was so physical. The -- The commotion, the turning, it -- I've
13 never heard anything like it.

14 Q Fair to say you had a concern for her safety in that
15 incident?

16 A I did.

17 Q And the other commotions, would it be overturning furniture?

18 A That one wasn't over. He -- It -- It kept on. And he did
19 pull -- I'm pretty -- I have pictures of damaged doors. And I
20 think one did -- I think her door came off the hook, her metal
21 door, I believe. But I didn't see it off the hook; I just saw
22 repairs.

23 Q Okay. But in terms of -- Just in general, there were other
24 episodes with loud noises and --

25 A A few.

1 Q -- banging and overturning --

2 A A few.

3 Q -- furniture?

4 A No, not overturned furniture. That one was the worst. And
5 when he was by himself, it -- it was not at all like that, not at
6 all bad. But things were going on. I didn't know what. But he
7 was by himself.

8 Q Now, let me -- Let's go to November 2nd, the night of this
9 incident, 2020. Do you recall when the police first got there and
10 started banging on the door?

11 A No. No idea what time.

12 Q Do you -- No, not what time. But do you remember --

13 A No.

14 Q Did something happen and the police -- when you first became
15 aware the police were there?

16 A No. I can't -- I can't connect it to anything --

17 Q Do you recall?

18 A -- because I'm sitting, hearing it build, thinking, "This is
19 really building."

20 Q Did you -- Do you recall the police first banging the door
21 and saying, "Open up the door," calling him? "Frank, Frank"?

22 A No.

23 Q And do you recall opening your door and saying, "His name
24 isn't Frank. His name is Thomas"?

25 A I'm not stupid. No. But what -- That's not his name. But,

1 no, I didn't open my door.

2 Q Okay. And do you recall opening your door that night, where
3 there was another individual and a security officer outside, that
4 same night?

5 A No.

6 Q Before the police responded?

7 A No, I don't recall.

8 Q Okay.

9 MR. ANDERSON: I don't have any other questions.

10 THE COURT: Attorney Dewitt?

11 MS. DEWITT AHERN: Just briefly.

12 **CROSS EXAMINATION OF WITNESS, LINDA COPELAND**

13 BY MS. DEWITT AHERN:

14 Q You said that you heard Tommy on the telephone, from your
15 apartment, and you believed he was talking to the security guard.
16 And in your opinion, he was very agitated. And in your opinion,
17 he wasn't being -- Based on what you were hearing, Tommy wasn't
18 being -- you believed he wasn't being taken seriously by the
19 security guard?

20 A I can't say that he believed he wasn't being helped. But he
21 was excruciatingly distressed.

22 Q And you could tell this over the phone call that you were
23 hearing. And when you -- You said that you heard the police
24 through your wall, interactions at Tommy's apartment?

25 A [No response.]

1 Q Let me reword that, ma'am. You believe that there were three
2 police officers; fair to say?

3 A Yes.

4 Q Can -- Yeah, speak up, because this is being recorded.

5 A Yes.

6 Q And in your opinion, at least one of them seemed to be
7 friendly with Tommy and know Tommy, was calling him by his name?

8 A They used his name. And the tone was kind, where if people
9 know each other -- It didn't seem like he was a name on a piece of
10 paper. It seemed like --

11 Q So some --

12 A -- they knew him somehow.

13 Q Some familiarity.

14 A And they were addressing him kindly.

15 MS. DEWITT AHERN: Nothing further, Judge.

16 THE COURT: Thank you very much, ma'am.

17 Did you have something else?

18 MR. ANDERSON: I just want to clarify. I got my wires
19 crossed.

20 **RE-CROSS EXAMINATION OF WITNESS, LINDA COPELAND**

21 BY MR. ANDERSON:

22 Q Your apartment is not down that same corridor as Thomas.
23 You're -- If you're walking down the main hallway --

24 A You're wrong. This is my wall and his. He was on the other
25 side of my wall.

1 Q Right, but when you go --

2 A We shared that wall.

3 Q But the --

4 A It wasn't a hallway in between us. No. It was my wall, and
5 he was having his life -- His TV was probably hanging, like, 12
6 inches --

7 Q Right.

8 A -- from my mirror.

9 THE COURT: But to get your --

10 Q But your --

11 THE COURT: Let me just -- To get to your apartment, --

12 THE WITNESS: Correct.

13 THE COURT: -- if you were in Tommy's apartment, --

14 THE WITNESS: If I were in his?

15 THE COURT: Right? You would take a left out of his
16 apartment, go down a short corridor, take a left in the hallway,
17 and then --

18 THE WITNESS: I would -- I would go about 12 feet once I was
19 in the hallway.

20 THE COURT: Right. And then you would go down to that
21 corridor, and your apartment would be on the left?

22 THE WITNESS: Yes.

23 THE COURT: But your wall adjoined his wall?

24 THE WITNESS: Every bit of it.

25 THE COURT: Right. But there's a --

1 THE WITNESS: The bedroom, -- Every bit of it.

2 THE COURT: Okay.

3 BY MR. ANDERSON:

4 Q No, I asked you questions thinking your front door was right
5 across from his. And --

6 A I know you did.

7 Q -- I was wrong. That's what I'm --

8 A No.

9 Q -- clarifying. So --

10 A No.

11 MR. ANDERSON: No questions.

12 THE COURT: Okay. Thank you very much. You're excused.

13 THE WITNESS: May I speak to Mr. Tarrant for a moment?

14 THE COURT: I'm sorry?

15 THE WITNESS: Privately? May I speak to Mr. Tarrant for a
16 moment, privately?

17 THE COURT: Maybe afterwards. He's got a whole bunch of
18 witnesses outside.

19 THE WITNESS: I know it. I'm concerned about one of them.

20 THE COURT: Okay. He could speak to you.

21 Do you need to speak to anybody?

22 MR. TARRANT: I don't think so. I --

23 THE WITNESS: This will only take a minute.

24 MR. TARRANT: I'm --

25 THE COURT: Okay.

1 MR. TARRANT: But if it's a concern about somebody that's
2 outside --

3 THE WITNESS: Yes, it's a concern about a witness that's
4 waiting.

5 THE COURT: Okay. So why don't we take -- I'll take -- just
6 take a five-minute recess.

7 MR. TARRANT: Sure.

8 THE COURT: And we'll get right back to it.

9 THE WITNESS: Thank you for --

10 THE COURT: Okay?

11 THE WITNESS: Thank you.

12 [Witness steps down]

13 [Court in Recess at 11:17:17 a.m.]

14 [Back on Record at 11:28:14 a.m.]

15 THE COURT: Okay. Next witness, please.

16 [Case Called]

17 MR. TARRANT: The next witness is Kevin Lowry.

18 [KEVIN LOWRY, Sworn.]

19 THE COURT: Mr. Lowry, good morning. I'm Judge Doyle. You
20 can leave your mask on, if you like. If you would prefer to
21 remove your mask while you testify, you can do that as well.

22 THE WITNESS: Thank you.

23 THE COURT: It's completely up to you. Okay?

24 THE WITNESS: Yes.

25 THE COURT: All right.

1 THE WITNESS: Thank you.

2 THE COURT: You're welcome.

3 A.D.A. Tarrant?

4 MR. TARRANT: Thank you, Your Honor.

5 **DIRECT EXAMINATION OF WITNESS, KEVIN LOWRY**

6 BY MR. TARRANT:

7 Q Sir, can you please state your name, spelling both your first
8 and your last name?

9 A My name is Kevin Lowry, L-O-W-R-Y.

10 Q And, sir, how far have you gone in school?

11 A College.

12 Q And are you currently employed?

13 A Yes.

14 Q What do you do?

15 A I'm a waiter at Coach Grill Restaurant in Wayland,
16 Massachusetts.

17 Q And how long have you worked at the Coach Grill?

18 A I've been there twenty years, thirty-three with the company.

19 Q And so you've been a waiter at the Coach Grill for twenty
20 years?

21 A Yeah. I was a corporate trainer with them for a short period
22 of time. But now I'm just a waiter, just a food waiter, yeah.
23 I'm too old to be doing much more than that.

24 Q Okay. And, sir, where are you currently living?

25 A At Parkview Condominiums, 200 Swanton Street.

1 Q In which unit?

2 A Unit 321.

3 Q And do you live with anyone?

4 A I live with my boyfriend.

5 Q And how long have you lived at the Parkview Apartments?

6 A It was either the end of July or the end of -- I think it was
7 the end of July, we moved in.

8 Q July of what year?

9 A Last year.

10 Q 2020? 2020?

11 A Yeah. No. I've been there a year.

12 Q Okay.

13 A So, yeah, must --

14 Q A year, July?

15 A It was a year, July, yeah.

16 Q And, sir, if I direct your attention to November 2nd, 2020,
17 do you recall that day?

18 A Yes.

19 Q Do you recall what you did on that day?

20 A It was either a Monday, Tuesday, or Wednesday, because it was
21 my day off. And I was home. And I heard sounds, screaming,
22 voices. And --

23 Q And approximately what time of day did you hear that?

24 A It was in the evening, early part of the evening.

25 Q And where were you when you were hearing these noises?

1 A It's a three-room unit. I was in the living room, watching
2 TV.

3 Q Okay. In your apartment, Unit 321?

4 A Yeah, yes.

5 Q And could you tell where these noises were coming from?

6 A Outside what I thought was the hall.

7 Q And what specifically could you hear?

8 A I just heard banging, sounds, voices.

9 Q And did you hear the voices say anything?

10 A Well, I -- I knocked on the door of my -- My boyfriend was
11 listening to music on his headphones.

12 Q Okay.

13 A And I said, "Did you hear that?" And he said, "What?" And I
14 went out in the hall. And as I -- The building is
15 crescent-shaped.

16 Q Yep.

17 A So there's a long corridor, and then it goes down and there's
18 two units on either side, left and on the right. And I went down
19 to the end of the hall, to the corridor. And I could hear, "Put
20 that knife down. Put the knife down." And that's when I went
21 back inside and dialed 911.

22 Q Okay. And how many times do you recall hearing, "Put the
23 knife down"?

24 A More than -- Maybe two or three times. It was definitely
25 more than once.

1 Q And could you see who was saying that?

2 A No. I just went to the corridor. So I didn't know. I'm
3 basically -- The building's cut in half, and I'm the middle of the
4 building. And there's a doorway with a fire door that goes down
5 to the rest of the building. And then on -- from where I am, it
6 goes all the way to the other end of the building. So I knew it
7 wasn't to the right of me. It was to the left. The voices were
8 coming from the left.

9 Q And you, being in Unit 321, --

10 A Yes.

11 Q -- to the left of you, would that be 322?

12 A Yes.

13 Q And then 323?

14 A Yep.

15 Q And then -- So on?

16 A So on. So, I knew it was further down than 322, 323. But I
17 didn't --

18 Q You didn't --

19 A Yeah, I didn't go any further. I went right back in and
20 dialed 911.

21 Q Okay. And when you dialed 911, did you speak to a
22 dispatcher?

23 A Yes.

24 Q Okay. And --

25 A I stated where I was and that I heard voices in the hall.

1 And they said, "Thank you," and hung up and called me back and got
2 my information.

3 Q Okay. So in that first call, they didn't take your name?

4 A No.

5 Q And they didn't take your -- Well, they didn't ask your phone
6 number?

7 A No.

8 Q But then they called you back to get that information?

9 A Yes. And then, afterwards, a detective came by, knocked on
10 the door, and asked me a few questions.

11 Q And is that essentially what you're telling us today?

12 A Yes.

13 Q So you didn't see anybody in the hallway?

14 A No.

15 MR. TARRANT: Your Honor, that's all the questions I have for
16 this witness.

17 THE COURT: Attorney Anderson?

18 MR. ANDERSON: I don't have any questions.

19 THE COURT: Attorney Dewitt?

20 MS. DEWITT AHERN: No, Your Honor. Thank you.

21 THE COURT: Sir, thank you very much. You're free to go.

22 THE WITNESS: Thank you.

23 THE COURT: You're welcome.

24 [Witness steps down]

25 THE COURT: Next witness, please.

1 MR. TARRANT: Can I just have a brief moment before we call
2 the next witness?

3 THE COURT: Sure.

4 [Pause]

5 MR. TARRANT: Thank you. So, Your Honor, a couple of things
6 I just wanted to bring to the court's attention. One is: we do
7 have 911 calls, recorded 911 calls, that I intend to introduce as
8 exhibits.

9 THE COURT: Yes.

10 MR. TARRANT: I expect that will be by stipulation.

11 THE COURT: Okay.

12 MR. TARRANT: So I wasn't going to have the witnesses
13 authenticate the 911s, if that's okay with the court.

14 THE COURT: That's no problem.

15 MR. TARRANT: Partly -- I had asked this witness to listen to
16 his 911 call, and he just wouldn't. He didn't want to.

17 THE COURT: Okay.

18 MR. TARRANT: It was too difficult for him.

19 THE COURT: Understood.

20 MR. TARRANT: So, that's part of the reason why I decided to
21 do it that way. But I wanted to make the Court aware, just in
22 case.

23 THE COURT: Okay.

24 MR. TARRANT: The next thing is: my next witness, before we
25 call him, is Hyden Meiler. I did not put him on this witness

1 list. He is here today. He is on the original witness list. But
2 I wasn't anticipating calling him. But he's here. He does, I
3 think, have something relevant to say. He's going to be very
4 quick. And then I do not anticipate my next witness to be here
5 until noon.

6 THE COURT: Okay.

7 MR. TARRANT: So --

8 THE CLERK: This is the original potential witness list; I
9 don't know if you want to see that.

10 THE COURT: That's fine. He can testify.

11 MR. TARRANT: All right. I just wanted to make the court
12 aware.

13 THE COURT: And then if we still have time before noon, maybe
14 we can listen to the 911 tape.

15 MR. TARRANT: That would work.

16 THE COURT: Okay.

17 MR. TARRANT: So, we're ready for Hyden Meiler.

18 [OFFICER HYDEN MEILER, Sworn.]

19 THE COURT: You can have a seat. You can leave your mask on,
20 if you like. If you prefer, you can remove it while you testify.
21 It's completely up to you.

22 THE WITNESS: Yes, sir. Thank you.

23 THE COURT: You're welcome.

24 You may proceed.

25 MR. TARRANT: Thank you.

1 **DIRECT EXAMINATION OF WITNESS, OFFICER HYDEN MEILER**

2 BY MR. TARRANT:

3 Q Sir, can you please state your name, spelling both your first
4 and last name?

5 A Hyden Meiler.

6 Q Can you spell that for us?

7 A H-Y-D-E-N. Last name M-E-I-L-E-R.

8 Q And, sir, --

9 THE COURT: I'm sorry; how do you spell your first name?

10 THE WITNESS: H-Y-D-E-N.

11 THE COURT: Thank you.

12 THE WITNESS: Yes, sir.

13 BY MR. TARRANT:

14 Q Sir, are you employed?

15 A I'm sorry?

16 Q Are you employed?

17 A Yes, sir.

18 Q Where do you work?

19 A Winchester police.

20 Q And how long have you worked for the Winchester Police
21 Department?

22 A Since July of 2020.

23 Q And what's your current assignment with the Winchester Police
24 Department?

25 A I'm a patrolman.

1 Q And as a patrolman for the Winchester Police Department, what
2 are your duties and responsibilities?

3 A Patrol a sector of the town and conduct traffic and respond
4 to calls and emergencies.

5 Q And, sir, prior to working for the Winchester Police
6 Department, what did you do?

7 A I was in the Army, as a medic.

8 Q Okay. And when did you first join the Army?

9 A That was in 2010, after I graduated high school.

10 Q From high school, you went right into the Army?

11 A Yes, sir.

12 Q And went to basic training?

13 A Yes, sir.

14 Q And after basic training, did you have any other specialized
15 training?

16 A After basic training I went to Fort Sam Houston for combat
17 medic school.

18 Q And so what did that entail?

19 A The first seven weeks was a, basically, crash course to get
20 our EMT-B certification. And then after that we did another
21 several months of more combat-related medicine, multisystems
22 trauma, and stuff like that.

23 Q And so, in total, how long was that training?

24 A Approximately nine months.

25 Q And once you completed that training, what did you do?

1 A After that training I got stationed at Fort Carson, Colorado,
2 into an artillery unit. And a few months after I got there, we
3 were deployed to Afghanistan.

4 Q And so you were deployed to Afghanistan?

5 A Yes, sir.

6 Q And what was your role in Afghanistan?

7 A In Afghanistan, I was part of an aid station on a forward
8 operating base. And from there we would work with soldiers that
9 got sick, or they would attach us to patrols, to go out on combat
10 missions.

11 Q And so can you describe some of your experience in
12 Afghanistan as it relates to your position as a combat medic?

13 A Sure. So, my FOB, it was a bigger FOB, so we would have
14 medivacs come in, and we would treat patients that were shot or
15 had injuries from blast injuries. And that -- that'll be
16 conducted at an aid station. If we were out on patrol and someone
17 got hurt, then I would do field medicine out there, as I -- as I
18 saw fit, based on what their -- their injuries were.

19 Q Okay. And what kind of injuries did you see, doing that?

20 A I saw a lot of bullet wounds, I saw blast injuries,
21 penetrating trauma, blunt trauma, you name it.

22 Q And how long were you in Afghanistan?

23 A Approximately nine months, I would say.

24 Q And did you have more than one deployment?

25 A My second deployment was to Kuwait, so --

1 Q Did you see -- Did you work as a combat medic in Kuwait?

2 A I did. That was all aid station work, though, over there.

3 Q And were you honorably discharged from the Army?

4 A I was.

5 Q And upon your honorable discharge, what did you do?

6 A I went to school full-time under the GI Bill.

7 Q And ultimately became a Winchester police officer?

8 A Yes, sir.

9 Q And, sir, if I direct your attention to November 2nd, 2020,
10 do you recall that day?

11 A I do.

12 Q Were you working on that day?

13 A I was.

14 Q What was the shift you were assigned to on November 2nd,
15 2020?

16 A On November 2nd I was assigned to the noon to ten shift, and
17 I was assigned to the 921 sector.

18 Q What is the 921 sector?

19 A The 921 sector is essentially the west side of town, from
20 Route 3 up to the Lexington border.

21 Q How many sectors does Winchester police patrol?

22 A We have four sectors. The town is divided into four.

23 Q Okay. And how many officers are assigned to each sector?

24 A One officer per sector.

25 Q And when you're patrolling a sector, are you in a marked

1 | police car?

2 | A I am, yes.

3 | Q Are you alone, or with a partner, in the car?

4 | A Alone.

5 | Q Directing your attention to November 2nd, 2020, were you
6 | working in such a marked patrol car?

7 | A I was.

8 | Q And how were you dressed that night?

9 | A I was in full police uniform, duty belt, badge.

10 | Q And, sir, directing your attention approximately 8:15 on
11 | November 2nd, 2020, do you recall where you were on that date at
12 | that time?

13 | A I believe I was at -- back at the police station, writing a
14 | report.

15 | Q And what, if anything, occurred while you were writing the
16 | report?

17 | A I recall a lot of activity on the radio. I heard somebody
18 | call for another unit up to the Parkview, for assistance. And I
19 | was close to that area, so I responded.

20 | Q And how close -- So, you were in the Winchester Police
21 | Department?

22 | A I was.

23 | Q And how far is the Winchester Police Department to the
24 | Parkview Apartments?

25 | A I would say maybe a third of a mile.

1 Q And so when you hear the radio call, can you tell what was
2 happening at the Parkview Apartments at that time?

3 A It was hard to discern. But I heard some screaming, and I
4 heard a bang. So I knew what was -- what was ever going on
5 sounded serious.

6 Q And did you know what that bang was?

7 A I did not.

8 Q And so did you know anything about what was occurring at the
9 Parkview Apartments at that time?

10 A Not at that time.

11 Q So when you heard that commotion over the radio, you went
12 directly to Parkview?

13 A Yes.

14 Q And it's about a third of a mile?

15 A Approximately.

16 Q So approximately how long did it take you to get there, with
17 traffic or without traffic?

18 A There was very light traffic. I would say it took me maybe 3
19 minutes to get there.

20 Q And when you pulled into the Parkview Apartments, where did
21 you go?

22 A I pulled into the main gate, right into the front entrance of
23 the gate. There was fire staged outside there.

24 Q The fire department was there?

25 A They were staged, yes, sir.

1 Q What does that mean, that they were staged?

2 A They were standing by for the all-clear to proceed upstairs.

3 Q So what did you do?

4 A I asked over the radio if the fire was all clear to go
5 upstairs. Somebody responded they were. So I ran ahead of them.
6 And I just ran to the third floor to see how I could help while I
7 was there.

8 Q And when you got to the third floor, where did you go?

9 A I ran to the right, down to the apartment. I think it was
10 326.

11 Q And what did you observe at that point?

12 A When I was running down the hallway, I saw Sergeant Latores
13 walking down, opposite direction of the unit.

14 Q And was there anybody with Officer Latores at that time?

15 A No. He was by himself.

16 Q And did you speak to Officer Latores at that time?

17 A I asked him if he was okay. And he said, "Yeah." And that
18 was the end of it. And then I continued on to the unit.

19 Q And what did you see next?

20 A I saw Officer Riccio kneeling over Mr. Celona, applying
21 direct pressure over the wound. And Sergeant Mawn was standing at
22 the head of Mr. Celona.

23 Q Seeing that, what did you do?

24 A Seeing that, I just went back into my muscle memory and my
25 training, and I assisted Officer Riccio with rendering aid to Mr.

1 Celona.

2 Q And what specifically did you do?

3 A I took over holding direct pressure over the chest wound.
4 And I asked Drew if he had seen an exit wound. He said no. But I
5 did a full blood-sweep with my hand, just to make sure there was
6 no other sites of uncontrolled bleeding. Rolled him onto his
7 back, checked his back. Checked his whole body to see if there
8 was any other bleeding. And there wasn't. So we rolled him back
9 over into -- onto his back, continued holding pressure. And at
10 that point we were just waiting for fire to roll up, because they
11 were just a few minutes behind me.

12 Q Okay. And did the fire department show up?

13 A They did.

14 Q And once the fire department showed up, what did you do next?

15 A Next, I just stood by and waited for orders from Sergeant
16 Mawn at the time.

17 Q So it's fair to say once the fire department arrived, they
18 took over care of Mr. Celona?

19 A Yes, sir.

20 Q And then what did you do?

21 A I just was waiting there as Sergeant Mawn went into the
22 apartment to conduct a sweep, make sure no one else was inside.
23 And I assisted him with that, stood at the front door, and I
24 waited for somebody to tell me how I can help.

25 Q And did you do a sweep of the apartment?

1 A I stood by the doorway while Sergeant Mawn did it.

2 Q Okay. Did you go inside?

3 A No. I took a step in the door. That's the farthest I went.

4 Q And as you're standing at the door, did you make any
5 observations of the area around you?

6 A I saw a lot of blood on the floor in the front entryway. I
7 saw a blanket. The apartment was in complete disarray. There was
8 furniture strewn about.

9 Q Officer, showing you this photograph, ask you if you
10 recognize what that is.

11 A The blanket?

12 Q The area?

13 A Yes, sir.

14 Q Where is that?

15 A That's right in the entryway of the unit.

16 Q Would that be Unit 326?

17 A Yes.

18 Q And is that the area you were standing, as you just
19 described, --

20 A Yes.

21 Q -- after rendering aid to Mr. Celona and the police -- the
22 fire department taking over -- is that the location where you
23 went?

24 A That's exactly where I was, yes, sir.

25 Q And is that a fair and accurate representation of how that

1 area, Unit 326, looked on the evening of November 2nd, 2020?

2 A It is.

3 Q Thank you.

4 MR. TARRANT: May this be marked?

5 THE COURT: 6.

6 THE CLERK: Yes, Judge.

7 **[Photograph Marked as Exhibit No. 6]**

8 BY MR. TARRANT:

9 Q And, sir, did you take a look inside the apartment?

10 A I took a peek. But it was still very dark in there. I
11 didn't see much.

12 Q Okay. So just let me know whether or not you can recognize
13 what's depicted in this photograph.

14 A I remember seeing the table there, the outline. And I saw a
15 bunch of junk on the floor, but --

16 Q And can you just describe where this view is in relation to
17 where you were at the door?

18 A This view is directly to the left of the door as you walk in,
19 straight in.

20 Q And you say you recall some of what's depicted in this
21 photograph?

22 A I remember the table, specifically, in that position.

23 Q Okay. And this table, is this a fair and accurate
24 representation, at least of how you found the view, of the table
25 on the evening of November 2nd, 2020?

1 A It is.

2 Q And the table is essentially depicted in the middle of that
3 photograph?

4 A Correct.

5 MR. TARRANT: May this be marked?

6 THE COURT: 7.

7 **[Photograph Marked as Exhibit No. 7]**

8 BY MR. TARRANT:

9 Q Okay. And just to be clear, you did not do a protective
10 sweep of the apartment?

11 A No. I stood right there at the doorway.

12 Q Okay. Sergeant Mawn did the --

13 A Yes.

14 Q -- sweep of the apartment?

15 Did you seize anything from the apartment?

16 A I did not. No, sir.

17 Q And, sir, I'm showing you this photograph. Do you recognize
18 what's depicted there?

19 A Yes, sir.

20 Q And what is that?

21 A That is the hallway leading to the units.

22 Q Okay. And does that also depict where you were stationed
23 after rendering aid to Mr. Celona on the evening of November 2nd,
24 2020?

25 A Yes. When I showed up, Mr. Celona was right here,

1 approximately by the Number 3 marker.

2 Q Okay, where the Number 3 marker is?

3 A Approximately.

4 Q And is it fair to say that you were standing where the Number
5 4 marker is?

6 A Yes.

7 MR. TARRANT: Can this be marked?

8 THE COURT: 8.

9 THE CLERK: Yes, Judge.

10 **[Photograph Marked as Exhibit No. 8]**

11 THE COURT: Thank you very much.

12 BY MR. TARRANT:

13 Q And, sir, showing you this photograph --

14 THE COURT: Hold on one second. Can you say that again?

15 What does the Number 3 depict? That's --

16 THE WITNESS: That's where Mr. Celona was when I showed up,
17 sir.

18 THE COURT: Okay. And what was 4?

19 THE WITNESS: That's where I was standing when Sergeant Mawn
20 was conducting the sweep of the apartment.

21 THE COURT: Gotcha. Thank you.

22 THE WITNESS: Yes, sir.

23 BY MR. TARRANT:

24 Q Showing you this photograph, do you recognize what's depicted
25 there?

1 A That is the main hallway of the Parkview.

2 Q And you see in that photograph there are other placards with
3 numbers on them?

4 A Yes, sir.

5 Q Directing your attention to Placard No. 2, was Mr. Celona out
6 that far into the hallway, or was he still in the corridor?

7 A He was about, I would say, halfway. Maybe his mid-thigh was
8 around the entrance there, to the other hallway. And his head was
9 out this way.

10 Q When you say "this way," you're pointing towards the Number
11 1?

12 A Yes, sir.

13 MR. TARRANT: And may this be marked?

14 THE COURT: 9.

15 **[Photograph Marked as Exhibit No. 9]**

16 MR. TARRANT: That's all the questions I have for this
17 witness, Your Honor.

18 MR. ANDERSON: Just briefly.

19 **CROSS EXAMINATION OF WITNESS, OFFICER HYDEN MEILER**

20 BY MR. ANDERSON:

21 Q Officer Meiler, as you know, I'm Ken Anderson.

22 As you came down the hallway and you saw Officer,
23 now-Sergeant, Latores coming towards you, what observations did
24 you make of him at that time, if any?

25 A Oh, when I encountered him, he had his hands on his hips,

1 kind of resting on his duty belt. And his head was down. He
2 looked upset and a little distressed. That's why I stopped
3 briefly to ask him if he was okay.

4 Q Okay. And at the time, did you know he was the one who had
5 discharged his firearm?

6 A I did not know at that time.

7 Q And after you asked if he was okay, then you continued down
8 and rendered aid?

9 A That's correct.

10 Q And in your view, did the Winchester police do everything
11 they could do to save Mr. Celona's life?

12 A That's correct.

13 MR. ANDERSON: I have nothing else.

14 THE COURT: Attorney Dewitt?

15 MS. DEWITT AHERN: Thank you, Your Honor.

16 **CROSS EXAMINATION OF WITNESS, OFFICER HYDEN MEILER**

17 MS. DEWITT AHERN: Your Honor, can I see Exhibits -- the last
18 four: 6, 7, 8, 9?

19 BY MS. DEWITT AHERN:

20 Q Good morning. My name is Debra Dewitt.

21 A Good morning.

22 MS. DEWITT AHERN: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 MS. DEWITT AHERN: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MS. DEWITT AHERN:

2 Q Now, on Exhibit 6, that is a photograph of the door to the
3 apartment, 326; is that fair to say?

4 A Yes, ma'am.

5 Q And when you're looking at -- Let me rephrase that. You
6 indicated that when you went inside the door, you looked inside
7 the door, you noticed a lot of blood inside of the doorway; is
8 that fair to say?

9 A Yes, ma'am.

10 Q And in that picture, you can actually see some blood on the
11 floor?

12 A Mm-hmm.

13 Q And you can see a blanket to the left of that door; is that
14 fair to say?

15 A Yes, ma'am.

16 Q And did you notice blood on that blanket also?

17 A I did.

18 Q Did you ever go any further into the apartment, sir?

19 A No, ma'am. I stayed at the doorway.

20 Q Thank you. And you testified -- I'm going to show you
21 Exhibit 8. That is a corridor leading up to Apartment 326?

22 A Yes, ma'am.

23 Q Now, the Placard No. 3, that was where Mr. Celona was?

24 A Approximately, ma'am.

25 Q Was that his feet or his head?

1 A His feet.

2 Q And his head was to the junction of the corridor and the
3 hallway?

4 A Correct.

5 Q Partially out into the main hallway?

6 A Yes.

7 Q And when you arrived, Officer Riccio was tending to Mr.
8 Celona?

9 A Correct.

10 Q And Officer Latores had been walking away, down the main
11 hallway?

12 A Yes.

13 MS. DEWITT AHERN: Nothing further, Judge.

14 THE COURT: Thank you.

15 Anything else, anyone?

16 THE CLERK: Thank you.

17 MR. TARRANT: Nothing. Nothing, Your Honor.

18 THE COURT: You're all set. Thank you very much.

19 THE WITNESS: All right. Thank you, sir.

20 [Witness steps down]

21 THE COURT: Do you want to check on your witness?

22 MR. TARRANT: If I could, Your Honor.

23 THE COURT: Sure. And if not, if your witness isn't here,
24 maybe we can play the 911 tape.

25 [Pause]

1 MR. TARRANT: She actually just may be walking in right now.
2 My advocate's going to check. But I sent her a text.

3 THE COURT: Okay.

4 MR. TARRANT: Just as I was speaking to her, she received a
5 text.

6 THE COURT: Okay.

7 [Pause]

8 MR. TARRANT: Your Honor, I'm just going to step outside,
9 because I don't know if my advocate feels comfortable coming in.

10 THE COURT: No problem.

11 [Pause]

12 MR. TARRANT: Okay. We're ready, Your Honor.

13 THE COURT: Okay.

14 MR. TARRANT: So, Heather Derby. Heather Derby.

15 THE COURT: Is it "Derby" or --

16 MR. TARRANT: It's pronounced "Darby," so I corrected myself.

17 [HEATHER DERBY, Sworn.]

18 THE COURT: You can have a seat.

19 THE WITNESS: Thank you.

20 THE COURT: Good afternoon. If you're comfortable, you can
21 leave your mask on. If you prefer to remove your mask while
22 you're testifying, you can do that. Whatever you're more
23 comfortable doing. Okay?

24 THE WITNESS: Okay.

25 THE COURT: All right.

1 THE WITNESS: Thanks.

2 MR. TARRANT: Okay? Thank you.

3 **DIRECT EXAMINATION OF WITNESS, HEATHER DERBY**

4 BY MR. TARRANT:

5 Q Good afternoon.

6 A Good afternoon.

7 Q Could you please state your name, spelling both your first
8 and last name?

9 A My name is Heather Derby, H-E-A-T-H-E-R D-E-R-B-Y.

10 Q And, ma'am, how far have you gone in school?

11 A I have a master's.

12 Q And what's your master's degree in?

13 A Regional economic and social development.

14 Q So are you currently employed?

15 A I am.

16 Q What do you do?

17 A I am a STEM programs manager. STEM stands for science,
18 technology, engineering, and math.

19 Q Okay. And you're a program manager?

20 A Yes.

21 Q And can you just describe what your responsibilities are, in
22 that regard?

23 A I work with the Workforce Board in Metro North and -- as a --
24 As a Workforce Board, we cover workforce development, employment.
25 We work with businesses and organizations to place folks in

1 employment. That's part of my job. And the other part of my job
2 is to organize STEM Week activities in the Metro North region
3 through the Metro North STEM Network, also to procure
4 opportunities for youth in STEM. So, mainly middle school and
5 high school students, for them to gain STEM-related experience
6 that will help them pursue their STEM education in the future, and
7 their STEM careers.

8 Q Okay. And where do you currently reside?

9 A In Winchester.

10 Q Okay. And what's your address?

11 A 200 Swanton Street, Number 324.

12 Q And how long have you lived at 200 Swanton Street?

13 A Three years now.

14 Q And is that also known as the Parkview Apartments?

15 A Correct.

16 Q And have you been in Unit 324 for all three years?

17 A Yes.

18 Q And do you live alone or with somebody else?

19 A With someone else.

20 Q And who is that?

21 A My son.

22 Q And how old is your son?

23 A He is eight, almost nine.

24 Q And so being in Unit 324, are you located on the third floor?

25 A Yes.

1 Q Okay. And do you share a hallway with -- Excuse me. Do you
2 share a wall with Unit 325?

3 A Yes.

4 Q Okay. But is it fair to say your hallway does not -- is not
5 the same hallway that you would use to get down to 325?

6 A That's correct.

7 Q Okay.

8 THE COURT: Corridor.

9 MR. TARRANT: Corridor; I'm sorry.

10 THE WITNESS: Yeah.

11 THE COURT: That's all right.

12 THE WITNESS: Yeah.

13 THE COURT: So we're going to use, just for clarification --
14 The hallway: the long thing, from beginning to end. And each
15 separate corridor is a short one leading to the apartment.

16 THE WITNESS: That's what I was just going to explain.

17 THE COURT: Thank you.

18 MR. TARRANT: I messed that up.

19 THE WITNESS: That's okay.

20 BY MR. TARRANT:

21 Q So, your corridor, is that 323 and 324?

22 A 323 and 324, yes.

23 Q Okay. And, ma'am, if I direct your attention to November
24 2nd, 2020, almost a year ago, --

25 A Yes, the day before election.

1 Q Yep, that's right. Do you recall that being a Monday?

2 A Yes.

3 Q The election being on Tuesday?

4 A Correct.

5 Q And so, do you recall that day?

6 A Yes, I do.

7 Q And do you recall what you did on that day?

8 A During the daytime, yes. I -- Well, the whole day?

9 Q Yeah.

10 A But during the daytime, I pretty much stayed indoors. I was
11 working. My son was on remote school.

12 Q And so you were home with your son, pretty much all day?

13 A Yep.

14 Q And if I direct your attention to approximately 8:00 p.m. on
15 November 2nd, 2020, --

16 A Yeah.

17 Q -- do you recall what you were doing on that date at that
18 time?

19 A Yep.

20 Q And what was that?

21 A So, we just finished up dinner, just before eight. And I was
22 washing the dishes.

23 Q And did anything -- was your attention brought to anything in
24 particular at that time?

25 A Yes. There was really loud banging in the building.

1 Q Okay.

2 A Couldn't tell exactly from where. But there was a lot of
3 banging. And then some moments later, there was a lot of
4 shouting.

5 Q Okay. And could you -- When you say there was shouting,
6 could you hear what was being said?

7 A Sometimes, yes.

8 Q Okay. And what could you hear?

9 A The first thing I heard was to the effect of "Let us in, let
10 us in. We're going to get in somehow."

11 Q Okay. And then what else did you hear?

12 A Then, moments later, I heard, "Put down the knife, Carl.
13 Carl, put down the knife." Just, like, repeated.

14 Q When you say "repeated," do you know how many times, or
15 approximately?

16 A Oh, I -- I couldn't venture.

17 Q Okay.

18 A At least -- At least two.

19 Q Do you remember -- Other than what you've just described, do
20 you remember hearing anything else that was said?

21 A At the same moment? Not particularly. Just a lot of "Let us
22 in." And then banging, banging, banging. And then "Put down the
23 knife, Carl. Carl, put down the knife," or, "Drop the knife."

24 THE COURT: I'm sorry; did you say "Carl"?

25 THE WITNESS: Carl.

1 THE COURT: C-A-R-L?

2 THE WITNESS: Correct.

3 THE COURT: All right. Thank you.

4 THE WITNESS: You're welcome.

5 BY MR. TARRANT:

6 Q And then, after hearing that, did you hear anything else?

7 A Yes. So, moments later, I heard, like, a -- a loud yell,
8 like, somebody scream out in pain, like "Ow." Something like
9 that. Just once. And then mainly a lot of shuffling, around that
10 same time.

11 Q Okay.

12 A And then, moments after that, I heard voices speaking
13 about -- Somebody mentioned -- what's the hospital? -- Winchester
14 Hospital. I heard somebody mention something to the effect of
15 "Get in touch with the family." And also, to the effect that,
16 like, -- "Let me know what -- what they're saying at the
17 hospital." Like, "Report back to me," --

18 Q Okay. And --

19 A -- the person mentioned. Not to me. The -- The person
20 noted, "Report back to me."

21 Q So, to set the scene, you're still in your apartment?

22 A Yes.

23 Q Did you go outside your apartment?

24 A No.

25 Q Did you look outside your apartment?

1 A Yes, eventually.

2 Q Okay. When you -- Did you see who was speaking?

3 A No. I only saw, like, tops of heads because the -- the
4 window is -- is higher. It's more elevated than a regular window.

5 Q So what -- where were you in your apartment when you were
6 hearing the voices having these conversations?

7 A So, I was in my bedroom. And the bedroom has an external
8 wall to the hallway.

9 Q And does your bedroom have a window?

10 A It has a window, yes.

11 Q And where is that window situated?

12 A It's -- I don't know how to describe it.

13 Q Does the window face the hallway?

14 A Yes, yes. So, it's the external wall, and then the window is
15 on the higher portion of that wall.

16 Q And how big is the window? Meaning, does it go the length of
17 the wall, or is it maybe a little shorter, or does it --

18 A It's a little shorter than the wall, maybe 15 feet or so.

19 Q Okay. And is that up high on the wall, in the middle of the
20 wall?

21 A It's -- It's up high.

22 Q So it's a window that faces out into the external hallway
23 that's at the top of the hallway?

24 A Correct, top of the wall, yes.

25 Q Top of the wall; I'm sorry.

1 MR. TARRANT: Can I see the exhibits, please?

2 THE CLERK: All of them?

3 MR. TARRANT: Well, I'm not sure which number it is, so --

4 BY MR. TARRANT:

5 Q Ma'am, I'm showing you what's been marked as Exhibit 9.

6 A Mm-hmm.

7 Q Or, well, before I ask you that, is it fair to say that, to
8 your knowledge, all the apartments in the Parkview apartment
9 building have this window, external window facing the external
10 hallway from each apartment?

11 A No, not all of them.

12 Q Not all of them?

13 A But all of them on the third floor. The first floor is a bit
14 different.

15 Q Okay.

16 A Like, what they call T, the terrace floor.

17 Q Well, showing you what's been marked as Exhibit 9, the window
18 you're describing, is that depicted in that photograph?

19 A Yes, yes.

20 Q And just by reference of -- Just describe where in the
21 photograph it's depicted, meaning this top left-hand corner. Is
22 that the window that you're referring to?

23 A I -- I don't know whose window this would be.

24 Q Right.

25 A But this is a similar window.

1 Q Okay.

2 A Yeah.

3 Q Fair to say that's not your apartment?

4 A I don't know.

5 Q Okay. You don't know if that's your apartment. But your
6 apartment has a similar window in it?

7 A That's right.

8 Q Okay. Thank you.

9 A You're welcome.

10 Q Other than the noises you described, did you hear any other
11 distinctive noises?

12 A Yes, I heard -- Before the yelling out and the, you know,
13 "Report back" and the "Winchester" conversations, I heard a pop,
14 really loud. Just one.

15 Q And when you heard that, what if anything did you do?

16 A Oh, well, I had been -- Because the -- the banging vibrated
17 the walls, I had been clearing out a closet to put my son in. And
18 when that pop went off, I just rushed and threw everything out the
19 closet, shoved him in, and went in with him.

20 Q Okay. Did you know what that pop was?

21 A Yes.

22 Q And what was that?

23 A It was a gunshot.

24 Q Okay. And you just heard one?

25 A Just one.

1 MR. TARRANT: That's all the questions I have of this
2 witness, Your Honor.

3 THE COURT: Attorney Anderson?

4 MR. ANDERSON: I don't have any questions.

5 THE COURT: Attorney Dewitt?

6 MS. DEWITT AHERN: Just a couple, Your Honor.

7 **CROSS EXAMINATION OF WITNESS, HEATHER DERBY**

8 BY MS. DEWITT AHERN:

9 Q Good morning, ma'am. My name is Attorney Debra Dewitt. How
10 are you this morning -- this afternoon?

11 A Good afternoon.

12 Q Just a couple quick questions, ma'am.

13 A Mm-hmm.

14 Q You heard speaking in the hallways?

15 A Yes.

16 Q And you testified you -- And I just want to make sure I have
17 this clear: "Let us in. We're going to get in some way"?

18 A To that effect, yes.

19 Q And you heard a pop, and then you heard someone scream?

20 A Yes. Not immediately after the pop. At least, not in my
21 recollection. To me, it was, like, a few moments later.

22 Q Few seconds?

23 A Maybe a couple minutes. I'm not --

24 Q So you heard the pop; then you heard somebody screaming --

25 A Yeah.

1 Q -- at some point in time? Okay.

2 MS. DEWITT AHERN: Just one moment, Your Honor.

3 THE COURT: Sure.

4 [Pause]

5 MS. DEWITT AHERN: That's it. Thank you, Your Honor.

6 THE COURT: All set?

7 MR. TARRANT: That's it, Your Honor.

8 THE COURT: Thank you very much, ma'am. You're all set.
9 You're excused.

10 THE WITNESS: Thank you, as well.

11 [Witness steps down]

12 MR. ANDERSON: Mawn is here.

13 MR. TARRANT: Your Honor, just also, I keep looking at my
14 phone, but that's --

15 THE COURT: I understand.

16 MR. TARRANT: Thank you.

17 THE COURT: That's no problem.

18 MR. TARRANT: I feel self-conscious every time I do it. But
19 we are ready for our next witness, --

20 THE COURT: Excellent.

21 MR. TARRANT: -- who is Ryan Mawn.

22 [SERGEANT RYAN MAWN, Sworn.]

23 THE WITNESS: Good morning, Your Honor.

24 THE COURT: Good morning. Good afternoon. Oh, I'm sorry;
25 you can remove your mask if you prefer. If you're more

1 comfortable, you can leave it on. It's completely up to you.

2 THE WITNESS: Thank you.

3 THE COURT: You're welcome.

4 **DIRECT EXAMINATION OF WITNESS, SERGEANT RYAN MAWN**

5 BY MR. TARRANT:

6 Q Sir, can you please state your name, spelling both your first
7 and last name?

8 A My name's Ryan Mawn, R-Y-A-N M-A-W-N.

9 Q And, sir, are you employed?

10 A Yes, I am.

11 Q What do you do?

12 A I work for the Winchester Police Department.

13 Q And how long have you worked for the Winchester Police
14 Department?

15 A Approximately 15 years.

16 Q And prior to working for the Winchester Police Department,
17 have you worked for any other departments?

18 A Yes, I did. I worked in the town of Harwich for two years
19 and the town of Brewster for one year.

20 Q Okay. And those are both down on the Cape?

21 A That's correct.

22 Q And when did you come to Winchester?

23 A I came to Winchester in the beginning of 2006.

24 Q And what is your current assignment with the Winchester
25 Police Department?

1 A My current assignment: I'm assigned the noon to 10:00 p.m.
2 shift. And I'm in a -- assigned to a sector, the 921 sector.

3 Q And how many sectors are there in Winchester?

4 A Generally there are four sectors.

5 Q Okay. Is there ever a time there are any more or less?

6 A Yeah, sometimes there's more, sometimes there's less.

7 Sometimes the road supervisor is assigned to the 923 vehicle,
8 which is kind of a roving car. And sometimes it may be, like, a
9 safety officer or an SRO, school resource officer in the school,
10 or whatnot.

11 Q Okay. And so what are your current duties and
12 responsibilities as a patrol officer?

13 A I'm generally assigned to the road. I respond to radio
14 calls, meaning when I'm dispatched to a call I just head to the
15 call, whether it's a -- an alarm or whatever else. I just go if
16 it's in my sector. Sometimes if another car is tied up, I'll get
17 sent to that sector per my sector, and I'll do that call as well.

18 Q And how long have you been in this assignment?

19 A I've been in this assignment for about a year and a half, two
20 years.

21 Q Okay. And prior to that, what was your assignment?

22 A Prior to that, I worked as a patrol supervisor. And I was,
23 you know, in charge of the patrolmen on the road or assigned to
24 the road.

25 Q Okay. And as the patrol supervisor, were you -- what shift

1 did you work?

2 A My shift kind of varied. But I was mainly assigned to the
3 4:00 p.m. to 2:00 a.m. shift.

4 Q Okay. And so if I direct your attention to November 2nd,
5 2020, do you recall that day?

6 A Yes, I do.

7 Q Were you working that day?

8 A Yes, I was.

9 Q What was your assignment that day?

10 A I was assigned to the road. I believe I was assigned as a
11 patrol supervisor. I think I was in the 937 vehicle, which is a
12 police cruiser, but it's an unmarked car. And I believe I was in
13 that vehicle because the normal car that I would be in, the 923,
14 was out of service. It was broken. So I was assigned to the 937
15 car which has, you know, lights and whatnot. It's just an
16 unmarked car. It doesn't have "Winchester Police" on it.

17 Q And which shift were you assigned to on November 2nd, 2020?

18 A My shift was the 4:00 p.m. to 2:00 a.m. shift, 10-hour shift.

19 Q And what was your responsibilities during that shift?

20 A My responsibilities were to mainly be on the road and be
21 there as backup, and respond to calls if need be. If a patrolman
22 needed my assistance on a call or a backup, you know, I was there
23 to be on the road and back them up.

24 Q So you were a patrol supervisor?

25 A That's correct.

1 Q And how many sectors were there assigned that night?

2 A I believe that night there were four sectors, plus myself.

3 Q And who were assigned to the four sectors that night?

4 A The four sectors that evening were Patrolman Ellis in the
5 922, Patrolman Riccio in the 929, Patrolman Latores in the 924,
6 and the 921 sector was Patrolman Meiler.

7 Q And are the officers you're supervising -- they're all
8 working the same shift?

9 A They all generally work the same shift. I'm not sure if one
10 of those officers was on the noon-to-ten shift. They may have
11 been, but I'm not certain.

12 Q Okay. And so, you're working in an unmarked vehicle?

13 A Correct.

14 Q How were you dressed that night?

15 A I was dressed, like, in a normal, like, you know, fully
16 identifiable police uniform, with badge and gun belt and
17 "Winchester Police" patches on the shoulder.

18 Q Okay. And other than your uniform, are you wearing any
19 protective coverings?

20 A Yeah. Generally, we always wear a, you know, safety vest, a
21 bulletproof vest. And sometimes that vest can be worn either on
22 top of your outside shirt or underneath. And I believe, at the
23 time, I had mine underneath my regular shirt.

24 Q And you also -- Well, I think you called it a gun belt,
25 referred to it as a duty belt; is that right?

1 A That's correct.

2 Q And were you carrying various items on your duty belt?

3 A Yes, I was.

4 Q And what were you carrying on your duty belt on the evening
5 of November 2nd, 2020?

6 A I generally, on my belt -- and that particular evening -- had
7 my firearm, a pair of handcuffs, pepper spray, my radio, and
8 police baton.

9 Q Okay. And it's fair to say that as a police officer you're
10 trained on the use of a firearm?

11 A That's correct.

12 Q Are you also trained on the use of pepper spray?

13 A Yes.

14 Q And can you just describe that training?

15 A Generally, with both -- With the firearm, we -- we have a day
16 we go to the range every year. And we qualify with our firearm
17 every year, at the range. And then with the pepper spray and the
18 other items, we have a -- a defensive tactics training, and that's
19 usually once a year, where we refresh and we learn what we're
20 supposed to and what situations we're supposed to, you know, use
21 that type of -- of equipment.

22 Q Okay. And specifically with pepper spray, are you trained on
23 certain circumstances, where to use it and when not to use it?

24 A Yes.

25 Q And can you just describe that?

1 A We're generally -- It's a tough item to be able to deploy.
2 And, you know, it needs, like, an ideal situation to be able to
3 have it. You know, sometimes you can use it on a subject who is
4 noncompliant or whatnot. And in other situations where there's
5 other officers around or other people or when you're in a combined
6 space or the other circumstances around the -- you know, would
7 not, you know, warrant use of the pepper spray.

8 Q And does your department also have a policy relative to when
9 to use certain weapons such as pepper spray?

10 A Yes.

11 MR. TARRANT: If I may, Your Honor.

12 BY MR. TARRANT:

13 Q Sir, putting an item before you, ask you if you recognize
14 this item.

15 A Yes, I do.

16 Q What is that?

17 A It's the Winchester Police Department use-of-force order or
18 issue that we all have.

19 Q Okay. And is that the use-of-force policy of the Winchester
20 Police Department that is in effect back in November of 2020?

21 A Yes, it is.

22 Q Thank you.

23 MR. TARRANT: May I please have this marked, Your Honor?

24 THE COURT: 10.

25 [Document Marked as Exhibit No. 10]

1 BY MR. TARRANT:

2 Q And, sir, you didn't mention it, but do you carry a taser?

3 A I do not carry a taser.

4 Q And do other officers in your department carry tasers?

5 A Yes, they do.

6 Q Okay. And how is it determined, who from -- in your
7 department, who would carry a taser and who wouldn't?

8 A There's no real determination of who has what and who
9 doesn't. We're all trained, how to use it and when to use it.
10 And I just don't think we have enough for every officer to be
11 assigned one. So that's why they, you know, pick certain people
12 to have them. I don't know why they chose these certain people to
13 have them. They just gave certain people the taser.

14 Q Okay. But you've been trained on a taser?

15 A That's correct.

16 Q And specifically the tasers that are used within your
17 department, is it pretty uniform, meaning everybody used the same
18 make/model of taser?

19 A That's correct.

20 Q And so can you just describe what a taser is and how it's
21 used?

22 A A taser is basically called an electrical charge weapon. It
23 basically sits on your duty belt. In some instances, guys would
24 have them on their vest, like a pouch or pocket. And the taser
25 basically delivers an electrical charge. It's sort of like a

1 compliance type of thing. And the taser is set up so it has -- it
2 can deploy, you know, two different, like, charges, which are --
3 Each charge has, like, two prongs each, which would make contact
4 with a subject or a person. And --

5 Q So, if I can just clear up -- What you're saying is a taser
6 has two charges, meaning it can be deployed twice?

7 A That's correct.

8 Q And each time it's deployed, two probes are emitted from the
9 taser?

10 A That's correct.

11 Q And what is the -- When using the taser, what is the object
12 of using the probes? Meaning where -- Are you aiming for a
13 specific part of someone's body?

14 A Yes.

15 Q How does that work?

16 A Basically, when you deploy the taser, the goal is to -- they
17 call it, like, "spook [phonetic] the scene." So you want to have
18 on, you know -- probe one taser in the area of the midsection or
19 waist area, and the other section on the leg. That will kind of,
20 like, put out the charge where it wouldn't all be in one exact
21 spot. And you definitely would want to avoid areas like the head
22 or the groin or something like that. So it's better to have it
23 split than it is, like, you know, right up on top of each other.
24 And the further away you get, the better chance of you being able
25 to deploy the taser so it splits the seams. The closer you get to

1 a person, it may go, like, really close together, the two probes.

2 Q So, the further you're away, the bigger the spread?

3 A Yes.

4 Q And when you say "split the seam," are we calling the seam --
5 is that the waistline or the belt line?

6 A That's correct.

7 Q And you have to just get one probe below the waistline and
8 one probe above?

9 A That's the goal, yes.

10 Q And how would you aim a taser?

11 A Basically, the taser has these red lights that indicate where
12 the probes will land. So, you basically would hold it -- You
13 know, it's similar to a firearm, but it's different because it's a
14 little thicker and whatnot. So basically you want to aim it, you
15 know, towards someone. In some instances, you may want to turn it
16 slightly so the probes go where they're supposed to go. But you
17 know where the probe's going to go, because of the two red lights.

18 Q Are those two red lights pretty accurate?

19 A Yes.

20 Q And what is the distance range for a taser? Meaning, how far
21 away can you be for it still to hit a target?

22 A It varies, but I believe the densest is 25 feet, where the --
23 it would make -- still make contact. So it's -- You know, the
24 closer you get, it could still make contact. But the further away
25 you are, it might not make contact. But I believe it's -- within

1 25 feet, it should be -- make -- be able to make contact.

2 Q And is there anything that would interrupt the effectiveness
3 of the taser probes?

4 A Yes, there is, yep.

5 Q And what is that?

6 A Basically if, you know, you miss, or if someone's wearing
7 heavy clothing, like a heavy sweatshirt or heavy, you know, pair
8 of pants, it could not penetrate the skin. If you're too far away
9 or you actually fired and miss. If the person, like, pulls one of
10 the prongs out or blocks it with another object, like a -- like a
11 larger piece of metal or something or whatnot, they could not be
12 accurate.

13 Q So, if I direct your attention to approximately ten after
14 eight on November 2nd, 2020, --

15 A Yes.

16 Q Do you recall where you were on that date at that time?

17 A I believe I was at the intersection of Lake Street and Main
18 Street in Winchester. I may have been in a parking lot, like,
19 watching traffic or waiting for a call.

20 Q And did you receive a call from your dispatcher at that time?

21 A Yes, yep.

22 Q And what was the nature of that call?

23 A The nature of the call was we were dispatched to the Parkview
24 apartment complex, with is an apartment complex in town, in
25 Winchester. And at the time, the dispatcher told responding units

1 that there may have been a possible break or may have been -- you
2 know, someone may have been robbed. So we were a hundred percent
3 sure of what exactly we were dealing with at the time. So that's
4 why myself, Patrolman Riccio, and Patrolman Latores responded
5 together.

6 Q And with respect to the call from dispatch, you said "a
7 possible break." What do you know that to mean, or what does that
8 mean to you?

9 A Well, "possible break" means, to us, a breaking-and-entering,
10 which means someone, like, broke into, you know, in that -- in
11 this case, an apartment building or an apartment room. And there
12 may have been something along the lines of -- someone may have
13 been robbed or something may have been stolen from somebody. But
14 we weren't really a hundred percent sure at that time what we were
15 dealing with. All we knew, that, you know, it was reported to us
16 on the road that the person from the apartment had reported that
17 they were robbed.

18 Q And were you provided with a specific apartment number?

19 A I believe we were.

20 Q And what was that?

21 A Apartment 326, 326.

22 Q And at that time, up until that time, had you been familiar
23 with the Parkview apartment complex?

24 A Yes.

25 Q Had you been there before?

1 A Yes.

2 Q Have you been inside the building before?

3 A Yes.

4 Q On approximately how many occasions?

5 A Dozens, dozens of times over my career.

6 Q And fair to say you've been on various floors?

7 A Yes.

8 Q Have you been on every floor?

9 A Yes.

10 Q And so, when you received that call, what did you do?

11 A I just responded from the place I was with Patrolman Latores,
12 Patrolman Riccio.

13 Q Well, you were -- Were you alone in your car?

14 A Yes.

15 Q Okay. Were the other officers responding from different
16 locations?

17 A Yes.

18 Q How did you know that they were responding?

19 A I'm pretty certain that the dispatcher dispatched the three
20 of us together, to respond together.

21 Q And did you then -- How long did it take you to get from
22 the -- to the Parkview, from when you first received the dispatch?

23 A A very short amount of time. Probably within, like 2
24 minutes.

25 Q And in that approximate two minutes, did you receive any

1 other information before you arrived at the Parkview Apartments?

2 A I believe when we were en route -- well, when I was en route,
3 the dispatcher may have just said that the reporting party, who is
4 a -- his name is Thomas Celona, I believe -- had told one of the
5 security guards that he had been, you know, robbed. And so that
6 kind of heightened our senses a little bit, or, actually, a lot,
7 you know, from when we were responding, from where we were or from
8 when I was responding, where I -- were -- to the call.

9 Q Okay. And did you communicate with any of the -- Other than
10 the dispatcher, did you communicate with any of the other officers
11 responding?

12 A Not before we arrived.

13 Q Okay. And when you arrived, did you -- Where -- Who arrived
14 first?

15 A I believe we all arrived very -- within seconds of each
16 other. It may have been Patrolman Riccio first and then myself
17 and then Patrolman Latores.

18 Q Okay. But fair to say you had conversation with the other
19 officers upon your arrival?

20 A Yes.

21 Q And backing up, prior to your arrive, you say the dispatcher
22 provided you with a name over the radio?

23 A I don't know if he actually provided the name over the radio,
24 because at the time we didn't know. We thought the involved
25 party -- We thought his name was maybe Frank Thomas. But his name

1 is Thomas Celona. So we weren't a hundred percent sure. Or I
2 wasn't a hundred percent sure what this person's name may have
3 been at the time.

4 Q And prior to responding, you were provided with Unit 326?

5 A That's correct.

6 Q Did that have any significance to you?

7 A No, it didn't. Not myself.

8 Q So, upon arrival, the three officers, you get there
9 approximately the same time?

10 A Yes.

11 Q You exited your vehicle?

12 A Yes.

13 Q And did you have conversation with the other officers?

14 A Yes, I did. Patrolman Latores said on the radio as we were
15 pulling up, before we went inside, that the -- he believed the
16 involved party, Thomas Celona, was known to carry knives or have
17 sharp-edged weapons in his possession, with him.

18 Q And was the name Thomas Celona mentioned to you at that time?

19 A I don't think it was, at that time. But it was kind of in
20 the back of my head. He mentioned these sharp-edged weapons. I'm
21 like, "Hmm, maybe I know who this is."

22 Q And did any specific person come to mind for you, at that
23 time, of who you may be dealing with?

24 A Yes.

25 Q And who was that?

1 A It wound up being Thomas Celona.

2 Q Well, it wound up being Thomas Celona. But --

3 A Yeah.

4 Q -- I'm just trying to pinpoint -- At some point in time, did
5 you have an indication of who you were dealing with, before seeing
6 or before knowing his name was Thomas Celona?

7 A Well, yes. Well, like, when Patrolman Latores mentioned that
8 this party was known to carry knives, this person, although I
9 didn't know his name at the time, rang a bell in the back of my
10 head, for a previous dealing I had with this person. So I'm like,
11 "God, this is probably the person I've dealt with before, who
12 wound up having a knife on him the time I dealt with him before."

13 Q And the person you're referring to that you had dealt with
14 before, how long before that night was --

15 A It was --

16 Q Before November 2nd, 2020?

17 A It was about ten days before that.

18 Q Okay. So approximately ten days before November 2nd, 2020,
19 you had a interaction with an individual; is that right?

20 A That's correct.

21 Q And you, at some point, believed he was the individual or
22 could be the individual that was in Unit 326?

23 A Yes.

24 Q And can you describe the incident that occurred ten days
25 prior?

1 A Well, we got a call about a male subject knocking on
2 someone's door at the intersection of Far [phonetic] Street and
3 Washington Street. And myself, Patrolman Latores, and a female
4 officer named Lauren Valdario responded to the area. And we came
5 across who became known to us as Thomas Celona. And he was
6 wearing, you know, no shoes. He appeared to be, you know,
7 confused. We didn't know why he was knocking on the door of this
8 house. He had no, you know, connection to this house that we know
9 of. And at the time, he had one of those hooded sweatshirts with
10 the pocket on the front. And I noticed the handle of a very sharp
11 knife was in his pocket. And I removed it from him.

12 Q And how did you remove it from him?

13 A I just reached in and -- and -- and took it out.

14 Q Okay. Did he try to stop you at that time?

15 A No.

16 Q And when you took it out, can you describe what the knife
17 looked like?

18 A It was the kitchen-style knife. I don't know what the brand
19 name was. It was very sharp. And we wound up securing it and
20 bringing it back to the police station. But it was very sharp.

21 Q Okay. When you say "kitchen-style knife," it could be a lot
22 of things, you know, from a butter knife to a butcher knife. So
23 can you describe how big the blade was?

24 A It was very -- It was, like, one of those chef knives that go
25 on a block type of thing that goes on the kitchen counter. So it

1 wasn't a butter knife, wasn't a steak knife. It was just a really
2 sharp knife that you'd use to, you know, cut vegetables or cut,
3 you know, something up in slices or whatnot. Big blade. Probably
4 about, you know, seven to ten inches long. Silver in color. Very
5 sharp.

6 Q When you say "silver in color," did that include the handle?

7 A Yes.

8 Q And so did you have conversations or were you present when
9 the officers had conversations with Mr. Celona at that time?

10 A I was, yes.

11 Q Okay. And what was that conversation?

12 A We kind of all, like, you know, spoke with him together. It
13 wasn't one person. Like, but at the time we were able to, you
14 know, convince Celona to go to the hospital in the ambulance. So
15 we made sure he had no further weapons. And he voluntarily went
16 to the hospital to get evaluated, you know, on his own.

17 Q Okay. And how were you and the other officers dressed at
18 that time?

19 A The three of us were in full police uniform with duty belts
20 and everything else.

21 Q Okay. Had you had any other interactions with Mr. Celona,
22 other than that one occasion?

23 A Not that I know of. Just that one other occasion.

24 Q So, when you -- Now we're back at the Parkview Apartments on
25 November 2nd, 2020. You're outside. You're speaking to the other

1 officers; is that correct?

2 A That's correct.

3 Q What was the conversation that you had outside the Parkview
4 Apartments?

5 A We just discussed who we were possibly dealing with and that
6 we -- our expectations or our senses were definitely heightened,
7 you know, because we knew who we were now dealing with and that,
8 you know, this person potentially could have caused harm to one of
9 us.

10 Q And so did you head up to Unit 326?

11 A Yes, we did.

12 Q How did you get there?

13 A We walked the stairs from the vestibule to the third floor.

14 Q Okay. And did you walk the stairs in a group? Single file?

15 A We were together in a group. Patrolman Riccio and Patrolman
16 Latores were directly in front of me, and I was behind them.

17 Q Okay. And did you walk up the three flights of stairs?

18 A Yes.

19 Q Was there any conversation on the stairways or heading up to
20 the third floor?

21 A Yes.

22 Q And what was that conversation?

23 A We were just discussing how we wanted to handle the situation
24 we had, who should knock at the door, if we should -- you know,
25 what we should do when we get to the unit, because our -- Like I

1 said, our senses were definitely heightened because of who we were
2 dealing with. And at the time, the three of us, you know, didn't
3 know what we were going to have to be dealing with. We didn't
4 know if it was an actual, real break or if it was just a fake call
5 or whatnot. So we kind of discussed that, like, --

6 Q And prior to getting to the apartment, did you have any
7 conversations with any of the employees of the Parkview?

8 A I myself did not. But I believe Patrolman Riccio spoke with
9 the security guy or the maintenance person outside.

10 Q Were you there for that conversation?

11 A I didn't -- I was there, but I didn't hear what they said.

12 Q So as you're walking up the stairway to Apartment 3 [sic],
13 did you formulate some kind of plan as to what you were going to
14 do when you got to Unit 326?

15 A Yes.

16 Q And what was that?

17 A We were going to have Patrolman Riccio knock on the door and
18 see if he were to come. And Patrolman Latores and I would stand
19 back a little bit so -- and cover, you know, just in case. And
20 that was our plan from the start.

21 Q So when you reached the third floor, where did you go? What
22 did you do?

23 A We went to the unit. 326 is where Thomas Celona resided. We
24 went to the -- his unit.

25 Q So you went down the long hallway?

1 A That's correct.

2 Q Took a left down a corridor?

3 A That's correct.

4 Q And did all three of you go down the corridor towards Unit
5 326?

6 A Patrolman Riccio did. I believe Patrolman Latores and myself
7 stood back some -- you know, a number of feet from the door. We
8 didn't, like, go right up and knock on the door, stand in front of
9 the door like Riccio did.

10 Q But are the three of you in that corridor?

11 A Yes.

12 Q And so Riccio went to the door?

13 A Yes, he did.

14 Q And what did he do at the door?

15 A I heard Riccio knock on the door a couple times to see if
16 someone would come to the door and then called out to the
17 resident.

18 Q Who called out to the resident?

19 A Patrolman Riccio.

20 Q What did he say?

21 A I believe he called out and said -- identified himself as a
22 police officer and asked the resident to come to the door. I
23 believe at first he called him Frank, but his real name was
24 Thomas.

25 Q So what did Officer Riccio say?

1 A I think he said, "Frank Thomas," or "Frank, come to the --"
2 I don't know if he called him Frank Thomas but he knocked on the
3 door, identified himself as the Winchester police, and said,
4 "Frank, come to the door."

5 Q How many times did he say that?

6 A More than once. Like, two or three.

7 Q And did something happen as he was calling Frank to the door?

8 A Yes, it did.

9 Q What was that?

10 A A woman who lived next-door to Thomas opened her door and
11 said, "His name is Thomas."

12 Q And so hearing that or learning that, what happened next?

13 A Nothing. I think we just thanked the lady for telling us,
14 you know, giving us the proper name. And we knocked again. And
15 we asked this time -- Patrolman Riccio asked this time for Thomas
16 to come to the door.

17 Q The woman who came out and said his name was Thomas --

18 A Right.

19 Q Where was her apartment located?

20 A So, if you're looking at the apartments, you know, this way,
21 straight ahead, her apartment would have been on the left-hand
22 side. Thomas Celona's apartment would have been on the right. So
23 she opened her door and said, "His name is Thomas." I'm not sure
24 what else she said to us. But then she wound up -- You know, we
25 had to close the door for safety.

1 Q She then closed her door?

2 A Yeah.

3 Q And then your attention was directed back at Unit 326?

4 A Right.

5 Q And Officer Riccio continued to knock on the door?

6 A Right. One thing we noticed -- I forgot to mention when we
7 were walking towards Thomas's apartment there was what appeared to
8 be a stain of blood on the floor leading from the beginning of the
9 hallway to Thomas Celona's front door.

10 Q Was that on the floor?

11 A It was on the carpet of the floor.

12 Q The carpet? Was there any other areas that you saw that at
13 that time?

14 A No, just on the floor leading from the small hallway to
15 Thomas Celona's door.

16 Q And so, fair to say that that carpet's fairly dark?

17 A Yes.

18 Q And how could you tell it was there?

19 A It just appeared to be, you know, fresh. It appeared to be
20 blood. It kind of told -- Riccio mentioned that he was told by
21 the security guy or the maintenance guy in charge of the building
22 that Thomas Celona appeared to be cut. He wasn't sure -- The
23 security guard wasn't sure where Celona was cut on the body. So
24 we, you know, assumed that that was blood on the carpet, from
25 Celona.

1 Q So, did Officer Riccio then start calling for Tom?

2 A Yes.

3 Q And how many times would you say he called out for Tom?

4 A I would say, you know, about half a dozen times while
5 knocking on the door and identifying himself as the police, you
6 know, calling for Tom to come to the door.

7 Q Could you hear anything from inside the apartment at that
8 time?

9 A Yes, we could.

10 Q And what was that?

11 A We heard a noise. It wasn't familiar to me what it possibly
12 could have been. Sounded like a disturbing noise. It could have
13 been someone being hurt or someone hurting themselves. It was
14 very difficult to tell what it was at the time.

15 Q Could you tell, was the noise from objects or from a person?

16 A Well, probably both. It was probably from a person with a --
17 holding an object or moving an object or something like that.

18 Q So, the noise that you heard coming from a person, can you
19 describe what that sounded like?

20 A Well, nobody like -- A person didn't make a noise or anything
21 like that, or didn't say anything, like, to us or to themselves.
22 We just heard a noise that was different than a noise that I've
23 heard before, that -- You know, I had no idea what it was. And,
24 you know, I was under my [sic] impression that, you know, someone
25 inside could have been being hurt.

1 Q So, hearing that, what happened next?

2 A At that time, since no one was coming to the door and we
3 heard the noise that someone could possibly have been hurt or
4 being hurt, you know, I said, "Riccio, it's, you know, time to
5 kick the door. Try kicking the door in."

6 Q So it was your decision to open the door?

7 A Yes, yeah.

8 Q And you're the patrol supervisor at that time, and you
9 directed Officer Riccio to do that?

10 A Yes.

11 Q And what did Officer Riccio do at that time?

12 A Patrolman Riccio just, you know, had to kick the door, like,
13 with a back-kick several times. Took about six or so kicks for
14 the door to actually be kicked-in, because the doors are pretty
15 thick and heavy.

16 Q Okay. And prior to breaching the door, were there any other
17 emergency medical personnel contacted up until that time?

18 A I think at the time we had the Winchester fire department,
19 the paramedics staged nearby. Generally when we have a situation
20 like this, we don't, like have the fire come right in with us. We
21 have them staged on scene to be ready just in case. And that was
22 because we weren't sure what we had at the time. We had blood on
23 the carpet, we had the noise in the apartment, a possible break or
24 a robbery, so we weren't sure what we had. And that's why we had
25 the fire department come stand by.

1 Q Okay. So was the fire department called before or after you
2 breached the door?

3 A I think it was right before. It was before we breached the
4 door.

5 Q And who would have done that?

6 A I believe that I would have. I'm pretty certain that I used
7 my radio to say, "Hey, could you have P5," which is our ambulance,
8 "staged outside or someone nearby?"

9 Q And do you have a recollection of doing that?

10 A Yes.

11 Q And so Officer Riccio kicked the door several times?

12 A That's correct.

13 Q And the door was finally opened?

14 A That's correct.

15 Q And once the door was opened, what happened next?

16 A So, once the door was opened, the three of us entered the
17 apartment. It appeared that the lights in the apartment were out.
18 When you walk into the apartment, there's kind of a bedroom off to
19 the righthand side. And that would have been kind of blocked by
20 the door that had been kicked in or opened up. Directly in front
21 of you would have been the bathroom. And then over -- If you walk
22 into the apartment and you take a left, that's where the apartment
23 kind of opens up and there's, like, a "kitchen/living room area"
24 type of thing.

25 Q So fair to say when Officer Riccio kicked open the door it

1 caused damage to the door?

2 A That's correct.

3 Q I'm showing you this photograph. I'm showing you this
4 photograph, ask you if you recognize what's depicted there.

5 A Yes, I do. I recognize it as the door to the apartment.

6 Q To which apartment?

7 A 326, Thomas Celona's apartment.

8 Q And do you notice damage to that door?

9 A Yes.

10 Q And that damage to the door was caused from Officer Riccio
11 forcing that door open?

12 A Yes, it was.

13 Q And is that a fair and accurate depiction of how that door
14 looked on the evening of November 2nd, 2020, after Officer Riccio
15 breached the door?

16 A Yes.

17 MR. TARRANT: [Retrieving and offering photograph into
18 evidence away from microphone.]

19 THE COURT: 11.

20 **[Photograph Marked as Exhibit No. 11]**

21 BY MR. TARRANT:

22 Q And, sir, showing you this photograph, ask you if you
23 recognize what's depicted in there.

24 A Yes, I do.

25 Q And what is that?

1 A Thomas Celona's apartment, Apartment 326. And that's when
2 you walk in the apartment and you take a left-hand turn and go
3 into the kitchen/living room area.

4 Q And is that how the apartment looked when you entered it on
5 the evening of November 2nd, 2020?

6 A It appears so, yes.

7 Q Okay. And is that a fair and accurate representation of how
8 it looked that night?

9 A Yes, it is.

10 Q Okay.

11 MR. TARRANT: Can I please have that marked?

12 THE COURT: 12.

13 **[Photograph Marked as Exhibit No. 12]**

14 BY MR. TARRANT:

15 Q So, once the door was opened, who walked in first?

16 A I believe Riccio and Latores walked in together. And they
17 took a left-hand turn into the apartment. I was directly behind
18 both of them, with Patrolman Latores being on my right and
19 Patrolman Riccio being on my left, directly in front of me.

20 Q And how far into the apartment did you go?

21 A We walked in probably about 5 feet or so into the apartment,
22 which would have been the beginning of the living room/kitchen
23 area.

24 Q And I'm showing you now what's been marked as Exhibit 12.
25 Looking at that exhibit, does that show where you went into the

1 | apartment?

2 | A Yes, it does.

3 | Q Does it show how far you went into the apartment?

4 | A We went maybe a little bit further than this photograph is,
5 | maybe up to where the refrigerator is. So, the refrigerator's on
6 | the edge. We walked maybe up to -- up to -- to that.

7 | Q Okay. If you could, using this black pen, put the initials
8 | of where you -- your initials, Officer Latores's initials, Officer
9 | Riccio -- where you ended up inside the apartment upon entering.

10 | A Okay. [Marking photograph.]

11 | Q And so you have "DR." Is that for --

12 | A His real name's Andrew, but we call him Drew.

13 | Q Drew. And then "SL"?

14 | A It's "JL," Jeffrey Latores.

15 | Q "JL."

16 | A And "RM," where I went.

17 | Q And that's -- So that shows where you were positioned? You
18 | behind Officer Riccio and Officer Latores?

19 | A That's correct.

20 | THE COURT: I'll take it. Thanks.

21 | BY MR. TARRANT:

22 | Q So you noticed in that photograph there was a table?

23 | A Yes.

24 | Q Did you go up as far as that table?

25 | A Yes.

1 Q Did you go beyond that table?

2 A No.

3 Q And so as you were walking into the apartment, what
4 observations did you make at that point?

5 A We noticed the area was a little bit cluttered. There were
6 objects like shoes on the floor, and some other things. It was
7 hard to tell, because the lights were out. It appeared that there
8 was a coffee-table type of object that was either flipped over or
9 on its side. And that coffee table would have been directly in
10 front of us on the left-hand side. And then the center of the
11 kitchen area was, like, an island sort of thing that, you know,
12 you put, you know, food or, you know, cold cuts or whatever out
13 on.

14 Q And did you see anybody in the apartment at that time?

15 A Yes.

16 Q And just background up a little bit, but -- How [sic] was the
17 lighting like in the apartment at that time?

18 A It was pretty dark. Patrolman Riccio had his flashlight and
19 the lights from his taser out as well.

20 Q Okay. So at the point in time where you breached the door,
21 had Officer Riccio removed his taser from his duty belt at that
22 time?

23 A I'm not sure at what point he actually took it out of his
24 duty belt. But he, at one point -- when we entered the apartment,
25 he had it out.

1 Q Had it out? And there's a flashlight as well as the two --
2 And fair to say that the taser not only emits the two red lights
3 for aiming, but there's also a flashlight component to it?

4 A That's correct.

5 Q And so he had his taser flashlight out?

6 A Yes.

7 Q And how about Officer Latores? Do you know if he had
8 anything in his hands at that time, when you first walked into the
9 apartment?

10 A I'm not sure. He -- At one point, Patrolman Latores had his
11 firearm out for safety raises. So, I'm not sure if he had that
12 out when we entered from the hallway or when we actually walked
13 into the apartment.

14 Q But at some point within that timespan, Officer Latores
15 removed his firearm?

16 A That's correct.

17 Q At some point did you see somebody in the apartment?

18 A Yes, we did.

19 Q At what point did you see somebody in the apartment?

20 A When we get up to the little kitchenette area, we noticed
21 that the -- Thomas Celona was seated on the floor, by the slider,
22 which -- The slider kind of runs almost the whole length of the
23 apartment. There's a balcony. But at the time we walked in, we
24 saw Celona sitting on the ground, by the slider.

25 Q Okay. And showing you this photograph, and ask you what's

1 depicted there.

2 A That's Apartment 326, Thomas Celona's apartment. And that
3 depicts the slider and the floor where Thomas Celona was seated.

4 Q Okay. And is that a fair and accurate representation of how
5 that area in Mr. Celona's looked on the evening of November 2nd,
6 2020?

7 A Yes.

8 Q Thank you.

9 MR. TARRANT: May I please have that marked?

10 THE COURT: 13.

11 **[Photograph Marked as Exhibit No. 13]**

12 THE COURT: Thanks.

13 BY MR. TARRANT:

14 Q Now, sir, showing you what's been marked as Exhibit 13, can
15 you -- using, again, this black pen, maybe put a -- an X in the
16 area where you saw Mr. Celona?

17 [Pause]

18 Q Okay. And how was Mr. Celona positioned when you saw him?

19 A He was on the -- seated on the ground. It was hard to tell
20 if he was sitting, like, Indian-style, if he was crouched, if he
21 had his legs out in front of him. But he was definitely in a
22 seated position by the slider.

23 Q And what was he doing?

24 A I mean, he was -- he had a knife, the same type of knife that
25 I'd found on him that evening, about ten days prior. Appeared to

1 be from the same set of knives, both silver, long blades, silver
2 handles, kitchen-style knives, very sharp, not a butter knife, not
3 a steak knife, but a very sharp long-bladed knife. And he was --
4 appeared to be stabbing the glass, the slider glass, with the
5 knives. I don't know what type of motion that he was using. But
6 you could definitely hear and tell that he was, you know, stabbing
7 the glass out with the knives.

8 Q And was the glass breaking?

9 A Yes.

10 Q Did you see broken glass?

11 A Yes.

12 Q And did you say to -- Did you or any of the other officers
13 say anything to him at that time?

14 A Yes, we all did.

15 Q What were you saying?

16 A We all gave him verbal orders to stop what he was doing, to
17 drop the knives. And he continued to hold the knives in his hands
18 and continued to stab at the glass.

19 THE COURT: So he had a knife in each hand?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay.

22 THE WITNESS: Yes, Your Honor.

23 BY MR. TARRANT:

24 Q And when you say "we were all saying to drop the knives,"
25 were you all speaking at the same time?

1 A Not at the same time. Maybe one after another. But I know
2 we all three of us gave him an order, a verbal order, to drop the
3 knives. But we didn't speak over each other. So we could clearly
4 be heard, like, individually giving that order.

5 Q And what did Mr. Celona do at that time?

6 A Just stared at us and then continued to stab the slider glass
7 door with the knives.

8 Q And so did he respond to your commands at all?

9 A No, he did not.

10 Q So what did you do?

11 A Again we gave him more orders to drop the knives. He didn't
12 put them down. At that time, Patrolman Riccio issued one
13 discharge of his taser towards Celona.

14 Q Okay. How far away from you were -- Well, if you know, how
15 far away was Officer Riccio, who was in front of you at this time?
16 Is that correct?

17 A That's correct.

18 Q How far away from you was Officer Riccio from Mr. Celona,
19 when he deployed his taser?

20 A He was relatively close. I would say maybe less than 18 feet
21 within the apartment building. He was pretty close.

22 Q And you mentioned there's an island in the kitchen?

23 A Yeah.

24 Q Where was Officer Riccio in relation to that island?

25 A So, Patrolman Riccio was kind of, you know, adjacent to where

1 the island was. He wasn't in front of it, wasn't, like, standing
2 behind it. He was kind of to my left and he -- That's where he
3 deployed the taser from.

4 Q Okay. So, looking into the apartment, the island, say, is in
5 the middle?

6 A That's correct.

7 Q Was he to the left or to the right of the island?

8 A He would have been to the left of the island.

9 Q And to the left of you as well?

10 A To the left, but a little bit in front.

11 Q Okay. And you noticed that there was that coffee table
12 adjust to the island?

13 A Yes.

14 Q Was he behind it or in front of it?

15 A He was behind it.

16 Q In relation to Mr. Celona, he was behind it?

17 A Yes.

18 Q So is Mr. Celona still seated on the floor when Officer
19 Riccio deployed his taser?

20 A Yes.

21 Q And when -- Did you see the taser deploy?

22 A I don't know if I actually saw the probes go out of his
23 taser. I heard the impact it made on Celona.

24 Q And up until this time, had Mr. Celona said anything to you
25 or any of the other officers?

1 A No.

2 Q And did you notice whether the taser shot had any effect on
3 Mr. Celona?

4 A It had temporary impact on him, because he made -- Celona
5 made a grunting noise when the taser made contact with him, which
6 only lasted, like, for a few seconds; and then that was it.

7 Q And what did Mr. Celona do when he was being -- when the
8 tasers were activated on him?

9 A He was still on the ground. He made a noise. So we
10 definitely knew it made contact. When we gave him verbal orders
11 to drop the knives, we thought that maybe the deployment of the
12 taser, him being tased, would convince him to drop the knives and
13 give up. But it did not.

14 Q So where were the knives?

15 A The knives were still in his hands at the time. When he was
16 tased, I don't know if he put them down or he dropped them, but he
17 definitely still had them. Or he picked them back up after he had
18 been tased, if he didn't drop them before.

19 Q And so how long does this taser-charge last?

20 A Doesn't last that long, maybe 5 seconds or so.

21 Q And what happens after that 5 seconds?

22 A The impact, it wears off. It -- So it stops, you know, the
23 person or subject from being tased. You know, they continue a
24 charge going through the system. So it only lasts a short time.

25 Q And so after that 5 seconds, what happened next?

1 A He -- At that time, Celona, you know, stood up with what --
2 He appeared to have the knives with him, at least one of them that
3 I could see. He also picked up a blanket, a comforter-style
4 blanket that had been on the floor near his feet, and began to
5 advance towards us.

6 Q And how was he holding the blanket?

7 A He was holding the blanket kind of up in front of himself.
8 It seemed to me like he was doing this because he didn't want to
9 get tased again. So --

10 Q And what effect would holding a blanket up in front of
11 somebody have on a taser?

12 A It wouldn't -- You wouldn't be able to tase him again,
13 because the blanket was in front of him. So that would prevent
14 him from being tased a second time.

15 He may or may not have, when he stood up, ripped one of the
16 prongs out. So that would have prevented Patrolman Riccio from
17 being able to deliver another shock, because once the probe is in
18 the body, they can deliver another shock because the probe is
19 still attached. But Celona may have knocked one of them out when
20 he stood up or pulled it out or knocked it off with a heavy
21 blanket.

22 Q And did you notice at that time if Mr. Celona had any
23 injuries on his person?

24 A It was fairly hard to tell, because he had the blanket in
25 front of him. So it was difficult to tell whether or not -- you

1 know, where he had been cut or whatnot or if he had hurt himself
2 other than, you know, having been tased.

3 Q So prior to picking up the blanket, did you notice any
4 injuries on Mr. Celona?

5 A I didn't.

6 Q And so when -- so now Mr. Celona's on his feet; is that
7 right?

8 A That's correct.

9 Q And he's holding the blanket up in front of him?

10 A That's correct.

11 Q And where are the knives at this time?

12 A I could only see one of the knives at this point. He was
13 advancing toward us. And one of the knives was in his hand, kind
14 of up, which -- He was holding the blanket like this. So one of
15 the knives was -- you could definitely see it from the top of the
16 blanket.

17 Q And so which hand is that?

18 A I believe that would have been his -- maybe his left hand, I
19 think. While he was holding the blanket, I think.

20 THE COURT: I'm sorry; he had the blanket in which hand?

21 THE WITNESS: I think it was his left hand, Your Honor. But
22 the blanket -- he was holding the blanket, too. So he was holding
23 both the blanket and the knife in the hand as he was advancing
24 toward us.

25 BY MR. TARRANT:

1 Q And as Mr. Celona started walking towards you, what did you
2 do?

3 A It was -- We were -- began to back up. When we had been in
4 the apartment, you know, with Patrolman Riccio with the taser,
5 Patrolman Latores with the firearm, Patrolman Latores with the
6 firearm. Patrolman Latores had handed me the taser from his belt.
7 Patrolman Latores had a taser on his belt he had handed to me for
8 a secondary thing to use in case we needed to have it. And at
9 this point, when we were backing out, Riccio and Latores were both
10 in front of me. So it was very difficult to discharge the taser
11 that I had, you know, despite the fact that Celona had the blanket
12 in front of him and was advancing toward us. So it was difficult
13 in that situation to, you know, taser him. But it was also
14 difficult to deploy my pepper spray, because both Latores and
15 Riccio could have been affected by it. May not have had an impact
16 on Celona. And I was worried that if I deployed my pepper spray
17 it could have affected Riccio or Latores and that they may have
18 been stabbed because -- incapacitation.

19 Q So, how quickly or how slowly was Mr. Celona advancing
20 towards you?

21 A It was -- It was difficult to tell, like, how fast or how
22 slow he was going. Everything, like, seemed really slow because
23 of the -- the circumstances. But, you know, I guess, you know,
24 normal speed. You know, walking towards us not fast, not slow.
25 Like, normal speed. But the three of us were backing up. And

1 eventually I think we had to step over some objects, maybe the
2 parts of the broken door. And we were at that point toward the
3 doorway and then going back out into the narrow hallway.

4 Q And then how close did Mr. Celona get to where you were?

5 A I would say that the closest that Celona got to us was
6 probably, like, less than 10 feet, maybe 8 feet at -- the closest
7 he got to us when we were backing up.

8 Q Were you watching Mr. Celona when he was advancing towards
9 you?

10 A Yes.

11 Q What route did he take as he walked towards you?

12 A He got up, walked towards us with the blanket, came through
13 the little kitchen area, --

14 Q When you say "came through the kitchen area," you know the
15 island's in the middle, right?

16 A Yeah.

17 Q And there's a coffee table?

18 A Yeah.

19 Q And you can -- So you can either get around the kitchen to
20 the right, over the coffee table, or left, through the kitchen; is
21 that right?

22 A Yes.

23 Q What route did Mr. Celona take?

24 A I think he just came through the kitchen area. I don't
25 remember him stepping over any -- the coffee table, the overturned

1 coffee table.

2 Q So would that mean he would have come from the other side of
3 the island, where you were originally stationed?

4 A I -- I believe he did. I believe he did.

5 THE COURT: I'm going to stop you at this point, --

6 MR. TARRANT: Yep.

7 THE COURT: -- because I think you still have quite a bit,
8 and we haven't even had any other questioning. So I think we're
9 going to take the lunch recess, if that fits with your schedule
10 and his schedule.

11 MR. TARRANT: Yes, that's fine.

12 THE COURT: Okay. And then we'll resume right at two
13 o'clock. Okay?

14 MR. TARRANT: Okay.

15 THE COURT: Anything else that we need to address at this
16 time?

17 MR. ANDERSON: Is the courtroom going to be open during
18 lunch? I actually brought a sandwich. If I could just sit in
19 here and eat and read, or --

20 THE CLERK: That's fine.

21 MR. ANDERSON: Okay.

22 THE COURT: If that's all right with the court officers,
23 that's fine with me.

24 MR. ANDERSON: Okay.

25 THE COURT: Great. Thank you all very much. We'll resume at

1 two o'clock.

2 [Court in Recess at 1:03:40 p.m.]

3 [Back on Record at 2:03:31 p.m.]

4 [Case Called]

5 THE COURT: So, if I could just see the three attorneys over
6 here at sidebar.

7 THE CLERK: Do you need the noise on, Judge?

8 THE COURT: No, that's okay.

9 [Sidebar Discussions at 2:04:40 p.m.]

10 THE COURT: So, Ms. Stone is advising me that Mr. Celona's
11 been taking notes.

12 MS. DEWITT AHERN: Oh, I didn't know that.

13 THE COURT: Okay. Big no-no.

14 MS. DEWITT AHERN: Okay.

15 THE COURT: So I'll address it but, number one, I've got to
16 case the notes.

17 MS. DEWITT AHERN: Okay.

18 THE COURT: Number two, if they want to stay, they can't take
19 any notes.

20 MS. DEWITT AHERN: Okay. I didn't realize that, Judge.

21 THE COURT: Nor did I see it, but she saw it.

22 MS. DEWITT AHERN: Okay.

23 THE COURT: But because it's a closed proceeding, --

24 MS. DEWITT AHERN: Of course.

25 THE COURT: -- private, and everything's impounded, --

1 MS. DEWITT AHERN: Of course.

2 THE COURT: -- we can't have that going on.

3 MS. DEWITT AHERN: Okay.

4 THE COURT: All right.

5 MS. DEWITT AHERN: Not a problem.

6 THE COURT: Okay.

7 [End of Sidebar Discussions at 2:05:09 p.m.]

8 THE COURT: So, Mr. Celona, I need to apologize to you,
9 because it's come to my attention that you've been taking notes.

10 MR. CELONA: Yes.

11 THE COURT: And unfortunately, because of the nature of this
12 proceeding, I can't let you do that.

13 MR. CELONA: All right.

14 THE COURT: So, I have to take the notes. And you can still
15 stay, and I want you to stay. Unfortunately, because everything
16 in this proceeding is impounded --

17 MR. CELONA: Right.

18 THE COURT: It's not like any other proceeding. So because
19 everything is impounded, even my notes -- Nothing -- The lawyers,
20 they can't release the notes to anybody. They can't do anything
21 with it, without filing a formal motion to the court.

22 MR. CELONA: Right.

23 THE COURT: So, because of that, I can't let you take notes.
24 And I've got to take these notes. I apologize for that. I should
25 have made that clear at the outset of the proceedings. I just

1 didn't know what was going on. So I apologize to you for that.
2 And I hope you remain and watch the remainder of the proceedings.

3 MR. CELONA: All right. Thank you.

4 THE COURT: Thank you.

5 MR. CELONA: Understood.

6 THE COURT: Okay. Sergeant Mawn?

7 MR. TARRANT: He should be right outside.

8 THE COURT: Okay.

9 THE CLERK: Are we going to shred them?

10 THE COURT: Yeah, just impound it.

11 THE CLERK: Okay. Want me to mark it as anything?

12 THE COURT: Court Exhibit A.

13 **[Notes Marked A for Identification]**

14 [Witness entering]

15 THE CLERK: And he was sworn.

16 THE COURT: Yes.

17 [Witness resumes the stand]

18 THE COURT: You may proceed.

19 MR. TARRANT: Thank you, Your Honor.

20 **CONT. DIRECT EXAMINATION OF WITNESS, SERGEANT RYAN MAWN**

21 BY MR. TARRANT:

22 Q Sergeant Mawn, I just want to direct your attention back to
23 when we were discussing your retreat out of the apartment and you
24 were describing the route Mr. Celona took as he was walking
25 towards you.

1 A Yes.

2 Q Right? And I want to show you this photograph. If you'd
3 just first tell me if you recognize what's depicted.

4 A Yes, I do.

5 Q And what do you recognize that to be?

6 A I recognize it to be Apartment 326, Thomas Celona's apartment
7 at the Parkview Apartments.

8 Q Okay. And is it fair to say that that view of the apartment
9 would be a view coming from the sliding glass door, in towards the
10 front door?

11 A Yes, it is.

12 Q And that would essentially be from Mr. Celona's perspective?

13 A Yes, it is.

14 Q And as you described the events of that evening and --

15 MS. DEWITT AHERN: I'm sorry; I just can't hear you.

16 MR. TARRANT: Oh, I'm sorry; my voice seems to fall. I'm
17 sorry.

18 BY MR. TARRANT:

19 Q This is from Mr. Celona's perspective, as you've described
20 where he was on the evening of November 2nd, 2020?

21 A Yes, it is.

22 Q And is this photograph a fair and accurate depiction how the
23 apartment looked as you saw it on that evening?

24 A Yes.

25 Q Thank you.

1 MR. TARRANT: May this be marked?

2 THE CLERK: 14.

3 THE COURT: 14. Thank you.

4 [Photograph Marked as Exhibit No. 14]

5 THE COURT: Thank you very much.

6 THE CLERK: Mm-hmm.

7 BY MR. TARRANT:

8 Q I'm showing you what's been marked as Exhibit 14. By looking
9 at that photograph, could you -- do you recall the route Mr.
10 Celona took to get from where you first saw him near the sliding
11 glass door, as he started approaching you as you were retreating
12 out the front door?

13 A Somewhat certain that he didn't step over this coffee table
14 that's on the ground on the right-hand side. So I'd be certain
15 that Celona did not step over that. I believe he came out and
16 walked around the -- what would be the left-hand side of the
17 kitchen island, coming toward us. That's what I believe he -- the
18 route he took to come toward us. But I don't think he -- He
19 didn't step over or jump over any coffee table that was on the
20 ground.

21 Q Okay. So it's your best memory that he moved to the left of
22 the island?

23 A To the best of my recollection, I believe so.

24 Q Okay.

25 MR. TARRANT: [Returning exhibit.]

1 THE COURT: Thank you very much.

2 BY MR. TARRANT:

3 Q And so, we may be recapping a bit, but as Mr. Celona is
4 walking towards you, is he still holding up the blanket?

5 A Yes.

6 Q And you see one knife in his left hand?

7 A Yes.

8 Q And how close did he get to you?

9 A I would say probably within, you know, 10 feet of our group:
10 myself, Patrolman Latores, Patrolman Riccio.

11 Q Okay.

12 A Within 10 feet or so.

13 Q And were you able to exit the apartment?

14 A Yes.

15 Q And how far did Mr. Celona exit the apartment?

16 A To the threshold of the doorway of the apartment.

17 Q And what happened at the threshold of the doorway?

18 A He continued to come toward us as we were backed in the very
19 narrow hallway outside the apartment.

20 Q Okay.

21 A I --

22 Q How narrow would you say that hallway is?

23 A Very narrow. I would say probably maybe 5 feet, maybe
24 enough, like, distance for a person with a good reach to be able
25 to touch both walls or touch both doors.

1 Q Okay. And how are you, Officer Latores, and Officer Riccio
2 grouped together at this point in time?

3 A So, Patrolman Riccio is to my left; Patrolman Riccio is to my
4 right. And I was directly behind both of them.

5 Q And what happened at the threshold?

6 A At the threshold, we were continuing to back up. Patrolman
7 Riccio, I attempted to hand off the taser that I had ready to go
8 to him. I don't know if that would have any effect, because of
9 the thick blanket. And at that point, Patrolman Latores issued
10 one shot with his firearm.

11 Q Okay. And --

12 THE COURT: I'm sorry; who had the -- You said the taser was
13 handed to -- Was Riccio handed another taser?

14 THE WITNESS: No, sir. I had a taser in my hand, --

15 THE COURT: Right.

16 THE WITNESS: -- which belonged to Latores.

17 THE COURT: Right.

18 THE WITNESS: And I was attempting to -- Patrolman Riccio was
19 reaching back toward me. And I was attempting to hand him the
20 taser, because I was behind them. I didn't want to, you know,
21 risk the point of hitting one of them. And, you know, as I was
22 handing my taser to Riccio, that's when Patrolman Latores shot
23 Celona.

24 THE COURT: Okay. Thank you.

25 BY MR. TARRANT:

1 Q And how many times did Officer Latores shot -- shoot?

2 A Once.

3 Q And what happened next?

4 A At that point, the -- you know, Celona fell onto the
5 threshold of the doorway. And, you know, Patrolman Riccio, you
6 know, stepped up and pulled him back up from where he had fallen
7 and away from the threat with the knife. And at that point Celona
8 had dropped both the knife and the blanket on the ground.

9 Q And then what happened?

10 A Patrolman Riccio, you know, put Celona in handcuffs. At that
11 time, we didn't know whether or not he was, you know, going to
12 cause a threat towards us or not. It appeared that Celona didn't
13 have a pulse or wasn't breathing. Patrolman Riccio and I began
14 the method of CPR, the life-save method. And I had a --

15 Q Where did that occur?

16 A It occurred right in the -- So, it was in that narrow hallway
17 between the two apartments and the main hallway. So, it was right
18 at the edge of that.

19 Q When you say "the edge of that," what do you mean by that?

20 A So, when you're walking around the apartment and you go down
21 toward Apartment 326 and 325, it's right on the -- right on the
22 edge, just not out on the main hallway, but it's still in the
23 narrow hallway part, but right before you enter the main part of
24 the hallway.

25 Q So it's the end of the corridor, where it meets the main

1 hallway?

2 A That's correct.

3 Q And Officer Riccio dragged Mr. Celona to that point?

4 A Yes.

5 Q And you began CPR?

6 A Patrolman Riccio and I both -- I had a -- a CPR mask out that
7 I was going to attempt to use, issue rescue breaths. But at that
8 time Patrolman Meiler showed up and took over. He's more -- Like,
9 he was a combat medic, from what I understand. So he's a little
10 more seasoned in that type of thing. So he -- he kind of took
11 over trying to assist the both of us.

12 Q And so when Officer Meiler took over first aid, what did you
13 do?

14 A I went back into the apartment. I turned the lights on. I
15 walked through the scene to ensure that there was nobody else in
16 the apartment. I looked around. And I didn't see anybody else
17 inside the apartment.

18 Q And you stated that upon Officer Latores discharging his
19 firearm, Mr. Celona fell to the ground; is that right?

20 A That's correct.

21 Q And he dropped the objects in his hands?

22 A Yes.

23 Q And did you see where those landed?

24 A They landed right at the threshold of the doorway.

25 Q Okay. And did you see any injuries on Mr. Celona?

1 A I didn't see any injuries, in terms of, you know, being
2 stabbed with the knife. They may have been there, I just didn't
3 see them.

4 Q How about a gunshot wound?

5 A Yes, I saw that.

6 Q Where did you see that?

7 A The gunshot wound was right in this part of the chest. So,
8 it's the upper chest, right below the -- the neckline.

9 Q And in the middle, to the left, or to the right?

10 A It was, you know, sort of in the middle, like, of the chest,
11 sort of upper chest area.

12 MR. TARRANT: Can I see the exhibits?

13 THE COURT: Sure.

14 BY MR. TARRANT:

15 Q So, I'm showing you what's been marked as Exhibit 6. Do you
16 recognize what's depicted there?

17 A Yes.

18 Q And is the blanket that you described that Mr. Celona was
19 holding depicted in that photograph?

20 A Yes, it is.

21 Q And where is that located?

22 A It's located right inside of the door. It's grey, with black
23 stripes.

24 Q And did you notice anything else in that photograph that Mr.
25 Celona had in his possession at the time he was at the threshold

1 of the door?

2 A The knife. It was most certainly the knife that he had in --
3 in his hand, --

4 Q Okay, and that --

5 A -- with -- without a doubt.

6 Q That is the knife?

7 A It most certainly is.

8 Q Thank you.

9 MR. TARRANT: [Returning exhibit.]

10 THE COURT: Thank you.

11 BY MR. TARRANT:

12 Q And, sir, when you -- You went into the home. Was that
13 specifically to make sure that there was nobody else inside the
14 apartment?

15 A Yes.

16 Q Did you seize anything from the home?

17 A No.

18 Q Did you conduct any other thorough searches of the home, at
19 that time?

20 A Besides the walkthrough, I didn't conduct anything more
21 thorough, no.

22 Q Okay. And at any point in time that evening, did you reenter
23 the apartment?

24 A After I checked it, I did not go back in.

25 Q And, sir, how much time would you say had passed from the

1 moment that you first -- or you or one of the other officers first
2 started knocking on the door to Unit 326, to the point where
3 Officer Latores discharged his firearm?

4 A I would say probably less than ten minutes, maybe in the area
5 of eight minutes or seven minutes, by the time we knocked on the
6 door, made entry, went in, and had to retreat. Ten minutes at the
7 most, maybe.

8 Q Okay.

9 MR. TARRANT: I believe that's all the questions I have for
10 this witness, Your Honor.

11 THE COURT: Attorney Anderson?

12 MR. ANDERSON: I do have some questions.

13 **CROSS EXAMINATION OF WITNESS, SERGEANT RYAN MAWN**

14 BY MR. ANDERSON:

15 Q Sergeant Mawn, let me start off with just asking you, just in
16 terms of use-of-force training, that's something you learned at
17 the academy, correct?

18 A Yes.

19 Q And you also have yearly in-service --

20 A Yes.

21 Q -- that you go to? And for Winchester, you go to the
22 Northeast Regional Police Institute in Reading?

23 A Yes, we do.

24 Q And it's a week-long -- five days of training that you have?

25 A Sometimes it's only four. Like, Monday through Thursday. I

1 can't remember if I -- when I first came on, if it was five days
2 or not. But I think it's gotten down to four. And sometimes, for
3 the COVID, we've done some of the training online, on the
4 computer, more recently.

5 Q But does that entail use-of-force training? Every year, you
6 have refreshers on that?

7 A Sometimes in the past it has had -- we've had a day where
8 we've done, you know, defensive tactics, use of force. And
9 sometimes we've -- we've done that at our own PD, as well. I
10 think sometimes the -- the Mass. training councils get away with
11 that, and we do the training more or less at our PD yearly.

12 Q So you also -- In addition to going to the Northeast Regional
13 Police Institute in Reading, you also have additional use-of-force
14 training through the Winchester Police Department?

15 A Yes.

16 Q And in addition to that, do you also have training through
17 the Middlesex County Sheriff's Department?

18 A Yes, we do.

19 Q And can you explain to the Judge what that training is?

20 A Every year, the Middlesex sheriff's department brings a -- a
21 trailer in. It's called a -- a shoot trailer, I suppose. And
22 they set up the trailer. And every officer in the department is
23 assigned a time to go. And you go into the shoot trailer. And
24 it's -- They have, like, these live, like, type of scenarios up o
25 the screen. And sometimes it's like a "shoot or don't shoot" typ

1 of thing.

2 And the things they show on the screen looks like real life,
3 but it's not. So you're -- The scenarios are all different from,
4 you know, situation to situation. And everyone generally maybe
5 has a different scenario. And a lot of the -- Some of the
6 scenarios, like a school shooting or maybe a domestic or something
7 like that -- and you have to determine whether or not you're going
8 to shoot or you don't shoot. And you actually fire your real
9 firearm at the screen. But it doesn't, like, ruin it or anything
10 like that. You fire, like, real bullets and whatnot. And the
11 training is done that way.

12 Q So, let me move on. I want to ask you some questions about
13 past interaction with Mr. Anderson.

14 MR. ANDERSON: If I could just approach, Your Honor.

15 BY MR. ANDERSON:

16 Q I'm going to show you a Winchester police report dated
17 October 14th of 2020.

18 A Yep.

19 Q Just take a minute and familiarize yourself with that.

20 A [Silently reviewing document.]

21 Q Do you recognize that report?

22 A Yes, I do.

23 Q And is that a report that details the interaction that you
24 had with Mr. Celona in the situation where he was wearing a
25 sweatshirt, shorts, no shoes, knocking at a door on a house?

1 A Yes.

2 Q And that's the situation where the knife was recovered from
3 the pouch of his sweatshirt?

4 A Yes.

5 Q And if I could just ask you, I think you told us when you
6 testified on direct that you reached in and just took that from
7 him?

8 A Correct.

9 Q And if I could just ask you to read to yourself the first
10 couple sentences of the third paragraph on page 2.

11 A [Silently reviewing document.]

12 Q Having read that, does that refresh your memory about how
13 that knife was taken from him?

14 A Yes, that does.

15 Q And how was the knife taken from him?

16 A Patrolman Valdario actually removed the knife from the front
17 of his pocket. The --

18 Q Okay. And was anything done to Mr. Celona before the knife
19 was removed?

20 A Yeah, it says -- well, now that refreshes my memory -- that
21 he was placed in handcuffs for our safety, for his safety, for
22 other people's safety. So, he's placed in handcuffs. Before
23 that, we took the knife.

24 Q Who does that report indicate placed him in handcuffs?

25 A Patrolman Latores.

1 Q So Officer Latores was at this call about two and a half
2 weeks before this unfortunate incident from November 2nd of 2020?

3 A Yes, he was.

4 Q And either en route to the scene or when you arrived on the
5 scene on November 2nd, 2020, you were made aware by Officer
6 Latores that it was believed it was Mr. Celona involved, and that
7 he warned you or reminded you that he was known to carry knives?

8 A Yes.

9 Q And do you remember any discussion about another prior
10 incident, where Mr. Celona had a hatchet?

11 A I was not involved in it, but I do remember that incident,
12 the hatchet incident.

13 Q Okay.

14 A I don't remember if I discussed it or not. I do know I was
15 familiar with it. But I wasn't involved in it. And I don't know
16 if we discussed it or not.

17 Q Okay. Well, let me ask you, you gave an interview with the
18 state police on November 5th, three days after this incident?

19 A Yes.

20 Q And I was present with you during that interview?

21 A Yes.

22 Q And if I could just pass you this. These pages aren't
23 numbered, but it's on the fifth page. Oh, you have it?

24 A I'll use yours; that's fine.

25 Q If I could just -- down here, it's the third-to-bottom

1 paragraph. If you could just look that over, page 5.

2 A [Silently reviewing document.]

3 Q Okay.

4 A Yep.

5 Q And does that refresh your memory -- if Officer Latores had
6 mentioned, before you guys went into the building that day, that
7 this was the same individual, not only had knives from a couple
8 weeks ago but had that hatchet incident, that you were aware of
9 that?

10 A Yes.

11 Q I'm just going to take this back from you. Now, you were
12 asked about the call itself and the fact that it came in as a
13 potential breaking-and-entering?

14 A Correct.

15 Q And it's fair to say that there can be ways where buildings
16 are entered that isn't going to cause damage to a door, correct?

17 A Yes.

18 Q I mean, in this situation here, it's possible that somebody
19 could have entered that building through the sliding glass doors
20 from the balcony?

21 A Yes.

22 Q Or they could have had a key to the building?

23 A Yes.

24 Q Or they could have got in because a person inside knew them
25 and let them in?

1 A That's all correct.

2 Q Or they could use a ruse to get in?

3 A Yes.

4 Q And also those windows that are out on that outside
5 hallway --

6 A Yes.

7 Q So somebody could go in through a screen, correct?

8 A Yes.

9 Q So the fact that there was no damage to the door wouldn't
10 necessarily mean that someone hadn't broken into that building,
11 correct?

12 A Correct.

13 Q Now, when you got up to Mr. Celona's apartment, knowing what
14 you knew about his past background, the incident with the knives
15 from about two and a half weeks earlier, the incident with the
16 hatchet, a call saying that two black males had broken in, that a
17 witness had seen him with knives, that he had blood on him, and
18 that there's blood in the hallway, and then hearing a commotion
19 inside without anybody responding as you knocked on the door, did
20 you feel it was a viable alternative at that point just to simply
21 leave and not investigate that situation?

22 A No.

23 Q And why not?

24 A Because I felt that, you know, there was something going on
25 that was wrong. There's potential for someone to be hurt. And i

1 we have left and not investigated the call properly, someone else,
2 a member of the public, a civilian, someone else in that building,
3 most certainly could have gotten hurt or if not -- not killed.

4 Q And was it based on that that you gave Officer Riccio the
5 instruction to kick-in the door?

6 A Yes.

7 MR. ANDERSON: If I could just approach and grab Exhibits 4-A
8 through -E.

9 BY MR. ANDERSON:

10 Q Now, before I give you these, actually, you were asked about
11 the -- I'm sorry; what were we -- The corridor. I'm -- So, what
12 we're doing is we're calling the hallway that goes around the
13 outside of the building, the crescent, the "hallway." And then
14 the little spurs that go down to the rooms, we're calling those
15 "corridors."

16 A Yep.

17 Q So you were asked about the corridor. And you referred to it
18 as being narrow. But you thought it could be 5-feet wide?

19 A Maybe, yeah.

20 Q Okay. And if I told you today that we actually went there
21 and we measured it, and at the outset before you start to go down
22 the corridor it's 44 inches or 3-feet-8-inches, and when you get
23 down to the doors right, across from the doors, from doorframe to
24 doorframe, it's 41 inches, 3-feet-5-inches, does that seem
25 consistent with your memory?

1 A It absolutely does. Very narrow. Yes.

2 Q Would you call it a very tight space?

3 A Very tight.

4 Q And as you went to enter into the building after Officer
5 Riccio kicked-in the door -- I'm just going to show you a couple
6 of photographs. This was marked Exhibit 4A. Do you recognize
7 what's depicted in this?

8 A Yes, I do.

9 Q And just for the record, can you describe what's in this
10 photograph?

11 A That's the end of the hallway and the entrance to Apartment
12 326, on the right-hand side.

13 Q And what do you see on the floor, once you enter the
14 apartment?

15 A The blanket and the knife are right there, by the threshold
16 of the door.

17 Q And beyond that, do you see a container with a bunch of shoes
18 in it, a plastic little shoe bin?

19 A Yes.

20 Q And if I could show you Exhibit 4B, can you just describe for
21 the record what's in this photograph?

22 A This is a photograph from inside the apartment, 326, looking
23 towards the glass slider. This is the kitchen island, the coffee
24 table on the left-hand side, some materials that are thrown on the
25 floor, as well.

1 Q Okay. Now let me just show you Exhibit 4D that has the
2 number on the back. Can you just describe what's --

3 A It's similar to the other photo. The coffee table in the
4 center of the screen, upper center of the screen. And some shoes
5 and paper and mail on the floor. A few shoes and some stuff
6 scurried about on the floor.

7 Q Okay. And Exhibit 4E?

8 A That's the door, right as you enter the apartment, if you
9 enter the apartment and turn around. That's the blanket, on the
10 ground, that Celona used. A piece of wood on the ground, with a
11 little shoe thing on the ground, with a bunch of sneakers and
12 boots.

13 Q Do you have any idea where that wood came from, that piece of
14 wood?

15 A I suspect that -- My theory is that maybe Celona had
16 boarded/barricaded the door from the other side. But I can't be
17 for-certain.

18 Q And after the efforts were made to get Mr. Celona to drop the
19 knife, and the taser was deployed the first time and the second
20 time, and Mr. Celona got up and began to approach you, did you
21 guys -- as you officers were leaving the apartment, which way were
22 you facing? Were you facing towards Mr. Celona or were you facing
23 towards the door?

24 A We were facing Celona. And our backs were facing the door.
25 And we were backing out, like, slowly into the hallway. We were

1 all --

2 Q And in terms of the piece of wood on the floor and the shoes
3 and the debris and the tightness of that hallway, how did that all
4 play into you three officers trying to leave that building, as Mr.
5 Celona approached you, holding the sheet, with the knife in his
6 hand?

7 A Since I was the first person, like, behind Riccio and
8 Latores's backing up -- There was a stool on the ground, like a
9 step -- Not a step stool, but a sitting stool. I believe I moved
10 that out of the way, into the bathroom. And the rest of the
11 material, we kind of stepped over it as we were backing into the
12 little hallway between the apartments.

13 Q And at this point, Officer Mawn was in front of you?

14 A Latores and Riccio. Latores was on my right. Riccio was on
15 my right.

16 Q I'm sorry; did I just say Officer Mawn?

17 A Yeah.

18 Q You're Officer -- Okay. So, say that again. You were the
19 last one -- You were the first one -- It was like accounting, last
20 in, first out. You were the first one to exit.

21 A Right.

22 Q And who was in front of you?

23 A Riccio and Latores.

24 Q Okay. And Riccio had the taser that had been deployed twice
25 correct?

1 A I don't know if it had been deployed twice. But he had his
2 assigned taser as he was backing up.

3 Q And how many times can you deploy those tasers and shoot the
4 prongs out of them?

5 A There's, like, -- You deploy them twice. Sometimes if they
6 have a connection with, you know, one you can issue another shock
7 to the person. But they -- generally, they -- they fire twice.
8 There's two rounds of prongs that -- two cartridges that come out.

9 Q And once you shot those two cartridges, you cannot deploy it
10 by shooting any more prongs?

11 A That's correct.

12 Q And is there a method called "the drive stun" on the taser?

13 A Yes.

14 Q And that's when you actually go up and you would apply it to
15 someone's body and press it and emit a charge that way, correct?

16 A That's correct.

17 Q And in this situation, with somebody holding one or two
18 knives, was that a practical option?

19 A Not -- Not at all.

20 Q And I think you mentioned at one point before lunch that Mr.
21 Celona was about 8 feet away from you as you were exiting. The
22 closest he got?

23 A I think.

24 Q And then I think you said it was more like 10 feet, when we
25 came back from lunch?

1 A I think it was somewhere within that ballpark. Maybe 10 feet
2 or less. I don't -- I would say maybe closer to 8. It definitely
3 wasn't 10, because definitely got close, you know.

4 Q Okay. If I could just approach. And let me show you -- This
5 is -- Again, this is your interview from November 5th. It's on
6 the bottom of page 16, the interview. If you could just kind of
7 read that, the last three or four questions and answers down at
8 the bottom.

9 A [Silently reviewing document.]

10 Q And did that refresh your memory in terms of what you told
11 the state police was the distance?

12 A It does, yes.

13 Q What did you tell the state police the distance was?

14 A I -- I told them the distance was 5 to 7 feet, which seems
15 more accurate, now that I think about it.

16 Q Okay. And when you said that, was that the distance
17 between -- Because it's obviously you and then Riccio and Latores.
18 Do you know how far Officer Latores was from you?

19 A They were right -- We were right up against each other. So,
20 several inches. Like, like, like, real close.

21 Q Okay. Were you -- Was your body almost in contact with
22 Officer Riccio?

23 A Very close.

24 Q And when you had been in there, Officer Latores had passed
25 you his taser, correct?

1 A Yes.

2 Q And you were trying to pass yours to Officer Mawn as you were
3 backing out?

4 A Yeah, as we --

5 Q I'm sorry; no, "Officer Riccio." I called you Officer Mawn a
6 second time.

7 A Yeah. As we were backing out into the little narrow hallway,
8 I was trying to hand the taser that Latores had given to me to
9 Riccio. Riccio was reaching back. I was in the process of
10 handing it to him.

11 Q This is like a relay-race baton thing, where you're looking
12 forward and trying to get something that's behind you?

13 A Exactly.

14 MR. ANDERSON: Okay. I have nothing further.

15 THE COURT: Attorney Dewitt?

16 MS. DEWITT AHERN: Thank you, Your Honor.

17 **CROSS EXAMINATION OF WITNESS, SERGEANT RYAN MAWN**

18 BY MS. DEWITT AHERN:

19 Q Sergeant, when you got called to the Parkview Apartments, it
20 was for a past breaking-and-entering, correct?

21 A What's the question, man?

22 Q It was a breaking-and-entering that happened in the past.

23 A Yes.

24 Q And when you arrived at the apartment, the three of you
25 arrived almost simultaneously?

1 A Correct.

2 Q And Officer Latores had indicated when you got there that he
3 believed he was familiar with the person in that apartment,
4 correct?

5 A Yes.

6 Q From a past -- a recent past incident, correct?

7 A Yes.

8 Q And that recent past incident, as Attorney Anderson showed
9 you, went back to October 14th, fair to say?

10 A Yes.

11 Q And that occurred in Winchester?

12 A Correct.

13 Q And this is an incident where you testified for Attorney
14 Anderson that a knife was removed from Mr. Celona's sweatshirt?

15 A Correct.

16 Q And the officer went into the pocket of the sweatshirt and
17 removed a knife without incident, fair to say?

18 A Yes.

19 Q And, in fact, on that same incident, you knew about the knife
20 because he was asked by you if he had a knife on him?

21 A Yes, he did.

22 Q And he said yes?

23 A Correct.

24 Q And he allowed you to take the knife off him?

25 A Yes.

1 Q It was brought to your attention, Mr. Celona's behavior,
2 because you received a call that evening, fair to say?

3 A Yes.

4 Q That there was someone going to a door, knocking on a door,
5 fair to say?

6 A Yes.

7 Q And when you encountered Mr. Celona, is it fair to say --
8 It's fair to say, isn't it, that he was a bit confused?

9 A I think so, yes.

10 Q He didn't know where he was. He didn't know if it was Woburn
11 or Winchester; is that fair to say?

12 A Yes.

13 Q He had cuts on him that -- he couldn't explain how he got
14 them?

15 A Yes.

16 Q He didn't know where he had come from or how long he was
17 where he was at, fair to say?

18 A Yes.

19 Q And, in fact, as a result of this behavior, he was taken to
20 the hospital?

21 A Yes.

22 Q You asked him -- You didn't section him, did you? A Section
23 12?

24 A No.

25 Q But he was asked if he would go to the hospital. And he

1 | agreed to go to the hospital for a mental health follow-up
2 | evaluation?

3 | A Correct.

4 | Q And, in fact, this call, the report of -- the document is
5 | called a cue sheet -- identified this as a medical mental health
6 | call; is that fair to say?

7 | A Yes.

8 | Q So that's an incident where Mr. Celona had a knife?

9 | A Yes.

10 | Q So, on November 2nd of 2020, you get a call for a past B&E.
11 | Officer Latores, at the time, recognized the address and believed
12 | it to be Mr. Celona, fair to say?

13 | A Yes.

14 | Q At this time, you knew of at least one mental health incident
15 | involving Mr. Celona, fair to say?

16 | A Yes.

17 | Q Did you call in anyone to assist with mental health issues,
18 | at this point in time?

19 | A No.

20 | Q Officer Riccio spoke to the security guard, a Mr. Gaffney,
21 | fair to say?

22 | A Yes.

23 | Q And Mr. -- And the purpose was for Officer Riccio to become
24 | informed about what had happened prior to you all arriving at the
25 | scene; is that fair to say?

1 A Yes.

2 Q And it was learned that Mr. Celona believed that someone had
3 broken into his apartment building, fair to say?

4 A Yes.

5 Q And, in fact, he had described that the people that he said
6 had broken in were two black men?

7 A Yes.

8 Q You and the -- Officer Riccio and Officer Latores, at the
9 time, walked up the three flights of stairs to the apartment,
10 right?

11 A Yes.

12 Q And when you arrived at -- Strike that. You asked Mr.
13 Gaffney -- Was Mr. Gaffney asked who was in the apartment?

14 A I don't know.

15 Q Okay. Mr. Gaffney didn't volunteer that there was anyone in
16 that apartment other than Mr. Celona, did he?

17 A I don't know.

18 Q So, you go up to the stairs to the apartment. And you're
19 trying to -- you're knocking at the door, trying to get the door
20 to open, right?

21 A Yes.

22 Q And there was no response, no verbal response from someone
23 inside that apartment?

24 A No.

25 Q There was a determination made that the door should be

1 kicked-in; is that fair to say?

2 A Yes.

3 Q No one called down to the security guard to get a key to open
4 that door?

5 A No.

6 Q So instead of calling and getting the key, you authorized
7 Officer Riccio to kick the door open?

8 A Yes.

9 Q Which he did?

10 A Yes.

11 Q When -- After the door was kicked open -- Now, you're in the
12 corridor, fair to say?

13 A Yes.

14 Q That's the little hallway?

15 A Yes.

16 Q And there's lights in the corridor. And there's some lights
17 in the hall, fair to say?

18 A Yes.

19 Q So there was some light into that apartment, fair to say?

20 A A little bit, yes.

21 Q Okay. And when you walk into the apartment, you walk -- you
22 go through the door and you have to take a left to go down a short
23 hallway, fair to say?

24 A Yes.

25 Q And at this point in time, Officer Riccio had illuminated,

1 first tried with a taser and then with his flashlight, fair to
2 say?

3 A Yes.

4 Q So you could see what was going on in that apartment,
5 correct?

6 A A little bit.

7 Q And you could see that there was a person in the back of the
8 apartment, near the sliding doors, fair to say?

9 A Yes.

10 Q And you could hear as well as see that person was hitting the
11 window?

12 A Yes.

13 Q And that person was either -- that person being Mr. Celona,
14 fair to say?

15 A Yes.

16 Q And that person was either crouched down or on his knees or
17 seated. He wasn't standing, fair to say?

18 A Yes, that's correct.

19 Q And there's a blanket around the bottom of his feet, on the
20 floor?

21 A Yes.

22 Q And the three of you entered the apartment. When you
23 entered, you couldn't go side by side, fair to say? The hallway's
24 only around 41 inches.

25 A Correct.

1 Q So, the lead officer being Officer Riccio?

2 A Yes.

3 Q And you and Officer Latores were right behind him?

4 A Yes.

5 Q You get to the area around the refrigerator and the island.

6 And that's sort of a barrier between you and Mr. Celona, who's

7 over in back, at the sliding window, fair to say?

8 A Yes.

9 Q And there's also -- You've testified that there's an end
10 table or something, upside down, in the direct path, fair to say?

11 A Yes.

12 Q You're not having a conversation with Mr. Celona, because
13 he's not answering you, fair to say?

14 A Yes.

15 Q He's looking at you but not looking at you?

16 A That's true.

17 Q Almost like he's looking through you?

18 A Yes.

19 Q And he's still sitting there, banging the windows, fair to
20 say?

21 A Yes.

22 Q But there's still no medical personnel called to the scene?

23 A Not into the apartment at that time. But we had the
24 Winchester Fire Department ready to go. But they didn't come with
25 us into the apartment at that time.

1 Q So, this behavior of Mr. Celona was a bit odd?

2 A Yes.

3 Q Now, he's sitting there. He hasn't gotten up. And he hasn't
4 moved towards any of you at this time, fair to say?

5 A Yes.

6 Q And at this point in time there was a need to taser him?

7 A Yes.

8 Q And when he was first tasered, there was a taser where the
9 taser actually -- components attached to him, fair to say? He
10 fell back and moaned?

11 A Yes.

12 Q And at that point in time, you indicated that -- I think it
13 was said that he had the knives on top of the fire drum or
14 something, fair to say?

15 A I -- When he was tased, I'm not sure if he dropped them or if
16 he held onto them or whatnot.

17 Q Okay.

18 A But they were still on his person.

19 Q Okay.

20 A Or he picked them back up or always had them. I'm not sure.

21 Q Okay. Fair enough. After he gets tased, the three of you
22 are still standing in the area behind the bar, some 18 to 21 feet
23 from Mr. Celona?

24 A Yes.

25 Q And at this point in time, he gets up?

1 A Correct.

2 Q And you were testifying that he grabbed a blanket, correct?

3 A Yes.

4 Q And he's holding the blanket up in front of him?

5 A That's correct.

6 Q And I know he's obviously quite a bit taller than I am, but
7 it's around his neck level?

8 A About neck level, yes.

9 Q And in his left hand -- So, he's got the blanket, holding
10 up --

11 A Correct.

12 Q And in his hand, you can see a knife?

13 A Correct.

14 Q But you couldn't see another knife?

15 A No, I could not.

16 Q And you -- he starts walking towards you. He's not running.
17 He's not throwing himself at you. He's walking towards you.

18 A Yes.

19 Q And he's not saying anything to you?

20 A No.

21 Q There's an attempt at a second taser at that point in time?

22 A I don't -- I don't think we did, because of the blanket. I
23 know I didn't. I'm not sure if Riccio tried another deployment,
24 but --

25 Q You didn't hear it, or you -- No one said anything, that they

1 were going to tase a second --

2 A No.

3 Q Okay.

4 A No.

5 Q He's walking slowly towards you. And the three of you are
6 walking backwards, like this?

7 A Correct.

8 Q You walk out the door, correct?

9 A Yes.

10 Q So you have to take the left out to the door, and back into
11 the hallway?

12 A Yes.

13 Q And the three of you are still in, like, a V formation?

14 A I don't know if you'd call it a V, but -- Patrolman Riccio on
15 my left, Patrolman Latores on my right, and me directly behind
16 them. I'm not sure if they call it a V. I'm not --

17 Q Maybe an inverted V?

18 A Yeah.

19 Q So the two other officers are in front of you. And you're
20 walking out into the hall. And you clearly don't walk into the
21 door across the hall, fair to say?

22 A Yes.

23 Q You take a right to go down that hallway a little bit?

24 A Yes.

25 Q The corridor?

1 A Yes.

2 Q And when this exchange is going on, Mr. Celona's still not
3 saying anything?

4 A No.

5 Q He has the blanket up and still has the knife, as I
6 indicated, in his hand, in his left hand?

7 A Yeah.

8 Q And he's walking forward. And you three are to the right of
9 the corridor?

10 A [No response.]

11 Q Well, you said you're 5 or 7 feet from him.

12 A Yeah.

13 Q And if you're out in the door in that apartment, there's only
14 around -- I think we established 3 feet 5 inches.

15 A In between the walls and maybe the door. The distance
16 between us and Celona, the physical distance between us/him, I'm
17 not sure. But we're in that narrow hallway, which was about 3
18 feet or 44 -- 41 inches, whatever it is.

19 Q So if you're 5 or 7 feet from him, he's inside that
20 apartment.

21 A He was on the threshold of the apartment.

22 Q So he's on the threshold, so you're farther down that
23 corridor, closer to the hallway.

24 A No, we weren't that far back.

25 Q And he's 5 to 7 feet from you?

1 A Correct.

2 Q And he's not inside of the apartment by the bathroom door?

3 A He's by the threshold, by the threshold.

4 Q So he's at the threshold and you're off to his left.

5 A I'm not sure if it was his left. But if we were looking
6 toward the apartment from where we're backing up, we went to our
7 right. So I suppose our left, somewhat.

8 Q You're trying to hand Officer Riccio the taser or Riccio's
9 trying to hand you the taser when the gunshot is heard, fair to
10 say?

11 A Can you please repeat?

12 Q Certainly. You are either trying to hand Officer Riccio the
13 taser or Officer Riccio is trying to hand you the taser when you
14 hear a gunshot.

15 A That's correct. I'm trying to hear -- hand Riccio a second
16 taser at the --

17 Q A second taser.

18 A Yes.

19 Q You hear the gunshot and your attention is now brought to
20 what is happening in front of you.

21 A Yes.

22 Q At this point in time, Mr. Celona falls. Forward?

23 A Yes.

24 Q In the doorway, in the threshold?

25 A Yes.

1 Q Where the picture -- Where the blanket and the blood is shown
2 in that picture by the doorway?

3 A Yes.

4 Q The next thing that happens is Mr. Celona -- You leave the
5 corridor? Do you walk out of the corridor after the shooting?

6 A No, we were all still there at the time.

7 Q The three of you stay there.

8 A Yes.

9 Q Mr. -- Officer Riccio moved Mr. Celona from the place where
10 he was shot.

11 A Correct.

12 Q Down the corridor and to the -- almost into main hallway.

13 A Yes.

14 Q At this point in time, Officer Latores leaves the scene,
15 leaves the area, and walks down the hall.

16 A Correct.

17 Q There's no photos of actually where Mr. Celona had fallen
18 after he got shot, fair to say, with the body?

19 A I -- I don't know. I don't know if there are photos or not,
20 of that. I'm not sure. There are photos of the -- that were
21 taken but -- actual photos that someone else took, a third party,
22 of the scene. But I know there was photos of the whole apartment
23 and of the doorway.

24 Q I guess what I'm saying, sergeant, is there's no photos of
25 the body where it was shot, where he landed after he was shot.

1 A Right, that's correct.

2 Q You had testimony about an incident that you were not
3 personally aware of from almost a year prior to this interaction
4 with Mr. Celona, fair to say?

5 A Yes.

6 Q And it was -- Are you aware of the facts of that case?

7 A I'm aware of it. I wasn't involved in the actual responding
8 to the call or being involved. But it kind of rung a bell. We're
9 a small department, so sometimes you may hear a report that's on
10 your day off or -- But it kind of rung a small bell in my head
11 about what had happened.

12 Q You're aware that that was an incident where Mr. Celona had
13 an altercation with a gentleman that hit his car several times and
14 tried to run him over?

15 A Yeah, I -- I don't know if that were the facts of the
16 particular case. I knew the case that he had a --

17 Q So you don't really know the facts of that case.

18 A Not every --

19 Q Okay.

20 A -- little piece of it, no.

21 Q Just the fact that there might have been a knife or a hatchet
22 involved? That's the only factor that's relevant to that?

23 A Whether that's the only factor that's relevant to me, I -- I
24 don't know. But the fact that he possibly had a hatchet on this
25 call was more concerning to me.

1 Q Does the Winchester police department have a policy on how to
2 handle people with mental illness?

3 A Yes.

4 Q Are you familiar with that policy?

5 A Yes.

6 Q And did you --

7 MS. DEWITT AHERN: One moment, Your Honor, please.

8 THE COURT: Sure.

9 [Pause]

10 BY MS. DEWITT AHERN:

11 Q And there's certain things according to the policy -- Are you
12 refreshed on that policy on a regular basis? Yearly, bi-yearly?

13 A Usually -- I don't know if it's an every-year thing. We
14 generally, you know, review it or have a course. Sometimes we
15 have an inhouse class that everyone goes through, that another
16 officer teaches, that -- You know, these things are more frequent.
17 So, it's how to deal with it and whatnot, deal with different
18 people.

19 MS. DEWITT AHERN: Just a moment, Your Honor?

20 THE COURT: Sure.

21 [Pause]

22 MS. DEWITT AHERN: Your Honor, may I approach the --

23 THE COURT: Sure.

24 BY MS. DEWITT AHERN:

25 Q Can you just help identify that, sergeant?

1 A Yep. This is the Winchester police department "handling the
2 mentally ill" policy.

3 Q So that is the policy and procedure you should be
4 following -- or your department, not specifically -- when you are
5 encountering someone with a mental illness?

6 A Yes.

7 MS. DEWITT AHERN: Judge, I move to introduce this.

8 THE COURT: 15.

9 MR. ANDERSON: Judge, I don't have an objection. But I never
10 received a copy. I don't know if I could --

11 THE COURT: So, I'll admit it into evidence. And at some
12 point before we leave today, we'll just make copies available
13 to --

14 MR. ANDERSON: Okay.

15 MS. DEWITT AHERN: Certainly. I'm sorry, counsel, I e-mailed
16 it to --

17 MR. TARRANT: I was provided a copy but I did not forward it
18 to Mr. Anderson.

19 **[Winchester Police Document Marked as Exhibit No. 15]**

20 MS. DEWITT AHERN: Just one moment, please, Your Honor?

21 THE COURT: Sure.

22 [Pause]

23 BY MS. DEWITT AHERN:

24 Q You testified that -- or you wrote, "...a broken piece of
25 wood that may have been a barricade." There was actually no

1 evidence that that door had ben barricaded, was there?

2 A I have no idea. I don't know if there was evidence of the
3 door being barricaded or not. I have no idea.

4 Q And you testified that you have a use-of-force policy?

5 A Yes.

6 Q And that use-of-force policy is very specific as to the level
7 of force that should be used at various times, fair to say?

8 A Correct.

9 Q And it starts with Level 1, being -- Level 1 to Level 5, fair
10 to say?

11 A Yes.

12 Q And that's outlined in the information that has been
13 introduced into the court?

14 A Yes.

15 MS. DEWITT AHERN: Judge, nothing further at this time.

16 MR. TARRANT: Nothing for the Commonwealth.

17 MR. ANDERSON: Just a couple quick questions, Sergeant Mawn.

18 **REXCROSS EXAMINATION OF WITNESS, SERGEANT MAWN**

19 BY MR. ANDERSON:

20 Q Back in December of -- or November of 2020, did the
21 Winchester police have a social worker on staff?

22 A No.

23 Q And in terms of the fire department being on standby, would
24 the fire department come in if the call isn't cleared, if there's
25 something unsafe at the call?

1 A No, they wouldn't.

2 MR. ANDERSON: I have nothing else.

3 **CROSS EXAMINATION OF WITNESS, SERGEANT MAWN**

4 BY THE COURT:

5 Q After the incident with the knife, where it was taken out of
6 his hooded sweatshirt, he went voluntarily by ambulance to with
7 Winchester hospital?

8 A Yes, Your Honor.

9 Q Do you happen to know what happened, whether he was
10 committed, or treatment or anything?

11 A I have no idea, Your Honor. My guess would -- they, you
12 know, let him go, they discharge him. I don't know if they ask
13 him to follow up with a specialist or they give him a phone number
14 or ask him to speak with his primary care. But, like, I have no
15 idea.

16 Q You don't know.

17 A No.

18 Q Okay.

19 MR. ANDERSON: And, Judge, we're -- those are the records
20 that we subpoenaed.

21 THE COURT: Oh, they are?

22 MR. ANDERSON: So we're -- Yeah. We're working on --

23 THE COURT: Oh, so we're waiting for those?

24 MR. ANDERSON: Yeah.

25 THE COURT: Okay. Very good. Thank you very much.

1 THE WITNESS: Thank you.

2 [Witness steps down]

3 MS. DEWITT AHERN: Judge, could we -- This is probably a
4 little bit unusual, but can we approach for one moment?

5 THE COURT: Sure.

6 [Sidebar Discussions at 2:58:58 p.m.]

7 MS. DEWITT AHERN: As to the records -- And I'm sorry; I
8 discussed this with A.D.A. Tarrant. I have a whole set that I
9 would be more than happy to show you, of medical evidence.

10 THE COURT: Okay.

11 MS. DEWITT AHERN: If Mr. Anderson wants -- Attorney Anderson
12 wants to look at them, Mr. Tarrant -- we might expedite that.

13 THE COURT: Fantastic. Whatever you can do, that's great.
14 Thank you.

15 MS. DEWITT AHERN: Okay.

16 [End of Sidebar Discussions at 2:59:20 p.m.]

17 MR. TARRANT: Our next witness is Andrew Riccio.

18 [OFFICER ANDREW RICCIO, Sworn.]

19 THE COURT: Officer Riccio, you can have a seat.

20 THE WITNESS: Thank you.

21 THE COURT: Good afternoon. I'm Judge Doyle.

22 THE WITNESS: Good afternoon, sir.

23 THE COURT: You can either leave your mask on or off,
24 whatever you're most comfortable doing.

25 THE WITNESS: I'll take it off. Thank you.

1 MR. TARRANT: May I inquire, Your Honor?

2 THE COURT: You may.

3 **DIRECT EXAMINATION OF WITNESS, OFFICER ANDREW RICCIO**

4 BY MR. TARRANT:

5 Q Sir, can you please state your name, spelling both your first
6 and last name?

7 A It's Officer Riccio, Andrew Riccio. R-I-C-C-I-O.

8 Q And, sir, are you employed?

9 A I am.

10 Q Where do you work?

11 A The Winchester police department.

12 Q What do you do for the Winchester police department?

13 A I'm a patrol officer.

14 Q And how long have you been employed by the Winchester police?

15 A I've been there about 11 years, since December of 2009.

16 Q And as a patrol officer for the Winchester police department,
17 what are your duties and responsibilities?

18 A Patrol, answer calls for service, traffic violations.

19 Q And aside from being a patrolman for the Winchester police
20 department, are you a member of any other special units?

21 A I am, yes.

22 Q And what is that?

23 A The Northeastern Massachusetts Law Enforcement Council,
24 regional team, the response team.

25 Q So what is that team, what does it do?

1 A We work, like, with the SWAT, with tactical operations,
2 searching for people in the woods, or riots, or security of some
3 sort.

4 Q And is that a unit of with Winchester police department?

5 A No. That's a -- It's a regional thing. So there's members
6 of departments all over Northeastern Massachusetts. So in
7 Winchester we have three officers that are involved with it.

8 Q And so is that a organization that's commonly referred to as
9 NEMLEC?

10 A Yes.

11 Q And so how long have you been a member of NEMLEC?

12 A I've been there about five years.

13 Q During -- Doing the activities that you just described?

14 A Yes.

15 Q And does that involve any special training outside of your
16 training with the Winchester police department?

17 A It does, yes.

18 Q And what is that?

19 A We do various training. We train at least once a month on
20 all different things, whether that be firearms or crowd-control
21 tactics or wooded searches or grid searches or whatnot.

22 Q Okay. And what is your current assignment with the
23 Winchester police department?

24 A I'm a patrol officer.

25 Q And are you assigned a particular shift?

1 A I am.

2 Q What is that?

3 A 4:00 p.m. to 2:00 a.m. in the 929 sector.

4 Q And if I direct your attention to November 2nd, 2020, do you
5 recall that day?

6 A I do.

7 Q Were you working that day?

8 A I was.

9 Q And what shift were you working that day?

10 A 4:00 p.m. to 2:00 a.m. in the 929 sector.

11 Q 929?

12 A Yes.

13 Q And what area of Winchester does the 929 sector cover?

14 A From Main Street in Woburn down to, like, downtown area in
15 Winchester, like Mount Vernon Street, and then up to South Border
16 Road up into, like, the Medford/Stoneham side and then -- which
17 would encompass, like, the Winchester Hospital and, like, that
18 whole area in between.

19 Q And is the Parkview apartment complex in your sector?

20 A It is.

21 Q And how many officers were working on the evening of November
22 2nd, 2020?

23 A I believe there were four patrol officers, a patrols
24 supervisor, and an officer in charge.

25 Q Okay. Who were the -- Do you recall, who were the other

1 patrol officers?

2 A It was Kurt Ellis in the 922 sector. It was Officer Latores
3 in the 924 sector. Patrolman Meiler was in -- I believe he was in
4 the 921 sector. It was me in the 929 sector. And then patrol
5 supervisor was Sergeant Mawn, at the time.

6 Q And on the evening of November 2nd, 2020, were you working
7 alone or with a partner?

8 A I was working alone.

9 Q And are you assigned a police vehicle?

10 A I am.

11 Q And is that a fully marked vehicle with lights and siren and
12 decals?

13 A It is, yes; yes, it is.

14 Q And how were you dressed that night?

15 A In full police uniform, with the badge on my chest, and full
16 duty gear.

17 Q And you wear a duty belt?

18 A I do.

19 Q And what were you carrying on your duty belt on November 2nd,
20 2020?

21 A The same thing I always do. So that's a department-issued
22 firearm, which is a Glock 17, 9 millimeter [phonetic]; the taser,
23 X2; a baton; OC pepper spray; two magazines for the pistol, one
24 magazine for a rifle; a pair of handcuffs; a flashlight; a radio;
25 handcuff keys; and I think that's just about it.

1 Q And with respect to the pepper spray that you carry, do you
2 have any special training specific to pepper spray?

3 A Yes.

4 Q And where did you receive that training?

5 A In the police academy as well as -- With NEMLEC, we've done
6 some pepper spray and some teargas-type drills there, as well.

7 Q And does that training include when to use pepper spray and
8 when to not use pepper spray?

9 A Yes.

10 Q And so what are you taught in that regard?

11 A Can you rephrase the question?

12 Q Sure. When are you taught that it's appropriate to use
13 pepper spray?

14 A Well, there's the use-of-force continuum. And, you know,
15 various times, you can use various techniques and weapons.
16 Typically, pepper spray, you want to make sure that you're in,
17 like, a well-ventilated area or, ideally, outside. You don't want
18 to be using pepper spray in a confined area. You know, obviously
19 it gets into the air. You choke, you can't see, you can't
20 breathe. And it'll affect everybody, not just the person that you
21 intend to use it on.

22 Q Okay. And you also carry a taser?

23 A I do.

24 Q And do you have any specialized training relative to use of a
25 taser?

1 A Yes. In the department, we went through training initially
2 when we received them. And then we go through recertification
3 classes on the use of the taser.

4 Q And how often is the recertification class?

5 A I don't recall exactly. I think it's every year.

6 Q And with respect to use of the taser, are you also told --
7 taught when it is appropriate to use a taser?

8 A Yes.

9 Q And how is that different than pepper spray?

10 A Well, there might be situations that you are justified to use
11 both. And then obviously, like I said before, the conditions may
12 dictate which one would be more appropriate.

13 Q And so can you name a condition where using the taser would
14 be more appropriate than using pepper spray?

15 A "In a confined area" would certainly be one that a taser
16 would be more appropriate.

17 Q So inside, it's preferable to use a taser?

18 A Yes.

19 Q And so if you direct your attention to approximately eight
20 o'clock/p.m. on November 2nd, 2020, do you recall where you were
21 on that evening at that approximate time?

22 A I do, yes.

23 Q And where were you?

24 A I was on the parking lot off of Main Street by Main at,
25 like, --

1 Q And what were you doing there?

2 A I was on patrol.

3 Q And around that time did you receive a call from your
4 dispatcher?

5 A I did.

6 Q And what was the nature of that call?

7 A When the call initially came in, it was somewhat confusing.
8 It was called in through a third party. And they dispatched us to
9 the Parkview for a potential B&E.

10 Q And by "B&E" -- What do you mean by that?

11 A A breaking-and-entering.

12 Q And were you provided any additional information at that
13 time?

14 A The dispatcher relayed that the caller was a possible Frank
15 Thomas. And the details of it were slightly fuzzy. Wasn't sure
16 if it was a prank call or what was going on initially.

17 Q So when you received a call from your dispatcher, what did
18 you do?

19 A I immediately drove to that location.

20 Q To the Parkview apartments?

21 A Correct.

22 Q When you arrived, what did you say?

23 A There was a --

24 Q How long did it take -- Sorry about that. How long did it
25 take you to get there?

1 A I would say a minute and a half.

2 Q And as you're driving to the Parkview apartments, are you
3 receiving any additional information from either the dispatcher or
4 another officer?

5 A Not at that time. I don't believe so, no.

6 Q Okay. So upon your arrival to the Parkview apartments, what
7 did you see?

8 A I saw a security guard out front, William Gaffney. And
9 simultaneously, upon my arrival, Sergeant Mawn arrived as well.
10 He's the patrol supervisor. He was in an unmarked car that night.
11 So, he arrived. And William Gaffney, the security guard who had
12 actually called us, he met me out front of the Parkview
13 apartments.

14 Q Okay. Did any other officers arrive at that time?

15 A Officer Latores arrived very shortly after that, yes.

16 Q And with respect to Mr. Gaffney, did you have a confirm with
17 him?

18 A I did.

19 Q And where did that conversation occur?

20 A It occurred right in the front, in the parking lot. I
21 believe I was still in my cruiser at the time. He came up to my
22 cruiser to tell me that he was the one that had called us. And he
23 explained to me very briefly and vaguely what had occurred.

24 Q What did he tell you?

25 A He told me that the person that was in the apartment told him

1 that two black males had broken into his apartment. And he told
2 me that the person that told him this had two knives in his hands.
3 And he had blood on him. And he seemed -- I think his exact words
4 were "he seemed out of sorts." He just seemed, like, not with-it.

5 Q And so was that the extent of the conversation you had with
6 Mr. Gaffney?

7 A Yes.

8 Q And after having that conversation, what did you do next?

9 A I met up with Officer Latores and Sergeant Mawn. And we
10 proceeded to go up the stairs to the apartment.

11 Q Prior to going up the stairs to the apartment, did you have
12 any conversation with Officer Latores and Sergeant Mawn?

13 A I did, yes. Officer Latores had stated that he believes this
14 person, Mr. Celona, was -- was known to carry edged weapons.

15 Q And did Officer Latores give you any other information than
16 that?

17 A He -- He reminded me about a call that we had had. I -- I
18 wasn't on the call at the time. But -- where he pulled an edged
19 weapon off of that individual on another call.

20 Q So then after that conversation, what did you do next?

21 A We proceeded up the stairwell, en route to the room.

22 Q And on your way up to the room, did you have further
23 conversation as to what you were going to do once you approached
24 the --

25 A I did, yes. I explained to Officer Latores that, you know,

1 | it was my call as a primary to --

2 | Q Why are you the primary?

3 | A It was just my assigned area. So if a call comes in, you
4 | know, on -- on my side of town, in between those streets that I
5 | described earlier, that would be my primary responsibility. And
6 | then any other individual officer that shows up is -- would be a
7 | backup officer.

8 | Q Okay.

9 | A So I explained to him, since it was my call, I was going to
10 | be, you know, in front. I was going to approach the door first.
11 | You know, I -- I said that I would have my taser out. And I asked
12 | that -- that he be my lethal cover as a backup.

13 | Q And what does it mean to be lethal cover?

14 | A So, -- So, in our training and -- and experience, you -- you
15 | want to use less -- I guess less -- I don't know how to describe
16 | this. You don't want to -- If you're trying to place somebody
17 | into -- under arrest, you don't want to -- obviously you're going
18 | to try not to hurt them. Right? So ideally you would want to,
19 | you know, taser somebody or use your hands and grab them and --
20 | and place them in handcuffs. If they -- Say, for instance, they
21 | attack you with deadly force; you know, me, with the taser out, I
22 | would need somebody with -- with, you know, lethal cover to be
23 | able to protect everybody that -- that we're with.

24 | Q Okay. So your plan was to be out front with the taser?

25 | A Correct.

1 Q Would that be referred to as a nonlethal cover?

2 A Yeah, you could say that, yep.

3 Q Okay. And so you being out front with nonlethal cover,
4 you're designating somebody to back you up with lethal cover.

5 A Correct.

6 Q And I think it's obvious that that would be in a situation
7 where you're -- you would lose control or that your nonlethal
8 device wasn't controlling the situation.

9 A Right. So if my nonlethal means of controlling a subject was
10 ineffective, you would have -- You know, and say that person was
11 coming at us with -- with lethal force, we could match that to
12 keep a scene safe per se.

13 Q Okay. And so what unit were you going to? Do you recall?

14 A I don't recall. I did bring something with me.

15 Q If I said Unit 326, --

16 A Yes, that does sound very familiar, yes, sir.

17 Q So how did you get up to Unit 326?

18 A We walked up the stairwell.

19 Q When you arrived to the unit, can you describe how you
20 approached the door?

21 A Can you rephrase that question? How --

22 Q Just describe, like, in what order you approached the door.

23 A Okay. So I was -- I was first. Officer Latores was right
24 behind me. And Sergeant Mawn was behind him. And I had talked to
25 Officer Latores and we devised kind of a plan. I said, since I'm

1 going to be up front with the taser, -- You know, we don't know
2 what we're walking into. We know that somebody is armed with two
3 knives. We know that there's blood. So we don't know if it was
4 his blood, if there was two other people there. So we didn't
5 really know. So I said, you know, "I'm going to have the taser,
6 and I'm going to stay to the left." Officer Latores had lethal
7 cover; he had his firearm. So, he was going to be to my right.
8 So that way, he understood that I wasn't going to, you know, get
9 in front of him in case, you know, he had to use that.

10 THE COURT: Tell me that again. You were going to be on the
11 left?

12 THE WITNESS: Yeah. I -- I explained --

13 THE COURT: You --

14 THE WITNESS: -- to Officer Latores --

15 THE COURT: And he was going to be on the right.

16 THE WITNESS: -- that I was going to be on the left side a
17 little bit. Officer Latores is righthanded. And his -- his
18 firearm would be covering me from behind. So I just wanted him to
19 understand that I wasn't going to jump to the right, in front of
20 him, --

21 THE COURT: And get a bullet.

22 THE WITNESS: -- and -- and -- yeah, in the line of his
23 firearm.

24 THE COURT: Got it. Thank you.

25 THE WITNESS: You're welcome.

1 BY MR. TARRANT:

2 Q Okay. When you approach the door, what did you do?

3 A Well, upon approaching the door, we observed some --
4 potentially some blood on the floor. It was like a pool. And
5 then, like, a -- looked like it was, like, drizzled over to the
6 doorway. So upon seeing that, we -- we proceeded to the door and
7 we knocked on the door and announced our presence as police and
8 that we needed to speak with whoever was in -- inside of the --
9 the room.

10 Q Who knocked on the door?

11 A I knocked on the door initially.

12 Q Okay. And when you knocked on the door, did you specifically
13 say something?

14 A I don't recall exactly what I said. But, you know, I -- I
15 said something to the -- to -- the fact that "Hey, we need to
16 speak with you," you know, "Come out and speak with us."

17 Q Did you call a particular name?

18 A Well, we initially thought his name was Frank because the
19 call had come in "Frank Thomas." So we said, "Frank." And then
20 the neighbor next-door, which -- The door is very close to -- to
21 his door. The neighbor actually opened the door and said, "Oh,
22 his name's Thomas."

23 Q And then, learning that, what did you do?

24 A Learning that, we said, "Thomas, we -- we need to speak with
25 you. Please come out." And I continued to knock very loudly on

1 the door.

2 Q Did you receive a response from inside Unit 326?

3 A We did not receive any response. We didn't hear any noise at
4 that time or -- or anything.

5 Q You didn't hear any noise at that time?

6 A At that time, we did not, no.

7 Q Was there a decision made to breach the door?

8 A Eventually, yes.

9 Q Okay. Did anything happen between the time that you just
10 described you knocking on the door and the decision to breach the
11 door?

12 A Can you repeat that question?

13 Q Did anything occur differently that helped you make the
14 decision, or whoever made the decision to breach the door?

15 A Yes, yes. So -- So, like I said, I was knocking on the door
16 initially and calling out, "Frank." And then we learned that his
17 name was Thomas. So I was calling out, "Thomas." And then
18 Officer Latores and Sergeant Mawn were also saying, "Okay, come
19 out, come out, please. We need to speak with you."

20 And then, a short time after, we -- we heard a very loud
21 commotion inside of that apartment, which --

22 Q And what did the commotion sound like to you?

23 A It sounded to me like -- like a person or multiple persons
24 were -- were throwing tables and smashing glass and just -- It --
25 It was a very loud, tumultuous commotion from -- coming from

1 inside that apartment, which -- We were unsure what it was or who
2 it was.

3 Q And at that point in time, did you know how many people were
4 inside the apartment?

5 A We did not, no. We -- We didn't know.

6 Q So what was decided or what was the next move at that point?

7 A Well, we knew that there was likely one person, at least, in
8 there with -- with knives and had blood on them. We weren't sure
9 if it was -- whose blood it was. We also weren't sure if there
10 was two people that -- because there was two people reported that
11 had broken in. So we weren't sure if they were in there as well,
12 if it was all three of them. So we were concerned for -- for
13 everybody's safety. So we -- we decided that we needed to breach
14 the door and -- and stop whatever was going on inside that
15 apartment.

16 Q So what did you do?

17 A I -- I told Sergeant Mawn that I think we needed to breach
18 the door. And I suggested that we stage the fire department.
19 One, in case we couldn't breach the door, they could have some
20 tools available. And, two, we obviously knew somebody was -- was
21 severely hurt already, one person at least, so it would be good to
22 have them there.

23 And he did ask me to knock one more time and -- and -- which
24 I did. The commotion never stopped. So at that point he decided
25 to advise me to go ahead and breach that door.

1 Q Okay. So Sergeant Mawn advised you to breach the door at
2 that point?

3 A At that point, yes. Yeah. He's the patrol supervisor. So,
4 I -- I did suggest that I think that it needed to be done.
5 Patrolman Latores also said, I -- I -- you know, that we do need
6 to get in here. And Sergeant Mawn did eventually say, "Yes, okay.
7 Let's -- Let's get in there."

8 Q And do you know if in fact the fire department was called?

9 A Yes, I -- I -- Yes, they were.

10 Q And who did that?

11 A I don't recall at the time. But I know they were staged
12 out -- out front.

13 Q And that was -- Was the call made before you breached the
14 door?

15 A Yes.

16 Q Do you know if they arrived before you breached the door or
17 just that they were requested before you breached the door?

18 A They were requested before we breached the door. I'm not
19 sure at [sic] their time of arrival.

20 Q So how'd you breach the door? Who breached the door, and
21 how?

22 A I -- I breached the door. So, I -- I turned around so
23 Apartment 326, the -- the room that I was breaching, was behind
24 me. And the -- the door of the neighbor was -- was right here.
25 So I was facing the neighbor's door. And I -- I guess you can

1 call it a donkey kick, I guess. I -- I turned backwards and --
2 and was kicking it rearwards. And I kicked the door several
3 times, I would say maybe ten or -- or twelve times, as hard as I
4 possibly could. And I was eventually able to -- to breach the
5 door.

6 Q And once you breached the door, what did you observe?

7 A Well, the door -- I believe the frame ended up breaking. And
8 I think there was something wedged behind the door. So the door
9 didn't open all the way. But I did -- I -- Like I said, I did
10 have my taser out. And I noticed that it was dark inside of the
11 apartment. And I -- I pushed my -- my shoulder against the door
12 to kind of push in and be able to see inside a little bit. And it
13 was -- it was dark in there. That was my first observation.

14 Q Were there any lights illuminated in the apartment, other
15 than the lights on your taser?

16 A Not that I recall, no.

17 Q So -- And could you see what was barricading the door or if
18 something was barricading the door?

19 A I didn't look at that time, no.

20 Q Okay. And so what did you do?

21 A So, I -- I heard a commotion all the way at the end, where --
22 where the -- I guess the glass sliding doors are to the balcony.
23 I heard some glass-breaking noise. So I pushed my way through
24 the -- the breached door. Officer Latores did follow me, very
25 closely behind me. And we entered the room. I did have my taser

1 out, which -- When you activate the taser, you take it off safety,
2 a dim LED light comes on for illumination purposes, as well as two
3 aiming-lasers. That wasn't sufficient enough to light up the room
4 to see any, like, details in the room. So I did take out my
5 flashlight that's located on my duty belt. And I was able to hold
6 that above my head and -- and forward of us, to illuminate the
7 room better to be able to see inside of that room.

8 Q And so once you had the room illuminated with your
9 flashlight, what did you observe?

10 A I observed furniture, like, scattered around the apartment.
11 There was a, like, -- looked, like, to be a table in front of us
12 that was overturned. There was items scattered around, papers
13 scattered around.

14 And I -- And I noticed the male identified as Mr. Celona
15 crouched down in -- in the corner, over by the -- by the sliding
16 glass window. And he was making very sharp, deliberate movements
17 with -- with his right and his left hand, towards the glass.

18 Q And to the glass where?

19 A The glass -- It was a glass sliding door to the balcony,
20 which I saw was -- was broken. And I could hear the sound of
21 breaking glass when -- on each movement of his hands.

22 Q And could you see what was in his hands?

23 A At that time, yes, I -- I observed large kitchen knives in
24 each of his hands.

25 Q And what did you do at that point?

1 A Well, throughout this entire ordeal, we were all yelling
2 towards him to -- to stop, stop what he was doing and -- and drop
3 the knives. And he didn't -- he didn't have any change of
4 behavior at all. He was -- He was looking towards us but it
5 didn't seem like he was looking at us. It was, like, referred
6 to -- like a thousand-yard stare. He had no changes in behaviors
7 at all. He wasn't listening to our commands. We were trying to
8 deescalate the situation and get him to listen to us. We were all
9 calling his name: "Thomas, please drop the knives, drop the
10 knives. Stop, stop." And, like I said, he had no change in
11 behavior, from any of us issuing those commands.

12 Q And how far away from him were you when you were issuing
13 those commands?

14 A I would say maybe -- maybe 20 feet or so; 18, 20 feet.

15 Q And so as you're walking into the apartment, you noticed
16 there's a kitchen there?

17 A Yes.

18 Q And there's the island in the kitchen?

19 A Yes.

20 Q Where were you in relation to that island?

21 A I was -- So, as entering, there's, like, the little hallway
22 and then it opens up into the kitchen. I was probably maybe a
23 step and a half into the kitchen, a little bit over to the right.

24 Q So, behind the island?

25 A Maybe slightly behind the island, yeah.

1 Q And so did Mr. Celona acknowledge you in any way?

2 A No, not in any way.

3 Q And so what did you do at that point?

4 A Well, we continued issuing verbal commands. And like I said,
5 I had my flashlight on him. And I also had my taser on -- on his
6 body. And I was focusing on those lasers, to -- in -- in case I
7 needed to deploy the taser. And at one point, he did turn his
8 body slightly towards us. His shoulders shifted. I don't know;
9 do you want me to demonstrate how this is done, or --

10 THE COURT: Sure.

11 BY MR. TARRANT:

12 A Okay, so, if -- if we were -- say we were over here, like,
13 outside of the window, and he was here. He was stabbing the glass
14 like this, and looking at us. And then, like I said, his
15 shoulders, like, slightly turned. And it appeared like he was
16 going to get up and maybe come after us. Like, his -- his
17 attention kind of shifted from the glass and from the knives, now
18 more towards us, it -- it seemed. So at that time, Sergeant Mawn
19 had said, you know, "Taser him, Drew. Taser him." And -- And I
20 did, at that point. I -- I issued the command "Taser, taser,
21 taser," as we're trained, to let everybody know that it's about to
22 occur. And I did deploy the first taser deployment at that time.

23 Q And do you know where your taser was aimed, at that point?

24 A Yes. So, during training, we're trained to split the belt
25 line, split the hemisphere of the body. What you're looking for

1 in a taser deployment is -- the -- the more spread you get, the
2 more effect you have. You're looking for neuromuscular
3 incapacitation, which is basically your muscles all locking up,
4 which basically renders you unable to -- to have any fine motor
5 skills and -- and move at all. So the idea was to incapacitate
6 him enough that we could move in and secure him. So, the taser
7 did hit him, I presume hit him where the lasers were -- were
8 aimed, which was his lower right thigh and up in his upper arm
9 area.

10 Q And what happened once you deployed the taser?

11 A At that time, he -- he did experience neuromuscular
12 incapacitation. And he rolled onto his back and let out an
13 audible grunt. However, he -- he still clenched the knives in his
14 hands, above his body. And that -- that cycle lasts for five
15 seconds. It's preprogrammed to -- to give that five-second shock.
16 But unfortunately, during that time, we weren't able to secure
17 him, due to the debris in -- in the way of us, as well as him
18 still presenting those edged weapons.

19 Q So, once the five-second burst ended, what happened then?

20 A So, the taser is -- is preprogrammed to start beeping, to let
21 us know when that five seconds is running out. So, it -- it did
22 start to beep. And he -- Once it stopped, that shock, he did
23 start to get up. And he had a -- a blanket that he had kind of
24 wrapped around his feet a little bit, like, on his legs, that he
25 did start to kind of wrap up in -- in the cords. So, the way a

1 taser works is it's -- it's like two small fish hooks that are
2 straightened out, with the weight on them. And when that -- when
3 they both shoot out, they're connected to very thin wires that
4 carries the electric energy. And those are very thin and very
5 easily broken. The probes are also easily pulled out, especially,
6 you know, if it were to hit clothing or -- or something of -- of
7 that fact. So he got -- he started to get up and take the blanket
8 and kind of, like, wrap it up in the wires, maybe pulling the
9 wires out, breaking them, pulling the probes out. And the way the
10 taser is designed is: you can reactivate it from an arc switch on
11 the side of the taser. So I did attempt to -- to re-energize
12 those probes that were effective.

13 Q Essentially re-energizing the probes that you've already
14 deployed?

15 A Correct.

16 Q So the idea would be that if they're still stuck in
17 someone -- in this case, Mr. Celona -- it would give him another
18 bolt of energy or electricity?

19 A Correct, yeah. So, the first time that I deployed them, it
20 was an effective hit. And like I said, he did experience that
21 neuromuscular incapacitation, which is the idea of the taser. So,
22 my thoughts were if those probes were still in him and I
23 re-energized it, that it would have the same effect and that the
24 second time maybe he would have dropped the knives and we would've
25 been able to move in and secure him safely.

1 Q Okay. So did you attempt at re-energizing?

2 A I did, yes. I -- I energized those two first taser probes
3 for another five-second interval. And that was done manually.
4 So, I was -- I was watching the LED display on the taser for that
5 five seconds. And I ended it after the five seconds. But it did
6 not have the desired effect at that point.

7 Q Could you tell if it had any effect?

8 A It did seem to have some effect, but certainly not that
9 incapacitation that we were looking for. It did seem to maybe --
10 You know, maybe the probe was half-inside and half-out, and he was
11 experiencing kind of inconsistent -- inconsistent effect of
12 that -- of that second five seconds.

13 Q So after that attempt, what did you do next or what happened
14 next?

15 A What happened next? So, like I said, he was getting up and
16 he had that blanket kind of, like, starting to wrap around him.
17 And he stood up, still with -- with at least one knife in his
18 hand. And he had the blanket. And he kind of held it up, away
19 from his body and up, like, protecting his whole body from our
20 view, essentially using that blanket as a shield from any further
21 taser deployments.

22 Q And what effect would that using the blanket as a shield have
23 on a taser?

24 A Like I said, tasers are easily affected by -- Even a leather
25 jacket or a winter jacket would -- would likely render that taser

1 ineffective. So, certainly a blanket, you know, held 3 feet away
2 from someone's body would -- would completely make that -- that
3 taser an ineffective device at that time.

4 Q And was -- I know you said this, but -- Mr. Celona, was he
5 still holding at least one knife?

6 A Yes, I could see at least one knife in -- in -- I could see
7 one knife in his -- in his left hand.

8 Q Okay. And with respect to the second knife, did you see
9 where that went or --

10 A I -- I didn't. I couldn't see his -- his other hand. I
11 couldn't see his right hand. So I -- I assume that it was
12 probably in that hand, behind the blanket. But I did definitely
13 see that one knife that was in front of the blanket, in -- in his
14 left hand as he held that blanket up as a shield.

15 Q As he's holding the blanket up as a shield, is Mr. Celona on
16 his feet at this point?

17 A He is, yes.

18 Q And what is he doing?

19 A He's still continuing that thousand-yard stare, right through
20 us. We were still -- We were still issuing verbal commands:
21 "Stop, Thomas. Please, stop. Drop the knives, drop the knives."
22 And he didn't seem to be -- He didn't even seem to be hearing --
23 hearing us. Like, it -- He -- He had no change of behavior at
24 all. He didn't speak at all during that time.

25 Q Okay. Is -- Did he -- Is he moving at this time, or is he

1 standing still?

2 A He -- Yes. He stood up and he began moving towards us.

3 Q When Mr. Celona started walking towards you, what did you do?

4 A We immediately began to back up, while still issuing verbal
5 commands for him to stop.

6 Q And when -- As you're backing up, are you looking at Mr.
7 Celona?

8 A Can you just repeat that question?

9 Q As you're backing up, is your attention still drawn to Mr.
10 Celona? Do you ever turn your back to him?

11 A At that time, I did not turn my back. No, you're using kind
12 of your peripheral vision, which is -- Like I said, it's -- it's
13 tough. It was dark. There was items all over the place. You
14 know, we wanted to move quickly enough to get out of -- out of
15 the -- the way of danger, but slow enough not to trip over
16 anything or -- or bump into each other. So we were moving
17 backwards while still looking forwards. But we were kind of using
18 our arms to -- It was very narrow. So we were using kind of,
19 like, our arms to feel the -- you know, the walls and our -- our
20 feet and stuff. You'd -- You know, you'd bump into each other and
21 you'd slow down. And so we're still looking forwards, but moving
22 backwards as quickly and safely as we could.

23 Q And how close did Mr. Celona get to you as you're backing out
24 of the apartment?

25 A Well, tough to say. I mean, the -- We were both moving at

1 inconsistent paces. So it was different distances at all
2 different times, I would say.

3 Q And can you describe, as Mr. Celona is walking towards you,
4 the route he took from the area of the slider across the
5 apartment, using that island as a reference, in the kitchen?

6 A So, he stayed -- So, if I'm looking at him, he's -- and the
7 island is here, to my right -- Yeah, it will be his left, but my
8 right. He didn't go over to that island. He -- He stayed kind of
9 more straight onto us as we were backing up.

10 Q And so --

11 MR. TARRANT: Can I have the exhibits?

12 BY MR. TARRANT:

13 Q Showing you what's been marked as -- This is 4C. So, looking
14 at 4C -- And would it be fair to say that 4C is from the
15 perspective of Mr. Celona when -- from the area of the apartment
16 he was in?

17 A Yes.

18 Q And can you just describe, looking at that exhibit, the
19 direction of travel he took?

20 A Yeah. So it would be from -- from here, over towards --
21 towards the door. Not -- Not towards the couch and not towards
22 the stove area.

23 Q When you say "towards the door," do you see what would be a
24 coffee table just to the right of the island?

25 A Yes.

1 Q Okay. And did Mr. Celona maneuver around the coffee table,
2 over the coffee table?

3 A You know, I -- I -- I didn't see. Like I said, he had the
4 blanket in front of him. I would assume that he stepped over it
5 or went around it and stepped over, whatever. Maybe this is a fan
6 or a lamp. Maybe he stepped over that. I -- I don't recall
7 exactly his -- his way of stepping over these -- this debris here.

8 Q Okay. And the fan and lamp you're referring to, fair to say
9 that's kind of between a small area between the table and the
10 island?

11 A Yes, that's correct.

12 MR. ANDERSON: Just for the record, someone's -- just can he
13 just describe what he was pointing at on there? Was he traveling
14 on the right side of the diagram, or was it the bottom right to
15 the top-right corner?

16 MR. TARRANT: Yes. I can ask that question.

17 THE WITNESS: Can you -- Can you just --

18 BY MR. TARRANT:

19 Q So, using the photograph as a reference, what --

20 A Yes.

21 Q -- area of the photograph are you looking at?

22 A Looking at the photograph, I'm referring to the right side,
23 which would be the -- the same side that the entryway door is, and
24 that wall, the closest wall.

25 Q And the coffee table is located in the bottom right-hand

1 corner; is that correct?

2 A Correct, yes.

3 Q And the front door you see is about midway up, on the right
4 side of the photograph?

5 A Yes.

6 Q And the area you're referring to is between the coffee table
7 on the right-hand corner and the island?

8 A The island in the middle. Yes. There's a small entryway
9 right there.

10 Q Thank you.

11 A Yes.

12 Q So, did you continue to back out?

13 A We did, yes.

14 Q And how far did you get? Did you exit the apartment?

15 A We did, we did eventually exit the apartment, yes.

16 Q And when you exited the apartment, where is Mr. Celona at
17 that point?

18 A Mr. Celona, when we exited the apartment -- Again, we were --
19 we were backing up, all kind of in a line. Mr. Celona had
20 continued to advance, you know, directly towards us. And he
21 was -- he got all the way to the threshold of that doorway that we
22 had breached. That was only, like I said, you know, halfway open.
23 He got right into that doorway.

24 Q And what were you doing at that point?

25 A So, at the time he was -- he was advancing towards us, the --

1 The tasers that we carry are Taser X2s, which -- You can say
2 they're semiautomatic tasers. They have two cartridges. So you
3 can deploy one -- Like I said, I did re-energize that one. And
4 then I actually did deploy a second set of -- of prongs towards
5 Mr. Celona. I knew that he did have the blanket as a shield. And
6 I knew that it may not be effective. But I did want to exhaust
7 any attempts to, you know, secure him with that taser, with that
8 non-lethal means. So I did deploy that second set of -- of probes
9 as he approached the doorway.

10 Q And where were you when you fired that second shot of probes
11 from the taser?

12 A I was maybe -- If I had to guess, I was a step -- would've
13 been, like, a step into the apartment. So, as I was going
14 backwards, maybe three small steps to -- to the doorway.

15 Q And how far was Mr. Celona from you at that point?

16 A He was -- He was closer than the first deployment, for sure.
17 Maybe -- Maybe 10 feet, if I had to guess.

18 Q And what effect, if any, did that second set of probes have?

19 A It did not have any effect whatsoever. I did try to time it.
20 Like I said, he was -- he was walking towards us with the blanket
21 in front of him. And you could kind of see where his leg would --
22 would contact the blanket. So I was attempting to at least get
23 one probe into his leg as it hit the blanket. I knew it was -- it
24 was a longshot, but I wanted to -- to try it. So I did -- I did
25 deploy it. But it was ineffective. It was completely

1 ineffective. No effect at all.

2 Q And then what happened?

3 A And then we proceeded to back out of the apartment, still at
4 this time -- still issuing verbal commands to stop. We were
5 yelling it very loudly, very clearly. We did exit the apartment.
6 Sergeant Mawn was behind us, all -- behind me. And then I would
7 be in the middle, I guess, at that point. And then Officer
8 Latores was -- was slightly in front of me. And we were all very
9 close-proximity, all probably touching each other almost the whole
10 time of the retreat. But we were in the doorway at that point.

11 Q And what happened next?

12 A So, I took the -- Like I explained before, the taser, how it
13 works, it has the -- the wires that come out.

14 Q Yep.

15 A So at that point, I had -- I had four wires hanging out of my
16 taser, that were all, you know, dangling in front of us. So I --
17 I took those cartridges out of my taser and stowed my taser back
18 into my belt. I did see that Patrolman Latores did hand Sergeant
19 Mawn his taser. So Sergeant Mawn did have a taser that I could
20 see. So at that point, me not having anything to -- to help at
21 that point, I grabbed -- I tried to grab Sergeant Mawn's taser
22 from him, to attempt to redeploy probes into Mr. Celona as he
23 advanced.

24 Q And what, if anything, occurred as you were trying to do
25 that?

1 A As I was trying to do that, I -- I looked down at the taser
2 to -- to try to secure it. And at that point, I know Mr. Celona
3 was -- was exiting the doorway. He was in -- in the threshold
4 with at least that one knife. And at that point, as I looked
5 down, I heard the discharge of one single round from a firearm.

6 Q Okay. And could you see where it came from?

7 A I didn't see, at the time. But, you know, I knew that
8 Officer Latores did have his firearm out. And, you know, I -- I
9 did hear the shot in close proximity, so --

10 Q So what did you see after that shot was fired?

11 A I -- I looked up and I saw Mr. Celona fall to the ground,
12 right on that threshold, in the doorway. And I saw Officer
13 Latores, obviously, in front of me still.

14 Q Okay. And so what did you do at the scene then?

15 A At that time, I -- I -- I grabbed Mr. Celona. He had, like,
16 a -- like, a light shirt on, like a -- like a light sweatshirt or
17 something. I -- I grabbed that by his shoulder blades, because I
18 knew -- I knew, one, we needed to get him in handcuffs; and, two,
19 we needed to administer first aid to him. That knife was -- was
20 still under him, presumably. So we did pull him away from that
21 area, to get him out to the -- to the bigger hallway. So that
22 way, I had more room to -- to administer first aid to him.

23 Q And did you handcuff Mr. Celona?

24 A I did, yes. I pulled him out, first, out of that small,
25 confined hallway where that knife was. I did get him out to the

1 large hallway. And I did -- I did handcuff him. And I did start
2 first aid at that time.

3 Q So why did you handcuff him at that point?

4 A Well, because we knew that he had two knives on him
5 initially, at least one knife I did see upon pulling him away. He
6 had landed, like, over the knife. So we didn't know -- I didn't
7 know if he had another knife on him, if he was going to continue
8 to -- you know, to continue his violence towards us. So it is
9 training and experience, that you do need to place handcuffs on
10 somebody at that --

11 Q So you're trained to do that?

12 A Yes, we are, yes.

13 Q And so once you had him out away from the front door --

14 A Yes.

15 Q -- in the hallway --

16 A Yes.

17 Q -- you performed CPR?

18 A I did, yes.

19 Q And what did you do?

20 A I -- I began CPR. I checked for a pulse, which I -- at the
21 time, I could not feel. He let out one -- one single agonal
22 breath, which is, you know, just a little bit of air escaping. He
23 didn't -- His eyes weren't focused on anything. He was starting
24 to turn pale. I did observe a bullet hole directly center of his
25 chest, in between his ribcage. It -- It wasn't bleeding at the

1 time. So at -- at that point, I did begin chest compressions to
2 Mr. Celona.

3 Q Okay. And then at some point did somebody take over CPR?

4 A Yes. Shortly after that, Patrolman Meiler arrived on scene
5 and -- and took over care of Mr. Celona.

6 Q And when Officer Meiler showed up and took over care, what
7 did you do?

8 A I assisted him, initially. He -- He asked me to turn Mr.
9 Celona over. And he checked his back for any exit wounds,
10 which -- there were none. And Patrolman Meiler then took over
11 care and -- and CPR of -- of Mr. Celona.

12 Q Okay. And then eventually did the fire department come up?

13 A Yes. Like I said, we did have them staged, so they were
14 already on scene. So, I got on the radio and -- and requested
15 that they respond immediately to Room 326.

16 Q And once the fire department got there, what did you do?

17 A The fire department then took over care of Mr. Celona.
18 And -- And I remember standing up and -- and approaching Officer
19 Latores, who had kind of walked away a little bit from the scene.
20 And at that point, Officer Ellis was also on scene.

21 Q And did you reenter the apartment at any time that night?

22 A I don't believe so, no.

23 Q Did you seize anything from the apartment?

24 A I did not, no.

25 Q Okay. I'm going to show you this photograph, ask you if you

1 recognize what's depicted there.

2 A It's a -- a neon-yellow shoe or sneaker.

3 Q And where in the area of Apartment/Unit 326 is that
4 photograph taken?

5 A That is right outside of the doorway, in the hallway.

6 Q And I know it's tough to see, but do you see anything else in
7 that?

8 A Yes. I also see the two taser cartridges.

9 THE COURT: What Exhibit No. is this, again?

10 MR. TARRANT: This is -- It's not marked yet.

11 THE COURT: Oh, okay.

12 BY MR. TARRANT:

13 A I also see two taser cartridges that I discarded outside of
14 the doorway, as well as -- as well as one of the -- the probes and
15 the -- the connecting -- the connecting wire associated with those
16 taser deployments.

17 Q Okay. And you also see a Placard No. 4 in that photograph?

18 A Yes, I do.

19 Q And is that the area where you removed the cartridges from
20 your taser?

21 A That is. Yes, I dropped them at my feet immediately upon
22 taking them out of my taser.

23 Q Okay. And showing you this next photograph, fair to say
24 that's a photograph of the same scene, only a closer view of the
25 cartridges and the sneaker?

1 A Yes, that is correct.

2 Q And this photograph, also fair to say that it's a photograph
3 of the same area, only a closer view of the probe that you see?

4 A Yes, it is.

5 Q Thank you.

6 THE COURT: What about 16A, B, C?

7 MR. TARRANT: Thank you.

8 THE CLERK: Thank you.

9 **[Three Photographs Marked as Exhibit No. 16]**

10 MR. TARRANT: Thank you. I think that's all the questions I
11 have for this witness, Your Honor.

12 THE COURT: Attorney Anderson?

13 **CROSS EXAMINATION OF WITNESS, OFFICER ANDREW RICCIO**

14 BY MR. ANDERSON:

15 Q Good afternoon, Officer Riccio.

16 A Good afternoon, sir.

17 Q You were asked some questions, talking about the training
18 you've had in terms of the taser, and your training with OC spray.

19 A Yes.

20 Q Was OC spray considered by in this situation at all?

21 A It was not.

22 Q And why is that?

23 A Because the presence of edged weapons in close proximity, it
24 was a confined area, and -- and it would have been adding to the
25 danger of the situation.

1 Q It's fair to say this was the first taser deployment for the
2 Winchester Police Department that was not in a training scenario?

3 A That's correct; it was.

4 Q Have you been involved in on-the-job OC spray incidents where
5 the OC spray has made it difficult or incapacitated the officers
6 who were trying to subdue somebody?

7 A Yes.

8 Q And can you tell the Court about that situation?

9 A Yeah. There was one situation in particular where I deployed
10 the OC. It was in a -- in a hallway similar to the -- the hallway
11 we were in -- to an individual. And all the officers involved
12 became very disoriented, coughing, skin burning, couldn't see very
13 well. But we were able to take -- take the person into custody.
14 However, we were all very affected by that -- by that OC spray.

15 Q And what were you confronted with? What were the
16 circumstances that caused you to deploy the OC spray in that
17 situation?

18 A In that situation, there was -- there was -- I believe it was
19 some sort of, like, a domestic-type call where there was a -- a
20 drunk male who, when we got up -- up to the apartment, he was
21 standing outside of the apartment, kind of in the doorway. We
22 couldn't really see his hands. And he was -- he was yelling
23 towards us and screaming and acting belligerent. And at that
24 time, we didn't actually have tasers. We only had batons,
25 firearms, and OC spray.

1 Q And on that call, do you recall what other officers were
2 present with you?

3 A Officer Latores and Officer Ellis and, I think, -- I think
4 that might have been it.

5 Q And in terms of the recency or when that call happened, do
6 you recall when it actually --

7 A I -- No. Maybe five years ago, if I had to guess. Five or
8 six years ago. I -- I don't know.

9 Q Now, you were asked some questions about the equipment you
10 had on your duty belt. Were you also wearing a vest?

11 A I was, yes, a bulletproof vest.

12 Q And are you generally familiar with the technology behind
13 that bulletproof vest?

14 A Yes, I am.

15 Q And can you describe that to the Court, how it's designed to
16 stop a bullet?

17 A Yeah. So, bulletproof vests are designed only to stop
18 bullets. Basically, it's a very tightly woven material, like, a
19 very tightly woven fabric. And when the bullet hits it, the --
20 the bullet's made out of lead, so the bullet will actually kind of
21 get smooshed, right? And it -- it'll still -- it'll still go in.
22 It'll break ribs, penetrate a little bit into you. But the bullet
23 won't actually go through your skin. Now, that bulletproof vest
24 is not designed to stop edged weapons of any kind or bullets that
25 may have steel cores in them that will not mushroom, that will not

1 squish when they hit you. So I've seen -- Through my training and
2 experience, I've seen videos and pictures of people who were
3 wearing vests that the knives just went right through and were
4 completely ineffective.

5 Q And were you mindful of that during the situation --

6 A Yes.

7 Q -- with Mr. Celona?

8 A Yes, I was.

9 THE COURT: I'm sorry; did you say that this was the first
10 incident where a taser was used by the Winchester police?

11 THE WITNESS: Yes, it was. Yeah, we -- we got them somewhat
12 recently.

13 THE COURT: Okay.

14 THE WITNESS: And this was the first deployment.

15 THE COURT: Okay. Thank you.

16 THE WITNESS: You're welcome.

17 BY MR. ANDERSON:

18 Q Just in terms of when you first entered that apartment and
19 kind of turned to the left, what do you recall being on the
20 ground, on the floor there as you came in?

21 A There was, like, a -- Like, a table looked like it was maybe
22 flipped over. There was, like, papers strewn about. There was a
23 lot of debris. Like I said, it was dark. And I was more
24 concentrated on, you know, any threats and other people. We
25 didn't know how many people were in there or what was going on.

1 But I did see Mr. Celona, and that kind of took my focus. Also,
2 like I said, I was looking at those lasers on the taser, making
3 sure that if I did have to deploy it, it -- it was as effective as
4 it could be. So I was more paying attention to -- to the dangers
5 in the room.

6 Q Do you recall, when you were interviewed by the state police,
7 saying that it looked like a tornado had gone through the place?

8 A I -- I do remember saying that, yes.

9 Q And what -- Did that play in your mind as you guys are trying
10 to back out of there, in the narrow hallways, while keeping your
11 focus on Mr. Celona and the knife or knives?

12 A Yeah. Like I said, we were trying to move backwards as -- as
13 quickly and as safely as possible, because there was a lot of
14 debris and stuff that you could easily have tripped over. Now, if
15 any one of us had tripped, it would probably affect at least one,
16 if not all of us, tripping over each other, because we were --
17 like I said, we were in very close proximity as we were backing
18 up. So we had to be very careful of where we were stepping as we
19 were walking backwards in this -- this dark room that was
20 scattered with debris.

21 Q And in terms of your training as a police officer, were you
22 originally trained at the academy?

23 A Yes. So, I went to two police academies, the part-time and
24 the full-time police academy.

25 Q And do you recall in those academies getting any training in

1 terms of certain distances to be alert to when you're confronted
2 with somebody with an edged weapon?

3 A Yes, sir. They -- They say 21 feet. Within 21 feet,
4 somebody can -- can advance at you and stab you before you can
5 pull your firearm and -- and get a shot off.

6 Q And at the time you were exiting the apartment and you heard
7 the gunshot go off, do you know what the distance was between
8 Officer Latores and Mr. Celona?

9 A It was very close. I'd say -- I'd say about 5 feet, maybe
10 less.

11 Q Okay.

12 MR. ANDERSON: I don't have any further questions.

13 THE COURT: Attorney Dewitt?

14 MS. DEWITT AHERN: Thank you, Judge.

15 THE COURT: You're welcome.

16 MS. DEWITT AHERN: If I may, Judge, take my mask off again.

17 THE COURT: Sure.

18 MS. DEWITT AHERN: Thanks.

19 **CROSS EXAMINATION OF WITNESS, OFFICER ANDREW RICCIO**

20 BY MS. DEWITT AHERN:

21 Q So, officer, you went to Parkview apartments for a call of a
22 breaking-and-entering, correct?

23 A That's what we believed it was, yeah. It was somewhat
24 unclear at the time of the dispatch. But that's essentially what
25 we believed we were going to, yes.

1 Q And I think you said it was a bit fuzzy, about the details.

2 A Correct.

3 Q And when you arrived, you, Officer Latores, and the Sergeant
4 arrived pretty close to the same time?

5 A Yes, yes.

6 Q And you took the lead, because it was your territory?

7 A Correct.

8 Q So you went and spoke to the security guard at the apartment,
9 fair to say?

10 A Correct, yes.

11 Q And the security guard -- You went to get briefed about what
12 had happened before your arrival?

13 A Can you repeat that question?

14 Q You went to speak with him so you could get an idea of what
15 was going on?

16 A Correct.

17 Q And he informed you, did he not, that the person that resided
18 in Apartment 326 had reported a past breaking-and-entering?

19 A I wouldn't say a "past" breaking-and-entering, because it was
20 an ongoing situation. But, yes, he reported a
21 breaking-and-entering of two black males, is what he said.

22 Q And he told you he had a conversation with this person in
23 Apartment No. 326?

24 A I'm not sure.

25 Q Well, he related to you information provided to him by that

1 person?

2 A Correct, yes.

3 Q And -- But he never -- He met -- Did he by any chance -- Did
4 Mr. -- The security guard's name was Mr. Gaffney?

5 A Yes.

6 Q Okay. Did Mr. Gaffney also inform you that he had been up to
7 the apartment?

8 A I believe he had.

9 Q And that -- He never mentioned to you that he had seen
10 anybody else in that apartment but Mr. Celona?

11 A He didn't mention seeing anybody else. But he did report
12 that the reporting party did say that there were two other
13 individuals.

14 Q But he didn't report seeing anybody else?

15 A He didn't see anybody, that he told us, correct.

16 Q And, you also said, at the time, you had learned some
17 information from Officer Latores about the occupant of 326?

18 A Correct.

19 Q And that he had been involved in a previous call involving a
20 knife --

21 A Correct.

22 Q -- with this individual? Okay. And did he also inform you
23 that that call involved a mental health call?

24 A He informed me that Mr. Celona went to the Winchester
25 Hospital voluntarily for a mental evaluation, yes.

1 Q So you were aware that there were potentially some mental
2 health issues with Mr. Celona?

3 A Potentially, yes.

4 Q And you said you had the fire department there; they were
5 staged. Were they called at this point in time or once you got
6 upstairs to the third floor?

7 A They -- Once we got up to the -- to the apartment, they --
8 I -- they were called to be staged, yes.

9 Q Did anyone call an ambulance, an EMT, or paramedics or anyone
10 like that before the incident where the shooting occurred?

11 A You mean like a third party?

12 Q Yes.

13 A I don't -- I don't know.

14 Q Did any of the officers?

15 A Well, the fire department does have an ambulance that they
16 respond with. So, yes, at that time there was an ambulance and
17 EMTs on -- on scene.

18 Q Now, I know Winchester doesn't have a social worker on duty.
19 But there are nearby hospitals that have psych units and psych
20 providers, fair to say?

21 A Yes. The Winchester Hospital does -- does have personnel
22 available to be called.

23 Q So, the three of you proceeded, walking up the stairs to the
24 apartment, 326, fair to say?

25 A Correct, yes.

1 Q And when you arrived there, you're lead. You started yelling
2 at the door for this Frank to open up, correct?

3 A I -- I began knocking and -- yes, and announcing.

4 Q Well, knocking, okay. And then the neighbor told you that it
5 wasn't Frank, it was Tommy, correct?

6 A Correct, yes.

7 Q So, you said you knocked a number of times? Like, a dozen
8 times?

9 A Yeah, I don't remember how many times I actually knocked.
10 But I was -- I was hitting the door loudly with my fists.

11 Q And yelling to open the door. Yelling at the person inside
12 to open the door?

13 A I wouldn't say "yelling at." I would say announcing our
14 presence. And, you know, we were attempting to get him to come
15 speak with us. We --

16 Q So you were saying, "Open the door. Police."

17 A Yes, that we need to speak with him. Correct.

18 Q And you had no response from inside?

19 A Correct.

20 Q At some point in time, a decision was made to kick the door
21 open?

22 A Correct.

23 Q But no one called the security guard to get the master key to
24 the door?

25 A I'm -- I'm not sure. I didn't.

1 Q Well, you asked the Sergeant if you could breach the door, if
2 the door should be breached?

3 A I suggested it to -- to the Sergeant, who -- Yes.

4 Q It took you several times, to breach that door?

5 A Several kicks, yes.

6 Q Once it was -- Now, when you breach the door, you're standing
7 in the corridor, with the door across the way from you, with
8 Apartment 325 across the way, fair to say?

9 A Can you repeat that question?

10 Q Sure. The corridor you're in is very narrow?

11 A Yes.

12 Q Your back is to the apartment door, 326, fair to say?

13 A Correct, yes.

14 Q And you're kicking out, backwards?

15 A Backwards, yes.

16 Q And you're facing the door?

17 A The -- The neighbor's door, yes.

18 Q And Officer Latores and Sergeant Mawn are off to your -- if
19 you're facing that, off to your left?

20 A So, they would be off to my left, yes.

21 Q Are they down in the hallway? Or are they still in that
22 little corridor?

23 A No, they were -- they were right with me, yeah.

24 Q Now, you kicked open the door. Mr. Celona didn't say
25 anything to you?

1 A Correct, there was -- there was no words.

2 Q And he didn't move from the area where you found him, by the
3 window? Well, let's put it this way: he was seated by the window
4 when you got into that apartment?

5 A He was -- He was more crouched. But, yes, he -- yes, he was
6 stationary at that time that we located him.

7 Q Now, the lights weren't on in the apartment, but you could
8 see a little -- you had some light in the apartment, from the
9 lights in the hallway, from the corridor?

10 A I -- I -- No, I never said that, no.

11 Q No, I didn't say you said that.

12 A Okay.

13 Q I'm asking you.

14 A Oh, no. Then I would say no.

15 Q So you had no lights, looking into that apartment?

16 A No. I had my -- my taser, with the small LED. It's -- It's
17 probably less bright than a cell phone light. And then I had my
18 flashlight.

19 Q But I want to -- You had no lights in the hallway assisting
20 you, is what I'm saying.

21 A Correct, yeah, there was not a lot of ambient light coming in
22 from -- from the hallway.

23 Q So when you walk into the -- The door's open. You go through
24 the door. And you take the left up the little hallway that leads
25 you to the kitchen area. And you're in the lead right then there,

1 right?

2 A Could you repeat that?

3 Q Sure. You walk through the door, correct?

4 A Yes, yep.

5 Q You take a left, correct?

6 A Correct.

7 Q And you walk sort of like a narrow -- maybe the width of
8 these chairs, up that, to go to a kitchenette area?

9 A Correct, yes.

10 Q And in front of you when you get to the kitchenette area, to
11 the right would be like a refrigerator. But there's, like, an
12 island in front there?

13 A Yes.

14 Q And that island -- And there's some furniture to the left of
15 that island, turned over, a table of some sort?

16 A Yes.

17 Q So you've got the island and the table that's between the
18 three of you and Mr. Celona, who's still at the window, banging on
19 the window with the knives?

20 A No, no. So, like I said before, I wasn't behind that island.
21 We -- We were not, like, you know, -- We were not protected or
22 behind that island. I was kind of half-behind it. You know what
23 I'm saying? Like, maybe my right leg was behind it, my left
24 wasn't.

25 Q Sort of like this, with the island to your side. But you're

1 not standing in front of the island like this?

2 A I was not standing in front of the island, correct.

3 Q And Mr. Celona is still crouched on the floor, with the two
4 knives, banging, not looking at you at this point in time?

5 A Oh, no, he was looking at us. Yes.

6 Q He had time to turn around, now?

7 A Well, like I explained, he was -- he was stabbing the glass
8 and -- and looking towards us.

9 Q So if you're, like, to my right, he's sort of like this?

10 A So I guess -- So I guess if the glass is here and -- and you
11 were me and I'm Mr. Celona, I would be like this.

12 Q So -- Okay. And he has a --

13 A Yeah. So, shoulders facing the glass, head kind of more
14 turned towards us, looking at us.

15 Q And he has that blank stare, looking at you?

16 A Yes.

17 Q Okay. Almost like looking at you but not seeing you?

18 A Correct, yes.

19 Q Did you find that -- Strike that. But he didn't get up at
20 this point in time?

21 A No, he didn't.

22 Q You're engaging or trying to engage him?

23 A Correct.

24 Q He's not engaging back?

25 A Correct.

1 Q I mean, three officers just broke into the apartment, and he
2 is not engaging with you?

3 A Correct.

4 Q At that point in time, a decision was made to taser him?

5 A No. It was -- It wasn't until he turned his focus towards
6 us. And, like I said, his shoulders turned. And -- And it was --
7 it was my feeling that he was -- could potentially have gotten up.
8 So at that point, I decided to deploy the taser.

9 Q So he could have potentially got up, but he was actually --
10 and you just testified -- looking at you, shoulders more squared
11 towards you, but banging on the windows with the knives?

12 A Initially, yes. And then, like I explained, he -- his
13 shoulders turned slightly. So there was a slight change in
14 behavior. And that's -- At that time, I decided that it was
15 appropriate to deploy the taser.

16 Q And you tased him?

17 A Correct.

18 Q And he fell backwards?

19 A Correct.

20 Q And he was there for a few seconds?

21 A Five.

22 Q And then he gets up and he grabs the blanket?

23 A Yes.

24 Q Is that correct?

25 A Yes.

1 Q And he stands up fully then, right?

2 A Yes.

3 Q And he has the blanket pulled in -- held in front of him?

4 A Correct.

5 Q With the knife in his left hand.

6 A Yes.

7 Q And he's just walking slowly. This is when he starts to
8 walk, right?

9 A Yes, after the first taser deployment. And he starts to
10 walk, yes.

11 Q And there's three of you -- Now there's three officers fully
12 in full uniform, right?

13 A Correct.

14 Q And he's not engaging, talking to you?

15 A He was not talking to us, no.

16 Q Not telling you to get out of his apartment?

17 A He was not.

18 Q Didn't say anything to you?

19 A Correct.

20 Q You three officers are going backward to the hallway that's a
21 few feet, that takes you to the door, fair to say, as you're
22 backing out?

23 A Yes. But prior to backing up, I did -- like I testified, I
24 reactivated that taser deployment to attempt to stop him at that
25 time, like I -- and then we proceeded to back up, yes.

1 Q So there was one taser that you would say was hit?

2 A Effective, yes.

3 Q And the second taser was not effective, right?

4 A The --

5 Q The second time you tried to?

6 A It -- It was not as effective as the first, yes.

7 Q But it had some effect?

8 A Some effect.

9 Q Then you -- the three of you were backing up. When you were
10 backing up, what order were you in?

11 A So, it was Sergeant Mawn in the back, me, and then Officer
12 Latores would be -- Well, he was kind of to my left, I guess, at
13 that point.

14 Q Now, you testified for Mr. Tarrant that back when you were
15 making the determination that you would be the lead and you would
16 have your taser --

17 A Yes.

18 Q -- and Officer Latores would be the lethal -- the --
19 Obviously, the preference is not to have to engage lethal force,
20 fair to say?

21 A Yes.

22 Q I think the -- your testimony is the preference is to always
23 try to use the least lethal force possible?

24 A That's correct.

25 Q Just so -- Just for a minute, let me go back to Mr. Gaffney.

1 When you talked to him, he told you that -- you testified that Mr.
2 Celona, the occupant, -- at this point in time, I'm not sure if
3 you actually had the name "Mr. Celona" -- was out of sorts.

4 A Yes.

5 Q As you were backing out of the door to the hallway and Mr.
6 Celona is walking towards you, -- He's just walking towards you,
7 fair to say?

8 A Can you repeat that?

9 Q With the blanket and the knife, but you're backing out and
10 Mr. Celona is walking towards you?

11 A Yes.

12 Q Like this, right?

13 A Yes.

14 Q You get to the doorway. And all three of you are ultimately
15 into the corridor, correct?

16 A Yes, yes.

17 Q When you enter into that corridor, there's only approximately
18 3-feet-5-inches between the two doors, correct?

19 A Between the neighbor's door?

20 Q Short distance?

21 A Sounds -- Yeah, sounds accurate.

22 Q So, you didn't back straight out, correct? You would've been
23 backed into the neighbor's door?

24 A You -- Can you repeat that question?

25 Q Sure.

1 A Back straight out?

2 Q If this is the neighbor's door, and this is 326, there's not
3 really much more of a distance than it is here anyway, between the
4 two doors?

5 A Yep.

6 Q So --

7 A Yeah, so I'll -- I'll clarify that. So, there -- So, like I
8 said, when I breached the door, I believe there might have been
9 something behind the door, preventing it from swinging all the way
10 open. So it was -- it was maybe at a 45-degree angle. So as I'm
11 backing out, that's kind of guiding -- So, we -- we didn't walk
12 backwards, stop, turn 90 degrees, and back up. We kind of backed
13 up like this, you know.

14 Q So let me --

15 A So the door would be to my left as we --

16 Q Okay.

17 A You know?

18 Q So when you breached the door, in fact, it went to the right.
19 The door went to the right, as much as it could?

20 A So -- So the door was here and -- and I breached it. It --
21 It went like -- like this, maybe a 45-degree angle.

22 Q And so you --

23 A So it didn't --

24 Q -- backed out that way, at an angle?

25 A So we backed out -- Yeah.

1 Q Okay. So you were walking at an angle down that corridor,
2 walking out that door?

3 A No. So, right -- So, when we got to the threshold of the
4 doorway, the door was -- was still at a 45-degree angle. So we
5 kind of had to -- to turn our bodies and -- and get out of the --

6 Q Like this?

7 A -- the doorway. So it was more like a fluid movement than
8 a --

9 Q Yeah, no, I got it. I understand.

10 A -- than a stop and -- Yeah. Oh, yeah, I'm just trying to
11 clarify, so we're all --

12 Q Yeah.

13 A Yeah.

14 Q You're walking at an angle, obviously, because the door's not
15 fully opened. And you're walking out into the short corridor?

16 A Yes.

17 Q At an angle, because you're getting out that doorway?

18 A Correct.

19 Q You're out in that hallway. And there's Sergeant Mawn and
20 yourself?

21 A Yes.

22 Q And then Officer Latores is right in front of you?

23 A Yeah. We were all very close. But, yes, yeah.

24 Q And there is an attempt at exchange between you and Sergeant
25 Mawn -- I'm sorry; Mawn [pronounced differently] --

1 A Mawn, yep.

2 Q -- over a taser, fair to say?

3 A Yes.

4 Q And you were trying to get the taser from Sergeant Mawn, that
5 he had, fair to say?

6 A Correct.

7 Q During that period of time -- And that was a short period of
8 time, the exchange lasted?

9 A Yes, that was a short period of time.

10 Q That's when there was a gunshot?

11 A Correct.

12 Q And that's when Mr. Celona was shot?

13 A Yes.

14 Q You were not watching what was going on in front of you at
15 the time? You were more towards the Sergeant?

16 A Well, so, my shoulders were still facing Officer Latores and
17 the -- the doorway and -- and Mr. Celona exiting through that
18 threshold. So I was still looking that way. But at the time,
19 initially I was trying to get the taser out of his hands with my
20 peripheral vision, while still looking. And -- And I -- I made
21 the decision that I needed to look down temporarily to grab it.

22 Q Mm-hmm.

23 A So I was still facing in front of me. But -- But I kind
24 of -- my eyes had turned, and my --

25 Q Had diverted away from --

1 A -- my attention was -- was directly on the taser at that
2 point, for --

3 Q Mm-hmm.

4 A -- for that split second, yes.

5 Q Mr. Celona had not stepped into that corridor?

6 A I -- Like I said, I wasn't looking. He had a blanket. I --
7 Yeah, I -- I don't --

8 Q In fact, when he was at that doorway, he was still holding
9 that blanket up in front of him?

10 A Correct.

11 MS. DEWITT AHERN: Just one moment, please, Your Honor.

12 THE COURT: Sure.

13 [Pause]

14 BY MS. DEWITT AHERN:

15 Q And you are aware that the Winchester police has a policy and
16 procedure for handling people with mental health issues, fair to
17 say? Are you aware of that?

18 A Well, as it relates to certain things. Yes, I -- Yes.

19 Q And you were aware from conversation with Officer Latores
20 that at least one point in the past there was a mental health
21 issue involving Sergeant -- Thomas Celona.

22 A A -- Yeah, certainly a potential mental health issue, yes.

23 Q And there was never any conversations with Mr. Celona?

24 A He never spoke to us, no.

25 Q Once the shot occurred, he fell forward, Mr. Celona?

1 A Correct.

2 Q And he wasn't speaking when he fell?

3 A He was not.

4 Q He didn't say anything when he fell?

5 A Correct.

6 Q And you grabbed him and moved him away from the doorway?

7 A So, I -- I grabbed, like, his shoulder blade area, his -- his
8 shirt. And -- And I -- I pulled him. Yeah, I dragged him,
9 basically, away from -- away from that area that he fell at, yes.

10 Q Into closer to the hallway?

11 A Yes, the wider hallway, where it intersects with that
12 hallway. So there was kind of more -- more room there.

13 Q When you grabbed him, he wasn't fighting you at all, was he?

14 A He was not.

15 Q He wasn't saying anything to you at all, was he?

16 A Correct.

17 MS. DEWITT AHERN: Nothing further, Judge.

18 THE COURT: Anything?

19 MR. TARRANT: Nothing, Your Honor.

20 MR. ANDERSON: I have nothing, Your Honor.

21 THE COURT: I just have one question.

22 THE WITNESS: Sure.

23 **CROSS EXAMINATION OF WITNESS, OFFICER ANDREW RICCIO**

24 BY THE COURT:

25 Q When the witness across the hall said his name is not Frank,

1 it's Tom, --

2 A Yeah.

3 Q -- did she say anything else?

4 A I -- I don't recall that she did.

5 Q Okay.

6 A No, I -- I don't recall.

7 Q Okay.

8 THE COURT: Very good. Anything we need to discuss before
9 tomorrow?

10 MR. TARRANT: No, I don't believe so.

11 THE COURT: Okay. Do you know your witness order list or --

12 MR. TARRANT: Yes.

13 THE COURT: Susan Dunn's testifying tomorrow?

14 MR. TARRANT: Yes. And she's the occupant of the --

15 THE COURT: Right.

16 MR. TARRANT: -- Unit 125 -- 325. I expect Dr. Atkinson from
17 the Medical Examiner's Office will be here first thing at
18 9:00 a.m., first witness.

19 THE COURT: Okay.

20 MR. TARRANT: I expect Susan Dunn to follow. I'll put on Let
21 Donoghue for a short time. He's going to be very quick. And I
22 think that's it, Judge, although we did hear from Mr. DiChiara,
23 who said he can be available by Zoom at three o'clock tomorrow
24 afternoon, which will likely give us a lot of time in between the
25 last witness tomorrow and Mr. DiChiara.

1 THE COURT: Okay.

2 MR. TARRANT: Probably a couple hours.

3 THE COURT: Is that firm? He -- 3:00 p.m., that's the only
4 time he can do?

5 MR. TARRANT: That's what he said. In fact, he said he was
6 going to step out at 3:00. The thing he's at, he said, went until
7 5:00. But he'll sneak out at 3:00.

8 THE COURT: Okay.

9 MR. TARRANT: Unfortunately, that sounds like all he can do.

10 THE COURT: All right. Well, we'll do the best we can. All
11 right. Thank you all very much. See everybody tomorrow at
12 9:00 a.m.

13 MR. TARRANT: All right. Thank you.

14 THE WITNESS: Thank you, Your Honor.

15 [Witness steps down]

16 [Adjourned at 4:16:43 p.m.]

17

C E R T I F I C A T I O N

I, Quaverly H. Rothenberg, an Approved Court Transcriber, do hereby certify that the foregoing is a true and accurate transcript of the audio recording of the above-entitled matter provided to me in the form of an electronic sound recording.

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January 7, 2021

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The Commonwealth of Massachusetts

AUDIO ASSESSMENT FORM

TODAY'S DATE: January 7, 2021

TRANSCRIBER NAME: Quaverly Rothenberg

CASE NAME: MIDDLESEX D.A.'S OFFICE v. THOMAS CELONA

DOCKET NUMBER: 2153IN000001

RECORDING DATE: October 18, 2021 **TRANSCRIPT VOLUME:** II OF III

TYPE: FTR JAVS

QUALITY: EXCELLENT GOOD FAIR POOR

ISSUES:

Time stamp(s) of indiscernible word(s):

speaking away from mic.

10:02:33 a.m.

COMMENTS: Participants were not well mic'd, apart from the judge; it's my understanding that this was not the usual courtroom everyone would use, so it's understandable. But in general these participants can stand to be more aware of the record, including their speed.

The bigger issue is that FTR failed to transfer several packets of data, which caused an inordinate amount of work for clerks and our FTR contract-relations specialist, including numerous e-mails and follow-ups to get FTR to act. The delay was especially problematic given that inquests always have tight transcript turnarounds time and report deadlines in addition to stringent file-transfer protocols.

The uptick in download and server issues with FTR should be addressed if possible -- it is often the case that the server is nonresponsive and unavailable for transcribers to retrieve files, perhaps due to issues inherent to Australia's infrastructure. A domestic alternative may be desirable.

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