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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
Civil Action No. 1:12-cv-11908-FDS

EURIE A. STAMPS, JR. and NORMA
BUSHFAN STAMPS, Co-Administrators
of the Estate of Eurie A. Stamps,
Sr.,

Plaintiffs,

v.

THE TOWN OF FRAMINGHAM, and PAUL
K. DUNCAN, individually and in
his Capacity as a Police Officer
of the Framingham Police
Department,

Defendants.

VIDEOTAPED DEPOSITION OF MICHAEL P. SHEEHAN

Tuesday, August 6th, 2013
10:05 a.m.

Held At:
Kreindler & Kreindler LLP
277 Dartmouth Street
Boston, Massachusetts

REPORTED BY:
Maureen O'Connor Pollard, RPR, CLR, CSR

1 APPEARANCES:

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Also Present: Lucille Sharp, Paralegal

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21

Videographer: Christopher Coughlin

22

23

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1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Chris Coughlin, I'm a
5 videographer for Golkow Technologies.

6 Today's date is August 6th, 2013, and
7 the time is 10:05 a.m.

8 This video deposition is being held in
9 Boston, Massachusetts in the matter of Eurie
10 A. Stamps, Jr. and Norman Bushfan Stamps,
11 Co-Administrators of the Estate of Eurie A.
12 Stamps, Sr., Plaintiffs, versus the Town of
13 Framingham and Paul K. Duncan, individually
14 and in his capacity as a police officer of
15 the Framingham Police Department,
16 Defendants, in the United States District
17 Court, District of Massachusetts, Civil
18 Action Number 1:12-cv-11908-FDS.

19 The deponent is Officer Michael
20 Sheehan.

21 Would counsel identify yourselves for
22 the record.

23 MR. MUSACCHIO: My name is Joseph
24 Musacchio, and I represent the Plaintiff,

1 Eurie Stamps, Jr..

2 MR. FUGATE: My name is Anthony
3 Fugate, and I represent Norma Stamps, the
4 wife of the decedent.

5 MR. DONOHUE: Tom Donohue for the
6 Defendants.

7

8 MICHAEL P. SHEEHAN,
9 having been first duly sworn, was examined and
10 testified as follows:

11

12 THE VIDEOGRAPHER: And the court
13 reporter is Maureen Pollard.

14 DIRECT EXAMINATION

15 BY MR. MUSACCHIO:

16 Q. Good morning.

17 A. Good morning.

18 Q. Could you please state your name for
19 the record?

20 A. Michael Patrick Sheehan.

21 Q. And in what town do you presently
22 reside in?

23 A. I reside in Berlin, Massachusetts.

24 Q. And where are you presently employed?

1 A. At the Framingham Police Department in
2 Framingham, Massachusetts.

3 Q. And how long have you been employed at
4 the Framingham Police Department?

5 A. For approximately eight years.

6 MR. DONOHUE: I'm sorry, before you
7 begin, usual stipulations?

8 MR. MUSACCHIO: Yes. Usual
9 stipulations. All objections except to form
10 of the question are reserved until the time
11 of trial. All motions to strike are
12 reserved until the time of trial as well.

13 MR. DONOHUE: The witness will have 30
14 days to read and sign?

15 MR. MUSACCHIO: 30 days to read and
16 sign.

17 MR. DONOHUE: Thank you.

18 BY MR. MUSACCHIO:

19 Q. And what is your present position at
20 the Framingham Police Department?

21 A. I'm a patrol officer.

22 Q. And back in January of 2011, what was
23 your position at that time?

24 A. I was also a patrol officer.

1 Q. Before becoming a police officer in
2 Framingham, were you employed by any other law
3 enforcement agency?

4 A. The Hudson Police Department as a
5 reserve officer.

6 Q. And for how long were you a reserve
7 officer at the Hudson Police Department?

8 A. Approximately two years.

9 Q. Can you presently describe your -- can
10 you describe your educational background just in
11 general, high school, college, and any other
12 courses or things you've taken?

13 A. Yes. Bachelor's degree in criminal
14 justice from Champlain College.

15 Q. Where is Champlain College?

16 A. It's in Burlington, Vermont.

17 Q. Any other degrees after that?

18 A. No.

19 Q. Are you presently a member of the
20 Framingham Police Department SWAT team?

21 A. Yes, I am.

22 Q. What position do you hold on the SWAT
23 team?

24 A. I'm an operator.

1 Q. And can you describe what an operator
2 is?

3 A. As an operator I am just a ground
4 person, I do not -- I'm not a commanding
5 officer, I'm not an XO. I'm just a patrolman as
6 a SWAT officer.

7 Q. And was that true back in January of
8 2011 as well?

9 A. Yes, it was.

10 Q. And when did you become a member of
11 the SWAT team?

12 A. Approximately six years ago.

13 Q. Was there ever a period of time that
14 you left the SWAT team and went back on it
15 again --

16 A. No.

17 Q. -- or has it been continuous?

18 It's been continuous?

19 A. Continuous.

20 Q. Now, you understand you're here today
21 to discuss your involvement in the execution of
22 a search warrant at 26 Fountain Street in
23 Framingham, Massachusetts on January 5th, 2011
24 shortly after midnight?

1 A. Yes.

2 Q. And what was your -- and at that time,
3 what was your status as a SWAT member for that
4 mission?

5 A. Operator.

6 Q. And do you understand that during the
7 execution of that search warrant Eurie Stamps,
8 Sr. was shot and killed by a bullet discharged
9 from Officer Paul Duncan's weapon?

10 A. Yes.

11 Q. In preparation for your deposition
12 today, did you review your transcript of an
13 interview that was taken of you on January 6th
14 of 2011 by members of the Framingham Police
15 Department, the state police?

16 A. Yes.

17 MR. MUSACCHIO: Can we mark this as
18 the next exhibit, Exhibit 15?

19 (Whereupon, Exhibit Number 15, 1/6/11
20 Interview of Mike Sheehan by
21 Lieutenant Forster, Bates STAMPS
22 000401 through 421, was marked for
23 identification.)

24 BY MR. MUSACCHIO:

1 Q. Can you just take a moment to peruse
2 Exhibit 15, and once you have a moment, can you
3 tell me whether that is the transcript of your
4 interview that occurred on January 6th, 2011
5 when you were questioned by Lieutenant Forster?

6 (Witness reviewing document.)

7 A. Yes, it is.

8 BY MR. MUSACCHIO:

9 Q. Okay. When was the last time you
10 reviewed that transcript?

11 A. Was this morning.

12 Q. Had you reviewed that transcript at
13 any time prior to this morning?

14 A. Yes.

15 Q. When?

16 A. Yesterday.

17 Q. And prior to that, had you reviewed
18 it?

19 A. No.

20 Q. Now, you were not under oath when you
21 made -- when you were being interviewed by
22 Lieutenant Forster, is that correct?

23 A. I do not recall.

24 Q. I'm going to represent to you that it

1 does not appear from the transcript that you
2 were under oath.

3 Whether you were under oath or not,
4 you knew you needed to tell the truth during
5 that interview, is that correct?

6 A. Yes.

7 Q. And you understand today that you are
8 under oath --

9 A. Yes.

10 Q. -- to tell the truth?

11 Okay. Now, upon reviewing your
12 transcript, is that an accurate description of
13 your recollection of your activities and the
14 events that you remember that evening?

15 A. Yes.

16 Q. Now, prior to your deposition today,
17 did you discuss your deposition with Officer
18 Duncan?

19 A. No.

20 Q. Did you discuss your deposition -- did
21 you discuss the fact that you're having your
22 deposition taken with any other law enforcement
23 personnel from the Framingham Police Department?

24 A. Yes.

1 Q. Who did you talk to?

2 A. Would be Sergeant Baker last night to
3 indicate what I had to do today, also Officer
4 O'Toole, and just different people for
5 scheduling, rides into here, to Boston, if they
6 coincided with their depositions.

7 Q. Did you have any discussion with
8 anybody, any of those individuals you mentioned,
9 regarding the substance of your deposition or
10 the events of January 5th, 2011 at 26 Fountain
11 Street?

12 A. No.

13 Q. At any time have you ever discussed
14 those events with any other member of the
15 Framingham Police Department?

16 A. Yes.

17 Q. Okay. Can you tell me when and who
18 you talked to?

19 A. I do not -- I know that the SWAT team
20 members specifically, we've talked about this
21 event.

22 Q. After the event?

23 A. Yes.

24 Q. And was that related to some training

1 activities that were occurring?

2 A. Yes.

3 Q. All right. We'll get into that a
4 little bit later.

5 So I want to call your attention back
6 to, you know, January 5th, January 4th and 5th
7 of 2011. At about 9:30 p.m. on January 4th, did
8 you receive a page or a text to report to
9 Framingham Police Department?

10 A. I do not recall the time, but I did
11 receive a notification.

12 Q. Do you remember when you arrived at
13 the Framingham Police Department on January 4th?

14 A. I do not remember the specific time.

15 Q. If I represent to you that in your
16 interview you said that you arrived around 11:00
17 o'clock, would that refresh your recollection?

18 A. Which page is that?

19 Q. Well, at some point you arrived --

20 A. Yes.

21 Q. -- at the Framingham Police
22 Department. It was during the evening of
23 January 4th, 2011, is that right?

24 A. Yes.

1 Q. And when you arrived, is that when you
2 first learned that the reason that you were at
3 the station was to assist in the execution of a
4 search warrant at 26 Fountain Street in
5 Framingham?

6 A. Not at that time, no.

7 Q. Okay. When did you first learn that?

8 A. Once we got geared up and we go into
9 the roll call room to get the debriefing.

10 Q. Okay. And do you recall what time the
11 debriefing occurred?

12 A. I do not.

13 Q. Do you recall approximately -- prior
14 to you leaving to execute the warrant, do you
15 know how long prior to that the debriefing
16 occurred?

17 A. No.

18 Q. But there was a debriefing that
19 occurred, is that correct?

20 A. It wouldn't be a debriefing, it would
21 be a briefing.

22 Q. A briefing. Okay.

23 And who commanded the briefing?

24 A. I do not recall.

1 Q. Do you recall that it was Lieutenant
2 Downing? Do you recall whether --

3 A. I do not recall.

4 Q. Now, during the briefing, did you see
5 a layout of the apartment?

6 A. I do not recall.

7 Q. So you don't recall anything regarding
8 the debriefing?

9 A. I remember the debriefing.

10 Q. I mean the briefing, I'm sorry.

11 A. No, I do not.

12 Q. I'm going to show you what's been
13 marked as Exhibit Number 12 in the prior
14 deposition, and I'm going to represent to you
15 that that's the after action report for the
16 execution of the search warrant at 26 Fountain
17 Street on January 5th, 2011 (handing).

18 I want to call your attention to the
19 last paragraph on the first page, it's Bates
20 stamp number 521. Page 1 of the document. It
21 states that "At 9:25 p.m. the all-call
22 notification was sent out with the message to
23 report to the station at 11:00 p.m.. All
24 officers acknowledged the message and confirmed

1 that they would report to the station at
2 11:00 p.m."

3 Does that refresh your recollection as
4 to when you appeared at the station?

5 A. I did not know specifically when I
6 arrived there, but that is when they requested
7 us there.

8 Q. So they requested you to be there at
9 11:00 p.m.?

10 A. Yes.

11 Q. Okay. And is your memory that you
12 appeared at the station sometime around
13 11:00 p.m.?

14 A. I was on time.

15 Q. You were on time.

16 A. Yes.

17 Q. I want you to pick up a couple lines
18 down where it says "When Officer O'Toole arrived
19 he drew a floor plan of the first floor
20 apartment on the wipe board that was wall
21 mounted in the command briefing room."

22 Do you see that?

23 A. Yes, I do.

24 Q. Does that refresh your recollection

1 that you saw a floor plan of the layout of the
2 apartment?

3 A. I do not recall the floor plan.

4 Q. You don't recall seeing that?

5 A. No.

6 Q. It says the floor plan indicated
7 positions of doors, stairways and hallways.

8 You don't recall that?

9 A. No.

10 Q. "Officer Murtagh arrived in the
11 command briefing room and produced aerial view
12 maps, street view maps and interior photos for
13 26 Fountain Street."

14 Do you recall that at all?

15 A. I do recall that.

16 Q. Now, during the briefing you were told
17 that there was drug activity that was occurring
18 at 26 Fountain Street, is that correct?

19 A. I do not recall.

20 Q. You have no recollection of that?

21 A. No.

22 Q. Can you turn to Exhibit 12, second
23 page, the after action report?

24 A. Yes.

1 Q. It says [REDACTED]
[REDACTED]
[REDACTED]
3 [REDACTED] and it lists three
4 individuals?

5 A. Yes.

6 Q. Having looked at that, do you have a
7 recollection of being informed during the
8 briefing that the warrant to be executed at 26
9 Fountain Street was for narcotics?

10 A. Yes, I do.

11 Q. Okay. You recall that now?

12 A. Yes.

13 Q. And do you see the names that are
14 identified there? There were three suspects
15 that, during the briefing, were identified as
16 potentially selling narcotics from 26 Fountain
17 Street?

18 A. Yes.

19 Q. And are you aware that Dwayne Barrett
20 and Joseph Bushfan were the targets of the
21 search warrant?

22 A. Yes.

23 Q. And were listed on the search warrant?

24 A. Yes.

1 Q. That you do recall?

2 A. Yes.

3 Q. Now, during the briefing you also
4 became aware that other individuals resided at
5 26 Fountain Street, is that correct?

6 A. Yes.

7 Q. And you were told during the briefing
8 that one of those individuals that resided at 26
9 Fountain Street was a 68 year old black male?

10 A. I do not recall the specifics.

11 Q. If you can look at again Page 2,
12 second paragraph down, it says "Additional to
13 the above subjects these persons were believed
14 to be within the premises." And the first one
15 is "Eurie Stamps (date of birth [REDACTED])."

16 Do you see that?

17 A. Yes.

18 Q. Does that refresh your recollection
19 that during the briefing that you were told that
20 a 68 year old man named Eurie Stamps would be
21 present, possibly would be present during the
22 execution of the search warrant, and resided at
23 26 Fountain Street?

24 A. Yes.

1 Q. Were you aware that he leased the
2 apartment?

3 A. No.

4 Q. Now, was it your recollection that all
5 of the police officers who were being briefed
6 who were going to be involved in the execution
7 of the search warrant, including the SWAT team
8 members, were informed that Eurie Stamps, Sr., a
9 68 year old black male, resided at the apartment
10 and was likely to be present at the apartment
11 during the execution of the search warrant?

12 A. Can you --

13 Q. Were you aware -- is it your memory
14 that all of the police officers that were
15 present during the briefing were told that Eurie
16 Stamps, a 68 year old black male, resided at the
17 apartment and was likely to be present at the
18 apartment during the execution of the search
19 warrant?

20 A. No.

21 MR. DONOHUE: Object to the form.

22 BY MR. MUSACCHIO:

23 Q. In other words, were you just told
24 that individually, or was everybody told that

1 during the briefing?

2 A. Told what?

3 Q. That Eurie Stamps resided at the
4 apartment, and was likely to be present in the
5 apartment during the execution of the search
6 warrant?

7 A. I don't recall if he was said to be
8 likely present at. I know that he lived there.

9 Q. Okay. Let me rephrase it then.

10 A. Yes.

11 Q. Is it your memory that all police
12 officers who were being briefed on January 4th,
13 2011 were aware that Eurie Stamps, Sr. resided
14 at 26 Fountain Street?

15 A. Yes.

16 Q. Now, do you recall during the briefing
17 that you were told about [REDACTED]
18 [REDACTED]?

19 A. I do not recall.

20 Q. Okay. Can you look at again, I'll
21 read to you, "Additional to the above subjects
22 these persons were believed to be within the
23 premises. Eurie Stamps (date of birth [REDACTED]),"
24 and then it says [REDACTED]

1 [REDACTED]."

2 Do you see that?

3 A. I do.

4 Q. Do you recall being told by the people
5 briefing you that [REDACTED]

6 [REDACTED]

7 A. No, I do not.

8 Q. During the briefing, were you or any
9 of the other officers provided with any
10 information that Mr. Stamps was armed or
11 dangerous?

12 A. No.

13 Q. During the meeting, were you or any
14 other officers provided information that Eurie
15 Stamps, Sr. was involved in the selling of
16 drugs?

17 A. No.

18 Q. During the meeting and the briefing,
19 were you or any other officers provided with any
20 information that Eurie Stamps was involved in
21 any criminal activity at all?

22 A. No.

23 Q. During the meeting, were you or any
24 other officers provided with any information

1 that Eurie Stamps, Sr. posed any threat to the
2 safety of the officers during the execution of
3 the search warrant?

4 A. I do not recall.

5 Q. You don't recall that?

6 A. No.

7 Q. Do you recall being provided any
8 information about whether you were told that
9 Eurie Stamps potentially posed a threat to the
10 police officers? You don't recall receiving any
11 information about that?

12 A. No.

13 Q. Okay. Now, but you did receive
14 information about [REDACTED]
15 [REDACTED] correct?

16 A. Yes.

17 Q. But you never received any such
18 information from any police officer during the
19 briefing that Eurie Stamps, Sr. posed a threat?

20 A. I don't recall.

21 Q. Now, during the briefing, assignments
22 were given to each member of the SWAT team, is
23 that correct?

24 A. Yes.

1 Q. Now, the SWAT team arrived at 26
2 Fountain Street shortly after midnight on
3 January 5th, 2011, is that correct?

4 A. Don't recall the time.

5 Q. I want to call your attention to Page
6 5 of the after action report at Bates stamp
7 number 525.

8 A. Yes.

9 Q. It says "At 12:20 the SWAT officers
10 left the station for 26 Fountain Street."

11 Did I read that correctly?

12 A. Yes.

13 Q. Does that refresh your recollection as
14 to when you arrived at 26 Fountain Street?

15 A. No.

16 Q. You knew it was after midnight?

17 A. Yes.

18 Q. You knew it was after midnight on
19 January 5th, 2011 that the SWAT team arrived at
20 26 Fountain Street, is that correct?

21 A. Yes.

22 Q. And you knew that the warrant was to
23 be executed at the first floor apartment of 26
24 Fountain Street?

1 A. Yes.

2 MR. MUSACCHIO: Can you mark this as
3 Exhibit 16, please?

4 (Whereupon, Exhibit Number 16, Color
5 scale diagram of interior of 26
6 Fountain Street, was marked for
7 identification.)

8 MR. MUSACCHIO: Do you want to hand
9 that down to Mr. Fugate? Thank you.

10 MR. FUGATE: Thank you.

11 MR. MUSACCHIO: Can you mark that as
12 Exhibit 17?

13 (Whereupon, Exhibit Number 17, Copy of
14 photograph, was marked for
15 identification.)

16 BY MR. MUSACCHIO:

17 Q. Officer Sheehan, can you take a look
18 at Exhibit Number 17, please?

19 A. Yes.

20 Q. I'm going to represent to you that
21 this is the drawing -- or the photograph in
22 which you made markings and drawings on at your
23 interview on January 6th, 2011. Can you look at
24 that and confirm what I just told you?

1 A. Yes.

2 Q. So this is your -- during your
3 interview on January 6th, 2011, that is the
4 photograph that you placed markings on, is that
5 correct?

6 A. Yes.

7 Q. Okay. And I want to draw your
8 attention to the bottom of the photograph where
9 -- and this is a photograph of the kitchen area
10 at 26 Fountain Street, is that correct?

11 A. Yes.

12 Q. And you wrote on here at the bottom
13 "hallway," "bedroom," and "bathroom." Is that
14 correct?

15 A. Yes.

16 Q. Okay. And you were there trying to
17 describe for the person interviewing you the
18 locations of certain things in the apartment, is
19 that correct?

20 A. Yes.

21 Q. Okay. If you can take a look at
22 Exhibit Number 16. I'm going to represent to
23 you that Exhibit 16 is a scale diagram of the
24 interior of 26 Fountain Street, Framingham,

1 Massachusetts. And I just want to go through
2 this with you --

3 A. Yes.

4 Q. -- and see if this refreshes your
5 recollection as to the layout of the first floor
6 apartment.

7 Do you see the front entry?

8 A. Yes.

9 Q. Is that consistent with your memory of
10 what the front entry appeared on January 5th,
11 2011?

12 A. Yes.

13 Q. Okay. And there's, in the front
14 entry, there's a doorway that leads into the
15 kitchen, is that correct?

16 A. Yes.

17 Q. Okay. Is that consistent with your
18 memory of what 26 Fountain Street looked like on
19 January 5th, 2011?

20 A. Yes.

21 Q. Okay. And the photograph that is
22 Exhibit Number 17 is a photograph of the kitchen
23 that is depicted on Exhibit 16, is that correct?

24 A. Yes.

1 Q. Okay. And you will see off the
2 kitchen there's a doorway leading into the hall
3 -- into what is described as a hallway, is that
4 correct?

5 A. Are you referencing here (indicating)?

6 Q. Yes.

7 A. Yes.

8 Q. Is that consistent with your memory of
9 what the layout of the kitchen and the hallway
10 area looked like on January 5th, 2011 at 26
11 Fountain Street?

12 A. Yes.

13 Q. Okay. And that is -- and the hallway
14 that you've marked on Exhibit 17 is depicted
15 here as the hallway on Exhibit 16, is that
16 correct?

17 A. Yes.

18 Q. Okay. And then there's a bathroom and
19 a door leading to the bathroom to the right of
20 the hallway, is that correct?

21 A. Yes.

22 Q. Is that consistent with your memory of
23 what 26 Fountain Street looked like on
24 January 5th, 2011?

1 A. Yes.

2 Q. And that bathroom that's depicted in
3 the scale diagram, which is Exhibit 16, is the
4 bathroom that you depicted or pointed to on
5 Exhibit 17, is that correct?

6 A. Yes.

7 Q. Okay. And then if you -- off of the
8 hallway there's another door that leads into a
9 back bedroom, is that correct?

10 A. Yes.

11 Q. Is that consistent with your memory of
12 what 26 Fountain Street looked like on
13 January 5th, 2011?

14 A. Yes.

15 Q. And that bedroom is depicted on
16 Exhibit 17, which is your drawing that you did
17 during your interview, the word "bedroom" is
18 attempting to depict the bedroom that appears on
19 Exhibit 16, is that correct?

20 A. Yes.

21 Q. So is Exhibit 16 a fair and accurate
22 layout of the apartment at 26 Fountain Street
23 according -- that existed on January 5th, 2011?

24 A. Yes.

1 Q. Now, as I understand it, Officer
2 Sheehan, your assignment that evening was to be
3 part of a team that would enter the apartment
4 through the kitchen door located off the common
5 area hallway, is that correct?

6 A. Yes.

7 Q. Okay. Now, your team consisted of
8 yourself and Officer O'Toole, is that correct?

9 A. Yes.

10 Q. And was Lieutenant Downing a part of
11 that team as well?

12 A. We would -- no.

13 Q. Okay. So who was part of the team
14 that was to make entry into the kitchen at 26
15 Fountain Street?

16 A. Myself and Officer O'Toole were the
17 breaching team. And so the entry team, I do not
18 recall specifically who was in that entry team
19 behind me.

20 Q. Okay. You don't recall whether it was
21 Lieutenant Downing or not?

22 A. No.

23 Q. Now, when you first -- when the SWAT
24 team first arrived at 26 Fountain Street, you

1 were going to make entry through the front door
2 which is depicted in Exhibit 16 as the front
3 entry, is that correct?

4 A. Which door, sir?

5 Q. I'm going to -- do you see where it
6 says "front entry"? Was that the front door
7 that you or the SWAT team was told to make entry
8 into the house during the planning?

9 A. Yes, into that common area.

10 Q. Okay. Into that common area.

11 And before the SWAT team made entry
12 into that front door, you encountered a woman
13 who was outside of the house by the steps
14 leading to the house, is that correct?

15 A. Yes.

16 Q. Okay. And do you know who that woman
17 was?

18 A. No.

19 Q. Okay. But she was ordered to the
20 ground, is that correct?

21 A. Yes, in order to move out of the way.

22 Q. Okay. And did she comply and lie on
23 the ground?

24 A. I do not recall.

1 Q. Okay. So what do you recall about
2 this woman? Tell me what you remember when you
3 first got there.

4 A. That she was standing under the
5 overhang in front of the door, and that I
6 ordered here down to the ground and off to the
7 side, at which time I do not know if she
8 complied with that. She did move to allow me
9 access to that front door.

10 Q. So you and the other SWAT members
11 bypassed her and continued to make entry into
12 the house?

13 A. Yes.

14 Q. And do you know whether or not she was
15 being guarded or dealt with by any other police
16 officers?

17 A. No.

18 Q. But she was ordered to lie on the
19 ground. And did she comply?

20 A. I do not know.

21 Q. So you just bypassed her and went into
22 the house to execute your mission?

23 A. Yes.

24 Q. Now, your responsibility, along with

1 Officer O'Toole, was to make entry through the
2 front door, is that correct?

3 A. Yes.

4 Q. And that front door was unlocked, is
5 that correct?

6 A. Yes.

7 Q. And the next part of your assignment
8 was to walk down the hallway in the common area
9 to the kitchen door, is that correct?

10 A. Yes.

11 Q. And that kitchen door is located at
12 the end of the hallway, is that correct?

13 A. Yes.

14 Q. Now, when you proceeded to the kitchen
15 door, it was you and Officer O'Toole at the
16 kitchen door, is that right?

17 A. Yes.

18 Q. Do you remember Lieutenant Downing
19 being there with you at that time?

20 A. I do not recall.

21 Q. Do you remember any other police
22 officer being with you at that time?

23 A. I know Sergeant Stuart was doing the
24 knock and announce in that hallway.

1 Q. Correct.

2 A. So he must have been -- he was in that
3 hallway.

4 Q. So there was another group of --
5 another team of three that was going to make
6 entry off a doorway in that common area into
7 another room, is that correct?

8 A. I recall another team, yes.

9 Q. Okay. Now, you did not, once you
10 arrived at the kitchen door at the end of the
11 hallway, you did not immediately make entry into
12 that hallway, is that correct?

13 A. Correct.

14 Q. You waited until you heard Officer
15 Stuart knock and announce at another door on the
16 right side of the hallway, is that correct?

17 A. Yes.

18 Q. Okay. And can you mark, using this
19 black magic -- this black marker the door that
20 Sergeant Stuart was at when he knocked and
21 announced?

22 A. (Labelling).

23 Q. And after Officer Stuart knocked and
24 announced, the next thing that you heard was a

1 command to execute the warrant, is that correct?

2 A. Yes.

3 Q. And at that point you waited to hear
4 the flashbangs go off before you entered the
5 kitchen, is that correct?

6 A. Yes.

7 Q. Okay. And you heard a flashbang go
8 off in the kitchen?

9 A. Yes.

10 Q. And could you actually see from
11 underneath the door the flash?

12 A. From the crack of the door, vertical,
13 yes.

14 Q. Now, once you heard the flashbang go
15 off, that was your trigger to enter the kitchen,
16 is that correct?

17 A. Yes.

18 Q. Now, the kitchen door was unlocked, is
19 that correct?

20 A. Yes.

21 Q. So you didn't have to breach the door?

22 A. No.

23 Q. You and Officer O'Toole, after you
24 heard the flashbang go off, you immediately

1 entered the kitchen, is that correct?

2 A. Yes.

3 Q. Do you remember whether Officer --
4 Lieutenant Downing followed you into the kitchen
5 at that point?

6 A. I do not know who was behind me.

7 Q. Now, the kitchen was lighted, is that
8 correct?

9 A. Yes.

10 Q. Okay. And how would you describe the
11 lighting in the kitchen? Was it typical
12 overhead lights?

13 A. I do not recall. It was light enough
14 to see.

15 Q. It was light enough to see?

16 A. Yes.

17 Q. So you could see all of the appliances
18 in the kitchen, you could see the counters, you
19 could see the tables, you could see what was in
20 the kitchen, is that correct?

21 A. Yes.

22 Q. Okay. Now, if you go back to
23 Exhibit 17, which is your -- the photograph that
24 you made markings on at your interview back on

1 January 6th, 2011, you marked here where, once
2 you and Officer O'Toole made entry into the
3 kitchen, where you were standing upon entry, is
4 that correct?

5 A. Yes.

6 Q. Is this a fair and accurate depiction
7 in Exhibit 17 of where Officer -- where you were
8 standing and where Officer O'Toole was standing
9 when you entered the kitchen?

10 A. Yes.

11 Q. Now, you can see here that you wrote
12 "O'Toole" right here in the doorway leading to
13 the kitchen, and then you drew a line that has a
14 hook to it. What were you trying to depict with
15 that line?

16 A. That I, when I went into the room, I
17 chose to go to the left.

18 Q. Okay. And O'Toole went straight ahead
19 essentially?

20 A. Yes.

21 Q. Okay. Can you mark on Exhibit 16
22 where you were standing and where Officer
23 O'Toole was standing when you first entered the
24 kitchen? If you can do that on your copy.

1 A. Where? Sorry.

2 Q. What you can do is make like a big
3 enough circle to put your initials in. Do you
4 follow what I'm saying?

5 A. Yes, sir. (Labelling).

6 Q. Now, after you were in those
7 positions, did you, before you made any
8 observations of any persons or anyone else, did
9 you make any further movement into the kitchen?

10 A. I moved up far enough that other
11 operators could come in and pin this downstairs
12 door.

13 Q. Can you just draw a line from where
14 you moved, for example a line from here to where
15 you ended up, to allow those other officers to
16 enter?

17 A. So if we came in here, up to about
18 here (labelling).

19 Q. So how many feet did you move up?

20 A. I do not recall.

21 Q. Okay. Were you approximately in the
22 middle of the kitchen, do you remember?

23 A. We were in far enough that other
24 operators could come into the room.

1 Q. Okay. All right.

2 Now, from that position that you just
3 designated, were you looking towards the hallway
4 area at that point?

5 A. Yes.

6 Q. Okay. And did you see any light
7 coming from the back bedroom at that time?

8 A. Yes.

9 Q. Did it appear like light from a
10 television set? Do you recall what the light
11 was like?

12 A. It appeared like there was a light on
13 in the room.

14 Q. In the bedroom, what I will call the
15 rear bedroom?

16 A. Here.

17 Q. Appeared to be a light on?

18 A. Yes.

19 Q. Did you see any light flashing that's
20 like what you see from a television set?

21 A. I do not recall.

22 Q. But you do remember seeing light --
23 that the back bedroom was lighted?

24 A. Yes.

1 Q. Okay. And what about the hallway, was
2 the hallway lighted?

3 A. No.

4 Q. Okay. If you could pick up your
5 interview notes. If you can go to Page 7 of
6 your January 6th, 2011 interview, and it's Bates
7 stamped Page 407. Page 7 of the interview.

8 I'm going to read an answer at the
9 bottom, and this is your answer to a question.
10 "So I don't buttonhook in here. I just flood
11 the room and I come straight and I wind up
12 somewhere probably more like here. O'Toole
13 winds up here because what immediately drew our
14 attention is I saw something move from this area
15 into a bathroom and I thought it was an
16 individual that went into the bathroom."

17 Did I read that correctly?

18 A. Yes.

19 Q. Is that your recollection of what you
20 saw when you went into the kitchen?

21 A. Yes.

22 Q. Okay. And then if you go to the
23 bottom of Page 8 which is Bates stamped
24 Page 408, you answer "Yeah, from this area and

1 into the bathroom, okay. I just saw a dark
2 object moving that direction and it was low on
3 the ground, so I didn't know if it was a foot
4 being dragged back."

5 Did I read that correctly?

6 A. Yes.

7 Q. And is that a fair description, as you
8 sit here today, of what you observed in the back
9 hallway?

10 A. No.

11 Q. Okay. Is that -- let me rephrase
12 that.

13 Is that a fair and accurate
14 depiction -- is that a fair and accurate
15 description of what you saw --

16 A. Yes.

17 Q. -- on January 5th, 2011?

18 Okay. Can you mark on there with that
19 marker, I want you to use the red marker this
20 time, this object or thing that you saw moving
21 along the ground that you described in your
22 interview and you confirmed here today in your
23 deposition?

24 A. Okay (labelling).

1 Q. Can you show me the path of where that
2 object moved to?

3 A. Moved back into the bathroom
4 (indicating).

5 Q. Okay. Now, Officer O'Toole stated in
6 his interview back on January 6th, 2011 that he
7 saw someone moving in the area between the back
8 bedroom and the hallway, this area right here
9 (indicating).

10 Do you have a recollection of seeing
11 somebody moving back in that area?

12 A. I have a recollection of Eurie Stamps
13 in this hallway.

14 Q. But do you have a recollection of
15 seeing Eurie Stamps -- seeing any individual
16 moving from the bedroom into the hallway?

17 A. No.

18 Q. You don't recall seeing that?

19 A. No.

20 Q. Do you recall Officer O'Toole and
21 yourself giving orders to somebody to "come out
22 with your hands up, put your hands up"?

23 A. I recall telling him to get down on
24 the ground.

1 Q. Okay. So after you observed that
2 object that you've depicted on Exhibit 16 move
3 from the hallway into the bathroom, the next
4 thing you saw was a large black male standing in
5 the hallway?

6 A. Yes.

7 Q. Okay. And that male was Eurie Stamps?

8 A. Yes.

9 Q. And you knew at the time that you
10 first saw him that it was Eurie Stamps?

11 A. No, I did not.

12 Q. But did you know that it was a large
13 black elderly man?

14 A. Yes.

15 Q. Okay. And at that time did you come
16 to the conclusion that that tall black elderly
17 man was the man that was described to you as
18 residing in the apartment during the briefing?

19 A. No.

20 Q. You didn't make that connection at
21 that time?

22 A. No.

23 Q. Now, when you first saw -- I'll refer
24 to -- we now know it was Eurie Stamps, is that

1 correct?

2 A. Yes.

3 Q. So I'll refer to him as Eurie Stamps.

4 At about approximately the same time
5 you saw Eurie Stamps standing in the hallway,
6 you also saw another individual peaking his head
7 out of the bedroom, is that correct?

8 A. No.

9 Q. Can you look at your -- Page 9 and 10
10 of your interview, which is Exhibit 15? I want
11 to call your attention to the answer at the
12 bottom of Page 9, down towards the bottom, you
13 say "because, you know, the kid was moving, and
14 this kid, black male in the back room, kept on
15 what I would call sneaking a peak. He'd pop"
16 out -- "pop up, look, and then pop back down.
17 He must have done that three or four times."

18 Does that refresh your recollection
19 that when Eurie Stamps was standing in the
20 hallway, that you saw another black male peaking
21 his head out of the bedroom?

22 A. He never peaked his head out of the
23 bedroom.

24 Q. What did he do?

1 A. He was in the back bedroom and he
2 would pop up above a dresser and to the left of
3 the dresser, look from that vantage point, and
4 then pop back down. He never broke the plane of
5 the door to peak out.

6 Q. Okay. Fair enough.

7 So that's what you saw behind Eurie
8 Stamps?

9 A. Yes.

10 Q. Okay. Could you mark with your black
11 marker a circle in the hallway where Eurie
12 Stamps was standing when you first saw him? And
13 just make a circle that's big enough.

14 A. (Labelling).

15 Q. So when you first saw Eurie Stamps, he
16 was essentially very close to the threshold
17 between the hallway and the kitchen, is that
18 correct?

19 A. Yes.

20 Q. Now, Officer O'Toole and yourself
21 ordered Mr. Stamps to get on the ground, is that
22 correct?

23 A. Yes.

24 Q. Do you recall Officer O'Toole telling

1 him also to put his hands up?

2 A. Yes.

3 Q. And you told him to put his hands up
4 as well?

5 A. I asked him to show his hands, yes.

6 Q. And do you recall that -- strike that.
7 Officer O'Toole stated in his
8 interview that Mr. Stamps, first thing he did
9 was to kneel down with his hands up.

10 Do you recall him kneeling down?

11 A. No.

12 Q. Okay. But do you recall him complying
13 with your orders to lie down on the ground?

14 A. After several orders, yes.

15 Q. Okay. So he had to be told several
16 times to lie down on the ground, is that
17 correct?

18 A. Yes.

19 Q. And from the first order to the last
20 order that was given, how much time elapsed
21 before he complied and lied on the ground?

22 A. I do not recall.

23 Q. Was it a matter of ten seconds?

24 A. I do not recall the seconds.

1 Q. Okay. But eventually he complied and
2 lied down on the ground, is that correct?

3 A. Yes.

4 Q. Now, this was a chaotic situation, is
5 that correct?

6 A. It was an execution of a search
7 warrant.

8 Q. But there were flashbangs going off,
9 there were police officers flooding the house,
10 there was orders to, you know, come out with
11 your hands up, get down on the ground, things
12 like that?

13 A. Yes.

14 Q. So you as a police officer would
15 understand that a resident of an apartment who
16 is not a suspect of any criminal activity might
17 be somewhat startled and shocked by what's going
18 on?

19 A. I do not know how they would feel.

20 Q. Okay. But that would be
21 understandable, wouldn't it?

22 A. I haven't been in that situation.

23 Q. All right. But it's your testimony
24 that Eurie Stamps did eventually comply and lie

1 down on the ground, is that correct?

2 A. Yes.

3 Q. Now, can you mark -- now, when he was
4 lying on the -- when he was ordered to lie on
5 the ground, he never moved from this position,
6 is that correct?

7 A. He was in that same general area.

8 Q. Okay.

9 A. Before the threshold and in this
10 hallway (indicating).

11 Q. Okay. Can you mark here in green --
12 when Eurie Stamps lied on the ground, he was
13 lying on his stomach, is that correct?

14 A. Yes.

15 Q. Can you mark in green where his head
16 was when he lied down?

17 A. Okay (labelling).

18 Q. Okay. And can you mark where his feet
19 were?

20 A. Sure (labelling).

21 Q. Approximately.

22 A. Yes (labelling).

23 Q. Okay. Do you have a recollection in
24 terms of inches or feet how close Eurie Stamps'

1 head was to the threshold between the kitchen
2 and the hallway?

3 A. No.

4 Q. Was it less than a foot?

5 A. I don't know.

6 Q. You don't recall?

7 A. No.

8 Q. Okay. So this is your best
9 recollection of the location of where his head
10 was when he was lying down?

11 A. Yes.

12 Q. Okay. Now, Officer Duncan
13 testified/stated in his interview that when he
14 encountered Eurie Stamps for the first time,
15 Eurie Stamps' elbows are on the ground and his
16 hands were up in the air.

17 Is that your recollection of the
18 position Eurie Stamps was in when he was lying
19 on his stomach, that he had his elbows on the
20 floor with his hands up?

21 A. I do not recall.

22 Q. So you don't recall where his hands
23 were?

24 A. His hands were above his head, but I

1 do not recall the position.

2 Q. Okay. They were above his head,
3 though?

4 A. Yes.

5 Q. So he fully complied with your orders
6 to lie down on the ground and to show his hands,
7 is that right?

8 A. Yes.

9 Q. And when Eurie Stamps, when you first
10 saw him standing in the hallway where you've
11 designated, he never made any movements
12 backwards or forwards or anything, did he,
13 before you ordered him to the ground?

14 A. No.

15 MR. DONOHUE: Object to the form.

16 BY MR. MUSACCHIO:

17 Q. Go ahead, you can answer.

18 A. He was in this position.

19 Q. And he never moved from that position
20 until he was ordered to lie down on his stomach,
21 is that correct?

22 A. Yes.

23 Q. Okay. Now, when you observed
24 Mr. Stamps lying on his stomach, do you recall

1 that his head was up with his chin on the floor?

2 A. No, I don't recall.

3 Q. So you don't know whether his head was
4 twisted to one side or another, or was looking
5 straight up?

6 A. No, I don't recall.

7 Q. Now, once Mr. Stamps was ordered to
8 lie on his stomach, he was not free to move at
9 that point, is that correct?

10 A. Correct.

11 Q. Now, how close were you to Mr. Stamps
12 when you -- when he was actually down on his
13 stomach? Had you moved closer to him at that
14 point?

15 A. No.

16 Q. So you're still at this distance back
17 here?

18 A. Yes.

19 Q. Okay.

20 MR. MUSACCHIO: Can you mark that as
21 Exhibit 18, please?

22 (Whereupon, Exhibit Number 18, Color
23 photograph, was marked for
24 identification.)

1 BY MR. MUSACCHIO:

2 Q. Officer Sheehan, is Exhibit 18 a fair
3 and accurate depiction of the entranceway and
4 the threshold between the kitchen at 26 Fountain
5 Street and the back hallway?

6 A. Yes.

7 Q. And that's essentially -- this view in
8 this picture is essentially what you were
9 looking at when you first observed Mr. Stamps,
10 it was that back area?

11 A. Yes.

12 Q. Okay.

13 MR. MUSACCHIO: This one is a little
14 graphic. This is Exhibit 19.

15 (Whereupon, Exhibit Number 19, Color
16 photograph, was marked for
17 identification.)

18 BY MR. MUSACCHIO:

19 Q. After Mr. Stamps was shot, did you
20 make any observation of the area that he was
21 lying when he was shot?

22 A. Yes.

23 Q. Did you see blood in that area?

24 A. I saw the paramedics working on him,

1 and I could see blood.

2 Q. Is this -- is Exhibit 19 a fair and
3 accurate photograph of the area where Mr. Stamps
4 was shot and the blood that came from his body?

5 A. Yes.

6 Q. And I want to call your attention to
7 the blood that appears very dark in black right
8 on the threshold.

9 Do you see that?

10 A. Yes.

11 Q. That appears to be hardened globs of
12 blood, for lack of a better term. Is that what
13 it appears to you?

14 A. Coagulated blood, yes.

15 Q. Yes. Much better technical term.

16 Thank you.

17 Having looked at this picture, does
18 that confirm your -- strike that.

19 Why don't you look back to Exhibit 16,
20 which is the diagram layout of the apartment.
21 Does that confirm the placement of the head near
22 the threshold?

23 A. Yes.

24 Q. Okay. And having looked at that

1 picture and seeing this blood on the threshold,
2 this dark blood there, does that in any way
3 change your memory as to how close his head was
4 to the threshold?

5 A. No.

6 Q. Now, after Mr. Stamps was lying on his
7 stomach with his hands out in front of him and
8 no longer free to move, as you testified to, you
9 turned your attention to whatever you saw that
10 entered the bathroom, is that correct?

11 A. Yes.

12 Q. And to get into the bathroom, you
13 needed to step over Mr. Stamps, is that correct?

14 A. Yes.

15 Q. And you did that?

16 A. Yes.

17 Q. And Officer O'Toole stepped over
18 Mr. Stamps, is that correct, because he followed
19 you into the bathroom?

20 A. Yes.

21 Q. Okay. And you turned your back to
22 Mr. Stamps, is that correct?

23 A. I did.

24 Q. And Officer O'Toole turned his back to

1 Mr. Stamps, is that correct?

2 A. Yes.

3 Q. And at that point, did you have any
4 other knowledge -- did you have any knowledge
5 that anybody else was covering Mr. Stamps or
6 tending to him at that time?

7 A. Yes.

8 Q. And what was your knowledge?

9 A. As we entered into here and made room
10 for other operators to come in, they began to
11 what we call bump up. So knowing that they were
12 behind me, and that there were more operators to
13 take over what we had addressed, that we could
14 move on and address the next threat.

15 Q. Did you consider -- by stepping over
16 Mr. Stamps and turning your back to him, you no
17 longer considered him a threat?

18 A. I knew he was covered by other
19 officers.

20 Q. You knew that there were other
21 officers in the kitchen?

22 A. Yes.

23 Q. But you didn't know what they were
24 doing in the kitchen, did you?

1 A. I knew that they were bumping up with
2 us to address the threats that were still
3 pending.

4 Q. That's what you believed that they
5 were going to do, is that correct?

6 A. Yes.

7 Q. But you didn't actually see them
8 bumping up to cover and engage Mr. Stamps?

9 A. I felt them bumping up.

10 Q. You felt them?

11 A. Yes.

12 Q. Who did you feel?

13 A. I do not know. Another operator.

14 MR. DONOHUE: We've been going an
15 hour. Is now a good time for a quick break?

16 MR. MUSACCHIO: Hold on one second.

17 Yes, good time.

18 THE VIDEOGRAPHER: Going off the
19 record. The time is 11:03.

20 (Whereupon, a recess was taken.)

21 THE VIDEOGRAPHER: Back on the record.

22 The time is 11:14.

23 BY MR. MUSACCHIO:

24 Q. I just want to backtrack a little bit,

1 Officer Sheehan.

2 When you first made entry into 26
3 Fountain Street through the front door into the
4 common hallway, what setting was your weapon on?

5 A. My weapon was -- does not have a
6 safety.

7 Q. What kind of weapon did you have?

8 A. I had my Sauer P 226 handgun.

9 Q. It did not have a safety?

10 A. It does not have a safety.

11 Q. So what kind of settings were on the
12 gun?

13 A. Once you load the weapon, it is loaded
14 and there's no safety.

15 Q. Why didn't you have a long rifle?

16 A. Because I was the primary breacher
17 that night.

18 Q. Do you know what setting Officer
19 O'Toole had on his long rifle when he entered
20 the apartment?

21 A. I do not.

22 Q. Do you have any knowledge of any -- of
23 what the setting of the weapon of any other
24 officer was when they entered the apartment?

1 A. I do not.

2 Q. Lieutenant Downing testified that his
3 weapon was on safety throughout the time that he
4 entered the apartment and then eventually
5 entered the kitchen. Is that consistent with
6 your understanding of what police protocol was
7 at that time?

8 A. At that time, people had different
9 understandings. If you're asking -- you asked
10 me what my understanding of it is?

11 Q. What was your understanding?

12 A. Of what?

13 Q. Of if you had a long rifle and you
14 were entering 26 Fountain Street to execute this
15 search warrant, on what setting would your long
16 rifle have been on?

17 A. It would have depended on the
18 circumstances at that time.

19 Q. Okay. So where we left off is that
20 you stepped over Mr. Stamps and entered the
21 bathroom, and Officer O'Toole stepped over
22 Mr. Stamps and followed you into the bathroom,
23 is that correct?

24 A. Yes.

1 Q. Okay. Can you look at the depiction
2 of the bathroom on Exhibit 16? Is that a fair
3 and accurate description of what the bathroom
4 looked like when you entered it back on
5 January 5th, 2011? As best as you can recall.

6 A. Yes, except this wall seems like it's
7 further away than it was.

8 Q. But in terms of this space between the
9 bathroom and the exterior wall, does that appear
10 to be accurate?

11 A. Yes.

12 Q. Now, your suspicion was at that time
13 that somebody may have been in that bathroom,
14 right?

15 A. Yes.

16 Q. And you searched the bathroom, is that
17 correct?

18 A. Yes.

19 Q. And you found no person in the
20 bathroom, is that correct?

21 A. Correct.

22 Q. What you found was a cat trying to
23 escape, is that correct?

24 A. Yes.

1 Q. Now, at that time you were carrying
2 only a handgun and a taser, is that correct,
3 when you entered the bathroom?

4 A. My handgun was in my hand, but my
5 taser is mounted to my chest.

6 Q. Now, if you did find a person in the
7 bathroom, you contemplated using your taser as
8 opposed to your handgun to detain or arrest that
9 person, is that correct?

10 A. Yes.

11 Q. And the reason you would have used
12 your taser is because that's less than deadly
13 force, is that correct?

14 A. Yes.

15 Q. Okay. So even though you didn't know
16 who was in there, and you didn't know whether
17 that person was armed, your belief was that the
18 better course of action was to use your taser to
19 disable that person?

20 A. It's a less lethal approach while I
21 still had lethal coverage from Officer O'Toole.

22 Q. Did all the other SWAT team members
23 have tasers, too, with them?

24 A. We are all assigned tasers. I do not

1 recall if they had them with them.

2 Q. Now, after you saw the cat while you
3 were still in the bathroom and while Officer
4 O'Toole was in the bathroom, the next thing that
5 happened is you heard a gunshot, is that
6 correct?

7 A. Yes.

8 Q. And you're still in the bathroom when
9 you heard the gunshot?

10 A. Yes.

11 Q. And you knew that the noise you heard
12 was a gunshot fired from a weapon, is that
13 correct?

14 A. I did. I came to that conclusion,
15 yes.

16 Q. At that moment?

17 A. Yes.

18 Q. Okay. In fact, you actually were
19 checking your body to make sure that you hadn't
20 been shot, isn't that correct?

21 A. Yes.

22 Q. And you were conversing with Officer
23 O'Toole, and he was conversing with you to make
24 sure that both of you were okay and weren't

1 shot?

2 A. Non-verbally, yes.

3 Q. Okay. Now, after hearing the shot,
4 you then turned your attention to the individual
5 that you saw previously popping up and down in
6 the back bedroom, is that correct?

7 A. Yes.

8 Q. And it was later determined that that
9 individual was Devon Talbert, is that correct?

10 A. I do not recall his name.

11 Q. Do you now know it was Devon Talbert?

12 A. No.

13 Q. I'll just refer to him as -- he was a
14 young black male, is that correct?

15 A. Yes.

16 Q. I'll just refer to him as the young
17 man, okay?

18 A. Yes, sir.

19 Q. What you did is that you left the
20 bathroom and you went into the back bedroom, is
21 that correct?

22 A. Yes.

23 Q. And again, you bypassed Mr. Stamps who
24 was still lying on the ground?

1 A. Yes.

2 Q. And when you entered the back bedroom,
3 you saw Officer Langmyre there, is that correct?

4 A. Yes.

5 Q. And Officer Langmyre had his rifle
6 pointed at the young man and had him frozen, is
7 that correct?

8 A. I do not recall where his weapon was
9 pointed.

10 Q. Okay. But he had his weapon out?

11 A. Yes.

12 Q. And he was freezing or controlling the
13 young man that was in the bedroom, is that
14 correct?

15 A. Yes.

16 Q. On the diagram -- before we do that,
17 we'll do it later, on the diagram, can you show
18 me where Officer Langmyre was by using again the
19 black and doing a circle and putting his
20 initials in, when you first walked in, where was
21 Officer Langmyre?

22 A. (Labelling).

23 Q. Okay. And where was the young man?

24 A. Face-to-face here (labelling).

1 Q. And Officer Langmyre had not -- when
2 you saw Officer Langmyre, he had not made
3 physical contact with the young man, is that
4 correct?

5 A. Correct.

6 Q. He was just holding him in place with
7 his weapon?

8 A. With his verbal commands he was
9 holding him in place.

10 Q. Okay. And the young man was not
11 handcuffed at that time, his hands were free, is
12 that correct?

13 A. Yes.

14 Q. Do you recall where his hands were?

15 A. No.

16 Q. Are you familiar with the contact and
17 cover rule?

18 A. Yes.

19 Q. I'm going to read to you what the
20 contact and cover rule states, and the Policy on
21 Firearms and Weapons of the Framingham Police
22 Department Number 50-4, most recently updated
23 October 4, 2012. "The Contact/Cover technique
24 requires at least two officers. When an officer

1 confronts a subject that poses a potential
2 threat and needs to be secured, the officer will
3 use the 'Contact/Cover' technique. If the
4 officer is alone at the time of confrontation
5 with the subject, the officer will maintain
6 cover position, and call for an additional
7 officer to assist him or her. The initial
8 officer will use verbal commands in an effort to
9 maintain compliance and control of subject until
10 an additional officer arrives to assist. The
11 Cover Officer provides lethal (in some instances
12 less than lethal) cover for the Contact Officer.
13 The Contact Officer, is the hands on officer,
14 and must put their long gun on safe and sling it
15 securely on his or her back (or holster for a
16 handgun) Before moving in to secure the
17 subject."

18 Is that your recollection, is that
19 your understanding of what the contact/cover
20 rule is?

21 A. Yes.

22 Q. Procedure?

23 So the proper procedure for

24 Mr. Langmyre, Officer Langmyre to engage in at

1 the time he confronted the young man was to hold
2 him and secure him in place, is that correct?

3 A. Yes.

4 Q. And to await the assistance of another
5 officer to actually make physical contact with
6 the suspect, is that correct?

7 A. If available, yes.

8 Q. If available, yes.

9 And that's essentially what Officer
10 Langmyre did, he covered him, and you executed
11 the contact portion of the contact/cover rule,
12 is that correct?

13 A. Yes, I did.

14 Q. Okay. And before you did that, what
15 did you do with your weapon?

16 A. I placed it in my holster.

17 Q. So you did not make physical contact
18 with the young man in the back bedroom until he
19 was being covered, until -- strike that.

20 You did not make -- at the time you
21 made physical contact with the young man to
22 handcuff him, is that correct?

23 A. Yes, I handcuffed him.

24 MR. DONOHUE: Objection.

1 BY MR. MUSACCHIO:

2 Q. You did that while the young man was
3 being covered by Officer Langmyre and secured in
4 place, is that correct?

5 A. Yes.

6 Q. Okay. And you did not touch the young
7 man to place handcuffs on him until after you
8 had put your weapon in your holster, is that
9 correct?

10 A. Yes.

11 Q. So essentially you and Officer
12 Langmyre executed the contact cover technique
13 perfectly, is that correct?

14 A. Yes.

15 Q. And the reason you do that is that it
16 provides protection both for the police officer
17 and for the suspect, is that correct?

18 A. Yes.

19 Q. It essentially takes out of the
20 equation the contact officer's weapon as a
21 potential threat to the police officer and to
22 the suspect, is that correct?

23 A. Yes.

24 Q. And that's one of the main purposes of

1 the contact/cover rule, is that correct?

2 A. Yes.

3 Q. And you actually did handcuff the
4 young man in the bedroom, is that correct?

5 A. Yes.

6 Q. And the next thing that happened is
7 that you and Officer Langmyre left the bedroom
8 with the suspect. And at that time when you did
9 leave the bedroom, the paramedics were already
10 treating Mr. Stamps?

11 A. No. That's incorrect.

12 Q. Okay. So tell me what happened after
13 you handcuffed the young man in the bedroom.

14 A. Officer O'Toole was there to also
15 assist in the search of the room, and Officer
16 Langmyre was there to assist in the containment
17 of the suspect. And I then, not knowing what
18 was going on, looked back in the hallway to see
19 if we needed to continue to detail search the
20 apartment, at which time I observed paramedics
21 working on an individual on the ground, and I
22 went back into the room and helped maintain the
23 control of the suspect in the back bedroom.

24 Q. And how long were you back in that

1 room maintaining control of the suspect before
2 you left that room?

3 A. I do not recall.

4 Q. Okay. But eventually you left that
5 room. And where did you go?

6 A. At that point when we left the room we
7 went down the hallway, which is here, and we
8 walked the prisoner out backwards through the
9 hallway, through the kitchen, through the front
10 entry, and outside to a driveway to await
11 transportation back to the station (indicating).

12 Q. Okay. When you walked past
13 Mr. Stamps, had his body been moved at that
14 point by the time you walked past him?

15 A. When we walked past -- excuse me.
16 When we came out of this bedroom, no one was in
17 that hallway. The hallway was empty.

18 Q. It was clear?

19 A. Yes.

20 Q. And was Mr. Stamps out of the building
21 at that point?

22 A. I never saw him in the building when
23 we walked him out.

24 Q. Before I forget, in the hallway where

1 you placed Mr. Stamps' head, can you just draw
2 an arrow to that and write the word "head"?

3 A. Yes (labelling).

4 Q. You understand what I mean? So we
5 can...

6 Okay. And can you mark, just mark
7 there, in there "legs," or "leg"?

8 A. (Labelling).

9 Q. Thank you.

10 A. Yes, sir.

11 Q. Now, was the contact/cover rule that
12 you and Officer Langmyre executed on the young
13 man in the bedroom taught during your police
14 training with the Framingham Police Department
15 prior to January 5th, 2011?

16 A. Yes.

17 Q. And as a matter of fact, the
18 contact/cover rule is a relatively well-known
19 police procedure and technique, isn't that
20 correct?

21 A. Yes.

22 Q. And you were taught that at the police
23 academy as well?

24 A. Yes.

1 Q. So the contact/cover rule is something
2 that was taught at the Framingham Police
3 Department, including the SWAT team, well prior
4 to January 5th, 2011, is that correct?

5 A. Yes.

6 Q. Now, is it your understanding that if
7 no one is present to execute the contact/cover
8 procedure, and an officer is alone and must
9 encounter a suspect or an individual during a
10 search warrant, that the proper procedure is for
11 the police officer, if he has a long rifle, for
12 example, to put the long rifle on safety, sling
13 it over his shoulder, before making physical
14 contact with the suspect or person?

15 MR. DONOHUE: Objection.

16 BY MR. MUSACCHIO:

17 Q. Is that your understanding of what the
18 procedures were at the Framingham Police
19 Department, what you were taught prior to
20 January 5th, 2011?

21 A. Yes.

22 MR. MUSACCHIO: Let me mark this as
23 the next exhibit.

24

1 (Whereupon, Exhibit Number 20, Color
2 photograph, was marked for
3 identification.)

4 BY MR. MUSACCHIO:

5 Q. Officer Sheehan, Exhibit 20 is a
6 photograph of the blood stain that was depicted
7 in the previous exhibit. I just want to ask
8 you; is that a fair and accurate depiction of
9 what you remember seeing for blood at the scene
10 on the evening of January -- in the early
11 morning of January 5th, 2011?

12 A. Yes.

13 Q. How many years were you on the SWAT
14 team?

15 A. At the time of that incident?

16 Q. Yes.

17 A. Approximately four years.

18 Q. And how many times had the SWAT team
19 been used prior to January 5th, 2011 in which
20 you participated in the activity? When I mean
21 "used," used to execute a search warrant, used
22 in a hostage situation. How many times in the
23 four years prior to January 5th, 2011 had you
24 been a member of the SWAT team at a time when

1 the SWAT team was actually engaged in an
2 operation?

3 A. I do not recall.

4 Q. How many times had the SWAT team been
5 used prior to January 5th, 2011 for the
6 execution of a search warrant?

7 A. I do not recall the number.

8 Q. Is it less than five?

9 A. I do not recall.

10 Q. So it's your testimony that you were a
11 member of the SWAT team for six years, and you
12 were a member of the SWAT team for four years
13 prior to the shooting of Eurie Stamps, is that
14 correct?

15 A. That's correct.

16 Q. And you don't have any memory during
17 that four year period of ever being involved
18 with the SWAT team in the execution of a search
19 warrant?

20 MR. DONOHUE: Objection.

21 A. Go ahead.

22 BY MR. MUSACCHIO:

23 Q. Sorry?

24 A. Go ahead. I was waiting, sorry.

1 Q. I'm sorry, I thought I asked a
2 question.

3 You have no memory of being involved
4 in the execution of a search warrant in the four
5 years prior to January 5th, 2011, that you were
6 a member of the SWAT team?

7 A. We executed warrants prior to that,
8 yes.

9 Q. How many times?

10 A. I do not recall.

11 Q. Did you ever have the execution of a
12 search warrant in which the number of -- I'll
13 strike that.

14 It's my understanding, and I'll
15 represent to you there are approximately twelve
16 or thirteen members of the SWAT team that were
17 used for the execution of the search warrant at
18 26 Fountain Street. Have you ever been involved
19 with the execution of a search warrant with the
20 Framingham SWAT team that had that many officers
21 involved?

22 A. Yes, I have.

23 Q. Okay. Do you recall when and where?

24 A. No, I do not.

1 Q. Do you know how many times?

2 A. No, I do not.

3 Q. Now, the team that you were on to
4 enter the kitchen door was you and Officer
5 O'Toole. Are you always teamed with Officer
6 O'Toole when you're, you know, engaged in SWAT
7 operations?

8 A. No, I'm not.

9 Q. But every time there's a SWAT
10 operation, for example execution of a search
11 warrant that occurred at 26 Fountain Street,
12 that's a precision operation, isn't that
13 correct?

14 A. Yes, it is.

15 Q. Everything is planned out and
16 detailed, is that correct?

17 A. Yes.

18 Q. Everybody has an assignment and knows
19 their assignment?

20 A. Yes.

21 Q. And everybody knows what everybody
22 else's assignment is, is that correct?

23 A. No.

24 Q. Not always?

1 A. Not always.

2 Q. But you have a pretty good idea of
3 what other officers are going to be doing while
4 you're executing your assignment, isn't that
5 correct?

6 A. I know they're going to do their job
7 while I do my job.

8 Q. Correct.

9 Now, Lieutenant Downing was a member
10 of your team that was going to enter the
11 kitchen, isn't that correct?

12 A. I do not recall.

13 Q. Well, Lieutenant Downing stated in his
14 deposition that he was a part of a team of
15 yourself, Officer O'Toole, to enter the kitchen,
16 and he was with you as part of that breaching
17 team for the execution of this warrant.

18 Does that help refresh your
19 recollection as to whether Lieutenant Downing
20 was part of that breaching team into the
21 kitchen?

22 MR. DONOHUE: Objection.

23 A. I do not recall him with Timmy and I.
24 I only recall Timmy and I going up to the door

1 to breach it.

2 BY MR. MUSACCHIO:

3 Q. Okay. Just give me a minute, we might
4 be close to being done.

5 When you encountered Mr. Stamps and
6 ordered him to the ground, and he complied by
7 lying on his stomach, you had no reason to
8 believe that Mr. Stamps, who you just knew was
9 an elderly black man at that time, had committed
10 a crime, right?

11 A. Can you rephrase that?

12 Q. You had no -- when you encountered
13 Mr. Stamps and ordered him to the ground, at
14 that time you had no reason to believe that he
15 committed a crime, is that correct?

16 MR. DONOHUE: Objection.

17 A. Everyone in the house needs to be
18 secured regardless of whether or not they're
19 committing crimes.

20 BY MR. MUSACCHIO:

21 Q. I understand that absolutely.

22 But you had -- he was not a suspect of
23 criminal activity identified in the search
24 warrant, right?

1 A. Correct.

2 Q. So when you encountered him, you had
3 no reason to believe, even though you had a
4 right to secure him and tell him to lie on the
5 ground, no dispute about that, you had no reason
6 to believe that he had committed a crime, is
7 that correct?

8 A. I would not know that until further
9 investigation.

10 Q. Correct.

11 So at that moment, you had no reason
12 to believe that he committed a crime?

13 A. It's not a yes or no question.

14 Q. Well, let me go back.

15 Your information at that time, I'm not
16 trying to get you to think about what you knew
17 from subsequent events, or anything, I just want
18 -- at that time when you were briefed, you knew
19 that there were three people identified as
20 potentially selling narcotics out of 26 Fountain
21 Street, correct?

22 A. Correct.

23 Q. And that only two of those people,
24 Dwayne Barrett and Joseph Bushfan, were

1 identified as suspects for drug distribution in
2 the search warrant, is that correct?

3 A. I do not recall from that.

4 Q. I believe you testified earlier that
5 you knew that that was in the search warrant,
6 that those people were identified.

7 A. I do not recall.

8 MR. DONOHUE: Objection.

9 BY MR. MUSACCHIO:

10 Q. Okay. What exhibit is the search
11 warrant?

12 MR. DONOHUE: 13.

13 BY MR. MUSACCHIO:

14 Q. 13? Here it is here.

15 Officer, Exhibit 13 is the actual
16 search warrant for 26 Fountain Street. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. Dwayne Barrett and Joseph Bushfan.

20 Q. Okay. So when you encountered Mr. --
21 this is not a trick question -- when you
22 encountered Mr. Stamps, you had every right to
23 order him to the ground, to secure him, and to
24 take away his freedom to move, that's a given.

1 But at that moment when you ordered
2 him to the ground, you had no information to
3 permit you to conclude that he had engaged --
4 that he was engaging in criminal activity at 26
5 Fountain Street, is that correct?

6 A. No.

7 Q. Okay. You had no information?

8 A. No, it's not correct. Your inference
9 is not correct. He was present in a home that
10 was actively selling drugs. So his presence in
11 being there, I don't know whether he's a part of
12 it or not. I wasn't the investigating officer.

13 Q. But I'm asking you; you yourself had
14 no information that he was involved in
15 distributing drugs from 26 Fountain Street?

16 A. Correct.

17 Q. Okay. And when he was on the ground,
18 he was not actively resisting being secured, is
19 that correct?

20 A. I never engaged in securing him.

21 Q. Okay. You never saw him resisting,
22 you know, your orders to -- once he was on the
23 ground lying there, you never saw him acting in
24 a way that was non-compliant with your order, is

1 that correct?

2 A. Correct.

3 Q. Okay. And you never saw him attempt
4 to evade the police in any way?

5 A. Correct.

6 Q. And you never saw him reaching for any
7 object or anything with his hands?

8 A. Correct.

9 MR. MUSACCHIO: Can we mark this one
10 as the next exhibit? Again, this one is a
11 little graphic.

12 (Whereupon, Exhibit Number 21, Color
13 photograph, was marked for
14 identification.)

15 BY MR. MUSACCHIO:

16 Q. You've been a police officer for how
17 long?

18 A. For approximately ten years.

19 Q. I'm going to represent to you that
20 this is a photograph of the bullet wounds that
21 Eurie Stamps sustained on the early morning of
22 January 5th, 2011, and it depicts a bullet
23 entering his cheek, entering below his jaw, and
24 then re-entering his neck.

1 I want to ask you a question, as a
2 police officer, not as a forensic expert, but as
3 a police officer, does this indicate to you that
4 Mr. Stamps was shot while his head -- while he
5 was lying on the ground with his chin on the
6 floor?

7 MR. DONOHUE: Objection.

8 A. I wouldn't know that from a picture.

9 BY MR. MUSACCHIO:

10 Q. Well, does this appear to you that he
11 was shot -- strike that.

12 MR. MUSACCHIO: Why don't we take a
13 break for a minute.

14 THE VIDEOGRAPHER: Going off the
15 record. The time is 11:44.

16 (Whereupon, a recess was taken.)

17 THE VIDEOGRAPHER: Back on the record.

18 The time is 11:51.

19 BY MR. MUSACCHIO:

20 Q. Officer Sheehan, you had mentioned
21 earlier that after the Stamps shooting incident
22 there was a debriefing with the SWAT team, is
23 that correct?

24 A. There was.

1 Q. What do you mean by a "debriefing"?

2 A. I recall Chief Carl speaking to us in
3 regards to the event.

4 Q. And what did he say to you?

5 A. I don't recall specifically.

6 Q. Did anybody else speak at the
7 debriefing?

8 A. I do not -- I recall stress people
9 there offering help.

10 Q. During this debriefing, did the chief
11 talk about the mechanics of what happened in
12 terms of the shooting of Eurie Stamps?

13 A. Yes.

14 Q. What did he say about that?

15 A. I recall him stating that there was an
16 individual that was deceased at the hospital,
17 and that Officer Duncan was also at the
18 hospital.

19 Q. When did this debriefing take place?

20 A. I do not recall.

21 Q. Was it on January 5th?

22 A. I don't recall.

23 Q. Was it before you were interviewed by
24 the state police?

1 A. Yes, it was.

2 Q. Okay. So it was sometime between
3 January 5th and January 6th then, because you
4 were interviewed on January 6th, is that
5 correct?

6 A. I was interviewed on January 6th.

7 Q. So this debriefing occurred
8 essentially right after the incident, pretty
9 close in time?

10 A. Between the incident and the
11 interview, yes.

12 Q. Did the chief talk about the
13 procedures that were followed or that were not
14 followed that resulted in the shooting of Eurie
15 Stamps?

16 A. I do not recall.

17 Q. Did anybody talk about that at the
18 debriefing?

19 A. I do not recall.

20 Q. So you were at this debriefing after
21 there has been -- how many times -- strike that.

22 How many times had there been a
23 shooting during a SWAT team operation where an
24 individual was shot and killed?

1 A. The only one I'm aware of is this.

2 Q. So even though that's true, that you
3 have no memory whatsoever of what the chief was
4 telling you about procedures and process that
5 resulted in the shooting of Eurie Stamps?

6 A. Correct.

7 MR. DONOHUE: Objection.

8 BY MR. MUSACCHIO:

9 Q. You have no memory?

10 A. I have memories that I've expressed.
11 But beyond that, I don't recall.

12 Q. Did Lieutenant Downing speak at the
13 debriefing?

14 A. I do not recall.

15 Q. Did Sergeant Stuart speak at the
16 debriefing?

17 A. I do not recall.

18 Q. Now, Lieutenant Downing was one of the
19 commanders during the execution of the search
20 warrant at 26 Fountain Street, is that correct?

21 A. He is a team leader. He's an XO now,
22 yes.

23 Q. He was also heavily involved in
24 training of the SWAT team, is that correct, at

1 that time?

2 A. Yes.

3 Q. And Sergeant Stuart was -- also had
4 some command responsibilities during the
5 execution of the warrant, is that right?

6 A. Yes.

7 Q. And he, Sergeant Stuart, was also
8 involved in training, is that correct?

9 A. That's correct.

10 Q. Okay. Now, after the shooting of
11 Eurie Stamps, did you have specific training as
12 a member of the SWAT team relating to the
13 circumstances and the events that led to the
14 shooting of Mr. Stamps?

15 A. Can you be more specific?

16 Q. Yes. I'll try to be.

17 After the shooting of Eurie Stamps,
18 was the SWAT team provided specific training
19 regarding how to avoid what happened when
20 Officer Duncan shot and killed Mr. Stamps?

21 A. You need to be more specific. I don't
22 understand your question.

23 Q. Okay. After the shooting of Eurie
24 Stamps, did you receive specific training on the

1 contact/cover rule?

2 A. Yes, we did.

3 Q. And was that training related -- was
4 that training prompted by what happened to Eurie
5 Stamps and his shooting on January 5th?

6 A. It's a part of our annual training.
7 So whether or not the XO's found that as the
8 necessary prompting, you would have to ask them.

9 Q. Okay. Do you recall during training
10 any of the training officers discussing the
11 shooting of Eurie Stamps as an example of what
12 to do or what not to do when encountering a
13 person during a search warrant?

14 A. I do not recall.

15 Q. Do you -- so during all of the
16 police -- all of the SWAT training that occurred
17 after January 5th, 2011, you don't have any
18 specific recollection of being -- of any
19 training in which the Eurie Stamps shooting
20 incident was brought up or used as an example of
21 what to do or what not to do when encountering a
22 person?

23 A. In relations to contact/cover, we go
24 over -- we have been taught contact/cover since

1 that incident.

2 Q. Was Eurie Stamps' incident discussed
3 during the training on the contact/cover after
4 January 5th?

5 A. Yes.

6 Q. So how was the Eurie Stamps' incident
7 discussed in the context of contact/cover
8 training?

9 A. I do not recall specifically.

10 Q. Okay. Let me see if I can probe your
11 memory a little bit.

12 Did -- I'm just going to give you a
13 hypothetical.

14 A. Okay.

15 Q. Okay. Because I don't know. But if
16 Eurie Stamps was mentioned during a
17 contact/cover training, I want to know what was
18 discussed.

19 Was there some reference made by the
20 people doing the training that Officer Duncan's
21 approach, Officer Duncan's attempt to physically
22 touch Eurie Stamps was -- in some way violated
23 the contact/cover rule?

24 A. I do not recall.

1 Q. Was there any discussion about that
2 Officer Duncan should have obtained the
3 assistance of another officer to cover Eurie
4 Stamps before Officer Duncan put his hands on
5 Eurie Stamps?

6 A. I do not recall.

7 Q. Do you recall any discussion that
8 Officer Duncan should have put his long rifle on
9 safety and slung it over his back before he
10 attempted to make any physical contact with
11 Eurie Stamps?

12 A. Yes.

13 Q. Tell me what you remember about that
14 training, or that discussion.

15 A. It's more from my recollection that,
16 in general, if you're going to make contact that
17 you should always put your weapon on safe.

18 Q. Okay. And that was part of a training
19 exercise after January 5th, 2011 in which
20 Officer Duncan -- the incident involving Officer
21 Duncan was used as an example?

22 A. Can you ask that again, please?

23 Q. Okay. When you were taught -- when
24 you were trained after January 5th, 2011, or

1 retrained, that the officer should always put
2 their gun on safety before encountering or
3 touching a person, was that discussed in the
4 context of what Officer Duncan did or didn't do
5 on January 5th, 2011?

6 A. Yes.

7 Q. Okay. What specifically was said?

8 A. I don't recall.

9 Q. Okay. And who was doing that
10 training?

11 A. I don't recall.

12 Q. So you don't remember who was
13 discussing Officer Duncan during the training on
14 putting your gun on safety, you don't remember
15 what officer was actually talking and giving the
16 instruction?

17 A. Correct.

18 Q. You don't know if it was Lieutenant
19 Downing or Sergeant Stuart?

20 A. I don't recall who was training that
21 day.

22 Q. And how -- when did this training in
23 which Officer Duncan's failure to put his gun on
24 safety discussed, how long was that training

1 after the January 5th incident?

2 A. I do not recall.

3 MR. DONOHUE: Objection.

4 BY MR. MUSACCHIO:

5 Q. Was it part of a regular training
6 exercise, or was it a specific training exercise
7 relating to the Stamps shooting incident?

8 A. I do not recall.

9 Q. Was it a month after, or six months
10 after? Do you have any recollection?

11 A. I do not recall.

12 Q. Okay. But you do specifically recall
13 Officer -- the incident with Officer Duncan and
14 Mr. Stamps being discussed when being trained on
15 the requirement to put your gun on safety before
16 touching an individual, is that correct?

17 A. Yes.

18 MR. MUSACCHIO: Nothing further.

19 Thank you.

20 THE WITNESS: Yes, sir.

21 MR. DONOHUE: You're all finished.

22 Thank you.

23 THE VIDEOGRAPHER: This concludes the
24 August 6th, 2013 deposition of Officer

1 Michael Sheehan. Going off the record. The
2 time is noon. And this is the end of tape
3 one of one tape used today.

4 (Whereupon, the deposition was
5 concluded.)

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS.)

3 I, MAUREEN O'CONNOR POLLARD, RPR, CLR,
4 and Notary Public in and for the Commonwealth of
5 Massachusetts, do certify that on the 6th day of
6 August, 2013, at 10:05 o'clock, the person
7 above-named was duly sworn to testify to the
8 truth of their knowledge, and examined, and such
9 examination reduced to typewriting under my
10 direction, and is a true record of the testimony
11 given by the witness. I further certify that I
12 am neither attorney, related or employed by any
13 of the parties to this action, and that I am not
14 a relative or employee of any attorney employed
15 by the parties hereto, or financially interested
16 in the action.

17 In witness whereof, I have hereunto
18 set my hand this 11th day of August, 2013.

19

20

21 _____
MAUREEN O'CONNOR POLLARD, NOTARY PUBLIC

22 Realtime Systems Administrator

23 CSR #149108

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INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it. It will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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