

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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 *

vs. *

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 OFFICER CHRISTOPHER LANGMEYER

Kreindler & Kreindler LLP
277 Dartmouth Street
Boston, Massachusetts

September 23, 2013 12:44 p.m.

Maryellen Coughlin, RPR/CRR

1 APPEARANCES:

2 Representing the Plaintiff Norma Bushfan Stamps:

3 KREINDLER & KREINDLER LLP

4 277 Dartmouth Street

5 Boston, Massachusetts 02116

6 BY: Joseph P. Musacchio, Esquire

7 (617) 424-9100

8 jmusacchio@kreindler.com

9

10 Representing the Defendants:

11 BRODY HARDOON PERKINS & KESTEN, LLP

12 One Exeter Place

13 699 Boylston Street

14 Boston, Massachusetts 02116

15 BY: Thomas R. Donohue, Esquire

16 617-880-7100

17 tdonohue@bhpklaw.com

18

19 Also Present: Lucille Sharp, Paralegal

20 Christina Graziano, Law Clerk

21

22 Videographer: Christopher Coughlin

23

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

WITNESS: OFFICER CHRISTOPHER LANGMEYER

EXAMINATION: Page
BY MR. MUSACCHIO 5

EXHIBITS FOR IDENTIFICATION:

No.	Description	Page
29	1/6/11 Interview of Christopher Langmeyer by Lieutenant Foster (STAMPS 000309 - 331)	11
30	Color scale diagram of interior of 26 Fountain Street	22
31	Color photograph	28
32	Color photograph	33

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

2

3 THE VIDEOGRAPHER: We are now on
4 the record. My name is Chris Coughlin. I'm a
5 videographer for Golkow Technologies. Today's
6 date is September 23, 2013, and the time is 12:44
7 p.m.

8 This video deposition is being held
9 in Boston, Massachusetts in the matter of Eurie
10 A. Stamps, Jr. and Norma Bushfan Stamps,
11 co-administrators of the Estate of Eurie A.
12 Stamps, Sr. as plaintiffs versus the Town of
13 Framingham, and Paul K. Duncan, individually and
14 in his capacity as a police officer of the
15 Framingham Police Department as defendants in the
16 United States District Court, District of
17 Massachusetts, Civil Action Case No.
18 1:12-cv-11908-FDS.

19 Will counsel please identify
20 yourselves for the record.

21 MR. MUSACCHIO: Joseph Musacchio
22 representing the Estate of Eurie Stamps, Sr.

23 MR. DONOHUE: Tom Donohue for the
24 defendants.

1 THE VIDEOGRAPHER: And would all
2 others present please state your names for the
3 record?

4 MS. GRAZIANO: Christina Graziano.
5 I'm a law clerk working on behalf of the
6 plaintiffs.

7 MS. SHARP: Lucille Sharp,
8 paralegal.

9 THE VIDEOGRAPHER: Thank you. The
10 court reporter is Maryellen Coughlin. She will
11 now swear in the witness.

12

13 OFFICER CHRISTOPHER LANGMEYER,
14 having been first duly sworn, was examined
15 and testified as follows:

16

17 EXAMINATION

18 BY MR. MUSACCHIO:

19 Q. Good afternoon, officer.

20 A. Good afternoon.

21 Q. Could you please state your name
22 for the record?

23 A. Christopher Langmeyer.

24 Q. And where do you presently reside?

1 A. Holliston, Massachusetts.

2 Q. And your street address?

3 A. 70 Bonney Drive.

4 Q. And what is your present
5 employment?

6 A. Framingham Police Department.

7 Q. And what is your position at the
8 Framingham Police Department?

9 A. I'm currently the canine handler on
10 the evening shift.

11 Q. And how long have you been a police
12 officer at the Framingham Police Department?

13 A. Since 1998.

14 Q. Now, before joining the Framingham
15 Police Department, were you a member of any other
16 police force?

17 A. I was a police officer for the
18 Department of Defense at Natick -- Soldiers
19 Systems Command in Natick, Mass, Department of
20 Justice police officer. It's an army base in
21 Natick.

22 Q. And were you a police officer there
23 or what was your position?

24 A. Police officer. It's kind of a

1 security guard type of deal. The time before
2 9/11 there was only just about six of us.

3 Q. So how long have you been a police
4 officer with a city or a town?

5 A. With a city or a town?

6 Q. Yes.

7 A. It would be about 16 years, 17
8 years.

9 Q. And how many years with Framingham?

10 A. 16, going on 16.

11 Q. 16 years?

12 A. Since '98, yes.

13 Q. Can you briefly describe your
14 educational background? And you can keep it very
15 simple, high school, college, whatever.

16 A. High school, a few years of -- a
17 few classes in college.

18 Q. You don't have an associates degree
19 or a bachelor's degree?

20 A. No.

21 Q. And are you presently a member of
22 the Framingham Police Department SWAT team?

23 A. I'm in a supporting role as a
24 canine officer.

1 Q. And back on January 5th of 2011,
2 were you a member of the Framingham Police
3 Department SWAT team?

4 A. Yes, sir.

5 Q. And how long were you a part of the
6 SWAT team, how many years or months?

7 A. I'm not sure exactly. I'd have
8 to -- I can't remember the exact date I started
9 on. A few years at that point.

10 Q. So is it fair to say you were on
11 the SWAT team for approximately three years?

12 A. Approximately, yeah.

13 Q. And you don't have a recollection
14 of when you started with the SWAT team?

15 A. I don't know the date off the top
16 of my head. I'd have to look at records.

17 Q. But you were on the SWAT team on
18 January 5, 2011?

19 A. Yes.

20 Q. What were the circumstances in
21 which you left the SWAT team?

22 A. I was -- became a canine handler,
23 and I was moved to a supporting role.

24 Q. And what is your supporting role on

1 the SWAT team today?

2 A. With canine support, so any
3 situation to support the team tactically with a
4 canine.

5 Q. And what was your position as a
6 member of the SWAT team back on January 5, 2011?

7 A. Operator.

8 Q. Now, you understand we're here
9 today to discuss an event that occurred on
10 January 5, 2011, during the execution of a search
11 warrant at 28 Fountain Street in Framingham --

12 A. Yes, sir.

13 Q. -- is that correct?

14 Just one simple kind of rule or
15 guideline. Even though you know what the answer
16 to the question is before I'm done with it, let
17 me finish the question before you answer. It
18 just helps the stenographer.

19 A. Okay.

20 Q. You know, so we don't talk at the
21 same time, 'cause she can't write it down, okay?

22 A. Okay.

23 Q. And I'll do my best as well not to
24 interrupt and talk when you're talking.

1 A. I apologize.

2 Q. And you understand that during the
3 execution of that search warrant that a gentleman
4 named Eurie Stamps, Sr. was shot and killed as a
5 result of a bullet being discharged from Officer
6 Paul Duncan's weapon; is that correct?

7 A. Correct.

8 Q. Now, in preparation of your
9 deposition today, did you review the transcript
10 of your interview with Lieutenant Forster and the
11 state police that occurred on January 6, 2011?

12 A. I did.

13 Q. And what did you review it?

14 A. I last looked at it yesterday.

15 Q. Okay. And prior to yesterday, had
16 you ever looked at your interview transcript?

17 A. Yes.

18 Q. Okay. When did you do that?

19 A. I don't know the exact date prior
20 to. When we were made aware of this deposition,
21 I was provided a copy.

22 Q. So all of your review of your
23 interview transcript occurred as a result of this
24 litigation; is that correct?

1 A. Yes.

2 MR. MUSACCHIO: Can we mark this as
3 Exhibit 29.

4 (Exhibit No. 29 was marked
5 for identification.)

6 Q. (By Mr. Musacchio) I'm going to
7 show you what's been marked as Exhibit 29, and is
8 that the transcript of your January 5th interview
9 with the state police?

10 A. It appears to be. I mean, I don't
11 know it word for word but . . .

12 Q. It appears to be what it is; is
13 that correct?

14 A. That's exactly what it appears to
15 be.

16 Q. Did you review any other documents
17 prior to coming here today for your deposition
18 relating to this case?

19 A. No, I don't have any other
20 documents besides this.

21 Q. Have you ever discussed your
22 deposition with Officer Paul Duncan?

23 A. No.

24 Q. Did you ever discuss your

1 deposition here today with any other law
2 enforcement personnel employed by the Town of
3 Framingham?

4 A. Discussed that we had a deposition,
5 not exactly the specifics of the deposition.

6 Q. No discussion of the substance or
7 what questions you might be asked or anything?

8 A. No.

9 Q. Did you discuss your deposition
10 with any administrative personnel employed by the
11 Town of Framingham prior to coming here today --

12 A. The attorney.

13 Q. -- other than your attorney? Other
14 than an attorney.

15 A. I don't think so, no. I don't
16 think there was anybody present when we met, no.

17 Q. Now, I'm going to call your
18 attention to January 4, 2011, that's the night
19 before the shooting which occurred in the early
20 morning hours of January 5th.

21 At about 9 a.m. on January 4th you
22 were on duty at the Framingham Police Department
23 that night; isn't that correct?

24 A. Correct.

1 Q. And you were working the 4 p.m. to
2 12 a.m. shift; is that correct?

3 A. That's correct.

4 Q. And you were working your regular
5 patrol that evening?

6 A. Yes.

7 Q. And what does your normal patrol
8 consist of back on January 4, 2011?

9 A. Answering calls as dispatched,
10 normal assignment. I don't recall the area I was
11 assigned to.

12 Q. But you were to be working outside
13 of the police station that night; is that
14 correct?

15 A. Yes, I was not in the building. I
16 was in a marked car driving around, yes.

17 Q. And did you have a partner with you
18 that night?

19 A. No.

20 Q. Now, at some point during that
21 evening, you were asked to assist in the
22 execution of a search warrant; is that right?

23 A. Yes.

24 Q. And who brought that up with you?

1 A. Deputy Chief Davis.

2 Q. And do you remember what he told
3 you?

4 A. That we were going to have -- be
5 conducting a search warrant.

6 Q. And at about 10 p.m. that evening,
7 you received an order to suit up for the SWAT
8 team; is that right?

9 A. Yes, I was asked to come in and
10 prepare.

11 Q. And that was again Deputy Chief
12 Davis who gave you that order?

13 A. I don't recall who gave me it.

14 Q. Now, do you recall that a meeting
15 was conducted at around 11 p.m. on January 4th to
16 plan for the execution of the warrant?

17 A. Yes.

18 Q. And do you know who attended that
19 meeting? There was SWAT team members that
20 attended the meeting; is that correct?

21 A. Correct.

22 Q. In terms of leadership, in terms of
23 who was running the meeting, do you remember who
24 was there?

1 A. Deputy Chief Davis, Lieutenant
2 Downing.

3 Q. And was Deputy Chief Davis heading
4 the meeting?

5 A. I don't recall if he was heading
6 the meeting. I don't believe so.

7 Q. But the two principals that were
8 leading the meeting that you remember was
9 Lieutenant Downing and Deputy Chief Davis; is
10 that right?

11 A. I don't understand the question
12 you're asking. Was it leading or present?

13 Q. Leading.

14 A. When you say leading, I don't
15 understand what you mean by leading.

16 Q. Well, what I mean is that who was
17 providing the information.

18 A. Lieutenant Downing.

19 Q. Lieutenant Downing was.

20 I'm going to show you what's been
21 marked as Exhibit 12 in a prior deposition. I'm
22 going to represent to you that this is the After
23 Action Report relating to the execution of the
24 search warrant at 26 Fountain Street on

1 January 5, 2011. It says it's submitted by
2 Deputy Chief Craig Davis. Have you ever seen
3 this document before?

4 A. No. No, sir.

5 Q. If you could just read to yourself
6 beginning the last paragraph of the first page
7 and approximately half of the second page when it
8 gets -- and you can stop when it gets to
9 "Location information." You can just read it to
10 yourself.

11 And when you get to the point where
12 it says "Location information," you can stop?

13 A. Okay. I'm sorry, that's where I
14 was. Go ahead.

15 Q. Do you recall at the meeting being
16 provided information about the layout of the
17 first floor apartment at 26 Fountain Street?

18 A. Yes.

19 Q. And you were told the various
20 locations of various rooms and entranceways into
21 the building; is that correct?

22 A. Yes.

23 Q. And you were told -- were you told
24 about the drug activity that was allegedly taking

1 place at 26 Fountain Street during the planning
2 meeting?

3 A. Yes.

4 Q. And you were told of individuals
5 that were involved in the drug activity; is that
6 correct?

7 A. Yes.

8 Q. And those individuals were Dwayne
9 Barrett, Deandre Nwaford and Joseph Bushfan; is
10 that correct?

11 A. I only recall that because I'm
12 reading it. I didn't recall that prior to this.

13 Q. Okay.

14 A. It's not in my memory.

15 Q. But you do recall -- having read
16 the After Action Report, do you have a memory of
17 being told about the drug activity --

18 A. Yes.

19 Q. -- at 26 Fountain Street?

20 A. Yes, sir.

21 Q. And you have a memory of being told
22 about the individuals who were actually involved
23 in the drug activity --

24 A. Yes.

1 Q. -- from that location?

2 A. Sorry. Yes.

3 Q. And you were also told about other
4 individuals who resided at 26 Fountain Street
5 that were not suspected of being involved in drug
6 activity; is that correct?

7 A. Yes.

8 Q. And do you recall a discussion at
9 the planning meeting of an individual who resided
10 there named Eurie Stamps?

11 A. Yes.

12 Q. [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 A. Yes.

18 Q. Okay. And you learned that they
19 had -- [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] is that correct?

23 A. Because I'm reading this now. I
24 don't recall that outside of reading this

1 document.

2 Q. But you don't have any reason to
3 doubt that what is in this document was actually
4 conveyed to the SWAT team that evening?

5 A. I don't have any reason to doubt
6 it, yes, but I don't recall it prior to reading
7 this.

8 Q. Okay. [REDACTED]
9 [REDACTED]; is that
10 correct?

11 A. Yes, I can see that printed here.

12 Q. And do you remember them talking
13 about whether [REDACTED]
14 [REDACTED]?

15 A. I don't recall.

16 Q. Okay. But reading from this after
17 accident -- After Action Report, you see that it
18 states [REDACTED]
19 [REDACTED] is that correct?

20 A. Yes.

21 Q. Now, is it standard during a
22 planning meeting for an execution of a search
23 warrant to go over [REDACTED]
24 [REDACTED] who you may encounter during the

1 execution of the warrant?

2 A. Yes.

3 Q. Okay. And do you have any reason
4 to doubt that the SWAT team was informed of
5 whether or not [REDACTED]
6 [REDACTED]?

7 A. Could you say that question again?

8 Q. Do you have any reason to doubt
9 that during the planning meeting that the SWAT
10 team was [REDACTED]

11 [REDACTED]

12 A. I don't have any reason to doubt
13 that it was told.

14 Q. All right. But you don't have a
15 specific memory that you were [REDACTED]

16 [REDACTED]

17 A. I do not remember that.

18 Q. If you could turn to Page 3. I'm
19 sorry, the bottom of Page 2 where it starts --
20 the last sentence of Page 2. I'll read it. "We
21 also discussed that Dwayne Barrett's aunt and
22 uncle and a man named Eurie Stamps were believed
23 to reside in the apartment. We did not possess a
24 photograph of them." Did I read that correctly?

1 A. That's what it says, yes.

2 Q. Then it says that, "but we were
3 told that they were possibly in their 40's,
4 except Mr. Stamps, 68 years old." Did I read
5 that correctly?

6 A. Yes.

7 Q. Okay. Do you have a memory of
8 being told that Mr. Eurie Stamps was believed to
9 reside in the apartment and was 68 years old?

10 A. I don't recall.

11 Q. But do you have any reason to doubt
12 that that information was conveyed by the SWAT --
13 to the SWAT team?

14 A. I have no reason to doubt that.

15 Q. During the planning meeting, were
16 you or the other members of the SWAT team
17 provided with any information that Mr. Stamps was
18 armed or dangerous?

19 A. I don't recall being told that.

20 Q. So you don't recall the specifics
21 of what you were told regarding Eurie Stamps
22 other than what you just read in the action
23 report -- After Action Report?

24 A. Yes.

1 Q. Now, during the planning meeting,
2 assignments were given to each member of the SWAT
3 team; is that right?

4 A. That is correct.

5 Q. And the SWAT team arrived at 26
6 Fountain Street shortly after midnight on
7 January 5, 2011; is that correct?

8 A. Yes.

9 Q. And the warrant was executed on the
10 first floor of that apartment; is that right?

11 A. Yes, sir.

12 Q. And as you sit here today, do you
13 have a general memory of the layout of that
14 apartment?

15 A. A general memory, yes.

16 Q. And that's based on just what you
17 remembered from the events that night, right?

18 A. Yes, sir.

19 MR. MUSACCHIO: Can we mark this as
20 Exhibit 30, please.

21 (Exhibit No. 30 was marked
22 for identification.)

23 Q. (By Mr. Musacchio) Officer
24 Langmeyer, I'm going to show you what's been

1 marked as Exhibit 30 which is a diagram or a
2 layout that was provided by an engineer on behalf
3 of the plaintiffs in this case. I just want you
4 to briefly look at that, the various rooms. And
5 I will point out to you, sir, that where it's
6 marked living room, that was actually a bedroom
7 on January 5, 2011, if that helps you understand
8 the various rooms that were in that apartment
9 that evening.

10 A. Okay.

11 THE VIDEOGRAPHER: May I interrupt
12 for one moment, please. Officer Langmeyer, would
13 you please move your microphone up a couple
14 inches.

15 THE WITNESS: Sure. I'm sorry.

16 THE VIDEOGRAPHER: No problem at
17 all. Thank you very much.

18 THE WITNESS: How's that?

19 THE VIDEOGRAPHER: Great.

20 THE WITNESS: Okay.

21 Q. (By Mr. Musacchio) And you see here
22 there's a -- on Exhibit 30, there's a front
23 entranceway. So this would be Fountain Street
24 here, and that was the front entranceway which

1 was a common hallway; is that correct?

2 A. Yes, sir.

3 Q. And that's what you remembered from
4 that evening?

5 A. Yes, sir.

6 Q. And there was a door at the end of
7 the hallway that led into the kitchen; is that
8 correct?

9 A. Yes, sir.

10 Q. Okay. And at the end of the
11 kitchen, there's another entranceway with a
12 threshold into what we have labeled as a hallway.
13 Do you recall that from that evening?

14 A. Yes, sir.

15 Q. And you also recall that off of the
16 hallway there's an entrance to a back bedroom.
17 Do you recall the entranceway into the back
18 bedroom and the bedroom?

19 A. Yes, sir.

20 Q. Okay. Is this a fair and accurate
21 depiction of the layout of the first floor
22 apartment that you recall from that evening? In
23 terms of just the locations of the rooms and the
24 layout.

1 A. Yes. I couldn't say it's exact,
2 but yes, it's fair and accurate as you described
3 it. There's a kitchen and a hallway and a
4 bedroom where I believe to be located.

5 Q. All right. And that evening you
6 never entered into the living room; is that
7 correct?

8 A. That's correct.

9 Q. And you never entered into what we
10 call a den?

11 A. Yes.

12 Q. So the rooms that you would have
13 entered were the front entryway, the kitchen,
14 into the hallway and into the back bedroom; is
15 that correct?

16 A. That is correct.

17 Q. Now, your assignment that evening
18 was to be part of a so-called break-and-rake
19 team?

20 A. That is correct.

21 Q. What does a rake-and-break team do?

22 A. Break this window so that we could
23 get into it, open it up. Rake, meaning move the
24 glass.

1 Q. So you break the glass?

2 A. Yes, sir.

3 Q. And what else did the -- so we can
4 do it in the context of that evening. So that
5 evening your job was to break a window, and what
6 else were you suppose do as part of the
7 break-and-rake team?

8 A. My job wasn't to break the window.
9 It was to provide cover for the officer breaking
10 the window.

11 Q. So you had a weapon with you?

12 A. I did.

13 Q. What kind of weapon did you have?

14 A. I was carrying my issued department
15 M-4 carbine and my sidearm pistol.

16 Q. So your responsibility on the
17 break-and-rake team was to provide cover for the
18 officer who was breaking the window?

19 A. Yes.

20 Q. And who was that officer, do you
21 know?

22 A. Officer Casey.

23 Q. Officer Casey. And what else was
24 Officer Casey's responsibility as part of the

1 break-and-rake team that night?

2 A. His responsibility was to break the
3 window, and the tool that he used breaks the
4 window and holds the flashbang to enter the room.

5 Q. And the flashbang is at the end of
6 a pole; is that correct?

7 A. Correct.

8 Q. And how is it actually detonated?

9 A. There is a cable attached to the
10 initiating pin at the flashbang that runs down
11 the pole to the back side to where the officer is
12 located. You pull the cable, and it pulls the
13 pin and initiates the flashbang.

14 Q. And what's the purpose of a
15 flashbang in the context of an execution of a
16 search warrant?

17 A. It's a diversionary device.

18 Q. It's to divert the occupants?

19 A. Yes.

20 Q. And is part of the purpose to
21 create a smoke screen or anything?

22 A. No.

23 Q. So it's just the noise and the
24 light that flashes --

1 A. Yes, sir.

2 Q. -- that is designed to divert the
3 attention of the occupants; is that correct?

4 A. Yes, sir.

5 Q. And that -- and I assume by
6 diverting it means it focuses their attention on
7 the flashbang as opposed to some other activity
8 they might be engaging in at that moment?

9 A. That's correct.

10 MR. MUSACCHIO: Can you mark that
11 as Exhibit 31, please.

12 (Exhibit No. 31 was marked
13 for identification.)

14 Q. (By Mr. Musacchio) Now, Officer
15 Langmeyer, do you recall during your January 6th
16 interview with the state police being shown
17 certain photographs during your interview that
18 you put marks on?

19 A. Yes, sir.

20 Q. I want to show you this photograph
21 which is marked Exhibit 31, and is that your
22 signature on the bottom of that photograph?

23 A. Yes, sir.

24 Q. Okay. And it's dated 1/6/2011; is

1 that correct?

2 A. Yes, sir.

3 Q. Do you recall at your interview
4 that you made certain markings on that
5 photograph?

6 A. Yes, sir.

7 Q. And have you circled in the
8 photograph the window that was broken where the
9 flashbang was inserted; is that correct?

10 A. Yes.

11 Q. And that's where you were standing
12 when the window was breaking, right at that
13 window that's marked on the side with the --

14 A. Yes, sir.

15 Q. And there's a "B" there. That's
16 the "B" side of the building; is that correct?

17 A. Correct.

18 Q. Now, after the flashbang went off,
19 did you hear an order to execute the warrant?

20 A. I don't recall.

21 Q. But you knew according to the plan
22 that after the flashbang went off that officers
23 would be entering into the kitchen area; is that
24 correct?

1 A. Rephrase your -- can you say your
2 question again?

3 Q. You knew from the planning --

4 A. Yes, sir.

5 Q. -- for the execution of this search
6 warrant that after the flashbang went off that
7 officers would be entering into the kitchen of
8 the first floor apartment; is that correct?

9 A. Yes, sir, that's correct.

10 Q. That was part of the plan?

11 A. Yes, sir.

12 Q. And you knew that?

13 A. Yes, sir.

14 Q. And after the flashbang went off,
15 you stayed at the window and looked inside the
16 building, inside the kitchen; is that correct?

17 A. Correct.

18 Q. From the position that you have
19 marked here on Exhibit 32, is that --

20 A. 31.

21 Q. 31.

22 A. That's correct.

23 Q. Okay. So you're standing at the
24 window, the flashbang goes off, you look in, and

1 you see how many officers entering the kitchen?

2 A. Two at the most.

3 Q. Two. And do you remember who they
4 were?

5 A. No, sir.

6 Q. But you knew that they entered as
7 part of the plan?

8 A. Yes, sir.

9 Q. Okay. And after you saw the
10 officers -- after you saw the officers enter the
11 kitchen, you then moved and redeployed, and you
12 walked or ran or whatever you did to the front
13 entrance of the building; is that correct?

14 A. Correct.

15 Q. And your redeployment from the
16 kitchen window back to the front entryway, was
17 that part of the original plan for the execution
18 of the warrant?

19 A. Yes, sir.

20 Q. That wasn't something you did just
21 by instinct when you saw two officers enter? The
22 plan was for you to then redeploy to the front
23 entryway and to then go into the hallway and to
24 make entry into the kitchen, was that part of the

1 plan?

2 A. Yes.

3 Q. And what was the purpose of you
4 entering the kitchen and redeploying from your
5 break-and-rake team?

6 A. To support the SWAT team in any
7 capacity needed.

8 Q. And when you entered the kitchen,
9 did you see any other officers there?

10 A. Yes.

11 Q. Who did you see?

12 A. I don't recall their names.

13 Q. If I told you they were Officer
14 Sheehan and Officer O'Toole, would that refresh
15 your memory?

16 A. Yes. I'm sorry. Your question,
17 upon entry I did not know the officers's names.
18 I do know that Officer Sheehan and O'Toole were
19 in front of me.

20 Q. Okay.

21 A. I'm sorry.

22 Q. So as you sit here today, do you
23 know that the individuals that were in the
24 kitchen when you arrived were Officer Sheehan and

1 Officer O'Toole?

2 A. Yes.

3 Q. Did you see Officer Downing --
4 Lieutenant Downing anywhere?

5 A. I believe -- yes, he was to my
6 right.

7 Q. In the kitchen?

8 A. I believe so. Yes, that's right
9 there, kitchen.

10 Q. So when you arrived in the kitchen,
11 there were at least three officers in the
12 kitchen. There was Officer -- you know today
13 there was Officer Sheehan, Officer O'Toole and
14 Lieutenant Downing; is that correct?

15 A. Yes.

16 Q. Do you recall seeing anybody else
17 in the kitchen upon your initial entry in there?

18 A. No.

19 MR. MUSACCHIO: Will you mark this
20 as Exhibit 32, please.

21 (Exhibit No. 32 was marked
22 for identification.)

23 Q. (By Mr. Musacchio) Can you show me
24 on the diagram, which is Exhibit 30, your path

1 from the kitchen window into the kitchen? And
2 this is the kitchen window, I believe, so you can
3 line that up with the photograph. And if you
4 could just mark by making a line your path from
5 the kitchen into the front entry, the hallway and
6 into the kitchen and where you were standing when
7 you first entered the kitchen.

8 A. I left this area around the window
9 here, and I went in this direction around the
10 house to gain entrance through this door.
11 Through this door I ended up in one solid motion
12 stopping here. I stopped there. My motion here
13 is exactly straight beeline -- I think I went
14 this way, but I didn't go in this room. I came
15 here, looked, but I stopped my motion right
16 there.

17 Q. And if you're able to remember, can
18 you mark on the diagram in black with a circle,
19 if you can, where you recall Officer Sheehan
20 being?

21 A. Two officers were located here. I
22 do not know which one was in front of the other.

23 Q. So can you just put an "S" and an
24 "O" for O'Toole and Sheehan in that black circle,

1 just so we have a way of identifying what that
2 relates to?

3 A. Okay. Just their names in here
4 meaning I'm not necessarily one in front of the
5 other.

6 Q. Exactly, exactly.

7 A. So in this circle, I marked Officer
8 Sheehan as being an "S" and Officer O'Toole not
9 necessarily in that order.

10 Q. In that order.

11 A. I do not recall who was in front of
12 who.

13 Q. And what do you recall them doing
14 when you first observed them in the kitchen?

15 A. They appeared to be engaged with a
16 individual or somebody in the hallway, something
17 in front of them.

18 Q. Did you hear them say anything when
19 you first saw them?

20 A. I don't recall what they were
21 saying, no.

22 Q. Do you recall them saying -- did
23 you hear them saying anything along the lines,
24 Police officers, get down on the ground, any

1 commands being made?

2 A. I recall them saying something. I
3 just can't recall exactly what was said. They
4 were saying something. I don't recall in what
5 order what was said off the top of my head.

6 Q. You don't recall what they were
7 saying?

8 A. At this time, no.

9 Q. Okay. Can you pull out your
10 interview -- I forget which exhibit it was -- and
11 turn to Page --

12 A. 29.

13 Q. -- 7?

14 A. Sure.

15 Q. Page 8, actually. And in your
16 answer to a question you said, "The officers
17 were -- it sounded like they were trying to give,
18 not only commands to the person on the ground,
19 but to someone in the room."

20 MR. DONOHUE: Which lines are you
21 on?

22 MR. MUSACCHIO: Lines 2 through 6
23 on Page 8.

24 A. Yes, I see that.

1 Q. Okay. Having read that, do you
2 have a recollection as you sit here today of
3 either Officer Sheehan or O'Toole giving commands
4 to the person that was on the ground?

5 A. Yes. Like I said, I have a
6 recollection of them saying something. I just
7 don't know the exact words.

8 Q. But they were in the form of a
9 command --

10 A. Yes.

11 Q. -- telling them to do something?

12 A. Yes, I believe so, yes.

13 Q. I'm going to show you what's been
14 marked as Exhibit 32. And is that your signature
15 on the bottom of that?

16 A. Yes, sir.

17 Q. And this is a photograph of the
18 kitchen that you marked up during your interview
19 on January 6, 2011; isn't that correct?

20 A. Yes, sir.

21 Q. Okay. And do you see where you
22 have the "X"? Was that where you had placed
23 yourself when you were making markings on this
24 photograph? Do you remember that?

1 A. I made an "X." I can't recall the
2 exact reason why. I think -- I believe that was
3 the door I came through.

4 Q. Fair enough.

5 A. I was never stopped there.

6 Q. Fair enough. And you also marked
7 there that there are two POS, which I think is
8 position in front.

9 A. I believe so, yes.

10 Q. And was that your attempt to
11 indicate, at least based to the extent you could,
12 on this photograph of where Officers Sheehan and
13 O'Toole were?

14 A. Yes.

15 Q. Okay. Now when you saw Officer
16 Sheehan and O'Toole making commands to somebody,
17 did you also observe a man on the ground?

18 A. Yes.

19 Q. It would be on the floor, actually,
20 correct?

21 A. Yes.

22 Q. And we know today that that
23 individual was Mr. Stamps, who I will refer to
24 him as Mr. Stamps moving forward.

1 A. Yes.

2 Q. Okay. Now, when you entered the
3 kitchen and you saw Mr. Stamps on the floor, and
4 we'll get to where his location was, did you ever
5 observe Mr. Stamps standing?

6 A. No.

7 Q. So the first time you observed
8 Mr. Stamps he was already lying down on the
9 floor?

10 A. Yes.

11 Q. And was he lying on his stomach?

12 A. Yes.

13 Q. And at that point when you first
14 observed Mr. Stamps on the floor, what's the next
15 thing you saw Officer Sheehan and O'Toole do?

16 A. I guess -- can you just re-say your
17 question again? On what action -- I'm not sure
18 on what action you mean by, was there a pause or
19 was it the next thing.

20 Q. Where did you -- you saw Officer
21 Sheehan and O'Toole in the kitchen giving
22 commands to Mr. Stamps.

23 A. Yes.

24 Q. They left the kitchen at some

1 point; is that correct?

2 A. Yes.

3 Q. Where did they go?

4 A. They entered the first room to the
5 right as you went through the hallway at the
6 doorway.

7 Q. So they passed from the kitchen
8 past the threshold into the hallway, and they
9 made a right into what we have marked here as the
10 bathroom --

11 A. Yes.

12 Q. -- is that correct?

13 Okay. I want to call your
14 attention to Page 8 of your interview transcript.

15 A. Yes, sir.

16 Q. And I want to start on Line 6.

17 "Question, Did you know who those
18 officers were that were giving commands?

19 "Answer, I believe Officer O'Toole
20 and Sheehan.

21 "Question, And Sheehan, okay.

22 "Answer, In front of me. I could
23 see there was a male on the ground, lying down.

24 He appeared to be impeding their way going on to

1 those open doors in those rooms to secure them.
2 But the way the male was, he took up most of that
3 way. He was totally taking up the hallway space.
4 So to get passed him presents a risk to us, a
5 safety risk. A decision -- they basically
6 started to move to the right. I said that they
7 had assistance, you know, that I was with them.
8 We, basically, I would say, made a risk
9 assessment that getting to those rooms, we
10 couldn't see somebody, or there may be -- or they
11 may be in there, versus the person on the floor,
12 to step over him. And there was --"

13 Did I read that correctly?

14 A. Yes.

15 Q. So you observed Officer Sheehan and
16 O'Toole move into the hallway while you were
17 still standing in the kitchen; is that correct?

18 A. Yes.

19 Q. Okay. How close were you to them
20 when they left the kitchen and entered the back
21 hallway, do you recall?

22 A. Immediately close to them.

23 Within -- I was in contact.

24 Q. Okay. Now, I want to call your

1 attention to Page 8 again of your interview
2 transcript. The question at the bottom, do you
3 see that?

4 "Question, So you stepped over him?

5 "Answer, Stepped -- the first two
6 officers, the other two officers, I believe to be
7 Officer Sheehan and O'Toole in front of me, went
8 into the immediate room to the right. There was
9 another open door.

10 "Question, So did they have to step
11 over him to get to that room?

12 "Answer, They had to step over him,
13 if not on him, to be honest. I wasn't looking
14 down as they did it."

15 Now, is it your memory that that
16 evening that Mr. Stamps's position lying on the
17 floor was impeding or blocking the officers
18 entranceway into the hallway?

19 A. When you say impeding or blocking,
20 he was in the way, yes.

21 Q. He was in the way?

22 A. Yes, yes, yes. He was in the
23 direct path between the door. The two doors, I
24 should say. His position was there.

1 Q. Okay. And as I understand it, am I
2 correct that you observed Officer Sheehan step
3 over Mr. Stamps to be able to make his way into
4 the hallway; is that correct?

5 A. Yes.

6 Q. And you observed Officer O'Toole
7 also have to step over Mr. Stamps to make entry
8 into the hallway; is that correct?

9 When I mean entryway into the
10 hallway, that first step into the kitchen -- from
11 the kitchen into the hallway, they had to step
12 over Mr. Stamps; is that correct?

13 A. Yes. As in here, I don't know if
14 they stepped on him. He was lying, so over is
15 the term I used to get passed him or . . .

16 Q. Do you know what part of
17 Mr. Stamps's body they had to step over? Was it
18 his upper body?

19 A. His head was closest to us. His
20 upper body was closest to us versus his feet.

21 Q. Correct. So when you say that
22 Officer Sheehan and O'Toole had to step over
23 Mr. Stamps, they had to step over a portion of
24 his upper body. Would I be fair to say that from

1 the shoulders up?

2 A. Yes.

3 Q. Now, the next thing you did is that
4 you followed O'Toole and Sheehan into that back
5 hallway, and what I'm referring to is this area
6 right here; is that correct?

7 A. When you say follow, can you define
8 your question?

9 Q. Well, after you saw Officer Sheehan
10 and O'Toole step over Mr. Stamps's upper body and
11 make entrance into the hallway and went into the
12 bathroom, you also -- after they went into the
13 hallway, you then stepped over Mr. Stamps and
14 also made entry from the kitchen into the
15 hallway; is that correct?

16 A. When you say entry into the hallway
17 I'm just trying to figure out what you mean. Did
18 I -- what do you mean by made entry in the
19 hallway? Did I --

20 Q. You went into the hallway.

21 A. At some point in time I went into
22 the hallway, yes.

23 Q. Right. In order to get -- how soon
24 after did you go into the hallway after Officer

1 Sheehan and O'Toole? Are we talking a matter of
2 seconds?

3 A. A few seconds, yes.

4 Q. A few seconds.

5 A. A few seconds, yes.

6 Q. And you, too, had to step over the
7 upper body of Mr. Stamps to make entranceway --
8 enter into the hallway; is that correct?

9 A. That's correct.

10 Q. Can you look at Page 9 of your
11 interview? And I'm going to start reading on
12 Line 21. Are you with me?

13 A. Yes.

14 Q. You state, "I made enough where I
15 bypassed him." And him is referring to
16 Mr. Stamps. "I couldn't remember if I actually
17 stepped on him or got around him, but it was very
18 tight. I could've stepped on him. But I made it
19 passed him. I think I may have put my hand on
20 the wall or something to make sure I secured --
21 make sure I secured just in case I stepped on
22 him." Did I read that correctly?

23 A. Yes, sir.

24 Q. Continuing on. "When I went into

1 the next room, second room on my right, as we
2 went in that little miniature hallway. I
3 immediately encountered a male."

4 Okay. We'll get to that male in a
5 second, but you, too -- Mr. Stamps was impeding
6 your ability to step into the hallway from the
7 kitchen as well; isn't that correct?

8 A. Yes.

9 Q. And you, too, had to step over his
10 upper body?

11 A. Yes.

12 Q. Can you mark on the diagram here,
13 Exhibit 30, where Mr. Stamps's head was -- well,
14 wait a second.

15 Do you have a recollection of where
16 Mr. Stamps's head was in relationship to the
17 threshold from the kitchen into the hallway?

18 A. I guess -- when you say
19 recollection, how defined, his head being one way
20 and his feet being the other way? How precise
21 are you asking the question?

22 Q. Okay, fair enough. Let me be
23 specific. His head was pointed towards the
24 kitchen; is that right?

1 A. Correct.

2 Q. Okay. And you had testified
3 already that his upper body was somewhat impeding
4 the officers from stepping from the kitchen into
5 the hallway; is that correct?

6 A. No. That he was in the hallway
7 obstructing from moving from the kitchen to
8 what's marked as bathroom, obstructing getting
9 from to and from, but he was in the hallway.

10 Q. He was in the hallway. And I
11 believe you testified that in order to get -- the
12 officers to get from the kitchen into the hallway
13 they had to step over Mr. Stamps; is that
14 correct?

15 A. Step over Mr. Stamps, yes.

16 Q. And they had to step over part of
17 his upper body?

18 A. Part of his body, yes.

19 Q. And we established that that was
20 from the shoulders up?

21 A. I can't define as far as -- when
22 you say over his body, whether it would be --
23 like, I, my testimony -- I didn't look down, but
24 I could say he had to step over. So whether it

1 was -- if you're asking if his arm, his leg --
2 the officer's leg went over his head or his arm
3 or his back, I don't know that exact position if
4 that's what you're trying to define. I'm not
5 understanding your question.

6 Q. Okay. What I want to know is where
7 Mr. Stamps's head was in relation to this
8 threshold as best as you can remember. Was it on
9 the hallway side of the threshold or the kitchen
10 side of the threshold?

11 A. The hallway side.

12 Q. Okay. And how close to the
13 threshold was Mr. Stamps's head?

14 A. A foot or so.

15 Q. Okay. Can you -- are you basing
16 that -- is that an estimate that you're giving?

17 A. An estimate, yes.

18 Q. An estimate. So can you mark here
19 on this diagram, this floor plan where you recall
20 Mr. Stamps's head to be in relationship to the
21 threshold? And you can do that in green and just
22 make a circle. And, you know, try to make it a
23 fairly small circle so we can get kind of a --

24 A. I would say approximately here --

1 Q. Okay.

2 A. -- but I can't be . . .

3 Q. So you're saying it's approximately
4 a foot from the threshold?

5 A. Approximately. I mean . . .

6 Q. Could be less, could be more?

7 A. Yes.

8 Q. And can you just draw a line to
9 that and just write the word "Stamps" underneath
10 it so we know what that refers to?

11 A. (Witness complies.)

12 Q. Great. Thank you. So when you put
13 this marker here, you weren't putting it in terms
14 of what you believe this chart -- this floor plan
15 represents to be a foot. You just kind of put it
16 where you remember it being?

17 A. Yes.

18 Q. But your memory was that it was
19 approximately about a foot or so, give or take,
20 from the threshold; is that right?

21 A. Yes, from the hallway side of the
22 threshold.

23 Q. Right. Did you -- when you stepped
24 over Mr. -- you know it was Mr. Stamps after the

1 event --

2 A. Yes.

3 Q. -- but when you stepped over him,
4 did it trigger in your mind that that was the
5 68-year old individual that they had discussed
6 back during the planning meeting?

7 A. I'm trying to make sure that -- at
8 the time -- he was an older gentleman in the room
9 at the time. Whether I associated him with being
10 the exact person in the briefing, no, just that
11 he was an older male in the house at the time.

12 Q. And did you associate that with
13 anything that you were told during the planning
14 meeting?

15 A. Yes, there was an older man,
16 informed to be in the house at the time, the
17 apartment.

18 Q. Now, after you went through the
19 hallway, you went into the back bedroom; is that
20 correct?

21 A. This bedroom?

22 Q. Yes.

23 A. Yes.

24 Q. And why did you go into the back

1 bedroom?

2 A. I believed that there was somebody
3 in that room.

4 Q. And why did you believe that?

5 A. They were giving commands that
6 somebody was in that room. I believe that I
7 could see -- as I made -- at a point here, coming
8 through here, that I could see someone in the
9 room looking out here.

10 Q. And describe what you encountered
11 when you entered the bedroom?

12 A. A male. I mean a bedroom. When
13 you say describe, what do you mean?

14 Q. You saw a man in the bedroom?

15 A. I saw a man in the bedroom, yes,
16 sir.

17 Q. Was he a young man?

18 A. Yes.

19 Q. Approximately how old was he?

20 A. I want to say 20's. I don't
21 recall. When I say young, I mean maybe his 20's.
22 Not in his 70's.

23 Q. And we know today that that
24 individual is Devon Talbert; is that correct?

1 A. I don't recall the individual's
2 name that was, that I -- I don't know.

3 Q. Okay. I'll represent to you that
4 it was Devon Talbert that was in that back room.

5 Can you mark on the floor plan, if
6 you recall, when you first walked into the
7 bedroom where you saw Mr. Talbert? Can you just
8 put a circle and put a "T" in the middle of it.

9 A. In this area here.

10 Q. And when you walked in and you
11 first observed him, what was he doing? Was he
12 standing, kneeling?

13 A. He was kneeling.

14 Q. He was kneeling. Did he have his
15 hands in the air?

16 A. Yes.

17 Q. And you pointed your weapon at him?

18 A. I did.

19 Q. And you told him to -- what did you
20 say, freeze or --

21 A. I can't recall the exact words that
22 I said. I definitely gave him commands. I just
23 don't know the exact command.

24 Q. Okay. Was the purpose of your

1 commands to hold him in place?

2 A. Yes, sir.

3 Q. So that he doesn't move?

4 A. Yes, sir.

5 Q. And where were you standing when
6 you pointed your weapon at him and gave him
7 commands? If you can mark again with a circle
8 and just put your initials, your last -- put L in
9 the middle.

10 A. Sure. In this area here.

11 Q. So you were approximately seven to
12 ten feet from him?

13 A. I don't think it was that much.
14 Seven would be at the most, I believe.

15 Q. Seven at the most?

16 A. At the most. It seemed to be a
17 small bedroom.

18 Q. Are you familiar with the
19 contact/cover rule?

20 A. Yes, sir.

21 Q. And what you did that evening when
22 you encountered Mr. Talbert is that you froze him
23 in place; is that correct?

24 A. That's correct.

1 Q. And you waited for assistance from
2 another officer to come in and to -- before
3 anyone made physical contact with Mr. Talbert; is
4 that correct?

5 A. Yes.

6 Q. Okay. And Officer Sheehan came
7 into the room; is that correct?

8 A. Yes.

9 Q. And did you have a conver- -- did
10 you exchange words with Officer Sheehan at that
11 point when you had Mr. Talbert at -- when you
12 were holding him in place?

13 A. Yes.

14 Q. Okay. What did you say to Officer
15 Sheehan?

16 A. I believe I -- to continue to
17 searching the room. The exact I can't recall. I
18 had Mr. Talbert secured but the rest of the room
19 was not secured.

20 Q. So did Officer Sheehan secure
21 Mr. Talbert?

22 A. Can you define what you mean by
23 secure him?

24 Q. Yeah. So the first thing Officer

1 Sheehan did was to continue to do a search of the
2 room; is that correct?

3 A. Correct.

4 Q. And after he completed his search
5 of the room, he didn't find any other individuals
6 in the room; is that correct?

7 A. That is correct.

8 Q. And what was -- did you then have
9 further conversations with Officer Sheehan?

10 A. Yes.

11 Q. Okay. And what were those
12 conversations?

13 A. I can't recall the exact
14 conversation, but for him to go hands-on with the
15 individual, I had him covered. I don't remember
16 the exact words I said.

17 Q. So you were covering with your
18 weapon Mr. Talbert. You had some communication
19 with Officer Sheehan, and Officer Sheehan after
20 that communication then went and made physical
21 contact with Mr. Talbert?

22 A. I recall that. Yes, I believe so.

23 Q. And is it your memory that he -- he
24 put handcuffs on him, correct?

1 A. It is my memory that he did.

2 Q. All right. So you're familiar with
3 the contact/cover rule; is that correct?

4 A. Yes, sir.

5 Q. And the contact/cover rule says
6 that when you encounter a suspect or in the
7 execution of a search warrant, a non-suspect,
8 that one officer would hold the suspect in place,
9 cover him with his weapon, await assistance from
10 another officer, and that other officer would
11 then make physical contact with the suspect to
12 further restrain him however he felt it was
13 necessary; is that correct?

14 A. In a perfect situation, yes.

15 Q. And that's what occurred -- that's
16 what you and Officer Sheehan executed that
17 evening; is that correct?

18 A. That is correct.

19 Q. And did -- and the officer that
20 makes physical contact with the suspect, in this
21 case Mr. Talbert, he either holsters his weapon
22 or puts it on safety; is that correct?

23 A. Yes.

24 Q. Before making physical contact with

1 the suspect.

2 A. That is the intent, yes.

3 Q. And do you know -- what kind of
4 weapon did Officer Sheehan have?

5 A. I know he would have had his issued
6 sidearm, pistol. I don't recall what per se long
7 gun, as far as a secondary -- a primary weapon.
8 I don't if it -- what type of weapon it was.

9 Q. Do you recall Officer Sheehan
10 having a long gun that evening?

11 A. I believe so, yes.

12 Q. Do you recall whether he swung the
13 long arm over his shoulder before making contact
14 with Mr. Talbert?

15 A. I don't recall the exact action.

16 Q. And you don't know whether he put
17 his gun on safety or not before making contact?

18 A. I wasn't watching.

19 Q. Okay. Fair enough. But you know
20 that the contact/cover rule would require that
21 the officer making contact with the suspect would
22 either -- would put his weapon on safety or
23 holster it before making physical contact with
24 the suspect; is that correct?

1 A. That is the intent, yes.

2 Q. And the purpose of that rule is to
3 protect the police officers and to protect the
4 suspect or non-suspect that's being restrained
5 from the possibility of the gun being discharged
6 during the physical encounter between the police
7 officer and the suspect; is that correct?

8 A. Yes, that is the intent.

9 Q. Now, at some point when you were in
10 the back bedroom you heard a loud bang; is that
11 correct?

12 A. Yes.

13 Q. Was that before Officer Sheehan
14 came in or after?

15 A. I don't know.

16 Q. Okay. So you heard a loud bang,
17 and when you heard the loud bang, that was before
18 Mr. Talbert was handcuffed; is that correct?

19 A. The bang was before Mr. Talbert was
20 handcuffed, yes.

21 Q. Was handcuffed. Was Mr. Sheehan in
22 the back bedroom with you when you heard the
23 bang?

24 A. I couldn't see behind me or to my

1 immediate right. My focus was on Mr. Talbert.
2 So whether he was in, physically in the room or
3 not at the time the bang went off, I could not
4 tell you.

5 Q. You do not --

6 A. I don't recall seeing. He wasn't
7 in my frame of view.

8 Q. Okay. But at some point before
9 Mr. Talbert was handcuffed you heard a bang?

10 A. Yes.

11 Q. And you knew it was a gunshot?

12 A. No.

13 Q. What were the other possibilities?

14 A. A flashbang.

15 Q. But you knew during the planning
16 stages of the search warrant that there was going
17 to be a flashbang in the kitchen; is that
18 correct?

19 A. Yes.

20 Q. Did you know if there was going to
21 be a flashbang in any other part of the building?

22 A. Not intentionally.

23 Q. So at the time -- is it fair to say
24 that the flashbang usually go off or the plan is

1 for the flashbangs to go off before the officers
2 make entry into the kitchen and any other part of
3 the apartment; is that right?

4 A. Could you rephrase your question?
5 I'm sorry.

6 Q. Yes. Was the plan that evening to
7 have the flashbangs deployed and to go off before
8 any officers entered the kitchen to the apartment
9 or any other room in the apartment?

10 A. There was a plan for a flashbang to
11 go off prior to the entry of the team.

12 Q. Okay. So when you heard the loud
13 bang, you did not know whether it was a gunshot
14 or a flashbang?

15 A. At the immediate second it went
16 off, no.

17 Q. Does -- I assume you've heard an
18 M-4 or M-5 rifle being discharged thousands of
19 times; is that correct?

20 A. Yes, sir.

21 Q. During your training?

22 A. Yes, sir.

23 Q. And you've heard flashbangs before?

24 A. Yes, sir.

1 Q. And as you sit here today, there's
2 a difference between those two sounds, isn't
3 there, a detectible difference?

4 A. In context, yes.

5 Q. Yes. But in the context of that
6 evening, during the execution of the search
7 warrant, as you sit here today when you first
8 heard that loud bang you did not know it was --
9 you could not tell whether it was a gunshot or a
10 flashbang despite all the times you've heard them
11 in the past?

12 A. Well, I can -- there would be a
13 situation where it would sound the same. So like
14 you said, do I know the sound of an M-4, yes. Do
15 I know the sound of a flashbang, yes. Can they
16 sound the same in a certain -- in a different,
17 you know, change the facts, change the situation,
18 yes, they can sound similar.

19 Q. And after you heard the gunshot,
20 did you hear people calling out for medics?

21 A. Yes, sir.

22 Q. At any time after the gunshot did
23 you hear anybody say words to the effect I fell,
24 I tripped or anything like that?

1 A. I don't recall.

2 Q. You don't recall hearing that?

3 A. I don't recall hearing that.

4 Q. Okay. After the gun went off, the
5 first voices you heard were people calling out
6 for medics? Let me rephrase it.

7 A. Yes, sir.

8 Q. After the gun went off, you heard
9 people calling out for medics?

10 A. Yes, sir.

11 Q. And after there was a call for
12 medics, at some point you turned around and you
13 saw Mr. Stamps on the ground, on the floor?

14 A. Sorry. Can you rephrase that
15 question again?

16 Q. After you heard the call for
17 medics, at some point while you were still in the
18 bedroom did you turn around and see Mr. Stamps on
19 the ground?

20 A. I turned around -- I looked over my
21 shoulder at one point, and I did see the person
22 on the ground I believe to be Mr. Stamps on the
23 ground, yes.

24 Q. Did you see him bleeding?

1 A. No.

2 Q. When was the first time you
3 realized that he had actually been shot?

4 A. I don't understand. Are you
5 looking for at what stage in time frame? I mean,
6 I --

7 Q. Yeah. At some point you left the
8 bedroom.

9 A. Yes, sir.

10 Q. And when you first left the
11 bedroom, how much time elapsed between when you
12 heard the loud bang, roughly?

13 A. A few minutes. From the time I
14 left and I heard the bang was a few minutes, yes.

15 Q. So when you looked over your
16 shoulder after you heard the loud bang, was
17 Mr. Stamps in the same position that he was when
18 you stepped over him?

19 A. My view of Mr. Stamps was
20 obstructed. I could only see his feet.

21 Q. And so after the gunshot, you
22 stayed in the back bedroom with Mr. Talbert for a
23 matter of approximately two minutes?

24 A. I believe it was a little bit

1 longer.

2 Q. Okay. Two to three minutes?

3 A. It could have been five. It
4 wasn't -- I wasn't quick leaving at that time.

5 Q. So you were still dealing with him?

6 A. Yes.

7 Q. What was going on in the bedroom
8 back at that point? Was there continuing
9 searching of the bedroom or anything, what was
10 happening?

11 A. We had secured Mr. Talbert. I
12 believe that a continued -- a search, a more
13 detailed search of the room was being conducted,
14 and we maintained -- that something behind us was
15 going on, the medics, that a shot had gone off,
16 something was going on, so we remained there at
17 that time. I stayed with Mr. Talbert at the
18 time.

19 Q. When you left the bedroom, I assume
20 you had Mr. Talbert with you.

21 A. Yes.

22 Q. Mr. Stamps was already removed from
23 the building at that point?

24 A. He was not where I saw him, yes,

1 they moved him.

2 Q. And you saw blood there?

3 A. Yes, sir.

4 Q. And at that point you drew the
5 conclusion that Mr. Stamps had been shot?

6 A. Yes.

7 Q. Now, the contact/cover rule that we
8 were discussing earlier that you and Officer
9 Sheehan executed when you were dealing with
10 Mr. Talbert, that's something that you had been
11 taught prior to January 5, 2011; isn't that
12 correct?

13 A. Yes, sir.

14 Q. And that was part of your SWAT
15 training, the contact/cover rule?

16 A. It's part of training, yes. My
17 training, it's part of it.

18 Q. It is. So you have a specific
19 memory of prior to January 5, 2011, receiving
20 training relating to the contact/cover rule, what
21 it means and how to execute it; is that correct?

22 A. Yes.

23 Q. And as a matter of police training
24 as a patrolman for the Framingham Police

1 Department, did you also receive training in the
2 contact/cover rule prior to January 5 --

3 A. Yes.

4 Q. -- 2011?

5 A. Yes, sir.

6 Q. And you received that training at
7 the police academy, too; isn't that correct?

8 A. Yes, sir.

9 Q. And it's a fairly standard
10 well-recognized technique to making physical
11 contact with a suspect; isn't that correct?

12 A. Yes.

13 Q. Okay. And we talked about it in a
14 situation where there was a cover officer and a
15 available officer to make physical contact --

16 A. Yes.

17 Q. -- with the suspect? We talked
18 about that, right?

19 A. Yes.

20 Q. I want to talk about it, the
21 contact/cover rule or whatever the rule is
22 called, in the context when an officer doesn't
23 have the assistance of another police officer, is
24 essentially alone, and makes contact with and

1 orders to the ground a suspect or a non-suspect
2 in the execution of a search warrant. Are you
3 with me so far?

4 A. Okay. It sounds --

5 Q. And in that context, you agree with
6 me that the proper police technique before making
7 physical contact -- now this is, you know, in a
8 normal circumstance -- that the proper police
9 procedure is that the officer who is covering and
10 holding in place a suspect who is on the ground,
11 again a non-suspect as well, before making
12 physical contact with that person would either
13 put his weapon on safety or put it in his holster
14 before making physical contact with the person.
15 Is that a proper -- is that the proper technique
16 as you understand it?

17 A. I'm trying to go through your
18 statement and question at the same time. I'm
19 trying to make sure I'm answering it.

20 Q. Okay.

21 A. In a perfect situation, yes. I
22 guess if that answers your question. If not, you
23 might have to narrow your question.

24 Q. I think you answered it. So in the

1 context of a single officer before making
2 physical contact with somebody to further pat
3 search them or to further restrain them, the
4 proper procedure that you were trained to do is
5 to put your -- in a normal circumstance without
6 any external concerns or factors, the proper
7 procedure is to place your weapon on safety and
8 to holster or to holster your weapon before
9 making physical contact; is that correct?

10 A. Not knowing any other factors like
11 you said, yes.

12 Q. So let's take a situation where an
13 individual like Mr. Stamps is in an apartment,
14 he's laid out on his stomach, assume, if you
15 would, that he's complied with the orders to lie
16 down on his stomach and to put his hands out so
17 they can be seen. He's a non-suspect in the
18 search warrant. Assume those facts, if you
19 would. In that situation, would the proper
20 procedure be for a police officer who wanted to
21 further restrain Mr. Stamps or to further search
22 him in any way to put their weapon on safety or
23 to holster it before making physical contact with
24 him?

1 MR. DONOHUE: I object to the form.
2 Go ahead and answer, if you can.

3 A. In the form of the question, it's
4 not -- I can't answer that correctly. You point
5 out -- and the first being when you point out,
6 when you say "non-suspect."

7 Q. I want you to assume he's a
8 non-suspect.

9 A. Okay. Well, it's never assumed.
10 In the context of a search warrant, it's never
11 assumed. That's my answer, it's never assumed.

12 Q. Okay, let's take that out of the
13 equation. Let's assume that you have an
14 individual like Mr. Stamps on the ground,
15 complied with your orders to get down on the
16 floor. He gets down on the floor, he's on his
17 stomach, he has his hands out.

18 A. Yes.

19 Q. You don't know whether he's a
20 suspect or not a suspect. In those
21 circumstances, would proper police procedure be
22 that before that officer further restrains
23 Mr. Stamps to have his gun on safety or to have
24 it holstered, is that the proper procedure?

1 A. In the context that you put it,
2 yes, I believe so, not barring any other
3 information.

4 Q. And the circumstances in which a
5 officer may not holster his weapon or put it on
6 safety might be if that person has been hostile
7 and aggressive towards the officer?

8 A. That could be one.

9 Q. That could be one. Another one
10 could be that he's not showing his hands and he's
11 not complying and he's got his hands in his
12 jacket or something, that might be another
13 scenario where you might want to keep your gun --

14 A. Yes, that could be one.

15 Q. -- off safe?

16 A. That could be one, yes.

17 Q. Or -- so those are the types of
18 circumstances that you would depart from the
19 practice of putting your gun on safety or
20 holstering it before making contact?

21 A. Those are two. I wouldn't say --
22 you know, I --

23 Q. It's not exhaustive.

24 A. There are many. There are

1 situations that you would and you wouldn't, I
2 guess.

3 Q. Okay, fair enough. Now, in these
4 procedures that we've been talking about, the
5 contact/cover rule with two individuals, two
6 officers and the contact -- the proper technique
7 when you're alone as an officer and you're making
8 physical contact with the suspect, these are all
9 things that you were taught prior to January 5,
10 2011, as part of your SWAT training; is that
11 correct?

12 A. Sorry, say that question one more
13 time.

14 Q. Yes. The contact/cover rule that
15 we've been discussing and the rule that applies
16 when an officer is alone and before making
17 physical contact with a suspect, these are things
18 that you were taught prior to January 5, 2011; is
19 that right?

20 A. When you say rule, say the rule,
21 what rule are you referring to?

22 Q. Maybe it's a matter of terminology.
23 We talked about the contact/cover technique.

24 A. Yes.

1 Q. And we talked about the situation
2 where a police officer is alone --

3 A. Yes.

4 Q. -- is holding somebody at gun point
5 to freeze them --

6 A. Yes.

7 Q. -- and then wants to make further
8 physical contact with them. We've talked about
9 that situation, too?

10 A. Yes, we have, yes.

11 Q. And we talked about, you know, in
12 the normal circumstances, without any external
13 concerns or factors that, you know, the officer
14 would put his gun on safety or holster it before
15 making physical contact.

16 A. Yes.

17 Q. Okay. Were those things that I
18 just mentioned, were those things taught to you
19 as part of your Framingham Police Department
20 training prior to January 5, 2011?

21 A. Yes, sir.

22 Q. Now, after January 5, 2011, when
23 the police department was aware that Officer
24 Duncan's gun discharged and killed Mr. Stamps, do

1 you recall any specific training you received in
2 which the incident with Officer Duncan and
3 Mr. Stamps was discussed as a part of training?

4 A. Yes.

5 Q. Okay.

6 A. I don't know if you're asking for a
7 specific date or time.

8 Q. Not a specific, but after the
9 execution of the search warrant, obviously.

10 A. Yes.

11 Q. Okay. Can you explain to me what
12 that training was and what was said about the
13 shooting of Mr. Stamps?

14 A. I can't recall exactly what. I
15 mean, training and drills of manipulation of the
16 safety of the weapon, speaking of contact/cover,
17 but I don't know exactly -- I don't know exactly
18 what you're looking for as far as to how much --
19 how much in detail. I can remember that training
20 was conducted, the normal basis, safety, like
21 manipulation of the safety, you know, contact and
22 cover, but I don't know the verbatim if that's
23 what you're asking.

24 Q. Right. So, yeah, let's take it one

1 step at a time. You do recall after January 5,
2 2011, receiving training at the Framingham Police
3 Department in which the contact/cover rule was
4 discussed in the context of the Stamps's shooting
5 or with reference to the Stamps's shooting?

6 A. Yes.

7 Q. Okay. And we'll take it to the
8 next step. Do you remember being -- further
9 training relating to the contact/cover rule?

10 A. Yes, I guess it was -- it's just
11 part of training, but I can't recall if you're
12 saying because of this we did this specifically.

13 Q. No, I'm not asking that. I'm just
14 asking whether or not there was a mention of the
15 Stamps's shooting during that contact/cover
16 training you received after January 5th?

17 A. I can't recall if there was, like
18 what was said, if anything.

19 Q. Was any reference made to -- so
20 during that training, was there any discussion
21 about what Officer Duncan did that evening of
22 January 5th?

23 A. I don't recall what, if any. I
24 would say that the training was conducted and

1 contact/cover rule and/or going through that as a
2 normal part of the training during any situation
3 is, would be -- you know, if you were running a
4 scenario, that is part of it, but I can't I guess
5 define exactly what was said. If conversation of
6 Stamps or the name of the Stamps and the
7 situation that occurred probably came up, I just
8 don't know, or I can't tell you what exactly was
9 said.

10 Q. Was it your understanding that the
11 contact/cover rule was -- you received training
12 in that after this incident because of what
13 happened on January 5th?

14 A. Probably, yes.

15 Q. But you don't remember the
16 specifics --

17 A. No.

18 Q. -- of what was said?

19 A. No, sir.

20 Q. What type of weapon were you
21 carrying when you entered 26 Fountain Street and
22 when you entered the kitchen?

23 A. Physically in my hands --

24 Q. Yes.

1 A. -- was an M-4 carbine. In my
2 pistol holster was my issued department pistol.

3 Q. So the gun in your hand was your
4 M -- what did you call it?

5 A. An M-4.

6 Q. An M-4. And that's like a
7 semi-automatic machine gun. How would you
8 describe it to a layperson?

9 A. I would reference it back to the
10 M-16 variation of weapons. It's just in a
11 different model. It's kind of called the M-4.
12 It means it's the shorter model of the M-16.

13 Q. And I'm not real familiar with the
14 terminology here. Would somebody call it a
15 machine gun?

16 A. Anybody could call a gun a machine
17 gun. I don't know. You're saying a layperson?

18 Q. Yeah. How would you describe it?
19 How many rounds does it fire per second, say?

20 A. That would depend on how the weapon
21 is set up. The M-4 carbine can do it in
22 different ways. I wouldn't be -- each gun is
23 different.

24 Q. So, in other words, the M-4 that

1 you were carrying, that's a gun that when you
2 pull the trigger it shoots multiple bullets,
3 right?

4 A. It depends on the selecting switch,
5 if you have it on semiautomatic or fully
6 automatic, would the gun be discharged more than
7 one round per trigger pull or one round, so it
8 could be different.

9 Q. Okay, fair enough. When you
10 entered the kitchen, what was your gun set on,
11 safety on or safety off?

12 A. I believe it was safety on.

13 Q. And when you entered the hallway, I
14 assume it was on safety on? From the kitchen to
15 the hallway, you kept it on safety on?

16 A. Going from the kitchen through the
17 hallway?

18 Q. Yes.

19 A. I don't recall.

20 Q. When you were encountering -- so
21 you knew when you entered the kitchen that your
22 gun was on safety, right?

23 A. Yes.

24 Q. So when you entered the front

1 entranceway and made it through the hallway into
2 the kitchen, your gun is on safety?

3 A. Yes.

4 Q. You don't recall what your gun was
5 set on when you entered the hallway; is that your
6 testimony?

7 A. Yes.

8 Q. And when you entered the back
9 bedroom and you were pointing your gun at
10 Mr. Talbert to hold him in place, what setting
11 was your gun on?

12 A. Fire.

13 Q. I'm sorry.

14 A. Fire.

15 Q. Fire. So at some point between the
16 kitchen until when you encountered Mr. Talbert,
17 you switched your gun off safety -- you switched
18 it from safety to off safe?

19 A. Yes, sir.

20 It's just trying to remind me of my
21 appointment with you currently. I'm going to try
22 and shut it off. I apologize. I'm sorry.

23 Continue.

24 Q. Yeah, I think I'm just about done.

1 When you first encountered
2 Mr. Stamps when you entered the kitchen, you
3 didn't have any reason to believe that he had
4 committed a crime, had you?

5 A. Only 'cause the way your question.
6 I didn't encounter Mr. Stamps in the kitchen.

7 Q. But when you first saw him.

8 A. Yes.

9 Q. I'm sorry, bad question. When you
10 entered the kitchen and first saw Mr. Stamps --

11 A. Yes, sir.

12 Q. -- lying on his stomach in the
13 hallway, you didn't have any reason to believe
14 that he had committed a crime?

15 A. No, sir.

16 Q. And if we go back to the After
17 Action Report, there was some information that
18 was provided to the SWAT team that Mr. Stamps was
19 not a suspect; is that correct?

20 A. Yes.

21 Q. And that he didn't have any kind of
22 ████████████████████, is that correct?
23 From what we know from the After Action Report.

24 A. Only -- I'm trying to define your

1 answer -- at the time when I encountered -- that
2 we know Mr. Stamps to be the gentleman on the
3 ground, I did not know that that was Mr. Stamps I
4 had in the briefing that we were given of them.
5 Mr. Stamps in the briefing had committed no
6 crime. I just didn't know positively that that
7 was Mr. Stamps. Does that better answer your
8 question?

9 Q. Yes, it does.

10 A. Okay. I'm sorry.

11 Q. And when you saw him on the ground,
12 he wasn't resisting the police in any way, was
13 he?

14 A. No, sir.

15 Q. And he wasn't -- he wasn't moving,
16 was he? He was relatively still?

17 A. Yes, sir.

18 Q. And you didn't see him engage in
19 any kind of movements that caused you any
20 concern?

21 A. No, sir.

22 Q. You didn't see him reaching for
23 anything when you saw him; is that correct?

24 A. No, sir.

1 Q. And when you -- as you described
2 it, when you walked from the kitchen into the
3 hallway and stepped over Mr. Stamps, you did not
4 perceive him as a threat at that time, did you?

5 A. No, sir, I did not.

6 Q. When you saw Mr. Stamps, did you
7 notice whether his elbows were on the floor with
8 his hands up?

9 A. I don't recall.

10 Q. But you could see his hands; is
11 that correct?

12 A. Yes.

13 Q. And that would be important to you,
14 right?

15 A. Yes, sir.

16 Q. Hold on one second. Is the
17 contact/cover training that you received a
18 separate piece of training or is it combined with
19 a broader spectrum of training?

20 A. I guess at what point in time are
21 you asking about? Both.

22 Q. Prior to January 5, 2011.

23 A. Both.

24 Q. It's both?

1 A. I've had it conducted with both.

2 Q. And after January 5th, did you
3 receive specific training that was limited to the
4 contact/cover rule?

5 A. I don't recall if it was limited to
6 that. I can say the training was conducted. I
7 just don't know if -- I don't recall it being
8 limited to that, that they were coming to do this
9 today specifically.

10 Q. No further questions. Thank you,
11 Officer.

12 A. Thank you.

13 THE VIDEOGRAPHER: This concludes
14 the September 23, 2013, deposition of Officer
15 Christopher Langmeyer. Going off the record this
16 is the end of Tape No. 1, one tape used today,
17 and the time is 2:07 p.m.

18 (Deposition concluded at 2:07 p.m.)

19

20

21

22

23

24

1 C E R T I F I C A T E

2 I, Maryellen Coughlin, a RPR/CRR and
3 Notary Public of the Commonwealth of
4 Massachusetts, do hereby certify that the
5 foregoing is a true and accurate transcript of
6 my stenographic notes of the deposition of
7 CHRISTOPHER LANGMEYER, who appeared before me,
8 satisfactorily identified himself, and was by me
9 duly sworn, taken at the place and on the date
10 hereinbefore set forth.

11 I further certify that I am neither
12 attorney nor counsel for, nor related to or
13 employed by any of the parties to the action in
14 which this deposition was taken, and further
15 that I am not a relative or employee of any
16 attorney or counsel employed in this case, nor
17 am I financially interested in this action.

18 THE FOREGOING CERTIFICATION OF THIS
19 TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
20 THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT
21 CONTROL AND/OR DIRECTION OF THE CERTIFYING
22 REPORTER.

23

24 MARYELLEN COUGHLIN, CSR/RPR/CRR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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 with 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.

1

- - - - -

E R R A T A

2

- - - - -

3

4 PAGE LINE CHANGE

5

6

REASON:

7

8

REASON:

9

10

REASON:

11

12

REASON:

13

14

REASON:

15

16

REASON:

17

18

REASON:

19

20

REASON:

21

22

REASON:

23

24

REASON:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, and that the same is
a correct transcription of the answers
given by me to the questions therein
propounded, except for the corrections or
changes in form or substance, if any,
noted in the attached Errata Sheet.

OFFICER CHRISTOPHER LANGMEYER DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.

My commission expires: _____

Notary Public

1	LAWYER'S NOTES		
2	PAGE	LINE	
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	_____	_____	_____