

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

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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  
CHEIF STEVEN B. CARL  
Friday, December 13th, 2013  
10:11 a.m.

Held At:

Kreindler & Kreindler LLP  
277 Dartmouth Street  
Boston, Massachusetts

REPORTED BY:

Maureen O'Connor Pollard, RMR, CLR, CSR

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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 Wesley Hicks, I'm a  
5 videographer for Golkow Technologies.

6 Today's date is December 13th, 2013,  
7 and the time is 10:11 a.m.

8 This video deposition is being held in  
9 Boston, Massachusetts, in the matter of Eurie A.  
10 Stamps, Jr. and Norma 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 and  
14 in his capacity as a police officer of the  
15 Framingham Police Department, for the United  
16 States District Court, District of  
17 Massachusetts, Civil Action Number  
18 1:12-cv-11908.

19 The deponent is Chief Steven B. Carl.  
20 Counsel, please voice identify  
21 yourselves and state who you represent.

22 MR. MUSACCHIO: My name is Joseph  
23 Musacchio, and I represent the Plaintiffs in the  
24 case.

1 MR. KESTEN: My name is Leonard  
2 Kesten. I represent the Defendants.

3 THE VIDEOGRAPHER: The court reporter  
4 is Maureen Pollard, and will now swear the  
5 witness.

6  
7 CHIEF STEVEN B. CARL,  
8 having been first identified and duly sworn, was  
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MUSACCHIO:

12 Q. Sir, could you please state your name  
13 for the record?

14 A. Steven Carl, C-A-R-L.

15 Q. And where are you presently employed?

16 A. Assumption College.

17 Q. And what do you do at Assumption  
18 College?

19 A. I'm the director of public safety, and  
20 chief of police.

21 Q. And when did you start that job?

22 A. October 2nd, 2013.

23 Q. And prior to that position, where were  
24 you employed?

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1 A. The Town of Framingham Police  
2 Department.

3 Q. And what position did you hold there?

4 A. My last position was chief of police.

5 Q. And how long were you chief of police  
6 for the Framingham Police Department?

7 A. July 1st, 2001 through October 7th,  
8 2013.

9 Q. And prior to being chief of police at  
10 the Framingham Police Department, did you hold  
11 any positions for the Town of Framingham prior  
12 to your taking your job as chief of police?

13 A. Yes.

14 Q. And what were those positions?

15 A. I was a police patrol officer, police  
16 detective, a patrol supervisor, sergeant  
17 detective, a shift commander, a bureau  
18 commander, a captain, and a deputy chief.

19 Q. And during -- when did you first start  
20 working for the Framingham Police Department?

21 A. April 18th, 1983.

22 Q. And during your stay at the Framingham  
23 Police Department, were you involved in any  
24 police training that occurred?

1 A. Yes.

2 Q. And in what capacity were you involved  
3 in police training?

4 A. Participant.

5 Q. Were you an instructor?

6 A. I did some instruction in community  
7 policing when I was a lieutenant.

8 Q. Other than that, did you have any  
9 other training responsibilities at the  
10 Framingham Police Department during the years  
11 that you worked there?

12 A. As chief of police, I ensured that  
13 training was conducted.

14 Q. In terms of hands-on training, other  
15 than what you described, were there any other  
16 aspects of training that you were an instructor  
17 for?

18 A. To the best of my recollection, other  
19 than the community policing, I did not instruct.

20 Q. Why did you decide to leave the  
21 Framingham Police Department as chief of police?

22 A. My pension numbers were correct.

23 Q. Any other reasons?

24 A. That's it. I always said that when I

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1 got to 30 years, which would have been July 1st,  
2 I'd start looking for my next job, assuming it  
3 would take a year to get the job, and the right  
4 job came along, and I accepted the job.

5 Q. Did your leaving have anything to do  
6 with the shooting of Eurie Stamps on  
7 January 5th, 2011?

8 A. No.

9 Q. Now, you're aware that a lawsuit has  
10 been filed against the Town of Framingham and  
11 Paul Duncan relating to the shooting of Eurie  
12 Stamps that occurred on January 5th, 2011?

13 A. Yes.

14 Q. And you're aware that the shooting  
15 occurred during the execution of a search  
16 warrant at 26 Fountain Street?

17 A. Yes.

18 Q. What did you do to prepare for your  
19 deposition today, other than talk with  
20 Mr. Kesten?

21 A. I reviewed a couple of documents.

22 Q. Which documents did you review?

23 A. I reviewed the Steven James report,  
24 and I reviewed the Stamps committee report, the

1 board of selectmen, the civilian review board,  
2 and I believe I reviewed Gerry Leone's letter  
3 with the end of the investigation, the  
4 conclusion.

5 Q. Gerry Leone, the district attorney for  
6 Middlesex County?

7 A. Yes.

8 Q. Did you review any depositions of any  
9 of the police officers that have been taken in  
10 this case?

11 A. I did not.

12 Q. Have you talked with any of the police  
13 officers who have been deposed in this case  
14 regarding the substance of their deposition?

15 A. I have not.

16 Q. When did you first learn that a  
17 warrant was going to be executed at 26 Fountain  
18 Street on or about January 5th, 2011?

19 A. I was at a selectman's meeting, and I  
20 knew they were doing an investigation at 26  
21 Fountain, and then later that night I received a  
22 text message from Deputy Davis, the SWAT team  
23 commander, stating that he was going to activate  
24 the tactical unit to serve the warrant.

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1 Q. And did you have to approve the use of  
2 the tactical unit?

3 A. I had to be notified. The vetting and  
4 determination if it was a tactical maneuver was  
5 Deputy Davis.

6 Q. So your only role in that was to be  
7 notified.

8 Did you have any authority to decide  
9 not to use the tactical unit?

10 A. As chief of police, I could override  
11 anyone's orders, yes.

12 Q. And was it explained to you the  
13 reasons why they wanted to use the tactical  
14 team?

15 A. Yes.

16 Q. And did you accept those reasons?

17 A. Yes.

18 Q. And when we talk about the tactical  
19 team, we're talking about the Framingham Police  
20 Department SWAT team, is that correct?

21 A. Correct.

22 Q. Now, at some point did you learn about  
23 the shooting of Mr. Stamps?

24 A. Yes.

1 Q. And when do you recall was the first  
2 time you heard about that, or notified about  
3 that?

4 A. I can't give you an exact time. I was  
5 at home, I received a phone call from the on  
6 duty shift commander that there was a shooting.

7 Q. And do you know approximately the time  
8 you received that call?

9 A. It would have to be close to midnight,  
10 before or after.

11 Q. Before or after midnight?

12 A. Right around. Could have been after  
13 midnight.

14 Q. And what were you told when you first  
15 were notified?

16 A. During a warrant serving, there was a  
17 shooting, and a subject was shot by a police  
18 officer.

19 Q. Was it described to you that early  
20 morning of January 5th the circumstances of how  
21 the shooting occurred?

22 A. During that phone call?

23 Q. Yes.

24 A. No.

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1 Q. At some point during the early morning  
2 hours of January 5th, did you receive any  
3 further details of what occurred?

4 A. Yes.

5 Q. And when did that take place?

6 A. After I received the phone call, I got  
7 dressed and drove to the scene, and I met with  
8 Deputy Davis.

9 Q. And did he provide you with further  
10 details on what occurred?

11 A. Yes.

12 Q. And what did he tell you, as best you  
13 can recall?

14 A. To the best of my recollection, that  
15 during the service of the warrant, Officer  
16 Duncan was identified as the officer whose  
17 weapon went off, shooting Mr. Stamps.

18 Q. Did Deputy Davis or anybody else  
19 describe to you the events that occurred and the  
20 mechanics of what occurred that led to the  
21 shooting?

22 A. Not at that particular time.

23 Q. Okay. When was the first time you  
24 received any information from anyone regarding

1 the details of exactly how Officer Duncan ended  
2 up shooting Mr. Stamps?

3 A. Best of my recollection, it was a few  
4 hours after the event, we received information.

5 Q. And what information did you receive,  
6 and who did you receive it from?

7 A. I can't recall exactly who I received  
8 it from. It could have been Deputy Davis or  
9 Deputy Ferguson.

10 Q. Do you recall the substance of what  
11 they told you?

12 A. The substance was Duncan lost his  
13 balance, and when he went down his weapon went  
14 off.

15 Q. Is that the extent of what you were  
16 told at that time about the circumstances of the  
17 shooting?

18 A. Specifically related to the discharge  
19 of the weapon?

20 Q. Yes.

21 A. Yes.

22 MR. MUSACCHIO: Mark this as the next  
23 exhibit. I believe it's 51.

24

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1 (Whereupon, Carl Exhibit Number 51,  
2 10/13/11 e-mail, was marked for  
3 identification.)

4 MR. KESTEN: What's the number?

5 MR. MUSACCHIO: 51.

6 BY MR. MUSACCHIO:

7 Q. Chief Carl, I'm going to show you  
8 what's been marked as Exhibit 51, and it's an  
9 e-mail from Brian Simoneau to -- I'm going to  
10 represent to you that the e-mail is sent to a  
11 Mr. Steven Ijames, and it's CC'd to you and  
12 Deputy Chief Craig Davis, and it's dated  
13 October 13, 2011.

14 Who was Brian Simoneau?

15 A. Assistant to the chief of police.

16 Q. Do you recall receiving this e-mail?

17 A. I have to read it.

18 Q. If you could just read it through,  
19 please.

20 (Witness reviewing document.)

21 MR. MUSACCHIO: Lenny, can I see your  
22 copy? I think I have my notes on your copy I  
23 gave you. At least a couple -- nothing?

24 MR. KESTEN: Clean.

1 BY MR. MUSACCHIO:

2 Q. Before you read any further, I think  
3 we should -- can we mark this one as 51?  
4 Because the one I marked had my notes on it, or  
5 has a line on it.

6 (Off the record discussion.)

7 (Witness reviewing document.)

8 BY MR. MUSACCHIO:

9 Q. Have you finished reviewing the  
10 e-mail?

11 A. Yes.

12 Q. Do you remember receiving this e-mail?

13 A. I do not.

14 Q. You don't have a specific memory of  
15 receiving it?

16 A. No.

17 Q. The e-mail refers to a meeting that  
18 occurred on September 21st, 2011, is that right?

19 A. Yes.

20 Q. Do you recall that meeting?

21 A. Yes, I do.

22 Q. And that meeting was with you,  
23 Mr. Simoneau, Lieutenant Downing, and Sergeant  
24 Stuart, is that correct?

Page 16

1 A. Correct.

2 Q. And at the meeting, the police  
3 procedure or technique called contact and cover  
4 was discussed?

5 A. My best recollection of the meeting is  
6 Downing and Stuart had a concern over the SWAT  
7 expert's opinion on the safety selector switch,  
8 and that they did talk about the training of  
9 contact and cover, and the responsibilities that  
10 go with those two functions.

11 Q. And at the meeting, the technique of  
12 contact and cover was discussed in the context  
13 of Officer Duncan's shooting of Mr. Stamps, is  
14 that correct?

15 A. Yes.

16 Q. And also discussed at the  
17 September 11th meeting was the procedures of  
18 when an officer can put his weapon off safe, is  
19 that correct?

20 A. Yes.

21 Q. And it was discussed at the meeting  
22 that under Framingham Police Department training  
23 and protocols that a weapon could come off safe  
24 when an officer either perceives a threat or is

1 actively clearing a room, is that correct?

2 A. To the best of my recollection, yes.

3 Q. So the best of your recollection is  
4 that that principle was discussed at the  
5 September 11th meeting, is that correct?

6 A. Yes.

7 Q. September 21st meeting, correct?

8 A. Yes. The meeting as determined in  
9 this e-mail.

10 Q. Again, the concept of when an officer  
11 can put his weapon off safe was discussed in the  
12 context of Officer Duncan's shooting of  
13 Mr. Stamps, is that correct?

14 A. The context was, to my recollection,  
15 relating to the shooting of Mr. Stamps, the SWAT  
16 expert's opinion, as he wrote.

17 Q. Correct. Right.

18 And at the September 21st meeting, the  
19 training that Officer Duncan received and the  
20 principle of contact/cover and when a weapon may  
21 properly go off safe was discussed at the  
22 meeting, is that correct?

23 A. Yes, it was discussed in context to  
24 the opinion of the SWAT expert, though. That

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1 was the context of the discussion.

2 Q. Now, I'm going to call your attention  
3 to the second page of the e-mail where it refers  
4 to a couple of attachments. And the second to  
5 the last sentence says "Attached please find a  
6 document drafted by Sergeant Stuart wherein he  
7 expressed his concerns regarding the question of  
8 whether training was a contributing cause."

9 Did I read that correctly?

10 A. Yes.

11 Q. Do you recall what that attachment  
12 was?

13 A. I do not recall seeing that  
14 attachment.

15 MR. MUSACCHIO: Mark this as the next  
16 exhibit, please.

17 (Whereupon, Carl Exhibit Number 52,  
18 Memo to Steven Carl from Vincent  
19 Stuart, was marked for  
20 identification.)

21 BY MR. MUSACCHIO:

22 Q. Chief Carl, Exhibit Number 52 is a  
23 memo to you written by Sergeant Vincent Stuart.  
24 After you have a chance to review that, I'll

1 just have a couple questions for you.

2 The first question will be; is this  
3 the attachment that is referred to in the e-mail  
4 which is Exhibit 51?

5 A. I can't answer that, because I never  
6 saw this document before.

7 Q. You've never seen that document?

8 A. No. It's addressed to me, but it  
9 doesn't mean it was submitted to me.

10 Q. So as you sit here today, you don't  
11 ever recall receiving that document?

12 A. I have to read the whole thing, but --

13 Q. Why don't you take a look at it and  
14 see if it refreshes your memory.

15 (Witness reviewing document.)

16 BY MR. MUSACCHIO:

17 Q. Have you finished reviewing it, Chief?

18 A. Yes.

19 Q. Does that refresh your recollection --  
20 first of all, have you ever seen that document  
21 before?

22 A. I have not.

23 Q. And based on that answer, I assume  
24 that that's not the document that is referred to

Page 20

1 in Exhibit 51 regarding an attachment concerning  
2 a document drafted by Sergeant Stuart wherein he  
3 expresses his concerns regarding the question of  
4 training?

5 A. At the meeting this e-mail was  
6 described, and I told Stuart and Downing to put  
7 in writing their specific concerns. Until  
8 seeing this document today, this document was  
9 never submitted to me. This appears to be their  
10 specific concerns relating to the issues brought  
11 forth in this e-mail at the meeting on the  
12 21st of September. However, this is the first  
13 time I ever saw this document.

14 Q. So it's your testimony that that  
15 document was, as best as you can recall, was  
16 never submitted to you during the time period  
17 either before or after the September 21st, 2011  
18 meeting, is that correct?

19 A. Best of my recollection, this document  
20 was never submitted directly to me. I've never  
21 seen this document before.

22 Q. Do you have any idea when it was  
23 prepared? There's no date on it from Sergeant  
24 Stuart.

1           A.     No. I can't tell you anything about  
2 the document.

3           Q.     If you also go back to Exhibit 51, if  
4 you could, Chief, the last sentence, it says  
5 "Also included is a document which Sergeant  
6 Stuart drafted to reflect in writing the  
7 training provided regarding the use of the M-4  
8 rifle."

9                     Do you recall that -- ever seeing that  
10 document?

11          A.     I'd have to see the document to tell  
12 you if I've ever seen it.

13          Q.     Okay. I'm going to mark another  
14 exhibit then.

15                     (Whereupon, Carl Exhibit Number 53,  
16 Document titled Firearms and Service  
17 Training/Patrol Rifle Class, Lesson  
18 Plan/Material Covered, was marked for  
19 identification.)

20 BY MR. MUSACCHIO:

21          Q.     Chief Carl, Exhibit 53 is entitled  
22 Firearms and Service Training/Patrol Rifle  
23 Class, Lesson Plan/Material Covered, and ask you  
24 to review that document.

Page 22

1                   And the first question is going to be;  
2   have you ever seen that document before  
3   (handling).

4                   (Witness reviewing document.)

5   BY MR. MUSACCHIO:

6       Q.       Just to help you in terms of what I'm  
7   going to ask you about, I'm going to ask you  
8   about the low ready and the contact/cover on the  
9   last page.

10                  (Witness reviewing document.)

11   BY MR. MUSACCHIO:

12       Q.       Have you had a chance to review it?

13       A.       Yes.

14       Q.       Have you ever seen this document  
15   before?

16       A.       I do not recall seeing the document,  
17   although the content reflects instruction given  
18   at the firearm range.

19       Q.       And does this document reflect the  
20   training given by the Framingham Police  
21   Department to its officers prior to January 5th,  
22   2011?

23       A.       Where there's no date on this  
24   document, I can't answer that.

1 Q. Okay. Well, understanding the  
2 training that the officers received before  
3 January 5th, 2011, were they trained on the  
4 concept of contact and cover that's described in  
5 Exhibit 53?

6 A. Yes, they are trained in contact and  
7 cover.

8 Q. And they're also trained on the  
9 concept of low ready, and when a weapon comes  
10 off safe prior to January 5th, 2011?

11 A. You have to repeat your question.

12 Q. Okay. You see the description of off  
13 safe on Page 1 of the Firearms and Service  
14 Training --

15 A. Yes.

16 Q. -- document, which is Exhibit 53?

17 And it refers to when an officer can  
18 put his weapon off safe. Does that describe the  
19 training that was received by Framingham Police  
20 Department personnel prior to January 5th, 2011?

21 A. For the patrol rifle, to the best of  
22 my recollection, it reflects the training.

23 Q. For the patrol riflemen?

24 A. For the patrol rifle.

Page 24

1 Q. Patrol rifle, meaning a rifle held by  
2 somebody, a routine officer who is a patrolman?

3 A. A uniformed patrol officer.

4 Q. Does this reflect the training that  
5 the SWAT team received?

6 A. I do not believe so.

7 Q. Okay. What was your understanding of  
8 what the SWAT officers received as training  
9 prior to January 5th, 2011 regarding when a  
10 weapon comes off safe?

11 A. When they perceive a threat.

12 Q. And that's what it says here, "off  
13 safe is officer perceives a threat"?

14 A. Yes.

15 Q. So that would apply equally to  
16 patrolmen and SWAT team members?

17 A. Off safe when you perceive a threat,  
18 yes.

19 Q. Okay. So the SWAT team was trained in  
20 putting a weapon off safe if the officer  
21 perceives a threat prior to January 5th, 2011?

22 A. I believe so.

23 Q. And the other circumstance of when the  
24 weapon comes off safe is when an officer is

1 clearing rooms, danger areas, is that correct?

2 A. For a SWAT officer, or a regular  
3 officer?

4 Q. We'll take them one at a time.  
5 For a patrolman?

6 A. My recollection of the training is if  
7 you perceive a threat, the weapon comes off  
8 safe.

9 Q. Do you have any recollection of the  
10 concept of a weapon coming off safe relating to  
11 the clearing of a room or a danger area?

12 A. I do not.

13 Q. You do not. Okay.

14 Now, I want to call you -- let's go  
15 back to; do you know when this Exhibit 53 was  
16 drafted, this document entitled Firearms and  
17 Service Training?

18 A. There's no date on it. I can't answer  
19 that.

20 Q. But this was your understanding of the  
21 training procedures that existed as of January  
22 5th, 2011, as best as you know?

23 A. The essence of what the document  
24 states. Is it verbatim? I can't answer that.

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1 Q. Let's take a look at the principle of  
2 contact and cover that's on the third page of  
3 Exhibit 53.

4 Now, you're generally familiar with  
5 the principle of contact and cover as it was  
6 applied and as it was trained at the Framingham  
7 Police Department?

8 A. Yes.

9 Q. Does Exhibit 53, the document entitled  
10 Firearms and Service Training, accurately state  
11 the contact/cover rule as it was trained to  
12 Framingham Police Department officers prior to  
13 January 5th, 2011?

14 A. The essence of that paragraph is  
15 accurate.

16 Q. Accurate in terms of how Framingham  
17 Police Department officers were trained?

18 A. Yes.

19 Q. I want to call your -- and basically  
20 the contact/cover procedure says that it's a two  
21 officer operation, correct?

22 A. Yes.

23 Q. And when an officer approaches a  
24 civilian or a criminal suspect, the procedure

1 requires that one officer hold cover over that  
2 person by use of a weapon, is that correct? Or  
3 by verbal commands?

4 A. Contact/cover is when an officer would  
5 keep their weapon trained on a suspect, and the  
6 other officer would engage the suspect hands on.

7 Q. And if you look at the last sentence  
8 of the contact/cover rule as it's described in  
9 the Firearms and Service Training document, it  
10 states "The contact officer is the hands-on  
11 officer, and must put long gun on safe and sling  
12 it securely on his or her back or holster  
13 handgun before moving in to secure the subject  
14 in question."

15 Did I read that correct?

16 A. Yes, you did.

17 Q. And the word "before" is capitalized,  
18 is that correct?

19 A. Yes.

20 Q. Is it your understanding of that rule,  
21 or that technique, is that the contact officer  
22 must put his weapon on safe, put it in his  
23 holster, or if it's a rifle sling it over his  
24 shoulder, before he even makes movement and

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1 approaches the suspect or citizen to be  
2 physically restrained?

3 A. My interpretation is before you go  
4 hands-on.

5 Q. Before you go hands-on. The rule  
6 says, this document says, "before moving in to  
7 secure the subject in question."

8 What is your understanding of what  
9 that means when it says "before moving in to  
10 secure the subject in question"?

11 A. Moving in would mean that you are --  
12 you go up and you're hands-on.

13 Q. Moving in meaning approaching the  
14 suspect?

15 A. Approaching them to go hands-on, not  
16 just simply approaching.

17 Q. Approaching them with the intent to go  
18 hands-on?

19 A. Yes.

20 Q. So the weapon should be on safe before  
21 the officer begins to approach the subject to go  
22 hands-on, is that correct?

23 A. You have to rephrase the question.

24 Q. The words "before moving in to secure

1 the subject in question," am I correct in  
2 stating that what that means is that before an  
3 officer approaches a suspect with the intent to  
4 go hands-on, the weapon should be on safe?

5 A. It's time, place and circumstance. If  
6 you are 20 feet from the suspect and you're both  
7 in a cover position, 20 feet away you aren't  
8 going hands-on. If you are a few feet away, you  
9 should have -- and you're moving towards a  
10 suspect where you are going to be immediately  
11 touching that suspect, that weapon should be on  
12 safe and holstered.

13 Q. So if you are a few feet before the  
14 suspect and you're ready to go hands-on, you  
15 should have your weapon on safe before you begin  
16 to approach the subject with the intent to  
17 restrain them, is that correct?

18 A. Yes.

19 Q. In other words, you don't wait until  
20 you're right on top of the subject to put your  
21 gun on safe?

22 A. No.

23 Q. What I mean by "on top of the  
24 suspect," I mean you don't wait until you're

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1 literally at the suspect -- literally within  
2 inches of the suspect before you decide to go on  
3 safe, is that correct?

4 A. Correct.

5 Q. Okay.

6 (Whereupon, Carl Exhibit Number 54,  
7 Document memorializing 9/21/11  
8 meeting, was marked for  
9 identification.)

10 MR. MUSACCHIO: Mark that as  
11 Exhibit 54.

12 BY MR. MUSACCHIO:

13 Q. Chief Carl, I'm going to represent to  
14 you that Exhibit Number 54 was previously marked  
15 in this case as Exhibit 11, and I'm going to  
16 further represent to you that Mr. Simoneau -- am  
17 I pronouncing that correctly?

18 A. Simoneau.

19 Q. -- Simoneau testified in his  
20 deposition that this was the document that he  
21 wrote to memorialize what occurred at the  
22 September 21st, 2011 meeting that we were  
23 discussing earlier.

24 And my question to you, sir, after you

1 have a chance to review the document, is; do you  
2 ever remember seeing this document prior to  
3 today?

4 (Witness reviewing document.)

5 A. Yes, I have seen it.

6 BY MR. MUSACCHIO:

7 Q. And when did you see it?

8 A. Attorney Donohue in the past week  
9 asked me to review it.

10 Q. In the days, the weeks, or the month  
11 after September 21st, 2011, did you ever see  
12 this document?

13 A. I do not recall seeing this document.

14 Q. Now, prior to your meeting on  
15 September 21st, 2011 -- well, let's go back.

16 We've discussed this before, so I'll  
17 just simply re-ask the question. You remember  
18 this September 21st meeting and who was at the  
19 meeting, is that correct?

20 A. Yes.

21 Q. At that meeting, what was your  
22 understanding at that time as to the details of  
23 how Officer Duncan ended up shooting Mr. Stamps?  
24 Did you have any more detail than what you've

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1 already described to me?

2 A. Yes.

3 Q. And what was the additional -- why  
4 don't you tell me what your understanding was of  
5 the details of the circumstances leading to the  
6 shooting of Mr. Stamps.

7 A. That during the tactical deployment,  
8 Officer Duncan encountered Mr. Stamps, who was  
9 prone on the ground, and when moving to a  
10 position where he felt he was going to go  
11 hands-on, when moving to that position, he lost  
12 his balance, fell to the ground, and his weapon  
13 discharged.

14 Q. Do you know how many feet Mr. Duncan  
15 was from his standing position in relation to  
16 Mr. Stamps' being on the floor?

17 A. The exact measurement?

18 Q. Yes. At the time he started to  
19 approach Mr. Stamps to go hands-on, do you know  
20 how far away he was standing?

21 A. I do not.

22 Q. I want to call your attention to a few  
23 sentences on the Simoneau memo. If you could go  
24 to the third -- the fourth full paragraph, it

1 states "According to Downing and Stuart, Officer  
2 Duncan received training regarding the  
3 principles of contact and cover."

4 Do you recall that being discussed at  
5 the meeting?

6 A. Yes.

7 Q. And do you agree with that statement?

8 MR. KESTEN: The statement that they  
9 said that at the meeting?

10 A. The topic of the conversation at the  
11 meeting?

12 BY MR. MUSACCHIO:

13 Q. Yes.

14 A. Yes.

15 Q. And if you could go down in the same  
16 paragraph to the second to the last sentence  
17 beginning with the word accordingly --  
18 according, I'm sorry, according, do you see  
19 that?

20 A. Yes.

21 Q. It states "According to both Downing  
22 and Stuart, Officer Duncan's training instructed  
23 him to place his weapon and safe and sling it  
24 prior to assuming the role of the contact

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1 officer."

2 Did I read that correctly?

3 A. Yes, you did.

4 Q. Do you remember that being discussed  
5 at the meeting?

6 A. I remember contact and cover being  
7 discussed. And I remember the topic of the SWAT  
8 expert's opinion as to the safety selector  
9 switch.

10 Q. Do you agree that as of January 5th,  
11 2011, Officer Duncan's training instructed him  
12 to place his weapon on safe and sling it prior  
13 to assuming the role of the contact officer?

14 A. Yes, the weapon should have been on  
15 safe if he was making contact.

16 Q. And it should have been on safe when  
17 he began his approach to Mr. Stamps if that  
18 approach was, you know, three or four feet away  
19 from Mr. Stamps?

20 A. The weapon should have been put on  
21 safe when Duncan went to make contact with  
22 Mr. Stamps.

23 Q. When you say when he went to make  
24 contact, when he decided to move forward and to

1 make contact with Mr. Stamps, assuming that he  
2 was within several feet of him?

3 A. From a -- I can't tell you what Duncan  
4 was thinking, I was not there. I can't tell you  
5 what happened, I was not there. I would say my  
6 understanding of cover and contact is when he  
7 chose to go hands-on with Mr. Stamps, he should  
8 have saved the weapon.

9 Q. Okay. The third -- the last sentence  
10 states "Further, if Officer Duncan perceived  
11 Stamps as having posed a threat, he should have  
12 maintained his position as a cover officer and  
13 waited until another contact operator was  
14 available to search and/or secure Stamps."

15 Did I read that correctly?

16 A. Yes.

17 Q. Do you recall that being discussed?

18 A. I recall the concept of contact and  
19 cover being discussed, and the SWAT expert's  
20 opinion as far as the safety selector switch on  
21 the weapon.

22 Q. Do you recall either Lieutenant  
23 Downing or Sergeant Stuart stating the opinion  
24 that Officer Duncan, if he perceived a threat,

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1 should have maintained his position as cover  
2 officer and waited until another contact  
3 operator was available to search or secure  
4 Stamps?

5 A. Yes.

6 Q. You remember one of them voicing that  
7 opinion?

8 A. I remember that coming up in the  
9 conversation. I can't tell you who said it.

10 Q. Okay. But one of them said it?

11 A. Yes.

12 Q. And at that time, did you agree with  
13 that statement?

14 A. My instructions was for them to put in  
15 writing specifically what their concerns were  
16 regarding the SWAT expert's interpretation of  
17 the event so we could send it back to the SWAT  
18 operator, the SWAT expert, to continue his  
19 investigation if there was conflict.

20 Q. But you didn't disagree with that  
21 opinion that was being voiced about Officer  
22 Duncan, what he should have done is maintained  
23 his position as cover officer and wait for  
24 another operator to assist, to act as the

1 contact person?

2 A. In Stuart and/or Downing's opinion,  
3 that's what he should have done.

4 Q. And you didn't disagree with that  
5 opinion, did you?

6 A. I wasn't there, so I could not  
7 interpret what happened.

8 Q. Fair enough.

9 A. I don't know what Duncan was thinking.

10 Q. You don't have any knowledge of what  
11 Officer Duncan testified to in his deposition  
12 regarding how this accident happened, do you?

13 A. I did not read anything or talk to  
14 anyone about Officer Duncan, no.

15 MR. MUSACCHIO: Can you mark this as  
16 the next exhibit?

17 (Whereupon, Carl Exhibit Number 55,  
18 Diagram of floor plan of 26 Fountain  
19 Street, was marked for  
20 identification.)

21 BY MR. MUSACCHIO:

22 Q. Lieutenant -- I mean Chief Carl, I'm  
23 going to represent to you that this is a diagram  
24 of the floor plan that has been prepared for the

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1 Plaintiffs in this case regarding the layout of  
2 26 Fountain Street as it existed on January 5th,  
3 2011.

4 Do you have any familiarity, your own  
5 personal knowledge, of the layout of 26 Fountain  
6 Street?

7 A. I do not.

8 Q. I'm going to just briefly describe to  
9 you what Officer Duncan testified to in his  
10 deposition as to what occurred, and then I'm  
11 going to ask you a few questions after that. So  
12 I'm going to be doing a fair amount of talking  
13 for just a couple moments without any questions.

14 MR. KESTEN: Can we leave?

15 BY MR. MUSACCHIO:

16 Q. I'm going to represent to you that  
17 Officer Duncan placed Mr. Stamps' body and his  
18 head at approximately this location in  
19 relationship to the threshold between the  
20 kitchen and the hallway, and that his feet were  
21 somewhere pointed backwards in this direction,  
22 but the exact angle of his legs and his feet  
23 moving backwards towards this closet area,  
24 Officer Duncan did not know for sure. But this

1 is the approximate location of his head, and  
2 this is the approximate location of his body in  
3 the hallway.

4           Officer Duncan testified that he was  
5 standing approximately right here with his gun  
6 pointing at Mr. Stamps' head, and his weapon was  
7 in a semi-automatic setting. He pointed his gun  
8 at Mr. Stamps' head, and made the decision,  
9 while he was standing approximately in this  
10 position, made the decision to go hands-on with  
11 Mr. Stamps and to approach Mr. Stamps to further  
12 restrain him by kneeling on his back and putting  
13 Mr. Stamps' hands behind his back.

14           Officer Duncan, when he made that  
15 decision -- and I'm going to represent to you  
16 that in this area here and in this area here  
17 there were -- Officer Duncan testified that  
18 there were bins or containers or debris  
19 cluttering this area right here (indicating).

20           I'm going to further represent to you  
21 that Mr. Duncan testified that while the kitchen  
22 was lit and there was some ambient light coming  
23 from the bedroom, that this area was not lit and  
24 was dark, except for the ambient light.

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1           That Mr. Stamps was lying on the  
2 ground in approximately this position that I've  
3 indicated with his hands on -- with his elbows  
4 on the ground, with his hands up around his  
5 head, and that he was, again, in a lying down  
6 position, and that his chin was up, looking up,  
7 and that Officer Duncan actually made eye  
8 contact with Mr. Stamps.

9           Officer Duncan said nothing to  
10 Mr. Stamps. He just pointed his rifle directly  
11 at Mr. Stamps' head with the weapon in a  
12 semi-automatic mode.

13           From this point right here where  
14 Officer Duncan was standing, he decided at this  
15 point to go hands-on with Mr. Stamps. He  
16 stepped with his right foot into this area, and  
17 he testified he immediately lost his balance,  
18 fell back towards his left foot. And between  
19 the point where he began to fall in this  
20 direction, from the point he -- from this point  
21 here where he began to fall back and to his left  
22 from this direction, and from the point where he  
23 made contact with the wall in this area here,  
24 his gun discharged, killing Mr. Stamps

1 (indicating).

2 Officer Duncan further testified that  
3 he perceived -- well, he further testified that  
4 he was concerned that Mr. Stamps might reach for  
5 a weapon, and decided to go hands-on with him  
6 while he was standing approximately in this  
7 location in the kitchen, a foot or two from the  
8 threshold into the hallway.

9 Now, as the chief of police, you had  
10 the ultimate authority over the training and  
11 conduct of the Framingham Police Department  
12 police officers, is that correct?

13 A. Yes.

14 Q. Do you agree that the Framingham  
15 Police Department training required Officer  
16 Duncan hold his position with his gun pointed at  
17 Mr. Stamps and wait for another officer to act  
18 as the contact or cover officer before he  
19 stepped into the hallway and approached  
20 Mr. Stamps for the purpose of restraining him?

21 A. That's how the training is taught.

22 Q. Do you agree that that's what he was  
23 trained to do? Let me rephrase.

24 Do you agree that he was trained --

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1 let me ask you the specific question, because  
2 I'm asking you in the context now of what, I've  
3 explained to you, what Officer Duncan testified  
4 to.

5 Do you agree that the Framingham  
6 Police Department training required that Officer  
7 Duncan hold his position with his gun pointed at  
8 Mr. Stamps and wait for another officer to act  
9 as the contact or cover officer before he  
10 stepped into the hallway and before he  
11 approached Mr. Stamps for the purpose of making  
12 contact with him?

13 A. Yes.

14 Q. And do you agree that waiting for  
15 another officer before stepping into the hallway  
16 and approaching Mr. Stamps for the purpose of  
17 physically restraining him was the standard and  
18 accepted police practice at that time?

19 A. Yes.

20 Q. Do you agree that Framingham Police  
21 Department training and procedures required  
22 Officer Duncan to put his weapon on safe before  
23 stepping into the hallway and before approaching  
24 Mr. Stamps for the purpose of physically

1     restraining him?

2             A.     I believe the weapon should have went  
3     on safe when Duncan went to make contact.

4             Q.     When he began his approach?

5             A.     When he went to make contact.

6             Q.     What do you mean when you say "when he  
7     went to make contact"? At what point did he  
8     begin to -- what point did he, excuse my  
9     grammar, went to make contact?

10            A.     Based on the information you provided,  
11     you had Duncan moving in, was he moving in to  
12     Mr. Stamps or moving to the back of Mr. Stamps,  
13     at which time then he was going to get on  
14     Mr. Stamps and make contact? You didn't define  
15     was he moving to another position, was he  
16     keeping him under cover to get to a more  
17     advantageous position to make contact.

18            Q.     He was moving from here to here for  
19     the purpose of being in position to restrain  
20     Mr. Stamps, moving into an area that he  
21     described as cluttered and darkened. Did proper  
22     police procedures require him to put his weapon  
23     on safe before he began his approach to  
24     Mr. Stamps?

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1 A. Textbook procedures do.

2 Q. Textbook procedures require that.

3 Before -- that the moment he decided  
4 to step into the hallway he should have had his  
5 weapon on safe according to textbook procedure?

6 A. If he was moving into the hallway to  
7 make contact with Mr. Stamps, the weapon should  
8 have been on safe.

9 Q. Now, while you were chief of police  
10 for the Framingham Police Department, you -- a  
11 decision was made to disband the SWAT team, is  
12 that correct?

13 A. Yes.

14 Q. And that decision was ultimately yours  
15 to make?

16 A. Yes, it was.

17 MR. MUSACCHIO: Mark this as the next  
18 exhibit, please.

19 (Whereupon, Carl Exhibit Number 56,  
20 9/26/13 e-mail, was marked for  
21 identification.)

22 BY MR. MUSACCHIO:

23 Q. Chief Carl, Exhibit 56 is an e-mail  
24 from you to various members of the Framingham

1 Police Department dated September 26th, 2013.

2 Do you recall this e-mail?

3 A. Yes.

4 Q. Did you draft the e-mail?

5 A. Yes.

6 Q. And in this e-mail, there's a  
7 description of the reasons why the SWAT team was  
8 aban -- not abandoned, disbanded?

9 A. Yes.

10 Q. And what's described here is that  
11 Deputy Chief Davis was taking the new position  
12 as the chief of police for Ashland, is that  
13 correct?

14 A. Correct.

15 Q. And that there wasn't anybody else at  
16 the Framingham Police Department who had the  
17 technical training and expertise to command a  
18 SWAT team?

19 MR. KESTEN: You're asking him what  
20 the e-mail says?

21 MR. MUSACCHIO: I'm asking if that's  
22 the content of the e-mail.

23 MR. KESTEN: It is what it is.

24 A. The e-mail says what it says.

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1 BY MR. MUSACCHIO:

2 Q. So why don't you tell me what this  
3 e-mail says in terms of the reason for  
4 disbanding the SWAT team.

5 A. "Placing a deputy chief in charge was  
6 not done by accident or coincidence. With the  
7 high risk involved in the command and management  
8 of a specialized tactical unit, I specifically  
9 require the commander to have not only a high  
10 degree of training and expertise, but also the  
11 command rank of deputy chief and the broad view  
12 of police administration that comes with it."

13 It was a deputy chief and the tactical  
14 training.

15 Q. Putting aside the e-mail, let me just  
16 ask you; why did you decide to disband the SWAT  
17 team?

18 A. I've said it all along, and I told the  
19 Stamps committee when they brought me in to ask  
20 me questions, if Davis left, I would abolish the  
21 SWAT team. The reason being, it's a high risk  
22 situation and I placed it under the direct  
23 command of a deputy chief, a deputy chief who  
24 has a high level of tactical ability, a deputy

1 chief who has moral courage to do the right  
2 thing. And with Davis leaving, the other two  
3 deputy chiefs do not have the tactical training,  
4 and those with the tactical training were not  
5 going to be promoted to the position of deputy  
6 chief. So there was no one, in my opinion, in  
7 the Framingham Police capable of commanding a  
8 SWAT team at the level of accountability that I  
9 chose, that I had for the past twelve years. So  
10 the only logical conclusion was to disband the  
11 SWAT team.

12 Q. Who were the two individuals at the  
13 Framingham Police Department who had the  
14 tactical ability to command a SWAT team that  
15 were not going to be promoted to deputy chief?

16 A. I would say Sergeant Stuart and  
17 Lieutenant Downing have a high level of tactical  
18 training. Is their training as -- at the same  
19 level that Davis is, I didn't look into it, I  
20 can't tell you if it's -- if it was high enough  
21 level to command the SWAT team, because they  
22 don't have the deputy chief command rank nor are  
23 they going to be promoted to deputy chief, so  
24 there was no reason to look deep into their

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1 training. I looked at the two deputy chiefs I  
2 had, and --

3 Q. And so you already had two deputy  
4 chiefs?

5 A. I had three deputy chiefs, and Davis  
6 left, he ran the tactical operations.

7 Q. Did you consider appointing either  
8 Stuart or Downing as the commander of the SWAT  
9 team in their capacity as a sergeant or  
10 lieutenant?

11 A. I would never put a sergeant or  
12 lieutenant in command of the SWAT team.

13 Q. And why is that?

14 A. Because it's such a high risk, I want  
15 a deputy chief in charge of the SWAT team. And  
16 there has always been a deputy chief in charge  
17 of SWAT team. Davis was the deputy chief in  
18 charge since I made chief.

19 Q. Was it simply a matter of the right  
20 person or the right rank to command a SWAT team  
21 that led you to the disbandment, as opposed to  
22 whether there was even a need for a SWAT team  
23 anymore?

24 A. Had I left the Framingham Police to go

1 to Assumption and Deputy Davis was still at the  
2 Framingham Police as a deputy chief, the SWAT  
3 team would still be in existence.

4 Q. Did the disbanding of the SWAT team  
5 have anything to do with the shooting of Eurie  
6 Stamps?

7 A. The shooting of Eurie Stamps  
8 reinforced in my mind the high level of risk  
9 involved in SWAT operations, and having the SWAT  
10 commander with the highest level of authority,  
11 the highest level and training, and the moral  
12 courage to always make the right decision was  
13 only reinforced in my mind.

14 Q. After the January 5th, 2011 shooting  
15 of Eurie Stamps, was the SWAT team ever used  
16 again for the execution of a search warrant  
17 before it was disbanded?

18 A. Yes.

19 Q. Do you remember the events where they  
20 were used for the execution of a search warrant?

21 A. I do not. We used it very prudently,  
22 we didn't -- we used a threat matrix, and if the  
23 threat didn't rise to a particular level  
24 determined by the Deputy Chief Davis, the SWAT

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1 team was not deployed.

2 Q. Do you know approximately how many  
3 times the SWAT team was used since the Stamps'  
4 shooting and when it was disbanded, as best you  
5 can recall?

6 A. Without the information in front of  
7 me, I can't say.

8 Q. Why was Officer Duncan removed from  
9 the SWAT team?

10 A. He killed an innocent man.

11 Q. Was he removed because he violated  
12 police protocols and procedures?

13 A. He was removed because he killed an  
14 innocent man.

15 MR. MUSACCHIO: I have no further  
16 questions.

17 THE VIDEOGRAPHER: This concludes the  
18 deposition of Chief Steven B. Carl. The number  
19 of tapes used today was one. We are off the  
20 record at 11:14 a.m.

21 (Whereupon, the deposition was  
22 concluded.)

23

24

1 COMMONWEALTH OF MASSACHUSETTS )  
2 SUFFOLK, SS. )

3 I, MAUREEN O'CONNOR POLLARD, RMR, CLR,  
4 and Notary Public in and for the Commonwealth of  
5 Massachusetts, do certify that on the 13th day  
6 of December, 2013, at 10:11 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 26th day of December, 2013.

19 *Maureen O Pollard*  
20

21 MAUREEN O'CONNOR POLLARD, NOTARY PUBLIC  
22 Realtime Systems Administrator  
23 CSR #149108  
24

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1                   INSTRUCTIONS TO WITNESS

2

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

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

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

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ACKNOWLEDGMENT OF DEPONENT

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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.

\_\_\_\_\_  
CHIEF STEVEN B. CARL

DATE

Subscribed and sworn

To before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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