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Thomas R. Donohue
Brody, Hardoon, Perkins & Kesten, LLP
699 Boylston Street, 12th Floor,
Boston, MA 02116

Re: Estate of Eurie Stamps v. City of Framingham and Officer Paul Duncan

Dear Mr. Donohue:

As requested, I have reviewed the following materials in regard to the aforementioned case:

1. Medical Examiner's Report
2. Photos of the house, scene, body and gun
3. Sketches of the scene
4. Interviews of :
 - Officer Duncan
 - Officer Sebastian
 - Lieutenant Downing
 - Sgt. Stewart
 - Officer Riley
 - Officer Murtough
 - Officer Martinez
 - Officer Sheehan
 - Officer O'Toole
 - Officer Curtiss
 - Officer Casey
 - Officer Eliadi
 - Officer Langmeyer
 - Officer Avila
 - Officer Reardon
 - Detective De Rosa
 - Detective Gutwell
 - Nicholas Ferry (FFD)
 - Jeff Beckwith (FFD)
 - Joseph Hicks (FFD)

- David Kay (FFD)
Devon Talbert
5. Depositions of : Officer Duncan
Officer Sebastian
Lieutenant Downing
Officer Riley
 6. State Police Interviews
 7. Interviews of the EMTs
 8. District Attorney's Report
 9. Crime Scene Report
 10. After Action Report
 11. Hospital Records
 12. Drug Lab Report
 13. Firearms Report
 14. Report on the gloves
 15. Evidence sheet
 16. Deposition and CV of Dr. Wolf
 17. Report of James Gannalo
 18. Report of Kim Widup
 19. Report of Kevin Lally
 20. 3 D model images
 21. 911 call

Shortly after midnight on 1/05/2011, members of the Framingham Police Department executed a search warrant for narcotics activity at 26 Fountain Street, Framingham. The raid team was made up in part by members of the Special Weapons and Tactics Team. Entry into the first floor was made through a common hallway shared with the first and second floor apartments, followed by entry through two additional doors into the first floor apartment. One door was at the end of the hallway and went into the kitchen and the other door, on the right side of the hallway, lead into the living room. The door from the hallway into the kitchen was unlocked. Officer Sheehan, Lt. Downing and Officer O'Toole entered the kitchen. The door to the living room was locked. Officer Duncan broke the door down and entered followed by Sgt. Stuart and Officer Sebastian. The Officers who entered the kitchen encountered Eurie Stamps who was in the hallway at the far end of the kitchen. They ordered him to lay face down on the floor in the hallway with his head pointing towards the kitchen.

Officer Duncan stated that he entered the house by way of the front door and then went through the door that lead to the living room. From there, he entered the den. To his left was a door that led into the kitchen. While in the den, he heard police commands coming from the kitchen. Officer Duncan was then ordered to enter the kitchen to act as backup for other Officers. On entering the kitchen, there were two doorways in the wall to his right. The far doorway entered into what he called a pantry. The other closer door went into a small hallway.

Officer Duncan stated that he saw Mr. Stamps lying face down in the small hallway at the back of the kitchen with his head two to three from the kitchen threshold. The lighting was dark and the floor cluttered. Mr. Stamps' elbows were on the floor with his hands above his head facing

the Officer. The two made eye contact. Officer Duncan felt that Mr. Stamps' body was not lying parallel to the walls but at an angle with the head facing the Officer and the body directed to the right of the hallway.

On entering the kitchen, the safety lever of his M-4 was set at semi-automatic. The Officer stated that he kept his right index finger outside the trigger guard while holding his gun in a low ready position pointed at Mr. Stamps.

The Officer stated that he decided to go to the left side of Mr. Stamps to secure the latter's hands behind his back. As he did so, he lost his balance and fell backward and to his left impacting the wall to the right of Mr. Stamps. As he fell, his left hand came off the vertical grip attached to the handguard and the gun, which was now down, closer to the floor, fired. When he began to fall backward and away from Mr. Stamps, he was approximately level with Mr. Stamps' shoulders.

The weapon carried by Officer Duncan was a Colt M-4 rifle, caliber 5.56 x 45, with an 11 ½ inch barrel.

Both Officer Sebastian and Lt. Downing in their depositions alleged that after they heard the shot they saw Officer Duncan walking out of the kitchen. Officer Riley stated that he saw Officer Duncan on his feet regaining his balance. The depositions were taken more than 2 ½ years after the death. Memories grow dim. In statements given on 1/6/2011, Officer Sebastian does not even mention the location or position of Officer Duncan and Officer Riley stated "So I look and I see Officer Duncan basically getting up.." and "but you could definitely tell he was getting his foot back under him getting back up." According to the statement by Lt. Downing taken after the shooting, he was very busy with communications and was not even immediately aware of the rifle shot or that he heard a rifle shot. He did not know where it came from and did not see Mr. Stamps.

EMS was at the scene and was notified at 035 hrs. Examination of Mr. Stamps revealed a faint pulse that progressed to asystole. Mr. Stamps was transported to MetroWest Medical Center where he was pronounced dead. Unconsciousness at the scene appears to have been immediate with the only signs of life the weak pulse.

At autopsy, Eurie Stamps was a 68 year-old black male 6 ft. 4 inches tall and weighing 270 lbs. There was a single gunshot wound of the left side of the face. Examination of the face revealed powder tattooing of the left side of the face from just above the eyebrow to the mandible, with tattooing denser above the level of the entrance. There was tattooing of the left side of the nose up to and along the crest but no tattooing of the left ear. The area of tattooing measured 5 inches vertically by 3 ½ inches horizontally. The tattooing was extremely fine, consistent with ball powder. Multiple grey-green ball-like grains of powder can be seen on the face in some of the photos.

The bullet entered the left cheek, approximately level with the upper lip. The bullet then traveled downward and backward for approximately two inches through the soft tissue of the cheek, exiting the skin overlying the left mandible. The bullet then entered the base of the neck, just above the left clavicle, producing an extremely large re-entry wound. The bullet struck the left

clavicle producing a comminuted fracture of the bone. Fragments of the bullet then perforated the peri-cardial sac; the left ventricle of the heart; the upper lobe of the left lung; the aortic arch and the pulmonary artery. 500 ml of blood were in the left chest cavity; 200 ml in the pericardial sac. Fragments of jacket and lead core were recovered from the left chest. The path of the bullet was from right to left; downward and front to back.

The deceased's heart was markedly enlarged weighing 560 g. Normal heart weight for males is 233 to 383 g (reference range with 95% inclusion). Enlargement of the heart is associated with a reduced life expectancy.

Based on the aforementioned information, it is my opinion that, in all medical probability, the wounds on the body of Mr. Stamps are consistent with the account of the shooting given by Officer Duncan and there is no evidence that Officer Duncan account of the incident is fallacious.

Assuming Mr. Stamps was prone, based on the location of the wound, the powder tattooing of the face and the path of the bullet, at the time that Mr. Stamps was shot he was looking at the muzzle of the gun, with his chin slightly lowered and his head rotated slightly to his right. The muzzle was close to the floor and the upper part of his chest was off the ground. This would account for the bullet traveling downward and backward. If Officer Duncan had been standing at the time the gun discharged, Mr. Stamps would have had to be looking up at the gun. The trajectory of the bullet would then have been towards the front of the body not the back.

The range from muzzle to skin would have been fairly short. Experiments with the 5.56 x 45 cartridge loaded with ball powder revealed heavy tattooing at 18 inches; scattered at 36 inches and absent at 42 inches. The barrel of the gun used in this experiment was 24 inches long. The barrel length in this case was 11 ½ inches. Thus, in this case tattooing would not be expected at 36 inches. Range would most likely be from 12-18 inches, closer to 12 than 18 inches.

I am a physician Board Certified in Anatomical, Clinical and Forensic Pathology. I have testified in state and federal courts throughout the United States as well as in Courts in Canada, England, Columbia, Israel and South Africa. Attached is my Curriculum Vitae which gives details of my education, qualifications, professional experience and publications, as well as a list of cases that I have testified in and a fee schedule. I reserve the right to amend this report should additional information be presented for my review.

Sincerely,



VINCENT J.M. DI MAIO, M.D.