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

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MIDDLESEX DISTRICT ATTORNEY

v.

ALAN GREENOUGH

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* Docket No. 1853IN000001
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INQUEST HEARING DAY 8
BEFORE THE HONORABLE STACEY J. FORTES

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Woburn, Massachusetts
Courtroom 2
June 19, 2019

Quaverly H. Rothenberg, Q & A Transcripts
Approved Court Transcriber

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1 [Case Called at 12:07:22 p.m.]

2 THE COURT: All right. If you're warm and people need to
3 take off jackets, please feel free, okay, 'cause it's muggy in
4 here; I know.

5 Okay. All right, Ms. Lynch, you can call your next witness.

6 MS. LYNCH: Thank you. Your Honor, the next witness will be
7 Jessica Gleba. She's the head of the postmortem forensic
8 toxicology --

9 THE COURT: Okay.

10 MS. LYNCH: -- section. She was not on the original list but
11 as a result of my reaching out she is familiar with the case file.

12 THE COURT: Okay.

13 MS. LYNCH: Jessica Gleba.

14 [JESSICA GLEBA, Sworn.]

15 **DIRECT EXAMINATION OF WITNESS, JESSICA GLEBA**

16 BY MS. LYNCH:

17 Q Good afternoon. If you would, would you please state your
18 name and spell your last name for the record.

19 A Jessica Gleba. And it's J-E-S-S-I-C-A. And the last name is
20 G-L-E-B-like-Boy-A.

21 Q And what is your occupation?

22 A I am a Forensic Scientist V with the Massachusetts --
23 Massachusetts State Police Crime Lab.

24 Q How long have you been Forensic Scientist No. 5?

25 A Since May of 2018.

1 Q How long have you been a member of the Massachusetts State
2 Police Crime Laboratory?

3 A Since March of 2013.

4 Q And prior to March of 2013, were you a forensic toxicologist
5 in any other lab?

6 A Yes.

7 Q And where was that?

8 A With UMass Memorial Medical Center.

9 Q And prior to that timeframe of March of 2013, was the UMass
10 Medical Center forensic toxicology lab the lab for the Office of
11 the Chief Medical Examiner performing all the postmortem
12 toxicology?

13 A Yes.

14 Q And then in March of 2013 did the forensic toxicology section
15 move under the umbrella of the state police crime lab?

16 A In July of 2013 we officially became under the umbrella.

17 Q And so you've been continuously employed in the field of
18 forensic toxicology in connection with your work with the OCME
19 since approximately June of 2010?

20 A Yes.

21 Q Can you generally describe for us your educational background
22 that prepared you for your work?

23 A I have a Bachelor's of Science degree in chemistry from
24 Campbell University, a Master's of Science degree in biomedical
25 forensic science from the Boston University School of Medicine, a

1 Master's of Science degree in pharmaceutical science from
2 Northeastern University, as well as a PhD in pharmacology from
3 Northeastern University.

4 Q And when did you receive your PhD?

5 A In May of 2019.

6 Q Now, in terms of your overall responsibilities, what are your
7 present responsibilities as a Forensic Scientist V in the
8 postmortem toxicology section of the lab?

9 A I am considered the technical supervisor. So, I am
10 responsible for developing, managing, and editing current
11 protocols that are in place, operating procedures as well as
12 day-to-day operations of the postmortem toxicology unit in
13 connection with, as well as assuring that the unit follows quality
14 control procedures.

15 Q And in general what does a toxicologist do?

16 A They look for common over-the-counter medications, drugs of
17 abuse, and alcohol in c -- for the absence or presence in
18 biological specimens.

19 Q Now, in terms of your work in the lab, are there two
20 different toxicology sections, one for postmortem and one for
21 regular forensic toxicology?

22 A Yes.

23 Q And is there a particular reason for that differential?

24 A No.

25 Q Now, in terms of the forensic toxicology section, would it be

1 fair to say that the consumer, if you will, of the services of
2 forensic toxicology are local and state police departments seeking
3 specimens in ongoing cases?

4 A For the other anti -- the anti-mortem toxicology, correct.

5 Q And in terms of the postmortem toxicology, your sole client,
6 if you will, is the Office of the Chief Medical Examiner.

7 A Yes.

8 Q And you report your results directly to the OCME.

9 A Yes.

10 Q Now, in terms of your work, are there specific biological
11 specimens that you routinely examine in the postmortem toxicology
12 section?

13 A We routinely receive blood specimens, vitreous humor, urine,
14 and gastrite [phonetic] content to the Medical Examiner.

15 Q And vitreous humor is what?

16 A The eye fluid.

17 Q And why is that considered to be a biological specimen
18 conducive to postmortem toxicology testing?

19 A For certain analysis, the vitreous humor is considered a
20 sequestered or secluded environment which allows for preve --
21 prevention of decomposition in the -- of the d -- of the specimen.

22 Q Now, in your role as Forensic Scientist V at the lab, were
23 you asked to review the report an data in connection with
24 Postmortem Toxicology Lab No. 18-03119?

25 A Yes.

1 Q And showing you what has previously been admitted as Exhibit
2 No. 85, which is the Office of the Chief Medical Examiner case
3 file, I just draw your attention to the portion of the exhibit
4 that includes the postmortem toxicology report for the Laboratory
5 No. 18-03119, signed under the -- issued under the signature of
6 Alisha Zimmermann.

7 A Yes.

8 Q Now, as a result of our -- my request, did you review that
9 file and the underlying data in order to provide testimony in
10 general about the results?

11 A Yes.

12 Q Now, referencing the testing for ethanol, what substances
13 were tested?

14 A We tested for ethanol, w -- methanol, isopropanol, and
15 acetone as part of that assay or that analysis.

16 Q Okay. And in terms of that, what specimens were examined?

17 A The iliac blood as well as the vitreous humor.

18 Q And in terms of the results for the iliac blood, can you
19 quantify what the results were?

20 A Ethanol was quantified at 0.25-gram percent.

21 Q And what about vitreous humor?

22 A 0.27-gram percent.

23 Q And are those results consistent with each other? That is,
24 is the quantitative difference in results expected and accepted
25 within the field of postmortem toxicology?

1 A Yes.

2 Q And in terms of giving a basis of comparison, you familiar
3 with the standard of Massachusetts law: 0.08 for blood alcohol in
4 operating under the influence cases?

5 A Yes.

6 Q And would these results, in terms of being transferrable, --
7 would they be somewhat equal to three times that limit?

8 A Yes.

9 Q Now, are you familiar with the concept of rate of
10 elimination?

11 A Yes.

12 Q Can you generally describe what rate of elimination
13 quantifies?

14 A How quickly the analy -- the drug of interest would be
15 removed or excreted from the body.

16 Q And what is the rate of elimination for alcohol in a human
17 being?

18 A On standard, it's approximately one standard drink per hour.

19 Q And in terms of the elimination of alcohol in the human body,
20 does the process of elimination cease at the time of death?

21 A Yes.

22 Q Now, in terms of the results of the tests, as part of the
23 tests that were performed in this case, was a panel done testing
24 for the presence of amphetamine?

25 A Yes.

1 Q And what is an amphetamine, generally speaking?

2 A It's a stimulant.

3 Q And what is buprenorphine?

4 A It's a common pres -- medication that is used to treat
5 addiction and pain.

6 Q And what is cocaine metabolite?

7 A It's our screen for the presence or absence of cocaine or its
8 metabolites?

9 Q So, is cocaine metabolite a byproduct of ingestion of cocaine
10 and what the body does to it?

11 A Yes.

12 Q And what is methamphetamine?

13 A It's a -- another stimulant similar to amphetamine.

14 Q And what about -- what is an opiate?

15 A It's items like morphine, heroin, a -- in that same class.

16 Q Now, in Case No. 18-03119, assuming that the results for the
17 screening tests for each of those substance that -- substances,
18 that is, amphetamine, buprenorphine, cocaine metabolite,
19 methamphetamine, and opiates, if the results of those tests are
20 negative is there any further testing that can be done?

21 A We did not perform any further testing.

22 Q Okay. And, now, assuming the results in this case, 18-03119
23 or as recorded, screen for benzodiazepine, fentanyl, and
24 cannabinoid were all positive, is there any further testing to
25 confirm or quantify the amount of a substance in the particular

1 fluid?

2 A Yes.

3 Q Specimen, I should say.

4 Now, starting with benzodiazepine, were the results detecting
5 Clonazepam 1.7 nanograms per milliliter and 7-aminoclonazepam 25
6 nanograms per liter consistent with the ingestion of Clonazepam
7 prior to death?

8 A Yes.

9 Q Now, how long can Clonazepam be detected in a person after
10 ingestion?

11 A Up to 24 hours.

12 Q And what is the difference between Clonazepam and Klonopin,
13 if you know?

14 A They are the same.

15 Q And is one a brand name or a trade name, and one a generic
16 name?

17 A Yes.

18 Q Now, concerning the results for the presence of fentanyl,
19 assume they were 3.0 nanograms per milliliter. How long can
20 fentanyl be detected in a person after ingestion?

21 A Up to 24 hours.

22 Q And in terms of the benzodiazepine as well as fentanyl, at
23 the time of death does the process of elimination continue or does
24 it cease at that time?

25 A It ceases.

1 Q Now, concerning the results for the presence of -- I can
2 never say this -- cannabinoid, were the results of delta-9-THC 6.1
3 nanograms per milliliter and delta-9-carboxy-THC greater than 20
4 nanograms per milliliter consistent with ingestion of marijuana or
5 cannabis prior to death?

6 A Yes.

7 Q Now, how long can marijuana or cannabis be detected in a
8 person after ingestion?

9 A Up to 24 hours. But it can vary, person to person.

10 Q Now, assume that the deceased had a prescription for IC
11 metoprolol tartrate 25-milligram tablets, one tablet three times
12 for day, a substitute for Lopressor. Would that medication
13 account for any of the positive results obtained in this case?

14 A No.

15 Q What is Lopressor? Lopressor.

16 A It's a hypertension medication.

17 Q And this substance would have been detected in the testing
18 that was performed in this case --

19 A Yeah.

20 Q -- if it had been present?

21 A Yes.

22 Q Now, assume hypothetically that the deceased had a
23 prescription for IC gabapentin 300 milligram capsule, two capsules
24 by mouth three times a day, with the trade name Neurontin. Would
25 that medication account for any of the positive results obtained?

1 A No.

2 Q What is gabapentin?

3 A It's an anticonvulsant as well as a nerve pain reliever.

4 Q And would that substance have been detected in the substances
5 tested in the testing that was done in this case?

6 A Yes.

7 Q Now, assume hypothetically that the deceased had a
8 prescription for IC phenytoin, P-H-E-N-Y-T-O-I-N, SO-extend 100-
9 milligram caps, substituted for Dilantin: would that medication
10 account for any of the positive results obtained?

11 A No.

12 Q Would this substance have been detected in the substances
13 tested for in this case?

14 A No.

15 Q And what type of a substance is that considered, Dilantin?

16 A It's used to treat seizures.

17 Q Now, assume that the deceased had a prescription for

18 Cetirizine, C-E-T-I-R-I-Z-I-N-E, prescription-strength
19 antihistamine. Would that medication account for any of the
20 positive results obtained?

21 A No.

22 Q Would this substance have been detected in the substances
23 tested for in the testing performed in this case?

24 A Yes.

25 Q And what -- under what panel would that --

1 A The organic bases and neutrals.

2 Q Thank you.

3 THE COURT: Any questions?

4 MR. PASCIUCCO: No questions.

5 THE COURT: Any questions?

6 MR. KOUFMAN: If I may.

7 THE COURT: And what's your offer?

8 MR. KOUFMAN: Effects of the drugs, if she knows anything --

9 THE COURT: Sure.

10 MR. KOUFMAN: -- about it, if I may.

11 THE COURT: Yes, you may.

12 **CROSS EXAMINATION OF WITNESS, JESSICA GLEBA**

13 BY MR. KOUFMAN:

14 Q My name is Victor Koufman and I represent the family in this
15 matter. I just have a few questions about the effects of some of
16 these drugs.

17 A Okay.

18 Q With respect to Clonazepam, --

19 A Mm-hmm.

20 Q -- which I think you said is marketed as Klonopin, --

21 A Yes.

22 Q -- correct, okay, that's grouped in benzodiazepine family of
23 medicine; is that correct?

24 A Yes.

25 Q And it works by slowing down and depressing the central

1 nervous system?

2 A Yes.

3 Q And so, it -- its most common uses would be, for instance, to
4 prevent seizures; is that correct?

5 A It's possible.

6 Q And also to induce sleep?

7 A Yes.

8 Q And also to relieve anxiety; is that correct?

9 A Yes.

10 Q And so, a lot of the -- I know that's not all. A lot of the
11 most common side effects would include, like, sedation; is that
12 correct?

13 A It is possible.

14 Q And also, like, sluggishness; is that right?

15 A It's possible.

16 Q Being groggy; is that correct?

17 A Yes.

18 Q And it basically calms a person down; is that correct?

19 A It can.

20 Q Okay. And then -- But it's not a stimulant.

21 A No.

22 Q It certainly doesn't make somebody impulsive; is that
23 correct?

24 A Correct.

25 Q Okay. Now, in fact, it's known as a -- it's -- Klonopin is

1 also known as the date-rape drug; is that correct?

2 A I'm not aware.

3 Q Okay. Now, when somebody consumes alcohol, isn't it true the
4 alcohol works on the same part of the brain as the
5 benzodiazepines? Excuse me; I'm butchering the pronunciation.

6 But doesn't alcohol heighten the effect -- let me put it that way
7 -- of the Klonopin?

8 A I'm unable to answer that question.

9 Q Okay. And as far as fentanyl goes, this is a -- this is an
10 opiate, right; is that correct? Fentanyl?

11 A It's a synthetic opiate, yes.

12 Q Synthetic opiate, okay. And it also has the effect of
13 sedating people; is that correct?

14 A Yes.

15 Q And so, do you know whether alcohol heightens the effect of
16 somebody who has fentanyl in the system?

17 A I do not.

18 Q And then, cannabinoid or pot, that also has the effect of
19 relaxing a person; is that correct?

20 A Yes, it's possible.

21 Q Okay. And then, now, the toxicology report that was
22 presented in front of you, I don't know the case number but it's
23 for Alan Greenough.

24 A Mm-hmm.

25 Q That shows that he had Klonopin, fentanyl, and cannabis; is

1 that correct?

2 A Yes.

3 Q In his system? And all of those drugs make a person relaxed;
4 is that correct?

5 A They can, yes.

6 Q Okay. And, now, if he was feeling -- If Alan Greenough was
7 feeling the effects of all those drugs before he died, is it fair
8 to say that he would've been -- at those levels that are shown in
9 your report -- very sedated?

10 A I'm unable to speak to the level of sedation based on the
11 numbers on the report.

12 MR. KOUFMAN: Just another quick question, if I may make an
13 offer of proof with respect to the difference between heroin and
14 fentanyl, --

15 THE COURT: Sure.

16 MR. KOUFMAN: -- if I may.

17 THE COURT: Mm-hmm.

18 BY MR. KOUFMAN:

19 Q Now, there's a difference -- Heroin and fentanyl are
20 different; is that correct?

21 A Yes.

22 Q And fentanyl is manufactured; is that correct?

23 A Yes.

24 Q And heroin is a result of -- it's a poppy seed; is that
25 correct? It's a plant.

1 A Correct.

2 Q Okay. And heroin can be cut with various things; is that
3 correct?

4 A Yes.

5 Q And, now, in the toxicology report for Alan Greenough, is
6 there any evidence of anything other than fentanyl in his system
7 that would suggest that he had heroin in his system?

8 A No.

9 MR. KOUFMAN: Thank you, Judge.

10 THE COURT: Thank you.

11 All right. Anything further for this witness?

12 Thank you very much, ma'am. You're --

13 THE WITNESS: Thank you.

14 THE COURT: -- excused.

15 [Witness steps down]

16 MS. LYNCH: Sergeant Limoncelli, please.

17 [SERGEANT FRANK LIMONCELLI, Sworn.]

18 **DIRECT EXAMINATION OF WITNESS, SERGEANT FRANK LIMONCELLI**

19 BY MS. LYNCH:

20 Q Good afternoon, sir. If you would, would you please state
21 your name and spell your last name for the record?

22 A Good afternoon. My name's Frank Limoncelli,

23 L-I-M-O-N-C-E-L-L-I.

24 Q Sir, what is your occupation?

25 A I'm employed by the Town of Winchester as a sergeant in the

1 | police department.

2 | Q How long have you been with the Winchester Police Department?

3 | A Since 2002.

4 | Q In the course of your experience with the Winchester Police
5 | Department, do you have special responsibilities as a sergeant?

6 | A Yes.

7 | Q And what are they?

8 | A I'm patrol supervisor so might spend most of my time outside
9 | in the street, and I go to calls and supervise what happens on the
10 | street.

11 | Q Do you also have any responsibilities with respect to
12 | training on use of force and things of that nature, of firearms
13 | training within the department?

14 | A I'm not a firearms instructor. I'm a defensive tactics
15 | instructor and a taser instructor.

16 | Q And Winchester is a department that has tasers?

17 | A Yes.

18 | Q Now, sir, directing your attention to September 1st of 2017
19 | at 6:40 p.m. or thereabouts, were you on duty with the Winchester
20 | Police?

21 | A Yes.

22 | Q What was your assignment that particular evening?

23 | A I was assigned as patrol supervisor in the 923 car.

24 | Q And so, this is a uniformed, marked police vehicle
25 | assignment?

1 A It is.

2 Q At what approximate -- Strike that. That approximately
3 6:40 p.m. or thereabouts were you aware of a call from the
4 Winchester Hospital requesting assistance from the Winchester
5 Police for a patient who was unruly or disturbing the emergency
6 department?

7 A Yes.

8 Q As a result of that, what was the action that was taken by
9 Winchester PD?

10 A We ended up taking a male into protective custody.

11 Q Now, did you yourself respond to that location at any point?

12 A Yes.

13 Q And at the time that you responded, were there other police
14 officers with the Winchester Police dealing with the situation
15 within the emergency room itself?

16 A Yes.

17 Q Did you yourself ever go into the hospital, or did you remain
18 outside at the point when the individual was taken into protective
19 custody?

20 A So, both. I responded first, then I went in. And then, the
21 second time I responded, everybody was already outside.

22 Q So, when you first responded, what happened when you first
23 went into the hospital?

24 A When we first got there, we made contact with Mr. Greenough
25 and tried to calm him down 'cause he was -- was pretty -- acting

1 pretty crazy. So, we attempted to calm him down for a while. And
2 then eventually it looked like he was going to calm down, so the
3 hospital felt comfortable in telling us we could leave.

4 Q So as a result of that did you and the other officers leave?

5 A Yes.

6 Q And did you actually leave the hospital premises at any
7 point?

8 A Yes.

9 Q Now, after you had left the hospital premises, did you learn
10 that the hospital had requested officers to return to the
11 emergency room for Mr. Greenough?

12 A Yes.

13 Q As a result of that, did you go back --

14 A Yes.

15 Q -- to the hospital?

16 When you arrived there, where was Mr. Greenough? Was he
17 outside of the hospital?

18 A The second time I responded, he was outside of the emergency
19 room entrance where the ambulances would go in.

20 Q And was he outside or was he in a vehicle at that point?

21 A He was outside.

22 Q What officer or officers if any were with him at that time?

23 A So, I was there, Officer Lannan was there, there were
24 multiple staff members from the hospital, there's security, there
25 were doctors, there were nurses, there were a couple of -- a

1 couple of EMTs. There were a lot of people out there, maybe about
2 10-12 people.

3 Q Now, at some point was Mr. Greenough placed inside Officer
4 Lannan's car?

5 A Yes.

6 Q And did you observe that or assist in that procedure?

7 A Yes.

8 Q And what if anything did you observe about your ability to
9 get him in the back seat of the car?

10 A He was refusing to get in the vehicle, arguing with us on --
11 he shouldn't go: "Why am I going? I'm not going." That sort of
12 thing. So, we -- Again, we try to convince him to get in.

13 Q And how is -- At some point did he get in the vehicle or --

14 A Yes, eventually he got in, yes.

15 Q And did you observe whether he was injured in any way during
16 that process?

17 A No.

18 Q You didn't observe, or he was not?

19 A I did not see him get injured.

20 Q And you were present there at that time?

21 A I was.

22 Q Once Mr. Greenough was in the vehicle, what happened next?
23 What did you do next?

24 A So, I follow -- So, he was placed in the back of the 929 car,
25 which is Officer Lannan's car. I believe that's the car he was

1 in. And then he transported him to the police station w -- and I
2 followed.

3 Q Now, at some point after that, did you arrive at the
4 Winchester police station?

5 A Yes.

6 Q And what happened at that point?

7 A We took him out of the vehicle, police vehicle, and tried to
8 begin the booking process.

9 Q What did you observe about Mr. Greenough's physical
10 appearance and condition as it related to the question of sobriety
11 during that time?

12 A In my opinion, he was intoxicated.

13 Q And what factors did you base that opinion on?

14 A There were all sorts of signs that he had been drinking. He
15 smelled of an alcoholic beverage. He had glassy eyes. His face
16 was flushed red. He was agitated, screaming at everybody, going
17 kind of highs and lows. We -- super nice and then super mean and
18 threatening, and that sort of thing.

19 Q Do you remember any of the things that he was saying to you
20 and the other officers?

21 A Yes.

22 Q And what were they? What were those statements that he made?

23 A Most of the -- Most of what was directed at me was telling me
24 he -- what he was going to do to me when he found me outside of
25 the police department.

1 Q And in terms of the booking process itself, was he able to be
2 booked initially upon being brought into the police station?

3 A No.

4 Q And why was that?

5 A He started becoming aggressive and trying to kick us and
6 screaming at us, and it was just unable to book somebody at that
7 point.

8 Q So as a result of that, what happened?

9 A He was placed in a temporary holding cell so he could calm
10 down.

11 Q And where were you when the other officers -- when Mr.
12 Greenough was in the temporary holding cell? That is to say, how
13 far from him were you at that point?

14 A Just a few feet, at some points. But we weren't standing in
15 that -- that area the entire time.

16 Q Could you hear him or see him from your vantage point?

17 A Yes.

18 Q And what did you observe?

19 A He was screaming, swearing at us, hitting his head against
20 the door, kicking the door, punching the door, and just
21 continuously screaming and kicking.

22 Q And how long did this go on for, if you recall?

23 A I don't. It was a while.

24 Q At some point did Mr. Greenough calm down?

25 A Yes.

1 Q Do you know what caused him to calm down?

2 A No.

3 Q But at some point he calmed down.

4 A At some point he calmed down, yes.

5 Q And what happened then?

6 A We took him out of the holding cell.

7 Q And how were you able to accomplish that? Was he escorted or
8 did he come on his own volition?

9 A W -- We asked him to come out of the cell, and he came out.

10 Q And were you present when he came out of the cell?

11 A Yes.

12 Q Did you make observations of his physical appearance and
13 condition as he came out of the cell, in comparison to the way
14 that he had appeared when he went in? That is to say, did he have
15 any cuts, bruises, or injuries that were not evident earlier?

16 A Not that I remember, no.

17 Q What happened next?

18 A We -- We attempted to book him.

19 Q And did that -- How did that process go?

20 A It was difficult, time consuming.

21 Q And why was that?

22 A Just because of his actions. Greenough was continuously
23 swearing at us, threatening us, would kind of go off on tangents,
24 wouldn't answer questions, just made it very difficult for us to
25 complete the process.

1 Q As part of the booking, was Mr. Greenough offered the
2 opportunity to call someone to arrange for his release?

3 A Yes.

4 Q And what happened when he was given that right?

5 A He attempted to call someone.

6 Q And initially was he able to get anyone to answer those
7 calls?

8 A He was able to make s -- a number of calls but he wasn't able
9 at first to get anybody to come down.

10 Q As a result of that, what if anything happened?

11 A He was placed in his c -- cell.

12 Q And at that point did you remain at the police station after
13 he was placed into the cell?

14 A Yes, I believe so.

15 Q Now, once he was placed in a cell, did you make any
16 observations concerning Mr. Greenough's behavior when he was now
17 in the non-temporary cell?

18 A Yes.

19 Q And what did you observe?

20 A I observed him kicking the door over and over again, dozens
21 and dozens of times, screaming. When I would go to check on him,
22 'cause we have to check on him every half-hour, face-to-face, he
23 was threatening me, saying he was going to get me when he came out
24 if he saw me outside of work. That sort of thing.

25 Q At some point were arrangements made by Mr. Greenough for

1 someone to pick him up?

2 A Yes.

3 Q Were you present at the police station when someone came to
4 pick him up?

5 A Yes.

6 Q And was that at approximately 9:35 that Mr. Greenough was
7 released to Mr. James Burke?

8 A It sounds right, but I'm not sure about the exact time.

9 Q Did you make any observations of Mr. Greenough as he was
10 being released to Mr. Burke?

11 A Yes.

12 Q What did you observe about him at that time?

13 A Same -- Same type of activity: threatening, gritting his
14 teeth, clenching his fist, making gestures, yelling at us. That
15 sort of thing. Very erratic.

16 Q Did you observe whether he had any cuts or bruises or
17 injuries as a result of the actions that you had witnessed or by
18 seeing or hearing inside the cell?

19 A No. I mean, I remember at one point that we asked him if he
20 wanted medical care, and he refused.

21 Q Now, at some point after Mr. Burke arrived did Mr. Greenough
22 leave with him?

23 A Yes.

24 Q And did you have any further contact or the Winchester Police
25 have any further contact with Mr. Greenough after he was released?

1 A Yes.

2 Q What was that?

3 A I didn't have further contact with him but he -- he -- he
4 began calling dispatch over and over again, began calling 9-1-1
5 over and over again.

6 Q Other than that evening, did you have any contact with Mr.
7 Greenough after he left the police station that evening, up until
8 today's date?

9 A No.

10 MS. LYNCH: Thank you, sir.

11 THE WITNESS: You're welcome.

12 THE COURT: Mr. Pasciucco?

13 MR. PASCIUCCO: Just briefly.

14 THE COURT: Yeah.

15 CROSS EXAMINATION OF WITNESS, SERGEANT FRANK LIMONCELLI

16 BY MR. PASCIUCCO:

17 Q Good afternoon, sergeant.

18 A Good afternoon.

19 Q My name is Peter Pasciucco; I represent Officer Erik
20 Drauschke.

21 Now, sergeant, you were dispatched to the hospital that
22 evening?

23 A Yes.

24 Q Okay. Was there any indication from dispatch that Mr.
25 Greenough was armed in any way?

1 A Not that I remember.

2 Q Okay. Was there any information -- It's your understanding
3 that Mr. Greenough was transported to the specific by emergency
4 medical services?

5 A I was told that he was brought there from Reading. That was
6 --

7 Q Right.

8 A But I don't know exactly what ambulance company. But he came
9 in from Reading.

10 Q Okay. But there was no -- When you responded, there was no
11 information that he possibly could be armed.

12 A Not that I remember.

13 Q Okay. If there was information that he was armed or possibly
14 could've been armed, would you have approached the situation any
15 differently?

16 A Yes.

17 Q Okay. And can you just tell us a little bit how you would've
18 approached it differently?

19 A If I'm going to a call where I think someone is armed with a
20 weapon, then I'm going to take the appropriate action to make
21 myself safe and everybody else safe. So --

22 Q At any time during your response to the hospital, did you
23 have to draw your firearm with respect to Mr. Greenough?

24 A No.

25 Q Okay. At any time did you have to draw your taser?

1 A No.

2 Q Okay. And is part of the reason that you didn't have to do
3 that because there was no indication that he was armed?

4 A That's one of the contributing factors, yes.

5 Q Now, you indicated that during your conversation with Mr.
6 Greenough he was telling you what he was going to do with you
7 outside the police station; is that --

8 A Yes.

9 Q -- correct? Do you remember what specifically he was saying?

10 A He was saying that basically if he saw me outside of the
11 police station he was going to get me. That sort of thing.

12 Q Okay. And you interpreted that as a threat?

13 A Absolutely.

14 Q Okay. Thank you, sergeant.

15 A You're welcome.

16 THE COURT: Any questions?

17 MR. KOUFMAN: I'd like to make an offer of proof.

18 THE COURT: Sure.

19 **CROSS EXAMINATION OF WITNESS, SERGEANT FRANK LIMONCELLI**

20 BY MR. KOUFMAN:

21 Q Sir, my name is Victor Koufman. I represent Alan Greenough's
22 family.

23 A Yes, sir.

24 Q I just have a couple -- few questions for you. I'd like to --

25 When Mr. Greenough was placed in the cruiser, was there a scuffle

1 between Alan Greenough and the officer who was trying to place him
2 into the cruiser? Do you know?

3 A Yeah, that was me.

4 Q Oh, okay. And was there a scuffle between you when you were
5 trying to put him into the --

6 A He was refusing to get in so we kind of had to, like, guide
7 him into the car.

8 Q Okay.

9 A You know what I mean? Because he would -- he didn't want to
10 get in.

11 Q Okay. And so, basically that was just you; it wasn't anybody
12 else.

13 A No, there was -- there was -- Like I said, there was about 12
14 people out there. So, I -- I can't remember who exactly put hands
15 on him. There may have been more than one person.

16 Q And what -- And so, when you guided him in, you had to use
17 force to guide him into the cruiser?

18 A No, I didn't use use-of-force.

19 Q Did -- But you had to direct him into the cruiser; is that
20 correct?

21 A Yes.

22 Q Okay. And you put his head down in order to get him into the
23 cruiser? Put your hand on his head?

24 A No, I don't do that.

25 Q No? Now, do you have any medical training with respect to

1 the signs and symptoms of seizures?

2 A No, I'm an a -- a first responder; that's all I have as
3 training.

4 Q Okay. And so, if he had had a seizure that evening, would --
5 you would not have been able to distinguish the difference between
6 the signs and symptoms of a seizure and his intoxication; is that
7 correct?

8 A I don't know if I can answer that question. I don't know.

9 Q Okay.

10 MR. KOUFMAN: Now, may I just ask a quick question about --

11 THE COURT: Sure.

12 MR. KOUFMAN: -- the station?

13 BY MR. KOUFMAN:

14 Q Now, when you got to the station, you indicated at some point
15 that he was offered medical attention; is that correct?

16 A Yes.

17 Q And in your police department, is there a policies and
18 procedure with respect to presenting him with some kind of a form
19 to demonstrate that he refused medical treatment?

20 A Not necessarily, no.

21 Q In this case, was he presented with a form to demonstrate
22 that he refused his medical treatment?

23 A I don't remember; I'm sorry. If -- If he's prevented --
24 presents a form, that would be from the fire department, not from
25 us. So, we don't -- we wouldn't give him a form like that.

1 Q Okay. And if he was observed to be injured while he was in a
2 holding cell, --

3 A Mm-hmm.

4 Q -- is it a policy and procedure in your department with
5 respect to how the police should respond to that observation?

6 A We would call the EMTs next-door to respond if we saw someone
7 get injured, yeah.

8 Q Okay. And if you see somebody get injured within a cell, are
9 there policies and procedures about what you need to do with
10 prisoner in your cell to make him safe?

11 A Yes.

12 Q And what are those policies and procedures?

13 A Get him medical attention.

14 Q Okay. Anything more than that?

15 A Not that I know of, no.

16 MR. KOUFMAN: Thank you, Judge.

17 THE COURT: Thank you.

18 Thank you, sir.

19 THE WITNESS: Thank you, Judge.

20 [Witness steps down]

21 THE COURT: You can call your next witness.

22 MS. LYNCH: The next witness would be James Burke. Your
23 Honor, you may recall this was -- and from last week.

24 THE COURT: Yes.

25 [JAMES BURKE, Sworn.]

1 THE COURT: So, Mr. Burke, good afternoon.

2 THE WITNESS: Hi.

3 THE COURT: So, Mr. Burke, when we adjourned last I had given
4 you a little bit of a colloquy, meaning a little bit of a talk
5 about your Fifth Amendment rights, gave you an opportunity to
6 consult an attorney, and you chose to do that, and we recessed.

7 THE WITNESS: Yes.

8 THE COURT: Just putting that all on the record. So, you've
9 had that opportunity.

10 THE WITNESS: Yes.

11 THE COURT: And it's your decision here to testify in this
12 matter?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 MS. LYNCH: And just so I can put on the record, Your Honor,
16 that that is pursuant to the Commonwealth's promise not to
17 prosecute in connection with statements that he's made concerning
18 his drug use with Mr. Greenough.

19 THE COURT: Okay.

20 DIRECT EXAMINATION OF WITNESS, JAMES BURKE

21 BY MS. LYNCH:

22 Q Sir, would you please state your name.

23 A James Burke.

24 Q And would you spell your last name for the record, please.

25 A B-U-R-K-E.

1 Q And what city or town do you reside in?

2 A Andover.

3 Q How long have you lived in Andover?

4 A Fifteen years.

5 Q What is your date of birth, sir?

6 A 1/21/64.

7 Q What -- Are you presently employed?

8 A No.

9 Q What is your occupation when you are employed?

10 A I was a dispatcher for a security company.

11 Q And how long were you in that capacity?

12 A About four years.

13 Q Now, did you know a person named Alan Greenough?

14 A Yes.

15 Q How did you come to meet Mr. Greenough?

16 A We worked together at a gas station.

17 Q And was that the East Coast Gas in Reading?

18 A Yes.

19 Q And were you working there in 2007?

20 A I think I was. It was a long time ago, but I think I was.

21 Q Now, did you -- When you went to work at East Coast, was Mr.
22 Greenough working there or did he begin to work there after you
23 worked?

24 A If I remember correctly, he was working there part-time when
25 I was -- when I started.

1 Q How long did you yourself work at East Coast Gas & Service
2 Station?

3 A I'm going to say nine months --

4 Q And --

5 A -- approximately.

6 Q And during that time what was your relationship if any with
7 Mr. Greenough?

8 A We became work friends.

9 Q And that was the first time that you had met Mr. Greenough,
10 was at work?

11 A Yes.

12 Q And after you stopped working at the East Coast, did you and
13 Mr. Greenough continue to see or speak to each other?

14 A Yes, occasionally.

15 Q Now, during this time-period did you yourself have a struggle
16 with substance use and abuse?

17 A Yes, I did.

18 Q And specifically what was the nature of your addiction?

19 A Opiates.

20 Q And in terms of your relationship with Mr. Greenough, did you
21 -- when you would see or speak to him, did you share the struggle
22 with substance abuse?

23 A Yes.

24 Q What was Mr. Greenough's struggle, as you understood it, with
25 substances?

1 A Did drugs and drank.

2 Q And you indicated that you specifically used opiates. Do you
3 know what Mr. Greenough ingested?

4 A Opiates, as well. Heroin.

5 Q Now, back in 2017 did you have contact with Mr. Greenough?

6 A Yes.

7 Q And would you see him in person --

8 A Yes.

9 Q -- on occasion?

10 And where would you see him, generally?

11 A At his house --

12 Q And that was --

13 A -- where he lived.

14 Q -- at the gas station on 1462 Main Street?

15 A Yes, an apartment next-door.

16 Q Now, in this timeframe of 2017, did you have a relapse into
17 substance use?

18 A Yes.

19 Q And do you know whether Mr. Greenough had a relapse into
20 substance use?

21 A Yes.

22 Q I'm going to direct your attention to the timeframe of
23 September 1st of -- Well, let me ask you this: in the time that
24 you knew Mr. Greenough in 2017, did Mr. Greenough ask you or ever
25 ask you to procure for him any controlled substances?

1 A Yes.

2 Q And during that timeframe -- I'm going to direct your
3 attention to your experience with Mr. Greenough. Did you ever see
4 him under the influence of any alcohol?

5 A Yes.

6 Q And did you notice whether or not there were any changes in
7 his behavior or demeanor when he was under the influence and when
8 he was sober?

9 A He would get a little more aggressive, little more erratic.

10 Q And when you say more aggressive and more erratic, can you be
11 more specific?

12 A Kind of short-tempered, quick to -- quick to argue.

13 Q And in terms of his -- the effect that opiates had on him,
14 did you observe him under the influence of opiates?

15 A Yes.

16 Q And what difference in his demeanor or behavior would you
17 observe when he was under the influence of opiates?

18 A Actually, it was very similar: just kind of aggressive and --
19 and a little argumentative.

20 Q Would he mix the substances, that is to say, when he was
21 using opiates would he also be drinking? Or would he strictly
22 stay with one?

23 A Both.

24 Q Now, in terms of the time that you knew Mr. Greenough, did
25 you know an individual named Devin McDonald?

1 A Yes.

2 Q And who was Mr. McDonald?

3 A His roommate.

4 Q And is that how you knew Mr. McDonald?

5 A Yes.

6 Q And did you ever observe any of the interactions between Mr.
7 Greenough and Mr. McDonald?

8 A Yes.

9 Q And what did you observe about their interactions and
10 relationship?

11 A I mean, usually they got along. But occasionally they would
12 fight.

13 Q And when you say they would fight, would they be verbal of
14 physical?

15 A I only saw verbal.

16 Q Did Mr. Greenough ever disclose to you any physical incidents
17 between him and Mr. Greenough?

18 A Yes.

19 Q And do you recall what he said about them?

20 A He would just say they got in a physical fight.

21 Q Now, directing your attention to September 1st of 2017, that
22 evening did you get a call from Mr. Greenough requesting that you
23 go to the Winchester police station to pick him up?

24 A Yes.

25 Q Did he reach you by phone that evening?

1 A Yes.

2 Q When he reached you by phone that evening, did you have to
3 come from Andover --

4 A Yes.

5 Q -- going --

6 A Yes.

7 Q And did you go directly to the station after you spoke to
8 him?

9 A Yes.

10 Q Do you recall what Mr. Greenough said to you in the call
11 asking him to pick him up?

12 A If I remember correctly, he just said that he got arrested
13 and he needed me to come get him.

14 Q And so, as a result of that, you went to the Winchester
15 police station?

16 A Yes.

17 Q What did you observe when you got to the Winchester police
18 station concerning Mr. Greenough?

19 A He was intoxicated and he had a very big welt on his head,
20 and a little disheveled.

21 Q Do you remember whether he was wearing regular clothes or
22 hospital clothing?

23 A If I remember correctly, he was wearing regular clothing but
24 he had hospital clothes in his hands.

25 Q And what was he doing with the hospital clothes?

1 A He actually threw them all over the floor.

2 Q And was that inside the police station?

3 A Inside and outside.

4 Q Now, in terms of his demeanor and behavior when you first saw
5 him, can you describe his demeanor?

6 A He was very angry. He was just very angry and upset. And he
7 just wanted to get out of there.

8 Q Now, did you ever describe him as being out of control when
9 you saw him in the police station?

10 A Yes.

11 Q And specifically what was he doing or saying?

12 A Just yelling. Just yelling and just angry, you know, in
13 general.

14 Q And when he was yelling, do you remember what he was yelling?
15 Was he yelling words? Was he just screaming?

16 A He was yelling that the police beat him up.

17 Q And was he using regular language? Profanities?

18 A I don't remember exactly. I don't remember.

19 Q Now, what was the volume and tone of his voice as he was
20 yelling about being angry about the police?

21 A Loud.

22 Q Did he tell you that he had been at the Winchester Hospital
23 and that he was picked up there?

24 A Yes, he did tell me he was at the hospital. I don't remember
25 -- I don't know exactly how he got to the police station. I just

1 know I picked him up there.

2 Q Do you -- Did he tell you why he was at the hospital?

3 A Not that I remember.

4 Q When you left the police station, where did you take him?

5 A Home.

6 Q And what did he tell you about what happened that evening?

7 A He told me that he got arre -- He was -- He was drunk and he
8 got arrested and the -- the police beat him up. And that's pretty
9 much it. And they released him and they -- to me.

10 Q Now, when you were at the police station, did you interact
11 with the police at all there?

12 A Very little. Very little.

13 Q And in terms of Mr. Greenough, he was directing -- when you
14 say he was yelling, he was directing that to the police officers?

15 A Yes.

16 Q Did you see any physical contact between the police and Mr.
17 Greenough while he was at the police station?

18 A No.

19 Q Did you indicate to investigators at some point that you felt
20 you were surprised that he was not arrested for his behavior in
21 the police station lobby?

22 A I don't remember saying that. I may have.

23 Q Now, in terms of your friendship with Mr. Greenough, were you
24 present at his apartment on November 1st of 2017 at 1462 Main
25 Street?

1 A Yes.

2 Q And what were the circumstances of your being at his house
3 that day?

4 A If I remember correctly, we were using drugs.

5 Q And what kind of drugs were you using that day?

6 A Heroin.

7 Q And how was heroin being ingested that day? That is to say,
8 was it snorted or injected?

9 A Injected.

10 Q And who supplied the heroin?

11 A I think we both had some.

12 Q And in terms of doing or using the heroin, was there anyone
13 else other than you and Mr. Greenough at the apartment that day?

14 A Not -- Not that I remember, no.

15 Q And when Mr. Greenough injected his heroin, where was he
16 located?

17 A The bathroom.

18 Q And were you there with him at the time?

19 A I was outside, in his room.

20 Q And was that on the second floor, as well?

21 A Yes.

22 Q And as you were in his room on the second floor, did
23 something happen that attracted your attention?

24 A Yeah. I heard a bang. And -- And then he was on the -- I
25 went in and he was on the floor.

1 Q And when you saw him on the floor, did you observe his
2 condition, that is to say, whether he was conscious or what he was
3 doing?

4 A H -- He was unconscious.

5 Q As a result of that, what if anything did you do?

6 A I called 9-1-1. And then I actually ran outside to get Al's
7 brother.

8 Q And who was Al's brother?

9 A Anthony.

10 Q And was Anthony someone that you knew?

11 A Yes.

12 Q How long had you known Anthony?

13 A A couple years, since I worked at the station.

14 Q So, Anthony worked there when you did?

15 A Yes.

16 Q And was Anthony there when you went to find him?

17 A Yes.

18 Q And what happened at that point?

19 A Anthony came running with me back into the apartment. And I
20 think Anthony called 9-1-1 and we were both helping Al, --

21 Q And at --

22 A -- main -- mainly Anthony.

23 Q At some point did fire rescue arrive and administer Narcan,
24 to your knowledge?

25 A Yes.

1 Q Now, in addition to the fire response that day, did the
2 police also respond?

3 A Yes.

4 Q And what happened when the police got there?

5 A They questioned me with what happened. And --

6 Q And did you tell them what happened?

7 A Yes.

8 Q And at any point while you were there did you note whether
9 after the fire gave Mr. Greenough Narcan that he became conscious?

10 A No. They didn't allow me back in.

11 Q Now, on that particular date did something happen between you
12 and Mr. Greenough's brother?

13 A Th -- On that day?

14 Q Yes.

15 A No.

16 Q Okay. Was there some interaction between Mr. Perrotti and
17 the police that concerned you?

18 A Yes.

19 Q And what was that?

20 A Well, all I knew was they were talking separately and then
21 the police -- a policeman came over to me and he seemed very angry
22 with me.

23 Q The police officer?

24 A Yeah.

25 Q And can I ask you: did you ever see your friend Alan

1 Greenough after the date of November 1st of 2017?

2 A No.

3 Q So your last in-person contact with Mr. Greenough was the day
4 that he was given Narcan or responded to -- for the overdose at --

5 A Yes.

6 Q -- the house.

7 Now, was there a reason that you never saw Mr. Greenough
8 after that?

9 A Well, after that incident one of the policemen told me it'd
10 be best if I stay away. So that's what I did.

11 Q And did you let Mr. Greenough know this?

12 A Yes.

13 Q And what was his response to that?

14 A If I remember, he wanted me to come over. But I just thought
15 it was better if I didn't.

16 Q Now, other than coming over, did you continue to have contact
17 with Mr. Greenough over the months leading up to his death, by
18 telephone, by cell phone?

19 A Yes, occasionally.

20 Q Now, in this timeframe did you know a person named Curt Roth
21 [phonetic]?

22 A Yes.

23 Q How did you know Curt Roth?

24 A Curt was a friend of Al's and I met him a long -- couple
25 years back. And we had also used drugs together.

1 Q And what type of drugs did you use when you knew Curt Roth?

2 A Opiates.

3 Q Now, was Mr. Roth someone that you kept in touch with
4 separate and apart from Mr. Greenough?

5 A Occasionally. Not too often but occasionally.

6 Q Now, do you recall on February 2nd of 2018, the day before
7 Mr. Greenough's death, did you speak to Curt Roth on February 2nd?

8 A Yes.

9 Q And do you recall what Mr. Roth told you concerning his being
10 at Mr. Greenough's apartment?

11 A If I remember correctly, he told me Al -- that had been -- Al
12 had been shot.

13 Q This is the day before he was shot.

14 A I'm sorry. Did I speak to Curt?

15 Q Yes.

16 A I honestly don't remember. I may have.

17 Q Do you recall speaking to members of the state police in the
18 week or so after the shooting of Mr. Greenough, concerning your
19 contacts with him --

20 A Yes.

21 Q -- and others that time?

22 A Yes.

23 Q I'm just going to show you an item and I'm going to ask you
24 if you can read it to yourself. And then I'm going to see if it
25 refreshes your recollection. I'm just going to direct your

1 attention -- This is Connolly Report, page 2, paragraph 2E. I'm
2 just going to ask you to read this to yourself.

3 A Okay.

4 Q And after you've had an opportunity, let me know.

5 A [Reviewing document.] Okay.

6 Q Having reviewed that document, do you recall a conversation
7 that you had with Mr. Roth on the afternoon of Friday, February
8 2nd?

9 A Yes.

10 Q And what do you recall about that conversation?

11 A Curt called me. He told me that Al was asking him for some
12 drugs. I told him not to give it to him. And that was pretty
13 much it. I just --

14 Q Did Mr. Roth tell you that he had given Greenough some dope?

15 A He did, yes.

16 Q And did he tell you that Greenough sold him some Klonopin
17 which he said were 0.2 milligrams?

18 A Yes.

19 Q And did Mr. Roth tell you that he had only given Al a little?

20 A Yes.

21 Q And that Al had been asking for more?

22 A Yes.

23 Q Did you learn that Mr. Greenough had been shot from Mr. Roth
24 the following day?

25 A Yes.

1 Q Now, given your concerns about going over to Mr. Greenough's
2 apartment after the overdose on November 1st, did you have any
3 contact with him starting in or around November 9th of 2017 by
4 receiving a phone call from Mr. Greenough?

5 A Yes, I think I remember that.

6 Q And after that phone call, did you hear from Mr. Greenough on
7 Christmas Day, December 25th of 2017?

8 A I received a text.

9 Q And that was to wish you a merry Christmas?

10 A Yes.

11 Q And thereafter did you have communication with Mr. Greenough
12 over the holidays?

13 A I don't remember having any contact with him after that.

14 Q Okay. Do you remember a series of text messages between you
15 and Mr. Greenough in the timeframe of December 27th -- December
16 26th, a call for 23 minutes and 6 seconds?

17 A Yes.

18 Q Okay. Just drawing your attention to what's previously been
19 admitted as Exhibit 1, at some point were you shown certain text
20 messages purporting to -- between your phone number and -- that
21 would be that number, --

22 A Yes.

23 Q -- 781-315-7995?

24 A Yes.

25 Q And Mr. Greenough referred to you as Jim Bo?

1 A Yes.

2 Q And so, in this timeframe was there a series of texts in
3 which Mr. Greenough was looking for brown or V-vanse?

4 A Yes.

5 Q And did you respond to him at page 149, "Absolutely not"?

6 A Yes.

7 Q What is "brown"?

8 A Heroin.

9 Q And what is "V-vanse"?

10 A I think it's Vyvanse.

11 Q And in the timeframe after that, was there phone calls and
12 texts between you and Mr. Greenough in January, specifically
13 regarding looking for drugs from you?

14 A Yes.

15 Q And what do you recall about those communications?

16 A Very little. I -- I think he was asking me to get him some --
17 something. I don't -- I don't really remember --

18 Q Okay.

19 A -- very well.

20 Q Now, directing your attention to entries for -- at page 187 --
21 directing your attention to page 187, February 1st at 8:59 p.m.,
22 Entry 1901, does it appear that you texted Mr. Greenough, "Al, hi,
23 how are you doing? Just wanted to say hi"?

24 And that Mr. Greenough responded in the next entry to you,
25 saying, "Hi, Jim, I'm okay. You got any stuff?"

1 And you responding, "Tomorrow, late afternoon. I know that
2 doesn't help now."

3 And him responding, "That's fine. I just wanted a little,
4 really. I just want enough to get high."

5 And you responded, "I understand, bro. Want me to text you
6 tomorrow when I'm set?"

7 And him indicating, "That would be great."

8 And you saying, "You got it, bro."

9 And then you -- he replied to you, "Thanks. Maybe we can
10 chill for a bit and -- at my place. But maybe yours would be
11 nice, to get out of the house."

12 And you're saying, "Yeah, we can do that."

13 A Okay.

14 Q Now, in terms of that communication, did you take any steps
15 to get anything for Mr. Greenough?

16 A No.

17 Q And why was that?

18 A Mainly because of what happened the month before, with the
19 overdose. I just didn't want any part of doing drugs with him
20 anymore.

21 Q And in terms of your communications with Mr. Greenough, did
22 you have any other communications with him other than that?

23 A I don't think so.

24 Q And so, in the series of texts that you were shown, were
25 there a series of texts in which you indicated to Mr. Greenough

1 that you felt badly about Anthony and that you felt that he had
2 been unfair to you?

3 A I did express some of that in texts. I was very upset about
4 everything that happened. So I said some things I didn't mean.
5 But I did express some frustration, yeah.

6 Q And in terms of Mr. Greenough, his response was that he was
7 not his brother --

8 A Yes.

9 Q -- and that he wanted to see you?

10 A Yes.

11 Q But you did not see him prior to his death.

12 A No.

13 MS. LYNCH: If I might just have one moment.

14 THE COURT: Sure.

15 MS. LYNCH: Thank you, Mr. Burke.

16 THE COURT: Mr. Pasciucco?

17 **CROSS EXAMINATION OF WITNESS, JAMES BURKE**

18 BY MR. PASCIUCCO:

19 Q Good afternoon, sir.

20 A Hi.

21 Q My name's Peter Pasciucco. I represent Officer Erik
22 Drauschke.

23 Mr. Burke, through your experience with using drugs, are you
24 familiar with what a speedball is?

25 A Yes.

1 Q And what's a speedball?

2 A It's cocaine and heroin mixed together.

3 Q Okay. And have you ever done a speedball?

4 A Yes.

5 Q Okay. Do you know whether Mr. Greenough had ever done a
6 speedball?

7 A Yes.

8 Q Okay. And you recall telling state police detectives that
9 Mr. Greenough enjoyed doing speedballs?

10 A I -- Yeah, I think I said that.

11 Q Okay. What are the effects of speedballs or doing
12 speedballs?

13 A It bring -- It get -- You -- It brings you very up high, and
14 then it brings you down low.

15 Q Did you ever do speedballs with Mr. Greenough?

16 A Not that I remember, no.

17 Q During your relationship with Mr. Greenough, did you know him
18 to mix alcohol and drugs at the same time?

19 A Yes.

20 Q Okay. And do you remember telling state police detectives
21 some of the effects of what would happen when Mr. Greenough would
22 mix alcohol and drugs?

23 A He would become erratic and a little aggressive,
24 argumentative.

25 Q Okay. Do you remember telling them that he would be

1 obnoxious?

2 A I may have said that.

3 Q How about confrontational?

4 A Yes, I may have said that.

5 Q Sir, where are you in terms of your own sobriety?

6 A Five months clean.

7 Q Congratulations.

8 A Thank you.

9 MR. PASCIUCCO: I have no other questions. Thank you.

10 MR. KOUFMAN: Just one.

11 THE COURT: Sure.

12 **CROSS EXAMINATION OF WITNESS, JAMES BURKE**

13 BY MR. KOUFMAN:

14 Q In that same statement you made to the police, isn't it also
15 true that you said that he was confrontational but not violent?

16 A I did say that, yes.

17 MR. KOUFMAN: Thank you.

18 **CROSS EXAMINATION OF WITNESS, JAMES BURKE**

19 BY THE COURT:

20 Q So, Mr. Burke, you indicated when you got to the Winchester
21 Police Department that Mr. Greenough was out of control. What do
22 you mean by that?

23 A Kind of animated, very upset, yelling. That's what I meant
24 by that.

25 Q Yelling that the police beat him up?

1 A Yes.

2 Q You said you were friends.

3 A Yes.

4 Q At some point did you say, "Man, what do you mean the police
5 beat you up?"

6 A I didn't really talk to him then. I just was focused on
7 getting him in my car. When we got in my car, I did ask him about
8 it and he just kept repeating, "They beat me up, they beat me up."

9 Q Did you make any observations of any physical injuries?

10 A Yes. He had a very huge welt on his f -- on his head.

11 Q Thank you, Mr. Burke.

12 A Thank you.

13 [Witness steps down]

14 THE COURT: You can call your next witness.

15 MS. LYNCH: You had indicated --

16 THE COURT: Yes, that's right, 1:10, it's lunchtime.

17 MS. LYNCH: I'm sorry.

18 THE COURT: So, we'll take recess. No, perfect for reminding
19 me. We'll take the lunch recess until 2:10 so everybody gets
20 their full hour. Okay? Thank you.

21 [Court in Recess at 1:10:16 p.m.]

22 [Back on Record at 2:15:52 p.m.]

23 THE COURT: You can call your next witness.

24 MS. LYNCH: Thank you. Bernard Horn, please.

25 [BERNARD HORN, Sworn.]

1 DIRECT EXAMINATION OF WITNESS, BERNARD HORN

2 BY MS. LYNCH;

3 Q Good afternoon, sir. If you would, would you please state
4 your name and spell your last name for the record?

5 A Bernard, R. for Robert, Horn, Jr. H-O-R-N.

6 Q And what city or town do you reside in, sir?

7 A Reading.

8 Q How long have you lived in Reading?

9 A Since 1990. Well, I previously lived there from '74 to '76.
10 '73 to '76; sorry.

11 Q And what is your occupation?

12 A I'm an investment advisor.

13 Q And what is your date of birth?

14 A January 4, '55.

15 Q Are you familiar with the East Coast Gas & Service Station at
16 1462 Main Street in Reading?

17 A Yes.

18 Q How frequently would you visit that establishment?

19 A Normally about -- Usually I go there every Thursday for --
20 They have nickel off on Thursday gas.

21 Q So, --

22 A They used to, anyway. So --

23 Q So you generally go once a week?

24 A Usually about once a week. But I travel a lot, so sometimes
25 I don't go there every single week.

1 Q Okay. Now, directing your attention to Saturday, February
2 3rd of 2018, did you have occasion to visit the business on that
3 date?

4 A Yes, yeah. I came in f -- I -- I came in for kind of a
5 normal fill up on my gas.

6 Q And in terms of your arrival that day, were you aware that a
7 shooting had taken place at the establishment that day?

8 A Not until I got there.

9 Q Okay. But were you aware that it had happened prior to your
10 arrival that day?

11 A No.

12 Q Did you learn that at some point while you were there?

13 A While I was there, yeah.

14 Q Okay. So you --

15 A Not --

16 Q -- pulled into the gas station and at that point learned that
17 there had been a shooting.

18 A That's correct.

19 Q Okay. So you came after the shooting, at approximately 4:33
20 or thereabouts.

21 A That's -- Yeah.

22 Q The shooting had already --

23 A Not -- Not know -- knowing exactly the time but, yes, I -- I
24 came in -- in there after the shooting.

25 Q Okay. Do you recall the vehicle that you were driving that

1 day at the station?

2 A Yes. It was a Ford Focus, blue Ford Focus.

3 Q And with regard to that vehicle, were shown a videotape that
4 was timestamped February 3rd, 2018, for the record 1721:02 on the
5 timestamp, real-time 4:48:12 p.m.? Were you shown that earlier
6 this afternoon, --

7 A Yeah, just --

8 Q -- prior to testifying?

9 A Exactly, yes. I did --

10 Q And did you --

11 A I did see that. I recognized it, the -- Yes, I recognized
12 the film.

13 MS. LYNCH: Now, Your Honor, with regard to the -- this
14 videotape, there was a thumb drive that was provided in discovery.
15 I'm asking the Court's permission to use that thumb drive. And if
16 at the next hearing date if I could at that time have more --
17 doesn't -- as an exhibit.

18 THE COURT: Yes. Yeah.

19 MS. LYNCH: Thank you. So, with the Court's permission if we
20 can play the surveillance video. And I would direct to Camera 2,
21 February 3rd, 1721:02 timestamp.

22 [Video Playing at 2:19:04 p.m.]

23 BY MS. LYNCH:

24 Q And this vehicle pulling in, do you recognize that vehicle?

25 A Yeah, that's my car. That's my Ford Focus.

1 Q Okay. And you're the operator of that vehicle that day?

2 A I am, yes.

3 Q Okay. Now, on this particular date --

4 MS. LYNCH: You can continue playing that.

5 [Video Playing at 2:19:23 p.m.]

6 BY MS. LYNCH:

7 A And I was the only person in the vehicle, so --

8 Q Now, at that time when you pulled in did you have a -- did
9 you request that your gas tank be filled up?

10 A Yeah, yes. I'm just looking for --

11 Q And at that point did you get out of your car and speak to
12 the people in the gas station?

13 A Yes, I did.

14 Q And in terms of the people at the gas station, given your
15 frequency of visits to the gas station, were you familiar with the
16 older gentleman that pumped gas?

17 A Yes, yeah, I saw him most weeks but not every week.

18 Q And in terms of your arrival there, did you see police cars
19 in or around the area, or police officers, while you were there?

20 A Yeah, I did. They were kind of on the south end of the gas
21 station.

22 Q Now, did you know an individual who identified himself as
23 being the manager of the gas station or an employee by the name of
24 Anthony?

25 A Yes.

1 Q Was that someone that you knew prior to that date?

2 A Yes. Not a -- Not as frequently as the people who had -- the
3 attendants who pumped the gas. But occasionally I'd see him
4 there, yes.

5 Q And did you see Anthony that afternoon?

6 A Yes, after I -- as I was filling up or after it f -- was
7 filled up, he came out of the -- I think it was the office area
8 there.

9 Q Now, do you know any of the other employees there,
10 specifically one of the owners, a man named Joe Chaghouri?

11 A Yeah. They're not always there all the time, but I assume
12 that they're the owners. But I -- They seem to be in charge.

13 Q Okay. And do you recall whether he was there that day?

14 A I think he was. But I -- That -- I know -- I know the
15 gentleman who was pumping the gas and Anthony, who I think is now
16 on the left-hand side of the screen there, although it's not very
17 --

18 Q Okay.

19 A The resolution isn't great.

20 MS. LYNCH: If you could just pause that for a moment.

21 BY MS. LYNCH:

22 Q So, directing your attention -- You say -- Would this
23 individual be you? [Indicating.]

24 A I can't see it quite from here. But I thought I had brown
25 pants on. But I don't --

1 Q Okay. And what about --

2 A That -- I think that is Anthony.

3 Q Okay. And this would be the --

4 A The -- The gentleman p -- pumping it, I -- I can't recall his
5 name.

6 Q Okay. And, now, during that time did you have a conversation
7 with any of the people at the gas station about what was going on?

8 A Yeah, yes. Yeah, I did. I asked the -- I asked what was
9 going -- Do you want me to tell you what I --

10 Q Yes.

11 A So, I asked the gentleman who was pumping the gas because
12 when I first got out he was the only one there. You know, what
13 went on, what was going on? I thought, well, gee, maybe somebody,
14 you know, was injured or had a heart attack or something like
15 that.

16 And nothing -- You know, he said, "No, noth -- n -- nothing's
17 really going on."

18 I said, "Well, it's a lot -- lot of activity here for n --
19 not much going on."

20 So he really wasn't forthcoming.

21 And -- And then I asked him a couple more times, "Well, you
22 know, what's -- you know, what's happening?"

23 He says, "Somebody was shot."

24 And I said, "Well, that's pretty bad. What happened?"

25 And then he, you know, sort of des -- he described to me what

1 -- more or less what happened: that, you know, there was a young
2 guy who worked -- he -- he sometimes worked there but it was a guy
3 who was in the apartment to the righthand side of the pumps. And
4 he was in there. Apparently the police had come and, you know,
5 were knocking on the door, banging on the door. And then I'm not
6 sure if -- if this was from him or this was from Anthony. I'm --

7 Now, I'm not quite sure exactly who was saying what. But --
8 But I do know when Anthony came out, you know, he -- he indicated
9 that it was his brother that had been shot.

10 And -- And I was like, "Wow, that's -- that's, you know,
11 pretty bad." And I said, "Well, why are you over here? Why don't
12 you help him out?" And they -- you know, because, you know, if
13 his brother was seriously injured, why wouldn't he want to be
14 there with him? So, I --

15 You know, but he said they wouldn't let him over there.

16 I said, "Well, --"

17 And so, then we -- we -- So, -- So, basically what -- what I
18 learned was that the police came, not quite sure why they came,
19 they were banging on the door, his brother apparently left through
20 the back entrance on -- or the back window. I wasn't -- I thought
21 he said the window. And he came around the back of the gas
22 station.

23 I think h -- At one point I said -- they said, "I think he
24 was hiding in the -- one of the cars." I think it was like a big
25 SUV. I'm not quite sure what it was, like a Range Rover, sort of

1 big SUV.

2 Then, as the police pursued him, a sound -- at least that's
3 what I was told -- he left that car and got into another car, who
4 I -- And I thought that -- that they said that was his car. And
5 then they pursued him over at that end.

6 And I'm not sure how the door got opened, but -- whether the
7 officer opened the door or not, or it was already open or the
8 window was open. And it sounded like, you know, he -- he had, you
9 know, took his gun out and fired twice, more or less at point-
10 blank range.

11 And -- And then of course -- then the discussion was: well,
12 how did that happen; why did that happen? It wasn't clear, you
13 know, if there was a -- you know, what the reasons were and why.

14 You know, with the police presence that were there, one
15 person had suggested that -- said that there was one officer that
16 was pretty agitated and -- and was kind of running around and
17 wasn't quite sure if that was the person who shot or not.

18 THE COURT: So, sir, who are you getting all of this from?
19 Is it Anthony?

20 THE WITNESS: Anthony and -- and the gentleman pumping the
21 gas.

22 THE COURT: And who's the person telling you there's one
23 officer who's walking around kind of agitated?

24 THE WITNESS: I'm sorry, but I don't -- I don't remember. I
25 know that they said that but I can't remember which person said

1 that. I -- I want to say that it was the gentleman pumping the
2 gas.

3 BY MS. LYNCH:

4 A So, -- So, yeah, that was basically what I learned. And then
5 -- then I said, "Well, you know, --" Then I, you know, was
6 questioning, "Well, was he armed? Was he not armed?"

7 "No, he was unarmed?"

8 And I -- I asked another question: "Why -- Why did it --"
9 The -- The questions that I had for them was "Well, if there was
10 so much -- such a -- such a number of policemen around, why would
11 they have used such force when there might've been other ways of
12 subduing this -- you know, his brother or another -- in some other
13 way, you know, trying to, you know, get him out of the car so that
14 they could, you know, you know, subdue him in some way or
15 another?"

16 And, yeah, that -- that was basically -- you know, that was
17 basically it. So, we kind of talked back and forth about that.
18 And --

19 Q Was there any mention made by anyone that they had wished
20 they had opened the door or let the police in?

21 A Yeah. So, -- So, I think that at one point, you know, when
22 we were describing -- when we were trying to -- I was trying to
23 understand how this whole thing transpired, I th -- I -- I think
24 it was Anthony said, "Gee, if I, you know, kind of had known this,
25 I would've opened the door," kind of thing, "and let them in."

1 So, apparently that -- I think he was referring to the fact
2 that when the police, you know, entered or attempted to get into
3 the apartment that, you know, if they had let him -- if they had
4 let them in at that point, it might've prevented the whole thing
5 from -- from happening. So, I -- I don't know whether that was --
6 You know, I -- That was my -- I think the last part, that was
7 probably my interpretation. But --

8 Q But that was expressed to you by --

9 A I -- I believe that was Anthony. Yeah, I believe that was
10 Anthony. But I, you know, --

11 Q And did you remain at the gas station for a period of time,
12 having conversations with the people that worked there?

13 A Right, yeah. So, I'm trying to summarize in a fairly short
14 period of time --

15 Q Sure.

16 A -- what we talked about over 10 or -- 10 or 15 minutes, yeah.

17 MS. LYNCH: Now, if you would just fast-forward, Ms.
18 Cunningham, to timestamp 1733:04, which for the record would be
19 real-time five o'clock and fourteen seconds.

20 [Video Playing at 2:27:07 p.m.]

21 BY MS. LYNCH:

22 Q And does it appear that at 33:16 timestamp that you drove off

23 --

24 A Yeah.

25 Q -- at that time?

1 A Yeah. And they had to lift the --

2 Q Real-time 5:27. So, you were at the gas station for
3 approximately a little over 12 minutes.

4 A That's about right, yeah.

5 Q Now, you -- In terms of your job, do -- were you traveling a
6 lot back in 2018 in connection with your job?

7 A I'd have to go back. I -- I tried to check my calendar just
8 before we came in here, but it's beyond the -- it was over a year
9 ago, so my calendar on my phone doesn't go back that far. But,
10 yeah, I mean, generally speaking I do travel a lot. At that
11 period of time I'm usually around because I -- we have a -- a lot
12 of work to do in our office in January. So, being that this was
13 just after that, end of January, normally I'd be around. But I
14 can double check that, if that's --

15 Q Okay.

16 A -- important.

17 Q No, I -- I'm just directing --

18 A But --

19 Q -- your attention to the date March 6th of 2018. On that
20 particular date, did you make a call to the Middlesex District
21 Attorney's Office in connection with this matter?

22 A Yeah, I -- Yes, I did. I think I read in the paper that -- I
23 read the description in the paper as to what happened. And I
24 think they were -- the article may have mentioned that they were
25 looking for other people who might have something to contribute to

1 the -- s -- to the -- to the investigation. So, I decided to call
2 about that.

3 Q And so, you believe the timing of the article may have been
4 March 6th, or you may have only --

5 A S -- I'm not exactly sure when the article appeared. But
6 that's --

7 Q Okay.

8 A -- obviously well known.

9 Q And as a result of seeing that, what did you do?

10 A So, after I read the article, I s -- you know, be -- given
11 that I was there, I felt that, you know, just somewhat of my
12 responsibility to just call up and contribute to whatever I could.
13 Obviously, I wasn't there during the event, so I was, you know,
14 just trying to helpful.

15 Q Okay. And so you -- At some point after placing that call,
16 did you have a telephone conversation or two telephone
17 conversations with Trooper James Connolly of the Middlesex
18 detectives unit of the state police?

19 A Yes. Yeah, I was told that the state police were
20 investigating the -- the event.

21 Q And in terms of the report that you made to the police, you
22 in sum told them that you had come upon the gas station after the
23 shooting had occurred and that you had some conversation with the
24 people that worked there?

25 A Yes.

1 MS. LYNCH: If I might just have --

2 THE COURT: Sure.

3 MS. LYNCH: Thank you, Mr. Horn.

4 THE WITNESS: Okay.

5 THE COURT: No, Mr. Horn, hang on one second. Let's just see
6 if anybody else has any questions for you, --

7 THE WITNESS: Sure.

8 THE COURT: -- the other attorneys involved.

9 MR. PASCIUCCO: Just a couple questions.

10 THE COURT: Sure.

11 CROSS EXAMINATION OF WITNESS, BERNARD HORN

12 BY MR. PASCIUCCO:

13 Q Good afternoon, sir.

14 A Afternoon.

15 Q My name's Peter Pasciucco. I represent Officer Erik
16 Drauschke.

17 Did you know Alan Greenough at all?

18 A I don't know -- I don't recognize the name. But that doesn't
19 mean he might not be an em -- If he's an employee there, there's a
20 lot of people I know there but I don't know their names.

21 Q Did you know Anthony's brother, the --

22 A No, no. No, I didn't know him like I know Anthony, because I
23 -- Anthony works at the -- at the station, there.

24 Q Okay. When you pulled up to the gas tanks and exited your
25 vehicle and started speaking with Anthony and the gas station

1 attendant, did you know that Anthony's brother had deceased at
2 that time?

3 A I did not, no. They were -- They were -- He was in the
4 ambulance. And the idea was that, you know, hopefully he had --
5 they'd get him to the hospital and -- and, you know, they would
6 try to help him out.

7 Q Okay. So, when you arrived on scene it was relatively -- in
8 your understanding it was a relatively short time after the actual
9 shooting had occurred?

10 A Yeah, because I -- I mean, I -- I don't think they had taped
11 off the station quite yet. And obviously the -- the ambulance was
12 there, so there had to be enough time from the shooting to when
13 the ambulance arrived. There was that much -- At least that much
14 time transpired.

15 Q Okay. And in your conversation with Anthony and the gas
16 station attendant, you learned that Anthony's brother, who had
17 been shot, had exited through a back door; is that fair to say?

18 A I wasn't sure if it was -- I thought -- I thought they said a
19 window. But I wasn't sure if it was a door or window. But I
20 thought it was a window.

21 Q Okay. But that's information that either Anthony or the
22 attendant had --

23 A One of them --

24 Q -- told you?

25 A -- had told me that, yes.

1 Q Okay. And one of them had told you that the individual was
2 hiding in a car and maybe had been hiding in two cars or moved
3 from one car to the other?

4 A Yeah, I thought that -- that -- that they told me were --
5 moved from one car to another.

6 Q Okay. Did you ask them how they knew that information?

7 A No, no.

8 MR. PASCIUCCO: I have no other questions. Thank you, sir.

9 **CROSS EXAMINATION OF WITNESS, BERNARD HORN**

10 BY THE COURT:

11 Q Just to follow up on the questions that Mr. Pasciucco was
12 asking you: did you -- you testified that they told you that he'd
13 gotten into -- let one car and got into another. And then you
14 said -- and that the gun was fired twice at point-blank range. Do
15 you remember who specifically told you that? Was that --

16 A I thought that was --

17 Q -- Anthony?

18 A I thought that was Anthony, because I think he was -- Yeah.

19 Q Okay. And did he say how he knew that? Whether he witnessed
20 it? Or did you ask him anything about that specifically?

21 A Well, I -- I didn't interrogate him. No, I didn't -- I didn't
22 question how he arrived at that information. But I thought --
23 During the conversation, I thought that he was around there and
24 that he was sort of -- he was there to -- to -- to see it. I
25 thought he saw it. I thought that's what he saw. That's what I --

1 Q Okay.

2 A -- remember him --

3 Q But you don't know --

4 A -- tell --

5 Q -- whether he's the one who before then told you that his
6 brother had been in one car and left the other, and then got into
7 another car?

8 A Yeah, that part I'm not sure if it was the gentleman pumping
9 the gas or if it was Anthony, 'cause they were bo -- we were
10 having kind of a three-way conversation at the same time.

11 Q Okay. And when you called -- I know I have the report, but
12 when --

13 A Mm-hmm.

14 Q -- you called, in response to what Ms. Lynch was asking you,
15 the District Attorney's Office because you said you thought you'd
16 have helpful information and you gave the two interviews, is it
17 essentially what you've said now, to the detectives who
18 interviewed you?

19 A Pretty much, yeah.

20 Q Okay. All right.

21 THE COURT: Mr. Koufman, do you have any?

22 MR. KOUFMAN: If I may.

23 THE COURT: Sure.

24 CROSS EXAMINATION OF WITNESS, BERNARD HORN

25 BY MR. KOUFMAN:

1 Q Sir, my name is Victor Koufman. I represent the Greenough
2 family. I just have a couple of questions.

3 After this incident on February 3rd, did you write down any
4 notes with respect to the conversation that you just --

5 A I did not, no.

6 Q Okay.

7 A I did not.

8 Q And this all happened within a 12-minute period; is that
9 correct?

10 A Yes.

11 Q And is it fair to say that when you saw Anthony that he was
12 upset?

13 A He was -- I -- I would describe him more as in shock than --
14 I mean, he was -- he was visibly -- he was upset. But I would
15 describe him as more kind of in a state of shock than --

16 Q Okay.

17 A -- than sort of emotional or -- I mean, in -- in -- in that
18 sense. But --

19 Q Okay. So, if he was in a state of shock and then -- You had
20 the fellow at the pump who was also talking to you at the same
21 time; is that correct?

22 A Yes.

23 Q And so, -- Now, you said that Anthony said "Gee, if he had
24 known this -- would've opened the door sooner." Are you sure
25 about the exact wording, or could he have said, "I told him -- I

1 wish I had told them the -- about the open door sooner"?

2 A That -- I don't recall the distinction between that. But I --
3 It's -- It's possible that that could've been. But I -- Yeah, I
4 don't think that he was -- I'm not sure that he was there to open
5 the doors, is -- you know, if I were to reflect on that. But, no,
6 I don't recall whether it was that wording or the -- or the other
7 wording. I guess that was my paraphrasing of what -- what's -- was
8 said.

9 Q So he could've said, "I wish I had told them about the open
10 door sooner"?

11 A Could've been. Yeah, I --

12 MR. KOUFMAN: Thank you.

13 **RE-CROSS EXAMINATION OF WITNESS, BERNARD HORN**

14 BY THE COURT:

15 Q So, sir, just -- You said you didn't take any notes. But
16 other than calling the District Attorney's Office and speaking to
17 the detectives involved, did you talk to anybody else, any family
18 members, right after the incident? Did you tell anybody about
19 what -- the conversations you had with Mr. --

20 A I --

21 Q -- Perrotti and anybody?

22 A I th -- I -- I had a conversation with one or two of my
23 neighbors, one of whom was -- is on the select board in Reading
24 and asked him if he knew anything about this. And it wasn't
25 really -- He didn't s -- He didn't say much other than to say

1 that, yeah, the person had some previous activity with the -- with
2 the police department and that he was sort of, you know, -- And
3 that was kind of the -- the gist of it, that they -- You know,
4 there wasn't any -- there -- there really wasn't anymore
5 information available other than that.

6 Q Thank you, Mr. Horn.

7 THE COURT: Ms. Lynch, do you have anything else?

8 MS. LYNCH: No, thank you.

9 THE COURT: Okay. Thank you very much for coming, --

10 THE WITNESS: You're welcome.

11 THE COURT: -- Mr. Horn.

12 [Witness steps down]

13 MS. LYNCH: Thank you. Next witness would be Curt Roth.

14 [CURT ROTH, Sworn.]

15 MS. LYNCH: Your Honor, as with a prior witness, I had an
16 opportunity to speak to Mr. Roth yesterday as well as today in
17 connection with his anticipated proposed testimony. I had
18 indicated to him that because this is not a criminal proceeding
19 that immunity is not a possibility under the statute that we have
20 in effect in Massachusetts; that he has the right not to
21 incriminate himself but potentially the prospect of admissions to
22 violations of the Controlled Substance Act might be a part of his
23 testimony; and that he had an absolute right not to testify, right
24 to attorney.

25 It was my understanding from my conversation with Mr. Roth

1 today that he had actually reached out and spoken to his lawyer
2 and anticipation of this. I indicated to him that although we're
3 not able to grant immunity that I would be prepared to offer
4 Commonwealth's promise not to prosecute him in connection with any
5 testimony he has concerning drug use or procurement involving Mr.
6 Greenough and [Indiscernible at 2:38:39 p.m. - background noise]
7 with Mr. Greenough for violations of the Controlled Substance Act.
8 And that that is -- the placing on the record and publicly stating
9 it for the Court that it is an enforceable contract.

10 And it is my understanding from my most recent conversation
11 with him that with that being on the record and represented as an
12 enforceable promise not to prosecute that he would testify. And I
13 just wanted to put that on the record, mainly for purposes of
14 memorializing the record but also for the Court to potentially
15 inquire as to the accuracy of this representation.

16 THE COURT: Is it Mr. Roth?

17 THE WITNESS: Yes.

18 THE COURT: Okay. So, Mr. Roth, good afternoon.

19 THE WITNESS: Hi.

20 THE COURT: My name is Judge Fortes. And I just want to go
21 through with you your rights with regard to whether you wish to
22 testify in this matter or not, whether you need additional time to
23 consult with an attorney. You have an absolute right not to
24 testify in this matter, as the District Attorney has indicated.
25 If you choose not to testify, I'm going to excuse you immediately

1 from this matter.

2 Anything that you say could be used against you in some other
3 proceeding, sir. The District Attorney, the Middlesex D.A., is
4 indicating she's not going to prosecute you. But that does not
5 mean that you could not be prosecuted by some other agency as a
6 result of your testimony here today.

7 Did you have an opportunity to consult with an attorney?

8 THE WITNESS: Briefly, yes.

9 THE COURT: Okay. If you wanted some further time to consult
10 with an attorney, I'd be happy to give you that opportunity.

11 Again, if you have consulted with an attorney and you wish to
12 testify, you can testify. If you decide you don't want to
13 testify, you have that right, too, sir. And I want to make sure
14 that you understand that.

15 What is -- Understanding all of that, do you wish to testify
16 in this matter or do you want some additional time to consult with
17 an attorney or do you want to be excused from testifying in this
18 matter?

19 THE WITNESS: I -- I'll testify.

20 THE COURT: Okay. All right.

21 DIRECT EXAMINATION OF WITNESS, CURT ROTH

22 BY MS. LYNCH:

23 Q Good afternoon, sir. If you would, would you please state
24 your name and spell your last name for the record.

25 A Curt A. Roth. Last name R-O-T-H.

1 Q And what city or town do you presently reside in?

2 A Dover, New Hampshire.

3 Q How long have you lived in the State of New Hampshire?

4 A The last 13 months, roughly.

5 Q And where were you living prior to that? What state or city?

6 A For a little while in Hampton, New Hampshire.

7 Q So, you were still in New Hampshire.

8 A Yeah. Before that, I spent 13 years in Kittery, Maine.

9 Q Okay. And what is your date of birth?

10 A 11/5/74.

11 Q And are you presently employed?

12 A Yes.

13 Q Who are you employed by?

14 A Teledyne, --

15 Q And --

16 A -- D G O'Brien.

17 Q And where is that located?

18 A Portsmouth, New Hampshire.

19 Q And what do you do there?

20 A Machinist/programmer.

21 Q Now, did you know an individual by the name of Alan

22 Greenough?

23 A Yes.

24 Q How did you know Mr. Greenough?

25 A I went to high school with him.

1 Q And was that in North Reading?

2 A Yes.

3 Q And about how long did you know Mr. Greenough prior to his
4 death in 2018?

5 A How long did I know him? Twenty-five years.

6 Q And did you know an individual by the name of Devin McDonald?

7 A Yes.

8 Q And how did you know Devin McDonald?

9 A High school. Or, he went to a different high school but same
10 town. Elementary school.

11 Q Okay. And so, in terms of Mr. Greenough, once you met him
12 when you were -- You met him when you were in school?

13 A Yeah.

14 Q Did you continue to have a relationship with him over the
15 years?

16 A Yes.

17 Q At some times was it -- your contact with him more frequent
18 than at others?

19 A Yeah, yeah.

20 Q At some point in your life you were married; is that right?

21 A I was, yes.

22 Q And you were living out-of-state for a period of time?

23 A Correct.

24 Q Now, do you remember in the timeframe from, say, September of
25 2017 up until February of 2018, you were living in New Hampshire

1 at that time --

2 A I was.

3 Q -- or in Maine?

4 A I was in New Hampshire at that time.

5 Q And in terms of that timeframe, can you approximate how
6 frequently you would communicate with Mr. Greenough, whether it be
7 through text or through phone conversation?

8 A Couple times a month?

9 Q And in terms of --

10 A Sometimes longer stretches. It was, like, back and forth.
11 And sometimes brief.

12 Q And in terms of your communications with him, did you see him
13 in the timeframe from September up until his death?

14 A Yes.

15 Q And how frequently would you see him?

16 A About the same. Once or twice a month, because we lived far
17 away from each other.

18 Q And what were the circumstances under which you would see
19 him?

20 A Stopping in to see an old friend.

21 Q And was he living at 1462 Main Street at that time?

22 A Yes.

23 Q And was that where you would stop in and visit with him?

24 A Yes.

25 Q During that timeframe, September through February, was he

1 living with Devin McDonald at that time?

2 A From September to February? I don't believe it was that
3 whole time. I don't know.

4 Q Okay.

5 A I'm not a hundred percent sure, but --

6 Q Okay. But did you see Mr. McDonald --

7 A I did see Mr. McDonald.

8 Q -- on those --

9 A Yes, --

10 Q -- occasions?

11 A -- Mr. McDonald.

12 Q Now, were you familiar with the phone number 207-475-5836?

13 A Yes, that's my phone number.

14 Q And was that your phone number back in --

15 A Yes.

16 Q -- 2017/2018?

17 A Yes.

18 Q And was that the number that you used to communicate with Mr.
19 Greenough?

20 A Yes.

21 Q And did Mr. Greenough also have a cell phone?

22 A Yes.

23 Q And do you remember when it was in relation to his death --
24 when the last time you saw Mr. Greenough was?

25 A The day before.

1 Q And what were the circumstances of your seeing him the day
2 before?

3 A I stopped in to -- to visit with him and --

4 Q And when you stopped in to visit --

5 A And I heard something. He was having troubles with his
6 roommate. And we --

7 Q And --

8 A -- talked about it.

9 Q Now, in terms of your visiting him that afternoon, had you
10 been in touch with him by both phone and text message in the days
11 leading up to February 2nd and your visit to the house?

12 A Y -- Yes.

13 Q And in connection with your going to the house that day, was
14 it your expectation that you would be obtaining from Mr. Greenough
15 some Klonopins that you requested?

16 A Yes.

17 Q Now, with regard to your own substance use, were you
18 struggling in that timeframe of September to February with your
19 own substance abuse issues?

20 A Yes.

21 Q And what specifically was the nature of the problem?

22 A I was coming off of suboxone and after years of suboxone and
23 -- when I came off I struggled and I started using opiates again.
24 And so, I had a period of about four or five months of struggling
25 pretty hard and waiting to get into treatment.

1 Q And did you subsequently in or around February of 2018 get
2 into treatment?

3 A February 27th I got into treatment.

4 Q And were you successfully in rehab for a period of --

5 A I was in there for -- I completed Farnum Center. And then I
6 went to a sober house for a year. And I recently moved into my
7 own place in Dover, near the sober house. I'm active in the
8 community there.

9 Q And so, you've been actively in recovery since --

10 A For almost 16 months.

11 Q In terms of your request for Klonopins, was Klonopin
12 something as you were coming off of suboxone that assisted you?

13 A Would help me get some sleep. I was -- I was looking for
14 some kind of anxiety relief and sleep, getting up to the point of
15 going to treatment. Yeah, it was -- it was tough, you know.
16 Like, that was kind of a trigger for me. Lack of sleep was always
17 something that, you know, day after day -- 'cause I continued to
18 work throughout my addiction.

19 Q Sure.

20 A So, the lack of sleep, going to work and working on machines
21 all day, was always like a big fear through all of this trying to,
22 like, get my life back on track. So, yes, I was looking for
23 Klonopins.

24 Q And so, during that time in your communications with Mr.
25 Greenough did he indicate to you that he would be able to get

1 | Klonopins for you to be able to get for him if you came to
2 | Massachusetts?

3 | A It was a lot of "I'll try. I'll see what I can do" and a lot
4 | of back and forth texts. And then eventually, yes, you know, he
5 | was able to come through with --

6 | Q And did you --

7 | A -- a small amount of Klono pins.

8 | Q Now, directing your attention to the afternoon of February
9 | 2nd of 2018, that Friday afternoon did you see your friend Alan
10 | Greenough at his apartment at 1462 Main Street?

11 | A Is that the day before?

12 | Q Yes.

13 | A Yes, I did.

14 | Q And was anyone with Mr. Greenough when you got home -- when
15 | you got to his home that day?

16 | A I don't think there was anybody there that day. At some
17 | point he was with his friend Amy. I can't remember if that was at
18 | the apart -- I think she stopped into the apartment briefly when I
19 | was there. But I can't recall a hundred percent on that.

20 | Q Okay. And on this particular date were you aware that an --
21 | of an individual by the name of Alex?

22 | A I know who he is.

23 | Q And who is Alex?

24 | A He was a -- a friend of his from -- that I don't know very
25 | well, but -- from out of town.

1 Q And do you know whether Alex was at the house that day?

2 A He definitely was not there when I was there.

3 Q Do you know if he was there before you got there?

4 A Yeah, I heard he may have been. No, not before. After.

5 Q Do you know where Mr. Greenough got the Klonopins?

6 A I don't know where got them, because I wasn't with him.

7 Q Sure.

8 A I don't know the person.

9 Q Okay. But you went there and you got some Klonopins.

10 A Not -- Not where he got them from.

11 Q No, you got them when you were at your -- at the house; I'm
12 sorry. When you went to Mr. Greenough's apartment that afternoon,

13 --

14 A He didn't have them at the house. I -- I met him.

15 Q Oh, where did you meet him?

16 A At a parking lot at a grocery store.

17 Q Okay. And so, on that day did you have any conversation in
18 addition to getting Klonopins from Mr. Greenough? Do you remember
19 how many you got?

20 A Yeah I ended up not having the money. He was -- It was
21 supposed to be 10 and I didn't have enough for 10. So, I think I
22 got 3 or 4.

23 Q And so, you paid him the money?

24 A Paid it, yeah.

25 Q And during that time when you were with Mr. Greenough did you

1 observe anything about whether he appeared to be under the
2 influence of alcohol or drugs or medications at the time that you
3 met with him?

4 A No. I know Al very well, and he seemed like he was pretty
5 happy and upbeat and not really -- He didn't seem to be drinking
6 or under the influence at the time --

7 Q Okay.

8 A -- that I saw him.

9 Q Now, did he mention to you anything that was going on in his
10 life at that time?

11 A Yes.

12 Q And what do you recall the conversation was about?

13 A He was going to a wake for someone that we grew up with, with
14 his friend Amy. So, right after he met me, I think that was their
15 -- that's where they were headed.

16 Q Was Amy with him when you met with him?

17 A Yes.

18 Q So she came to the parking lot?

19 A Yeah.

20 Q Was there any conversation about Devin or how he was feeling
21 about Devin?

22 A Yeah, earlier that morning he said that, you know, he -- that
23 Devin's completely disrespectful. He brought him -- You know, he
24 was venting. You know, he brought Devin into his home to give him
25 a place to stay. And he didn't tell him, you know, his girlfriend

1 | could stay there. Devin moved his girlfriend in and I think Al
2 | felt pretty -- you know, they weren't really -- Devin had his own
3 | issues, from -- as far as I know, with alcohol and -- and not the
4 | easiest person to be around when he's drinking, as well. So I
5 | don't know.

6 | Q Did you ever -- were you ever in Mr. Greenough's presence
7 | when he was under the influence of alcohol or drugs?

8 | A Yes.

9 | Q And what effect if any would that have on him, when he was on
10 | drugs as opposed to how he appeared when he was sober?

11 | A Alcohol more than drugs. Alcohol, he would be agitated. You
12 | know, he would -- he would get agitated of me, be -- lesser things
13 | than he would if he was not drinking.

14 | Q So, when you say agitated, --

15 | A Like, just like annoyed and mouthy and, like, you know,
16 | sarcastic.

17 | Q And did you ever give Mr. Greenough anything that day other
18 | than the money that you would pay for the pills that he --

19 | A No.

20 | Q Do you know whether Mr. Greenough obtained any drugs that day
21 | from Alex?

22 | A I can't say for sure.

23 | Q Okay. You were --

24 | A I --

25 | Q -- not there when they --

1 A I wasn't there, yeah.

2 Q Did you have any conversation with Alan about how he was
3 doing?

4 A When?

5 Q With sobriety, on that 2nd -- February 2nd.

6 A No, he was more concerned about my sobriety.

7 Q Okay.

8 A That's the way he was.

9 Q And this was a struggle that you shared and you --

10 A It was a struggle that we --

11 Q -- with each other.

12 A -- shared together. And we -- we kind of encouraged each
13 other, as hard as it was to.

14 Q Did you ever know Mr. Greenough to use fentanyl?

15 A Yes.

16 Q Do you know where he would've gotten fentanyl?

17 A I can't say for sure, a hundred percent. But --

18 Q Was there any discussion of fentanyl that Friday?

19 A No.

20 Q In terms of Klonopins, do you know whether Mr. Greenough used
21 Klonopin?

22 A Yeah, I believe he would, yeah.

23 Q And you had initially indicated to him prior to meeting him
24 that Friday that you were going to purchase more than you actually
25 had money for that day?

1 A Yeah, yeah.

2 Q So when you left, there were extra supply of Klonopins?

3 A Yeah, I would assume so, yes.

4 Q Now, in terms of the text communications between you and Mr.
5 Greenough, were you looking for Klonopins or K-pins starting on
6 January 30th of 2018, in terms of text messages?

7 A Probably, yes.

8 Q And in terms of your mutual friends, did you know anyone
9 named Jim Knight?

10 A Yes.

11 Q Do you know whether Jim Knight was a source of Klonopins?

12 A Klonopins, I'm not sure -- not sure on those. But maybe some
13 other --

14 Q Substances like fentanyl?

15 A No, no, I don't know about fentanyl. But --

16 Q Okay.

17 A -- maybe Xanax.

18 Q Now, in terms of your communications with Mr. Greenough, you
19 were at work that Friday and had to come down to Massachusetts to
20 meet up with him.

21 A Yes.

22 Q And you communicated back and forth about the time of the
23 meeting when you were nearby and --

24 A Mm-hmm.

25 Q Is that fair to say?

1 A Yes, yes.

2 Q You met with him and then you went back home; is that right?

3 A I did; that's correct.

4 Q You did not go to the wake.

5 A I did not go to the wake. I left --

6 Q And --

7 A -- immediately after meeting him.

8 Q That was the last time --

9 A That was the last time I saw him.

10 Q -- you saw Mr. Greenough?

11 And in terms of your communication with Mr. Greenough, did
12 you have any text communications with Mr. Greenough or phone
13 conversations with Mr. Greenough that day?

14 A The day of --

15 Q The day of the shooting.

16 A Yes, I did.

17 Q February 3rd.

18 A I had a phone conversation with Al.

19 Q And do you remember what that phone conversation was?

20 A Yeah. He was concerned about how I was doing because he knew
21 why I was trying to purchase Klonopins from him. And he knew I
22 was trying to get into treatment. And I was pretty -- I had
23 enough, at that point. And he called. He was s -- You know, I
24 remember him saying, "I'm worried about you, man. I'm just
25 calling to see how you're doing," and, you know, "You got this."

1 And -- And that was the last conversation I had with him, which --

2 Q And that's --

3 A -- is heartbreaking. It's what was -- makes this so
4 heartbreaking.

5 Q With regard to the texts with Mr. Greenough, do you remember
6 that morning indicating in certain texts to him that you were
7 sick?

8 A I'm sure I did.

9 Q Okay. And was that --

10 A Yeah.

11 Q -- as a result of your --

12 A My --

13 Q -- ingestion of drugs or your --

14 A Yeah, yeah.

15 Q -- fighting that?

16 A Yeah.

17 Q And that that's what led to the conversation of approximately
18 8 minutes and 13 seconds when you --

19 A Correct.

20 Q Okay. Now, in terms of texts between you and Mr. Greenough,
21 if there was a text on December 29th of 2017 from you to Mr.
22 Greenough, "Looking for val," V-A-L, --

23 A Mm-hmm.

24 Q -- "blue, round," what was that?

25 A Valium.

1 Q And so, was Mr. Greenough a person that you could request
2 certain substances to help you with?

3 A Never easily. You know, it would take -- You know, he would
4 look around, like maybe friends or people he knew. But it was --
5 You know, he just, like, knew people. So, yeah, I would reach out
6 to Al sometimes when I --

7 Q So, it was more that he was doing it as a favor to you.

8 A As a friend, like -- Yes.

9 Q Okay.

10 A Like, he wouldn't be doing it if -- if I wasn't calling him,
11 asking him to do it.

12 Q Okay.

13 MS. LYNCH: If I might just have a moment, Your Honor.

14 THE COURT: Sure.

15 MS. LYNCH: Thank you, Mr. Roth.

16 THE COURT: Mr. Pasciucco?

17 MR. PASCIUCCO: Briefly/

18 **CROSS EXAMINATION OF WITNESS, CURT ROTH**

19 BY MR. PASCIUCCO:

20 Q Hi, good afternoon, sir.

21 A Hi.

22 Q My name's Peter Pasciucco. I represent Officer Erik
23 Drauschke. I just have a few questions for you. So, on February
24 2nd of 2018, you were living in New Hampshire; is that --

25 A Cor --

1 Q -- correct?

2 A Correct.

3 Q And was the purpose of coming down to meet Mr. Greenough to
4 purchase Klonopins?

5 A It's always -- When it comes to me and Al, it's not just one
6 purpose. It's -- We're -- We've been friends for a long time.
7 He's like a brother to me. So, it's a dual purpose to go down
8 there. It was to see Al and spend some time catching up, and to
9 purchase Klonopins, yes.

10 Q Okay. And you purchased -- also purchase valium from him in
11 the past?

12 A In the past.

13 Q Okay. What other drugs did you purchase from him?

14 A Just benzos and somas. I've purchased a few somas from him.

15 Q What are somas?

16 A They're like some kind of muscle relaxant. I don't know if
17 it's a class-anything. Might not be narcotic. I don't know.

18 Q Okay. And he wouldn't just give you these. You would --

19 A No, I would --

20 Q -- pay for them?

21 A Yeah.

22 Q Now, when you met -- Why didn't you meet him at the
23 apartment? Why did you meet him in a parking lot?

24 A Because they were on their way to a wake and they were
25 already out and about.

1 Q Did you ever go to the apartment that day?

2 A The -- That day before the --

3 Q Right.

4 A Into -- Yes. I did, that morning. And I talked to him. I
5 had to go back; I had responsibilities up north. But, yes, I -- I
6 did go by that day.

7 Q So you went --

8 A That was in the morning --

9 Q So you went to --

10 A -- or --

11 Q -- his apartment in the morning, --

12 A Mm-hmm.

13 Q -- from New Hampshire to Reading, --

14 A Yep.

15 Q -- back to New Hampshire, --

16 A Yeah, yeah.

17 Q -- and then back --

18 A I was back, and then I came back down and met him in grocery
19 store in the afternoon, before the wake.

20 Q Okay.

21 A I -- 'cause it was a whole -- The reason why it happened like
22 that is because he didn't know if he would get anything. I can't
23 hang out in North Reading all day long. So, that was -- You know,
24 "Call me if -- if anything works out and I'll come back." And
25 that's -- that's how it happened. And that's why I ended up in a

1 parking lot.

2 Q Did you know Amy Thorn at all?

3 A I did.

4 Q And who did you know Amy Thorn to be?

5 A A single mom, I think, who -- I just know her from school.
6 Seems like a kind, decent human being as far as I know. I don't
7 know her that well.

8 Q Okay. Was she in a dating relationship with Mr. Greenough?

9 A As far as I know, she wasn't.

10 Q Okay. And did you ever know her to use drugs or --

11 A No.

12 Q -- narcotics?

13 A I don't -- I don't know her that well.

14 Q And she was -- just happened to be in the car with --

15 A Yeah, --

16 Q -- Mr. Greenough?

17 A -- I think -- I think they were more like friends. They
18 liked the same music, you know. They liked, you know, the
19 Grateful Dead. And -- And they were kind of like that same crowd
20 in school. So they just -- Al's very -- like a kind, easy to talk
21 to type of guy. I think they had a friendship like that, which
22 was not relationship. It was more like -- You know, I think they
23 were friends. But I didn't know Amy that well.

24 Q Okay. Now, did -- You had indicated that you had an issue
25 with opiates; --

1 A Yes.

2 Q -- is that correct?

3 A Correct.

4 Q Did you also have issues with alcohol?

5 A No.

6 Q Okay. You indicated that Alan or Mr. Greenough had issues
7 with opiates and alcohol; is that correct?

8 A Yes.

9 Q And did you ever know him to mix the two substances?

10 A Usually it was one or the other. But I'm sure on occasion he
11 has. But I -- where I don't drink and when I was with Al we
12 didn't drink, really. You know what I mean? I'm not a drinker,
13 so --

14 Q Okay. But you indicated on direct examination that at some
15 points when Mr. Greenough would drink he would become
16 argumentative; is that fair to say?

17 A Agitated.

18 Q Agitated.

19 A Yeah, sure.

20 Q Okay.

21 A Sure, argumentative.

22 Q And that was different from the behavior that you indicated
23 that he normally would exhibit as being carefree or --

24 A Yeah, yeah. Yeah, loving and carefree.

25 Q Okay. So, was it --

1 A Helpful.

2 Q He exhibited different --

3 A When he drank, sure.

4 Q -- behavior when he drank.

5 A Yeah, yeah.

6 Q Okay. And did you know him to drink to excess?

7 A Not on a daily basis. But, yeah, sometimes.

8 Q Did you ever have a discussion with Alan Greenough about an
9 incident that occurred in Winchester?

10 A I vaguely heard something about it. But I don't think it was
11 through his mouth. And I can't remember who it was. I just
12 remember hearing that maybe he was agitated at one point and he
13 got --

14 Q But you don't remember --

15 A -- arrested.

16 Q -- him specifically telling you --

17 A Not --

18 Q -- about an incident that occurred in Winchester?

19 A No.

20 MR. PASCIOCCO: No other questions. Thank you, sir.

21 THE WITNESS: All right.

22 THE COURT: Nothing. Thank you very much, sir. You're
23 excused.

24 THE WITNESS: All right. Can I -- Am I excused to go home
25 today?

1 A Helpful.

2 Q He exhibited different --

3 A When he drank, sure.

4 Q -- behavior when he drank.

5 A Yeah, yeah.

6 Q Okay. And did you know him to drink to excess?

7 A Not on a daily basis. But, yeah, sometimes.

8 Q Did you ever have a discussion with Alan Greenough about an
9 incident that occurred in Winchester?

10 A I vaguely heard something about it. But I don't think it was
11 through his mouth. And I can't remember who it was. I just
12 remember hearing that maybe he was agitated at one point and he
13 got --

14 Q But you don't remember --

15 A -- arrested.

16 Q -- him specifically telling you --

17 A Not --

18 Q -- about an incident that occurred in Winchester?

19 A No.

20 MR. PASCIUCCO: No other questions. Thank you, sir.

21 THE WITNESS: All right.

22 THE COURT: Nothing. Thank you very much, sir. You're
23 excused.

24 THE WITNESS: All right. Can I -- Am I excused to go home
25 today?

1 THE COURT: You've been excused to go home today.

2 THE WITNESS: All right.

3 THE COURT: Thank you.

4 THE WITNESS: Thank you.

5 MS. LYNCH: Thank you.

6 [Witness steps down]

7 MS. LYNCH: The next witness would be Lieutenant Paul Bulman.

8 [LIEUTENANT PAUL BULMAN, Sworn.]

9 DIRECT EXAMINATION OF WITNESS, LIEUTENANT PAUL BULMAN

10 BY MS. LYNCH:

11 Q Good afternoon, sir. If you would, would you please state
12 your name and spell your last name for the record?

13 A Yes. My name is Paul Bulman, B-U-L-M-A-N.

14 Q And what is your occupation, sir?

15 A I'm a detective lieutenant assigned to the Middlesex District
16 Attorney's Office, state police detective unit.

17 Q How long have you been with the Massachusetts State Police?

18 A Twenty-five years.

19 Q And how long have you been assigned to the Middlesex
20 detectives unit?

21 A Approximately 10 of those years.

22 Q In terms of your experience with Massachusetts state police,
23 have you received any -- or were you assigned in any special
24 capacity to drug units in the course your 25 years of experience?

25 A Yes. I was assigned to drug units for approximately 15 years

1 of my 25 years of experience.

2 Q And in your present capacity with the state police, Middlesex
3 detectives, what are your responsibilities?

4 A I'm the commanding officer of the homicide unit and the drug
5 unit.

6 Q How long have you been in that role?

7 A Approximately one year.

8 Q Now, directing your attention back to February 3rd of 2018,
9 were you assigned to the Middlesex detectives as a supervisor?

10 A Yes, I was.

11 Q Was there another detective lieutenant in charge of both
12 units at that time?

13 A Yes, it was Detective Lieutenant Thomas Sullivan.

14 Q Now, back in February of 2018, February 3rd of 2018, did you
15 serve as a supervisor-detective team?

16 A Yes, I did.

17 Q And did that team include Trooper James Connolly and Trooper
18 Joel Gagne?

19 A Yes, it did.

20 Q Now, directing your attention to that date, February 3rd of
21 2018, a Saturday, were you on duty or on call with the Middlesex
22 detectives on that date?

23 A I was on call that day.

24 Q Now, at some point were you called to duty as a result of a
25 fatal police-involved shooting in Reading?

1 A Yes, I was.

2 Q Now, when you received that notification, had other troopers
3 that you were supervising responded to that call as well?

4 A Yes, they had.

5 Q Was a determination made for additional help to respond as
6 well?

7 A Yes.

8 Q And who was that?

9 A Detective Lieutenant Thomas Sullivan, members of the state
10 police ballistics, crime scene service units.

11 Q And did Trooper Michael Williams also get called to assist?

12 A Yes. Yes, he did.

13 Q Where did you respond to directly upon receiving this
14 assignment?

15 A I responded directly to the Reading Police Department.

16 Q Now, on that first day of the investigation, February 3rd of
17 2018, did you ever go to the gas station that day?

18 A Not that night, no.

19 Q So, on that particular day you went to the Reading police
20 station and what happened when you arrived at the Reading police
21 station?

22 A I -- We had a -- We conducted a brief meeting to get briefed
23 up. And then there were a significant number of both police and
24 civilian witnesses to be interviewed.

25 Q Now, in terms of the utilizing or -- Strike that. In terms

1 of executing your responsibilities in light of Chapter 38, statute
2 for homicide investigations, were you paired up with local
3 detectives in furtherance of this investigation?

4 A Yes.

5 Q And in addition to you, were -- was Trooper Connolly also
6 assigned to interview witnesses --

7 A Yes, he --

8 Q -- that evening?

9 A Yes, he was.

10 Q And was Trooper Gagne also conducting interviews, as well?

11 A Yes, he was.

12 Q And when you were interviewing witnesses, you would be paired
13 up with a local detective, a Reading detective?

14 A Yes.

15 Q And on the course of that evening, did you interview Anthony
16 Perrotti?

17 A Yes, I did.

18 Q And that interview was recorded and transcribed; is that
19 correct?

20 A Yes, it was.

21 MS. LYNCH: Your Honor, at this time I would offer as the
22 next exhibit the recorded interview of Mr. Perrotti.

23 [Interview Recording/Transcript Marked as Exhibit No. 126]

24 BY MS. LYNCH:

25 Q Did you also interview Reading police officer Sean Wilson?

1 A Yes, I did.

2 Q And was that interview audio recorded and transcribed?

3 A Yes, it was.

4 MS. LYNCH: I would offer this as the next exhibit.

5 [Interview Recording/Transcript Marked as Exhibit No. 127]

6 BY MS. LYNCH:

7 Q Did you interview Reading officer Michael Lee?

8 A Yes, I did.

9 Q And was that interview recorded and transcribed?

10 A Yes, it was.

11 [Interview Recording/Transcript Marked as Exhibit No. 128]

12 MS. LYNCH: I would offer that as an exhibit; sorry.

13 BY MS. LYNCH:

14 Q Did you also interview Reading police officer Kaylyn Gooley?

15 A Yes, I did.

16 Q And was that interview recorded and transcribed?

17 A Yes, it was.

18 MS. LYNCH: At this time I would offer the transcript and --

19 [Interview Recording/Transcript Marked as Exhibit No. 129]

20 BY MS. LYNCH:

21 Q In terms of your involvement that evening, did you interview

22 Officer David Savio?

23 A Yes, I did.

24 Q And was that interview also transcribed?

25 A Yes, it was.

1 MS. LYNCH: I would offer the recording and the
2 transcription.

3 [Interview Recording/Transcript Marked as Exhibit No. 130]

4 BY MS. LYNCH:

5 Q And directing your attention to Officer Zachary Fontes, was
6 he interviewed in the early morning hours of February 3rd,
7 approximately 1:30 a.m.?

8 A Yes, he was.

9 Q And was that interview recorded and transcribed?

10 A Yes, it was.

11 MS. LYNCH: I would offer this at this time.

12 THE CLERK: There's two here.

13 MS. LYNCH: I'm sorry.

14 THE CLERK: So that'll be -- Officer Fontes will be 131.

15 [Interview Recording/Transcript Marked as Exhibit No. 131]

16 BY MS. LYNCH:

17 Q Now, during the course of these interviews, as you were with
18 the Reading detective interviewing these various witnesses, was
19 Trooper Connolly and at points Trooper Gagne in other rooms
20 following a similar procedure with civilians, --

21 A Yes, they were.

22 Q -- police witnesses?

23 And were there be various times when you would be between
24 interviews and would consult with others as to what they had
25 learned?

1 A Yes, there was.

2 Q Now, did you yourself have any knowledge of the East Coast
3 Gas or Service Station and its layout prior to going to the
4 Reading police station and conducting these interviews?

5 A No.

6 Q Now, in terms of your involvement in this investigation, the
7 following morning did you return to the Reading police station
8 with other investigators to continue with the investigation?

9 A Yes.

10 Q Now, did you at that time have an opportunity along with a
11 Reading detective to interview an individual by the name of Dris
12 Cuther [phonetic]?

13 A Yes, I did.

14 Q And Mr. Cuther, he was a man who lived at the there apartment
15 at 1462 Main Street; is that right?

16 A Yes, it --

17 Q And he was interviewed with the assistance of a police
18 officer from Somerville, was it, as an --

19 A Ye --

20 Q -- interpreter?

21 A Yes.

22 Q And was his interview similarly recorded and transcribed?

23 A Yes, it was.

24 MS. LYNCH: I would offer this as the next exhibit, the
25 transcript and the recording.

1 [Interview Recording/Transcript Marked as Exhibit No. 132]

2 BY MS. LYNCH:

3 Q Have you learned that since February 18th of 2018 that Mr.
4 Dris Cuther has had some health issues that have impaired his
5 memory?

6 A Yes, I believe he had a stroke.

7 Q And with regard to your interview with Mr. -- I always get
8 this confused -- Mr. Cuther, did he indicate to you that he was
9 home on the evening of February 2nd of 2018 and that he actually
10 had to come and open the front door for Alan Greenough, who was
11 kicking the door that was stuck but not locked?

12 A Yes.

13 Q And that thereafter he returned to his apartment and he heard
14 some noises until the police arrived later that evening?

15 A Yes.

16 Q Did Mr. Dris also during that interview indicate that he had
17 been at the apartment on the afternoon of February 3rd and was the
18 man who had opened the front door for Officer Gooley?

19 A Yes.

20 Q Now, as part of your involvement in this investigation, did
21 you have the opportunity to interview Officer Erik Drauschke along
22 with Reading Detective Lieutenant Richard Abate?

23 A Yes, I did.

24 Q And did that interview take place on February 7th of 2018?

25 A Yes, it did.

1 Q And at that time Officer Drauschke -- was he represented by
2 counsel?

3 A Yes, he was.

4 Q Now, during the course of that interview with Officer
5 Drauschke, that was similarly recorded and transcribed; is that
6 correct?

7 A Yes, it was.

8 MS. LYNCH: And at this time I would offer the first
9 interview with Officer Drauschke on February 7th as the next
10 exhibit.

11 [Interview 1 of Officer Drauschke Marked as Exhibit No. 133]

12 BY MS. LYNCH:

13 Q Now, during the course of that interview with Officer
14 Drauschke on February 7th of 2018, was Mr. Pasciucco present for
15 that interview?

16 A Yes, he was.

17 Q And Officer Drauschke was advised of his rights?

18 A Yes, he was.

19 Q And he waived those rights and agreed to speak to you?

20 A Yes, he did.

21 Q Now, during the course of that interview on February 7th, did
22 Officer Drauschke report to you that on the prior evening of --
23 prior to this incident, February 2nd of 2018, that he had observed
24 an empty gunlock on the coffee table in Mr. Greenough's bedroom?

25 A Yes, he did.

1 Q Now, prior to your interview with Officer Drauschke, did you
2 have any knowledge of a gunlock being located on a coffee table in
3 Mr. Greenough's apartment --

4 A No, I did --

5 Q -- as of February 2nd?

6 A No, I did not.

7 Q Now, prior to your interview on February 7th, had you heard
8 about the presence of a hatchet in the apartment, if you recall?

9 A Yes, I had.

10 Q But did Officer Drauschke also mention the presence of a
11 hatchet?

12 A Yes, he had.

13 Q Now, up until that time, had you gone into the apartment
14 itself?

15 A No, I hadn't.

16 Q Have you ever gone into that apartment?

17 A No, I haven't.

18 Q With regard to the documentation of the scene, to your
19 knowledge the scene was photographed by Trooper Michael Perry; is
20 that correct?

21 A Correct.

22 Q After your interview with Officer Drauschke on February 7th,
23 did you review the photographs taken by Detective Perry?

24 A I did.

25 Q And did you recognize an item in those photographs that you

1 know to be a gunlock?

2 A Yes, I did.

3 Q And did you also note in those photographs what appeared to
4 be a hatchet on the mantle?

5 A Yes, I did.

6 Q Now, at my request did you obtain a facsimile of a Project
7 Child Safe gunlock?

8 A Yes, I did.

9 Q And is this the item that you obtained which purports to be
10 Project Child Safe "putting a lock on safety in your home"
11 gunlock?

12 A Yes, it is.

13 MS. LYNCH: Your Honor, just as a facsimile, I would offer
14 this.

15 THE COURT: Sure.

16 [Gunlock Marked as Exhibit No. 134]

17 THE COURT: Lieutenant, was Officer Drauschke the only
18 officer who indicated to you in the interviews that he observed
19 what he believed to be a gunlock and hatchet? Or were there other
20 officers who through their interviews indicated they made those
21 same observations?

22 THE WITNESS: I -- Your Honor, I believe, to the best of my
23 recollection, another officer also indicated that. But I -- I
24 can't recall who. It -- Perhaps it may have been a -- a state
25 police officer who was at the seen, Trooper Williams.

1 THE COURT: At the scene. After?

2 THE WITNESS: Yes.

3 THE COURT: So none of the officers who had responded to the
4 earlier calls with Officer Drauschke?

5 THE WITNESS: To the best of my recollection, I believe there
6 was one other officer that may have mentioned the gunlock that was
7 there prior. But I -- I also recall Trooper Williams mentioning
8 it.

9 THE COURT: Thank you.

10 BY MS. LYNCH:

11 Q Now, as part of your involvement in this investigation, you
12 were aware that at the time of the shooting there were two people
13 present: Officer Drauschke and Mr. Greenough; is that right?

14 A Yes.

15 Q In the context of your investigation, given that it was those
16 two people that were there, did you pursue as part of the
17 investigation any information concerning past instances of violent
18 conduct on the part of either Mr. Greenough or Officer Drauschke?

19 A Yes, I did.

20 Q Now, as part of your investigation were police reports from
21 Winchester, Reading, North Reading, Lawrence, North Andover, and
22 Andover obtained by investigators?

23 A Yes, they were.

24 Q Was inquire made of the Reading Police and the person of
25 Lieutenant Richard Abate as to whether there had been any

1 complaints or -- lodged against Officer Drauschke concerning
2 excessive use of force or aggressive behavior?

3 A Yes, we m -- I made the inquiry, and there were none.

4 Q Now, as part of your involvement in this investigation did
5 you and other investigators have access to downloads of a phone of
6 Mr. Greenough as well as Mr. Devin McDonald?

7 A Yes.

8 Q Now, as part of your involvement in this investigation, you
9 are aware that other personnel from the state police had been
10 dispatched to get surveillance video?

11 A Yes.

12 Q And did you have occasion during the course of this
13 investigation to review certain aspects of the video surveillance?

14 A Yes, I did.

15 Q Did you also review 9-1-1 recordings that you and other
16 investigators from both Essex Communications as well as the
17 Reading Police Department?

18 A Yes, I did.

19 Q Now, you were -- were you aware of the time differential
20 between the surveillance video and what is called real-time, so to
21 speak?

22 A Yes. I believe it was 32 minutes and 50 seconds.

23 Q And at some point were efforts made to create a timeline that
24 translated the timestamped time to real-time?

25 A Yes.

1 Q And when that was done, did you have an opportunity to
2 observe how the 9-1-1 recordings as well as radio transmissions
3 synced with the surveillance video?

4 A Yes, I --

5 Q And what did you observe?

6 A That once you -- we were able to determine the time
7 differential, the video synced with the radio transmissions, the --
8 and the 9-1-1 calls.

9 Q And did you as part of your involvement in this investigation
10 reference the timeline to determine when certain people were
11 present on the scene, and the like?

12 A Yes.

13 Q Now, in terms of the review of the documentation and the
14 recorded information, were you also aware of a call from a
15 citizen, Bernard Horn, that was followed up on by Trooper James
16 Connolly?

17 A Yes.

18 Q Now, once certain of the information was -- this information
19 was gathered -- I'd direct your attention to May 2nd of 2018. At
20 that time, was a visit made to the scene in order to photograph or
21 take pictures of the waiting room and the doorway from the gas
22 station into the apartment?

23 A Yes.

24 Q And was that the second time that you had been to the
25 location of the gas station?

1 A Yes.

2 Q And had you been at the gas station or had you gone to the
3 gas station on February 3rd of 2018? Strike that -- February 4th
4 of 2018, the day after the shooting, to acclimate yourself with
5 the general layout of the area?

6 A Yes, I had.

7 Q Now, in terms of your involvement in this investigation, at
8 some point was the Medical Examiner's Office report obtained and
9 reviewed by investigators in this case?

10 A Yes, it was.

11 Q And in addition to that, was a request made of state police
12 ballistics and the crime lab for reports that they had?

13 A Yes.

14 Q And at some point was an additional request made for them to
15 do target-to-muzzle test-firings to determine the area where
16 gunshot residues would be present?

17 A Yes.

18 Q And the purpose for doing all of these various tests, is that
19 to test the consistency or inconsistency of witness statements
20 with the physical evidence at the scene?

21 A Yes, that's exactly what it is.

22 Q Now, in terms of police shootings, had you been involved in
23 investigations of prior police shootings prior to this one?

24 A Yes, I had.

25 Q And in terms of the protocol for the investigation, was there

1 an Assistant District Attorney assigned to the investigation from
2 the evening of February 3rd onward?

3 A Yes.

4 Q And did that Assistant District Attorney -- was that myself?

5 A Yes, it was.

6 Q And in terms of that, is the protocol to gather all the
7 information and make a report to the District Attorney for final
8 determination of what happens?

9 A Yes.

10 Q And was that done in this case?

11 A Yes, it was.

12 Q Now, in terms of your involvement in this investigation, were
13 you aware of certain text messages involving Alex Holguin
14 [phonetic], Curt Roth, as well as James Burke and other
15 individuals that referenced either drugs or alcohol?

16 A Yes, I was.

17 Q And in the days after the shooting in February of 2018, was
18 Mr. James Burke one of -- the first individual from those texts
19 that was located and interviewed by investigators?

20 A Yes.

21 Q Now, in the months thereafter, were efforts made by you or
22 other investigators to locate Alex Holguin as well as Curt Roth in
23 order to interview them?

24 A Yes.

25 Q And were efforts unsuccessful or unfruitful up until this

1 past week?

2 A They were unsuccessful.

3 Q And during this past week were you able to locate and serve a
4 subpoena to Curt Roth?

5 A Yes, I was.

6 Q And did you participate in a phone interview with Mr. Roth
7 yesterday?

8 A Yes, I did.

9 Q And was a police report generated of that interview?

10 A Yes, there was.

11 Q And was -- did that fairly and accurately represent the
12 content of Mr. Roth's statements to you?

13 A Yes, I did.

14 Q Did you also participate in efforts to locate Alex Holguin in
15 order to serve him or interview him in this case?

16 A Yes, I did.

17 Q Can you describe what those efforts entailed?

18 A We responded to an address in Methuen which was his last
19 known address, although it wasn't his address. It was his
20 sister's address but he sometimes spent time there.

21 Q And as a result of that, did the sister make contact with
22 him?

23 A Yeah, she was a -- she had a phone number for him that we did
24 not possess. She contacted him via telephone.

25 Q And then as a result of that did you have an opportunity to

1 interview him over the telephone?

2 A Yes.

3 Q And in terms of that interview, did Mr. Holguin indicate to
4 you that he was out of state and working out of state?

5 A Yes, he was -- He currently resides in Brooklyn, New York,
6 where he works.

7 Q And given that, did you interview Mr. Holguin over the phone
8 concerning certain text messages on his phone?

9 A Yes, I did.

10 Q I'm just going to show you these two items and ask you
11 whether you are familiar with this as a report of the phone
12 interview conducted with Alex Holguin on Monday evening, June
13 17th.

14 A Yes, this report is reflective of that phone interview that
15 we conducted.

16 Q And if you would, would you summarize during --

17 MS. LYNCH: And at this time I would offer that report, Your
18 Honor.

19 **[Report by Lieutenant Bulman Marked as Exhibit No. 135]**

20 BY MS. LYNCH:

21 Q And if you could just summarize what Mr. Holguin reported.

22 A He met Alan Greenough sometime in 2017 while he was getting
23 gas. He started a friendship with him. And during that
24 friendship occasionally Mr. Greenough would contact him and ask
25 him to provide him with drugs.

1 Q And during the course of your interview with Mr. Holguin, did
2 he deny that he had ever provided drugs to Mr. Greenough?

3 A He did deny it.

4 Q And did he deny that he had provided any drugs to Mr.
5 Greenough on February 2nd of 2018, although there were text
6 messages between them the days leading up to that?

7 A Yes, he did deny it again.

8 Q And with regard to your involvement in this investigation,
9 you participated in the telephone interview with Mr. Curt Roth,
10 previous witness?

11 A Yes.

12 Q And does this appear to be a copy of that report summarizing
13 that interview?

14 A Yes, it does.

15 MS. LYNCH: I would offer this as the next exhibit.

16 [Report by Lieutenant Bulman Marked as Exhibit No. 136]

17 BY MS. LYNCH:

18 Q Now, some point -- To just go back for a moment: as
19 information was gathered during the course of the investigation,
20 was a request made of Officer Drauschke through his attorney,
21 Attorney Pasciucco, to -- if he would be willing to meet again
22 with detectives to just clarify by indicating where he was at
23 certain points during his encounter with Mr. Greenough on the
24 afternoon of February 3rd of 2018?

25 A Yes.

1 Q And was that interview conducted on June 18th of 2018? And
2 was that recorded and transcribed?

3 A Yes, it was.

4 MS. LYNCH: I would offer this as the next exhibit.

5 [Interview 2 of Officer Drauschke Marked as Exhibit No. 137]

6 BY MS. LYNCH:

7 Q Now, in terms of your involvement in this investigation and
8 your interview of Officer Drauschke, were the findings of the
9 Medical Examiner, based upon conversations with the Medical
10 Examiner, found to be consistent with Officer Drauschke's
11 description of the position that the body was in --

12 A Yes, they were.

13 Q -- when he fired the shots?

14 A Yes.

15 Q In terms of the report of the testing done, the test-firings
16 performed by Lieutenant Cahill and the gunshot residue test
17 performed by chemist Beth Saucier, were those results consistent
18 with Officer Drauschke's description of the point where he fired
19 in terms of the proximity, less than 5 feet?

20 A Yes, they were.

21 Q Now, in terms of your interview with Officer Lee, did he at
22 any point suggest to you that Mr. Greenough had requested to speak
23 to Sergeant Brown of the Reading Police Department?

24 A No.

25 Q In terms of Sergeant Brown, then-Sergeant Brown, had Sergeant

1 Patrick Silva indicated that Sergeant Brown was the supervisor for
2 the February 2nd call?

3 A Yes.

4 Q And other than that mention of Sergeant Brown, is that the
5 only mention of Sergeant Brown during the course of the
6 investigation?

7 A To me it was, yes.

8 Q Now, in terms of the policies and procedures of the Reading
9 Police Department, as part of your involvement in this
10 investigation did you learn that the Reading Police do not have
11 recorders?

12 A Yes, I did.

13 Q Did you learn that they are not issued tasers?

14 A I did learn that, yes.

15 Q And that they are issued a baton stick --

16 A Yes.

17 Q -- as well as a sidearm?

18 A Yes.

19 Q And are you aware whether pursuant to the collective
20 bargaining agreement in effect -- whether officers of the Reading
21 Police Department are required to give blood-draws in incidents
22 such as cruiser accidents or shootings?

23 A I made that inquiry and I learned that they are not required
24 to do that.

25 Q And are they permitted to do it, under the collective

1 | bargaining agreement?

2 | A No, they're not.

3 | Q It was not negotiated. So, in order for a blood sample to be
4 | obtained from Officer Drauschke, that would require probable cause
5 | to believe that he was under the influence?

6 | A Yes.

7 | Q In terms of your involvement in this investigation, in
8 | gathering all of the information, that information was either set
9 | forth in reports or in discovery material that was provided as
10 | part of this request for an inquest; is that correct?

11 | A Yes.

12 | MS. LYNCH: If I might just have one moment.

13 | THE COURT: Sure.

14 | MS. LYNCH: Thank you, lieutenant.

15 | **CROSS EXAMINATION OF WITNESS, LIEUTENANT PAUL BULMAN**

16 | BY THE COURT:

17 | Q Lieutenant, you indicated that you have been involved in the
18 | investigation of other police-involved shootings; is that correct?

19 | A Yes, Your Honor.

20 | Q And then, in response to Assistant District Attorney Lynch's
21 | question, you said that the -- part of the protocol is you prepare
22 | the finalized reports and submit them to the District Attorney's
23 | Office; is that correct?

24 | A In conjunction with the attorney -- the District Attorney
25 | that's assigned to us, yes.

1 Q Okay. And then, in the other police-involved shootings that
2 you've been involved in, what happens next? I'm not familiar with
3 the entire protocol. So, what would happen after those reports
4 are submitted?

5 A Those reports are submitted and the District Attorney
6 typically rules whether or not the shooting is justified or not
7 justified.

8 Q Okay. And in that -- in this case, that didn't happen?

9 A Correct.

10 Q Okay. Have you been -- Do you know why it didn't happen in
11 this case?

12 A I don't.

13 Q Okay. Was this the first inquest that you've testified in?

14 A Yes, this is the first inquest I've ever been part of in my
15 career.

16 Q Okay.

17 THE COURT: Questions?

18 MR. PASCIUCCO: Sure.

19 CROSS EXAMINATION OF WITNESS, LIEUTENANT PAUL BULMAN

20 BY MR. PASCIUCCO:

21 Q Good afternoon, lieutenant.

22 A Good afternoon, sir.

23 Q My name is Peter Pasciucco. I represent Officer Erik
24 Drauschke. I just have a few questions for you today.

25 Lieutenant, it's my understanding you were the supervisor of

1 the detective team assigned to this case?

2 A Yes.

3 Q Okay. And so, you were essentially the detective --
4 lieutenant-detective assigned to the investigation; is that --

5 A Yes, I was.

6 Q -- correct?

7 Okay. With respect to -- the judge just alluded to it -- the
8 final report that was submitted as a result of your investigation,
9 do you recall when that was done?

10 A Believe it was compiled sometime after September of 2018.

11 Q And is that something that you put together and write as a
12 report?

13 A It's actually a compilation of reports that the state police
14 have generated, the ca -- the state poli -- the various state
15 police units generated, working in conjunction with the Assistant
16 District Attorney that's assigned to the investigation.

17 Q Is there any notation within those reports or suggestion
18 within those reports as to whether the state police believes the
19 shooting was justified or unjustified?

20 MS. LYNCH: Well, Your Honor, where this is for the Court to
21 decide, I would --

22 THE COURT: Object?

23 MS. LYNCH: Thank you.

24 THE COURT: Yeah.

25 MS. LYNCH: Objection.

1 THE COURT: Objection's sustained.

2 BY MR. PASCIOCCO:

3 Q As a state police lieutenant, you have the authority to apply
4 for an arrest warrant; is that correct?

5 A Yes, I do.

6 Q Okay. You never applied for an arrest warrant for Officer
7 Erik Drauschke; is that correct?

8 A That's correct.

9 Q Okay. And it's your understanding that a grand jury has
10 never been impaneled with respect to this case; is that correct?

11 A That's correct.

12 Q Okay. Now, during your investigation, lieutenant, you
13 indicated that you looked into whether there had been any
14 excessive force complaints filed against Officer Erik Drauschke,
15 correct?

16 A That's correct.

17 Q And your understanding was there had not been any excessive
18 force complaints filed against him.

19 A There were -- There were none.

20 Q Okay. Did you also look to see or did you determine during
21 your investigation whether there had been any complaints of
22 conduct unbecoming or inappropriate behavior on the job that had
23 been filed against Officer Erik Drauschke?

24 A Yes, I did look into that.

25 Q Okay. And what was your -- what was the result of that

1 investigation?

2 A There were none and that Officer Drauschke has an exce --
3 exemplary record on the Reading Police Department.

4 Q Now, I understand that you were involved in other
5 police-involved shootings during your time at the state police?

6 A Yes.

7 Q Okay. And do you have an approximate number of
8 investigations?

9 A Two prior.

10 Q Okay. And did the -- did those happen recently or --

11 A They happened since two thous -- since June of 2016.

12 Q Okay. And in those -- If the judge will allow you, can you
13 just give a little bit about those police-involved shootings and
14 what the facts and circumstances of those cases were?

15 A Yes. They were -- They involved an officer discharging a
16 firearm at a suspect in a motor vehicle and another officer
17 discharging a firearm at an individual who had barricaded himself
18 in a bedroom and was assaulting police.

19 Q And in those two incidents, do you recall the number of shots
20 or bullets that were discharged by the officers?

21 A Yes. In the first instance that occurred in the vehicle
22 where the suspect was driving -- was actually running over a
23 police officer, that officer fired twice.

24 Q And how about the other one, the barricaded suspect?

25 A The barricaded suspect, the officer fired again twice.

1 Q Now, prior to being a lieutenant assigned to the Middlesex
2 District Attorney's Office, were you in the drug unit?

3 A Yes, I was.

4 Q Okay. And how many years did you do in the drug unit?

5 A I did approximately eight years in the Middlesex D.A.'s drug
6 unit and another seven in the Attorney General's special
7 investigations and narcotics unit.

8 Q Okay. Now, during your investigation in this case, is it
9 fair to say that you uncovered information that the deceased had
10 been involved in drug activity?

11 A Yes.

12 Q And in your experience as a drug unit investigation, is it
13 fair to say that the deceased as both a drug user as well as a
14 drug dealer?

15 A Yes.

16 MR. PASCIUCCO: Thank you, lieutenant.

17 THE COURT: Do you have an offer, Mr. Koufman?

18 MR. KOUFMAN: Yes, if I may.

19 THE COURT: Sure. What's the offer?

20 MR. KOUFMAN: I'd like to ask him some questions about
21 Officer Drauschke's statements about his position at the time of
22 the shooting.

23 THE COURT: Sure.

24 CROSS EXAMINATION OF WITNESS, LIEUTENANT PAUL BULMAN

25 BY MR. KOUFMAN:

1 Q Detective, as the lead investigator of this event, is it --
2 you interviewed Officer Drauschke on two occasions; is that
3 correct?

4 A Yes.

5 Q And on both of those occasions, he had counsel present; is
6 that correct?

7 A Yes.

8 Q Okay. And the first time you interviewed him was on February
9 7th of 2018; is that correct?

10 A Yes.

11 Q And during that interview you asked him the question as --
12 where he was when he shot Alan; is that correct?

13 A Correct.

14 Q And did he not say the first time you asked him the question,
15 "Somewhere near the fence line," if you recall? I can show you
16 the interview, if you like.

17 A I believe he -- he indicated that, yes.

18 Q Okay. And so, then that's the fence line --

19 MR. KOUFMAN: If I could use Exhibit No. 107, if that's okay,
20 Judge.

21 THE COURT: Sure.

22 MR. KOUFMAN: May I use this?

23 BY MR. KOUFMAN:

24 Q Do you recognize Exhibit 107, what I put in front of you, as
25 Trooper Arisetty's diagram that he prepared?

1 A Yes.

2 Q And you did not have this when you first interviewed Officer
3 Drauschke; is that correct?

4 A Correct.

5 Q And -- But, however, you did ultimately at some point go down
6 to the crime scene and view the crime scene; is that correct?

7 A Yes.

8 Q And when you viewed the crime scene, you did see the three
9 cars that are depicted in this diagram; is that correct?

10 A There's three cars there, but there were actually a great
11 many more cars there.

12 Q Right. But the three cars that are shown there, the brown
13 one, that would be the Hummer; is that correct?

14 A Yes.

15 Q And then there's a blue and a red car; is that correct?

16 A Yes.

17 Q And then the red and the blue car are facing Main Street; is
18 that correct?

19 A Correct.

20 Q And then the Hummer is facing in the other direction; is that
21 correct?

22 A Correct.

23 Q Okay. And then there are two fences in that diagram; is that
24 correct? There's one closer to the cars, and then there's one on
25 the property line to the left; is that correct?

1 A Correct.

2 Q And so, when you first spoke with Officer Drauschke and you
3 asked him where he was when he shot Alan Greenough, he said,
4 "Somewhere near the fence line"; is that correct?

5 A M -- My recollection is that he said he first viewed him when
6 he was near the fence line.

7 MR. KOUFMAN: May I approach with this?

8 THE COURT: Sure.

9 BY MR. KOUFMAN:

10 Q If you could turn to page 33. And if you could make sure
11 you're on the February 7th -- Okay. Now, if you could look at
12 line 33. I'm sorry; page 33, line 8 and 9.

13 A [Reviewing document.] Mm-hmm.

14 Q And do you see that on line 8 and 9?

15 A I'm sorry; line 8 and 9 is -- Yeah, I'm asking -- Yes.

16 Q And does he not say that at the time of the shooting he was
17 somewhere near the fence line?

18 A [No audible response.]

19 Q And if you could read that on 17 to 20, as well.

20 A So, you'd like me to read from between 8 and 9, and down to
21 17 and 20?

22 Q Correct.

23 A Okay.

24 "Were you at this point -- Where were you at this point?

25 This is kind of critical. Were you still -- Was your left side

1 directly next to the Hummer? So, were you backing up?"

2 Officer Drauschke: "I was backing up. So, from what I
3 recall, I was towards the back of the Hummer still." That ends.

4 I then ask, "By the rear bumper?"

5 Officer Drauschke replies, "From my best recollection, near
6 probably the back of the vehicle, somewhat near the fence line."

7 Q Okay. So, the fence line that I'm showing in the diagram of
8 Exhibit 107 would be right here; is that correct? [Indicating.]

9 A Yes.

10 Q Okay. Then if you turn to page -- And then you have the
11 further interview with him; is that correct? You continue with
12 the interview; is that correct?

13 A Yep.

14 Q And then if you could -- Is it also true that at some point
15 he indicated to you at the time of the shooting he was past the
16 vehicle, the Hummer, or still in line with the Hummer? Is that
17 correct? If you turn to page 37 and you look at line 12 to 15.

18 A He says, "I don't recall. I don't recall whether I had been
19 past the vehicle or still in line with the vehicle. But I
20 remember being back towards the back of the vehicle."

21 Q Okay. So that -- So he's -- Now he's testifying not at the
22 fence but in the back of the Hummer; is that correct?

23 A Yes.

24 Q Okay. And then you then had another interview with him on
25 June 18th of 2018; is that correct?

1 A Yes.

2 Q And during that interview you again asked him where he was
3 standing at the time of the shooting; is that correct?

4 A Yes, I did.

5 Q Okay. And during that interview you actually at this point --
6 you even had this diagram from Trooper Arisetty, did you not?

7 A I believe I did, at that. Yes.

8 Q And in fact you used this in order to interview him on June
9 18th of 2018; is that correct?

10 A Yes.

11 Q Okay. And then when you showed him -- when you asked him the
12 question of where he was standing at the time of the shooting, did
13 he not say that he was in -- that -- So, the distance -- Oh, you
14 asked him about the distance that -- Excuse me. You indicated
15 that he was in front of a vehicle behind the Hummer; is that
16 correct?

17 A Yes, some -- There -- There -- As I said, there are a number
18 of vehicles that aren't depicted in that diagram.

19 Q Right.

20 A So that Hummer was -- the back end of the Hummer was almost
21 completely blocked in by other vehicles --

22 Q Okay.

23 A -- that aren't depicted --

24 Q So, --

25 A -- in that diagram.

1 Q Okay. So, if you could turn to page 5 of the second
2 interview, which is the next tab.

3 A Page 5?

4 Q Yeah. And look at line 1 through 4. After -- At this point
5 you were asking him to describe the path that Alan Greenough
6 traveled; is that not correct?

7 A [Reviewing document.]

8 MS. LYNCH: I don't understand the question.

9 THE WITNESS: Yeah, I'm sorry; I don't, either.

10 BY MR. KOUFMAN:

11 Q Well, during your conversation with Officer Drauschke, you
12 were asking him at some point the path that Anthony Greenough
13 traveled as he left --

14 MS. LYNCH: No, Alan.

15 BY MR. KOUFMAN:

16 A Alan Greenough.

17 Q -- Alan Greenough traveled as he left the passenger door and
18 proceeded outside of the car; is that correct?

19 A Yeah, I -- I actually referenced this -- the two fence lines.
20 And I ask him -- We're actually talking about the -- the fences on
21 this page. I don't s --

22 Q If you look at lines 1 through 4 --

23 A Mm-hmm.

24 Q -- on page 5 --

25 MS. LYNCH: But that's the middle of a sentence.

1 BY MR. KOUFMAN:

2 Q Well, if you want to turn to the previous page, starting
3 there. Starting here: "I --" Does he not say --

4 A I'm sorry; I think if I started there I'd be taking this out
5 of context. I think I'd probably rather start up higher.

6 Q Okay, then start up higher.

7 A Okay. So, I would start back here.

8 Q Well, we don't need you --

9 THE COURT: Mr. Koufman, what -- what's your question?

10 MR. KOUFMAN: The question is: --

11 BY MR. KOUFMAN:

12 Q In the statement on page 5, does he not -- on page 5 on lines
13 1 through 4, does he not -- does Officer Drauschke not say that --
14 "So, the distance that Alan Greenough traveled was from when he
15 got out of the vehicle by that passenger door to where I was at
16 the front of this other vehicle"; is that correct?

17 A I believe what you're asking me is -- Officer Drauschke said
18 that he got out of the passenger side door and traveled towards --

19 Q Correct.

20 A -- Officer Drauschke at the rear. Is that what you're asking
21 me?

22 Q Yes. And specifically what he said, "-- to where I was at
23 the front of this other vehicle," is that correct? Did I read
24 that correctly?

25 A And what line is that at, sir?

1 THE COURT: Mr. Koufman, this isn't helping me. I can read
2 that myself. Do you have another question?

3 MR. KOUFMAN: Yes.

4 THE COURT: Okay.

5 MR. KOUFMAN: I'd like to ask him some questions about what
6 some of the other officers said immediately after the shooting,
7 had nothing -- The officers had approached -- and that he
8 interviewed that approached.

9 THE COURT: What officers specifically?

10 MR. KOUFMAN: Specifically Officer Gooley.

11 THE COURT: And what's the question?

12 MR. KOUFMAN: The question is: --

13 BY MR. KOUFMAN:

14 Q When you interviewed Officer Gooley -- I believe it was on
15 February 3rd, that evening -- is it also true that he made no
16 mention of lunging?

17 MS. LYNCH: It's a woman.

18 BY MR. KOUFMAN:

19 Q Is it true that Officer Gooley made no mention that Alan
20 Greenough was lunging at Officer Drauschke?

21 MS. LYNCH: She was not there, Your Honor.

22 BY MR. KOUFMAN:

23 Q You -- Officer -- You discussed with Officer Gooley. Officer
24 Gooley was the -- If you look at --

25 A Officer Gooley wasn't present at the scene at the time of the

1 shooting.

2 Q Officer Savio, he was present at the time of the --

3 A No one was present at the time of the --

4 Q No, I understand that. Let me take a step --

5 A -- shooting, other than Officer Gooley.

6 Q -- back, let me take a step back. Officer Gooley did arrive
7 at the scene on the day of the shooting; is that correct?

8 A Yes.

9 Q Okay. And when she arrived at the scene on the day of the
10 shooting, she was one of the first officers to approach Officer
11 Drauschke; is that correct?

12 A She was one of the officers that approached Officer
13 Drauschke.

14 Q And when she approached Officer Gooley -- when Officer Gooley
15 approached Officer Drauschke, she reported what Officer Drauschke
16 said; is that correct?

17 A To the best of her recollection, yes.

18 Q Yes. And Officer Drauschke made no mention of Alan Greenough
19 lunging; is that not correct?

20 A I don't recall Officer --

21 THE COURT: Is -- Can I -- Is this all in the transcripts
22 that I have that are in evidence, and the interviews, Mr. Koufman?

23 MR. KOUFMAN: Yes.

24 THE COURT: Okay.

25 MR. KOUFMAN: Yes.

1 THE COURT: All right. Anything else?

2 BY MR. KOUFMAN:

3 Q Now, after the shooting, you viewed the interior of the front
4 passenger door of the Hummer; is that correct?

5 A Yes.

6 Q And when you viewed the interior of the front passenger door
7 of the Hummer, you saw an imprint, is that correct, that
8 ultimately --

9 MR. KOUFMAN: May I use Exhibit No. 91?

10 THE COURT: Sure.

11 BY MR. KOUFMAN:

12 Q Is that a fair and accurate representation as the plastic
13 door that you saw after the shooting?

14 A Yes.

15 Q Okay. And you noticed that there's a -- an imprint here; is
16 that correct? [Indicating.]

17 A Yes.

18 Q And would you say that that's about 3 feet off the ground, to
19 the best of your knowledge?

20 A I would have to refer to the ballistics report. But it's
21 probably consistent with somewhere between 2 to 4 feet off the
22 ground, yeah.

23 Q And this one here, on the bottom, that's another imprint; do
24 you see that on the right, here?

25 A Yes.

1 Q And that was considered to be an imprint of potentially one
2 of the bullets; is that correct?

3 A I believe that is correct.

4 Q And that would be potentially about a foot or two off the
5 ground; is that correct?

6 A Again, I'd have to refer to the ballistics report. But it
7 would be m -- it would be shorter distance than the previous
8 indentation that you depicted.

9 Q Okay. Now, as part of your investigation, you learned, did
10 you not, that Alan Greenough was about 6-foot-2?

11 A Yes.

12 Q And you learned that Officer Drauschke was about 6-foot tall;
13 is that correct?

14 A Approximately, yeah.

15 Q And you learned from your interview of Officer Drauschke that
16 Alan allegedly was standing and coming towards him when he shot
17 the gun; is that correct?

18 A Yes.

19 Q Now, -- And he shot him two times; is that correct?

20 A Yes.

21 Q Now, were there any tests done to determine if Officer
22 Drauschke's statement that Mr. Greenough's -- was coming towards
23 Officer Drauschke while standing when Officer Drauschke shot him
24 in the chest was consistent with the bullets being found in the
25 bottom of the door?

1 A The ME's report would be consistent with that?

2 Q No, I'm asking you if any ballistics tests were done.

3 A You're asking me if there were any ballistics tests done to
4 determine --

5 Q -- whether or not the fact that Mr. Greenough was shot in the
6 chest, right --

7 A Yeah.

8 Q -- being 6-foot-2 --

9 A Okay.

10 Q -- would be consistent with the two bullet holes in the
11 bottom of the door. It's a yes or no question.

12 A There -- There was a ballistics report done on the shooting
13 of Alan Greenough. And --

14 Q But --

15 A -- I know from my training and experience that when bullets
16 hit human bodies or clothing or other objects, their trajectory is
17 altered dramatically as a result of the contact.

18 Q And when they're -- we're talking about -- That's true with
19 respect to one bullet; is that correct? But is it also -- And is
20 it -- What are the chances of two bullets, that happening to two
21 bullets at the same time?

22 MS. LYNCH: Your Honor, I'm going to object.

23 THE COURT: The objection's sustained.

24 Do you have any other questions, Mr. Koufman?

25 MR. KOUFMAN: Yeah. I just want to quickly add him about the

1 gunlock, if that's okay.

2 THE COURT: Sure.

3 BY MR. KOUFMAN:

4 Q Now, with respect to the gunlock, you indicated that Trooper
5 Williams made mention of it; is that correct?

6 A I said I believe Trooper Williams may have made mention of
7 it, yes.

8 Q Is that Trooper Michael Williams?

9 A Yes.

10 Q And is that the Trooper Michael Williams who testified as
11 part of this inquest?

12 A Yes.

13 Q You also mentioned another officer mentioned the gunlock; is
14 that correct?

15 A To the best of my recollection, yes, a -- a Reading police
16 officer. I can't recall which.

17 Q But you don't know his name.

18 A It could've been a female officer, too. I'm -- I'm -- I
19 can't recall.

20 Q Now, as the supervisor, you reviewed all the police reports
21 in this case; is that correct?

22 A Yes.

23 Q And as the supervisor you reviewed the police report for the
24 domestic call the night before the shooting; is that correct?

25 A I reviewed it, yes.

1 Q And when you reviewed it, there was a police report written
2 by Officer Vatcher, is that correct, who was the primary officer
3 who went to the scene? Is that correct?

4 A Yes.

5 Q And Officer David Savio was the backup officer; isn't that
6 correct?

7 A Yes.

8 Q And isn't it true that in that police report there's no
9 mention of a gunlock?

10 A No, there is no mention of a gunlock.

11 Q Now, also, you interviewed David Savio; isn't that correct?

12 A Yes, I did.

13 Q And when you interviewed David Savio, isn't it true that you
14 did speak about the domestic or purported domestic that happened
15 on February 2nd of 2018 --

16 MS. LYNCH: Your Honor, I think --

17 Q -- at the --

18 MS. LYNCH: -- the transcript speaks for itself.

19 THE COURT: It does. Thank you.

20 MR. KOUFMAN: May I just have a quick moment?

21 THE COURT: Sure.

22 MR. KOUFMAN: Thank you, Judge.

23 THE COURT: Thank you.

24 MS. LYNCH: Your Honor, just very briefly, in light of the
25 redirect [sic].

1 involved in, they involved use of a weapon such as a vehicle; or,
2 in the case of the second shooting, the person was throwing shards
3 of broken mirror at police officers and witnesses; is that right?

4 A Correct.

5 Q With regard to this particular case, in terms of the
6 determination to request an inquest, were you familiar with the
7 fact that this was a case in which it was alleged that the
8 individual that was shot was unarmed?

9 A Yes, I was.

10 Q And was it expressed that the District Attorney wished to be
11 transparent and allow all of the evidence to be aired through the
12 process of an inquest for a determination to be made by an
13 independent fact-finder?

14 A Yes.

15 Q And with regard to your involvement in this investigation,
16 that information was communicated to the family through their
17 lawyer; is that right?

18 A Yes.

19 MS. LYNCH: If I may just have one moment.

20 [Pause]

21 MS. LYNCH: Sorry. Just one moment. Sorry. Just --

22 THE COURT: Sure.

23 [Pause]

24 MS. LYNCH: Thank you. I have nothing.

25 THE COURT: Thank you.

1 THE WITNESS: Thank you.

2 THE COURT: You're excused.

3 [Witness steps down]

4 THE COURT: Do you have any further witnesses for today?

5 MS. LYNCH: No, Your Honor, --

6 THE COURT: Okay.

7 MS. LYNCH: -- I do not.

8 THE COURT: All right.

9 MS. LYNCH: And --

10 THE COURT: I just -- Okay. I just want to make just a
11 statement both to Officer Drauschke and to the family,
12 respectfully to everyone, because I don't want anyone to
13 misunderstand why we're here. I don't think, understanding the
14 guidelines with regard to inquests, that the purpose really is
15 just to ensure transparency. They're investigatory procedures,
16 not accusatory.

17 Usually -- And I have Judge Kogan's findings. I think there
18 are three or four inquests that have been done in Massachusetts
19 that I'm aware of. And right out of his findings, the purpose of
20 the inquest is to determine when, where, and by what means and
21 individual has met his death. I think we all know when, where,
22 and by what means in this case Mr. Greenough met his death.

23 Again, it's an investigatory not accusatory proceeding. I
24 don't stand in the role of the District Attorney. I appreciate
25 the fact that she wants to be transparent but at the end of this

1 when I issue a report -- and I want to make sure, again,
2 everybody's clear -- I don't determine whether Officer Drauschke
3 should or should not be charged with a crime, whether or not the
4 shooting was justified. That's the District Attorney's role, is
5 my understanding under the guidelines.

6 And I understand now why she's chosen not to use her
7 authority in this case. I just don't want anyone to be
8 disappointed when the Court issues a report and there be no
9 confusion about the Court's role and the District Attorney's role.

10 MS. LYNCH: Right. Although, I do think that in terms of
11 determining facts that it is the role of the Court as an
12 independent fact-finder --

13 THE COURT: Facts, yes.

14 MS. LYNCH: -- to --

15 THE COURT: But I just don't -- I don't want anybody --

16 MS. LYNCH: Yeah.

17 THE COURT: -- to be --

18 MS. LYNCH: No.

19 THE COURT: Based on what the lieutenant has just testified --

20 MS. LYNCH: Yeah.

21 THE COURT: -- to, --

22 MS. LYNCH: And I --

23 THE COURT: -- this is the first inquest he's been involved
24 in. The prior, the District Attorney as made a determination.
25 Some of the other questions that were asked by attorneys --

1 Particularly the family and Officer Drauschke, I want everybody to
2 be --

3 MS. LYNCH: Yes.

4 THE COURT: -- on the same page about what the Court's role
5 is.

6 MS. LYNCH: Sure. No, and I did not mean any offense in
7 doing that. I wanted to correct maybe what was a misimpression.
8 There were questions raised as to how a law enforcement agency can
9 make determinations of fact in a situation where it's another law
10 enforcement agency. And I just wanted to be clear on the record
11 that it was for purposes of the public having confidence in a
12 decision that's made, that a determination is made by an
13 independent party, separate and apart as to what the circumstances
14 are. And I meant no disrespect by asking that question.

15 THE COURT: No, and I --

16 MS. LYNCH: I felt that I was --

17 THE COURT: And I didn't take it as disrespectful. But I
18 just want to make sure that when the report comes out --

19 MS. LYNCH: Right.

20 THE COURT: -- there is not an expectation that I stand in
21 some role that I am not in.

22 MS. LYNCH: No, and --

23 THE COURT: Okay.

24 MS. LYNCH: And --

25 THE COURT: By anyone. You may -- I want to make sure the

1 family and Officer Drauschke understand that.

2 MS. LYNCH: And as I say, it's only because I am aware of my
3 duty of candor to the Court and I didn't want that to indicate
4 that it wasn't for purposes of making sure that the public has
5 confidence in the overall process.

6 THE COURT: Okay. All right. So, we have -- In terms of
7 witnesses, are you --

8 MS. LYNCH: As I say, unless the Court has anyone else based
9 upon the materials, the only other matter that I would have is
10 with the Court's permission you've granted me --

11 THE COURT: Yes.

12 MS. LYNCH: -- to duplicate that exhibit so --

13 THE COURT: Yeah.

14 MS. LYNCH: -- that it can be marked separate from the
15 discovery.

16 THE COURT: Yeah.

17 MS. LYNCH: I would also put on the record that the
18 additional reports when obviously were created this week were not
19 a part of the Court's pocket. The notice of discovery was mailed
20 to Your Honor at the Lowell District Court so it could be part of
21 your binders in this regard. And I just provided it to the Clerk,
22 as well.

23 THE COURT: Thank you.

24 MS. LYNCH: And so, other than that, unless the Court has any
25 other witnesses that you wish us to facilitate the appearance of,

1 that would be the evidence --

2 THE COURT: Okay.

3 MS. LYNCH: -- that we would present at --

4 THE COURT: Now, --

5 MS. LYNCH: -- this time.

6 THE COURT: -- Mr. Pasciucco, you had indicated that you
7 would like the Court to hear from a witness.

8 MR. PASCIUCCO: Yes, Your Honor.

9 THE COURT: And is that witness the next -- The last date we
10 had tentatively scheduled was, I think, -- Was it the 24th?

11 THE CLERK: Yes.

12 MR. PASCIUCCO: Yes.

13 THE COURT: And that witness is available on the 24th?

14 MR. PASCIUCCO: Available on the 24th.

15 THE COURT: Okay. And is --

16 MR. PASCIUCCO: Can I --

17 THE COURT: -- that the only witness that you'd like to call
18 on behalf of Officer Drauschke?

19 MR. PASCIUCCO: Yes, Your Honor. And I do have proposed
20 testimony of -- including a curriculum vitae that I -- It's dated
21 March 25th. I don't think it's ever been formally filed. So I
22 can --

23 THE COURT: All right.

24 MR. PASCIUCCO: -- provide that --

25 THE COURT: Okay. Sure.

1 MR. PASCIUCCO: -- to Your Honor.

2 THE COURT: Okay.

3 MR. PASCIUCCO: He'll be ready on the 24th.

4 THE COURT: Okay.

5 MR. PASCIUCCO: It shouldn't be too, too long.

6 THE COURT: All right. We can start at nine o'clock. Did we
7 agree at nine o'clock? Nine-o'clock start?

8 MR. PASCIUCCO: Sure.

9 THE COURT: Okay.

10 MR. PASCIUCCO: And I do have one other matter that just --
11 It came up in terms of whether or not Officer Drauschke was tested
12 at the hospital, whether his blood was drawn. So we did make
13 efforts, contacting Winchester Hospital. And it -- As it played
14 out, his blood was drawn; however, there was not a tox screen
15 done. There was only a screen for infectious diseases. So, we
16 have that and can provide the Court with a copy of it. It's a
17 three-page document. It really was just looking for Hep B, Hep C,
18 hepatitis, HIV, that type of thing.

19 THE COURT: I'm happy to take anything --

20 MR. PASCIUCCO: Okay.

21 THE COURT: -- you want to provide.

22 MR. PASCIUCCO: And I don't think he was asked the question
23 during his examination, but he would resume the stand and testify
24 under oath that he was in no way under the influence of drugs or
25 alcohol.

1 THE COURT: Okay. Anything else before the 24th? No. Thank
2 you all. See you on the 24th.

3 MR. PASCIUCCO: Thank you.

4 THE CLERK: Judge, do you want me to keep those as exhibits
5 or just --

6 THE COURT: Yes, please. I'll take those exhibits.

7 THE CLERK: So those two will be --

8 THE COURT: Yep.

9 THE CLERK: Those two matters will be Exhibit 38 -- 138 and
10 139.

11 [CV and Blood Test Results Marked as Exhibit Nos. 138-139]

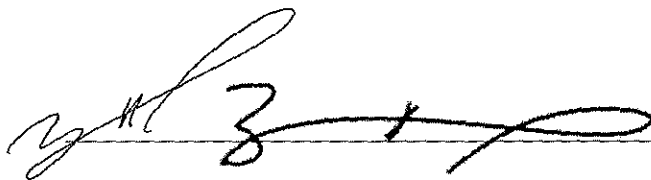
12 [Adjourned at 4:05:55 p.m.]

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

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October 23, 2019

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RECORDING DATE: July 19, 2019 TRANSCRIPT VOLUME: 9 OF 10

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<input type="checkbox"/> low audio	enter time; enter time; enter time,
<input type="checkbox"/> low audio at sidebar	enter time, enter time; enter time,
<input type="checkbox"/> simultaneous speech	enter time, enter time, enter time;
<input type="checkbox"/> speaking away from mic.	enter time; enter time; enter time;
<input type="checkbox"/> other: specify issue	enter time, enter time; enter time.

COMMENTS:

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'74 [1] 57/9
'76 [2] 57/9 57/10
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1/21/64 [2] 36/6
11/5/74 [2] 78/10
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