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ORIGINAL

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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 7
BEFORE THE HONORABLE STACEY J. FORTES

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Woburn, Massachusetts
Courtroom 2
June 11, 2019

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

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1 [Case Called at 9:27:31 a.m.]

2 THE COURT: Okay. Are there any preliminary matters that we
3 need to discuss?

4 MR. PASCIUCCO: I just apologize for being late.

5 THE COURT: No, that's okay. I was late, too. Traffic was
6 horrible.

7 Okay. Ms. Lynch, you can call your first witness.

8 MS. LYNCH: Thank you. Trooper Joel Gagne.

9 [TROOPER JOEL GAGNE, Sworn.]

10 DIRECT EXAMINATION OF WITNESS, TROOPER JOEL GAGNE

11 BY MS. LYNCH:

12 Q Good morning, sir. If you would, would you state your name
13 and spell your last name for the record.

14 A Good morning, ma'am. My name is Joel Gagne. Last name is
15 spelled G-A-G-N-E.

16 Q And what is your occupation?

17 A I'm a trooper with the Massachusetts State Police.

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

19 A I attended the academy in 2004 and I've been an employee
20 since.

21 Q And prior to joining the state police in 2004, do you have
22 any other law enforcement experience?

23 A Yes, ma'am. I was a Westford police officer from 1996 to
24 2004.

25 Q What is your present assignment with the Massachusetts State

1 Police?

2 A I'm assigned to the executive protection unit, the Governor's
3 detail.

4 Q And how long have you had that assignment?

5 A Approximately one year.

6 Q Now, prior to going to the executive detail out of the
7 Governor's Office, what was your assignment with the state police?

8 A I was a homicide investigator with the Middlesex District
9 Attorney's Office.

10 Q And how long were you with the Middlesex detectives?

11 A Six years.

12 Q Now, as part of your responsibilities as a state trooper
13 assigned to the Middlesex District Attorney's Office, did you
14 receive any training, specialized training, in the download of
15 digital devices such as cell phones?

16 A Yes, ma'am. In 2014 I attended a course that was put on by
17 Thiel Technologies in the use of Cellebrite, the device and
18 software.

19 Q So, Cellebrite is the method that you use to download phones
20 that you've been trained in?

21 A Yes, ma'am.

22 Q After receiving that training in 2014 did you have occasion
23 in the regular course of your duties to download digital phones?

24 A Quite frequently.

25 Q Now, in terms of downloading a phone, can you tell us: is

1 Cellebrite the name of -- what is Cellebrite the name of?

2 A Cellebrite is the corporation that produces the device and
3 software that I was using specifically. And that device is used
4 to extract, analyze, and kind of put together a report based on
5 the -- the data contained inside the phone.

6 Q Okay. Now, directing your attention to February 3rd and 4th
7 of 2018, were you on duty or on call with the Massachusetts State
8 Police Middlesex detectives?

9 A Yes, ma'am.

10 Q And what specifically?

11 A I was second -- on second call. It would've been categorized
12 for any death investigations that came in throughout that course.

13 The --

14 Q And who went the first call?

15 A James Connolly.

16 Q And at some point on the evening of February 3rd were you
17 activated to respond to a location?

18 A Yes, ma'am.

19 Q And where did you respond to?

20 A It was to -- I -- I can't think of the exact address at the
21 residence where a shooting had occurred, or outside the residence
22 where the shooting had occurred.

23 Q And was that at 1462 Main Street in Reading?

24 A Yes, ma'am.

25 Q And what did you do when you arrived at that location?

1 A At that point, it was early on. We were kind of collecting
2 information about the event, putting together a timeline of -- of
3 events, and working on -- they were working on a search warrant, I
4 believe, at the time I arrived.

5 Q Okay. Now, at some point did you leave that location and go
6 somewhere else?

7 A I went back to the police department.

8 Q Now, other than you and Trooper Connolly, were there any
9 other state police personnel from the Middlesex detectives that
10 responded?

11 A Trooper Michael Williams.

12 Q Okay. Were there any supervisors that responded from the
13 state police?

14 A There were. It was Lieutenant Paul Bulman and and Lieutenant
15 Tom Sullivan.

16 Q Now, when you arrived at the Reading police station, were you
17 given an assignment or paired up with a Reading detective to
18 perform an assignment?

19 A Initially we conducted a couple of -- we did a couple of
20 interviews. But I also was asked to analyze a couple of phones.

21 Q Okay. Now, in terms of the individuals who you interviewed
22 on the evening of February 3rd, did you interview Kimberly
23 Bellino?

24 A Yes, ma'am.

25 Q And on the evening of February 3rd did you interview Michael

1 | Randall?

2 | A | Yes, ma'am.

3 | Q | And directing your attention to the following morning,
4 | Sunday, February 4th, did you interview a woman named Amy Thorn?

5 | A | Yes, ma'am.

6 | Q | No, in terms of the procedure, you were paired up with a
7 | Reading detective; is that right?

8 | A | That's correct.

9 | Q | And were the interviews recorded?

10 | A | Yes, ma'am.

11 | Q | And at some point did you obtain or did investigators obtain
12 | the recordings and have a transcript prepared?

13 | A | Yes, ma'am

14 | MS. LYNCH: Your Honor, I don't know in terms of the inquest
15 | whether or not the discovery is considered the evidence. But I do
16 | have the recordings and the transcripts of those three interviews
17 | that I can offer, if they're separate.

18 | THE COURT: Please, yes.

19 | MS. LYNCH: Okay.

20 | [Interview Recordings/Transcripts Marked as Exhibit Nos. 109-111]

21 | BY MS. LYNCH:

22 | Q | Now, at some point you indicate that you were asked to
23 | download some phones; is that correct?

24 | A | That's correct.

25 | Q | And I'm going to just show you what has previously been

1 admitted as Exhibit No. 1 for the inquest. And if I could just
2 point out the first blue McDonald Cellebrite; and the second blue
3 tab is the Greenough Cellebrite.

4 A Okay.

5 Q Looking first at the McDonald extraction report, do you
6 recognize this extraction report as the report generated by your
7 download of the McDonald phone on the evening of February 3rd?

8 A This report is -- Exactly. It's -- It's produced by the
9 extraction that was previously downloaded, correct.

10 Q And in terms of the phone itself, in terms of the UTC-5, can
11 you explain how when you do the extraction -- how UTC comes into
12 play?

13 A The extractions, unless indicated otherwise, are going to be
14 in the Coordinated Universal Time, which for us in Eastern
15 Standard is 5 hours head. So, for -- or 4, depending on Daylight
16 Savings. So, to coordinate it with the time that we would be
17 looking at real-time, it would be a UTC-5 for this date in
18 February.

19 Q Okay. So, because it was February, it was Eastern Standard
20 Time and you had to extract 5 from the Universal Coordinated Time?

21 A Correct.

22 Q And originally was that recorded in UTC time?

23 A At the time I originally downloaded it, correct, and with the
24 U -- first initial report on the f -- the February date was done
25 with the UTC. So you would've had that 5-hour discrepancy that

1 | would become confusing.

2 | Q Okay. And so, at some point, in anticipation of this hearing
3 | you reran the report with minus-UTC-5?

4 | A Cor -- Correct. Same extraction, just a new report with that
5 | time change.

6 | Q Okay. And were you able to determine the phone number
7 | associated with the Devin McDonald phone?

8 | A Yes.

9 | Q And what was that?

10 | A This is going to be 978-717-4646.

11 | Q And did you need a password to access that phone?

12 | A I don't recall at the time if I did. But if I -- if I
13 | required one, it would've been given to me, to get this.

14 | Q Okay. And in terms of doing a search of that phone, was that
15 | done with the written consent of Mr. McDonald?

16 | A That's correct.

17 | Q And in terms of the McDonald download, how many pages was
18 | that?

19 | A I think total report is 314 pages.

20 | Q Now, can you explain to us: when you're doing a Cellebrite
21 | download, are there different types of extractions that can be
22 | done?

23 | A Depending on the device or the phone, you have different
24 | options. Logical is -- is a general, basic downloaded. It's kind
25 | of "what you see is what you get," as far as what you're looking

1 at on the phone: calls, text, data. It's going to be transcribed
2 into this report. There are other methods of download, a physical
3 file server, but they're not always compatible with the device.
4 So generally when I have a device I will try to run every option.
5 And whatever I can produce, I'll produce. But often with
6 different devices you don't have all those options available.

7 Q And so, in this case both the McDonald and later the
8 Greenough phone were done with Logical extractions?

9 A Correct.

10 Q And that basically duplicates the content on the phone at the
11 time that you're doing the extraction?

12 A Correct. Sometimes you will recover deleted data and
13 sometimes you won't. It's more of a, like I said, "what you see
14 is what you get" kind of --

15 Q Now, in terms of --

16 A -- report.

17 Q -- the Cellebrite report, I'm going to direct your attention
18 to pages 2 to 30, the -- entitled Call Log.

19 A Yes, ma'am.

20 Q And does this appear to be -- Let me just get to page 30,
21 here. Does this appear to be the most recent call activity first,
22 so that you have to go in reverse order to get a timeline?

23 A Correct

24 Q Okay. And then, in terms of the contacts, is that the
25 download of the -- McDonald's phone contacts as stored in his

1 phone?

2 A Correct.

3 Q And directing your attention to pages [sic] 34, does this
4 appear to be the section entitled SMS Messages?

5 A Yes, ma'am.

6 Q And does this appear again to be most recent at the top,
7 going back sequentially?

8 A Correct.

9 Q Okay. And I'm going to direct your attention next to the
10 section entitled Timeline. Now, when you're doing a timeline,
11 does the extraction place in chronological order, with the oldest
12 first, both messages as well as call-detail activity?

13 A In this format, yes, ma'am.

14 Q Okay. And that was provided by you as a result of the data
15 you extracted that night?

16 A That's correct.

17 Q Now, in terms of the download of the Greenough phone, at some
18 point were you provided a cell phone identified to be that of Alan
19 Greenough?

20 A Yes, ma'am.

21 Q And in terms of this -- Again you did the UTC-5 for this?

22 A Correct.

23 Q And in terms of the type of phone, what type of phone was
24 this?

25 A This was a ZTE. Z798BL was the model.

1 Q Okay. Now I'm going to direct your attention on the
2 Greenough phone to the area that is entitled Timeline. Sorry.
3 And I believe, for the record, that starts on page 123. Again,
4 does this appear to be a timeline in chronological order, with the
5 oldest entry saved coming first --

6 A That's correct.

7 Q -- so that it is like a timeline?

8 Now, I'm going to direct your attention to entries for the
9 evening of February 2nd, and specifically just page 191, starting
10 at 9:51. Does this appear to be a phone -- a text message to the
11 Devin phone number of 978-717-4646?

12 A Yes, ma'am.

13 Q Now, if you were -- In referencing the McDonald phone, when
14 you go to the entries for that date and that time on February 2nd,
15 those entries do not appear in the timeframe between 9:00 and
16 10:00; is that correct?

17 A That is correct.

18 Q Now, can you explain for us that discrepancy, that is to say,
19 why the outgoing messages appear on the Greenough phone but not on
20 the McDonald's phone Cellebrite download?

21 A It could be a few different reasons:

22 One, it might not have actually gone out from the phone.

23 It's -- He typed it, sent it, he had poor reception, it didn't go
24 out.

25 It could be on the other side, where he had poor reception

1 and didn't receive the messages.

2 Or they could've been deleted from the other phone prior to
3 the download and not --

4 Q And that would be --

5 A -- and not recovered.

6 Q That would've been the McDonald phone.

7 A That would've been. Or it just -- It's -- It's a data
8 extraction. It's not a hundred -- it's not a hundred percent.
9 You have data that's written over each other. It's just -- It's
10 the same spot that's getting written over and over and over. And
11 sometimes it just doesn't get picked up by the download.

12 Q But on your download of the Greenough phone, you got those
13 messages between 9:00 and 10:00 to device.

14 A Correct.

15 Q Now, in terms of the records themselves, on some of the
16 entries it indicates that there is a missed call. And does that
17 mean that the phone didn't go to voicemail?

18 A The -- Going out? I'm sorry if -- I just want to make sure I
19 understand that correctly. So, the receiving phone has the missed
20 call?

21 Q Yes.

22 A So, it didn't go to voicemail or he chose to -- or he elected
23 to hang up before the voicemail kicked -- left a message.

24 Q Okay. And in terms of calls that list a duration of
25 00 seconds, does that mean that the call did not go to voicemail?

1 A Again, he could've terminated the call prior to it going to
2 voicemail, or when it picked up to voicemail he just hung up.

3 Q Okay. Thank you.

4 THE COURT: Mr. Pasciucco?

5 MR. PASCIUCCO: No questions, Your Honor.

6 THE COURT: Attorney Koufman?

7 MR. KOUFMAN: Just a couple.

8 THE COURT: Sure.

9 MR. KOUFMAN: My offer would just be just to -- on the issue
10 of the duration of calls, if I may, Judge.

11 THE COURT: Yes.

12 CROSS EXAMINATION OF WITNESS, TROOPER JOEL GAGNE

13 BY MR. KOUFMAN:

14 Q Sir, my name is Victor Koufman. I just represent the family
15 in this matter.

16 A Yes, sir.

17 Q If the duration of a call is greater than zero but less than
18 a minute, does that not mean that -- is it possible that there was
19 no conversation during that duration?

20 A I'd be speculating. It -- It could've been. It could've
21 been the phone ringing but there's no connection. So, I -- I
22 think you'd still maintain a zero. But I -- I couldn't say for
23 certain.

24 Q If -- Do you understand what dead air is? Do you understand
25 what dead air is?

1 A No, sir.

2 Q Okay. Do you understand that sometimes the receiving phone
3 user may not have a chance to answer the call due to bad
4 reception?

5 A I understand that, yes, sir.

6 Q Okay. And what is that? If you could explain that to the
7 judge.

8 A That could be where the -- the signal might've been strong
9 enough to get to the phone but you just can't get the connection.
10 You try to pick up and it doesn't go. I mean, it happens probably
11 to everybody. I don't know how it would record on the -- on the
12 phone log, though.

13 Q So there could be a duration of a call from zero to a minute
14 where there was no conversation; is that correct?

15 A I think once you have any type of considerable d -- duration,
16 I think if you get -- you start getting a counter, you have a
17 connection. Whether or not they can hear each other, I -- I
18 couldn't -- I'd be speculating. I don't know.

19 MR. KOUFMAN: Thank you, Judge.

20 THE COURT: Thank you.

21 Thank you very much.

22 MS. LYNCH: Thank you.

23 [Witness steps down]

24 THE COURT: You can call your next witness.

25 MS. LYNCH: Trooper Michael Perry.

1 [TROOPER MICHAEL PERRY, Sworn.]

2 THE WITNESS: Good morning, Your Honor.

3 THE COURT: Good morning, trooper.

4 DIRECT EXAMINATION OF WITNESS, TROOPER MICHAEL PERRY

5 BY MS. LYNCH:

6 Q Good morning, sir.

7 A Good morning.

8 Q If you would, would you please state your name and spell your
9 last name for the record.

10 A Sure. Michael Perry. Last name is P-E-R-R-Y.

11 Q And what is your occupation, sir?

12 A I'm a Massachusetts state trooper.

13 Q And how long have you been with the Massachusetts State
14 Police?

15 A Approximately 14 years.

16 Q What is your present assignment within the state police?

17 A I'm currently assigned to the crime scenes services section
18 in Danvers.

19 Q And how long have you been assigned to the crime scenes
20 services section?

21 A Approximately 12 1/2 years.

22 Q What are your responsibilities as a trooper assigned to the
23 crime scenes services section out of Danvers?

24 A Sure. We document a -- a variety of different crime scenes
25 for local, state, and sometimes federal law enforcement agencies,

1 everything from stolen cars to homicides. We also do fingerprint
2 processing. We look for footwear and other types of impression
3 evidence. We document and then -- and -- and if asked to, we do
4 compare those types of evidence to known exemplars.

5 Q And in your experience, have you received any specialized
6 training in videography or photography in order to facilitate your
7 work?

8 A Yes. We spend about six months at the main lab in what was
9 Sudbury, now Maynard, where we have basic training in those areas
10 as well as fingerprints and footwear. And after that, completing
11 competency and proficiency in the impression e -- evidence areas,
12 we also receive outside training from different agencies when it's
13 available.

14 Q Now, in terms of your responsibilities, in addition to
15 working within an office setting do you also get called out to
16 process areas or document the recovery of evidence from areas?

17 A Yes.

18 Q Now, directing your attention to the date of Saturday,
19 February 3rd of 2018, were you on duty or on call with the crime
20 scenes services section?

21 A Yes, I was on call.

22 Q Now, at some time shortly after 5:00 p.m. or thereabouts, did
23 you receive an assignment?

24 A Yes, I did.

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

1 A I responded to a scene of a police-involved shooting. I also
2 contacted my supervisors, who arrived to assist, as well as
3 another trooper who did a video. And after a scene walkthrough,
4 we documented the scene with photo -- or I documented the scene
5 with photography. And Trooper McCarthy documented the scene with
6 video.

7 Q Okay. Now, in terms of the response, at the time that you
8 arrived at the location were you aware that this investigation
9 involved a death?

10 A At the -- When I first arrived, no. I just knew it was a
11 police-involved shooting.

12 Q And so, at some point thereafter you learned that it was a
13 death?

14 A Yes.

15 Q Now, in addition to you, you mentioned Trooper McCarthy.
16 Were there other supervisors that responded to that location?

17 A Yes.

18 Q Now, in every case do you use the whole range of your
19 expertise? Or is it scene-dependent what you're asked to do?

20 A Sure. It -- Sure, it depends on each scene, how complex or
21 what the type of call is. But we might call out additional
22 personnel.

23 Q Now, in terms of this, when you are doing the photographing,
24 you indicated that Trooper McCarthy was doing a video of the
25 exterior of the scene; is that right?

1 A Yes. -

2 Q And have you had a chance to review that video, as well?

3 A Yes.

4 MS. LYNCH: And, Your Honor, at this time I would offer the
5 video of the external scene. And with the Court's permission if I
6 could --

7 THE COURT: Yes.

8 MS. LYNCH: -- play that once it's --

9 [Video of Scene Marked as Exhibit No. 112]

10 [Pause]

11 Q MS. LYNCH: Okay. And just for the record, playing
12 Exhibit 112.

13 [Video Playing at 9:51:00 a.m.]

14 BY MS. LYNCH:

15 Q Now, in terms of the timestamp of 6:59 p.m., is that at or
16 around the time that you were actually documenting the scene with
17 Trooper McCarthy?

18 A Yes, right around that time, yes.

19 [Video Playing at 9:51:40 a.m.]

20 BY MS. LYNCH:

21 Q Now, in addition to Trooper McCarthy taking the video or
22 making the video, you yourself were taking digital photographs; is
23 that correct?

24 A Yes.

25 Q And in terms of the photographs, they are then made a part of

1 the file in connection with this case for the crime scene
2 response; is that fair to say?

3 A That's correct.

4 MS. LYNCH: Your Honor, at this time I would offer a disc of
5 the photos taken by Trooper Perry.

6 THE COURT: Yes.

7 [Disc with Photos of Scene Marked as Exhibit No. 113]

8 MS. LYNCH: And with the Court's permission if I could just
9 put this in the --

10 BY MS. LYNCH:

11 Q And that Item 4-1 was the item designated by the lab for your
12 photo disc?

13 A That's correct.

14 Q Now, in terms of the name of the file, MTP, what does that
15 stand for?

16 A Those are my initials.

17 Q And that designates in chronological order the number
18 assigned to the JPEG file --

19 A That's correct.

20 Q -- for that day.

21 A Yes.

22 Q Now, in terms of the date modified, February 3rd, 2018, at
23 6:38 p.m., do those appear to be the -- coincide with the actual
24 time that you were taking these pictures with --

25 A Yes.

1 Q -- as Trooper McCarthy took the video?

2 Now, in terms of the start, does it appear that you started
3 at 6:28 p.m.?

4 A Yes.

5 Q And in terms of the photos that you took, you documented the
6 photos -- the outside scene both in the area of the Hummer as well
7 as the apartment building exterior and behind the apartment
8 building?

9 A That's correct.

10 Q Now, at some point later that evening did you also obtain
11 written consent or were you informed of written consent from two
12 residents of the apartment at 1462 that you had consent to
13 document that scene?

14 A Yes.

15 Q Now, directing your attention to --

16 MS. LYNCH: And if we could go to Photograph 0538, just for
17 context.

18 BY MS. LYNCH:

19 Q And this appears to be a photo looking from the outside in;
20 is that fair to say?

21 A Yes.

22 Q And if you would go to the next photo, please. Now, does --
23 This would coincide with the first interior photographs of the
24 apartment?

25 A Yes, I believe that's some of the first few pictures --

1 Q Okay. And that --

2 A -- I took.

3 Q -- is photograph 539? If -- And that was at 9:42 p.m.?

4 A It's --

5 Q According to the timestamp I'd just for the record so
6 indicate. I don't know if you can see it from there.

7 A I'm sorry; I can't. But if that's what that -- That's
8 embedded on the file.

9 Q Okay. Now, in terms of your role inside the apartment, what
10 did you do once you were inside the apartment?

11 A The first thing we do is take overall photos of the condi --
12 condition as we found it and then any specific photos that
13 might've been pointed out as points of interest by the detectives,
14 or if there was something obviously possibly part of an -- the
15 incident, we would document that. But the first initial thing is
16 to overall document the general condition.

17 Q And in doing so did you go -- did you document the first
18 floor of the apartment?

19 A Yes.

20 Q Did you document the second floor of the apartment?

21 A Yes.

22 Q Was there also an attic --

23 A There --

24 Q -- that was documented?

25 A I'm sorry. Yes, --

1 Q Was there an attic?

2 A Yes, there was.

3 Q Okay. And during the course of that, were you -- did you
4 just take photographs to document the condition of different
5 tabletops and floors and things like that?

6 A Yes, that's correct.

7 Q Now, in terms of your documentation of the scene, I'm just
8 going to show you these four pictures and ask you if your
9 recognize what these items are or what these photographs depict.

10 A They appear to be prescription -- photos of a prescription
11 bottle from inside the apartment.

12 Q And I just want to show you one of the previously admitted
13 exhibits. I'm just showing you what has previously been admitted
14 as Exhibit 18. Does this appear to be a photograph of the area
15 from a wider angle, and the photos that I placed before you are
16 closeups?

17 A Yes, it does.

18 Q Okay. And just going to direct your attention -- Is that a
19 fair and accurate representation of the condition of those items
20 as you saw them and documented them that night?

21 A Yes, it is.

22 Q Okay.

23 MS. LYNCH: I would offer these as the next four exhibits,
24 please.

25 [Photos of Apartment Marked as Exhibit Nos. 114-117]

1 BY MS. LYNCH:

2 Q And so, first referencing what has been admitted as Exhibit
3 114, it appears to be a prescription in the name of Alan Greenough
4 for --

5 THE COURT: Ms. Lynch, are you wanting --

6 MS. LYNCH: Oh, I'm sorry, Your Honor.

7 BY MS. LYNCH:

8 Q Does this appear to be a prescription in the name of Alan
9 Greenough with an address at 1462 Main Street, Reading?

10 A Yes.

11 Q And it appears to be IC Phenytoin SO Ext 100-milligram
12 caplets?

13 A Yes.

14 Q And does it appear that it says, "Substituted for Dilantin
15 100-milligrams capsule"?

16 A Yes.

17 Q And directing your attention to Exhibit 115, do these appear
18 to be three prescriptions in the name of Alan Greenough, one for
19 the substance IC Gabapentin 300-milligrams capsule? And it
20 appears the name brand is Neurontin?

21 A Yes.

22 Q Okay And then the other two prescriptions are in the name
23 of Alan Greenough, and that is for Metoprolol Tartrate, 25
24 milligrams?

25 A Yes.

1 Q And does it appear that the common brand name is Lopressor
2 for that?

3 A Yes.

4 Q And those were the prescription medications that you
5 documented at the scene at 1462 on the evening in question; is
6 that right?

7 A Yes, that's correct.

8 Q And in terms of the photographs, do you have any specific
9 memory of any items being pointed out to you?

10 A They had s -- pointed out the broken table in the kitchen.

11 Q Okay. And so you took those photographs, as well?

12 A Yes, I did.

13 Q And in terms of the photographs, I direct your attention to
14 Photo 620. Sorry; I keep doing that. At some point were you
15 asked to document the condition of a tire of a vehicle that was on
16 scene at that location?

17 A Yes.

18 Q And Photo 6 -- strike that -- 620 would be, according to the
19 timestamp, what time, for the record? I'm sorry. 10:17 p.m.
20 Would that have been the last series of photos that you took while
21 at the premises 1462 Main Street?

22 A From the scene, yes. I know I took photos later on at --

23 Q Yes.

24 A -- a different location, yeah.

25 Q But strictly at 1462, --

1 A I'm sorry.

2 Q -- that would be -- the last picture was taken sometime at
3 10:17 --

4 A That --

5 Q -- p.m.

6 A That's correct.

7 Q After you took that picture, did you have occasion to go to
8 the Reading police station?

9 A Yes, I did.

10 Q And at that location were you asked to photograph an
11 individual by the name of Devin McDonald?

12 A Yes, I was.

13 Q And directing your attention to Photograph 621. And the
14 timestamp on that, please? I can't see it. 10:37 p.m. Is this a
15 photograph you took at the Reading police station?

16 A Yes.

17 Q And so, thereafter -- You can put that down. Directing your
18 attention to Photograph 626 at 11:18 p.m., do you recognize what
19 this photograph is?

20 A It's a -- looks like a recovered projectile, I believe from
21 the vehicle, the orange Hummer.

22 Q Now, where was that item recovered from the vehicle?

23 A That was recovered at A Troop headquarters in Danvers, the
24 garage.

25 Q And so, at some point, to your knowledge, the orange Hummer

1 | was towed from the location at 1462 to the garage at Danvers to be
2 | processed?

3 | A That's correct.

4 | Q And you were present in order to document and photograph the
5 | recovery of that projectile from the door?

6 | A Yes, I was.

7 | MS. LYNCH: If I might just have a moment.

8 | Thank you, Trooper Perry.

9 | THE COURT: Okay. Attorney Pasciucco?

10 | CROSS EXAMINATION OF WITNESS, TROOPER MICHAEL PERRY

11 | BY MR. PASCIUCCO:

12 | Q I just really have a couple questions about a photograph.

13 | Good morning, Trooper. My name's Peter Pasciucco. I represent
14 | Erik Drauschke.

15 | A Good morning, sir.

16 | MR. PASCIUCCO: If I can approach, Your Honor.

17 | THE COURT: Sure.

18 | BY MR. PASCIUCCO:

19 | Q Trooper, I just want to direct your attention to what's been
20 | marked as Exhibit 18. Is this one of the photographs that you
21 | would've taken?

22 | A Yes.

23 | Q I want to direct your attention to the table, the coffee
24 | table in this photograph. And do you see an item here, where my
25 | finger's pointing towards?

1 A Yes. I -- I can't quite make it out but it looks like a --
2 It would be -- If you -- Can I see the picture to --

3 Q Sure.

4 A I can't -- I -- I -- If you're going to ask what it is, I --
5 I couldn't see it there. Thanks. The -- The cup right -- The red
6 cup? This right here? Or the -- the lock there?

7 Q Yes.

8 A Okay. Thank you. I thought you -- I thought you were
9 pointing to the cup; I'm sorry.

10 Q Okay.

11 A That's why.

12 Q So, trooper, with respect to that Exhibit 18, the photograph,
13 on the coffee table do you see what appears to be a lock?

14 A Yes, I do.

15 Q Okay. And in your training and experience, would that be a
16 gunlock?

17 A It appears to be.

18 Q Thank you.

19 MR. PASCIUCCO: No other questions. Thank you.

20 THE WITNESS: Thank you, sir.

21 THE COURT: Attorney Koufman?

22 MR. KOUFMAN: If I may.

23 THE COURT: Sure.

24 MR. KOUFMAN: Can I see Exhibit 52. May I use this?

25 THE WITNESS: Sure.

1 CROSS EXAMINATION OF WITNESS, TROOPER MICHAEL PERRY

2 BY MR. KOUFMAN:

3 Q I'm showing you what's marked as Exhibit 52. Do you see
4 that? You just pointed out an item on that table; is that
5 correct?

6 A Yes.

7 Q And if you look right up into the left-hand corner of this
8 picture, there's also a bicycle there; isn't that correct?

9 A Yes.

10 MR. KOUFMAN: Thank you. And if I may take a picture of --
11 Exhibit 31, if I may.

12 THE COURT: Sure.

13 BY MR. KOUFMAN:

14 Q I'm showing you what's marked as Exhibit 31.

15 MR. KOUFMAN: May I approach to --

16 THE COURT: Sure.

17 BY MR. KOUFMAN:

18 Q And are you able to see this indentation here?

19 A Yes.

20 Q And you able to see this indentation here?

21 A I -- I see that, yeah.

22 Q And did you take that picture?

23 A I did.

24 Q And is Exhibit -- Does this exhibit appear an accurate
25 representation as to how it looked on the night of the shooting?

1 A Yes.

2 Q And did you take any measurements as to how much distance
3 separated either of these indentations from the ground?

4 A Anything to deal with that would be the ballisticsian that
5 would deal with the ballistics t -- evidence.

6 Q So you didn't take that measurement.

7 A We -- Not when it comes to projectiles. That'd be a
8 ballisticsian's deal with the -- We just document what's presented.

9 MR. KOUFMAN: Thank you, Judge.

10 THE COURT: Thank you.

11 Thank you very much, trooper.

12 THE WITNESS: Thank you, Your Honor.

13 MS. LYNCH: Thank you.

14 THE WITNESS: Thank you.

15 THE COURT: Call you next witness.

16 MS. LYNCH: Trooper Michael Williams, please.

17 [TROOPER MICHAEL WILLIAMS, Sworn.]

18 DIRECT EXAMINATION OF WITNESS, TROOPER MICHAEL WILLIAMS

19 BY MS. LYNCH:

20 Q Sir, if you'd have a seat. If you would please identify
21 yourself, state your name and spell your last name for the record.

22 A Trooper Michael Williams, Mass. State Police,
23 W-I-L-L-I-A-M-S.

24 Q And what is your occupation?

25 A I'm a state trooper assigned to the Middlesex District

1 Attorney's Office and the state police detective unit.

2 Q How long have you been with the Massachusetts state police?

3 A Approximately, like, 15 years. November 1st will be 15.

4 Q And how long have you been assigned to the Middlesex
5 detectives?

6 A August 1st will be 3 years.

7 Q Now, prior to coming to the Middlesex detectives unit, what
8 was your assignment within the state police?

9 A I was assigned to the Logan Airport for two years; and prior
10 to that, the crime scenes services section for seven; the Medford
11 and Leominster barracks for approximately a year and a half each,
12 before that.

13 Q Now, were you on duty with the Massachusetts state police
14 detectives on February 3rd, 2018, in the evening hours? Were you
15 scheduled to be on duty that Saturday night?

16 A Not scheduled but called in.

17 Q And on that particular date, you were called in to respond to
18 what location?

19 A The gas station in -- in Reading. I don't know the exact
20 address.

21 Q Okay. And would that be the East Coast Service & Gas
22 Station?

23 A Yes.

24 Q And that's at 1462 Main Street in Reading?

25 A Yes.

1 Q Now, did you respond directly to that location?

2 A Yes, I did.

3 Q And what did you do at that location when you arrived there?

4 A I was put on scene just to keep track of the different units
5 that were processing the scene: crime scene, ballistics, and a --
6 a computer forensics came later on.

7 Q Now, in addition to those units, you mentioned ballistics.
8 Did a chemist from the crime lab respond, Stephanie Waite?

9 A Yes.

10 Q Did Trooper Conron of the digital evidence and media section
11 respond?

12 A Yes, he did.

13 Q And did Trooper Hari Arisetty of the CARS unit respond to map
14 that location?

15 A Yes.

16 Q Now, at the time that you were brought to that location, were
17 there two other troopers that were actually on call for that
18 night, Saturday night?

19 A Yes.

20 Q And were those troopers, to your knowledge, at the Reading
21 police station interviewing witnesses while you remained at the
22 scene?

23 A Yes, they were.

24 Q Now, in terms of the location where the shooting took place,
25 the area of an orange- or rust-colored Hummer, were you familiar

1 with that vehicle and its location within the lot?

2 A Yes.

3 Q In terms of the weather conditions that night, can you
4 describe them temperature-wise?

5 A Cold.

6 Q And given the location where the vehicle was, the fact that
7 it was nighttime, and the fact that it was cold, was a
8 determination made to seek permission to remove the Hummer to a
9 state police barracks for processing and better light?

10 A Yes.

11 Q Now, are you familiar with whether the owner was initially
12 contacted for consent to search the door of the vehicle?

13 A He was, yes.

14 Q And did he provide that consent?

15 A Yes, he did.

16 Q And at some point was further consent obtained from him in
17 order to remove the interior door and move the vehicle to Danvers?

18 A Yes.

19 Q Now, in addition to this determination that the vehicle would
20 be moved, was there also a consent provided by the owner of the
21 gas station to download the surveillance video --

22 A Yes.

23 Q -- from the gas station?

24 A Yes.

25 Q And was that conducted by Trooper Conron of the DEMS unit?

1 A Yes, it was.

2 Q Now, at some point while you were at the scene, were you
3 informed that consent was given by Devin McDonald and Kim Bellino
4 to document and search the residence located at 1462 Main Street
5 where they lived?

6 A Yes, I was.

7 Q Now, in terms of that, were you present when Trooper Perry of
8 the crime scenes services section entered that location and was
9 documenting it with photographs?

10 A Yes.

11 Q Now, in terms of the knowledge that you had, did you
12 interview any witnesses yourself up to that point?

13 A No.

14 Q Did you have any specific information at that point as to
15 what any of the witnesses said had transpired or any items of
16 significance that you were looking for?

17 A Not specifically, no.

18 Q Now, in terms of your recollection of the premises,
19 specifically what did you recall concerning any items that
20 attracted your attention specifically at that time?

21 A Specifically there was a -- a broken table that was
22 immediately apparent as -- as you entered the apartment.

23 Q Now, to your knowledge, while you were present was the
24 condition of the table and the chairs to that table -- was that
25 documented by Trooper Perry?

1 A Yes, it was.

2 Q And how many -- how long a period of time would you
3 approximate it was that you were at the service station, that
4 area, that evening?

5 A Several hours, at least -- at -- at scene -- at the scene.

6 Q Now, once Trooper Perry concluded documenting the scene, was
7 the scene then closed and turned over?

8 A Yes.

9 Q And once that occurred, did you go to the Reading police
10 station?

11 A Yes, I did.

12 Q Now, while at the Reading police station, did you describe
13 for other investigators that were present the condition of the
14 table?

15 A Yes, I did.

16 Q And at that time was a request made of you: whether or not
17 the -- any of the table legs were taken?

18 A Yes, it was.

19 Q And at some point was a determination made that investigators
20 would attempt to obtain one of those as a facsimile, given
21 information that investigators had gathered up to that point: that
22 it had been used in connection with Mr. Chaghouri?

23 A Yes.

24 Q Now, as a result of that, given that the scene had already
25 been turned over, what if anything did you do or investigators

1 working with you?

2 A We -- We contacted the other person who lived there, who met
3 us at the apartment and let us in to -- to secure that item.

4 Q Okay. And directing your attention to what has previously
5 been admitted as Exhibit No. 38, do you recognize the item
6 contained?

7 A Yes, I do.

8 Q And was this the item that you recovered when you went back
9 and asked permission from the occupant?

10 A Yes, it was.

11 Q And where was this item recovered from?

12 A On the -- the table, the area where the table was broke in
13 the kitchen as you enter the apartment.

14 Q And in terms of the item that you took as a facsimile, it was
15 your understanding that you were taking it as a facsimile of the
16 weight and size of a table leg from that table; is that fair to
17 say?

18 A Yes.

19 Q Do you have any knowledge as to whether or not that was the
20 specific table leg that was used?

21 A I do not.

22 Q I'm going to show you what has been admitted as Exhibit 14.
23 And is this a fair and accurate representation of the condition
24 when you observed it as Trooper Perry was documenting the scene?

25 A Yes, it is.

1 Q And do you recall which of these items you recovered later?

2 A I do not recall which one.

3 Q Okay. But, again, you weren't necessarily associating it as
4 the one used but to show the height and density of it.

5 A Yes.

6 Q Now, normally in a call-out, a trooper that has the first
7 call would be the trooper to respond, and if additional help was
8 necessary a supervisor would make that decision?

9 A Yes.

10 Q And so, you were actually the third trooper called in when
11 the other two troopers, first call and second call, were
12 interviewing witnesses?

13 A Yes, I was.

14 Q Okay. Did you have any other role in connection with this
15 case, other than as you've described, coordinating things at that
16 location and retrieving the table leg?

17 A I did not.

18 Q Thank you.

19 THE COURT: Mr. Pasciucco?

20 MR. PASCIUCCO: No questions.

21 MR. KOUFMAN: Judge, I'd just like to ask a couple quick
22 questions about when he returned to the apartment, if I may.

23 THE COURT: Sure.

24 CROSS EXAMINATION OF WITNESS, TROOPER MICHAEL WILLIAMS

25 BY MR. KOUFMAN:

1 Q Trooper, my name is Victor Koufman and I represent the family
2 in this matter. I just have a couple quick questions.

3 So, the first time on February 3rd when you went to 1462 Main
4 Street, you went in to look at items of concern; is that correct?

5 A Yes.

6 Q And the item of concern that you noticed was the table; is
7 that correct?

8 A Did you say the first time?

9 Q Yes.

10 A The first time was the document the scene as it was. The
11 table, the -- The broken table leg was when we re -- when we
12 returned.

13 Q Okay. So, you went in, you documented it, and then you
14 returned to the station; is that correct?

15 A Yes.

16 Q And then when you returned to the station, you have
17 discussion with your colleagues.

18 A Yes.

19 Q And then you determine that there was a reason to go back to
20 get the table; is that correct?

21 A Yes.

22 Q Not the table; I'm sorry. The --

23 A The --

24 Q -- table leg.

25 A -- table leg.

1 Q So you went back to the apartment at 1462 Main Street; is
2 that correct?

3 A Yes.

4 Q And you went in and you went to get the item of concern; is
5 that correct?

6 A Yes.

7 Q And the only item that you obtained was the table leg; is
8 that correct?

9 A Correct.

10 Q And you didn't bring any other items back to the station; is
11 that correct?

12 A Just the table leg.

13 Q Thank you.

14 THE COURT: Thank you very much, trooper. You're excused.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Call your next witness.

17 MS. LYNCH: The next witness would be Alisha Zimmermann.

18 [ALISHA ZIMMERMANN, Sworn.]

19 DIRECT EXAMINATION OF WITNESS, ALISHA ZIMMERMANN

20 BY MS. LYNCH:

21 Q Good morning. If you would, would you -- That will amplify
22 your voice. Would you state your name and spell your last name
23 for the record.

24 A Alisha Zimmermann, Z-I-M-M-E-R-M-A-N-N.

25 Q And what is your occupation?

1 A I am a Forensic Scientist II with the Massachusetts State
2 Police Crime Lab.

3 Q And where do you report to work?

4 A Maynard, Massachusetts.

5 Q Now, how long have you worked as a forensic scientist at the
6 lab?

7 A Close to five years now.

8 Q And is there a particular unit that you're assigned to?

9 A I work in the postmortem toxicology unit.

10 Q Now, in terms of your work at the postmortem toxicology unit,
11 how long have you been assigned there?

12 A Since 2014.

13 Q And was it around that time that the postmortem toxicology
14 moved from UMass Medical to the lab itself --

15 A Yes.

16 Q -- in Maynard?

17 Now, what are your duties and responsibilities in that
18 position?

19 A As a Forensic Scientist II, I analyze a variety of b --
20 biological fluids using both screening and confirmatory techniques
21 in order to detect the presence of volatiles, drugs, or poisons.
22 I also perform batch review and do case prep report -- sorry --
23 case report preparation.

24 Q And what is batch review?

25 A Batch review is our first level of review. It's the easiest

1 way for us to review our analytical runs all at once. So, an
2 analyst will perform a task and then they will do a review of the
3 data and they will make a data package. And then someone else
4 will come and review that data package and make sure the protocols
5 were followed, all the data is scientifically correct, there's no
6 errors, and everything is correct -- was performed correctly. And
7 it's signed off in order to go into each case report.

8 Q So, in your capacity you do not only testing yourself but you
9 also do batch reviews --

10 A Yes.

11 Q -- for the work of other technicians.

12 Q Now, in terms of let's say the "client" of the postmortem
13 toxicology section, do you receive your samples from a particular
14 source?

15 A Yes.

16 Q And who do you receive those samples for?

17 A The evidence is submitted from the Office of the Chief
18 Medical Examiner's [sic].

19 Q And are you given -- Is the case given a number separate and
20 apart from any criminal investigation?

21 A Yep.

22 Q Lab number?

23 A Yes.

24 Q And when you complete your work and prepare a report, who is
25 that then sent to?

1 A It's sent back to the Medical Examiner who performed the
2 autopsy for that case.

3 Q Now, in terms of your educational background to prepare you
4 for your work as a toxicologist, can you generally describe that
5 for us?

6 A Yes. I received a Bachelor's of Science in forensic science
7 from the Pennsylvania State University and -- as a Master's of
8 Science in forensic science from Virginia Commonwealth University.

9 Q And in terms of your duties back in February of 2013, were
10 you assigned to conduct autopsy specimens submitted by the lab --
11 to the lab by the Office of the Chief Medical Examiner?

12 A Yes.

13 Q Now, in terms of the lab itself, are there two sections
14 concerning toxicology?

15 A Yes. There's a postmortem toxicology section and also a
16 toxicology section.

17 Q Okay. And they are not related. That is to say, one is for
18 casework and one is for the Medical Examiner's Office?

19 A Yes.

20 Q And are these cases handled differently?

21 A The testing is similar but we might have different tests for
22 postmortem than toxicology performs for their samples and vice
23 versa.

24 Q Okay. Now, in February of 2019, did you have responsibility
25 for postmortem toxicology testing of specimens for OCME

1 Case 18-1800, Alan Greenough?

2 A Yes.

3 Q And showing you what has previously been admitted as Exhibit
4 85 -- I believe it's 85 -- I would just show you this two-page
5 document contained therein, if I can get to it. Here we go. And
6 this -- entitled Commonwealth of Massachusetts Department of State
7 Police, Postmortem Toxicology Report. Two pages. Is this the
8 report that you issued as a result of your findings and tests in
9 this case?

10 A Yes, I did.

11 Q And in terms of your lab, the case number assigned to it is
12 denoted by 18-0300010019?

13 A Yes.

14 Q Now, in terms of doing postmortem toxicology, are there
15 standard tests that are done in every case that is submitted by
16 the OCME?

17 A Yes.

18 Q And what are the substances that are generally tested for?

19 A Every case, a volatile screen analysis is performed as well
20 as an eight-panel drug or drug class by enzyme-linked
21 immunosorbent assay, also known as ELISA, as well as a general and
22 known screen for pharmaceuticals or drugs of abuse.

23 Q And if there is a suspicion of a substance other than one in
24 the panels that you've described, that would be specially
25 requested?

1 A Yes, we perform it if the Medical Examiner requests it on our
2 sheet.

3 Q What are volatiles?

4 A Volatiles? Volatiles are a vol -- a volatile organic
5 compound. It just means it's a chemical compound that has a very
6 low boiling point. So, it is e -- easily evaporated into the air
7 from its, like, liquid or solid state.

8 Q And do you also test for the presence of ethanol?

9 A Yes.

10 Q And what are the specific drugs that you test for in the
11 general way?

12 A For the general known screen?

13 Q Yes.

14 A A general known screen, we test both acidic drugs and also
15 basic drugs. So, it could be any kind of pharmaceutical or abused
16 drugs we should be able to s -- detect that way.

17 Q Okay. In the general --

18 A Yep.

19 Q -- panel that you do in all cases?

20 Now, in terms of the ethanol testing, what substances do you
21 examine to determine the presence and comparative composition that
22 contains ethanol?

23 A Do you mean what do we test in our volatile screen, or just
24 specifically?

25 Q When you're testing to determine the presence of ethanol, --

1 A Yes.

2 Q -- that's a volatile?

3 A Yes.

4 Q Okay. And when you're testing, what substances submitted by
5 the Medical Examiner's Office did you test for the presence of
6 ethanol?

7 A Can I refer to the report?

8 Q With the Court's permission.

9 THE COURT: Sure.

10 BY MS. LYNCH:

11 A For this case, we tested the iliac blood that was sent. And
12 if we have a positive for any volatile, either the ethanol, the
13 methanol, isopropanol, or acetone that we test for, we will then
14 test a secondary sample just to confirm those results. So, in
15 this case we tested the vitreous humor, as well.

16 Q And what is vitreous humor?

17 A Vitreous humor is fluid from your eyeball.

18 Q Okay. And what is iliac blood?

19 A Iliac blood comes from your iliac vein in your body.

20 Q Now, is -- In -- Based upon your education, and your
21 training, and your experience as a toxicologist, is there a
22 particular sample or specimen that achieves more accurate reading
23 of the person's blood alcohol at the time?

24 A Yes, the vitreous humor does.

25 Q Now, in this case did you conduct the test for volatiles?

1 A Yes.

2 Q And what were the results of the test that you obtained?

3 A We found that in the iliac blood there was a 0.24-gram
4 percent of ethanol detected. There was no methanol, isopropyl, or
5 acetone present.

6 Q Okay. And in terms of the significance of a 0.25 result on
7 that test, what does that signify? You know, if you could make a
8 comparison, for example, to the laws regarding under the
9 influence.

10 A I can't state to that because the postmortem has to be
11 interpreted a little bit differently than an anti-mortem sample
12 would be.

13 Q Now, the vitreous humor test, what were the results of that?

14 A The ethanol was found to be a 0.27-gram percent. There was
15 no methanol, isopropyl, or acetone present.

16 Q Now, what significance if any do you attach to the difference
17 in results of a 0.25 from iliac blood and 0.27 from the vitreous
18 humor?

19 A Well, in the vitreous humor, since that is in an isolated
20 portion of -- resides in an isolated portion in your -- in your --
21 your body, that it is less -- has -- sorry -- has less effect for
22 decompositional changes. It is more of a stable concentration
23 than your blood might be, due to postmortem decompositional
24 changes or a bacteria that might add onto the ethanol
25 concentration.

1 Q And is the difference in results -- 0.25 and 0.27 -- is that
2 within the acceptable standard of deviation in the field of
3 toxicology?

4 A I do not know at this time.

5 Q With regard to your results, though, is it unusual to get two
6 different results, one for the iliac and one for the --

7 A No.

8 Q Now, in terms of the other substances that were tested, did
9 you perform screening tests to determine what tests you should
10 perform?

11 A Yes.

12 Q And can you tell us what screening tests you performed and
13 what the results of those tests were?

14 A For the ELISA screening we perform a eight -- it's an eight-
15 panel color test. And for this test we determined that there was
16 benzodiazepines present, fentanyl present, and also cannabinoid
17 present. From there, we then w -- performed quantitation to
18 determine the concentration that would be present for each of
19 these panels or these classes of drugs.

20 Q Okay. Just to stop you for a moment, were there screening
21 tests that were done that had negative results?

22 A Yes.

23 Q And what were the substances that were negative?

24 A We tested for amphetamine, buprenorphine, methamphetamine,
25 opiates, and that's it.

1 Q Now, in terms of --

2 A And cocaine, sorry.

3 Q Excuse me?

4 THE COURT: And those were all negative.

5 THE WITNESS: Those were all negative.

6 THE COURT: And can you tell -- I just want to make sure I
7 understand your testimony based on the questions the District
8 Attorney's been asking you. Are you able to tell from these
9 results when, prior to the person's death, they last consumed any
10 of these substances?

11 THE WITNESS: These -- We can tell that these were in their --
12 Not at the time. I cannot tell you, like, "They took it two hours,
13 four hours before." But at the time of death, they had these drugs
14 present in their system.

15 THE COURT: Right. But you can't tell if they took them
16 eight hours before or --

17 THE WITNESS: Yeah, I cannot. The Medical Examiner might be
18 able to --

19 THE COURT: Okay.

20 THE WITNESS: -- had -- additional to that --

21 THE COURT: Yeah.

22 THE WITNESS: -- based on their training.

23 THE COURT: Okay. Thank you.

24 BY MS. LYNCH:

25 Q And are you familiar with the concept of a half-life of --

1 A A --

2 Q -- medication?

3 A -- little bit.

4 Q Okay. And in terms of alcohol, are you familiar with the
5 metabolism rates for removal of alcohol from the bloodstream?

6 A I am not.

7 Q Okay. Now, with regard to the results of positive screening
8 on benzodiazepine, fentanyl, cannabinoid, and -- I believe those
9 were the three -- what further testing or analysis do you do to
10 confirm the results of the screening test?

11 A We performed a benzodiazepine panel quantitation, a can -- or
12 cannabinoid quantitation, as well as an opiate quantitation. So,
13 for your benzodiazepine quantitation, it was discovered that there
14 was 1.7 nanograms per milliliter of Clonazepam and its metabolite,
15 7-aminoclonazepam was at 25 nanograms per milliliter.

16 Q And are they consistent with being from the same ingestion of
17 the same medication? Would Clonazepam account for the
18 7-aminoclonazepam results?

19 A Yeah, 7-amino is the metabolite that it's -- Clonazepam's
20 reduced to in the body.

21 Q And do you know the difference between Clonazepam and
22 Klonopin?

23 A Clonazepam is a benzo but I'm not sure what Klonopin, off the
24 top of my head, is.

25 Q Now, in terms of the results of the cannabis finding, what

1 were the tests and the significance of the results?

2 A So, we performed the quantitation for our
3 tetrahydrocannabinol tests, or also known as THC. The THC was
4 detected to be at 6.1 nanograms per milliliter. And its
5 metabolite that we detect for, which is delta-9-carboxy-THC was
6 greater than 20 nanograms per milliliter.

7 Q And what were the results and significance of your findings
8 regarding the confirmatory test for fentanyl?

9 A So, we perform an opiate quantitation. And there was no
10 opiates detected. We only had the fentanyl-positive ELISA screen.
11 So, the fentanyl we discovered was 3.0 nanograms per milliliter.

12 Q Now, in the course of your work, are you familiar with a
13 substance known as IC Metoprolol Tartrate 25-milligram tablet,
14 also known as Lopressor?

15 A Lopressor? Metoprolol?

16 Q Yes.

17 A Yes.

18 Q And what is that?

19 A I believe that is a bl -- beta blocker.

20 Q And what about gabapentin 300 milligrams, also known as
21 Neurontin?

22 A Yes.

23 Q And what is that?

24 A I don't know, off the top of my head.

25 Q Okay.

1 A But we see it in testing.

2 Q Okay. Did you see gabapentin in the testing here?

3 A No. That would've been in our organic bases and neutrals,
4 which was "none detected."

5 Q So there were none detected of that type --

6 A Yep.

7 Q -- of drug.

8 And what about the substance Dilantin, also known as pheny --
9 P-H-E-N-Y-T-O-I-N SO-X 100-milligram tablets, also known by the
10 name Dilantin, 100 milligrams?

11 A Yes, we would've seen that in our acid fraction, which we did
12 not run.

13 Q And in terms of Cetirizine, C-E-T-I-R-I-Z-I-N-E,
14 prescription-strength antihistamine, was that detected in the
15 results of your toxicology testing?

16 A No. That would've been present in the organic bases and
17 neutrals as well, if it was present.

18 THE COURT: So, Ms. Lynch, were those all of the -- Did you
19 just go through all the prescription drugs in the prior exhibit?

20 MS. LYNCH: Yes, Your Honor.

21 THE COURT: Okay. Is there any one -- 'cause I think she
22 just testified that there was one that they did not test for. Is
23 there anyone that as part of the state police investigation -- who
24 would specifically ask them to test for everything that --

25 MS. LYNCH: It would be the Medical Examiner's Office. The

1 consumer for postmortem is the ME's Office.

2 THE COURT: Okay. Thank you.

3 MS. LYNCH: Thank you, Ms. Zimmermann.

4 THE COURT: Thank you.

5 MR. PASCIUCCO: I just have a few questions.

6 CROSS EXAMINATION OF WITNESS, ALISHA ZIMMERMANN

7 BY MR. PASCIUCCO:

8 Q Good morning, ma'am.

9 A Good morning.

10 Q My name's Peter Pasciucco. I represent Officer Erik
11 Drauschke. You indicated with respect to the levels of ethanol
12 that were detected --

13 A Mm-hmm.

14 Q -- it's compared differently anti-mortem versus postmortem?

15 A Yes.

16 Q Can you just explain a little bit why that is?

17 A I don't have that much, like, -- Based on my training, we
18 don't really discuss and interpret it. But postmortem alcohol can
19 have factors that attribute to its concentration being different
20 than at the time the person was drinking or at the time of death,
21 due to how it's stored, bacterial changes, temperature, how long
22 the body was -- before it was discovered, before the ME took the
23 blood. So, the 0.25, all I can tell you is that is -- can -- may
24 not be exactly what the person was at at the time of death.

25 Q Okay. ,

1 A That would be a Medical Examiner explanat -- more of an
2 explanation.

3 Q Okay. But from your understanding of it, could the
4 concentration be higher?

5 A Yes.

6 Q Okay. Now, you receive requests for toxicology comparisons
7 from the Medical Examiner; is that fair to say?

8 A Yes.

9 Q Okay. Have you received requests from the Medical Examiner
10 to conduct toxicology reports on individuals who -- assumed to
11 have overdosed from a substance?

12 A Yes.

13 Q Okay. Have you conducted toxicology results on individuals
14 who were assumed to have overdosed as a result of fentanyl?

15 A Yes.

16 Q Okay. And the reading that you -- or the quantitation that
17 was received in this case with respect to fentanyl was 3.0
18 nanograms per milliliter; is that correct?

19 A Yes.

20 Q In your experience, has that level ever been met in terms of
21 someone who's overdosed as a result of fentanyl?

22 A I do not know. That's a Medical Examiner interpretation --

23 Q Okay.

24 A -- that needs to be done.

25 Q Have you ever seen that result before?

1 A Yes.

2 Q Something similar to that?

3 A Mm-hmm.

4 Q With respect to a case you've received from the Medical
5 Examiner where it's been suggested that the individual overdosed
6 as a result of fentanyl?

7 A Yes.

8 Q Okay. Thank you.

9 THE COURT: Attorney Koufman, do you have an offer?

10 MR. KOUFMAN: Yes. It would just be on the [Indiscernible at
11 10:43:37 a.m. - speaking away from microphone].

12 THE COURT: Okay.

13 CROSS EXAMINATION OF WITNESS, ALISHA ZIMMERMANN

14 BY MR. KOUFMAN:

15 Q Ma'am, are you familiar with the -- I'm sorry; my name is
16 Victor Koufman and I represent the family of Alan --

17 A Yes.

18 Q -- Greenough.

19 Clonazepam is a benzodiazepine; is that correct?

20 A Yes.

21 Q And benzodiazepine, they work to depress and slow down the
22 system; is that correct?

23 A I do not know its actual workings in the body.

24 Q Thank you.

25 THE COURT: Okay. Thank you very much, ma'am, you're

1 excused.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you.

4 [Witness steps down]

5 THE COURT: I'm going to let her step out before you call
6 your next witness. I just have a question based on the original
7 list and names of witnesses and other involved persons I got from
8 the District Attorney's Office.

9 MS. LYNCH: Mm-hmm.

10 THE COURT: And I probably have this information. But I
11 assume obviously because it was an officer-involved shooting that
12 Officer Drauschke was drug tested, and alcohol, by someone. Yes
13 or no?

14 MS. LYNCH: No. He was taken to the hospital. I don't know
15 what was done there, I should say, Your Honor. I'm sorry.

16 THE COURT: Okay. And is that not protocol after an --

17 MS. LYNCH: No.

18 THE COURT: -- officer-involved shooting? No? Okay.

19 MS. LYNCH: I'm -- No, it's not.

20 THE COURT: Okay. All right. You can call your next
21 witness.

22 MS. LYNCH: Your Honor, Officer Kevin Lannan, please. And
23 this evidence, Your Honor, relates to September 1st of --

24 THE COURT: Sure.

25 MS. LYNCH: -- 2017.

1 THE COURT: All right. I'm sorry. I just want to go back.
2 That's not ever protocol in an officer-involved shooting, or just
3 not in your experience?

4 MS. LYNCH: We don't -- There are union rules that are
5 followed as the protocol, what happens afterwards. But it -- We
6 have no authority to order anyone to take a drug or alcohol test.

7 THE COURT: All right.

8 MR. PASCIUCCO: Your Honor, I do believe my client's blood
9 was taken at the hospital while --

10 THE COURT: All right.

11 [OFFICER KEVIN LANNAN, Sworn.]

12 DIRECT EXAMINATION OF WITNESS, OFFICER KEVIN LANNAN

13 BY MS. LYNCH:

14 Q Good morning, sir. If you would have a seat. And if you
15 would state your name and spell your last name for the record.

16 A Yes. My name is Kevin Lannan, L-A-N-N-A-N.

17 Q And what is your occupation, sir?

18 A I'm a patrolman with the Winchester Police Department.

19 Q And how long have you been a patrolman with the Winchester
20 Police Department?

21 A Five years and a month today.

22 Q Directing your attention to September 1st of 2017, at
23 6:40 p.m. or thereabouts were you on duty with the Winchester
24 Police?

25 A Yes.

1 Q And what was your particular assignment that evening?

2 A I was a patrolman in the 929 car.

3 Q And in terms of the 929 car, is that within -- where is the
4 Winchester Hospital, within that sector?

5 A Yes.

6 Q Were you in plain clothes or uniform that night?

7 A Uniform.

8 Q And did you -- were you assigned to a marked police vehicle?

9 A Yes, the 929 cruiser.

10 Q And on that particular evening were you assigned to that
11 vehicle alone or with a partner?

12 A By myself.

13 Q Now, at that approximate time, 6:40 p.m., did you receive an
14 assignment?

15 A Yes. We got a call about a disturbance at the hospital.

16 Q And that's the Winchester Hospital?

17 A Yes.

18 Q As a result, what if anything did you do?

19 A I got there f -- first, considering that it's my sector and m
20 -- I'm closest to there. And I parked by the emergency bay where
21 the ambulances pull in. I parked so I don't disturb the
22 ambulances. But I can park there. And we have a key fob in every
23 single one of our cruisers that allows us to gain entry to the
24 emergency room.

25 Q Now, in terms of the original call, were you -- was it

1 | directed to the emergency room at the hospital?

2 | A Yes.

3 | Q So, did you go into the hospital at that time?

4 | A Yep. Yes.

5 | Q What did you observe or what greeted you when you arrived
6 | there?

7 | A So, when I first walked in I saw hospital staff, like nurses
8 | and such, and several security guards escorting a -- a white male
9 | into the first hospital room when you walk in the emergency door.
10 | You go to the left and there's, you know, emergency rooms right
11 | there. And he was being put into that room right to my left.

12 | Q And was he on a gurney or was he standing at that time?

13 | A He was standing.

14 | Q Now, did you later learn the identity of this individual?

15 | A Yes.

16 | Q And who was that?

17 | A Alan Greenough.

18 | Q Had you ever met or heard of or known Mr. Greenough prior to
19 | that time?

20 | A First and only time.

21 | Q Once you made this observation, did you seek any information
22 | from any of the hospital personnel concerning what had happened?

23 | A Yes. Nurse Practitioner Dermot Lahey, he was the one
24 | assigned to Alan or Mr. Greenough. And he had told me that Mr.
25 | Greenough had come in via Reading ambulance moments ago. And

1 | apparently he had a seizure after a -- an -- an alcohol binge, is
2 | the way he described to me.

3 | Q And did he indicate what happened once he was brought into
4 | the hospital?

5 | A Yes. So, he was allowed to use the restroom. And I guess
6 | when he went to go to the bathroom he tried to flee the scene from
7 | the hospital, you know, evade hospital staff and security.

8 | Q And did they indicate that they stopped him for his own
9 | safety and the safety of others?

10 | A Yes.

11 | Q Now, other than you, you mentioned that the hospital itself
12 | has security?

13 | A Mm-hmm.

14 | Q And so, these are security guards that can help quell a
15 | situation if necessary?

16 | A Yes.

17 | Q And then, the next level would be contacting the police for
18 | assistance?

19 | A Yes.

20 | Q And are these security guards in uniform, as well?

21 | A They are.

22 | Q Now, in addition to you and the security officers, did you
23 | learn that there was a North Reading police officer at the
24 | hospital?

25 | A Yes.

1 Q And what role if any did he play prior to your arrival, if
2 you were informed?

3 A So, I talked to him. I -- I believe his name was Mike
4 LeBlanc with North Reading Police. He was there on his own
5 accord, nothing to do with Mr. Greenough. And I just spoke with
6 him briefly and he had said that he was right there when Mr.
7 Greenough tried to -- to run away. So, he assisted in -- in
8 making sure he -- he didn't leave.

9 Q And was he also in uniform?

10 A Yes, I believe so.

11 Q Now, as a result of receiving this preliminary information,
12 what if anything did you do?

13 A I then entered the room where Mr. Greenough was and at that
14 point he was on the bed. Is -- Is that what you're --

15 Q Yes.

16 A Are you asking me -- Okay. And he was -- he was on -- on a
17 hospital bed. And he was, you know, acting very chaotic. He was
18 -- He was yelling, swearing, he didn't know why he was here. He
19 was asking who I was.

20 Q Were those the words he used?

21 A Not -- Not those exact words, but -- get the gist of it.

22 Q In terms of his volume and tone, what did you observe about
23 that?

24 A He was loud. You know, the hospital emergency room is -- is
25 crowded most of the time with -- with other people seeking

1 treatment or help or care. And he was -- he was very, very
2 disruptive to -- to everybody involved, patient or employee.

3 Q And in terms of the volume, was it loud?

4 A Very.

5 Q Now, about how long a period of time did this go on for?

6 A Approximately 10 minutes. It -- You know, it -- it was me
7 along with hospital staff personnel just -- just trying to tell
8 him to be calm, that he's here because we're here to care for him.
9 You know, he's not in trouble in any way. And he wasn't very
10 receptive to it for -- for about 10 minutes.

11 Q And then what happened after 10 minutes?

12 A After 10 minutes and, you know, several warnings later by
13 hospital staff, he --

14 Q What were the warnings?

15 A The warnings were, "If you aren't able to calm down, you
16 know, we're going to have to turn this over to the police because
17 we can't do our job if you don't let us help you do --"

18 Q And thereafter he agreed to cooperate with the medical --

19 A Yes. He -- He --

20 Q -- personnel?

21 A He eventually became calm and -- and -- and cooperative. And
22 me along with s -- ho -- hospital security and the -- and the
23 hospital nursing staff, we -- we -- we walked all together to the
24 -- to the x-ray room where he was going to get a CAT scan because
25 he had a seizure.

1 Q And is that the same level as the ER?

2 A I believe so.

3 Q Now, when you got to the CAT scan room, did something happen?

4 A Not that I'm aware. When we got to the room, everything was
5 calm. Mr. Greenough was -- was calm and cooperative. And he
6 entered the room with nursing staff. And while outside, I was
7 standing with hospital security and they -- they said that "I
8 think we can handle it from here and your presence is no longer
9 needed."

10 Q How long a period of time would you approximate it was that
11 you were in Mr. Greenough's presence at the hospital up to that
12 point?

13 A Approximately fif -- 15 minutes, give or take.

14 Q And what observations if any did you make concerning Mr.
15 Greenough's physical appearance or condition as it related to his
16 sobriety?

17 A He didn't look like he was at his most healthy, you know.
18 He's -- He was pale, skinny.

19 Q Did you make any observations concerning his sobriety?

20 A Yes. He -- He appeared to be -- or he was under the
21 influence, yes.

22 Q And what were the symptoms that led you to form that
23 impression?

24 A He was unruly, uncooperative, loud, chaotic in his -- his
25 manner, you know, not -- not stationary or anything like that,

1 always kind of s -- struggling and stuff like that. He wasn't
2 falling down drunk or anything like that. And at no -- And at no
3 point, you know, did I give him a -- a portable breath test or
4 anything like that. This is just, you know, hearsay from what the
5 nurse had told me --

6 Q Sure.

7 A -- about him being on an alcohol binge.

8 Q Now, in terms of the security guard telling you you could go,
9 where did you go at that point?

10 A At that point, I -- I started to exit the hospital. And I
11 walked out the emergency room doors, the same doors that I
12 entered. And as I was about to put my key into the -- the -- the
13 lock to unlock my cruiser and take off, one of the nursing staff
14 members came out and said, "Mr. Greenough is being uncooperative
15 again and we -- we need -- we need your assistance."

16 Q As a result of that, did you do anything?

17 A Yes. I -- I radioed my sergeant, Sergeant Limoncelli, who
18 was our road supervisor at the time. I told him that nursing
19 staff said that Mr. Greenough was acting out again and I was
20 reentering the hospital.

21 Q And once you notified your superior of that, what happened
22 next?

23 A I went inside and Mr. Greenough ack -- I'm a little fuzzy on
24 -- on where exactly he was at that time. I think he was back near
25 the room where I initially found him. And he was just, you know,

1 acting out again, loudly, flailing around.

2 And Nurse Practitioner Lahey t -- told me that they looked at
3 his CAT scan results, everything was fine, and he was discharged
4 from the hospital. And that's when I determined for his safety
5 and the safety of others and -- and -- and the fact that nobody
6 else was there to take custody of him that he would be placed into
7 protective custody.

8 Q And in terms of protective custody, what was the specific
9 issue that you had?

10 A He was a danger to himself and needed someone -- needed
11 someone to take care of him. And if -- if it wasn't going to be s
12 -- someone, it was going to have to be us 'cause we were -- we
13 were called.

14 Q "Us" being the police.

15 A Yes.

16 Q Okay. Now, as a result of that, what if any did you do in
17 order to take Mr. Greenough into protective custody?

18 A I advised Mr. Greenough that he was discharged from the
19 hospital and he would be placed in protective custody. And in
20 protective custody, you're not under arrest in any sort of way.
21 It's just -- It's just --

22 Q And you told this to Mr. Greenough?

23 A Yes. He wasn't in arrest, he wasn't in trouble. We were
24 just going to take care of him until he was of sober, right-enough
25 mind to -- to leave on his own -- own -- on his own will.

1 And he did not like the fact that he was going to be taken to
2 the police station. He tried to run away from us. We had to s --

3 Q When you say "us," who did --

4 A Sorry. He ran away from myself and hospital -- hospital
5 staff. So, like he did before, we prevented him from leaving, you
6 know, because if he left, you know, god knows what -- what
7 could've happened. You know, he could've walked into the street;
8 he could've, you know, ran into somebody. Something -- Something
9 along that nature.

10 So, we prevented him from leaving. And I -- I placed
11 handcuffs -- you know, I put his arms around his backs, handcuffs,
12 with the assistance of hospital staff. I searched him, just to --
13 just as a safety precaution for myself, for weapons and such. And
14 me and hospital security escorted him outside.

15 Q Now, at the time, do you recall what type of clothing Mr.
16 Greenough was wearing? Was he wearing, like, a hospital gown or
17 was he wearing street clothes?

18 A I believe he was still in his n -- in his gown.

19 Q Now, in order to get him outside, did you have to walk with
20 him for a distance?

21 A Yeah. I -- You know, I was holding his -- his arm in a way to
22 help escort him. And he actually started to become relatively calm
23 when we were exiting the hospital. You know, I -- Over the course
24 of this whole -- what we're talking about, he did -- he did calm
25 down at certain points with me. You know, and I s -- I saw a side

1 of him, that, you know, he can get s -- get through to him. But
2 most of the time, once -- once we walked out of the hospital -- And
3 that's when my ser -- my -- Sergeant Limoncelli was on-scene. Then
4 he started becoming op -- op -- You know, as soon as I was getting
5 him to the cruiser door to put him in, then he just -- he just once
6 again started fighting w -- fighting with us, you know, refusing to
7 get in, and -- and -- But we -- I mean, we were eventually able to
8 -- to get him into the cruiser. But he was -- he was fighting with
9 us the whole way.

10 Q And did he sustain any injuries in that regard?

11 A No. Or not -- not that I'm aware of. No. And he wasn't
12 complaining of anything.

13 Q Okay. So you get him in. But when you were getting him in,
14 did he have to -- did his head hit any objects that you were aware
15 of?

16 A No, no. When we were putting him in, we were just -- Y --
17 You know, we -- we put -- put with the rear end first, and then
18 you swing your legs in. So, he was kind of going in an -- I d --
19 I don't know how to describe it. Just kind of like turtle-like,
20 you know.

21 Q And at some point he was secured in the back of your cruiser?

22 A Yes.

23 Q And what happened next?

24 A I transported him from the hospital to our police station. I
25 called in starting mileage and ending mileage. And my sergeant

1 was following me back. And we -- And we brought him to the
2 station and pulled -- I pulled into the sally port which leads
3 into the booking room.

4 Q And so as you were driving, you could see that Sergeant
5 Limoncelli was behind you?

6 A Yes.

7 Q Now, at the point when you arrived at the sally port of the
8 Winchester police station, what if anything happened at that time?

9 A Mr. Greenough was continually yelling profanities, you know,
10 saying stuff like "I'm going to sue you." He was -- You know, he
11 was pretty combative even with handcuffs when getting him out of
12 the cruiser. Once we got him into the booking room, he was
13 telling me, Sergeant Limoncelli, and Sergeant Filtzer, our officer
14 in charge and our booking officer, he was telling us to go -- and
15 I quote -- to go fuck ourselves and "I'll sue you." And he was --
16 he was trying to run away from us in the booking room. He
17 wouldn't allow me to take his handcuffs off. He was kicking at us
18 with his feet. Stuff like that.

19 Q Now, as a result of this, was he able to be booked at that
20 time by Sergeant Filtzer?

21 A Initially, no. So, in order to calm him down -- Like I said,
22 we weren't able to even get the handcuffs off him 'cause he was
23 fighting us. We -- We had to place him in a temporary holding
24 cell located in the booking room. It's, you know, a normal door,
25 steel door with, you know, a window in front of it. And we placed

1 him in the holding cell, the temporary holding cell, to -- to just
2 calm him down. It was -- It was -- He was just having a tantrum.
3 It was -- You know, we just had to have him burn it out, in a way.

4 Q And so, while he was in this temporary holding cell, were you
5 able to see or hear him from your vantage point outside of it?

6 A Yes. I mean, everybody including the dispatchers could hear
7 him. And he was -- he was kicking the door, which makes a loud
8 noise. He was yelling at the top of his lungs. The window that
9 you see my -- Sergeant Filtzer, the -- the OIC, the booking
10 officer, he was looking inside that window. And he was smashing
11 his head against the walls, kicking his feet against the walls,
12 flailing around. And this was multiple times for about
13 approximately 10 minutes.

14 Q And at some point did he calm down?

15 A He did eventually calm down.

16 Q Do you know how that came about?

17 A Sergeant Filtzer was just kind of talking to him through the
18 door. And, you know, nobody wants to be in a -- in a room that's,
19 you know, like, 8-by-8. Kind of, like, stuffy. You know, you get
20 claustrophobic. So, I think, you know, him burning himself out,
21 Sergeant Filtzer, you know, telling him calming words, I think he
22 -- he -- he tired himself out and -- and --

23 Q So, when you say burning out --

24 A Burning out. I just mean like kind of just getting --
25 getting -- getting all his -- his tantrum out, in a sense.

1 Q And so, at some point did you observe whether he was removed
2 from the holding -- temporary holding?

3 A Yes. When me and both my sergeants were -- were there when
4 we -- when we opened the door and he's -- and he's --

5 Q And that's Limoncelli and --

6 A Yes, Sergeant Limoncelli and Filtzer.

7 Q What happened then?

8 A When we had him come out, he had a -- like a golf ball sized
9 bump on his -- I believe his left forehead that was not there
10 prior to anything before. And most like -- And what happened was
11 it was him headbutting concrete walls and steel doors and stuff
12 that -- that -- that caused him to do that.

13 But he was calm at that point. That way, we were able to,
14 you know, take his handcuffs off and -- and go through normal
15 booking procedures after that.

16 We had asked him if he would like to seek medical treatment
17 and have the paramedics come by, and he refused.

18 Q And what -- Was there concern after he refused medical
19 treatment, as to whether or not he needed medical treatment?

20 A You know, if he wants to refuse, he can -- he can refuse.
21 But he wasn't acting in any sort of different way than his
22 belligerent, you know, stat -- state.

23 Q So, even though he had calmed down, he remained belligerent?

24 A Yeah. You know, it -- it was a long process, you know,
25 eventually getting through booking. We got through it. But, you

1 know, it -- the whole time, like I said, he was, you know, telling
2 us to go fuck ourselves. He told Sergeant Limoncelli, you know,
3 "If I see you outside without your uniform on, I -- like, I can't
4 wait." Something along those lines. Hew as saying how he's got
5 police officer friends, he's going to call his lawyer, just thing
6 -- things of that nature.

7 Q And was he ever using profanity while he was at the police
8 station?

9 A The -- The whole -- The whole time with him.

10 Q Now, given that he was in protective custody, was he given an
11 opportunity to call friends of family to arrange to pick him up
12 and take him from the station?

13 A Yes, right after booking he was allowed.

14 Q And so, the booking took place somewhere between seven and
15 seven-thirty or thereabouts; is that fair to say?

16 A Yeah, sounds about right.

17 Q And was he able to initially reach anyone willing to come and
18 pick him up?

19 A Not at that time, no.

20 Q Now, once he was booked and given an opportunity to call
21 people, did he go somewhere? Was he placed somewhere or did he
22 remain in the booking area?

23 A He was in the booking area while -- while placing a call. You
24 know, with -- with anybody, you -- you know, even with arrests, you
25 know, -- This was just a PC. We -- We weren't -- He wasn't in

1 trouble in any sort of way. And he -- he just wasn't receptive to
2 anything we were trying to get through to him. And -- But just
3 like everybody even who's under arrest, he -- he has the right to
4 call. He can even use his own cell phone and -- and -- and I -- I
5 can't recall how many times or how many people he called. And I
6 believe maybe one time he got through to someone but they declined
7 to come pick him up. But that's kind of how it went -- went down.

8 Q Now, at some point after he had exhausted the calls for
9 someone to pick him up, did he go from the booking room, somewhere
10 else?

11 A Yeah. Me and Sergeant Filtzer escorted him into Holding
12 Cell 2.

13 Q Now, once that was accomplished, up until that point had you
14 completed your police report in this case?

15 A No. After he was placed in the holding cell, Sergeant
16 Filtzer allowed me to go down back to our muster room, which is
17 our meeting room and where we have two computers. And he said,
18 you know, "You -- You're -- You can start writing -- writing the
19 report."

20 Q Okay. And so, did you do it at that point?

21 A Yes.

22 Q Where is that room situated in relation to where the holding
23 cell was?

24 A So, the h -- the h -- s -- We -- We come in a back door.
25 When you -- Right when you walk in the back door, when you take a

1 right, that's our muster room. And then straight ahead is the
2 booking room. And then directly next-door to the booking room is
3 where the holding cells are. So, with door -- The -- You know,
4 all the doors are open between that. So, I mean, it's -- it's no
5 more than, you know, 15-20 feet if you were to do a straight --
6 straight line.

7 Q Now, as you were writing your report at that time, were you
8 able to make any observations either by sight or sound of Mr.
9 Greenough?

10 A Yeah, by -- by sound. I -- I can't see him from -- from
11 where I am. But the whole time, he was kicking the -- the cell
12 door. And, you know, the report took me maybe 25-30 minutes. You
13 know, 20-30 minutes. You know, usually reports, you know, with --
14 with all of everything that happened, it will take that long. And
15 pretty much the whole time, I heard him, you know, just banging on
16 the cell door saying, "I'm going to do it all night, you know, un
17 -- unless someone -- someone listens to me."

18 And Sergeant Limoncelli, who was on the desk at the time, --
19 We have, you know, monitors of -- of each -- the holding cells so
20 if someone's in there we can, you know, monitoring them. And he
21 had told me specifically that he observed Mr. Greenough shoving
22 toilet paper roles into the -- the toilet in there.

23 Q And so, was this reported to you for inclusion in your police
24 report?

25 A Yeah. Yes, yes.

1 Q And in terms of the observations, you wrote the report for
2 this event for all officers involved?

3 A Yes.

4 Q Now, how long a period of time -- Well, as you were at the
5 police station -- Directing your attention to the time 9:35 or
6 thereabouts, were you still at the station at that time?

7 A Yes. I -- I -- I know that his -- a friend of his, a Mr. --
8 a Mr. Burke came to take custody of Mr. Greenough. I personally
9 don't know if Sergeant Filtzer or Sergeant Limoncelli were the
10 ones who w -- a -- you know, allowed Green -- Mr. Greenough to
11 either get in touch with him or this James Burke had called us. I
12 -- I'm not aware of that situation.

13 Q All right.

14 A I just know that his friend, at 9:35, came to take custody of
15 Mr. Greenough.

16 Q Okay. And you were aware of that --

17 A Yes.

18 Q -- at the time.

19 Now, did you see or hear Mr. Greenough being released from
20 the holding cell?

21 A Yes. So, I had walked up from my computer to the OIC office.
22 Mr. Greenough, I believe, had already been taken out of the
23 holding cell and was, you know, walking out to the -- to our main
24 front lobby. And he was with Sergeant Limoncelli and his friend.
25 And that whole time, I heard and then when I eventually saw him he

1 was, you know, doing the same thing: just swearing, threaten --
2 threatening, you know, "Can't wait to see you on the outside,"
3 stuff like that.

4 Q At some point did he leave the police station?

5 A He did.

6 Q And after he left the police station, did you learn that he
7 had begun to call the Winchester Police main number several times?

8 A Yes. I -- I didn't hear or see them all but I was up the
9 front -- by the OIC desk when he called, you know, two or three
10 times.

11 Q And what was the general nature of those calls?

12 A Like I said, I -- I wasn't on the phone with him. But, you
13 know, my s -- my sergeant, Sergeant Limoncelli, told me he was
14 just calling over and over, you know, doing the same thing over
15 the phone: threatening and stuff like that.

16 Q Okay. And in terms of that, that was something that you also
17 included in your report, based upon the representations --

18 A Yes.

19 Q -- of Sergeant Limoncelli?

20 A Yes.

21 Q After Mr. Greenough left the police station that night, did
22 you ever see or speak to him yourself again after that?

23 A No. First and only time.

24 Q Did anyone -- Up until the date February 3rd of 2018, had
25 anyone discussed with you whether at the Winchester police station

1 or any outside person -- contact you concerning Mr. Greenough and
2 his behavior that night?

3 A No, not that I can recall.

4 Q Okay. And at some point do you recall being contacted after
5 the events in Winchester on February 3rd of 2018?

6 A Yes. I'm not completely sure of how or when, but I did find
7 out I think from a colleague. But like I said, I -- I can't
8 remember the exact whereabouts or what happened. But I was made
9 aware that -- of what happened to Mr. Greenough.

10 Q And you indicate that you had observed that he had basically
11 a goose egg or something of that nature?

12 A Yeah, yeah.

13 Q A bump on his --

14 A Yeah.

15 Q -- left forehead? And was there any other injuries that you
16 observed during the time that he was in your company that night?

17 A No.

18 Q Now, Officer Lannan, I'm showing you this document --

19 A Mm-hmm.

20 Q -- consisting of three pages. Does this appear to be a copy
21 of the report that you prepared on September 1st of 2017 to
22 document the events that you've described this morning?

23 A Yes.

24 Q And does this indicate that this report itself was printed on
25 February 4th at 9:21 a.m.?

1 A It appears so, yes.

2 Q Okay. And does this appear also to have a fax number at the
3 top dated February 4th?

4 A Yes.

5 MS. LYNCH: I would just ask that this be admitted as the
6 next exhibit.

7 [Winchester Police Report Marked as Exhibit No. 118]

8 MS. LYNCH: Thank you, officer.

9 THE WITNESS: Thank you.

10 MS. LYNCH: If you could just remain.

11 THE WITNESS: Okay.

12 THE COURT: Attorney Pasciucco?

13 MR. PASCIUCCO: Sure.

14 CROSS EXAMINATION OF WITNESS, OFFICER KEVIN LANNAN

15 BY MR. PASCIUCCO:

16 Q Good morning, officer.

17 A Good morning.

18 Q My name's Peter Pasciucco. I represent Officer Erik
19 Drauschke. I just have a couple questions for you today.

20 Now, sir, this incident with Mr. Greenough occurred on
21 September 1st, 2017, --

22 A Mm-hmm.

23 Q -- correct?

24 A Yes.

25 Q Did you -- Does Winchester Police have an internal affairs

1 division?

2 A Not -- Not that I'm aware.

3 Q How are internal complaints -- Excessive force complaints
4 against officers, how are those handled within the department, to
5 your knowledge?

6 A It will go through the chief and the lieutenant in charge.

7 Q Do you know whether a complaint was filed by Alan Greenough
8 or someone on his behalf against you or other officers in the
9 Winchester Police Department --

10 A No.

11 Q -- with respect to excessive force?

12 A No.

13 Q Okay. You've never been notified of that?

14 A No.

15 Q Okay. And to your knowledge has a lawsuit been filed against
16 you or other members of the Winchester Police Department as a
17 result of actions involving Alan Greenough that evening?

18 A No.

19 Q Okay. Thank you, sir.

20 THE COURT: Attorney Koufman, do you have an offer?

21 MR. KOUFMAN: Yes. I would just offer about some behavior of
22 Alan Greenough on the evening in question.

23 THE COURT: Okay.

24 CROSS EXAMINATION OF WITNESS, OFFICER KEVIN LANNAN

25 BY MR. KOUFMAN:

1 Q Officer, my name is Victor Koufman and I represent the
2 family, Alan Greenough's family. I just have a few questions for
3 you.

4 A Okay.

5 Q When you arrived on September 1st of 2017 at the Winchester
6 Hospital, you spoke with Nurse Practitioner Lahey; is that
7 correct?

8 A Yes.

9 Q Now, at the time that you -- when you got there, it was clear
10 that Alan Greenough was acting up.

11 A Yes.

12 Q Summarizing, okay. And you were there for about 10 minutes,
13 is that correct?

14 A Yes.

15 Q And then at that point you were able to calm him down; is
16 that correct?

17 A Yes.

18 Q And you were able to calm him down to the point where you
19 felt comfortable leaving the hospital; is that correct?

20 A Yes.

21 Q And you did that by talking to him and by sitting with him
22 and speaking with him; is that correct?

23 A Yes.

24 Q Okay. And so, then you're called back into the hospital by
25 somebody because he was acting out again; is that correct?

1 A Yes.

2 Q Okay. And so, then you went back in and you spoke with him
3 some more; is that correct?

4 A Yes.

5 Q And again you were able to calm him down before you walked
6 him out of the hospital; is that correct?

7 A Yes, r -- rela -- relatively.

8 Q Okay.

9 A You know.

10 Q But you had -- By talking to him, you had the effect of being
11 able to calm him down.

12 A Yes, I -- Like I said, I -- There -- There were points where
13 you could see, you know, he -- he could get -- could be -- you
14 know, someone could get to him.

15 Q Right. While you placed him --

16 A Yes.

17 Q -- in protective custody; --

18 A Yes.

19 Q -- is that correct?

20 A Yes.

21 Q And at that point you didn't charge him --

22 A Yeah.

23 Q -- with any kind of criminal offense; is that correct?

24 A Yes. He was made aware, you know, he wasn't in any sort of
25 trouble. This was just us -- It was just safekeeping of him --

1 Q Right.

2 A -- until he was able.

3 Q So you were able to reason with him, to walk him out of the
4 hospital; is that correct?

5 A Yes.

6 Q So then you get outside and you and the -- you're walking to
7 the cruiser. And then he started to get upset again; is that
8 correct?

9 A Yes. He didn't like the thought of being put in the rear of
10 a cruiser.

11 Q Okay. And he was in handcuffs at that time?

12 A Yes.

13 Q Oh, incidentally, you mentioned that you thought he might've
14 been under the influence at the time?

15 A Yes.

16 Q It doesn't say that in your police report, though, does it?

17 A It just says what Nurse Practitioner Lahey had told me.

18 Q Okay. So that wasn't your own personal observations. You
19 didn't include any personal observations in the police report that
20 he was under the influence; is that correct?

21 A If it's not in there, no.

22 Q So, then, is there a struggle at the cruiser before you place
23 him within the cruiser?

24 A Not so much a struggle. It's just him --

25 THE WITNESS: Can I stand up for a minute, --

1 THE COURT: Sure.

2 THE WITNESS: -- Your Honor?

3 BY MR. KOUFMAN:

4 A So, we're trying to put him in and he's just refusing to get
5 in.

6 Q Okay.

7 A Just locking himself up.

8 Q And did he start doing that when you -- as you approached the
9 hood of the cruiser?

10 A Wasn't at the hood. It's the -- the right rear seat --

11 Q Right rear seat.

12 A -- is where we had him.

13 Q Up at the cruiser. And at that point he was in handcuffs; is
14 that correct?

15 A Yes. But he was being difficult while escorting him when he
16 -- we -- when we were walking him to the cruiser.

17 Q But he resisted as he was trying to get into the cruiser; is
18 that correct?

19 A Yes.

20 Q Okay. But not to the point where you ended up charging him
21 with any criminal offense.

22 A I didn't charge him with anything.

23 Q Okay. And so then you get to the police department; is that
24 correct?

25 A Yes.

1 Q And he's placed in a cell to help him -- holding cell,
2 temporarily, to help him cool down; is that correct?

3 A Yes.

4 Q And then you said that he was -- I'm sorry; I forgot his
5 name. Sergeant Filtzer?

6 A Yes.

7 Q Sergeant Filtzer who was booking him; is that correct?

8 A Yes.

9 Q And Sergeant Filtzer had an opportunity to speak with him; is
10 that correct?

11 A Yes.

12 Q Okay. And at that point -- At some point Sergeant Filtzer
13 could speak with him to the point that he was able to book him.

14 A Yes. But this was only after he was put in a holding cell
15 and kicked and headbutted the walls for about 10 minutes.

16 Q Okay. But Sergeant Filtzer was -- I'm sorry if I'm
17 mispronouncing his name. But Sergeant Filtzer was able to calm
18 him down so he could book him; is that correct?

19 A Yes.

20 Q And you said that Sergeant Filtzer was speaking with him
21 during that 10-minute period of time, right?

22 A Not necessarily speaking with him, just speaking to him.

23 Q Okay.

24 A You know.

25 Q But eventually he was calmed down enough to be booked; is

1 | that correct?

2 | A | Yes.

3 | Q | Okay. Now, you mentioned that he was kicking and banging
4 | while he was within the holding cell; is that correct?

5 | A | Yes.

6 | Q | And while he was kicking and banging, that was over an
7 | extended period of time; is that correct?

8 | A | Approximately 10 minutes.

9 | Q | About 10 minutes. And during that period of time, did you
10 | actually see him or was it Sergeant Filtzer who told you he was
11 | hitting his head against the wall?

12 | A | Sergeant Filtzer told me.

13 | Q | Okay. So you --

14 | A | I heard him.

15 | Q | Okay. But you didn't see it yourself.

16 | A | No, Sergeant Filtzer did.

17 | Q | Okay. And let me ask you: does the Winchester Police -- do
18 | they have policies and procedures for dealing with people who are
19 | trying to harm themselves?

20 | A | Yes.

21 | Q | And are those policies and procedures -- do they include to
22 | take reasonable steps to prevent somebody from harming themselves?

23 | A | Yes.

24 | Q | And one of those steps that they're supposed to take is --
25 | For instance, do you have a restraint chair?

1 A No.

2 Q Okay. Are you supposed to restrain him in some way to
3 prevent him from hurting himself? Is that correct?

4 A Not necessarily.

5 Q But are you supposed to take -- But you said you're supposed
6 to take some --

7 A But this -- this wasn't him trying to harm himself. This is
8 him acting out.

9 Q So, when he was hitting his head against the wall, he wasn't
10 trying to harm himself?

11 A I don't think he was trying to harm himself. I think he was
12 just having a tantrum.

13 Q Okay. But he did leave that cell with a good-sized bump over
14 his left -- I think you said left forehead; is that correct?

15 A Yes.

16 Q Okay. And -- But no steps were taken during that 10 minutes
17 in order to prevent him from doing that bump and sustaining that
18 bump on his head; is that correct?

19 A Yeah, he was in the holding cell.

20 Q Oh, just -- Were you wearing a body camera that day, --

21 A No.

22 Q -- by any chance?

23 And you said that in that cell -- that it was monitored by --
24 in the holding cell that contained Alan Greenough; is that
25 correct?

1 A Yes.

2 Q Was it taped?

3 A No, I don't think they are taped.

4 Q Okay.

5 A It's just -- It's just to monitor.

6 Q And are there other cells in -- that were available where it
7 was monitored and taped?

8 A I don't believe any of our cameras tape anything. It's for
9 monitoring purposes only.

10 Q Is it -- Do you have the capability of taping prisoners in
11 your holding cell?

12 A To be truthfully honest, I'm -- I don't know. I'm -- I'm on
13 the road. I'm not a -- an officer in command.

14 Q Thank you.

15 MS. LYNCH: If I might just --

16 THE COURT: Sure.

17 REDIRECT EXAMINATION OF WITNESS, OFFICER KEVIN LANNAN

18 BY MS. LYNCH:

19 Q I just want to ask you a question, follow up to Mr. Koufman's
20 questions. I'm going to direct your attention to Exhibit 118,
21 your report. And I'm going to direct your attention to this
22 particular -- the third paragraph of your report.

23 A Mm-hmm.

24 Q "During my entire conversation, Greenough was a belligerent
25 drunk, constantly swearing, extremely loud, yelling, asking, 'Why

1 the fuck am I hear? Who the fuck I -- am I?' et cetera. After
2 approximately 10 minutes and 3 to 4 warnings, he calmed down and
3 stated he would cooperate." Is that fair and --

4 A Yes.

5 Q -- accurate?

6 A I actually thought of that after he asked the question, if I
7 had described Mr. Greenough in any way acting drunk.

8 Q And does that --

9 A I believe --

10 Q -- indicate that you had formed that opinion?

11 A I believe that qualifies.

12 Q Thank you.

13 CROSS EXAMINATION OF WITNESS, OFFICER KEVIN LANNAN

14 BY THE COURT:

15 Q So, did you form that opinion based on some -- So, I'm a
16 little unclear based on your testimony now. Did you form that
17 opinion based on your own observations? I thought you said
18 earlier that it was hearsay based on what the nurse told you. So,
19 what did you observe specifically about Mr. Greenough being under
20 the influence?

21 A Based off of what the nurse practitioner had told me and my
22 personal observations.

23 Q Which were? Your observations were what? Because you were
24 asked that a few times, and I didn't get that.

25 A That Mr. Greenough was unruly, swearing, disturbing the

1 peace, flailing around, running away from people trying to help
2 him. I don't think any --

3 Q What about -- But what about those observations led you to
4 believe that's because he was under the influence? Or was it just
5 because the nurse told you that?

6 A It's because the nurse told me.

7 Q Because the nurse told you.

8 A Yes.

9 Q And when the nurse -- I think you -- When you testified that
10 the nurse called you back because he was still being
11 uncooperative, you also said they told you he was being discharged
12 at that point; --

13 A Yes.

14 Q -- is that correct?

15 A Yes.

16 Q So, what -- When you got back, what was he being
17 uncooperative with? He was being discharged at that point.

18 A He was being uncooperative with hospital staff and myself.

19 Q But he was being discharged. So, free to go from the
20 hospital. So, what specifically was he doing that made him be
21 uncooperative?

22 A Because he wasn't in a -- in the right state of mind. So, I
23 -- I deemed that he was going to be a safety concern to himself or
24 the public if -- if I had not taken him into protective custody.

25 Q Now, I know you testified that he -- you offered medical

1 attention to him and he refused medical attention, --

2 A Yes.

3 Q -- correct?

4 You'd also been at the hospital and you knew that he was
5 treated for a seizure disorder. Was there any discussion of that,
6 with what you described as his banging his head, about him needing
7 medical attention because he was released from being treated for
8 the seizure disorder?

9 A N -- No.

10 Q Thank you very much.

11 A You're welcome.

12 MS. LYNCH: Thank you.

13 [Witness steps down]

14 MS. LYNCH: Sergeant Filtzer, please.

15 [SERGEANT HORST FILTZER, Sworn.]

16 DIRECT EXAMINATION OF WITNESS, SERGEANT HORST FILTZER

17 BY MS. LYNCH:

18 Q Good morning, sir. If you would please state your name and
19 spell your last name for the record.

20 A Horst Filtzer, H-O-R-S-T F-I-L-T-Z-E-R.

21 Q What is your occupation, sir?

22 A I'm a police sergeant and K9 handler for the Town of
23 Winchester.

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

25 A I began my 24th year on the job in April of --

- 1 Q How --
- 2 A -- this year.
- 3 Q I'm sorry. How long have you been a sergeant?
- 4 A Almost 18 years. It'll be 18 years in July.
- 5 Q Now, directing your attention to September the 1st of 2017 at
6 approximately 6:40 p.m., were you on duty with the Winchester
7 Police?
- 8 A I was. I was the officer in charge of the police station at
9 that time.
- 10 Q And what are your responsibilities as officer in charge of a
11 police station?
- 12 A Make sure all the work gets done.
- 13 Q Okay. And do you have any responsibilities for individuals
14 that are placed in custody with the Winchester Police?
- 15 A Yes, I do. I have to safeguard them and process them and
16 basically take care of them.
- 17 Q Now, that evening did you become aware of a call for
18 assistance placed to the Winchester Police by staff at the
19 emergency room of the Winchester Hospital?
- 20 A I did.
- 21 Q As a result of that, were officers dispatched?
- 22 A They were.
- 23 Q And how frequently is it that Winchester police are called to
24 assist hospital personnel?
- 25 A Quite often.

1 Q So, you are -- officers respond on a fairly regular basis for
2 that --

3 A Oh, it's --

4 Q -- location?

5 A -- almost daily.

6 Q Now, at some point did you learn that a determination had
7 been made at the hospital to place Mr. Greenough into protective
8 custody?

9 A Yes. Sergeant Limoncelli and Patrolman Lannan advised they
10 would be in with Mr. Greenough in protective custody.

11 Q And given that he was coming in under protective custody,
12 specifically what responsibilities did you assume vis-à-vis the
13 individual once he got to the police station?

14 A My -- My responsibility as officer in charge is to book him.

15 Q Now, at some point after you received the initial information
16 that he was being -- Mr. Greenough was being taken into protective
17 custody, did he arrive at the police station?

18 A Within minutes.

19 Q What happened when he arrived at the police station?

20 A Sergeant Limoncelli and Patrolman Lannan escorted him into
21 the booking room. And it was quite obvious that Mr. Greenough was
22 upset and angry.

23 Q And what was obvious about -- How was that made obvious to
24 you?

25 A He was yelling and swearing and threatening people, trying to

1 kick at us, saying he was going to get his lawyer, and on and on.

2 Q Now, at this time did you observe anything about his physical
3 appearance or condition as it related to his sobriety or mental
4 state?

5 A Pretty clear he'd been drinking, 'cause I could smell it. It
6 was -- He had bloodshot eyes and, you know, he was quite upset. I
7 don't know if he was on any -- any other -- any other drugs. But
8 it was pretty clear he'd been drinking.

9 Q Now, in terms of this process, you're in the booking room,
10 you're attempting to conduct a booking procedure: were you able to
11 book Mr. Greenough at that point?

12 A I started the booking as I usually do, gathering information
13 by asking questions about h -- his person, his name, his date of
14 birth. I had his CJIS printout in front of me. But he kept
15 trying to -- He was -- kept yelling at Sergeant Limoncelli and
16 threatening him, and he was going to beat him up as soon as he
17 took the cuffs off.

18 And so my mission as the officer in charge when I'm trying to
19 book anybody is to calm them down so I can get the information
20 that I need to complete the booking so that I can get them on
21 their way. And I tell everybody like that: "Act like a gentleman
22 or lady, treat -- we'll treat you like a gentleman or a lady. I'm
23 on your side. I want what's best for you. And I want to get -- I
24 know you don't want to be here. And we want to get you going. So
25 please cooperate."

1 Q And what was Mr. Greenough's reaction to this?

2 A He didn't want to cooperate.

3 Q And how did he demonstrate this?

4 A Well, he was trying to kick at us, threatening us: "I'm going
5 to beat everybody up. I want to call my lawyer. I got a bunch of
6 friends who are police officers."

7 And finally I just said, "Listen, if you're not going to calm
8 down and cooperate with the booking, I'm going to be forced to put
9 you in the cell with your handcuffs on," 'cause I wasn't going to
10 remove handcuffs so that he could be in better -- a better
11 position to assault us like he's promised he was going to do. And
12 so, I put him in the holding cell in his handcuffs.

13 Q And once you put him into the holding cell, what did you do?

14 A I waited for him to calm down --

15 Q And where is --

16 A -- on the other side of the door.

17 Q So, from your vantage point on the other side of the door,
18 could you see Mr. Greenough?

19 A I could. I could see him through the glass. There's a --

20 Q And --

21 A -- glass window in that door.

22 Q What did you observe once Mr. Greenough was in the temporary
23 holding cell?

24 A He was headbutting the door. He was -- Then he would f -- k
25 -- k -- fall to the floor and start kicking the door, screaming,

1 threatening us.

2 And I kept trying to calm him down.

3 Q How did you do that?

4 A Speaking to him calmly, asking him to please stop, that the
5 quicker he calmed down, "The quicker I can take you out, the
6 quicker I can remove those cuffs that I know are uncomfortable.
7 Give me the information that I need so I can book you so that you
8 can call your friend to come get you. You're und --" He's only
9 in protective custody. There were no criminal charges here. All
10 he was -- There was no reason for him to be behaving like this.

11 Q Okay. And at some point -- How long a period of time did
12 this go on, that you were trying to calm him down?

13 A About 10 minutes he stayed in that holding cell. It wasn't a
14 r -- It wasn't a long period of time.

15 Q And did you reach a judgment that he had calmed down at a --

16 A Yeah, he --

17 Q -- certain point?

18 A -- promised he'd be good, so I took him out of the cell.

19 Q And when you took him out of the cell, where did you go?

20 A The cell door is right here and the booking room is right
21 here. So, three steps and he's back in front of my booking
22 window, and -- "Let's proceed with the booking process so that I
23 can process you."

24 Q When he came out of the holding area, did you notice anything
25 different about his condition?

1 A Yep. He had -- Now, he had a -- an egg -- Well, he was
2 starting to form an egg-lump-sized bump on the left side of his
3 forehead.

4 And I asked him if he wanted to see an EMT or if he needed
5 medical attention.

6 And he said, "Abs -- Nope, I don't. I'm fine."

7 I said, "Are you sure? They're right next-door."

8 Q And what did he do --

9 A He re --

10 Q -- or say?

11 A He refused. He said he didn't want it.

12 Q So what happened next?

13 A What happens next is I was able to finish the booking
14 process. He was -- He s -- was more cooperative for a period of
15 time. He w -- He was even -- He w -- He was all over the place.
16 And then he would say, "Oh, you know, guys, I'm sorry. I'm --"
17 like a lot of people who are intoxicated and/or under the
18 influence of drugs. They're all over the place. We had a kid on
19 Sunday night put his -- punch the wall and break his hand just out
20 of frustration 'cause he's going through things in life, you know.

21 Q But in terms of Mr. Greenough, did you notice any differences
22 in his mood or volume or --

23 A He was erratic. You know, one minute he's trying to be
24 friends, offering his hands 'cause we removed the handcuffs. You
25 know, he's -- "Oh, you know, I'm sorry, you know. I got police

1 officer friends." And then he's threatening Sergeant Limoncelli
2 again: "I'm going to kick your ass as soon as you guys release
3 me." He's very erratic.

4 Q Now, at some point after you were able to get the information
5 that you needed to conduct the protective custody booking, was Mr.
6 Greenough given an opportunity to call family or friends?

7 A He was. We -- I give it --

8 Q Can you describe that process --

9 A I --

10 Q -- and what you saw him do?

11 A It's part of his rights to make a call. I offered him the
12 phone. He tried to make calls; he couldn't raise anybody to come
13 get him. He did his best and eventually I put him in Cell No. 2
14 to help him -- you know, to wait for either someone to come get
15 him or until he was sober. And then he started kicking the door
16 and screaming and yelling again.

17 Q And did you tell him on -- either someone picked him up or he
18 was sober?

19 A Right. I -- We don't w -- I don't -- We don't want him in
20 our custody, you know, especially when he's asking like he was,
21 you know. But at the same time we got to take care of him. He's
22 a danger to himself, right? He's banging his head against the
23 wall, he's kicking doors, he's threatening. Safest place for him
24 is in a cell, at that point.

25 Q Now, once you put him back in the cell after he was

1 unsuccessful in reaching anyone, what happened at that point?

2 A He stayed there. And I b -- I left. My shift was ending and
3 Sergeant Limoncelli was the officer in charge at that point. And
4 --

5 Q Now, did you notice anything concerning Mr. Greenough and the
6 toilet in the cell?

7 A I didn't observe that. Sergeant Limoncelli advised that he
8 was stuffing toilet paper down the toilet. But like I said, I had
9 left at that point; my shift was ending.

10 Q Now, at some point were you present when someone actually
11 came to take Mr. Greenough home?

12 A He had left. I came back 'cause I was concerned about him,
13 you know, making sure everything was okay. I went to dinner. My
14 shift was over at ten. You know, and I'm still in town. I'm like
15 -- I think it was after ten I came back. He'd already been
16 released at that point.

17 Q Okay.

18 A And --

19 Q Now, when you say you were concerned about him, what was your
20 concern?

21 A Well, my concern was that the guy was -- you know, he was one
22 of the most angry, upset, threatening prison -- prisoners, even
23 though, you know, we didn't charge him with anything, that I've
24 ever dealt with.

25 Q And -- But the time that you returned from your dinner, he

1 was already gone from the custody of the Winchester --

2 A Right.

3 Q -- Police?

4 A Right. His friend came and got him.

5 Q After you returned that evening sometime around ten o'clock
6 and found that Mr. Greenough was not there, had you had any
7 further contact with him after he was released?

8 A No.

9 Q Were you aware of any calls made to the Winchester --

10 A I learned later he called to f -- further threaten everybody
11 and --

12 Q Okay.

13 A You know.

14 Q So this was after he had left.

15 A Right. This was the next day, af -- Later on I -- I found
16 out, you know.

17 Q So, did you yourself ever have any contact with Mr. Greenough
18 after you placed him in the cell after booking him?

19 A No, no.

20 Q And when were you next asked or inquired of about Mr.
21 Greenough? That is to say, was it after the incident in Reading
22 on February 3rd of 2018?

23 A Right.

24 Q In terms of the setup of the Winchester police station, are
25 you able to monitor activities in a cell from your office --

1 A -- Yes.

2 Q -- as the officer in charge?

3 A Yes.

4 Q And to your knowledge is that recorded or is it just a
5 monitor?

6 A Yeah, it's mon -- it's monitored. And we have a whole system
7 where we check on them every half-hour. It's all recorded. It's
8 a timer. We watch him. We can listen to them.

9 Q And so, that's required, that you do --

10 A Yeah, absolutely.

11 Q -- periodic checks? And so, this enables you to do that via
12 the monitor.

13 A Right.

14 Q But it's not recorded.

15 A Right. And we go physically to the cell and look at them
16 every 30 minutes.

17 Q Okay.

18 A And we record it on our -- We have a -- a wand. And it says,
19 "Sleeping/rest," and we hit the different buttons. It's pretty
20 thorough.

21 Q So, when you say you record, that is, you document?

22 A Document, yeah, with the machine.

23 MS. LYNCH: If I might just have one moment, Your Honor.

24 THE COURT: Sure.

25 MS. LYNCH: Thank you, sergeant.

1 THE WITNESS: Thank you.

2 THE COURT: Mr. Pasciucco?

3 MR. PASCIUCCO: No questions.

4 THE COURT: Nothing?

5 Attorney Koufman?

6 MR. KOUFMAN: [Indiscernible at 11:37:52 a.m. - speaking away
7 from microphone].

8 THE COURT: Okay, officer. Thank you.

9 THE WITNESS: Thank you.

10 [Witness steps down]

11 THE COURT: All right. We're going to take the morning
12 recess. Ten-minute break. Thank you.

13 [Court in Recess at 11:38:01 a.m.]

14 [Back on Record at 11:54:45 a.m.]

15 THE COURT: Okay. Let's call the next witness.

16 MS. LYNCH: Yes, Your Honor. Preliminarily, the next witness
17 would be James Burke. Given the nature of the proceeding being an
18 inquest, it doesn't avail immunity proceedings related to drug
19 use.

20 THE COURT: Mm-hmm.

21 MS. LYNCH: I have met with Mr. Burke and indicated that it
22 would not be our intention to prosecute him in connection with
23 with his own drug use, or drug use on the dates of September 1st,
24 November 1st, and in the days leading up to February 3rd. And --
25 But I just wanted to first put that on the record and see if that

1 would be agreeable to the Court in order to allow for his
2 testimony. If not, then I think he has a valid Fifth,
3 potentially.

4 THE COURT: All right. Let me think about that over the --
5 Do you have somebody else you can call and I can consider that
6 over the lunch recess?

7 MS. LYNCH: Sure. That was the other thing that I wanted to
8 mention to you.

9 THE COURT: Sure.

10 MS. LYNCH: We are coming down towards the end. There were
11 two witnesses that were unavailable today.

12 THE COURT: Okay.

13 MS. LYNCH: And in light of Ms. Zimmermann, I may try to get
14 another toxicologist to come in.

15 THE COURT: Okay.

16 MS. LYNCH: But I will run out of witnesses before four
17 o'clock.

18 THE COURT: Okay.

19 MS. LYNCH: I do have three witnesses: Mr. Burke, Mr. Ortiz,
20 and Trooper Connolly.

21 THE COURT: Okay, great. Thank you.

22 MS. LYNCH: So, I will call at this time Orlando Ortiz.

23 [ORLANDO ORTIZ, Sworn.]

24 DIRECT EXAMINATION OF WITNESS, ORLANDO ORTIZ

25 BY MS. LYNCH:

1 Q Good morning, sir. If you would, --

2 A Good morning.

3 Q -- would you state your name and spell your last name for the
4 record.

5 A Orlando Marcos, the last name Ortiz.

6 Q And that's common spelling: O-R-T-I-Z?

7 A The same thing, the Big Papi.

8 Q Okay. And what city or town do you live in?

9 A Salem, --

10 Q And how --

11 A -- Mass..

12 Q -- long have you lived in Salem?

13 A Twen -- Well, around 30 year [sic].

14 Q And what is your date of birth?

15 A 10/30/56.

16 Q Are you presently employed?

17 A Yeah, I am employed. The East Coast Gas Station.

18 Q And what do you do at the East Coast --

19 A Me --

20 Q -- Gas Station?

21 A Mechanic and sticker the car.

22 Q So you are someone who's certified to do car inspections and
23 issue stickers or rejections?

24 A Yeah.

25 Q And in terms of your schedule with East Coast, how long have

1 | you worked there?

2 | A | Around two -- two year and three or four month.

3 | Q | Two years, three or four --

4 | A | Yeah.

5 | Q | -- months?

6 | Okay. And do you have a set schedule of days or hours that
7 | you generally work?

8 | A | Eight to five. And, Saturday, eight to three.

9 | Q | And in terms of the workload, at the beginning of the month,
10 | given your job doing inspection stickers, is it busy at the end
11 | and the beginning of a month?

12 | A | At the end of the month is busy all-where in the United
13 | States.

14 | Q | Now, did you work Friday, February 2nd? Did you work on
15 | Friday the -- February 2nd?

16 | A | When it happened? The accident?

17 | Q | Yes, the day --

18 | A | Ye --

19 | Q | -- before?

20 | A | Yes.

21 | Q | And --

22 | A | Day -- Day before? No. The -- The day it happened, yes.

23 | Q | Okay. And do you recall whether you worked the day before, --

24 | A | The day before --

25 | Q | -- which was a Friday?

- 1 A Yeah, I -- I work in six-day --
- 2 Q Okay. And so, what time do you get off on a Friday?
- 3 A I stay to a -- about eleven o'clock because --
- 4 Q Okay. So, we're talking --
- 5 A -- after the accident I come into the precinct.
- 6 Q So, now you're talking about February 3rd, the Saturday; is
7 that right?
- 8 A Yeah.
- 9 Q Okay. Did you know a person named Alan Greenough?
- 10 A Yeah, he the brother de [sic] my manager.
- 11 Q Okay. So you know Anthony Perrotti, the manager?
- 12 A Yeah, he's my manager.
- 13 Q Okay. And what was your relationship with Alan Greenough?
- 14 A No, he -- he -- he -- he -- he go to the -- to the shop and
15 sometime he do a -- a -- anything because he -- he -- he getting
16 in the shop and do what the -- clean it out, the turtle's swimming
17 pool, and help with the boss.
- 18 Q Okay. So, he worked sometimes at the gas station, Mr.
19 Greenough?
- 20 A He -- I don't know i -- i -- if you say "employees" or
21 something. I saw in -- in around over there --
- 22 Q Okay.
- 23 A -- because he do a -- a -- some cleaning in the shop and help
24 you -- Anybody call him, he help you in something.
- 25 Q Okay.

1 A He -- The pleasure -- I love him because when he'll have a --
2 he didn't like -- because he's nice person.

3 Q Okay. Now, during the time that Mr. Greenough lived at 1462
4 Main Street where the gas station is located, how often would you
5 see him?

6 A No, I saw him when he getting in my work because I don't go
7 out -- outside in my work. I am in the area, the work.

8 Q Okay. So, how often would you see him? Would you see him
9 every day? Would you see him every week?

10 A I can't count when I saw because I am concentrate on my work.
11 But I saw lot of time in -- in the shop --

12 Q Okay. Now, --

13 A -- in the week.

14 Q -- during the time that you knew Mr. Greenough, did you make
15 any observations of him when he was under the influence of alcohol
16 or drugs?

17 A No

18 Q Did you ever see him -- Strike that. On that Friday --
19 Saturday when you were working at the gas station, did you ever
20 see Mr. Greenough come into the office holding a table leg?

21 A A table what?

22 Q The leg of a table?

23 A I don't know what it is.

24 Q Okay. I'm just going to show you what has previously been
25 admitted as Exhibit 38. Did you ever see Mr. Greenough that day

1 that the incident happened, holding an item?

2 A No.

3 Q Something like this?

4 A . Never I saw something like that.

5 Q Okay. At some point did Joe Chaghouri, the owner of the gas
6 station, tell you that something had happened with Mr. Greenough
7 and a stick like that?

8 A No.

9 Q So you were not informed that that had occurred.

10 A No.

11 Q So you didn't -- Did you see Alan Greenough at all on the day
12 of February the 3rd, that day that this incident happened?

13 A Yeah. I -- I -- I saw -- I saw him -- I explained before,
14 all the time when he walking in -- in -- in the business or -- or
15 when running in -- in the gas --

16 Q Okay.

17 A -- station outside. But never I saw him with something like
18 that, in my life.

19 Q Okay. But what I'm asking you is: did you see Alan Greenough
20 in or around the business that Saturday when --

21 A Yeah, I saw him.

22 Q -- this incident happened.

23 A But not with these pieces.

24 Q Right. But you did see him.

25 A Yeah.

1 Q What were the circumstances? Where did you see him? What
2 was he doing?

3 A I saw him in -- in -- inside the him -- in -- in room or
4 apartment next to the gas station.

5 Q Okay.

6 A And when I coming out with the sticker the car, because I am
7 concentrating on my work, when I coming out with the car I park
8 the sticker -- the car and put it outside, I saw him in the area
9 that he live.

10 Q Okay. And were the police there at the point when you first
11 saw Mr. Greenough?

12 A I saw some police outside.

13 Q Okay. So, --

14 A Pero [sic] I don't go over there because I am concentrating
15 on my work. I have a lot of sticker to do this day. I do --

16 Q Sure.

17 A -- about 20 sticker. And I concentrate on my work. But I
18 saw the police outside.

19 Q So, the first time you saw Mr. Greenough was when the police
20 were already there?

21 A No. I -- I -- I -- I saw before in -- outside.

22 Q So you saw Mr. --

23 A Before the -- the police --

24 Q -- got there.

25 A Yeah.

1 Q Did you have any conversation with him?

2 A No, because I tell you I -- I concentrate on my work.

3 Q Okay.

4 A I don't have a time for -- for talking to nobody when I work.

5 Q Now, on that particular afternoon, at some point did Joe or

6 Anthony tell you that the door in the waiting room into the

7 apartment was unlocked?

8 A No, I don't know nothing about that. See, it --

9 Q You weren't --

10 A He don't talking to me about this door.

11 Q So you were not aware of that.

12 Were you aware of whether there were any keys to the

13 apartment itself?

14 A No.

15 Q During the time that you worked there, were employees ever
16 given access to that apartment to use?

17 A Say again, please?

18 Q During the time that you worked there, were employees given

19 access to the apartment so that you could relax there or take a

20 break there or --

21 A No, the -- the break in my area is take a -- or outside, go

22 to McDonald or -- or --

23 Q Were you ever in that apartment where Mr. Greenough lived?

24 A No.

25 Q Okay.

1 A I know the apartment, but never I been there.

2 Q Okay.

3 MS. LYNCH: Thank you. I have no further questions.

4 THE WITNESS: No problem.

5 THE COURT: Thank you.

6 Mr. Pasciucco?

7 MR. PASCIUCCO: A few questions.

8 CROSS EXAMINATION OF WITNESS, ORLANDO ORTIZ

9 BY MR. PASCIUCCO:

10 Q Good morning, Mr. Ortiz.

11 A Good morning.

12 Q My name's Peter Pasciucco. I represent Officer Erik
13 Drauschke.

14 A Uh-huh.

15 Q Sir, on the date in question, February 3rd, 2018, do you
16 recall going to the police station and speaking with detectives?

17 A Yes.

18 Q Okay. Do you recall telling the detectives that Alan
19 Greenough has a problem, a mentality problem?

20 A If I say the -- the officer?

21 Q Do you remember telling the detectives that?

22 A I don't remember everything he's -- I say this day. Pero
23 [sic] if I say that, I don't remember.

24 Q Okay. Would it help to see your -- the transcript of your
25 interview with the detectives?

1 A Say again?

2 Q Would it help to see the interview or the transcript of the
3 interview with the detectives to refresh your memory as to what
4 you said that evening?

5 A Yeah.

6 Q Okay.

7 MR. PASCIUCCO: I don't know whether the transcript's been
8 entered into evidence yet.

9 MS. LYNCH: Not his.

10 MR. PASCIUCCO: It hasn't?

11 THE CLERK: His hasn't.

12 MR. PASCIUCCO: Okay.

13 MS. LYNCH: But if you want to borrow it.

14 MR. PASCIUCCO: Am I able to refer to his interview?

15 THE COURT: Sure.

16 MS. LYNCH: If you want to borrow this.

17 MR. PASCIUCCO: Just one moment.

18 [Pause]

19 MR. PASCIUCCO: May I approach the witness, Your Honor?

20 THE COURT: Yes, you may.

21 BY MR. PASCIUCCO:

22 Q Mr. Ortiz, I want to show you page 4 and 5 of the transcript
23 of your interview with Trooper James Connolly --

24 A Mm-hmm.

25 Q -- and Detective Michelle Halloran. Can you just read the

1 line here, beginning at line 24 onto the next page.

2 A The 22 here?

3 Q Line 24. And then begin at line 1 on the top of page 5.

4 A [Reviewing document.] "I saw one show outside. Is the not
5 the first time. You know, I saw the show out." This is -- This
6 is the something I saw w -- when the police were there in the --
7 in the apartment.

8 Q If you could just keep reading. I just have one -- a
9 question about your choice of words on line 3.

10 A This -- This is, I explain to you, I -- I -- I say about the
11 show. I saw the police make the -- the -- the -- is come in the
12 poli -- and -- and make the argument over there.

13 Q Okay.

14 A This is I say "show."

15 Q Okay. And then you further say, "I saw the show about three
16 times in different times because the guy --"

17 A Yeah, I -- I saw this -- the same thing in different time.

18 Q And you indicate the guy "having problem, a mentality
19 problem"?

20 A No, I don't -- I don't -- I don't say that.

21 Q You don't remember saying that?

22 A No, I don't -- I don't say that.

23 Q Okay. So you don't recall -- Do you know who you were
24 speaking about when you indicated that the guy has a mentality
25 problem?

1 A Yeah, I remember everything. I was in the precinct and I
2 know the question. But the mentality problem? I don't say that.

3 [Pause]

4 MR. PASCIOCCO: Approach the witness again; Your Honor?

5 THE COURT: Of course. Yeah.

6 MR. PASCIOCCO: I apologize for the delay.

7 THE COURT: No problem.

8 BY MR. PASCIOCCO:

9 Q Mr. Ortiz, direct your attention to page 12 of your
10 transcript. And I'm just going to read from line 20. You
11 indicate, "But it's not the first time. It's about three times.
12 I had one day working over there and I saw three or four times the
13 same show, because the guy is cuckoo. The cuckoo not working. A
14 lot of drug in the head."

15 Were you -- That statement you made, were you talking about
16 Alan Greenough?

17 A This question, when the trooper ask me, I say I saw this show
18 when -- When you say "show," I saw in different time the police
19 coming over there into the apartment during -- It's -- This is the
20 truth. I saw about two or three time.

21 Q But when you described the guy as being cuckoo, C-U-C-K-O-O,
22 what did you mean by that?

23 A When -- When -- When you have an argument with this police.

24 Q And a lot of drug in the head? What did you mean by that
25 statement?

1 A The lot of drug in the head? I can't -- I can't say that
2 because never I saw him lose a drug in the front in my person,
3 because I -- I -- I tell before and I tell now and I tell the
4 truth: I am concentrate on my work. And I saw him and -- and --
5 and this apartment is far away to my work. It's about 40 feet or
6 30 feet, something like that. And I'm only -- I saw. Pero [sic]
7 I -- I can't go over there because I -- I keeping working all the
8 time I be there in my work.

9 Q I want to direct your attention to page 16 of your
10 transcript. And you indicated, "I saw the boss. 'You need to do
11 something because this guy is crazy The police here and the fire
12 truck here.'" Do you remember telling the detectives that Alan
13 Greenough was crazy?

14 A No, I -- I can't say the -- the -- this guy, because I -- I
15 don't have a -- I don't have a conversation with him and I don't
16 know if -- I don't have a -- information, the personal, him,
17 because I saw him only my work in my area because never I -- I
18 contact with him or go anywhere. Only I saw him in my area, the
19 work.

20 Q So your -- When Assistant District Attorney Lynch asked you
21 to describe Mr. Greenough, you indicated that he was a nice
22 person?

23 A I say today in the court this is very good guy. And sometime
24 I eating and I call him for eating with him in my area, the work,
25 never in the apartment to him. And -- And I -- I give you a

1 morning to him where he help me for taking out the metal in the
2 shop. And I give you \$20 all the time for -- for help me in the
3 metal. This is -- I can tell you about this -- this -- this
4 gentleman. It's in the heart I can say today is very good guy.
5 The -- The rest, outside, I don't know nothing because never I --
6 I go outside in my car or -- or -- or any car with him outside the
7 business. The r -- The rela -- re -- relation with him is only in
8 my -- in my work, in my area, the work. I saw him, he take the
9 water every -- every time for cleaning out the swimming pool. And
10 sometime I call him, "Come in." Al is eating with me my lunch.
11 And he have a -- the half of my lunch lot of time. This is -- I
12 remember him.

13 Q Did you have a brother that passed away?

14 A I have a brother?

15 Q Yeah. Did you have a brother that was a mechanic that taught
16 you how to be a mechanic that passed away?

17 A No.

18 Q Okay.

19 A I don't have a brother in this country.

20 Q Did you have a -- your first brother died of cancer in the
21 lungs?

22 A Yeah, my third brother.

23 Q Okay. So, he taught you how to be a mechanic; is that
24 correct?

25 A I working with him at 13 year old.

1 Q Okay. And do you recall telling the officers or telling the
2 detectives on the evening of February 3rd, 2018, that "I learned
3 mechanic with him because he had a mechanic shop and I remembered
4 that when I saw Anthony today on the floor. I remember my brother
5 die"? You remember telling the --

6 A Yeah, --

7 Q -- detectives that?

8 A -- because I increased [phonetic] and I go to jail for 28
9 year. And when I saw Anthony crying on the floor next to the pump
10 of gas and he say, "The brother shooted," and -- and -- and he
11 thinking he did, I go to Anthony and say, "Take it easy. God is
12 there and nothing happened." He -- He hear and he can say the
13 truth, because I saw him in the floor and move in the floor. And
14 I put in my hand to him. And he say, "Don't worry about God is
15 with him. And he's -- He's here."

16 Q Okay. Do you remember telling the detectives that this case
17 is different "because this guy not good and he cuckoo" and the
18 trooper asking, "How?"

19 A I [Indiscernible at 12:17:44 p.m. - pronunciation unclear].
20 Never I -- I -- I --

21 Q And you saying, "Yeah, not good"?

22 A No. This is not true.

23 Q So your statement here you don't believe is accurate?

24 A No. In some part, I don't believe it.

25 MR. PASCIOCCO: Nothing further. Thank you, sir.

1 THE COURT: Thank you.

2 THE WITNESS: No problem.

3 THE COURT: Attorney Koufman, do you have any offer?

4 MR. KOUFMAN: No.

5 THE COURT: No?

6 Thank you very much, sir.

7 THE WITNESS: Any time.

8 THE COURT: You're excused. Thank you.

9 [Witness steps down]

10 THE COURT: So, Ms. Lynch, why don't you call Mr. Burke and I
11 can give him some warning with regard to his privilege against
12 self-incrimination.

13 MS. LYNCH: Okay.

14 THE COURT: And counsel.

15 [JAMES BURKE, Sworn.]

16 THE COURT: Mr. Burke, you can have a seat, sir. Good
17 afternoon. I'm Judge Fortes.

18 THE WITNESS: Hi.

19 THE COURT: I understand, Mr. Burke, that you were called
20 here by the District Attorney's Office to give some testimony in
21 this proceeding. And this is an inquest proceeding, sir. It's an
22 investigatory procedure. It's not a trial or that kind of
23 adversarial proceeding. But I've been informed by Assistant
24 District Attorney Lynch that she has determined that you have a
25 valid Fifth Amendment privilege based on testimony that you could

1 give in this matter.

2 You have a privilege against self-incrimination, meaning that
3 you don't have to give testimony in this matter if it would
4 incriminate you, meaning that it could demonstrate that you could
5 be charged with a crime in this matter. Because you're here by
6 yourself, I want to make sure that I explain to you -- when I say
7 "by yourself": not represented by counsel. I want to give you an
8 opportunity to speak to an attorney about this before you would
9 testify in this matter.

10 I know Ms. Lynch has already indicated that she's had some
11 conversations with you about not prosecuting you for testimony in
12 this case, but she's not representing you. The District
13 Attorney's Office doesn't represent you.

14 THE WITNESS: Yes.

15 THE COURT: And you have the right and I give you the
16 opportunity, if you'd like, to consult with an attorney. I can't
17 appoint an attorney, 'cause this is an inquest proceeding. But I
18 can certainly give you time if you haven't done that, to consult
19 with an attorney before you testify in this matter. I just want
20 to explain your rights to you, sir.

21 THE WITNESS: Yeah. I haven't done that.

22 THE COURT: Okay.

23 THE WITNESS: And --

24 THE COURT: Would you like a chance to do that? Because we
25 can hear from you on another day if you'd like to do that. Or --

1 It's up to you. I just want to explain your rights to you, sir.

2 THE WITNESS: Maybe it would be best if I just consulted,
3 just --

4 THE COURT: Okay.

5 THE WITNESS: -- just to be sure.

6 THE COURT: All right. Okay. Well, we're scheduled to be
7 back -- I know we're going to hear more about witnesses, I think,
8 on the 19th, right?

9 THE WITNESS: Yes.

10 THE COURT: So, we could give you -- And the District
11 Attorney's Office could be in touch with you. But that gives you
12 at least until next Wednesday to consult with an attorney and
13 decide what you --

14 THE WITNESS: That's fine.

15 THE COURT: -- want to do, sir. Okay? So, I'm going to
16 excuse you and they'll be in touch if they're going to have you
17 come back on the 19th.

18 THE WITNESS: Okay.

19 THE COURT: Okay?

20 THE WITNESS: Okay.

21 THE COURT: All right.

22 THE WITNESS: Thank you. So I'm excused?

23 THE COURT: Yep.

24 THE WITNESS: Okay.

25 THE COURT: Mm-hmm.

1 [Witness steps down]

2 MS. LYNCH: Okay.

3 THE COURT: All right. And you have another witness to call?

4 MS. LYNCH: Yes.

5 THE COURT: Okay.

6 MS. LYNCH: Trooper James Connelly, please.

7 THE COURT: All right.

8 [TROOPER JAMES CONNOLLY, Sworn.]

9 DIRECT EXAMINATION OF WITNESS, TROOPER JAMES CONNOLLY

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 James Connolly, C-O-N-N-O-L-L-Y.

14 Q And what is your occupation, sir?

15 A I'm a trooper with the Massachusetts State Police.

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

18 A Since 2011.

19 Q And prior to that time, did you have any other law
20 enforcement experience?

21 A I was a local police officer.

22 Q And what town or city were you a local police officer?

23 A Westford, Massachusetts.

24 Q And how long were you with the Westford Police?

25 A For three years.

1 Q And prior to that did you have any military experience?

2 A Yes, I did.

3 Q And what timeframe did you serve in the military?

4 A From 2001 to 2007.

5 Q What is your present assignment with the state police, sir?

6 A I work for the detective unit assigned to the Middlesex
7 District Attorney's Office.

8 Q And how long have you been assigned to the Middlesex
9 detective unit?

10 A Since the spring of 2015.

11 Q Now, can you generally describe what your responsibilities
12 are as a member of Middlesex detectives?

13 A My specific role is a death investigator. So, I go to any
14 unattended death that happens in Middlesex County.

15 Q And did you ever have a stint in the drug unit assigned to
16 the D.A.'s Office?

17 A Very short time. Two --

18 Q Okay.

19 A Two or three months, yeah.

20 Q Now, directing your attention to Saturday, February 3rd of
21 2018, were you working with the Middlesex detectives that day?

22 A I was.

23 Q Were you on duty or on call for that particular day?

24 A I was a call trooper.

25 Q And as the call trooper, is that the primary officer for

1 | calls that would come in?

2 | A Yes. So, any unattended death that happens, the local police
3 | respond to it, they'd call me directly.

4 | Q Okay. Now, at some point did you learn from members of the
5 | state police that there had been a police officer shooting in the
6 | Town of Reading?

7 | A I did.

8 | Q And do you remember what you were notified or who notified
9 | you?

10 | A I believe it was Lieutenant Sean Hodgkin [phonetic]. But he
11 | was at the A-H-U [phonetic] duty office, which is typically how it
12 | happens. The local police will call the -- the duty office in
13 | Danvers and then they will call me.

14 | Q Okay. As a result of that, at some point did you do
15 | something?

16 | A I called the Reading Police and then after some back and
17 | forth I ultimately responded to Reading.

18 | Q Okay. Now, other than yourself, did anyone else from the
19 | Middlesex detectives respond to that location?

20 | A Yep, Trooper Gagne, he was my partner; Lieutenant Bulman was
21 | my supervisor; Detective Lieutenant Sullivan was the CPAC
22 | commander at the time; and Trooper Mike Williams, also.

23 | Q Now, when you responded to that location -- when you
24 | responded to that call, where did you go to directly?

25 | A The Reading Police headquarters.

1 Q And when you arrived at the Reading Police headquarters, did
2 you receive any preliminary information concerning specifics:
3 where, when, --

4 A Yes.

5 Q -- and how it happened?

6 And at some point was it determined that -- were there
7 witnesses that had been brought to the station at some point while
8 you were there?

9 A Many. Many were there by the time I got there.

10 Q And when you were there did you conduct certain interviews
11 with other members of the Reading Police Department that were on
12 scene?

13 A Yes.

14 Q Now, in terms of your interviews that night, did you conduct
15 an interview of Devin McDonald at approximately 8:50 or
16 thereabouts?

17 A Yes, I did.

18 Q And were you with Detective Michelle Halloran of the Reading
19 Police?

20 A Yes, I was.

21 Q Now, was -- were the interviews audio and video recorded?

22 A Yes, they were.

23 Q And in addition to the interviews being audio and video
24 recorded, to your knowledge was a transcript prepared of those
25 interviews?

1 A Yes, they were.

2 Q And in addition to speaking to Devin McDonald did you also
3 speak to him about whether he would consent to allow police to
4 download his phone?

5 A Yes.

6 Q And did he provide that consent to you?

7 A Yes, he did.

8 Q And at some point did he provide consent to you for a search
9 of the apartment to document it?

10 A Yes.

11 Q Now, with regard to the interview with Mr. McDonald at your
12 request did Trooper Perry take certain photographs of Mr. McDonald
13 at the station later that evening?

14 A Yes, he did.

15 Q And in terms of the interviews, directing your attention to
16 approximately 9:35 did you interview Orlando Ortiz, an employee of
17 the gas station, with -- again with Detective Halloran?

18 A Yes.

19 Q And with regard to the interviews that evening, did you also
20 interview the owner of the gas station, Mr. Chaghouri?

21 A Yes, I did.

22 Q And with regard to those interviews were they all, to your
23 knowledge, recorded in the same manner?

24 A Yes.

25 Q And a transcript was provided of them; is that correct?

1 A Yes, ma'am.

2 Q In addition to those civilian witnesses that evening in the --
3 into the early morning of February 4th did you also interview
4 Officer Matthew Vatcher of the Reading Police with Detective
5 Fitzgerald?

6 A Yes.

7 Q And did you also interview Sergeant Patrick Silva with
8 Detective Fitzgerald?

9 A Yes, ma'am.

10 Q And, again, were the -- Oh, sorry. With regard to the
11 officer interviews, were they also audio recorded, as well?

12 A Yes.

13 Q And were transcripts also provided of them?

14 A Yes.

15 MS LYNCH: Oh, I'm sorry; if I might just have a moment.

16 THE COURT: Sure.

17 MS. LYNCH: Okay. That's it.

18 Your Honor, at this time I would offer, as with the other
19 transcripts, the tape-recorded interview -- Strike that. One more
20 question.

21 BY MS. LYNCH:

22 Q Did you participate in an interview on the evening of
23 February 3rd with Anthony Perrotti, the brother of Alan Greenough?

24 A Yes, I did.

25 Q And again was that recorded, audio/video --

1 A Yes.

2 Q -- as well as transcribed?

3 A Yes, it was.

4 MS. LYNCH: Your Honor, at this time, Commonwealth would
5 offer -- or I would offer at this time for purposes of the inquest
6 the transcript and tape of the Anthony Perrotti interview, Orlando
7 Ortiz interview, Devin McDonald interview, Talal Joe Chaghouri
8 interview, the Matthew Vatcher interview, and the Patrick Silva
9 interview.

10 [Interview Recordings/Transcripts Marked as Exhibit Nos. 119-124]

11 BY MS. LYNCH:

12 Q Now, in terms of your involvement at that location -- If I
13 just might find my notes for a moment. In terms of those
14 interviews, as you were interviewing witnesses, when a witness
15 would be finished would you be taking a break to speak to other
16 investigators at the police station?

17 A Oh, yes.

18 Q Were you aware that other troopers from other units of the
19 state police had been deployed to the location of the gas station?

20 A Yes.

21 Q And did they include crime scene services, firearms ID, --

22 A Yes.

23 Q -- the crime lab, --

24 A Yes.

25 Q -- and digital evidence and media?

1 A Yes.

2 Q Now, in terms of your interviews that day at the police
3 station, had you yourself been to the scene at that point?

4 A No.

5 Q Did you have very much information from officers concerning
6 what had happened in terms of the details of the events of that
7 night?

8 A At the time of the interviews?

9 Q Yes.

10 A No.

11 Q And did you in fact reference that during the course of some
12 of the interviews with the witnesses that you --

13 A I imagine I did, --

14 Q -- were not familiar --

15 A -- yeah.

16 Q With the location?

17 Now, in terms of Mr. Perrotti, did he indicate to you that he
18 had waited any period of time before coming out and telling the
19 police that that door was unlocked?

20 A No.

21 Q And you were not aware of that at the time, correct?

22 A Correct.

23 Q You had not seen the videotape of the premises during the
24 time that you were interviewing Mr. Perrotti.

25 A Definitely not.

1 Q Now, in terms of Mr. Ortiz, the employee at the gas station,
2 was he asked specific questions or did he respond to particular
3 questions that there had been prior police responses to that
4 location and that he observed or believed that Mr. Greenough had
5 some mental health issues?

6 A Yes.

7 Q And he referenced that during the course of the recorded
8 interview?

9 A Yes.

10 Q Prior to this event, did you know anything about Alan
11 Greenough?

12 A No, absolutely not.

13 Q In terms of your interviews that night, did you interview
14 Devin McDonald?

15 A Yes.

16 Q And you arranged for Trooper Perry to take photographs of him
17 at that time; --

18 A Yes.

19 Q -- is that right?

20 Now, did you ask Mr. McDonald if he would provide consent for
21 the download of the phone?

22 A Yes.

23 Q As well as the search of the apartment?

24 A Correct.

25 Q Did other officers ask Kim Bellino if she would consent to a

1 search of the apartment?

2 A I believe they did.

3 Q Okay. And at some point to your knowledge did that take
4 place?

5 A Yes, it did.

6 Q Did you yourself ever go to the apartment that night?

7 A I did not.

8 Q Did you remain at the Reading police station during the
9 course of that evening and the early morning of February 4th?

10 A Yes, I did.

11 Q Now, in terms of your interview that evening at 10:15, did
12 you and Detective Fitzgerald interview Joe Chaghouri?

13 A Yes.

14 Q Now, during the course of that interview, was Mr. Chaghouri --
15 did he show you certain text messages that he had received on his
16 phone?

17 A Yes, he did.

18 Q And that those text messages were from both Devin as well as
19 Alan Greenough as well as Anthony Perrotti?

20 A Yes.

21 Q And they related to an event the prior night, is that
22 correct?

23 A Correct.

24 Q And in terms of Mr. Chaghouri, during the course of that
25 interview -- I'm just going to draw your attention to Mr.

1 Chaghouri's transcript. During the time that you interviewed Mr.
2 Chaghouri on February 3rd, did he indicate to you that at some
3 point when he realized that the door was unlocked that he tried to
4 convince Anthony to tell the police right away?

5 A Yes.

6 Q And did he indicate to you that Anthony wanted -- said, "No,
7 I want to give him some time and see if I can get him to come
8 out"?

9 A Yes.

10 Q And this was in response to your questions that were recorded
11 on the night of February 3rd; is that right?

12 A That is right.

13 Q Now, in anticipation of this inquest hearing, at my request
14 were certain troopers assigned to sit in with me in doing
15 interviews with witness prep in the event that they said something
16 that was different or additional to what was in a prior report?

17 A Yes.

18 Q And I'm going to direct your attention to the date of March
19 15th of this year: whether or not on that date at approximately
20 noon you had occasion to assist in that manner with the witness
21 prep interview of Joe Chaghouri.

22 A Yes, I was.

23 Q Now, where did that interview take place?

24 A At the Middlesex District Attorney's Office in Woburn.

25 Q And who was present for that interview?

1 A Just myself, you, and Talal Chaghouri.

2 Q And was your presence explained to Mr. Chaghouri?

3 A Yes.

4 Q Now, did he indicate something different on the 15th from
5 what he had told you on the night of February 3rd when this
6 incident happened in 2018?

7 A Yes, he did.

8 Q And can you describe for us what the difference was?

9 A He said the exact opposite of what he had said on February
10 3rd and instead when Anthony realized that the door was unlocked
11 he told him to wait.

12 Q He told who?

13 A He t -- Mr. Chaghouri told Mr. Perrotti to wait to tell the
14 police, because if Alan was going to leave, if he was going to
15 run, let him run off the property and let them get him somewhere
16 else.

17 Q And did he indicate that both he and Mr. Perrotti knew that
18 Alan was not in the apartment for four to five minutes before they
19 told the police?

20 A Yes.

21 Q Did he say for the first time that "Let's not talk about it
22 for a few minutes. If he's going to flee, let it not be on the
23 property"?

24 A That's correct.

25 Q And did he also say that he and Mr. Perrotti felt guilty

1 about it and wished they had told the police about the unlocked
2 door into the apartment earlier?

3 A Yes, he did.

4 Q And did you ask him why he didn't tell you that in the
5 initial interview?

6 A Certainly.

7 Q And what did he say in response to that?

8 A He said because he wasn't directly asked that question.

9 Q Now, in fact, with Mr. Chaghouri's transcript, he reported --
10 MS. LYNCH: If I might just have one moment, Your Honor.

11 THE COURT: Sure.

12 MS. LYNCH: I can't seem to find my notes with the page
13 numbers on it.

14 THE COURT: Sure.

15 [Pause]

16 BY MS. LYNCH:

17 Q I'm going to direct your attention to the recorded interview
18 with Mr. Chaghouri. Did he indicate to you on several occasions
19 during the course of the interview on February 3rd that --

20 MS. LYNCH: If I might just have one moment --

21 THE COURT: Mm-hmm.

22 MS. LYNCH: -- to get the page reference.

23 [Pause]

24 BY MS. LYNCH:

25 Q Okay. So, during the course of the interview, -- I'm just

1 going to reference the interview with Mr. Chaghouri. I'm going to
2 direct your attention to the exhibit which is the transcript of
3 Mr. Chaghouri's testimony, specifically page 21. On page 21 at
4 the top of the page, is there a reference in that to something
5 different than what he told you on March 15th?

6 A Yes.

7 Q What is different that he told you on the night this
8 happened?

9 A He said that "Anthony comes in five minutes later and he says
10 to me, 'The door is open.'

11 "I said, 'Great. Bring in the officers. Let them go in.'

12 "He said, 'Dude, I don't want to do that right now because I'm
13 afraid. You know, he doesn't want to come out. Just let me -- Let
14 me wait it out. Let me see what we can do.'

15 "And I guess he was looking for his brother. When he went
16 inside, he didn't find him."

17 Q Now directing your attention to the exhibit, page 25, what --
18 did he address at that time the same topic of him wanting the
19 police to come in and Mr. Perrotti not?

20 A Yes.

21 Q And what specifically, if you can reference the line on that
22 page?

23 A It's line 10 through 12. He says, "But Anthony comes in and
24 he says to me, 'He left the door open.'

25 "I said, 'Bring the cops in there and let's -- and let's get

1 it.'" "

2 I'm sorry; it goes on beyond that.

3 "You know, 'Let's get it.'

4 "He says to me, "I can't do that to me -- I can't do that to
5 him,'" excuse me. "'Let me see. Let me go in and talk to him.'

6 "He goes inside and doesn't find his brother. He calls, 'Al,
7 Al, Al.' And then he comes out. He says, 'Al's not in there.'
8 He said, 'He must've split from the window, from the rear window.'

9 "I did ask him -- I say, 'Was there no police behind the
10 back?'

11 "He says to me, 'I didn't see anybody waiting behind.'" "

12 Q And with regard to that interview, directing your attention
13 to page 28 of the interview on February 3rd, did Mr. Chaghouri say
14 something different about that, him wanting the police to --

15 A Yeah.

16 Q -- not be notified?

17 A Yes. He said, on line 5, "And he came out and he told me,
18 'It's open and nobody's in there.'

19 "I said, 'Bring the police in there.' I said, 'This is the
20 time to fucking end it,' you know?

21 "I wish he listened to me, man. I wish. I really wish. I
22 wish he had listened to me."

23 Q And so, this was all the night that it happened, that Mr.
24 Chaghouri told you that he wanted the police to be notified but
25 that Mr. Perrotti did not.

1 A Very clearly.

2 Q And then he claimed on March 15th something different?

3 A Yes.

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

5 A I wrote a report.

6 Q And with regard to your report, did that document the
7 inconsistent statements as you noted them that night?

8 A Yes.

9 Q That day.

10 A Yes.

11 Q That afternoon.

12 And does this appear to be your report of that,
13 memorialization of the inconsistent statements?

14 A It is.

15 MS. LYNCH: And I would offer this, Your Honor.

16 [Report by Trooper Connolly Marked as Exhibit No. 125]

17 BY MS. LYNCH:

18 Q Now, with regard to -- All right. I'm sorry, here. Sorry.

19 Now, in terms of your involvement in this investigation, at
20 approximately 1:20 a.m. on the 4th did you have an opportunity
21 with Detective Fitzgerald to talk to Matthew Vatcher?

22 A Yes.

23 Q And did he also provide some context of what had happened the
24 night before?

25 A Yes.

1 Q February 2nd and 3rd?

2 A Yes.

3 Q And in terms of your involvement while you were interviewing
4 witnesses, were there other Middlesex troopers that were
5 interviewing people, such as Trooper Gagne and Lieutenant Bulman?

6 A Yes.

7 Q And at different times would you take a break and discuss
8 with other investigations what you had learned in that timeframe?

9 A Yes.

10 Q While this was going on, were you familiar with whether or
11 not Trooper Gagne was asked to do the downloads of the phones
12 consented to by Devin McDonald?

13 A Yes.

14 Q And during the course of your interview with Mr. McDonald,
15 did he indicate to you a series of texts that he had had with Mr.
16 Chaghouri and Mr. Perrotti on the night of February 2nd as well as
17 texts from Mr. Greenough on the 3rd?

18 A Yes.

19 Q And as a result of that, did you subsequently learn that
20 downloads were created of both the McDonald phone as well as the
21 Greenough phone?

22 A Yes.

23 Q Now, in terms of the downloads of the Cellebrite, in the
24 course of your experience are you familiar with the format of a
25 Cellebrite report as downloaded by Trooper Gagne, who was in your

1 unit at the time?

2 A Yes.

3 Q And in terms of the phone records, were you familiar with the
4 records of an individual who was referred to as Jim Bo, J-I-M B-O,

5 --

6 A Yes.

7 Q -- with a particular phone number?

8 A Yes.

9 Q Did you make an effort to identify who Jim Bo was?

10 A Yes, I did.

11 Q And how did you do that?

12 A I believe through his phone number.

13 Q Okay. Did you call him?

14 A We did eventually call him.

15 Q Okay. And did you interview James Burke on February 9th of --

16 A Yeah, it was --

17 Q -- 2018?

18 A -- a couple days later, yeah.

19 Q Was Mr. Burke's name also familiar to you based on a
20 Winchester police report?

21 A Yes.

22 Q So that in the follow-up investigation were you familiar with
23 the incident reported of September 1st of 2017 in the Winchester
24 police reports?

25 A Yes.

1 Q And with regard to that, was Mr. Burke specifically mentioned
2 in that report as the person who came to the station and --

3 A Picked him up, yeah.

4 Q -- took him into his custody, if you will?

5 A Yes.

6 Q On February 9th of 2018 did you have occasion to interview
7 Mr. Burke?

8 A I did.

9 Q And did you write a police report of that interview?

10 A I did.

11 Q Now, directing your attention to the date March 6th of 2018,
12 did you receive a call from an individual who identified himself --
13 or strike that. Did the Middlesex D.A.'s Office main reception
14 number receive a call from a man identified as Bernard Horn?

15 A Yes.

16 Q And was the message that he was a witness to the Reading
17 Police shooting and had information regarding the case?

18 A Yes.

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

20 A I called and spoke with Mr. Horn.

21 Q And what if anything did he tell you about his knowledge?

22 A He said that he f -- he's a -- a frequent customer of the gas
23 station and he had come about the same time as the ambulance had
24 come after the shooting, and that he had spoke with Mr. Perrotti
25 and a unidentified gas station attendant, and those people and

1 | told him that Alan Greenough had been shot in the back in a car
2 | next to the East Coast Gas and that the officer who had done it
3 | was very aggressive.

4 | Q Did he -- Did you ask him whether he actually witnessed
5 | anything?

6 | A Yes.

7 | Q And what did he indicate?

8 | A He said that he did not witness anything. But the call
9 | seemed to be and he stated that he was just more concerned with
10 | the police-involved shooting in the town.

11 | Q And did he subsequently contact you?

12 | A He did, yeah.

13 | Q And during the time that you spoke to Mr. Horn did he
14 | indicate to you that the people at the gas station regretted not
15 | notifying the police earlier?

16 | A Yes.

17 | Q Now, during the course of your interview with Mr. Perrotti he
18 | told you, did he not, that he had a relative who was married to a
19 | North Reading police officer, a Sergeant Mark McAuliffe?

20 | A I think it's Mike McAuliffe, but yes.

21 | Q Mike McAuliffe, sorry. And did he actually indicate to you
22 | that he reached out to Sergeant McAuliffe in the afternoon of
23 | February 3rd when the police were at the gas station trying to get
24 | Alan coaxed out?

25 | A Yes.

1 Q As a result of that did you arrange to interview Sergeant
2 McAuliffe with Detective Fitzgerald?

3 A I did.

4 Q And in terms of Sergeant McAuliffe, did he indicate that he
5 had known Mr. Greenough since 1989?

6 A Yes.

7 Q And that he was married to Mr. Greenough's first cousin?

8 A Correct.

9 Q And that he was aware that Mr. Greenough had had two seizures
10 but he was not sure of any diagnosed medical condition?

11 A Right.

12 Q Did he indicate that Mr. Greenough had some substance abuse
13 issues and likely some underlying mental health issues?

14 A Yes.

15 Q Did he indicate that he was closer to Anthony and only saw
16 Greenough at family events or when he went to the gas station as a
17 customer?

18 A Yes.

19 Q What did he indicate happened at approximately 4:00 p.m. on
20 February 3rd?

21 A He said that he received a phone call from Mr. Perrotti.

22 Q Did he say where he was at the time?

23 A He was at the movies with his kids. I think he was in
24 Danvers.

25 Q And did he indicate what his conversation with Mr. Perrotti

1 was?

2 A He told them to tell Alan to just come out and do what the
3 police said.

4 Q And so, was Mr. Perrotti looking for his assistance and how
5 to manage the situation?

6 A Yes.

7 Q And Sergeant McAuliffe indicated that he -- his advice was to
8 tell him that -- to comply with the police?

9 A To tell Alan to -- to -- to come out.

10 Q And that he was unable to go because he was with his
11 children?

12 A Correct.

13 Q At the movies.

14 A Yes.

15 Q Now, did he indicate that he was the person who picked up
16 Anthony at -- Anthony Perrotti at the hospital after the interview
17 was concluded on that night in February?

18 A At the police station.

19 Q And did you ask him about certain text messages that were
20 located on the Greenough phone that referred to him?

21 A Yes.

22 Q And I'm just going to draw your attention to the item that's
23 before you in the section for the Greenough phone, which I believe
24 is the second phone. And I'm going to draw your attention to the
25 entries starting on page 177. I believe there's a separation.

1 Okay, in the Greenough one. I'll get you -- That's my book. I'll
2 get you the exhibit.

3 A Okay.

4 MS. LYNCH: I'm sorry, Your Honor.

5 THE COURT: That's okay.

6 BY MS. LYNCH:

7 Q It's denoted by a bright -- So, the Greenough phone part of
8 Exhibit 1. Directing your attention to 177.

9 A Okay.

10 Q And the timeframe Entry 1594 starting on January 29th at
11 11:21:01 p.m.

12 A Yes.

13 Q And then I'd ask you to just scan, if you would, the ensuing
14 pages leading up to page 182, Entry 1742, in terms of the date and
15 timeframe.

16 A [Reviewing document.]

17 Q Do these appear to be a series of text messages from and to
18 the Devin McDonald phone, to or from the Alan Greenough cell
19 phone?

20 A Correct.

21 Q And does this appear to be -- During the course of that
22 series of text messages, was there a reference in those texts that
23 Devin misses Sergeant McAuliffe and --

24 A Yes.

25 Q -- "We're doing a wellbeing check on you" and --

1 A Yeah, it was right at the beginning. 1622, it says, "Devin,
2 this is Officer McAuliffe. How are we going to solve this?"

3 Q Now, can you just generally describe -- Does this appear to
4 be that Mr. McDonald was not coming home that night and Mr.
5 Greenough was expressing concern for him and that the police were
6 going to get him and that it was snowing out and he shouldn't be
7 outside?

8 A Yeah. He said he called the Reading Police about it.

9 Q And that Mr. McDonald indicated that he was at his mother's
10 house and that he was with her and he was fine?

11 A Yes.

12 Q And then you indicate that on page 179, Entry 1 -- What is
13 the number?

14 A 178, 1622.

15 Q 1622.

16 A Yeah.

17 Q There purported to be a message from the -- to the Devin
18 McDonald phone from the Greenough phone saying, "This is Officer
19 McAuliffe. How are we going to solve this?"

20 A Yes.

21 Q Did you ask Officer -- Sergeant McAuliffe about this?

22 A I did.

23 Q And did he have any knowledge of it?

24 A Absolutely not.

25 Q What did he note about --

1 A He said that, one, he's a sergeant not an -- not an officer;
2 and, two, they had spelled his last name wrong.

3 Q And this series of texts, according to the Cellebrite report,
4 went on for a number of pages. And several of the messages were
5 purportedly from Officer McAuliffe, telling him that he had to
6 surrender and that --

7 A Yes.

8 Q -- cars were coming. And that -- Mr. McDonald indicated that
9 he was staying at his mother's that night.

10 A Correct.

11 Q Did he identify -- Did you note in the records when you were
12 reviewing them the name "Brownie" as someone who called or
13 received called from Mr. Greenough frequently?

14 A Yes.

15 Q And did he identify Brownie or who he believed Brownie was?

16 A Yes.

17 Q And what did he say?

18 A He said it was Jim Brown, I believe, whose brother is a
19 lieutenant on the Reading Police, Kevin Brown.

20 Q And did he indicate that he was a high school friend of
21 Alan's, --

22 A Yes.

23 Q -- to his knowledge?

24 A Yes.

25 Q Now, in reviewing the text messages of Mr. Greenough did you

1 note a series of text messages -- I'm going to direct your
2 attention to page 126 of the Alan Greenough records starting on
3 December 9th of 2017.

4 A Okay.

5 Q And with regard to the records and the timeframe that Trooper
6 Gagne was able to obtain, does it appear that at 3:04:57 p.m. the
7 Greenough phone called Jim Bo, who you know to be the number for
8 Jim Burke, for 52 seconds?

9 A Yes.

10 Q And that the next entry between the two is a text on December
11 25th, at page 137, to Jim Bo from Alan Greenough's phone: "Merry
12 Christmas"?

13 A Yes.

14 Q And on December 27th that there were text and calls in the
15 morning, at page 139, between the phones?

16 A Yes.

17 Q And that on December 26th of 2017 there appeared to be a call
18 from the Jim Burke number to the Greenough number for 23 minutes
19 and 6 seconds?

20 A Yes, 23 s -- and 8 seconds, yeah.

21 Q Okay. Now, in terms of the references in the record, did you
22 note in a series of text messages recorded in the Cellebrite
23 report any communications between Mr. Greenough and other
24 individuals for the purposes of either obtaining or providing
25 controlled substances?

1 A Yes.

2 Q Now, I'm going to direct your attention to page 147. Does it
3 appear that there is -- It's on December 28th. "If not brown,
4 maybe some V-vanse [phonetic]"?

5 A Yes.

6 Q Do you know what "brown" is?

7 A "Brown" is usually heroin.

8 Q And what is "V-vanse"?

9 A It's Vyvanse. It's -- It's like a stimulant.

10 Q And in terms of the response to that on December 30th, at
11 page 149, the response from Mr. Burke was "Absolutely not"; is
12 that right?

13 A Correct.

14 Q Now, directing your attention to December 29th, did you note
15 at page 148 a series of texts between an individual named Curt
16 [phonetic] to the Greenough cell phone number?

17 A Yes.

18 Q And with regard to that do you see a text message concerning
19 "val," V-A-L, "blue, round"?

20 A Yes.

21 Q Can you tell us what those entries are?

22 A Which specific entries? There?

23 Q Yes.

24 A Starts with 7:35, "Hey, Al, it's Curt. Can you still get
25 val?"

1 And then 7:36, "Hey, Curt. Val?"

2 7:38 from Curt, "Yeah. Blue, round."

3 Q Now, do you know what -- based upon your training and
4 experience, what "val" is?

5 A Valium.

6 Q And to your knowledge is a tablet of valium round and blue?

7 A They can be, yeah.

8 Q Now, directing your attention to that same page on December
9 29th do you see texts from the Alan Greenough to an individual
10 identified just by the initials Jd [sic]?

11 A Yes.

12 Q "Looking for benzo"?

13 A Yes.

14 Q And in your experience, what is "benzo"?

15 A Benzo -- "Benzo" is nickname for benzodiazepines, which is a
16 category of drugs.

17 Q Now, do there appear to be a series of texts on the pages 148
18 to -49 between Al and Jd?

19 A Yes.

20 Q And with regard to the text, does one of the texts from Jd
21 mention that he will have "K-pins in Weds -- W-D -- somas and sub
22 strips"?

23 A Yes.

24 Q And is there a text in which Jd asks how many beans he
25 needed? And then there's a text between Greenough and Curt?

1 A Yes.

2 Q And do you know what somas are?

3 A Soma is a prescription medication. It's a muscle relaxer.

4 Q What about sub strips?

5 A Suboxone sublingual film.

6 Q And what about K-pins?

7 A Klonopin. It's a benzodiazepine.

8 Q Now, directing your attention to the individual, Curt: during
9 the course of your involvement in this investigation, have you and
10 other investigations attempted to locate Curt?

11 A Yes.

12 Q And were you successful in reaching him or interviewing him --

13 A No.

14 Q -- in connection with this case?

15 Had you gone out-of-state to some of his last known addresses
16 and relatives?

17 A Yeah, to Maine.

18 Q And were you able to locate him?

19 A No.

20 Q Now, in addition to Curt did you also -- and Jd did you also
21 note a series of texts between the Greenough cell phone and
22 someone named Alex?

23 A Yes.

24 THE COURT: Ms. Lynch, I knew Trooper Connolly is your last
25 witness; is that right?

1 MS. LYNCH: For today.

2 THE COURT: Okay. I just want to be sensitive to people's
3 lunch. I don't know how long and if we need to recess and then
4 come back to Trooper Connolly or what makes sense.

5 MS. LYNCH: I think that might be --

6 THE COURT: Okay. Why don't we take the lunch recess and
7 then come back at two o'clock. Okay?

8 [Court in Recess at 1:02:33 p.m.]

9 [Back on Record at 2:02:41 p.m.]

10 MS. LYNCH: Thank you.

11 BY MS. LYNCH:

12 Q Now, Trooper Connolly, in reviewing the Cellebrite records,
13 Exhibit 1, for the Alan Greenough phone for the date of December
14 27th of 2017, --

15 A Yeah.

16 Q -- through the evening of 2017 -- through the evening of
17 February -- December 27th of 2017, did you observe a series -- an
18 extensive series of texts between the James Burke number and the
19 Alan Greenough number?

20 A Yes.

21 Q And did those appear to reference or did you later learn that
22 they referenced Mr. Greenough's overdose on November 1st of 2017?

23 A Yes.

24 Q And with regard to the texts, directing your attention to
25 page 156 on January 7th of 2018, a reference to Alan texting, "Are

1 | you able to get me something today? If you're available I have
2 | someone here for an eighth," what is an eighth?

3 | A An eighth is just a -- a fractional measurement of weight.

4 | Q Okay. And in terms of the terminology "beans," what does
5 | beans refer to?

6 | A Bean could mean a lot of things but usually it's some type of
7 | prescription pill, either a benzo or more frequently ecstasy.

8 | Q And what about xany, X-A-N-Y?

9 | A Xanax, another benzodiazepine.

10 | Q And what about addy?

11 | A Adderall.

12 | Q And what type of a medication is Adderall?

13 | A Adderall is a stimulant that treats ADHD, usually.

14 | Q Now, given the events of February 2nd into February 8th, did
15 | you make note of certain texts on February 2nd of 2018 between Al
16 | and Curt as well as Jim Knight?

17 | A Yes.

18 | Q And with regard to that series of texts, did it appear that
19 | Mr. -- that there were discussions between them about the purchase
20 | of Klonopins and -- between Curt and Mr. Greenough and Alex and
21 | Mr. Greenough?

22 | A Yes.

23 | Q And with regard to that particular day, after that was there
24 | any further -- Well, strike that. On the following day did it
25 | also appear that there were texts between Curt and Mr. Greenough

1 in which Curt indicated that he was sick and feeling shaky? And I
2 direct your attention to page 191.

3 A Yes.

4 Q Okay. Now, in terms of your involvement in this
5 investigation, you indicated that you had interviewed Mr. Burke
6 and Mr. Burke had described for you -- Did Mr. Burke describe for
7 you the circumstances under which he picked up Alan Greenough at
8 the Winchester Hospital?

9 A Yes, he did.

10 Q And did he subsequently explain to you being present at the
11 house on November 1st of 2017 when Mr. Greenough had an overdose?

12 A Yes.

13 Q And in terms of the reading of the text messages from
14 December 27th, did it appear from those and did Mr. Burke tell you
15 that he was upset because he called the police and felt that he
16 helped save Alan's life and that Anthony was very angry at him?

17 A Yes.

18 Q And that that deterred him from going back to the apartment?

19 A Yeah. I think he said he never came back.

20 Q And did he indicate for you that the last time that he ever
21 saw Alan Greenough was the day of November 1st when --

22 A Yeah.

23 Q -- there was the overdose?

24 A Yes, he did.

25 Q And with regard to Mr. Burke, -- Strike that. If I might

1 just have one second.

2 MS. LYNCH: And, Your Honor, at this time I would just say
3 that depending on Mr. Burke's status at the next hearing, I would
4 ask the Court's permission to reserve the right to recall --

5 THE COURT: Trooper Connolly?

6 MS. LYNCH: -- Trooper Connolly --

7 THE COURT: Yes.

8 MS. LYNCH: -- about the content of those interviews.

9 THE COURT: Absolutely.

10 MS. LYNCH: Okay.

11 THE COURT: Mm-hmm.

12 MS. LYNCH: Thank you.

13 THE COURT: Mm-hmm. Mr. Pasciucco?

14 MR. PASCIUCCO: No questions.

15 THE COURT: Attorney Koufman?

16 MR. KOUFMAN: May I just have a quick moment?

17 THE COURT: Sure.

18 MR. KOUFMAN: If I may just make an offer, 'cause you may not
19 want to --

20 THE COURT: Sure.

21 MR. KOUFMAN: It has to do with the gunlock and that the
22 responding officers on Friday night -- on Friday, February 2nd,
23 that went to the apartment. He interviewed two of the -- one of
24 the officers, Officer Vatcher. And he made no mention in the
25 police report of any kind of a gunlock or anything. And if I

1 | could just ask, I would ask him questions about that if it would
2 | help you.

3 | THE COURT: It wouldn't. Thank you. Okay.

4 | CROSS EXAMINATION OF WITNESS, TROOPER JAMES CONNOLLY

5 | BY THE COURT:

6 | Q Trooper Connolly, I just -- You're not the trooper in charge
7 | of the full investigation. Is that Lieutenant Bulman?

8 | A So, I'm the lead trooper. A case officer is assigned at a
9 | trooper level. But he is the supervisor. So he is --

10 | Q Okay.

11 | A -- definitely in charge.

12 | Q So, I ask that because you may not be able to answer the
13 | question I have. But is this the first police officer-involved
14 | shooting that you have investigated?

15 | A No.

16 | Q Okay. I know when I've provided over a motor vehicle
17 | homicide case that there is an accident reconstruction expert.
18 | And I was going through my notes, and I know I asked the
19 | ballisticians this and he said it's a better question for the
20 | District Attorney's Office, so I'm going to ask you. And maybe
21 | somebody else can answer the question for me.

22 | Is there no process by which in the course of investigation
23 | you would take all of the witness statements, all of the pieces of
24 | evidence, the ballisticians' report, a forensic analysis, and kind
25 | of recreate based on what the police officer said happened, based

1 on what other -- the other said happened, so putting all of the
2 evidence together for purposes of the investigation, since this
3 inquest is an investigatory procedure, to help the Court?

4 A Yeah. I can't think of an example, at least since I've been
5 in this office, that we've done something like that. Obviously if
6 the case dictated that that would be beneficial to the
7 investigation, -- We did have a -- a diagram created of the -- the
8 outside area.

9 Q Mm-hmm.

10 A I'm s -- I imagine you have a copy of that. But other --

11 Q Yeah.

12 A -- than that, I -- I'm not sure that I -- I s -- would've
13 seen the benefit in it, only because I've never done it before.

14 Q Okay. And it's never obviously been -- You said you've never
15 done it before. It's never happened in any of the other
16 police-involved shootings that you've been involved in, either?

17 A We did not, no.

18 Q Okay. Thank you.

19 THE COURT: So, with the right to recall Trooper Connolly,
20 any other questions for this witness?

21 MS. LYNCH: No, Your Honor.

22 THE COURT: Okay. Thank you, Trooper Connolly.

23 [Witness steps down]

24 THE COURT: Any other witnesses available for today?

25 MS. LYNCH: Not for today, Your Honor.

1 THE COURT: Okay. So, let's just talk about scheduling for
2 the 19th. I have a personal appointment that I've put off that I
3 have to address on the 19th. I'll be available by noon, though.

4 MS. LYNCH: Okay.

5 THE COURT: Okay? So, noon on the 19th for everybody.

6 The other thing that I wanted to address is I might -- it
7 might be helpful for me to hear from Mr. Horn that was mentioned
8 earlier, --

9 MS. LYNCH: Okay.

10 THE COURT: -- Bernard Horn.

11 Any other kind of issues that anybody has/wants to bring to
12 my attention before the 19th?

13 MR. PASCIUCCO: Yes, Your Honor.

14 THE COURT: Yeah.

15 MR. PASCIUCCO: Just briefly. We intend to call, with Your
16 Honor's permission, Charles DiChiara. He's a patrolman with the
17 Waltham Police Department.

18 THE COURT: Mm-hmm.

19 MR. PASCIUCCO: He's also a Level 4 instructor with respect
20 to use of force and defensive tactics.

21 THE COURT: Mm-hmm.

22 MR. PASCIUCCO: There's only 10 of them in the whole state.
23 He trains police officers, police chiefs, command staffs, both
24 domestically and internationally. And I think it would help the
25 Court's investigatory function to hear from him.

1 THE COURT: Okay.

2 MR. PASCIOCCO: He's neutral. He doesn't have any
3 involvement in this case. And I think if the Court does allow it,
4 with the scheduling now just being the afternoon of the 19th, it'd
5 probably be a good idea to let him know that he should be
6 available for the 24th.

7 THE COURT: Okay. I don't know who else Ms. Lynch plans to
8 call on the 19th, in terms of scheduling. So I should hear from
9 her first.

10 MR. PASCIOCCO: Sure.

11 MS. LYNCH: Sure. Potentially Mr. Burke, Detective
12 Lieutenant Bulman, I'm hoping to get a toxicologist from the lab,
13 --

14 THE COURT: Yeah.

15 MS. LYNCH: -- and potentially Lieutenant Abate.

16 THE COURT: Okay.

17 MS. LYNCH: I don't think any of them will be particularly
18 long.

19 THE COURT: Mm-hmm.

20 MS. LYNCH: And I didn't know whether the Court had any other
21 witnesses that -- other than Mr. Horn --

22 THE COURT: Horn.

23 MS. LYNCH: -- that you would want. I would have Mr. Horn
24 here that day.

25 THE COURT: Not at this time.

1 MS. LYNCH: Okay.

2 THE COURT: I may send more that I have somebody -- But --

3 MS. LYNCH: Okay. Oh, I'm sorry; I also have Sergeant
4 Limoncelli.

5 THE COURT: Okay. So that would probably take all of the
6 afternoon of the 19th, maybe even potentially into the 24th.

7 MS. LYNCH: Would the Court anticipate taking a luncheon
8 break from one to two?

9 THE COURT: Yes.

10 MS. LYNCH: Okay.

11 THE COURT: I mean, I need to do that for -- 'cause --

12 MS. LYNCH: Sure.

13 THE COURT: Even though I haven't been here, everybody else
14 has, and they're entitled to lunch.

15 MS. LYNCH: Sure.

16 THE COURT: So, yes.

17 MS. LYNCH: So we would have one and then two hours, three
18 hours, -- I think that will take us --

19 THE COURT: Mm-hmm.

20 MS. LYNCH. -- through.

21 THE COURT: Okay. And then -- So, maybe that witness that
22 you'd like to call on the 24th, then.

23 MS. LYNCH: Yes.

24 THE COURT: Okay. All right. Any other scheduling issues?

25 No? Okay. Thank you all very much. I'll see you on the 19th at

1 noon. And I'll send word if I think of anybody else I'd like to
2 hear --

3 MS. LYNCH: Okay.

4 THE COURT: -- from.

5 MS. LYNCH: Thank you, Your Honor.

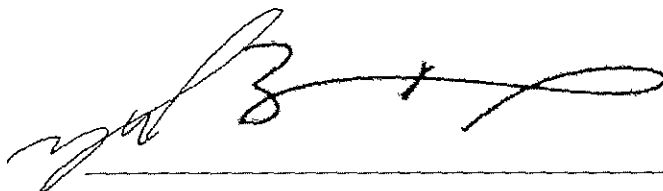
6 [Adjourned at 2:13:36 p.m.]

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October 23, 2019

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TYPE: FTR JAVS QUALITY: EXCELLENT GOOD FAIR POOR

ISSUES:

Time stamp(s) of indiscernible word(s):

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