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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 Civil Action No. 1:12-cv-11908

4 *****

5 EURIE A. STAMPS, JR. and NORMA

BUSHFAN STAMPS, Co-Administrators

6 of the Estate of Eurie A. Stamps,

Sr.,

7

Plaintiffs,

8

v.

9

THE TOWN OF FRAMINGHAM, and PAUL

10 K. DUNCAN, individually and in

his Capacity as a Police Officer

11 of the Framingham Police

Department,

12

Defendants.

13

14

15 VIDEOTAPED DEPOSITION OF OFFICER SEAN RILEY

16

17 Thursday, August 1st, 2013

18 10:31 a.m.

19

20 Held At:

21 Kreindler & Kreindler LLP

277 Dartmouth Street

22 Boston, Massachusetts

23 REPORTED BY:

24 Maureen O'Connor Pollard, RPR, CLR, CSR

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1 APPEARANCES:

2

3 FOR THE PLAINTIFF NORMA BUSHFAN STAMPS:

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15 Also Present: Lucille Sharp, Paralegal

16

Videographer: Christopher Coughlin

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6 NO. DESCRIPTION PAGE

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8 Sean Riley by Lieutenant Forster,
9 Bates STAMPS 000287 through 298..... 4

10 2 Schematic floor plan..... 4

11 3 Document titled SWAT Training,
12 Bates STAMPS 001835..... 4

13 4 Policy on Firearms and Weapons
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15 5 Policy on Firearms and Weapons
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17 1A Copy of photograph..... 25

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19 6 Color photograph of front of 26
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1 PROCEEDINGS

2

3 (Whereupon, Exhibit Number 1,
4 Transcript of 1/6/11 Interview of Sean
5 Riley by Lieutenant Forster, Bates
6 STAMPS 000287 through 298, Number 2,
7 Schematic floor plan, Number 3,
8 Document titled SWAT Training, Bates
9 STAMPS 001835, Number 4, Policy on
10 Firearms and Weapons #50-4, Effective
11 Date 7/1/03, Number 5, Policy on
12 Firearms and Weapons #50-4, Effective
13 Date 10/7/11, was marked for
14 identification.)

15 THE VIDEOGRAPHER: We are now on the
16 record. My name is Chris Coughlin, I'm a
17 videographer for Golkow Technologies.

18 Today's date is August 1st, 2013, and
19 the time is 10:31 a.m.

20 This video deposition is being held in
21 Boston, Massachusetts, in the matter of Eurie A.
22 Stamps, Jr. and Norma Bushfan Stamps,
23 Co-Administrators of the Estate of Eurie A. Stamps,
24 Sr., Plaintiffs, versus the Town of Framingham

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1 and Paul K. Duncan, individually and in his
2 capacity as a police officer of the Framingham
3 Police Department, Defendants, in the United
4 States District Court, District of
5 Massachusetts, Civil Action Number
6 1:12-cv-11908-FDS.

7 The deponent is Sean Riley.

8 Will counsel please identify
9 yourselves for the record.

10 MR. TARRICONE: My name is Anthony
11 Tarricone from the Kreindler law firm
12 representing the Plaintiffs in this action.

13 MR. DONOHUE: Tom Donohue from Brody
14 Hardoon Perkins & Kesten. I represent the
15 Defendant.

16 MR. MUSACCHIO: My name is Joseph
17 Masacchio, also with the Kreindler law firm,
18 representing Eurie Stamps, Jr..

19 THE VIDEOGRAPHER: The court reporter
20 is Maureen Pollard, and will now swear in the
21 witness.

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1 OFFICER SEAN RILEY,
2 having been first duly sworn, was examined and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TARRICONE:

6 Q. Officer Riley, would you please state
7 your full name.

8 MR. DONOHUE: Before we get there, do
9 you want to do the usual stipulations? Reserve
10 all objections except as to the form of the
11 question --

12 MR. TARRICONE: Yes.

13 MR. DONOHUE: -- until trial?

14 MR. TARRICONE: Yes.

15 BY MR. TARRICONE:

16 Q. Are you ready to go?

17 A. I'm ready.

18 Q. Officer Riley, will you please state
19 your full name.

20 A. Sean Riley. S-E-A-N, R-I-L-E-Y.

21 Q. And are you an officer with the
22 Framingham Police Department?

23 A. Yes, I am.

24 Q. What is your rank?

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1 A. I'm a patrol officer.

2 Q. So is the appropriate title for you

3 officer?

4 A. That's correct.

5 Q. Officer Riley?

6 A. Yes.

7 Q. Thank you.

8 Officer Riley, where do you live,

9 address?

10 A. My home address?

11 Q. Yes.

12 MR. DONOHUE: Do you need the home

13 address? Can I agree to accept service?

14 MR. TARRICONE: Sure. That's fine.

15 MR. DONOHUE: I'm happy to talk to you

16 about it after, we'd just rather not --

17 MR. TARRICONE: That's fine. For

18 privacy purposes, I'm fine not putting that on

19 the record.

20 MR. DONOHUE: Thank you.

21 BY MR. TARRICONE:

22 Q. Can you tell me what town you live in?

23 A. I live in the Town of Westboro.

24 Q. And what is your date of birth?

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1 A. [REDACTED].

2 Q. How long have you been an officer with
3 the Framingham Police Department?

4 A. With the Framingham Police Department,
5 November 15th, 2001 I started.

6 Q. Before you were at the Framingham
7 Police Department, were you employed at a
8 different police department?

9 A. I was, two other agencies.

10 Q. Which was the first?

11 A. I worked with the Winthrop Police
12 Department from September of 1996 until
13 November 15th, 2001. And prior to that, I was
14 with the sheriff's department, Suffolk County,
15 from October of '93, and it overlapped with my
16 Winthrop duties until approximately December of
17 1998.

18 Q. Okay. So what was your start date
19 with the Framingham Police Department?

20 A. November 15th, 2001.

21 Q. Have you been continuously employed as
22 an officer in the Framingham department since
23 then?

24 A. Yes, sir.

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1 Q. I understand that you are a member of
2 the SWAT team?

3 A. I was at the time of this incident.

4 Q. Are you currently a member of the SWAT
5 team?

6 A. No, I'm not.

7 Q. When did you leave the SWAT team?

8 A. The end of June of 2011.

9 Q. What was the reason you left?

10 A. There were two reasons. One, I had a
11 shoulder injury, rotator cuff, which limited me
12 some physical, and my current job responsibility
13 within the police department took too much time.

14 Q. What was your responsibility, other
15 than the SWAT team?

16 A. I am the housing liaison officer with
17 the Town of Framingham.

18 Q. What does that mean?

19 A. I work directly with the Framingham
20 Housing Authority and various other large
21 landlords overseeing and coordinating police
22 response activities to their properties.

23 Q. So for what period of time were you a
24 member of the Framingham Police Department's

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1 SWAT team?

2 A. July of 2002 until June of 2011.

3 Approximately nine years.

4 Q. Now, you understand that you're here

5 today giving testimony in a case that's pending

6 in the United States District Court here in the

7 Commonwealth of Massachusetts?

8 A. Yes, sir.

9 Q. And you understand that that case

10 involves the shooting death of Eurie Stamps, a

11 68 year old gentleman who lived in Framingham at

12 the time?

13 A. Yes, sir.

14 Q. And you understand that you're here to

15 testify concerning the SWAT team's activities on

16 the evening of January 4th, 2011 and the early

17 morning hours of January 5th, 2011 when the SWAT

18 team was executing a search warrant in

19 Framingham?

20 A. That's correct.

21 Q. And it was during the execution of

22 that search warrant that Mr. Stamps was shot and

23 killed, is that right?

24 A. That's correct.

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1 Q. At the time of this incident in
2 January of 2011, what was your position with the
3 SWAT team?

4 A. I was considered an assistant team
5 leader, and also an operator on the team.

6 Q. As an assistant team leader and
7 operator, did you have training
8 responsibilities?

9 A. As far as training the other members
10 of the team?

11 Q. Yes. Did you have responsibilities
12 with respect to the training of members of the
13 SWAT team?

14 A. On certain topics, yes.

15 Q. I noticed in the records that were
16 produced by the Town of Framingham that there
17 are a considerable number of memos from you,
18 that are written by you concerning monthly
19 training of the SWAT team.

20 Do you know what I'm talking about?

21 A. I would have to see.

22 Q. Keep going. We'll come back -- I'm
23 going to get a document and show you.

24 A. Memos, I don't --

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1 Q. Let me ask you this.

2 Did the SWAT team have monthly
3 training?

4 A. We did.

5 Q. Were you involved in training the SWAT
6 team members from time to time?

7 A. Yes. As a course of action throughout
8 the day, yes.

9 Q. I'm going to show you in a few minutes
10 when I have the documents some memos that appear
11 to be ones written by you concerning the monthly
12 training from time to time.

13 Do you have any recollection of
14 preparing memos?

15 A. I don't recall being a preparer of
16 memos on a monthly training basis.

17 Q. Okay. Did you have responsibility for
18 aspects of the training from the time you joined
19 the SWAT team through June of 2011?

20 A. On certain topics, yes.

21 Q. What topics did you conduct training
22 on?

23 A. Active shooter, ballistic shield.

24 Q. Any others?

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1 A. And just general entries into the
2 buildings, or in rooms.

3 Q. What is an active shooter? What is
4 that topic?

5 A. Best described, an example of an
6 active shooter would be, say, your Columbine
7 type incident where you have a person that comes
8 into a building, workplace, any environment, and
9 actively starts to shoot, wounding, killing.

10 Q. So it's training how to deal with that
11 kind of an incident?

12 A. Correct.

13 Q. And ballistic shield, what is that
14 topic?

15 A. Ballistic shield is a tool that not
16 only the SWAT team uses, but also in the patrol
17 function where it just adds a little bit extra
18 ballistic protection, and the proper way how to
19 hold it, how to hold your firearm while using
20 the ballistic shield, etcetera.

21 Q. And the last topic you mentioned was
22 entry into buildings and rooms. What does that
23 topic cover?

24 A. That would be a topic that we would

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1 cover pretty much on a monthly basis. And
2 that's basically, you know, going up to a
3 structure, once you get there how to properly
4 enter, when you're in the structure how to
5 properly enter rooms, how to line up on a door
6 whether it's open or shut.

7 Q. So that topic would involve some of
8 the activities on the evening of January 4th,
9 2011 when you entered the premises at 26
10 Fountain Street in Framingham. Is that a
11 correct statement?

12 A. Oh, yes. Absolutely.

13 Q. As part of the training that you gave
14 for entry into buildings and rooms, did you
15 train on a procedure called contact and cover?

16 A. That has been trained since day one of
17 being in police work, so yes.

18 Q. So the answer is yes, you did cover
19 that?

20 A. Yes.

21 Q. Is it fair to say that that's
22 something that you learned in your initial
23 training at the police academy?

24 A. Yes.

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1 Q. And is it fair to say that other
2 officers would have had that same training at
3 the police academy?

4 A. Yes, sir.

5 Q. And you covered that procedure in the
6 training that you gave members of the SWAT team?

7 A. Yes. That was covered in the course
8 of training, yes.

9 Q. Did you also -- were you involved in
10 training with respect to the procedures for
11 having weapons with safe on or safe off during
12 entry into buildings and rooms?

13 A. That was more handled by, say, the
14 firearms instructors. I don't believe I ever
15 specifically taught to that technique. But yes,
16 as far as being an instructor on that, I don't
17 recall being an instructor.

18 Q. Do you know whether the SWAT team was
19 trained in the appropriate protocols for having
20 their weapons with safety on or safety off
21 during the entry into buildings and rooms?

22 MR. DONOHUE: Object to the form.

23 A. At the time I was on the team, when
24 you went into a building you would be on what we

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1 would call hot, or not safe, you would have your
2 weapon at the ready going into a structure or
3 going into a room.

4 BY MR. TARRICONE:

5 Q. That's what you were trained to do?

6 A. Correct.

7 Q. Is that right?

8 Now, were you involved in the planning
9 of the SWAT team activity that took place on
10 January 4th, 2011 at 26 Fountain Street?

11 A. I had a very small peripheral role on
12 that.

13 Q. What was your involvement in the
14 training?

15 A. In the --

16 Q. Or rather in the planning?

17 A. Oh, okay. When I arrived I met with
18 the SWAT commander and the two team leaders,
19 which were Lieutenant Downing and Sergeant
20 Stuart, who had drawn up the operational plan
21 for the evening, and was just conferring with
22 them as to what my assignment was going to be
23 that particular night, and what the overall plan
24 was for the execution of the search warrant.

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1 Q. In the training that you had, were you
2 trained by Lieutenant Downing?

3 A. On various occasions, yes.

4 Q. Was he one of the regular teachers or
5 instructors for the SWAT team?

6 A. Yes, sir.

7 Q. Earlier when I asked you if you had
8 written memos, I was mistaken, it was Lieutenant
9 Downing, I believe, who was the author of those
10 memos.

11 Does that sound more consistent with
12 your memory?

13 A. Definitely.

14 Q. On the topics that you were
15 instructing, the three topics you mentioned, did
16 you prepare any written reports or memos?

17 A. I don't recall. That usually fell
18 under the guise or the responsibility of the
19 team leader that day, which would have been
20 Lieutenant Downing or Sergeant Stuart.

21 Q. Was he usually the team leader for
22 training purposes?

23 A. Yes.

24 Q. Did you have written protocols,

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1 guidelines, or other materials that you used in
2 training on those three topics that you
3 mentioned?

4 A. Yes. I would utilize the materials
5 that I got from the trainings that I went to to
6 become an instructor in those, I would use those
7 in the course of my teaching of those topics,
8 whether it was ballistic shield, active shooter,
9 or SWAT entries, yes.

10 Q. So for SWAT entries, or entry into
11 buildings and rooms as you described it earlier,
12 you had written materials from other courses?

13 A. I guess I should explain a little bit.
14 When I say when we teach that, I guess it's not
15 standing up in front of a classroom and going
16 through, say, a PowerPoint presentation. That
17 does occur, that usually happens when guys go
18 through their initial training. But when I say
19 "teach," when we're at, say, a site where we're
20 training, there's teaching going on verbally, if
21 that makes sense. So I guess I'm not -- I'm
22 referring based more on past knowledge,
23 experience, and materials that we were taught,
24 if that makes more sense.

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1 Q. Now, you mentioned that you had some
2 materials from other courses. Do you still have
3 those?

4 A. I know I have the active shooter
5 materials. I believe I have the ballistic
6 shield materials. I'd have to look, that was
7 quite a few years ago that I did that. But in
8 the course of action, I usually save that stuff.

9 Q. And with respect to the entry, do you
10 have written materials for that procedure?

11 A. I don't -- I know I have basic
12 handbooks that were given out during trainings,
13 whether or not they cover those topics
14 specifically.

15 Q. Are these basic handbooks ones that
16 were provided to members of the Framingham
17 Police Department SWAT team?

18 A. Right, in the course of going through
19 a course you would be given either handouts or
20 PowerPoint presentations.

21 Q. Do you have some of the -- or any of
22 the PowerPoint presentations?

23 A. I may not have the -- all the specific
24 ones, but my guess is they're with our training

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1 records, or, you know, someone has them because
2 we do refer back to those items.

3 Q. Do you know whether the department
4 maintains a training file or folder for each
5 officer?

6 A. I know Lieutenant Brandolini is the
7 keeper of, say, the records of all of our
8 training as police officers. I believe the SWAT
9 team has a separate file under the direct
10 supervision of Deputy Chief Davis. I've never
11 seen those files, but I know that --

12 Q. My question is a little different.
13 Do you know whether there's a training
14 file kept for each officer under the officer's
15 name? In other words, a file for --

16 A. Yes, because I've actually seen mine,
17 yes, sir.

18 Q. So there is one?

19 A. I've gotten the certificates right out
20 of it.

21 MR. TARRICONE: And, Mr. Donohue,
22 those haven't been produced for some reason, and
23 I don't know what the story is with those.

24 Do you have them?

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1 MR. DONOHUE: I've given you what I
2 have.

3 MR. TARRICONE: We were given the SWAT
4 team training materials, but we were not given
5 the individual officer training files which I
6 understood existed and has now been confirmed.

7 MR. DONOHUE: Okay. If you want to
8 send me an e-mail, I'll follow up and I'll see
9 what I can do.

10 MR. TARRICONE: We haven't seen those.
11 They were part of our original request.

12 Joe, will you go tell Lucille just to
13 bring the binder in.

14 MR. MUSACCHIO: Okay.

15 MR. TARRICONE: Thank you.

16 BY MR. TARRICONE:

17 Q. In preparation for your deposition
18 today, did you review any materials?

19 A. I did.

20 Q. What did you review?

21 A. I reviewed my statement with
22 Lieutenant Ed Forster with the Massachusetts
23 State Police. I reviewed some photos that were
24 given to me.

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1 Q. Were those crime scene photos?

2 A. I believe some of them were crime
3 scene photos. I believe some of them were part
4 of the, if I remember correctly, the operational
5 plan, the initial photos we saw in our
6 PowerPoint when we set up. I also reviewed the
7 SWAT policy, and I believe it was the after
8 action report of Deputy Chief Davis.

9 Q. Have you ever given testimony in any
10 civil proceeding before today, whether by
11 deposition or in a trial?

12 A. Yes, sir.

13 Q. When and where?

14 A. I recall two other times being
15 deposed. Specific locations, I believe they
16 were both in Boston.

17 Q. Were they the same case, or two
18 different cases?

19 A. Two different cases.

20 Q. Which was the first case?

21 A. One was a motor vehicle accident where
22 a pedestrian was struck, if I remember the case
23 correctly.

24 Q. Were you an investigating officer on

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1 that case?

2 A. Yes, sir.

3 Q. And what was the second time that you
4 gave testimony?

5 A. That was, I want to say, within the
6 past year. I'm drawing a blank as to the exact
7 case that was for. I don't recall.

8 Q. Do you have any idea what the subject
9 was, general subject?

10 A. You know, as an investigator I had so
11 many different cases.

12 Q. Was it --

13 A. I'd be guessing, but I believe it
14 was -- I think it involved a fire case. But I
15 don't recall specifically. I'd have to honestly
16 go back and look at my notes to figure that out.

17 Q. Have you ever given testimony in any
18 proceeding anywhere involving a shooting?

19 A. I have been involved indirectly with
20 two cases. I'm trying to think if I actually --
21 if both of those cases went to court or not.
22 The first one I know I wrote reports on, that
23 never went to court just based on the case
24 itself. And the other one, I believe, I

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1 never -- I never testified in court because all
2 of my interviews were witness-driven interviews.

3 MR. TARRICONE: I'm going to take a
4 moment and mark these. Is Exhibit 1 the
5 statement? I'm going to mark this -- if it's
6 okay with you, photos which came with the
7 statement, I'm going to mark them as 1A and 1B,
8 is that okay? Or would you rather have separate
9 numbers?

10 MR. DONOHUE: I don't mind. We
11 already have a 1, though, so do you want to do
12 it as an addendum to his statement?

13 MR. TARRICONE: Yes.

14 MR. DONOHUE: That's fine.

15 MR. TARRICONE: These were used during
16 his statement. Okay. Let's mark these.

17 And by the way, the quality of what
18 you gave us is really -- there's got to be a
19 better way to produce these than what we got.
20 They look like photocopies of a photocopy which
21 is why they're so faded. This is the best we
22 could do with the print.

23 So at a later time if we can find the
24 originals, which I assume the town has, we would

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1 like to obtain better copies, and we'll
2 substitute them, if that's okay with you.

3 MR. DONOHUE: I can follow up.

4 MR. TARRICONE: Let's mark this as 1A
5 and 1B, which will be supplements to, or
6 addendums to Exhibit 1.

7 (Whereupon, Riley Exhibit Number 1A,
8 Copy of photograph, and Number 1B,
9 Copy of photograph, was marked for
10 identification.)

11 BY MR. TARRICONE:

12 Q. Officer Riley, other than discussions
13 with your legal counsel, with whom have you
14 discussed the shooting of Eurie Stamps at any
15 time since it occurred?

16 A. I mean we've had discussions as
17 members of the SWAT team. It's come up in just
18 general conversation within the police
19 department.

20 Q. When did you have discussions with
21 members of the SWAT team?

22 A. I mean we probably started discussing
23 it immediately after it happened. The next
24 training we discussed it, went over what

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1 happened that night.

2 Q. Who discussed it at the next training
3 session?

4 A. Whoever was present at that particular
5 training.

6 Q. Was Officer Duncan present?

7 A. I don't recall.

8 Q. Is he still a member of the SWAT team?

9 A. No, sir.

10 Q. When did he leave the SWAT team, if
11 you know?

12 A. It was shortly thereafter, within a
13 couple of months, I believe.

14 Q. Within a couple of months of the
15 shooting?

16 A. Yes, sir.

17 Q. When was the most recent time you
18 discussed the shooting with anybody other than
19 your legal counsel?

20 A. I discussed it on the way here
21 actually.

22 Q. With whom?

23 A. With my mother.

24 Q. You said you had an opportunity to

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1 review the transcript of your interview?

2 A. Yes, sir.

3 Q. Was that recently?

4 A. I reviewed it probably several times;
5 a couple weeks ago when I first got it, I
6 reviewed it last night, and again this morning.

7 Q. Would you take a look at Exhibit 1,
8 which is to your right?

9 A. Yes.

10 Q. Is that a copy of the transcript that
11 you reviewed?

12 (Witness reviewing document.)

13 A. Yes, sir, this appears to be the exact
14 copy.

15 BY MR. TARRICONE:

16 Q. When you read the transcript, did it
17 appear to be an accurate transcription of what
18 you said when you were asked questions about the
19 incident?

20 A. Yes. After reviewing it two and a
21 half years later, it appeared to be fair and
22 accurate, yes.

23 Q. Is that the first time you had an
24 opportunity to see it, two and a half years

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1 after you gave the statement?

2 A. Yes, yes.

3 Q. And when was it that you answered
4 questions that were recorded and transcribed
5 into Exhibit 1?

6 A. It was the very -- it was on the 6th,
7 so it was approximately 24 hours after the
8 event.

9 Q. So the events were fresh in your mind
10 at that time, I assume?

11 A. Yes, sir.

12 Q. And were you telling the truth when
13 you answered questions on that day?

14 A. Yes, sir.

15 Q. So in addition to Exhibit 1, which is
16 the transcript, you have in front of you
17 addendums to Exhibit 1 which have been marked as
18 Exhibits 1A and 1B. Do you recognize these?

19 A. Yes, I do.

20 Q. What are they?

21 A. 1A is a photograph of the residence,
22 which I believe is 26 Fountain Street, from the
23 exterior, from the street looking at the front.

24 And 1B is a photo inside the

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1 residence, specifically in the kitchen, looking
2 out towards the front of the house.

3 Q. And are those Exhibits 1A and 1B
4 photographs that you made markings on when you
5 were answering the questions that appear in the
6 transcript, Exhibit 1?

7 A. Yes, sir.

8 Q. Is that your handwriting on exhibits
9 1A and 1B?

10 A. Yes, it is.

11 Q. Do you know whether there were any
12 other pages, photographs, or any other documents
13 that you marked on when you were answering
14 questions for Lieutenant Forster?

15 A. I don't recall any additional. I do
16 definitely recall these two, though.

17 Q. Okay. And did you have a chance to
18 review those before today as well?

19 A. Yes. I believe I did see these, yes.

20 Q. Now, Exhibit 1A depicts 26 Fountain
21 Street, is that correct --

22 A. Yes.

23 Q. -- in Framingham?

24 A. Yes, sir.

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1 Q. And you said Exhibit 1B is a view of
2 the kitchen looking toward the front door, is
3 that right?

4 A. That's correct.

5 MR. TARRICONE: Please mark this.

6 (Whereupon, Riley Exhibit Number 6,
7 Color photograph of front of 26
8 Fountain Street, was marked for
9 identification.)

10 BY MR. TARRICONE:

11 Q. Do you have in front of you a
12 photograph that's been marked as Exhibit 6?

13 A. Yes, sir.

14 Q. Is that a photograph that depicts the
15 front of 26 Fountain Street?

16 A. Yes, sir.

17 Q. And I note that the window to the
18 right of the door on the first floor appears to
19 have plywood or some kind of wood, is that
20 right?

21 A. That is correct, sir.

22 Q. Is that the window through which a
23 flashbang was ignited?

24 A. No, sir.

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1 Q. Which one was it?

2 A. Flashbang was on the B side of the
3 house, sir.

4 Q. Where were you supposed to be for
5 this? What was your assigned position? Was it
6 the front of the house, A side?

7 A. I was the front of the house at that
8 window you just described.

9 Q. And my understanding is you were
10 holding a fire extinguisher, is that right?

11 A. I brought one up to the front of the
12 house, yes, sir.

13 Q. And with you was Officer Sibilio, is
14 that right?

15 A. Sergeant Sibilio.

16 Q. Sergeant Sibilio.

17 A. Yes, sir.

18 Q. Didn't Sergeant Sibilio ignite a
19 flashbang through that window?

20 A. No, sir.

21 Q. So the only flashbang was through the
22 B side in the kitchen?

23 A. That's correct.

24 Q. Did Sergeant Sibilio have a flashbang?

00032

1 A. No, he didn't.

2 Q. So I want to make sure I understand
3 correctly. I read somewhere that the job that
4 you and Sergeant Sibilio were supposed to carry
5 out was a break and rake, is that right?

6 A. That's correct, sir.

7 Q. What is a break and rake?

8 A. It's a term that we used where you
9 would actually break the window and then rake it
10 out, meaning you would just take out all the
11 obstacles within that window to have a clear
12 view.

13 Q. And is that what was done at the, on
14 Exhibit 6, the window that has the plywood?

15 A. Yes, sir.

16 Q. So there was no flashbang there?

17 A. No, sir.

18 Well, let me back up. There was a
19 flashbang there. Sergeant Sibilio did not have
20 the flashbang.

21 Q. Who had the flashbang?

22 A. I did.

23 Q. But you didn't need it? You didn't
24 use it?

00033

1 A. I did not use it.

2 Q. Okay. Have you ever been back to 26
3 Fountain Street since the evening of this
4 incident?

5 A. No, I never had to go back.

6 Q. Do you have an independent memory, as
7 you sit here today, of what the interior of 26
8 Fountain Street looked like on the evening that
9 you were there?

10 A. I have a memory of the area that I was
11 directly in, yes.

12 MR. TARRICONE: Please mark this
13 Exhibit 7.

14 (Whereupon, Riley Exhibit Number 7,
15 Color photograph, was marked for
16 identification.)

17 MR. TARRICONE: Exhibit 8.

18 (Whereupon, Riley Exhibit Number 8,
19 Color photograph, was marked for
20 identification.)

21 BY MR. TARRICONE:

22 Q. So, Officer Riley, on the evening of
23 January 4th and the early morning hours of
24 January 5th when the Framingham Police

00034

1 Department SWAT team executed a warrant at 26
2 Fountain Street, how many SWAT team officers and
3 other Framingham police officers were involved
4 in that operation?

5 A. The exact number I don't recall.

6 Q. What's your best estimate? You can
7 give a range.

8 A. And that's including patrol officers
9 that helped us, and detectives?

10 Q. All together.

11 A. Okay. It would have to be at least
12 20 people in total.

13 Q. That would be 20 people that were
14 there at the scene in the vicinity,
15 approximately?

16 A. Correct. To include detectives,
17 patrol officers, SWAT team members, which would
18 include our tactical medics, who are not police
19 officers.

20 Q. That includes the technical medics?

21 A. Yes, because they're part of the team
22 even though they're not sworn police officers.

23 Q. And how many tactical medics were there?

24 A. I believe there was four.

00035

1 Q. So there would have been about sixteen
2 SWAT police officers, detectives, plus
3 approximately four tactical meds?

4 A. Approximately. That figure actually
5 could be a couple higher.

6 Q. Okay. So 20, 22?

7 A. Somewhere in that range, yes, sir.

8 Q. And my understanding is that each
9 officer had an assigned role, is that right?

10 A. Yes, sir.

11 Q. And if you would look at Exhibit 1A,
12 does that depict in part who was stationed
13 where?

14 A. This is specifically where myself and
15 Sergeant Sibilio were stationed.

16 Q. So I note there at that window to the
17 right of the front door, you've written "BR."
18 Does that mean break and rake?

19 A. Yes, sir.

20 Q. And then what does it say, "Team,
21 Riley, Sibilio"?

22 A. That is correct.

23 Q. And on the B side, or the left side of
24 the house facing the house --

00036

1 A. Yes, sir.

2 Q. -- who was positioned over there, if
3 you know?

4 A. I do remember that. That was Officers
5 Casey and Officer Langmyre.

6 Q. Was anybody positioned at the rear of
7 the house?

8 A. There were.

9 Q. Do you remember who?

10 A. I don't recall specifically who was in
11 what location without looking back at something.

12 Q. And how about on the D or right side
13 of the house facing the house, do you remember
14 who was there?

15 A. Not specific names, no.

16 Q. Was there a team there as well?

17 A. There were people there, yes.

18 Q. So there were at least two people
19 stationed, two officers stationed on each of the
20 four sides of the house, is that right?

21 A. I know for sure that there was two on
22 the A, myself, two on the B, two on the rear or
23 C. The D side, I don't recall exactly how many
24 were there. But I do remember the others.

00037

1 Q. There would have been at least one on
2 the D side?

3 A. At least one, yes.

4 Q. And in addition to the officers who
5 were stationed at the four sides of the house,
6 my understanding is that there were two groups
7 or stacks of officers each numbering three that
8 were assigned to make the initial entry into the
9 house, is that correct?

10 A. That is correct.

11 Q. Now, if you would look at -- if you
12 look at Exhibit Number 8 --

13 A. Yes, sir.

14 Q. -- does this depict the common front
15 hallway after one enters the front door of the
16 premises?

17 A. And that is -- I just want to make
18 sure I'm on the same exact picture as you, sir.

19 Q. Actually look at Exhibit 7 first.

20 A. Okay.

21 Q. Does Exhibit 7 depict -- do you have
22 Exhibit 7 in front of you?

23 A. Yes, sir. Yes.

24 Q. Do you recognize what this picture

00038

1 shows?

2 A. I do.

3 Q. And does this depict the front common
4 entranceway after entering the front door from
5 outside on the street?

6 A. Yes. That would be the first door you
7 encounter straight ahead of you, yes.

8 Q. And that is the door, the white door
9 there that's closed, is the door into the
10 kitchen, is that right?

11 A. That is correct.

12 Q. And the stairway to the left of this
13 photograph depicts the stairway that goes to the
14 second floor apartment, is that correct?

15 A. Yes, sir.

16 Q. And Exhibit 8 is the same view, but
17 with the kitchen door open, is that right?

18 A. Correct.

19 Q. And that photograph was taken after
20 the shooting, as evidenced by the blood on the
21 floor, is that correct?

22 A. That's correct, sir.

23 Q. It's also my understanding, Officer
24 Riley, that after you'd conducted the break and

00039

1 rake, and after the three stacks entered, that
2 you also entered the house, is that right?

3 A. Correct.

4 Q. Going back to the three stacks, do you
5 know who was in each of the stacks?

6 A. I believe there were two.

7 Q. The two stacks, I'm sorry, yes.

8 A. Okay. I know one was led by
9 Lieutenant Downing, and the other one was led by
10 Sergeant Stuart. Who specifically was assigned
11 to them, I would have to look back at the plan.
12 I don't recall.

13 Q. If I were to tell you that Lieutenant
14 Downing's stack also included Officer O'Toole
15 and Officer Stuart --

16 MR. MUSACCHIO: Sheehan.

17 BY MR. TARRICONE:

18 Q. Sorry.

19 -- Officer Sheehan and O'Toole, does
20 that sound correct to you, or you just don't
21 know?

22 A. I mean I don't know specifically. I
23 would have to -- I mean obviously if you're
24 telling me that, I'm assuming you're reading

00040

1 that off of maybe an operation plan and it said
2 that. But I would have to look at it and say,
3 okay, yes, that's them. I don't specifically
4 remember, no.

5 Q. When you entered the common area as
6 depicted in Exhibit 7 and 8 --

7 A. Yes, sir.

8 Q. -- the two stacks had already entered
9 the house through the kitchen, one through the
10 kitchen door and one through a door that's to
11 the right on the photograph here that enters the
12 living room, is that correct?

13 A. That is correct.

14 Q. And if you would, sir, take a look at
15 Exhibit Number 2, which is a diagram that was
16 prepared by an engineer for the purposes of this
17 litigation.

18 A. Okay.

19 Q. And the way you're looking at it now,
20 the front of the house is closest to you, is
21 that right?

22 A. That's correct, sir.

23 Q. And does that appear to be a generally
24 accurate rendering of the layout of the home, as

00041

1 you recall it?

2 A. As I recall the areas that I went

3 into, yes.

4 Q. So when you entered the home, you went

5 through the front door, is that right?

6 A. Correct. The front door being the

7 door from the street into the structure itself,

8 yes.

9 Q. And the two stacks had already

10 entered, the one that went into the living room

11 and the one that went into the kitchen, is that

12 right?

13 A. That is correct.

14 Q. So six, at least six officers had

15 already entered the home when you entered?

16 A. Correct.

17 Q. Do you know if you were the first

18 person after the two groups of three to enter

19 the home?

20 A. I don't recall if I was the first.

21 No, not specifically. I mean I know I was the

22 first one to enter the kitchen.

23 Q. So you -- so when you entered the

24 home, you went into that common area?

00042

1 A. Yep.

2 Q. And then did you walk straight ahead
3 through the kitchen door?

4 A. Correct.

5 Q. And into the kitchen?

6 A. Yes, sir.

7 Q. What was the lighting in the kitchen
8 at that time?

9 A. It was your normal kitchen lighting.

10 Q. So the lights were on?

11 A. Lights, I do recall the lights being
12 on, yes, sir.

13 Q. And when you entered the kitchen, did
14 you have an assigned duty that you then carried
15 out?

16 A. Yes, sir.

17 Q. And what was your assigned duty?

18 A. If you enter the kitchen door,
19 immediate to the left, which would be -- so
20 enter from the A or the front door, I go into
21 the kitchen, I go immediately to the left to a
22 door that we believe was entry into the cellar,
23 and that's where I was going.

24 Q. And this was based on information

00043

1 known to the police department before the
2 execution of the search warrant, is that
3 correct?

4 A. Correct. Yes, sir.

5 Q. I'm going to hand you a red marking
6 pen, and I'm going to ask you first to put a
7 number 1 and circle it at the window that you
8 did the break and rake.

9 A. Sure (labelling).

10 Q. And I'm going to ask you to put a
11 number 2 at the doorway that you entered to go
12 into the kitchen.

13 A. To the kitchen (labelling).

14 Q. And I'm now going to ask you to put a
15 number 3 in the position that you took once you
16 got into the kitchen.

17 A. Yes, sir (labelling).

18 Q. And I'm now going to hand you a black
19 pen, and ask you to draw an arrow of the entry
20 route that you made as you entered the home
21 starting at number 1.

22 A. Starting at number 1? Okay.

23 Q. Just draw a line.

24 A. It actually is a little bit, because

00044

1 there's a porch here, so I would have had to
2 have gone basically out and around, up on the
3 porch, straight into the 2 (labelling).

4 Q. So you entered the kitchen, and you
5 turned to your left where the cellar door was
6 located, is that right?

7 A. Yes, sir.

8 Q. And when you did that, were there --
9 was there another officer or officers there
10 already?

11 A. Lieutenant Downing.

12 Q. So when you got there, Lieutenant
13 Downing was already there?

14 A. That's correct.

15 Q. And what was he doing?

16 A. He had himself positioned where he was
17 kind of against that cellar door, and looking in
18 the direction, say, through the kitchen, based
19 on this diagram, to where the hallway and, say,
20 the den area was, he was facing in that general
21 area.

22 Q. Was he leaning against the door?

23 A. I don't recall him leaning. I know he
24 was -- his body was up on that door.

00045

1 Q. Okay. And did he -- so you were now
2 facing him?

3 A. Correct.

4 Q. Did you have a discussion with him
5 face-to-face?

6 A. It was a "take this door."

7 Q. So he told you to take the door?

8 A. Correct. I mean as a course of action
9 I knew that's where I was going, but verbal
10 command was "take the door."

11 Q. And my understanding is that
12 Lieutenant Downing was either the number one or
13 number two officer in charge of this operation
14 that evening, is that correct?

15 A. The way the command structure would
16 have gone, Deputy Davis is the overall -- I
17 would consider the number one, and then
18 Lieutenant Downing would be number two.

19 Q. Okay. So he would have been number
20 two?

21 A. Correct.

22 Q. Was Deputy Davis on the scene?

23 A. He was at command post out on the
24 street somewhere.

00046

1 Q. So you came in, you turned, Lieutenant
2 Downing was there facing you, he told you to --
3 what's the term, keep -- watch the door, take
4 the door?

5 A. Take the door. Specifically what he
6 said, I'm just basing it off of, you know, what
7 we normally would say.

8 Q. Now, we'll get to your statement in a
9 few minutes, but one thing I recall from it is
10 that you heard a gunshot at some point in time?

11 A. Yes, sir.

12 Q. How much time elapsed from when you
13 got in there and Lieutenant Downing said "take
14 the door" before the gunshot went off?

15 A. We're talking like seconds.

16 Q. So it was less than a minute?

17 A. Oh, absolutely.

18 Q. Now, when you came into that room,
19 Officers -- and if I have the names wrong, the
20 titles wrong, please correct me, because I want
21 to use the correct titles -- Officer O'Toole and
22 Officer Sheehan had already left the kitchen and
23 were in one of the other rooms, is that right?

24 A. They weren't in the kitchen.

00047

1 Q. You know they weren't in the kitchen,
2 right?

3 A. Right. Where they were in the
4 structure, I don't know.

5 Q. You knew they had entered the house
6 and you knew they were no longer in the kitchen?

7 A. Correct.

8 Q. And you knew they had entered the
9 kitchen door with Lieutenant Downing?

10 A. He had a team with him, yes.

11 Q. Okay. So you knew they had already
12 moved on.

13 Did you at any time before you heard
14 the shot see an elderly black male anywhere?

15 A. I did not.

16 Q. I take it from your testimony that
17 when you came through that kitchen door, you
18 immediately turned to the left?

19 A. Correct.

20 Q. And then you saw Lieutenant Downing,
21 and your attention was on Lieutenant Downing?

22 A. Lieutenant Downing and that door, yes,
23 sir.

24 Q. Okay. So he then told you "take the

00048

1 door."

2 Did he remain in that position, or did

3 he leave and go somewhere else?

4 A. He moved out of the way. I was

5 waiting on what we call a trailer to come up and

6 join me.

7 Q. So when you say he moved out of the

8 way, you were now taking over that door, is that

9 right?

10 A. That's correct.

11 Q. So did he then turn and leave the

12 door, or rather did he come away from the door?

13 A. He just came away from the door so I

14 could access it.

15 Q. And was he then still facing into the

16 kitchen, as far as you recall?

17 A. Yes, he would have had to have been

18 facing into the kitchen. Which direction he was

19 looking in the kitchen, I don't have a

20 recollection of that.

21 Q. Okay. So when you got there, his back

22 is to the door?

23 A. Mm-hmm.

24 Q. He tells you to take the door.

00049

1 A. Yes, sir.

2 Q. You then take responsibility for the
3 door.

4 A. Yes, sir.

5 Q. And he walks -- and he starts stepping
6 away from it?

7 A. That's correct.

8 Q. And he steps away from it into the
9 direction of the kitchen?

10 A. Yes, somewhere in that kitchen area he
11 walks.

12 Q. And at some point were you joined by
13 Sergeant Sibilio, or was it Officer Sebastian?

14 A. Officer Sebastian joined up with me.

15 Q. When did Officer Sebastian join you at
16 the door?

17 A. This stuff happened so fast. When I
18 say seconds, I mean seconds. It's very fast.

19 Q. So you get there, and Lieutenant
20 Downing is there, Officer Sebastian joins you
21 within seconds, is that right?

22 A. Yes, sir.

23 Q. When he joined you, Lieutenant Downing
24 was still in the kitchen, I assume?

00050

1 A. He was probably within an arm reach of
2 me.

3 Q. Okay. So he's right near you?

4 A. Correct.

5 Q. This kitchen is not very large, is it?

6 A. Actually I would consider it your
7 typical small kitchen in a two, three-family
8 style home.

9 Q. So it's a small room, and there was a
10 lot of furniture and clutter in there, is that
11 right?

12 A. I do recall it being, you know,
13 congested.

14 Q. Okay. Now, if you would look at
15 Exhibit 1B, which is this one (indicating).

16 A. Yes, sir.

17 Q. Is this the other photograph on which
18 you made some notations when you were answering
19 Lieutenant Forster's questions?

20 A. Yes, it is, sir.

21 Q. I see that you have three names
22 written there; Jim Sebastian, Sean Riley, and
23 Lieutenant Downing, is that right?

24 A. That is correct.

00051

1 Q. And what is it that you're depicting
2 on Exhibit 1B?

3 A. Depicting where we were located, I
4 mean without actually specifically putting
5 figures there, in the general area. Lieutenant
6 Downing being, say, more close to that table,
7 and then myself taking the opening of the door
8 with Officer Sebastian directly behind me.

9 Q. So at this point it's your
10 responsibility to take the door, the cellar
11 door, is that right?

12 A. That's correct.

13 Q. And you're to be assisted by Officer
14 Sebastian?

15 A. Yes, sir.

16 Q. Is that right?

17 And Lieutenant Downing is in charge of
18 this whole operation, is that right?

19 A. Correct.

20 Q. And where you positioned the three of
21 you in this Exhibit 1B, is this where you all
22 were when the shot -- when you heard the shot?

23 A. I know Lieutenant Downing was where he
24 was, and I know obviously where I was. I don't

00052

1 -- it happened so fast, I don't recall if
2 Officer Sebastian was behind me yet or not. I
3 truly -- I don't recall if he was physically in
4 that room or not.

5 Q. So you're not sure if he was there
6 before or after you heard the gunshot?

7 A. Correct.

8 Q. But you heard the gunshot fairly
9 quickly, you know, less than a minute, you said,
10 after you got into the room?

11 A. Oh, yes.

12 Q. And at that time you were facing the
13 door?

14 A. Correct.

15 Q. And Lieutenant Downing was facing into
16 the kitchen in some other direction?

17 A. Correct.

18 Q. And he had stepped away from the door?

19 A. Yes.

20 Q. A little bit?

21 A. A little bit, enough to get me access
22 to that door.

23 Q. Okay. And when you hear the term
24 "take the door," does that mean you're

00053

1 responsible primarily for the cellar door?

2 A. That's correct.

3 Q. Does that mean that you are primarily
4 responsible for entering the cellar?

5 A. That's correct.

6 Q. And were you then the clear, I think
7 the term is clear, clear the cellar?

8 A. That is correct.

9 Q. What does that mean?

10 A. To clear the cellar would be to
11 obviously make entry, and then go down and
12 render it safe, that there's no persons,
13 anything that's going to harm either the police
14 officers present or anyone that's in the home.

15 Q. Okay. Now, if you would, sir, look at
16 Exhibit Number 1, which is your statement.

17 A. Yes, sir.

18 Q. And I'm going to refer to page numbers
19 that are added after the document was created,
20 we call them, lawyers call them Bates numbers,
21 but it's that little number in the lower
22 right-hand corner.

23 A. Oh, yes, sir.

24 Q. Do you see that?

00054

1 A. Starting with 00287?

2 Q. Yes. And Page 283, if you would,

3 Bates 283.

4 MR. DONOHUE: It starts on 287.

5 BY MR. TARRICONE:

6 Q. I'm sorry, 293. As I said, the

7 writing is small.

8 A. Yes, sir.

9 Q. At the top of the page, the second

10 answer that you give that starts "So I come down

11 that hallway," would you read that to yourself,

12 please?

13 A. Yes, sir.

14 (Witness reviewing document.)

15 A. Okay.

16 BY MR. TARRICONE:

17 Q. In this answer which you gave, as you

18 said, within 24 hours of the event, you have

19 Officer Sebastian joining up with you before you

20 hear the gunshot, is that right?

21 A. That would be fair and accurate.

22 Q. Okay. So that refreshes your

23 recollection?

24 A. Yes, sir.

00055

1 Q. Okay. And if you would turn to the
2 next page, 294. And you, in answering a
3 question concerning what you remembered, you
4 stated, quote, "I remember when I heard the
5 bang, that distinctive sound, gunshot, boom,
6 turned real quick. Because we hadn't made entry
7 down here."

8 Now, when you talk about the bang and
9 the distinctive sound, that's the gunshot that
10 you heard, is that right?

11 A. Yes, sir.

12 Q. Was there only one gunshot that you
13 heard?

14 A. I only heard one.

15 Q. The whole night, only one, so far as
16 you can recall?

17 A. That's all I heard.

18 Q. And you described it as a distinctive
19 sound.

20 A. Yes, sir.

21 Q. What do you mean by that?

22 A. I guess this is very hard to explain
23 verbally. Anyone who has been around weapons or
24 hears gunshots, it's hard to explain the sound.

00056

1 I mean I guess you just -- you just know it when
2 you hear it, if that answers your question.

3 Q. So as a police officer, you had heard
4 gunshots before many times, I assume?

5 A. Thousands of rounds.

6 Q. Thousands of rounds.

7 Okay. And you had heard gunshots from
8 an M-4 rifle, is that right?

9 A. Yes, sir.

10 Q. How many times?

11 A. I've probably shot the gun thousands
12 of times myself.

13 Q. And would you -- I assume other
14 officers would have had the same experience?

15 A. I can speak to the members of the SWAT
16 team in training with them, yes.

17 Q. So all members of the SWAT team
18 certainly had heard an M-4 being fired thousands
19 of times?

20 A. Their number of times would vary, but
21 yes, they've all heard it.

22 Q. When you described it as a distinctive
23 sound, you knew immediately that it was a
24 gunshot?

00057

1 A. Yes, sir.

2 Q. It certainly wasn't a flashbang?

3 A. No, it was not.

4 Q. That's a completely different sound,

5 isn't it?

6 A. Yes.

7 Q. And is this -- you also described it
8 as a boom. Is it loud? Is this a loud sound?

9 A. An M-4 is a very loud rifle even out
10 in the open, so yes, in that confined space it
11 is a very loud noise.

12 Q. So in the confined space of this home,
13 that would be quite loud, would you say?

14 A. Yes, you're going to hear it.

15 Q. And you went on to describe it -- the
16 next question asked of you was "So you knew it
17 was a gunshot right away?" And your answer was
18 "I did. It was pretty distinct."

19 Is that right?

20 A. That is correct.

21 Q. And you also, you stated in this, in
22 answering your questions, that you immediately
23 turned when you heard the gunshot, is that
24 right?

00058

1 A. I did.

2 Q. Did you turn in the direction that you
3 heard it come from?

4 A. The way I was facing, there was really
5 only one direction for me to turn, so yes. I
6 kept my body in position, but I immediately
7 looked, I guess, turning my head to the right
8 once I heard it.

9 Q. And you saw Officer Duncan there?

10 A. I did.

11 Q. And if you would, let me see, on this
12 diagram, diagram 1, Exhibit Number 2, I'm sorry,
13 Exhibit Number 2, you can put it down in front
14 of you.

15 A. Okay.

16 Q. When you turned, where did you see
17 Officer Duncan?

18 A. He was in the general area of the
19 kitchen and hallway.

20 Q. Near the doorway?

21 A. Yes, by that doorway area.

22 Q. Okay. And you could see him clearly
23 when you turned?

24 A. Clearly enough to know it was Officer

00059

1 Duncan.

2 Q. You knew it was him.

3 Okay. So he's facing you when you
4 turn, or is he facing the other way, do you
5 know?

6 A. I don't recall exactly which way he
7 was facing. I don't.

8 Q. So my understanding is that there was
9 no door at the opening between the kitchen and
10 that small back hallway, is that right?

11 A. I do not recall a door. I recall an
12 opening.

13 MR. TARRICONE: Would you mark this,
14 please?

15 (Whereupon, Riley Exhibit Number 9,
16 Color photograph, was marked for
17 identification.)

18 BY MR. TARRICONE:

19 Q. Officer Riley, you've just been handed
20 a photograph marked Exhibit Number 9.

21 A. Yes.

22 Q. Do you have that in front of you?

23 A. I do, sir.

24 Q. Is that the view of the kitchen from

00060

1 generally where you were facing the -- that
2 threshold that goes into that hallway in the
3 back?

4 A. That's a fair and accurate description
5 of my view. I would have been more, if you're
6 looking at this photo, to the left.

7 Q. Okay. So you would have been looking
8 at this from more of an angle?

9 A. A little more of an angle, yes. That
10 looks like it came from the actual doorway into
11 the kitchen.

12 Q. Okay. And you were actually, looking
13 at this photo, to the left of this doorway?

14 A. Correct, just inside to the left.

15 Q. Okay. Now, and you said you saw
16 Officer Duncan, you don't remember whether he
17 was facing you or facing a different direction?

18 A. It was a split second. I turned to my
19 right, I see him, and then I bring my attention
20 back to what the task at hand was.

21 Q. And when you saw him, my understanding
22 from your statement is that he appeared to be --
23 he was on his feet, but he appeared to be
24 getting up from a lower position of some kind,

00061

1 is that right?

2 A. Correct. The best way to describe it
3 without actually getting up and kind of showing
4 is if you lose your balance and you kind of
5 start to fall back and maybe you hit something,
6 and you're kind of getting your feet back
7 underneath you, if that describes what I
8 observed.

9 Q. And where was it that you saw him
10 doing that?

11 A. It would have been in the -- what side
12 of this doorway he was on, I don't specifically
13 recall, but he would have been in that general
14 area. It's probably easier to show you on
15 Exhibit 2. In that threshold part of the
16 doorway, somewhere in there is where I saw him
17 (indicating).

18 Q. At the threshold meaning the entryway
19 from the kitchen into the hallway?

20 A. Correct. He was right in that general
21 area, yes, sir.

22 Q. Okay. And from what I read of your
23 statement, you never saw him sitting on the
24 floor, on his butt on the floor, on his buttocks

00062

1 on the floor, is that right?

2 A. Correct. I never saw him in what I
3 would call the prone position.

4 Q. What do you mean by "prone"?

5 A. Meaning he was, say, flat on the
6 ground, I never saw that.

7 Q. And you never saw him sitting on the
8 ground?

9 A. No, sir.

10 Q. And you turned immediately when you
11 heard that gunshot, and you saw him, he was on
12 his feet?

13 A. Yeah, he was -- his feet were on the
14 ground. But like I stated, he was kind of
15 getting himself back up.

16 Q. Okay. And after he got himself back
17 up, he didn't sit back down on the floor, did
18 he?

19 A. At that point, I went back, because I
20 believe we had already made entry down to the
21 basement.

22 Q. So you saw him, he was on his feet in
23 the position as you described, and I would refer
24 you to Page 297, you stated "Yeah, you could

00063

1 tell he was kind of like getting his balance off
2 him back up again. To say he was proned out on
3 the floor, I wouldn't -- no, I don't see that,
4 but you could definitely tell he was getting his
5 foot back under him getting back up."

6 That's what you said, right?

7 A. Correct. Yes, sir.

8 Q. You never saw him sitting on the
9 floor, leaning against a wall or anything like
10 that, based on what you said within 24 hours of
11 this event?

12 A. Yeah, I could not say for sure if he
13 was leaning against a wall. I don't --

14 Q. You never saw him on the floor,
15 though?

16 A. I never saw him on the floor, no.

17 Q. Okay. And where was Lieutenant
18 Downing when this shot -- when you heard the
19 shot? What did you see him do, if anything?

20 A. He was to my right, but what he
21 specifically did, I don't recall what he
22 specifically did. I mean I don't -- we're
23 assigned a task, and we stay on that task.

24 Q. So you turned your attention back to

00064

1 the cellar door?

2 A. Yes, sir.

3 Q. Okay. And did Officer Sebastian do
4 the same thing?

5 A. Yes, sir.

6 Q. And did the two of you enter the
7 cellar?

8 A. We did.

9 Q. So you didn't -- you were down there
10 for a period of time, I assume, before you came
11 back up?

12 A. Three to four minutes, I recall.

13 Q. Who went into the cellar with you?

14 A. The initial two were myself, Officer
15 Sebastian. Officer Casey ended up down there,
16 and Sergeant Stuart also ended up down there
17 with us.

18 Q. How long after you went down did they
19 come down?

20 A. Officer Casey I recall being the third
21 person down, and probably within a minute or so,
22 somewhere in that.

23 Q. He came down within a minute of you
24 and Officer Sebastian coming down?

00065

1 A. Yes, sir. Because it was a pretty
2 large cellar, we asked for additional people.
3 And then Sergeant Stuart at some point also got
4 down there.

5 Q. Okay. And then at some point did all
6 four of you leave?

7 A. Yes, sir.

8 Q. Did you ever see any other officers
9 down there?

10 A. I don't recall anyone else being down
11 there.

12 Q. Okay. On Page 296 of your statement,
13 Exhibit 1, you stated that when you came up from
14 the cellar Officer Duncan was already off the
15 premises.

16 Is that your recollection?

17 A. That is correct.

18 Q. Did you see him again that evening, or
19 in those early morning hours?

20 A. No.

21 Q. Did you see him before you gave your
22 statement or answered questions for Lieutenant
23 Forster that's in the transcript marked as
24 Exhibit 1?

00066

1 A. No.

2 Q. Did you talk to Duncan at any time
3 before you gave the answers to the questions --

4 A. I did not speak to him.

5 Q. -- for Lieutenant Forster?

6 A. No.

7 Q. When you came back up, did you see
8 Lieutenant Downing? Came back up from the
9 cellar that is.

10 A. No, I don't recall seeing him.

11 Q. Did you have any discussions with
12 Lieutenant Downing before you gave your answers
13 to Lieutenant Forster's questions that are in
14 the transcript that's Exhibit 1?

15 A. I mean I know I -- of course I spoke
16 to him, I mean, because we were tied up at that
17 scene for quite a while. So yes, I definitely
18 spoke to him.

19 Q. Did he tell you anything about what
20 Duncan said or did that evening?

21 A. If I recall the conversation, it was
22 more like, you know, "what happened? What did
23 you see? What was that?" Specifically what he
24 saw, two and a half years ago, I don't recall.

00067

1 Q. You don't remember what he said, if
2 anything?

3 A. No, sir.

4 Q. Okay. Now, when you were planning for
5 this, receiving the briefing for the plan of
6 this search warrant execution earlier in the
7 evening on January 4th, were you made aware of
8 who was likely to be in this home?

9 A. Yes, sir.

10 Q. Now, you knew that the two suspects
11 were young males in their twenties, early
12 twenties?

13 A. I do recall that, yes.

14 Q. It was a Mr. Bushfan and a
15 Mr. Barrett?

16 A. I do remember the names.

17 Q. I think it's Joseph Bushfan and Dwayne
18 Barrett. Does that sound right?

19 A. That's correct.

20 Q. And you were also, as part of this
21 briefing, made aware that there was a 68 year
22 old, an elderly gentleman, retired gentleman who
23 lived in this home, Eurie Stamps, is that right?

24 A. Yes, we were made aware of that.

00068

1 Q. And you knew that he was not a target
2 of this search, and was not considered armed or
3 dangerous? Wasn't that part of the briefing?

4 A. We knew he was not a target of the
5 search, that's correct. I don't remember or
6 recall it specifically being said he's not armed
7 or dangerous, but...

8 Q. Do you recall anybody saying that he
9 was armed or dangerous?

10 A. No, I don't recall them saying he was.
11 I don't recall him saying he wasn't either.

12 Q. What you knew is that there were two
13 young men, Bushfan and Barrett, who were the
14 targets of a search warrant pertaining to drug
15 dealing, is that right?

16 A. That's correct.

17 Q. And you knew that this elderly
18 gentleman was not the target of that search
19 warrant?

20 A. Correct.

21 Q. And you knew that he lived there?

22 A. Correct.

23 Q. Now, when you arrived at the premises
24 that evening, I think there were a couple of

00069

1 trucks that arrived, is that right? I don't
2 know, I saw the term "truck." When you arrived
3 at 26 Fountain --

4 A. How did we make our approach?

5 Q. Yes.

6 A. Yes, there would have been several
7 vehicles in our approach.

8 Q. Tell me what they were, if you
9 remember.

10 A. I remember this mainly because I
11 re-read my statement last night, the exact
12 order. I know the large SWAT truck, which is
13 our armored vehicle, was number one, which
14 contained our entry teams.

15 And then the next truck, which we call
16 our equipment truck, I was in that truck with
17 the TEMS unit, etcetera.

18 And then we had -- then we had Deputy
19 Davis was, quote, the command post, he would
20 have been in his vehicle.

21 And we usually have an ambulance that
22 follows us up, but stages away from the area as
23 well.

24 Q. So you were in the equipment truck, is

00070

1 that right?

2 A. Yes, sir.

3 Q. Who was in the equipment truck with
4 you?

5 A. I know Sergeant Sibilio was driving.

6 And I know we had TEMS, meaning the fire
7 department tactical medics were in there. I
8 don't recall specifically who those medicals
9 were, or if there were other officers in there,
10 I don't recall exactly who they were.

11 Q. Now, when you first arrived on the
12 scene and you were getting out of -- either
13 before or after you were getting out of the
14 truck, were you -- did you observe or were you
15 made aware of Mr. Bushfan being arrested and
16 detained down at the end of the street near the
17 gas station?

18 A. When I exited the truck, I was aware
19 that there was something going on down by that
20 gas station. Who that person was, I think it
21 was later on that I found out who it was.

22 Q. What is it that you observed?

23 A. I come out of the truck, and I see
24 what I would call an altercation or a scuffle

00071

1 down the street. But I take a right, and I go
2 to the house.

3 Q. Were you equipped with a radio?

4 A. Yes.

5 Q. Did all the SWAT team members have
6 radios that evening?

7 A. Best of my recollection, they all had
8 radios.

9 Q. And where are they? What are they?

10 Explain to me what kind of a radio you use on
11 the SWAT team.

12 A. It's your typical Motorola style
13 handheld radio. We all have them where they
14 have the mic where it goes up into your ear so
15 that way there it's not creating outside noise.
16 We can hear what's going on, and when we key up
17 the mic it -- basically it uses your inner ear,
18 don't know all the technical jargon. But it's
19 able to -- without speaking directly into a
20 microphone, it uses your eardrum to talk back
21 and forth to each other.

22 Q. And was everybody who was part of this
23 operation equipped with a radio?

24 A. On the SWAT team?

00072

1 Q. Everybody who was there. You said
2 there were officers, detectives.

3 A. Yes, they all should have.

4 Q. Everybody has a radio?

5 A. Well, they should have a radio, yes.

6 Q. Everybody should have a radio?

7 A. Correct.

8 Q. And is there a protocol that would
9 require everybody to have their radio on their
10 person and active and on a particular frequency?

11 A. I know we did. As far as the SWAT
12 team goes, we were all on a specific channel.
13 What that channel was, it's usually a tactical
14 channel we call it, we'll go on that channel.
15 So yes, we would all be on that channel.

16 Q. Was everybody involved in the
17 operation supposed to be on the same channel?

18 A. From what I recall, yes, they should
19 have been.

20 Q. What's the purpose of having these
21 radios?

22 A. For communication, so people on the
23 outside can communicate with inside, and
24 vice-versa, and even with inside, so it's

00073

1 communication.

2 Q. And if there's a change in
3 circumstances, would it be communicated over the
4 radio so that other officers know what's going
5 on?

6 A. Yes. Depending on if it's in verbal
7 contact, depending on the situation, yes, you
8 would have to go via radio to communicate that,
9 yes.

10 Q. Okay. When you exited the truck, you
11 saw this scuffle down the street, was it 100,
12 200 feet away, would you say, or closer than
13 that?

14 A. I mean 100 feet, 200 feet is pretty
15 far. I would say it was probably 100 feet,
16 approximately somewhere in that range.

17 Q. Okay. And you turned to the house, is
18 that right?

19 A. Correct.

20 Q. At some point did you see a woman come
21 out of the house, or outside of the house?

22 A. I don't recall seeing a woman coming
23 out of the house.

24 Q. Did you go directly to the window?

00074

1 A. Went directly to that window.

2 Q. You also said in your statement that
3 you sent a text message to Officer Duncan?

4 A. I did.

5 Q. Did he ever respond?

6 A. I don't recall him ever responding.

7 Q. Did you save the text message and the
8 response, if any?

9 A. I know that day during the interview I
10 said you can see it, you know, and I showed it,
11 I think, to him, that I was just checking in to
12 make sure that he was okay, and if he needed
13 anything, let us know.

14 Q. In the weeks and months after this
15 shooting, did you communicate by e-mail or text
16 message with anybody concerning what happened
17 that evening?

18 A. I don't recall ever sending any
19 e-mails regarding the actual incident. I mean
20 other than the e-mails, I guess, concerning
21 maybe can I have a report or something like
22 that. But as far as personal communication, no.

23 Q. Now, do the members of the SWAT team
24 all have official e-mail accounts that they use

00075

1 for official business?

2 A. Yes, on the department e-mail, yes,

3 sir.

4 Q. And what does an address look like?

5 Is it --

6 A. For example, my address is SDR, which

7 is my first initial, middle initial,

8 Riley@framinghamma.gov.

9 Q. And if there were communications

10 concerning the shooting, is that where they

11 would be, if there were e-mail communications?

12 A. It could be. You know, I don't recall

13 any e-mail communications other than maybe if,

14 you know, you're scheduled to be at an

15 interview. But I think most of what we do is in

16 person, verbal.

17 Q. Do you have a private e-mail account

18 that you use as well?

19 A. Do I?

20 Q. Yes.

21 A. I have a couple.

22 Q. And do you use them to communicate

23 with other officers from time to time?

24 A. I do not. As a matter of fact, I

00076

1 probably only have a couple of personal officer

2 e-mails. I just don't --

3 Q. So all your e-mails relating to police

4 business, you use the police account?

5 A. Always.

6 Q. Can you access that from your home?

7 A. My work e-mail?

8 Q. Yes.

9 A. I can access it remotely anywhere.

10 Q. From anywhere. Okay.

11 A. We're all tied in.

12 Q. I'm going to ask you, if you would, to

13 turn to Exhibit Number 5, which is the Policy on

14 Firearms and Weapons Number 50-4, as amended

15 through October 4, 2012.

16 Do you have that in front of you?

17 A. I do.

18 Q. Please turn to Page 4106, Bates number

19 4106.

20 A. Yes, sir. Yes, sir.

21 Q. Do you see the Section c called "Low

22 Ready"?

23 A. I do.

24 Q. And what is low ready?

00077

1 A. The low ready is a term that's used
2 commonly throughout police, military, even in
3 the civilian world, anyone who is a gun person
4 would probably know what the term "low ready"
5 means.

6 Q. Describe to me what it means, because
7 I'm not in the gun world.

8 A. The low ready position is when you
9 have the -- depending on if we're talking about,
10 and you may -- I don't know if you want to make
11 it specific, if you have a handgun out or if you
12 have what I would call a shoulder weapon, an
13 M-4, an MP-5 --

14 Q. Let's talk about an M-4, shoulder
15 weapon.

16 A. Okay. So an M-4, the low ready would
17 be you would have the stock of the gun up in
18 your shoulders, and it would be pointed down in
19 a low ready or safe position, meaning it would
20 be -- well, if I can use kind of my hands on the
21 video where you kind of -- you have a weapon, if
22 my fingers -- my left hand is the front of the
23 weapon or the muzzle, it would be kind of
24 pointed down in a low ready position, if that

00078

1 makes sense, and it could come up to the ready
2 position easily to acquire a sight position.

3 Q. So low ready is aiming down?

4 A. Yes. It's aiming down, and in a safe
5 direction.

6 Q. "Safe" meaning it's not pointed at a
7 person, is that right?

8 A. Yes, that's the ideal scenario, low
9 ready and safe.

10 Q. Now, if a person is lying on the
11 ground, then having it aimed down, it might be
12 aiming at the person who is on the ground, is
13 that right?

14 A. It could be, absolutely.

15 Q. Now, as an officer, would you, if you
16 were in the low ready position and there was a
17 person on the ground, would you divert the
18 muzzle of the gun so it wasn't facing the person
19 if the person was not a perceived threat?

20 A. If they were not a perceived threat,
21 then the gun would probably not be pointed at
22 them if they were not a perceived threat.

23 Q. Now, in this section on low ready
24 that's in the exhibit that you have in front of

00079

1 you, Exhibit Number 5, first take time to read
2 it, if you would.

3 A. Sure thing.

4 (Witness reviewing document.)

5 A. Yes, sir.

6 BY MR. TARRICONE:

7 Q. Was this policy as stated here,
8 whether it was in writing or not, was this
9 policy described as low ready, Section c of this
10 exhibit, specifically it's Section IV., well,
11 it's the second section, IV.-c, looking at the
12 second page, it's under the section for "Patrol
13 Rifle," and it's the second "c" where it says
14 "Low Ready."

15 Do you see where I am?

16 A. Yes, sir. So 004106, is that where
17 I'm looking?

18 Q. Yes.

19 A. Yes, sir.

20 Q. Okay. Was this the procedure that was
21 followed by the Framingham Police Department in
22 January of 2011 as described here under "Low
23 Ready"?

24 A. That section, I believe, has been

00080

1 changed to that, since that.

2 Q. I understand this is a new written --
3 in the document this written portion is new. My
4 question is a little different, so listen
5 carefully.

6 A. Yep.

7 Q. Aside from whether it was written in
8 the weapons protocol, Policy on Firearms and
9 Weapons, was that the practice, the policy of
10 police officers in the Framingham Police
11 Department in January of 2011?

12 A. I don't recall it being the practice,
13 no.

14 Q. How did the practice differ, as you
15 understood it?

16 A. Differed where the weapon, the long
17 gun, the M-4, or the MP-5 in my circumstance,
18 would be low ready on semi-automatic, finger off
19 trigger. That was the difference.

20 Q. So let me see if I understand.
21 In other words, your understanding is
22 that before this policy was changed, as it
23 appears in Exhibit 5, the accepted practice at
24 the Framingham Police Department was to have the

00081

1 gun in the safe off position, is that right?

2 A. No.

3 Q. Are we not talking --

4 A. It would be -- it would be on, for

5 lack of a better term, or hot, meaning the gun

6 was not safe.

7 Q. The safety is turned off? The safety

8 is de-activated?

9 A. The safety is turned off, so the gun

10 is safe.

11 Q. The gun can be fired?

12 A. The gun can be fired, correct.

13 Q. It can be fired if pressure is exerted

14 on the trigger?

15 A. On the trigger, correct.

16 Q. And there's a trigger guard, too,

17 correct?

18 A. Yes.

19 Q. And so the practice before this policy

20 that appears in Exhibit 5, low ready, was

21 adopted, was that the gun could be active and

22 ready to be fired, the safety is off, is that

23 right?

24 A. That's correct.

00082

1 Q. And then the change, as I read it, in
2 part, is the safety comes off only when the
3 officer perceives a threat and the weapon comes
4 up on to target, and the officer is ready to
5 shoot essentially, if I'm reading this
6 correctly, is that right? That was a change in
7 policy?

8 A. Correct.

9 Q. Now, if you would look at Exhibit 4.
10 This is the old version of the weapons policy,
11 is that right? "Policy on Firearms and Weapons
12 Number 50-4," as amended through 4/30/2011.

13 So this is a previous version or
14 iteration of what is Exhibit 5?

15 A. Yes, sir.

16 Q. Now, low ready is a term that's
17 commonly used in police department jargon, isn't
18 it?

19 A. It is, sir.

20 Q. Even before it appeared in this
21 Exhibit 5?

22 A. Yes, sir.

23 Q. Now, in Exhibit Number 4, there's no
24 description of the Framingham Police Department

00083

1 low ready policy, isn't that right?

2 (Witness reviewing document.)

3 A. Without reading it line for line, sir,

4 I do not see it mentioned in the previous, or

5 the old version.

6 BY MR. TARRICONE:

7 Q. So it simply wasn't described in a

8 written protocol that you saw, that you were

9 aware of, is that right?

10 A. It was not described in a written

11 protocol, no.

12 Q. And if you would, sir, turn to the

13 next page, 4107 of Exhibit 5. Paragraph f,

14 "Contact/Cover" procedure.

15 A. Yes, sir.

16 Q. Is that something that you were

17 trained in? I think -- is this the procedure

18 that you said you learned in the police academy?

19 A. It is.

20 Q. Contact and cover? Explain to me what

21 it is.

22 A. Contact/cover goes back to even my

23 time I worked in a prison, so it's, you know,

24 before even 1996, '98, in police work.

00084

1 Contact/cover is essentially you have
2 a contact officer, a person who is going to be
3 the hands-on person, the word contact. And then
4 the cover officer, who is going to be that
5 person's safety, that person is who is covering
6 the threat.

7 Q. So are we talking about
8 encountering --

9 A. Encountering.

10 Q. -- an individual who is --

11 A. It could be encountering someone
12 simply on the street at a traffic stop, it could
13 be encountering someone in a high risk warrant
14 situation. It's just a general term where the
15 preferred method that you would prefer to have
16 is someone being the contact, someone being the
17 cover.

18 Q. In other words, two police officers
19 involved instead of one?

20 A. That would be the ideal situation,
21 yes, sir.

22 Q. If somebody is available --

23 A. Yes, sir.

24 Q. -- to help?

00085

1 Now, that contact/cover, I assume,
2 would also apply when encountering an individual
3 during a SWAT team operation, is that right?

4 A. Yes, sir.

5 Q. And explain to me, explain to me, walk
6 me through it, one officer encounters an
7 individual and is going to now employ the
8 contact and cover. Explain to me how that
9 works.

10 A. Okay. Obviously every scenario could
11 be different, whether the person is standing up,
12 kneeling down. So, but in general terms, when
13 you initially -- if you're the one officer
14 contacting the subject, you're kind of playing
15 that role of both. You could be the contact and
16 the cover person. Initially you're kind of
17 contacting or covering yourself, this is
18 starting to make sense, you're covering that
19 person.

20 Q. Let's simplify it.

21 A. I'm trying to make it simple.

22 Q. Let me ask you this.

23 Let's assume there's another officer
24 available --

00086

1 A. Okay.

2 Q. -- and you encounter an individual.

3 Tell me what you would do, what the procedure
4 would be for each of the officers involved.

5 A. Yes, sir. So two officers arrive on
6 scene. If I'm the contact officer, the cover
7 officer is going to be the person who is sitting
8 there, whether they have just their physical
9 presence covering me, whether it's a less
10 lethal, maybe they have to take a taser out,
11 whether it's a lethal coverage where they
12 actually have a handgun or a patrol rifle out,
13 so there's various degrees of cover.

14 The contact officer would then be the
15 person that's maybe giving verbal commands,
16 telling the person what to do, and they're going
17 to be the person who physically goes hands on.

18 Q. Now, before that officer goes hands
19 on -- and I assume you mean he actually makes
20 physical contact with the subject?

21 A. Correct.

22 Q. Now, before the officer does that,
23 what does he do, if anything?

24 A. In general, you would make sure,

00087

1 obviously, your area is safe, I mean these
2 things happen split second, analysis, make sure
3 your area is safe, that you're doing a visual
4 inspection of the person, and then you would
5 contact them in the safest way, usually from an
6 angle, preferably from behind.

7 Q. What would you do with your weapon
8 before you made contact with an individual?

9 A. Weapon would be, in the regular patrol
10 function, would be holstered up.

11 Q. What if you're on a SWAT operation and
12 you have your long rifle?

13 A. If you become the contact person, you
14 would go on safe, and you would what we call
15 sling the rifle.

16 Q. So when you say "go on safe," you mean
17 that before making contact with the subject you
18 would put the safety on the gun so it couldn't
19 be fired?

20 A. Correct.

21 Q. And you would then put it -- what did
22 you say, sling it?

23 A. Sling it, whether --

24 Q. Does that mean sling it around your

00088

1 back?

2 A. You could put it on your back. If you
3 can't maybe put it on your back, I mean that's
4 the preferred location, because obviously you
5 don't want the long gun swinging around in front
6 of you, that would be the preferred location,
7 put it on your back or side.

8 Q. Now, that procedure that you just
9 described, putting the gun on safe and slinging
10 it, was that something -- you said you were
11 trained in that going all the way back to even
12 before you went to the police academy?

13 A. Specifically with a long gun
14 contact/cover situation, I experienced that more
15 once I got to the police academy up through
16 mainly a lot of it being in my SWAT training.

17 Q. So that was part of the training for
18 the SWAT team?

19 A. Yes, sir.

20 Q. Is that something that was trained on
21 more than one occasion, would you say?

22 A. Definitely.

23 Q. Was that procedure known to all
24 members of the SWAT team?

00089

1 A. It should be, yes.

2 Q. Every member of the SWAT team should
3 have known, based on their training, that before
4 they put their hands on a subject, or even
5 approach the subject to put their hands on the
6 subject, they should have their gun on safe,
7 isn't that right?

8 A. The most ideal situation, yes.
9 There's always extenuating circumstances,
10 though. Obviously, you know, that could change
11 any scenario. But yes, as a general rule of
12 thumb, before you went hands-on with someone,
13 SWAT team specifically I'm speaking about, you
14 would put the weapon on safe and sling it. Yes.

15 Q. And that's for your own safety and the
16 safety of the subject?

17 A. Yes.

18 Q. Now, if other officers are available
19 before making contact, an officer should ask for
20 somebody to assist and cover, correct?

21 A. Right. You would always, almost
22 always ask for assistance, unless something was
23 happening at that time that needed immediate
24 intervention.

00090

1 Q. And on the day of this event, did you
2 ever hear Officer Duncan call for assistance?

3 A. I never heard him, no.

4 MR. DONOHUE: Is now a good time to
5 take a break?

6 MR. TARRICONE: Sure.

7 THE VIDEOGRAPHER: Going off the
8 record. The time is 12:05.

9 (Whereupon, a recess was taken.)

10 THE VIDEOGRAPHER: Back on the record.
11 The time is 12:17.

12 BY MR. TARRICONE:

13 Q. Officer Riley, when you entered the
14 kitchen from -- came from outside, went through
15 the common hallway and into the kitchen, you
16 said that you encountered Lieutenant Downing, is
17 that right?

18 A. Correct.

19 Q. Was anybody else in the kitchen at
20 that time that you recall seeing?

21 A. I don't recall seeing anyone else in
22 the kitchen.

23 Q. Between the time you entered the
24 kitchen and heard the gunshot, did you, before

00091

1 turning around, did you ever see Officer Duncan?

2 A. No.

3 Q. So the first time you saw him is when
4 you turned around?

5 A. Correct.

6 Q. You also said that there was, after
7 this incident, in the training sessions there
8 was discussion about what had happened that
9 evening, and I assume there was some training
10 concerning what happened that evening, too?

11 A. We would normally, after every entry
12 we make, would do what we would call an after
13 action report, so basically critiquing the
14 entry. Normally we'd do it right after the
15 entry is made. Obviously this circumstance is a
16 little bit different here, and I don't think we
17 actually did that until our next scheduled
18 training. So you're just going over what went
19 well, what didn't go well, that -- you know,
20 critiquing, you know, both positives and
21 negatives as to what happened.

22 Q. Was there, at these training sessions,
23 was there talk about how it was that Mr. Stamps
24 was shot in the face during the execution of

00092

1 this search warrant?

2 A. I know it came up in general terms,
3 meaning, you know, how did it happen, I mean,
4 you know, what went wrong there, or what went
5 right, you know. Yeah, I mean as far as
6 specific things, I mean I do recall we obviously
7 spoke about it.

8 Q. Let me try to be a little more
9 specific just to focus you.

10 Did you have any training after this
11 incident to prevent this kind of a shooting from
12 occurring again?

13 A. Yes, training did --

14 Q. Tell me what the training consisted of
15 to prevent this kind of a shooting from
16 happening again.

17 A. I went out on a shoulder surgery right
18 after this entry, about three weeks later, so I
19 was out injured, and then almost de-activated
20 from the team until I officially left for about
21 five months. But I did attend a couple of the
22 trainings, not as an active participant because
23 of my injury.

24 But yes, the training changed where

00093

1 they were starting to go to a trigger
2 manipulation training from safe to on, or hot,
3 when you encountered the subject, so as you're
4 coming up from the low ready going up to the
5 actual you're going to engage somebody, then
6 that's when you would go on hot. So I know that
7 they started to practice that.

8 Q. Now, when you say "hot," you mean take
9 the safety off?

10 A. Correct.

11 Q. So in other words, you don't --

12 A. I guess the term "turning the gun on"
13 is not what we call it, so I apologize.

14 Q. You call it from going -- I thought
15 the terms were safe on and safe off. You call
16 it hot? I just want to make sure, when you say
17 "hot," you mean the gun can be fired?

18 A. Correct.

19 Q. So after this incident, there was more
20 training focused on when an officer could
21 activate his gun so it's hot, ready to be fired?

22 A. Correct.

23 Q. And how long does it take to flip the
24 safety switch on one of these guns, an M-4, an

00094

1 MP-5?

2 A. It should take, you know, a split

3 second if you practice with it.

4 Q. Is it the flick of a thumb or finger?

5 A. Flick of a thumb. But it's not as --

6 depending on your, you know, your muscle, you

7 know, it's not like flipping a switch to a light

8 on, so it takes a little bit of pressure, so it

9 requires practice.

10 Q. And I assume that the officers who

11 were members of this SWAT team did have practice

12 and knew how to flip the switch with their

13 thumb?

14 A. Oh, yes.

15 Q. And had the physical capacity to do

16 so?

17 A. Yes, sir.

18 Q. If you would look at Exhibit 4,

19 please, which is the older version of the

20 weapons policy.

21 A. Yes, sir.

22 Q. On Page, well, I don't have -- this

23 copy that I have doesn't have a Bates number, I

24 don't know if yours does, but it's Page 6 of the

00095

1 policy, Exhibit 4.

2 A. Yes, sir.

3 Q. Section VI., "Weapon Handling."

4 A. Yes, sir.

5 Q. Was this the only section of the
6 firearms policy that existed in January of 2011
7 concerning weapon handling?

8 A. Well, this policy was revised in April
9 of 2011, so I would have to look back at the one
10 previous to that to confirm.

11 Q. Do you know whether this section,
12 "Weapon Handling," existed in January of 2011?

13 A. I don't recall if that specific
14 section, I mean, was in there or not.

15 Q. I believe this was provided to the
16 Plaintiffs as the policy that existed at the
17 time of the shooting, is that right?

18 MR. DONOHUE: That's my understanding.
19 But if his testimony is he doesn't know and
20 isn't sure, I think that covers it.

21 MR. TARRICONE: I just want to
22 understand that this is what we were given. We
23 were given this as the policy in existence.

24 MR. DONOHUE: That's my understanding.

00096

1 BY MR. TARRICONE:

2 Q. Let me ask you this question, Officer

3 Riley.

4 Assuming this, what's here is Roman
5 Numeral VI., "Weapon Handling," was in existence
6 in January of 2011, are you aware of any other
7 written policies of the Framingham Police
8 Department concerning weapon handling that was
9 in existence at that time?

10 A. No.

11 Q. If you would look at "Weapon
12 Handling," Section d says, to use the lead-in,
13 "Officers shall keep their finger outside of the
14 trigger guard until ready to engage and fire on
15 a target."

16 Do you see that?

17 A. Yes, sir.

18 Q. And was that the policy of the
19 Framingham Police Department in January of 2011?

20 A. Yes, sir.

21 Q. Is that something that you learned in
22 the police academy?

23 A. Yes, sir.

24 Q. And is that something that you would

00097

1 have been trained and known about throughout
2 your career as a police officer?

3 A. Yes, sir.

4 Q. And the second -- right after that
5 there's a Section e, "Officers shall point the
6 weapon's muzzle in a safe direction at all
7 times."

8 Do you see that?

9 A. Yes, sir.

10 Q. Is that something you learned at the
11 police academy?

12 A. Yes, sir.

13 Q. And is that also something that you
14 learned and knew about throughout all the
15 training and your years as a police officer?

16 A. Yes, sir.

17 Q. And would you agree with me that
18 pointing the weapon's muzzle in a safe direction
19 means that it should not be in the direction of
20 a person, unless there's some reason to engage
21 that person with the rifle?

22 A. That's correct.

23 Q. And you -- I think you testified to
24 this, but I just can't remember so I'm going to

00098

1 ask you again; did you at any time hear Officer

2 Duncan ask for assistance?

3 A. Ask for assistance?

4 Q. Assistance in encountering anybody in

5 that home.

6 A. Oh, no. No, sir.

7 Q. On that night?

8 A. No.

9 Q. So he never asked for assistance?

10 A. I never heard him.

11 Q. And you were in fairly close proximity

12 to him?

13 A. Yes, sir.

14 Q. Now, if you, again back to that making

15 contact with a subject, whether it's for arrest

16 or security or for any reason, if you were doing

17 it alone and you had a long rifle, an M-4, and

18 you didn't have somebody to cover you, before

19 approaching the individual, would you engage in

20 the same procedure that you testified to

21 earlier, that is put the safety on and sling the

22 rifle behind your back?

23 MR. DONOHUE: Object to the form.

24 BY MR. TARRICONE:

00099

1 Q. You can answer.

2 A. Yes, sir.

3 Q. You would do that?

4 A. I would put the weapon on safe,
5 meaning sling it, put it on safe, and then go
6 hands-on, yes.

7 Q. Was that established procedure in
8 January of 2011?

9 A. Yes.

10 Q. Is that something that you had learned
11 in multiple training sessions before then?

12 A. Yes.

13 MR. TARRICONE: That's all I have.

14 MR. DONOHUE: Great. Nice job.

15 You're finished.

16 THE VIDEOGRAPHER: This concludes the
17 August 1st, 2013 deposition of Officer Sean
18 Riley. Going off the record. This is the end
19 of tape one of one tape used. And the time is
20 12:27.

21 (Whereupon, the deposition was
22 concluded.)

23

24

00100

1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS.)

3 I, MAUREEN O'CONNOR POLLARD, RPR, CLR,
4 and Notary Public in and for the Commonwealth of
5 Massachusetts, do certify that on the 1st day of
6 August, 2013, at 10:31 o'clock, the person
7 above-named was duly sworn to testify to the
8 truth of their knowledge, and examined, and such
9 examination reduced to typewriting under my
10 direction, and is a true record of the testimony
11 given by the witness. I further certify that I
12 am neither attorney, related or employed by any
13 of the parties to this action, and that I am not
14 a relative or employee of any attorney employed
15 by the parties hereto, or financially interested
16 in the action.

17 In witness whereof, I have hereunto
18 set my hand this 8th day of August, 2013.

19

20

21 _____
22 MAUREEN O'CONNOR POLLARD, NOTARY PUBLIC

23 Realtime Systems Administrator

24 CSR #149108

00101

1 INSTRUCTIONS TO WITNESS

2

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

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

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

17

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ERRATA

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3 PAGE LINE CHANGE

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24 _____

00103

1 ACKNOWLEDGMENT OF DEPONENT

2

3 I, _____, do

Hereby certify that I have read the foregoing

4 pages, and that the same is a correct

transcription of the answers given by me to the

5 questions therein propounded, except for the

corrections or changes in form or substance, if

6 any, noted in the attached Errata Sheet.

7

8 _____

OFFICER SEAN RILEY DATE

9

10

11

12

13

14

15 Subscribed and sworn

To before me this

16 _____ day of _____, 20____.

17 My commission expires: _____

18

19 Notary Public

20

21

22

23

24

00104

1 LAWYER'S NOTES

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