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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

DISTRICT COURT DEPARTMENT  
OF THE TRIAL COURT

\*\*\*\*\*  
IN RE: INQUEST INTO THE DEATH \* 2352IN000001  
OF SAYED ARIF FAISAL \*  
\*\*\*\*\*

RE: INQUEST  
**(ENTIRE TRANSCRIPT IMPOUNDED)**  
DAY 1  
BEFORE THE HONORABLE JOHN F. COFFEY

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Cambridge, Massachusetts  
Courtroom 6  
May 22, 2023

Court Transcriber: Lisa Marie Phipps, Certified Shorthand  
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Realtime Reporter

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19 (None.)

20 NOTE: Refer to exhibit list for identification  
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22

23

24

25

1 P R O C E E D I N G S

2 (Court called to order.)

3 (9:08:43 a.m.)

4 THE COURT OFFICER: ...your attention and  
5 you shall be heard.

6 God save the Commonwealth of  
7 Massachusetts.

8 Be seated.

9 This court's in session.

10 THE CLERK: And we are on the record.

11 This is the session of the Cambridge  
12 District Court.

13 We are -- we are in the Third Street  
14 Courthouse in Courtroom 6.

15 Today's date is May 22, 2023. The  
16 Honorable John Coffey is presiding in the matter  
17 of Sayed Arif Faisal, Docket No. 2352IN1.

18 Your Honor.

19 THE COURT: All right. Good morning,  
20 everyone.

21 MS. SPIROS: Good morning.

22 MR. ANDERSON: Good morning.

23 MS. EVANS: Good morning.

24 MS. KAZAROSIAN: Good morning, your  
25 Honor.

1           THE COURT: All right. Before we begin,  
2 I know we have a few things we have to address.  
3 I just want to preface this with some brief  
4 opening remarks.

5           Now, as everybody knows, because I've  
6 said it before, this is an investigatory  
7 procedure.

8           And the purpose is to provide a process  
9 for obtaining information to determine whether a  
10 crime has been committed. It is not a  
11 prosecution, and it is not adversarial.

12          Now, my role during the course of this  
13 inquest, and it is my responsibility, to make  
14 sure that all relevant witnesses and evidence are  
15 heard.

16          And the presentation of the evidence by  
17 witnesses or counsel will be allowed if the Court  
18 determines that it will assist the Court in its  
19 investigatory function or serves to diminish the  
20 possibility of an injustice.

21          Now, the witnesses and the nonwitnesses,  
22 including all the attorneys and everybody present  
23 in this courtroom, are ordered by the Court not  
24 to discuss this case while at court or otherwise  
25 until the matter becomes public.

1           And they are also further ordered that  
2 there is to be no note-taking unless it has been  
3 previously authorized by the Court.

4           Now, obviously that doesn't apply to the  
5 attorneys.

6           And just so everybody knows, as the  
7 witnesses are called and when they are sworn, I'm  
8 going to repeat this admonition to them just so  
9 that they are aware as well, okay.

10           MR. ANDERSON: Judge, can I bring my  
11 client into the courtroom?

12           He's out in the hallway.

13           THE COURT: Oh, sure.

14           MR. ANDERSON: Okay.

15           THE COURT: But let me just finish, and  
16 I'll be right with you.

17           MR. ANDERSON: Okay.

18           THE COURT: And then I'll -- I'll repeat  
19 the last part to him.

20           MR. ANDERSON: Okay.

21           THE COURT: Now, the schedule is that  
22 we're going to go from 9:00 to 1:00 and if anyone  
23 needs a morning break, just let us know we'll  
24 accommodate it.

25           And the afternoon session will run from

1 2:00 to 4:00. Again, if anybody needs a brake we  
2 will accommodate it.

3 Now, I'm going to ask everybody at this  
4 point just to introduce themselves to me just so  
5 that we know who is present in the courtroom.

6 And at this point those who are present  
7 in the courtroom that are allowed to stay because  
8 they are allowed to stay, and stay in the  
9 courtroom, and if we need to change things, just  
10 let me know if there is an interpreter that needs  
11 to be changed.

12 I know, counsel, you have some family  
13 members here.

14 MS. KAZAROSIAN: I do.

15 THE COURT: Some can be here and some  
16 can't be here. Just let me know just so we can  
17 put it on the record, okay.

18 So why don't we start with Caroline  
19 Evans. Go right to left.

20 MS. EVANS: Good morning, your Honor.  
21 Caroline Evans for the Commonwealth.

22 THE COURT: Good morning.

23 MS. SPIROS: Good morning, your Honor,  
24 ADA Carrie Spiros for the Commonwealth.

25 And also on the prosecution team today is

1 victim witness advocate Anne Foley and paralegal,  
2 Ali De La Cruz (phonetic).

3 THE COURT: All right. All right. Good  
4 morning.

5 MS. FOLEY: Good morning, your Honor.

6 MS. DE LA CRUZ: Good morning, your  
7 Honor.

8 THE COURT: Okay.

9 MS. KAZAROSIAN: Good morning, your  
10 Honor. Marcia Kazarosian, and I represent the  
11 father, family of Sayed Arif Faisal.

12 THE COURT: Oh, do you want to introduce  
13 them?

14 MS. KAZAROSIAN: Yes.

15 THE COURT: Yes, could you.

16 MS. KAZAROSIAN: Yes. And I also have  
17 with me, Sabina Yezman, who is the sister of Mr.  
18 Mujibullah, who is Mr. Faisal's father.

19 THE COURT: Okay.

20 MS. KAZAROSIAN: And then his brother  
21 (indiscernible).

22 THE COURT: Okay. All right.

23 MR. ANDERSON: And Attorney Kenneth  
24 Anderson for Cambridge Police Officer Liam  
25 McMahan.



1 THE COURT: Okay, Attorney Anderson.

2 And before you bring in your client, I --  
3 I recognize your -- ma'am.

4 THE INTERPRETER: Good morning. Maria  
5 (indiscernible), Portuguese interpreter.

6 THE COURT: Okay. And we'll -- and we'll  
7 do our best to get you out of here as soon as we  
8 can, okay.

9 THE INTERPRETER: Thank you.

10 THE COURT: All right. Thank you.

11 And -- and, Attorney Kazarosian, we are  
12 waiting on the Portuguese interpreter --

13 MS. KAZAROSIAN: Bengali Interpreter.

14 THE COURT: Excuse me, Bengali.

15 MS. KAZAROSIAN: Yes.

16 THE COURT: But like I --

17 MS. KAZAROSIAN: But my -- my client's  
18 brother and sister can help.

19 THE COURT: Yes.

20 That's why I just wanted to put on the  
21 record that we -- we had discussed it before,  
22 just in this case there is an issue, we can go  
23 forward along as  
24 you have a family member who can assist your  
25 client, okay?

1 MS. KAZAROSIAN: Yes, you may hear some  
2 chattering back there.

3 THE COURT: That's okay.

4 MS. KAZAROSIAN: And if they could speak  
5 a little slowly, it might help.

6 THE COURT: Surely.

7 MS. KAZAROSIAN: Thank you.

8 THE CLERK: And I'll check to see the  
9 status of (indiscernible).

10 THE COURT: Okay.

11 And, Attorney Anderson, do you want to  
12 bring in your client?

13 MR. ANDERSON: And --

14 THE COURT: If he wants to be present,  
15 that's fine.

16 MR. ANDERSON: I believe he did. And I  
17 just don't know where he would be positioned.  
18 This room's...

19 THE COURT: Ah, it's not that small. We  
20 can get -- we can bring up a seat.

21 MR. ANDERSON: Just put a chair.

22 THE COURT: Sure.

23 MR. ANDERSON: I mean, there is a chair  
24 -- let me -- let me grab another one.

25 THE COURT: Okay.

1 THE COURT OFFICER: Do you want a chair?

2 MS. KAZAROSIAN: Your Honor, also, I -- I  
3 might have to slide back and forth.

4 THE COURT: Oh, that's -- that's fine.

5 MS. KAZAROSIAN: Okay.

6 THE COURT: That's fine.

7 MS. KAZAROSIAN: I just want to -- thank  
8 you.

9 THE COURT: Attorney Anderson, do you  
10 want to introduce your client?

11 MR. ANDERSON: Yes, this is Liam McMahon.

12 THE COURT: Good morning, Officer  
13 McMahon.

14 MR. MCMAHON: Good morning.

15 THE COURT: And, Officer McMahon, you  
16 weren't present when we made some preliminary  
17 statements, but I just want to reiterate -- and  
18 Attorney Anderson can fill you in later -- that  
19 during the course of these hearings -- it's a  
20 closed hearing -- you aren't to discuss this case  
21 with anyone during the course of the hearing or  
22 otherwise until this matter becomes public.

23 Now, obviously, you can discuss it with  
24 counsel. But with anybody else until this matter  
25 becomes public because of the nature of the

1 proceedings.

2 Do you understand that?

3 OFFICER MCMAHON: Yes, I do, your Honor.

4 THE COURT: All right. Thank you.

5 All righty. And I think Attorney Spiros  
6 you have -- do you want to address the Court  
7 about something?

8 MS. SPIROS: I'm sorry, your Honor, I  
9 couldn't hear you.

10 THE COURT: Do you want to address the  
11 Court on --

12 MS. SPIROS: I did, your Honor.

13 I just -- it doesn't necessary need to be  
14 fully heard at the moment.

15 THE COURT: Okay.

16 MS. SPIROS: But I did just want to on  
17 behalf of the office file a pleading related to  
18 the legal standard, submissions of the parties,  
19 and the possibility for opening and closing  
20 statements.

21 It's the Commonwealth's position that  
22 opening and closings are not necessary or are not  
23 part of the inquest proceedings as it's not  
24 adversarial, as your Honor just outlined, the  
25 inquest standard.

1           And so we would just be asking that your  
2 Honor not permit opening statements, which I  
3 don't believe you intended to do anyways.

4           THE COURT: Yeah.

5           MS. SPIROS: And we talked a little bit  
6 about summations. But with that, I'd -- I'd  
7 table the issue until counsel --

8           THE COURT: Okay.

9           MS. SPIROS: -- and the Court has -- have  
10 a little more time to look at it.

11          THE COURT: Sure. All right. Thank you.

12          MS. SPIROS: Thank you.

13          THE COURT: Anybody else want to be heard  
14 before we --

15          MR. ANDERSON: And -- and I think part of  
16 it may have been a response -- Friday I  
17 circulated what I intend to submit as a pleading,  
18 which I believe is a governing legal standard for  
19 police-involved shootings, *Graham vs. Connor*,  
20 Fourth Amendment reasonableness.

21                I think that there was a question -- my  
22 intention, I think, was to submit it at the end.

23                I don't know if the Court wants to have  
24 that in mind as it hears testimony.

25                I think it's going to be consistent with

1 the testimony of Waltham Officer Chuck DiChiarra,  
2 who is kind of the lead MPTC instructor for the  
3 Commonwealth.

4 THE COURT: At this point I don't think  
5 we need anything like -- I think I indicated --  
6 and just for purposes of the record, I think we  
7 had several Zoom hearings leading up to this to  
8 discuss these kinds of issues.

9 As I think I indicated on one of them, if  
10 not the last one, that, at the conclusion, if  
11 someone wants to submit things, I might take it.

12 At this point I can't make a decision  
13 because we are not even into it, but I'll leave  
14 that open at the end.

15 And, Attorney Anderson, if you want to  
16 submit it; and, Attorney Kazarosian, Attorney  
17 Spiros, if there is something you want to say at  
18 the end or submit at the end, we can address that  
19 at the proper time, okay?

20 MS. SPIROS: Thank you.

21 MR. ANDERSON: Okay, thank you.

22 THE COURT: All right. Thank you.

23 MS. KAZAROSIAN: Thank you, your Honor.

24 THE COURT: All right. And anything else  
25 before we begin?

1 MS. SPIROS: No, your Honor.

2 THE COURT: All right. And, Attorney  
3 Spiros, I do have your witness list.

4 And is this pretty much the order that we  
5 are going to try to follow or --

6 MS. SPIROS: I am going to try my best,  
7 your Honor.

8 THE COURT: Okay. And, with the  
9 Portuguese Interpreter, I know she probably have  
10 seven more courts to go to --

11 MS. SPIROS: Yes.

12 THE COURT: -- today, we'll try to get  
13 her out as soon as we can.

14 MS. SPIROS: As soon as the witness  
15 arrives, I will try to call that witness.

16 THE COURT: Okay. Sure.

17 And just one other thing on the witness  
18 list, I notice we have eight today.

19 MS. SPIROS: Yes.

20 Eight seems ambitious, at least from a  
21 trial --

22 THE COURT: Not for me.

23 MS. SPIROS: -- from a trial posture it  
24 seems ambitious.

25 THE COURT: I was thinking -- I was

1 thinking ten, but that's okay.

2 MS. SPIROS: I do have two additional  
3 that are on standby.

4 THE COURT: Perfect. Okay. All right.

5 All right. Do you want to -- do you want  
6 to start?

7 MS. SPIROS: I do, your Honor.

8 And I would ask to start with playing the  
9 911 call that was previously submitted.

10 I would ask, as a preliminary matter, for  
11 Discovery Notices 1 through 7 to technically be  
12 marked as exhibits in the case.

13 THE COURT: Okay. So I think we  
14 discussed putting those in the record this  
15 morning.

16 So I brought in all the discovery  
17 notices, as well as the binders that have been  
18 provided to the Court prior.

19 MS. SPIROS: Um-hum.

20 THE COURT: And we are going to mark  
21 those, each one as -- as an exhibit.

22 So when we refer to them, it will be  
23 Exhibit 1 and then go to the table of context,  
24 just for purposes of the record we know what we  
25 are talking, about; otherwise, we are going to



1 run out of stickies, numbers, letters, et cetera.

2 MS. SPIROS: Okay. Thank you.

3 THE COURT: As it appears it is pretty --  
4 pretty voluminous.

5 (Exhibit Nos. 1-6, Discovery notices,  
6 received into evidence.)

7 MS. SPIROS: And, just for purposes of  
8 the record, the 911 that -- we would be playing  
9 the first seven minutes, of course, the Court has  
10 the very lengthy hour-plus recording.

11 THE COURT: Yep.

12 MS. SPIROS: And this is in second notice  
13 of discovery No. 2.

14 THE COURT: Okay. And --

15 MS. KAZAROSIAN: Your Honor --

16 THE COURT: Go ahead, Attorney  
17 Kazarosian.

18 MS. KAZAROSIAN: I do have one request.

19 And I think I discussed this a little bit  
20 with ADA Spiros, but there are some -- there's  
21 been some testimony that may be difficult for my  
22 client to hear.

23 MS. SPIROS: Yeah.

24 MS. KAZAROSIAN: And I've asked that she  
25 just give me a heads-up when it's coming.

1 MS. SPIROS: I will.

2 MS. KAZAROSIAN: So I think he wants to  
3 leave the courtroom.

4 THE COURT: Sure. Okay. No, that's --  
5 that's -- that's understandable.

6 MS. SPIROS: Yes. And I've -- I've  
7 indicated I would do that, of course.

8 THE COURT: All right.

9 MS. KAZAROSIAN: Thank you, your Honor.

10 MS. SPIROS: Yeah.

11 THE COURT: And so the -- so we are  
12 premarking everything, and we can, as we  
13 indicated, so we can go right into -- do you want  
14 to play seven minutes of the 911?

15 MS. SPIROS: Yes, I would, your Honor.

16 THE COURT: Okay.

17 (911 call begins 9:19:18  
18 through 9:26:16.)

19 MS. SPIROS: Your Honor, that would be  
20 the end of the 911 call portion that we would ask  
21 to play at this point.

22 THE COURT: All right.

23 MS. SPIROS: And I'd ask to call our  
24 first live witness at this point.

25 THE COURT: All right.

1 MS. SPIROS: Officer Nicholas Ayoub from  
2 the Cambridge Police Department.

3 THE COURT: All right. And the  
4 individual who just came into the courtroom is?

5 Can you just stand up and identify  
6 yourself, ma'am.

7 UNIDENTIFIED SPEAKER: (Indiscernible).

8 THE COURT: Okay. Good morning.

9 THE CLERK: And I'll swear you in.  
10 Is that okay, your Honor?

11 THE COURT: Sure. Yes.

12 THE CLERK: Raise your right hand.

13 Do you swear to tell the Court the truth,  
14 the whole truth, and nothing but the truth under  
15 the pains and penalties of perjury?

16 THE WITNESS: I do.

17 THE CLERK: Thank you very much.

18 NICHOLAS AYOUB, SWORN

19 THE COURT: All right. And, Officer,  
20 once you get settled in, I just want to just let  
21 you know -- I let counsel know, and I'm going to  
22 let all the witnesses know -- this is a closed  
23 hearing.

24 So during the course of these -- this  
25 hearing, until the matter becomes public, you are

1 not to discuss this case with anyone.

2 Obviously, if you have counsel, you can  
3 do that, but anybody else, other witnesses, other  
4 members of the public, just -- well, until this  
5 case become public, okay?

6 THE WITNESS: Okay.

7 THE COURT: All right. Thank you,  
8 Officer.

9 THE WITNESS: Understood.

10 THE COURT: All right. Thank you,  
11 officer.

12 THE WITNESS: Thank you.

13 THE COURT: Okay. Attorney Spiros.

14 MS. SPIROS: Thank you, your Honor.

15 EXAMINATION

16 BY MS. SPIROS:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. Could you please in a nice loud, clear voice  
20 introduce yourself to the Court spelling both  
21 your first and last name for the record.

22 A. My name is Nicholas Ayoub, N-I-C-H-O-L-A-S  
23 A-Y-O-U-B.

24 Q. How are you employed?

25 A. With the City of Cambridge, police officer.

1 Q. And how long have you been a police officer?

2 A. Five years.

3 Q. And prior to joining the Cambridge Police  
4 Department, did you have any other law  
5 enforcement or military background?

6 A. No.

7 Q. Okay. Did you go through a training to  
8 become part of the department?

9 A. I did.

10 Q. Can you describe that, briefly?

11 A. It was 24 weeks. The Lowell Police Academy.

12 Q. And at the academy did you engage in training  
13 related to de-escalation and mental health?

14 A. I did.

15 Q. How about use of force, did you also study  
16 that at the academy?

17 A. Yes.

18 Q. And after joining the Cambridge Police  
19 Department, did you undergo any training as it  
20 regards to the subject of de-escalation?

21 A. Yes, I did.

22 Q. Can you briefly describe that?

23 A. One of the focus points has been ICAT with  
24 the Cambridge Police Department. We have a  
25 certified instructor as an officer.

1 I believe it was 2019 we -- we really dove  
2 in and in-service.

3 It's basically trying to slow everything  
4 down and talk to somebody rather than, you know,  
5 escalating the force that could be used.

6 Q. Can you talk a little bit more about what you  
7 understand the -- the de-escalation technique to  
8 be when you are encountering a situation with  
9 mental health?

10 A. It's, just, like I said, to try to slow  
11 everything down and -- unless you need to act  
12 immediately -- and try to just talk to the  
13 person, try to get them help and just try to  
14 build a rapport with them one way or another.

15 Q. Does the nature of the area where the person  
16 is located who might be having a mental health  
17 episode matter in terms of the training?

18 A. It plays a huge role.

19 Q. Okay. Can you describe that further?

20 A. For example, if somebody was in a closed room  
21 by themselves, that's a lot different than if  
22 they're, you know, running around in public.

23 Q. Um-hum. What's the consideration if they are  
24 running around in public?

25 A. There's a danger to anybody they could come

1 upon.

2 Q. In terms of mental health specifically,  
3 outside just de-escalation, is that an area of  
4 training that you underwent for the Cambridge  
5 Police Department?

6 A. Yes.

7 Q. Is that more than one training that you've  
8 undergone?

9 A. Yes.

10 Q. And you talked about in-service.

11 Is that an annual sort of training?

12 A. It is.

13 Q. Okay. And was mental health and  
14 de-escalation part of those annual in-service  
15 trainings?

16 A. Every year.

17 Q. Okay. I want to talk -- ask you a little  
18 bit about your training as it regards the  
19 use-of-force continuum.

20 Is that something you are familiar with?

21 A. Yes.

22 Q. And when -- did you first, I believe you  
23 already said this, but did you first become  
24 acquainted with that at the academy?

25 A. Yes.

1 Q. And following the academy, were you trained  
2 by Cambridge in it?

3 A. Yes.

4 Q. Can you describe in your own words what that  
5 training was?

6 A. Training for use-of-force continuum is --  
7 it's like a triangle.

8 It has the officer's perception on one  
9 side and the subject's actions on the other; and  
10 it kind of just goes up from, you know, compliant  
11 all the way up to deadly force.

12 Q. And is it a guidance in terms of how to react  
13 in certain situations?

14 A. Yes.

15 Q. Does the weapon or the lack of weapon play a  
16 part?

17 A. Yes.

18 Q. Okay. Is the training different as it  
19 regards knives and guns?

20 A. Both are deadly weapons.

21 Q. Okay. Um, in terms of the use of force, does  
22 the Cambridge Police Department have a policy in  
23 that regard?

24 A. Yes.

25 Q. Is that something you are familiar with?



1 A. Yes.

2 Q. How about all the Cambridge policies in  
3 general?

4 A. Yes.

5 Q. Are you all required to be familiar with the  
6 policies?

7 A. We are.

8 Q. Okay. I want to turn your attention now to  
9 January 4th of this year, 2023.

10 Sir, were you working on that day?

11 A. I was.

12 Q. Can you tell the Court what shift you were  
13 working?

14 A. I was working the day shift.

15 Q. And in what capacity?

16 A. I was assigned to Car 3.

17 Q. Okay. And so what is Car 3 for Cambridge?

18 A. Car 3 is a sector car, which means it's a  
19 two-person car.

20 It -- the sector is Sector 3, which is  
21 Mass. Ave., Central Square, pretty much the coast  
22 area of Cambridge down to the river.

23 Q. And is Car 3 a one-person or two-person car  
24 generally?

25 A. Two-person.

1 Q. Okay. Did you have a partner with you that  
2 day?

3 A. I did.

4 Q. And who was that?

5 A. Officer McMahon.

6 Q. Okay. And what were going to be your duties  
7 that day on patrolling that sector?

8 A. Just answering -- answering 911 calls,  
9 mainly.

10 Q. Okay. And so I want to draw your attention  
11 to the middle of the day and sometime after  
12 1:00 p.m.

13 Did you -- did a call -- a particular call  
14 draw your attention?

15 A. Yes.

16 Q. Can you describe how you first became aware  
17 of that call?

18 A. Um, it was dispatched to us from, ah, ECC.

19 Q. What's ECC?

20 A. That's the Emergency Communications Center,  
21 it's on the fifth floor of the police department.

22 Q. Okay. And what was the nature of the call  
23 that was relayed to you?

24 A. It was a -- for an individual that was  
25 reportedly self-harming with a machete.

1 Q. Okay. And so, just to be clear, that  
2 particular dispatch, did it have the -- you  
3 mentioned the machete.

4 Was that relayed in that first dispatch?

5 A. I believe so, yes.

6 Q. Okay. And, as a result of hearing that call,  
7 did you go somewhere?

8 A. We did.

9 Q. Where did you go?

10 A. We went over to the call on Putnam Ave. Um,  
11 yes.

12 Q. Okay. And so about how long if -- if you  
13 know did it take you to get to there?

14 A. Say less than five minutes.

15 Q. Okay. And Putnam Ave., what -- what is in  
16 that area of the city?

17 A. Um, that area of the city is a lot of MIT  
18 faculty and students.

19 There is a baseball field there, the  
20 Morris School is also there. A lot of  
21 residences.

22 Q. And so this was the middle of the day; is  
23 that right?

24 A. Yes.

25 Q. Were there people that you observed on

1 your drive there and when you got there out and  
2 about?

3 A. Yes.

4 Q. Okay. And 625 Putnam Ave., specifically what  
5 is that building?

6 A. It's a multi-unit building.

7 Q. Okay. Apartments?

8 A. Apartments, yes.

9 Q. Okay. Is that an apartment building you are  
10 familiar with?

11 A. I've been there before, yes.

12 Q. Okay. And so when you went there, did  
13 Officer McMahon go with you?

14 A. Yes, he did.

15 Q. Okay. Can you tell us what happened when you  
16 first got to 625 Putnam?

17 A. So we didn't actually end up getting to the  
18 actual building.

19 By that time, other officers got there  
20 before us. We ended up arriving at Chestnut  
21 Street and Sidney Street.

22 MS. SPIROS: Okay. Um, may I approach  
23 the witness, your Honor?

24 THE COURT: You may.

25 BY MS. SPIROS:

1 Q. Sir, I want to show you a map and ask you if  
2 you could just take a moment and look at it and  
3 tell me if you are familiar with the area that's  
4 depicted on this map?

5 A. Yes.

6 Q. Is 625 Putnam depicted there?

7 A. Yes.

8 Q. Can you see sort of a round courtyard behind  
9 the building as a point of reference?

10 A. I see it.

11 Q. And, also, is Chestnut Street and  
12 59 Chestnut Street on that map?

13 A. Yes.

14 Q. Fair and accurate depiction of how the  
15 streets in that area look?

16 A. Yes.

17 MS. SPIROS: Your Honor, should I mark  
18 this separately, or should I just refer to the  
19 number in the discovery notice?

20 THE COURT: Why don't we do both.

21 MS. SPIROS: Okay.

22 THE COURT: Just because that -- things  
23 that are being shown to the witnesses obviously  
24 should have a separate marking.

25 MS. SPIROS: Yes.

1 THE COURT: So the next one in line is --  
2 is that eight?

3 THE CLERK: It is 7.

4 THE COURT: Seven. All right. That  
5 would be Exhibit 7.

6 MS. SPIROS: I think it should be 8, your  
7 Honor, only because we had seven notices of  
8 discovery.

9 THE CLERK: Yeah, but you combined --  
10 you --

11 THE COURT: Two of them -- two of them  
12 were --

13 THE CLERK: -- two of them were combined.

14 THE COURT: Three and four.

15 MS. SPIROS: Oh, three and four were in  
16 the same (inaudible)?

17 MS. EVANS: Three and four.

18 MS. SPIROS: Oh, 3 and 4 were in the same  
19 binder?

20 THE COURT: Yep. Yep. Yeah. Okay.

21 MS. SPIROS: Okay. Thank you. Sorry,  
22 Madam Clerk.

23 THE COURT: So that will be...

24 THE CLERK: No. 7.

25 THE COURT: No. 7.

1 (Exhibit No. 7, Map, received into  
2 evidence.)

3 MS. SPIROS: Your Honor, with the Court's  
4 permission, may I publish this on the overhead?

5 THE COURT: Sure.

6 MS. SPIROS: We'll see how this goes.

7 THE COURT: Okay.

8 Can you people see that?

9 BY MS. SPIROS:

10 Q. Can you see that, sir?

11 A. Ah, yes.

12 Q. Somewhat? Okay.

13 I just wanted to point out a few markers,  
14 if I can -- if I may have one moment just to  
15 reduce the lighting on here.

16 So just as a point of reference, this  
17 roundish courtyard area, sir, is that the  
18 backyard of 625 Putnam?

19 A. I believe so.

20 Q. Okay. And this is Putnam Ave. here and Grove  
21 Ave., is that right, if you can see that?

22 A. I can't see it, but --

23 Q. Okay.

24 A. But it was there, yes.

25 Q. Okay. But, generally speaking, this is the

1 area that was depicted, right?

2 A. Yes.

3 Q. And we have Waverly Street with the train  
4 tracks in here?

5 A. Okay.

6 Q. And so can you tell the Court, once you  
7 arrived, what is it that you observed?

8 And, first tell us who was already there.

9 A. For officers that were already there, it was  
10 Officer Colbert, Officer Pugliares, and I believe  
11 Officer Maziarz.

12 Q. And where did -- what did you do next?

13 A. So we -- we pulled up at the intersection of  
14 Sidney and Chestnut.

15 And at that time over the radio officers  
16 were saying that they were in a foot pursuit in  
17 the area of Waverly Street, which is a block over  
18 by the train tracks.

19 We exited the cruiser and started making  
20 our way over there.

21 Q. And at that point did you become involved in  
22 the pursuit?

23 A. Once we reached the train tracks, that's the  
24 first time I saw the involved party.

25 Q. Okay. And can you describe for the Court



1 what you first saw?

2 A. I saw a shirtless light-skinned male. He was  
3 holding a large knife in his hand; and he was  
4 grinning and was just kind of staring, staring  
5 right at me.

6 Q. And when you say he was holding a knife, when  
7 you first saw the knife, how was he holding it?  
8 In what manner and position?

9 A. I believe it was holding it to his throat.

10 Q. Okay. Could you observe any injuries to him  
11 at that point?

12 A. At that point I -- I don't believe I did.

13 Q. And when you saw the knife, could you  
14 estimate, or do you have an understanding of how  
15 big it was?

16 A. It looked to be about a foot long.

17 Q. Okay. And does that include the blade and  
18 the handle or just the blade?

19 A. I would say the blade.

20 Q. Okay. And do you know, was it a thinner  
21 knife? A thicker knife?

22 Could you describe the blade with any  
23 further specificity?

24 A. No. Honestly, it just look like a machete to  
25 me.

1 Q. Okay. And so once you made these  
2 observations, what happened next?

3 A. I started talking to the person; asked them  
4 to drop the knife. Tell him we are here to -- we  
5 are just here to help, here to talk. We want to  
6 get him help. He didn't answer.

7 Q. And so, to back up, had you seen this person  
8 before?

9 A. No.

10 Q. Didn't -- didn't know his name?

11 A. No.

12 Q. You mentioned that he was grinning; is that  
13 right?

14 A. Yes.

15 Q. And what were the specific phrases or things  
16 that you were saying to him?

17 A. I was saying, ah, I think first I led off  
18 with, Sir, can you drop the knife. Buddy, can  
19 you drop the knife. We're here to help you. We  
20 just want to talk. Can you speak with us? Stuff  
21 like that.

22 Q. And when you looked at him was he -- was he  
23 reacting to you?

24 A. Not at all.

25 Q. And so, in terms of your training, with a

1 does that tell you when you are getting no  
2 reaction in terms of the -- the commands that  
3 you're giving?

4 A. Could be either somebody is in a high level  
5 of distress or they are -- could be under the  
6 influence of something.

7 Q. And, in terms of the training, is there a  
8 piece that involves connecting or establishing  
9 a rapport with a person in a situation like  
10 that?

11 A. Yes.

12 In the -- in the training, you pretty much  
13 you are supposed to say -- just keep -- keep  
14 going until you get a reaction of some -- of some  
15 kind.

16 You just keep trying new things.

17 Q. And so, if you get a reaction, are there --  
18 are there other steps in your training that you  
19 can get to?

20 A. Yeah.

21 If you -- if you notice a reaction, then  
22 you kind of want to focus in on that point and  
23 see if you can establish some sort of rapport.

24 Q. So just in this inter -- initial interaction,  
25 could you establish any rapport or interaction?

1 A. No.

2 Q. Okay. Could you describe what happened next?

3 A. I believe we started backing up a little bit.  
4 We were on the tracks.

5 At that time there was a fence there that  
6 had a lot of holes in it.

7 And, as we kind of backed off, he was able  
8 to scoot through one of the holes.

9 MS. SPIROS: May I approach the witness?

10 THE COURT: You may.

11 MS. SPIROS: And I apologize for not  
12 showing counsel before, but I'll show you the  
13 photographs that I...

14 BY MS. SPIROS:

15 Q. Sir, I just want to show you two photographs  
16 and ask you if you are familiar with what's  
17 depicted in these?

18 A. I am.

19 Q. And what's depicted in the first photograph,  
20 sir?

21 A. The first photograph is behind a construction  
22 site in the Fort Washington Park area, and then  
23 the second one is the train tracks.

24 Q. And is that the train tracks where you were  
25 located, attempting to talk to the individual?

1 A. Yes.

2 Q. Both fair and accurate depictions of how it  
3 looked around that time?

4 A. Yes.

5 MS. SPIROS: I'd offer these as the next  
6 exhibit. Group of two.

7 THE COURT: All right. Those two photos  
8 will be Exhibit 8.

9 (Exhibit No. 8, Two photographs, received  
10 into evidence.)

11 MS. SPIROS: Your Honor, may I publish?

12 THE COURT: You may.

13 MS. KAZAROSIAN: Excuse me, your Honor,  
14 is that -- the two of them, are they now, is that  
15 8?

16 THE COURT: Eight. Yeah, two -- two  
17 photos are Exhibit 8.

18 MS. SPIROS: I am publishing what's been  
19 marked as Exhibit 8, the first page and the  
20 second page.

21 BY MS. SPIROS:

22 Q. And, again, sir, on the second page of 8, you  
23 indicated that that is the train tracks where he  
24 was located with the individual?

25 A. Yes.

1 Q. Okay. You said he managed to scoot through a  
2 fence.

3 Can you tell us what happened next, sir?

4 A. We continued trying to engage with him  
5 verbally. He took off and run or jogged back  
6 down Chestnut Street toward Sidney.

7 Q. And so what -- what happened to the knife, if  
8 anything, when he took off?

9 A. He was still holding it. At times he had it  
10 down by his side.

11 At times he had it up to his throat.  
12 There was a lot of different movements.

13 Q. Okay. And so when he would have it by his  
14 side, would it be close to his body? Away from  
15 his body? Did it vary?

16 A. It varied.

17 Q. Okay. And when it was up to his neck, was it  
18 making contact with his neck or -- if you -- if  
19 you could tell?

20 A. Yes.

21 He was sawing at his neck, hacking at it  
22 at times.

23 Q. Did he do anything else with the -- with the  
24 knife as in regards to the sidewalk or the  
25 street?

1 A. At one point he bent down and it looked like  
2 he was trying to sharpen it on the curb. He was  
3 rubbing it back and forth.

4 Q. What happened after he got to that next  
5 location, sir?

6 A. Um...

7 Q. Did you follow?

8 A. I did -- I did follow. We came upon a -- a  
9 UPS driver.

10 He was already at the intersection when I  
11 arrived.

12 I told him to get out of the area because  
13 it seemed like it was going to be a serious call.

14 He was still there when we came back and  
15 at that time I once again screamed at him, this  
16 time a little bit more loudly, I guess, to -- to  
17 leave.

18 Q. Just to back up for just one moment.

19 The UPS driver that you encounter was at  
20 the intersection of where?

21 A. It was at Sidney and Chestnut.

22 Q. And you told him to get out of the area?

23 A. Yes.

24 Q. Why?

25 A. Because it seemed like it was a dangerous

1 area. The person was now on a foot pursuit with  
2 a large knife.

3 Q. And you mentioned that he -- when you came  
4 back you interacted with the UPS driver again.

5 Was there something that happened in  
6 between?

7 A. Um...

8 Q. Seeing the UPS driver from the first to the  
9 second time?

10 A. Right.

11 The first -- the first time was right when  
12 I got there.

13 The second time was on the way back.

14 Q. Understood.

15 And the second time you asked him again to  
16 leave the area?

17 A. Yes.

18 Q. Did you see the UPS driver leave the area?

19 A. Immediately.

20 Q. What happened next, sir?

21 A. We continued following the subject still,  
22 still trying to talk with him.

23 He at no point said anything to us that I  
24 remember.

25 Q. When you say you're keeping -- you continue



1 to try to talk to him, is it just you? Is it  
2 others?

3 A. All of us, I believe. It was --

4 Q. Okay.

5 A. -- probably maybe four other five of us at  
6 that time.

7 Q. And at the same time when you're in this  
8 pursuit, as you called it, is this -- are you  
9 keeping space?

10 Are you close to him?

11 Can you describe that?

12 A. We are trying to keep enough space,  
13 obviously, for our safety but we don't want to  
14 give too much space because we are concerned of  
15 anybody walking down the street or anywhere in  
16 the neighborhood really.

17 Q. So you are trying to balance those concerns?

18 A. Yes.

19 Q. Um, and as you were continuing to speak with  
20 him, what are the things that you are saying --  
21 the same as you already mentioned or different?

22 A. It mostly was the same. We were mostly  
23 concerned with trying to get him to stop, stop  
24 running, just talk to us.

25 We were asking him his name. We were

1 asking -- we were asking questions. He just  
2 wasn't answering any of them.

3 Q. At any point did he put down the knife at  
4 this point?

5 A. No.

6 Q. What happened next?

7 A. I believe we entered the yard of 65 Chestnut  
8 Street.

9 And then he quickly ran back over to the  
10 house on the right, which is 59 Chestnut Street.  
11 He ran in the side yard there.

12 Q. And so, just to be clear, the area that you  
13 just left -- that you came from, the train  
14 tracks, that's more commercial, correct?

15 A. Correct.

16 Q. Does the nature of the area change  
17 dramatically when you get to Chestnut?

18 A. Very quickly. It's a tight-knit  
19 neighborhood. Typical Cambridge neighborhood.

20 Lots -- lots of houses, multi-family  
21 houses, single-family houses.

22 Q. As you were continuing to follow this  
23 individual, did you see anybody out on that  
24 street, on Chestnut, if you know?

25 A. I don't remember seeing anybody besides the

1 UPS driver.

2 Q. Okay. And you said you first saw him go to  
3 65 and then into the backyard of 59?

4 A. Correct.

5 MS. SPIROS: If I may have a moment, your  
6 Honor, to show counsel.

7 THE COURT: Sure.

8 MS. SPIROS: May I approach the witness?

9 THE COURT: You may.

10 MS. SPIROS: Thank you.

11 BY MS. SPIROS:

12 Q. I show you a series of -- showing you a  
13 series of five photographs.

14 If you could just flip through those, sir,  
15 and just tell me if you are familiar with what's  
16 depicted in those photographs, generally.

17 A. I believe that is the two houses, 59 and 65  
18 Chestnut, in the side yard, backyard.

19 Q. Fair and accurate depiction of how it looked  
20 that day?

21 A. Yes.

22 MS. SPIROS: I'd offer this as the next  
23 exhibit.

24 And if the Court is so inclined --

25 THE COURT: Yeah, that will be Exhibit 9.

1 THE CLERK: Marked as Exhibit 9.

2 THE COURT: Is that five photos, counsel?

3 MS. SPIROS: I am just going to  
4 double-check my counting, but, yes.

5 THE COURT: Okay.

6 MS. SPIROS: Five.

7 THE COURT: Okay.

8 THE CLERK: Thank you.

9 (Exhibit No. 9, Five photographs,  
10 received into evidence.)

11 MS. SPIROS: (Indiscernible.)

12 MR. ANDERSON: What?

13 MS. SPIROS: (Indiscernible.)

14 MR. ANDERSON: No, that's -- I mean...

15 MS. SPIROS: Okay. Thank you.

16 May I publish, your Honor?

17 THE COURT: You may.

18 BY MS. SPIROS:

19 Q. Sir, can you see this?

20 A. I can.

21 Q. What house -- what -- what are we looking at  
22 here?

23 A. It's 59 Chestnut Street.

24 Q. Okay. And is the driveway on -- where is the  
25 driveway for 59 Chestnut, on the right or the

1 left?

2 A. The driveway is on the right.

3 Q. So on the left would be 65 Chestnut; is that  
4 correct?

5 A. Correct.

6 MS. SPIROS: And that -- for the record,  
7 that was page 1 of Exhibit 9.

8 BY MS. SPIROS:

9 Q. And, sir, are you familiar with that house,  
10 is that 65?

11 A. Correct.

12 Q. And flipping to the third page of Exhibit 9,  
13 what are we looking at in this one?

14 A. Is that the driveway? Sorry. There's a  
15 glare.

16 MS. SPIROS: Let me see if I can fix the  
17 glare, if you don't mind.

18 Your Honor, may have just one moment?

19 THE COURT: Sure.

20 MS. SPIROS: Better or worse?

21 MS. EVANS: I think it's better.

22 THE WITNESS: It's better.

23 MS. EVANS: I don't know.

24 THE WITNESS: Is that --

25 THE COURT: It looks better.

1 MS. SPIROS: The red car...

2 THE WITNESS: Yeah, yeah, it's the  
3 driveway, yeah.

4 BY MS. SPIROS:

5 Q. Okay. This is the driveway of -- of 59.

6 Are you familiar with this photograph?

7 A. It looks like the backyard or side yard of  
8 59.

9 Q. Fifty-nine.

10 And then the last photograph, are you  
11 familiar with this?

12 A. It's the backyard of 59.

13 Q. And so this would be the same red car that's  
14 in the driveway here that I'm pointing out?

15 A. Correct.

16 Q. And this would have been kind of the  
17 side yard next to 65 Chestnut where I'm pointing  
18 here?

19 A. Yes.

20 Q. Sir, you indicated the individual that you  
21 were following with your fellow officers went  
22 into the backyard of 59 Chestnut; is that  
23 correct?

24 A. Correct.

25 Q. And so what did you do when that happened?

1 A. I continued following into the -- into the  
2 backyard.

3 It's a small short fence there on the side  
4 yard. The subject jumped over it.

5 Officer McMahon and I jumped over it, and  
6 I saw him at the back of the yard.

7 It look like he was training to  
8 continue -- continue running, trying to get out.

9 Q. And before I get -- ask you another question  
10 about the backyard.

11 At this point are your firearms out?

12 A. Yes.

13 Q. Have they been out since you first  
14 encountered the individual?

15 A. Yes.

16 Q. In what position?

17 A. They were in a low ready position.

18 Q. Can you -- can you describe that further,  
19 what does that mean?

20 A. It's both hands on our firearm, pointed at  
21 the ground. Yep.

22 Q. Okay. And as you were going into the  
23 back -- as the individual was going into the  
24 backyard of 59 Chestnut, did he still have the  
25 knife.

1 A. Yes.

2 Q. And did the individual have anything else in  
3 his hands that you could see?

4 A. It was what I thought was a bible.

5 Q. Some sort of a book?

6 A. A book. Yeah.

7 Q. And so was that in the other hand?

8 A. I believe so, yes.

9 Q. Okay. What happened after he went over the  
10 small fence in the backyard, initially?

11 A. He ran towards the back of the backyard. It  
12 was all fenced in by taller fences.

13 In my opinion it looked like he was trying  
14 to -- trying to look for a way to get out of the  
15 backyard.

16 Q. And so you described some fences there in the  
17 backyard.

18 This is sort of the opposite angle, but  
19 what -- do you have any -- a sense of how high  
20 those fences were, like typical six feet or  
21 taller?

22 A. I believe they were taller than six feet. I  
23 think I said ten.

24 Q. And the taller fences that you believed were  
25 around 10 feet, where were they positioned in the



1 backyard, if you could describe? If we're  
2 looking at the backyard.

3 A. There was one at the very back of the  
4 backyard, and then there was one on the driveway  
5 side of 59.

6 Q. And then the side that he had jumped over,  
7 that was a shorter fence?

8 A. In the front.

9 I'm not sure about the back. I don't  
10 think I ever saw it.

11 Q. Okay. Do you know what is positioned right  
12 there behind that backyard?

13 What is located there, I should say?

14 A. Ah, I believe it was more res -- an apartment  
15 building maybe.

16 Q. Okay. And so what happened next, sir?

17 A. At that time he began walking towards the  
18 front driveway.

19 I believe I said over the -- over the  
20 radio that he is heading back towards the main  
21 street, because I knew -- or I assumed other  
22 officers had gone into that driveway.

23 Q. And so that would have set up officers in the  
24 driveway, and then you and Officer McMahon would  
25 have been on the left side --

1 A. Correct.

2 Q. -- is that right?

3 What is the purpose of -- of the -- if it  
4 is -- a strategy or a tactic of doing it that  
5 way?

6 A. Um, at this point in the call we had been,  
7 you know, running through the neighborhood for a  
8 few minutes.

9 At this point it was time to try to  
10 contain the person before they did come across  
11 somebody and somebody could get injured in the  
12 middle of it.

13 So we were trying to keep him in the -- in  
14 the backyard to try to talk to him.

15 Q. Is containment part of your training?

16 A. Yes.

17 Q. And when -- when do you engage that part of  
18 your training, or when do you go to that part of  
19 your training?

20 A. I think you are always -- we are always  
21 trying to contain things before they expand and  
22 could potentially become more dangerous than  
23 already present when we get there.

24 So immediately we would try to contain --  
25 contain and try to work through it from there.

1 Q. Understood.

2 And what happened -- what happened next or  
3 what did you observe next?

4 A. At that point the subject walked out of  
5 my -- out of my view, and I could hear other  
6 officers giving commands.

7 At this point he's -- I believe he's still  
8 walking toward the driveway. And I heard Less  
9 lethal, less lethal.

10 Q. Prior to me asking you to follow up on the  
11 less lethal piece, you said that they were -- you  
12 could hear other officers giving commands.

13 What could you hear?

14 A. Stop. Drop the knife.

15 Q. And then you heard the words "less lethal"?

16 A. Yes.

17 Q. What do you know that to be in your training?

18 A. I know that the 40mm launcher, the  
19 less-lethal launcher, that means it's about to be  
20 deployed.

21 Q. What is the less-lethal launcher?

22 A. It's a foam ball.

23 I believe they compare it to, like, a  
24 hundred-mile-an-hour fastball, like, in the major  
25 leagues.

1           It is comparable to getting hit -- hit by  
2     that.

3     Q.   Are you trained in that?

4     A.   Yes.

5     Q.   Are all the officers who are there trained in  
6     that, if you know?

7     A.   Yes.

8     Q.   And do you remember who you heard yell "less  
9     lethal"?

10    A.   Officer Colbert.

11    Q.   Can you tell the Court what the purpose is of  
12    yelling less lethal?

13    A.   It's to avoid -- well, one -- one purpose is  
14    to avoid sympathetic fire, because it does -- I  
15    believe it's charged by gun powder.

16           It's a loud bang when it's -- when it's  
17    deployed.

18           So it's -- it's to alert officers that  
19    it's not a gunshot being fired; it's a less  
20    lethal round being fired.

21    Q.   And how many times did you hear "less  
22    lethal"? Once or more than once?

23    A.   More than once.

24    Q.   What happened after that, sir?

25    A.   Um, so I didn't -- I didn't see the actual

1 projectile hit.

2 I couldn't see the subject from where I  
3 was standing at that point; but I did hear a  
4 laugh, and then I saw him come back into my point  
5 of view.

6 Q. You said you heard a laugh.

7 From who?

8 A. I believe it was the subject.

9 Q. And so the person who you had been following  
10 came back into view?

11 A. Yes.

12 Q. And what happened after that, sir?

13 A. He immediately started walking towards --  
14 walking briskly towards Officer McMahon.

15 Officer McMahon was continuing to tell him  
16 to drop the knife. He was screaming, Don't make  
17 me do it.

18 Q. When you say he was walking briskly, can  
19 you describe where the knife was if he still had  
20 it?

21 A. I believe he was holding it out directly at  
22 Officer McMahon.

23 Q. You said you heard Officer McMahon screaming.

24 Did he scream, Don't make me do it once or  
25 more than once?

1 A. More than once.

2 Q. Could you observe whether that had any impact  
3 on the person that you had been following?

4 A. None.

5 Q. Did the person stop?

6 A. No.

7 Q. Did the person drop the knife?

8 A. No.

9 Q. Where was Officer McMahon positioned in the  
10 backyard at this point?

11 A. At that time he had backed all the way -- all  
12 the way up to pretty much the fence.

13 He was probably within five feet of that  
14 fence.

15 Q. So there was a fence behind Officer McMahon?

16 A. Yes.

17 Q. And a fence the other side of him, as well?

18 A. Yes.

19 Q. On both sides or just one side?

20 A. I believe both sides.

21 Q. What did you hear or see next?

22 A. I heard gunshots.

23 Q. And where did those gunshots come from?

24 A. Officer McMahon.

25 Q. Do you know if he fired once or more than

1 once?

2 A. More than once.

3 Q. Do you remember how many you heard?

4 A. I believe there was five.

5 Q. At the time that you heard the gunshots go  
6 off, do you have a sense of how far the person  
7 that you were following, the subject, was from  
8 Officer McMahon?

9 A. Say within 10 feet.

10 Q. Still with the knife?

11 A. Yes.

12 Q. In terms of the location of where you were,  
13 can you tell us where you were when you observed  
14 this?

15 A. I was -- at the beginning I was at the --  
16 right where I jumped the fence there at the front  
17 of the -- the front of the yard.

18 After the less-lethal round and the  
19 subject came walking back towards us, I was  
20 trying to keep pace with him to try and keep  
21 the -- you know, the triangle going.

22 So I was pretty close to parallel across  
23 the yard.

24 Q. Did anything block your view?

25 A. No, other than just having my firearm out and

1 extended.

2 Q. So you hear the shots fired and what happens?

3 A. The person eventually goes to the ground but  
4 it wasn't immediate.

5 Q. Can you describe that further?

6 A. Ah, the rounds weren't quickly, they were --  
7 it was kind of a bang, bang, bang, bang.

8 And the person didn't -- didn't fall until  
9 the -- until the last round was discharged.

10 I believe the person's leg was broken, and  
11 I believe that's the only thing that made him  
12 fall to the ground.

13 Q. And that was in your observations?

14 A. Yes.

15 Q. When the person goes to the ground, what  
16 happens?

17 A. At that point I started walking in towards  
18 them.

19 I remember seeing Officer McMahon standing  
20 frozen right -- right where he was.

21 And Officer Pugliares came -- came in from  
22 the driveway, and we kind of triangulated on the  
23 person who is now on the ground.

24 Q. Before I get to that, I want to back up to  
25 the moment where you heard Officer McMahon give



1 the -- make the statements, Don't make me do it,  
2 more than once.

3 What was the tone of his voice?

4 A. I would definitely say high-stressed and  
5 empathetic.

6 He was just begging the person.

7 Q. Was it loud?

8 A. Extremely.

9 Q. Was there any reaction on the face of the  
10 person who was ultimately shot when that -- when  
11 that was said?

12 A. Not that I saw.

13 Q. You said the attention was then focused to  
14 the person who was on the ground that you had  
15 been following; is that right?

16 A. Correct.

17 Q. What happened then?

18 A. So at that point it was our priorities to get  
19 the person safely into custody and render medical  
20 aid, so we were trying to locate the knife, get  
21 it away from them, get them under control and  
22 render medical aid.

23 Q. And so what were you doing in regards to  
24 that?

25 A. We were carefully approaching because we

1 weren't sure if he was still holding it or  
2 what.

3 At -- at some point, quickly, we realized  
4 the knife -- the knife was underneath, I believe,  
5 his shoulder.

6 Officer Pugliares and I kind of rolled  
7 him.

8 Officer Pugliares grabbed -- grabbed the  
9 knife and tossed it to the side, and at that  
10 point we started assessing his injuries.

11 At that point he wasn't, ah, resisting or  
12 anything.

13 Q. What could you tell about his injuries at  
14 that point?

15 A. He had multiple gunshot wounds.

16 Q. Was he responsive?

17 Was he communicating?

18 A. He was awake, but he -- he still wasn't  
19 saying anything.

20 Q. Were officers speaking to him at that point?

21 A. Yes. I believe we were still just telling  
22 him we were going to help him. Yeah.

23 Q. What did you do next?

24 A. We began applying pressure to the -- to the  
25 wounds.

1           At one point somebody came back with  
2 a -- now more officers are coming to the scene.

3           So people were grabbing the medical bags;  
4 a chest seal was applied.

5           But at that point the person did become  
6 active resistant.

7 Q.   What does that mean?

8 A.   They began kind of rattling about; actually  
9 ripped off the chest seal, so I -- I had to  
10 grab -- grab the person's hand and kind of pin  
11 them back.

12           And at that point we did have to handcuff  
13 him.

14 Q.   And, specifically, what was the purpose in  
15 handcuffing him?

16 A.   Just to try to avoid him from striking  
17 anybody or -- just so we could render the medical  
18 aid without interruption, I guess.

19 Q.   You said a "chest seal."

20           What's that?

21 A.   A "chest seal" is -- pretty much it's almost  
22 like Saran Wrap, and it will go over like a  
23 puncture wound usually like a bullet wound or a  
24 stab wound so that air doesn't get inside the  
25 chest, collapse a lung.

1 Q. Is that something you are trained on?

2 A. Yes.

3 Q. Is it something that's carried in the medical  
4 bags for the officers?

5 A. Yes.

6 Q. And what happened next, sir?

7 A. We -- we were applying pressure, we had to  
8 put another chest seal on. I think there were  
9 multiple chest seals on.

10 Other officers came in. We began applying  
11 tourniquets. I believe he got a tourniquet on  
12 both arms and his right leg.

13 Q. And what happened after the tourniquets were  
14 applied?

15 A. After the tourniquets were applied, he was  
16 wrapped in a blanket to try to keep him from,  
17 ah -- one of the officers had even a higher  
18 training than I have said that we needed to -- it  
19 was January, I remember, so the -- it was a nice  
20 day for January, but the ground was cold; I  
21 believe it was kind of muddy -- so Officer Watson  
22 grabbed a -- a blanket from the ambulance company  
23 and -- and wrapped him in it to try to keep him  
24 from going into shock.

25 Q. Is that Officer Thomas Watson?

1 A. Yes.

2 MS. SPIROS: May I approach the witness,  
3 your Honor?

4 THE COURT: You may.

5 BY MS. SPIROS:

6 Q. You mentioned that you and Officer Pugliares  
7 were able to remove the knife from under the  
8 shoulder of the individual and toss it aside.

9 Let me show you a photograph and see if  
10 you recognize it.

11 A. That's it.

12 Q. This is the knife that the individual was  
13 holding?

14 A. That is.

15 Q. Fair and accurate depiction of how it looked  
16 that day?

17 A. Yes.

18 Q. I'm also going to show you a second  
19 photograph and ask you if you recognize that?

20 A. I do.

21 That was the book he was holding.

22 Q. Fair and accurate depiction of how it looked  
23 that day?

24 A. Yes.

25 MS. SPIROS: I'd offer these as the next

1 two exhibits.

2 THE COURT: All right. So the photograph  
3 of the knife will become 10, and the book will  
4 become 11.

5 (Exhibit No. 10, Photograph of a knife,  
6 received into evidence.)

7 (Exhibit No. 11, Photograph of a book,  
8 received into evidence.)

9 MS. SPIROS: Your Honor, may I briefly  
10 publish?

11 THE COURT: You may.

12 MS. SPIROS: For the record, I'm putting  
13 on the overhead what's been marked as 10.

14 BY MS. SPIROS:

15 Q. Sir, I believe you indicated that you  
16 recognize this to be the knife that he was  
17 carrying that day?

18 A. Yes.

19 MS. SPIROS: I'm publishing 11.

20 BY MS. SPIROS:

21 Q. And this was the book that he was holding?

22 A. Yes.

23 Q. Sir, were you also after -- sorry, I want to  
24 let -- go back to the medical attention that was  
25 happening.

1                   What happened after Officer Watson came  
2 in with the blanket and trying to prevent the  
3 shock?

4           A.   At that time the stretcher arrived with the  
5 medics. We picked the individual up -- he was in  
6 the blanket -- put him on the stretcher; wheeled  
7 him out into the ambulance.

8           Q.   After the incident occurred, were you -- did  
9 you agree to do an interview with the  
10 Massachusetts State Police about what you had  
11 seen and heard that day?

12          A.   I did.

13          Q.   And that was a recorded interview; is that  
14 right?

15          A.   Yes.

16          Q.   Did you engage in that interview voluntarily?

17          A.   I did.

18          Q.   Okay. Did you -- were you asked in that  
19 interview to draw a diagram of the position of  
20 where you saw individuals and where you were at  
21 the time the shots were fired?

22          A.   I did.

23                   MS. SPIROS: May I approach the witness?

24                   THE COURT: You may.

25                   BY MS. SPIROS:

1 Q. Are you familiar with this, sir?

2 A. I am.

3 Q. Is this the diagram that you -- you drew of  
4 the positioning that I just mentioned?

5 A. Yes.

6 Q. Still fair and accurate depiction and  
7 consistent with your memory?

8 A. Yes.

9 MS. SPIROS: I offer this as the next  
10 exhibit.

11 THE COURT: All right. That will be  
12 Exhibit No. 12.

13 (Exhibit No. 12, Diagram, received into  
14 evidence.)

15 MS. SPIROS: Permission to publish, your  
16 Honor.

17 THE COURT: You may.

18 BY MS. SPIROS:

19 Q. Sir, can you see the diagram?

20 A. Yes.

21 Q. And so you marked your name here with the  
22 "X," saying that you are about 20 feet from the  
23 location of where the shooting occurred?

24 A. Yes.

25 Q. And then this "X" back here is Officer



1 McMahon's position; is that correct?

2 A. Correct.

3 Q. And you put 10 feet here.

4 That's your recollection of where the  
5 individual was when the shots were fired?

6 A. Yes.

7 Q. Sir, are you aware -- maybe not at the time,  
8 but have you become aware that there was a cell  
9 phone video taken from 55 Chestnut Street, to the  
10 right of 59?

11 A. Yes.

12 Q. Have you since seen that video?

13 A. Yes.

14 MS. SPIROS: Your Honor, may I approach?

15 THE COURT: You may.

16 BY MS. SPIROS:

17 Q. Sir, this is going to be a series of three  
18 photographs.

19 If you could please just look through  
20 those and tell me if you recognize just generally  
21 what the image is depicted through the window  
22 there?

23 A. This looks like as we are triangulating on  
24 the person about to render medical -- medical  
25 aid.

1 Q. Okay. So this would have been after the  
2 shooting because it appears the person is down;  
3 is that correct?

4 A. Yes.

5 Q. Do you see yourself in -- in the stills?

6 A. I do.

7 MS. SPIROS: Okay. With the Court's  
8 permission, could I ask him to draw a circle  
9 around himself?

10 THE COURT: Sure.

11 MS. SPIROS: Thank you.

12 BY MS. SPIROS:

13 Q. And just initial it.

14 A. Sure.

15 Sorry. The pen's not working.

16 Q. Hold on. We'll grab a Sharpie.

17 Thank you.

18 A. No. No worries.

19 Q. And, for the record, you've marked the first  
20 still in the series "NA"; is that correct?

21 A. Yes.

22 Q. Thank you.

23 MS. SPIROS: I'd offer this as the next  
24 exhibit.

25 THE COURT: All right. Those will go in

1 as Exhibit 12.

2 THE CLERK: Thirteen.

3 THE COURT: The three -- the three  
4 photos?

5 MS. SPIROS: Yes, please. That's  
6 correct.

7 THE CLERK: I think we are at 13.

8 THE COURT: Oh, we are at 13; Eleven was  
9 the book?

10 MS. EVANS: Yes, I believe so.

11 MS. SPIROS: Yes, 12 was the diagram.

12 THE COURT: Oh, that's right. Thanks.

13 (Exhibit No. 13, Three photographs,  
14 received into evidence.)

15 MS. SPIROS: Thank you.

16 May I briefly publish?

17 THE COURT: Okay.

18 BY MS. SPIROS:

19 Q. Sir, again, there's that NA that you marked;  
20 is that right?

21 A. Yes.

22 Q. So this is new here in the circle?

23 A. Yes.

24 Q. And this would be the person who was shot on  
25 the ground here?

1 A. Correct.

2 Q. Back here, do you know who that is?

3 A. I believe it's Officer McMahon and, Officer  
4 Marziarz.

5 Q. And that's sort of underneath sort of the  
6 tree limb as you -- as is depicted in the  
7 photograph; is that right?

8 A. Yes.

9 MS. SPIROS: If I could have a moment,  
10 your Honor?

11 THE COURT: Okay.

12 BY MS. SPIROS:

13 Q. I want to just draw -- draw your attention  
14 back to your interaction with the individual on  
15 Chestnut Street.

16 In your prior interview, you described  
17 interaction -- in your recorded interview that I  
18 just asked you about, you described interaction  
19 as "mocking."

20 Do you remember that?

21 A. I do.

22 Q. Can you describe at what point you previously  
23 discussed the part where you believed he was  
24 mocking you?

25 A. Ah, he just kept -- was grinning at us and

1 was self-harming, almost like, What are you going  
2 to do with it? He just wasn't saying anything to  
3 us.

4 So I took that as kind of mocking you as,  
5 What are you going to do?

6 Q. Understood.

7 MS. SPIROS: That's all I have, your  
8 Honor.

9 THE COURT: All right. Thank you.

10 And Attorney Anderson, do you have any  
11 questions of this officer?

12 MR. ANDERSON: Do you want me to go next?

13 THE COURT: Yeah.

14 MR. ANDERSON: I -- I do have some  
15 questions.

16 THE COURT: Okay.

17 EXAMINATION

18 BY MR. ANDERSON:

19 Q. Good morning, Officer Ayoub.

20 A. Good morning.

21 Q. Let me -- let me just go back to your  
22 training at the Lowell Police Academy.

23 Who was -- who was your use of force  
24 instructor?

25 A. It was Chuck DiChiarra.

1 Q. And do you remember how long at the academy  
2 was devoted to use of force?

3 A. We -- we studied it throughout. We had  
4 defensive tactics, I believe it was once a week,  
5 which was kind of the practical part of it.

6 We had in-class probably weekly at least.

7 Q. And that was throughout the 24 weeks for the  
8 academy?

9 A. Yes.

10 Q. So it wasn't just a certain one week we are  
11 all doing use of force; it was a constant  
12 throughout the academy?

13 A. Correct.

14 Q. And as you are learning other different parts  
15 of law and law enforcement there was -- continued  
16 be re-enforcement of the use of force --

17 A. Always, yes.

18 Q. -- curriculum?

19 Do you recall something about a 21-foot  
20 rule from the academy?

21 A. I do.

22 Q. And can you explain that to the Court?

23 A. It's kind of the -- the rule of how quickly  
24 somebody could have a knife out and run to close  
25 the distance on you before you have a time to

1 draw your weapon and fire.

2 Q. Now, when you first encountered this suspect,  
3 how were -- how were you dressed that day?

4 A. I was dressed in my regular wintertime  
5 uniform. Pants, jacket.

6 Q. And can you describe that for the Court?

7 A. It's pants, jacket, bulletproof vest, my duty  
8 belt and, ah, boots.

9 Q. And is there -- is there a badge, is there a  
10 Cambridge Police insignia on that uniform?

11 A. Yes.

12 Q. And were the other officers dressed similarly  
13 to you?

14 A. Yes.

15 Q. You were riding with Officer McMahon, you  
16 told us?

17 A. Correct.

18 Q. And he's not your normal partner; is that  
19 correct?

20 A. Ah, no, I don't have a partner on those days  
21 usually, no.

22 Q. Okay. You've ridden with him in the past,  
23 though?

24 A. Yes.

25 Q. And that is -- includes on the day shift

1 since you were working that day?

2 A. Yes.

3 Q. And in the past have you always worked the  
4 night shift with him?

5 A. Yes.

6 Q. And how many times do you think you've worked  
7 in a cruiser with Officer McMahon?

8 A. I'd say more than -- more than half a dozen;  
9 probably less than ten.

10 Q. Okay. And how many calls have you been on  
11 that you've responded to that he's been on?

12 A. Dozens.

13 Q. And how would you describe his  
14 professionalism as a Cambridge Police Officer?

15 A. Very professional.

16 Q. Now, when you first encountered the suspect,  
17 this was down by Waverly Street?

18 A. Yes.

19 Q. And you had responded to Sidney Street?

20 A. Yes.

21 Q. So that's one block parallel down towards  
22 the train tracks where you encountered him,  
23 correct?

24 A. Correct.

25 Q. And the first time you saw him he had that



1 knife to him?

2 A. Yes.

3 Q. And, from that point on, what was the  
4 distance between you and the other officers and  
5 this subject as you were continuing to engage  
6 him?

7 A. The distances were changing based on whether  
8 he was walking or running. But I said -- I'd say  
9 we were trying to keep about 30 feet between us.

10 Q. And that's outside of that 21-foot rule that  
11 you were trained on in the academy?

12 A. Yes.

13 Q. And how -- how often was that 21-foot  
14 distance drilled into you at the academy?

15 A. I would say fairly often. I definitely  
16 remember it.

17 Q. Now, you -- you underwent ICAT training, you  
18 said?

19 A. Correct.

20 Q. And that's I-C-A-T?

21 A. Yes.

22 Q. And do you recall what that stands for?

23 A. No, I don't.

24 Q. If I told you Integrate and Communication  
25 Assessment and Tactics, does that sound familiar?

1 A. Yes.

2 Q. And as you encountered him down by Waverly  
3 Street and the train tracks, you indicated that  
4 you were saying phrases like, sir, buddy, can you  
5 drop the knife? Asking him his name; saying we  
6 are trying to help you.

7 Statements along those lines?

8 A. Yes.

9 Q. And is that all consistent with your ICAT  
10 training?

11 A. Yes.

12 Q. And to your knowledge, has everybody in the  
13 academy undergone that ICAT training?

14 A. Yes.

15 Q. How many times have you undergone ICAT  
16 training?

17 A. I believe we went through it in 2019, and  
18 then I guess we did refresher since -- in the  
19 years since.

20 Q. And you also undergo annual in-service  
21 training?

22 A. Yes.

23 Q. And you said that mental health and  
24 de-excalation is part of that?

25 A. Correct.

1 Q. And would Officer McMahon have undergone that  
2 same training that you went through?

3 A. Yes.

4 Q. After leaving the Waverly Street area, this  
5 individual went back down Chestnut Street -- or I  
6 should say "back down" Chestnut Street.

7 He went down Chestnut Street, correct?

8 A. Correct.

9 Q. And you saw a UPS driver you had seen before?

10 A. Yes.

11 Q. And when you first engaged that UPS driver,  
12 that was before you had seen the individual with  
13 the knife holding the knife to his throat and  
14 disregarding your commands?

15 A. Correct.

16 Q. And what words did you say the first time  
17 to the UPS driver advising him to get out of  
18 there?

19 A. I believe I said you should get out of -- you  
20 should leave this area -- or get out of this  
21 area.

22 Q. Okay. And when you saw him the second time  
23 after seeing this individual with the foot-long  
24 knife, how did you engage that UPS driver?

25 A. I believe I said, Get the fuck out of this

1 area -- or, sorry, Get the fuck out of here.

2 Q. And at that time was the subject visible to  
3 him?

4 A. Yes.

5 Q. And what did he do at that point?

6 A. He -- he was in the back of the truck at this  
7 point. He slammed -- slammed the door and took  
8 off immediately.

9 Q. Now, from the time that you first saw the  
10 suspect down by Waverly Street until the time you  
11 heard Officer Colbert say, "less lethal, less  
12 lethal," as best as you can -- and this may not  
13 be a fair question -- how much time do you think  
14 transpired between first -- you first engaging  
15 him and that less-lethal discharge?

16 A. I would say between -- between five and  
17 ten minutes.

18 Q. And during that time were there continuous  
19 verbal requests to this individual?

20 A. Yes. Constant.

21 Q. Did he ever say anything to you?

22 A. No.

23 Q. Other than what you described as mocking you,  
24 did he ever make any eye contact with you?

25 A. He was staring directly at me. It seemed

1 like he was staring through me.

2 Q. And at some point you went down the driveway  
3 at 65 Chestnut up over a fence into the backyard  
4 of 59 Chestnut?

5 A. Correct.

6 Q. And it was from that location where the less  
7 lethal was deployed in the driveway if you are  
8 looking towards the back on the right side of  
9 59 Chestnut Street?

10 A. Correct.

11 Q. And at that time it was just you and Officer  
12 McMahon in the backyard?

13 A. Correct -- well, and the individual.

14 Q. Okay. And then you said after that discharge  
15 of the less lethal this individual started  
16 walking briskly towards Officer McMahon?

17 A. Correct.

18 Q. And he got to a distance of about 10 feet?

19 A. Yes.

20 Q. What was Officer McMahon doing as this person  
21 was walking briskly toward him?

22 A. I believe he was stepping backwards trying to  
23 keep the distance.

24 Q. And what was behind him?

25 A. A fence.

1 Q. And did Officer McMahon have options in terms  
2 of where he could go at that point as this  
3 individual walked briskly towards him?

4 A. No.

5 Q. Did this individual ever slow his pace with  
6 Officer McMahon?

7 A. No.

8 Q. Did that individual have other options in  
9 terms of where he could have gone other than  
10 going directly towards Officer McMahon?

11 A. Anywhere, yes.

12 Q. And you indicated Officer McMahon was saying,  
13 Don't make me do this; Don't make me do this?

14 A. Yes.

15 Q. And then you heard Officer McMahon discharge  
16 several times?

17 A. Yes.

18 Q. And it wasn't until the last shot that this  
19 individual went down?

20 A. Correct.

21 Q. And, still on the ground, he still continued  
22 to be combative?

23 A. Eventually, yes.

24 Q. And he was removing things that you were  
25 putting on his body trying to save his life?

1 A. Yes.

2 Q. If you were in Officer McMahon's shoes,  
3 retreating backwards with a fence behind you with  
4 this individual walking briskly towards you, what  
5 would you have done?

6 A. I would have done the same thing.

7 MR. ANDERSON: Okay. I have nothing  
8 further.

9 THE COURT: Okay.

10 MS. SPIROS: Your Honor, I'd ask to  
11 assist Attorney Kazarosian with queuing up a  
12 video sequence.

13 THE COURT: Okay.

14 MS. SPIROS: That's been submitted to the  
15 Court already and perhaps it makes sense to mark  
16 it individually now.

17 THE COURT: Sure.

18 So that will be 14, I believe.

19 MS. SPIROS: Thank you.

20 (Exhibit No. 14, Video, received into  
21 evidence.)

22 THE COURT: And, Attorney Kazarosian, you  
23 have some questions?

24 MS. KAZAROSIAN: Thank you, your Honor,  
25 yes.

1 THE COURT: All right. And can I just  
2 ask -- and I think we've discussed this before --  
3 what's the -- what's the area?

4 Just so -- what? What?

5 MS. KAZAROSIAN: Part of the training and  
6 positioning where he was and...

7 THE COURT: All right. All right. Okay.

8 MS. KAZAROSIAN: I don't think it will be  
9 too long.

10 THE COURT: Okay.

11 MS. KAZAROSIAN: I hope.

12 MS. SPIROS: Would you -- would you like  
13 me to do it now or tell me when.

14 MS. KAZAROSIAN: Sure. You can do it  
15 now.

16 MS. SPIROS: Okay. Your Honor, for the  
17 record, I'm putting in the --

18 MS. KAZAROSIAN: Well, before you start  
19 it. I...

20 THE CLERK: (Indiscernible.)

21 MS. SPIROS: We are just transitioning  
22 with the technology.

23 Do you want to start, and then we'll let  
24 you know when we are ready?

25 MS. KAZAROSIAN: Yeah. I'm just --



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EXAMINATION

BY MS. KAZAROSIAN:

Q. Officer, I am Marsha Kazarosian.

And I represent the family, the father of Mr. Faisal.

A. Good morning.

Q. Good morning.

MS. SPIROS: We are going to wait until you are ready.

So go ahead.

MS. KAZAROSIAN: Okay. Well, I can start.

MS. SPIROS: Okay.

BY MS. KAZAROSIAN:

Q. Officer, you had talked about being trained in how to de-escalate, being trained in how to address mental illness issues, correct?

A. Correct.

Q. And in your training -- and is -- strike that.

As part of what you were observing as the calls came in, what you heard following him, you had made an assessment that this was probably a mental health issue, correct?

A. Correct.

1 Q. And you are familiar, are you not, with even  
2 the Cambridge Police policies on mental health  
3 that if there is a suspected mental health issue,  
4 a mental health professional should be called and  
5 you wait for that professional to come if at all  
6 possible; is that a correct assessment?

7 A. Correct.

8 Q. Do you know whether or not prior to the shots  
9 being fired anyone at ECC called for a medical  
10 health -- mental health professional?

11 A. I'm not aware.

12 Q. And you were in constant communication with  
13 ECC; you were updating them as you were chasing,  
14 et cetera, correct?

15 A. Correct.

16 Q. But you did not hear any calls for a mental  
17 health professional?

18 A. No.

19 Q. And how long would you say this took from the  
20 moment you received the call at around 1:15, I  
21 think you had said, until the moments the shots  
22 were fired?

23 Can you -- can you assess it approximately?

24 A. I believe I said it was a little over five  
25 minutes, ten minutes.

1 Q. Okay. Now, you had said that the shots were  
2 not ringing out quickly, they were slowly.

3 That was your recollection; is that  
4 correct?

5 A. Yes.

6 Q. And it was the last one that you believe is  
7 what brought him down -- Mr. Faisal down?

8 A. Correct.

9 Q. I'm going to play a video which has been part  
10 of the Assistant District Attorney's discovery  
11 notices and -- and ask if you recognize any of  
12 the people in here and if this is what you  
13 recall, or if it refreshes your recollection, if  
14 it's different?

15 MS. SPIROS: We just need to get to the  
16 point in the video.

17 MS. KAZAROSIAN: And 59 is the one with  
18 the driveway?

19 MS. SPIROS: Yeah.

20 THE COURT: And, Officer, if you are  
21 having trouble seeing the video from your vantage  
22 point, you can -- you can step down --

23 THE WITNESS: Sure.

24 THE COURT: -- just to view it, okay?

25 THE WITNESS: Okay. Thank you.

1 MS. SPIROS: We have them all on one.

2 MS. KAZAROSIAN: Oh, okay. I see.

3 MS. SPIROS: Just give us one moment,  
4 your Honor, for the technology.

5 Apologies, your Honor. This is the first  
6 time we've tried to queue up a video.

7 (Video played 10:25:06 through 10:25:10.)

8 MS. KAZAROSIAN: Could you stop that for  
9 a moment?

10 BY MS. KAZAROSIAN:

11 Q. Were you able to see what was just shown?

12 A. Officers in the driveway.

13 Q. Were you -- you were not one of those  
14 officers; is that correct?

15 A. Correct.

16 Q. Did you hear the sequence of the shots?

17 A. I did.

18 Q. Is that how you recall them?

19 A. It does sound a little bit faster in the  
20 video, yeah.

21 Q. So it would be difficult then -- or would it  
22 be -- if you are hearing them, to know which one  
23 actually caused Mr. Faisal to fall, correct?

24 A. Fair to say.

25 Q. Now, as part of your --

1 MS. SPIROS: (Inaudible.)

2 MS. KAZAROSIAN: No. I'm all set with  
3 that.

4 And that's been marked?

5 THE COURT: Yes. That's No. 14.

6 BY MS. KAZAROSIAN:

7 Q. So you had explained what ICAT is, that's  
8 part of your training?

9 A. Correct.

10 Q. And all the officers get it.

11 And that's in addition to what you get at  
12 the Police Academy, or is that what you got at  
13 the Police Academy?

14 A. That was in addition.

15 Q. Okay. And are you aware that ICAT has talked  
16 about this 21-foot rule and stated that it is  
17 really not quite any basis for that rule; that  
18 it's an old rule.

19 Are you -- are you familiar with that?

20 A. I've heard that, yes.

21 Q. And you've been trained since your time at  
22 the Police Academy that the 21-foot rule is  
23 really not that applicable as far as this time  
24 sequence of how fast someone can charge you if  
25 they have a knife or an edged weapon versus a

1 gun, correct?

2 A. Ah, correct.

3 Q. I'm sorry?

4 A. Correct.

5 Q. And, similarly, on the use of force continuum  
6 that you had discussed that you were trained in,  
7 you are also aware in your in-service training  
8 that that continuum is no longer supported by  
9 ICAT or the IACP, which is the International  
10 Association of Chiefs of Police, correct?

11 A. I've never heard that, no.

12 Q. But you had been -- you were aware that this  
13 29-foot rule has been debunked, so to say?

14 A. Twenty-one.

15 MR. ANDERSON: I object, yeah.

16 BY MS. KAZAROSIAN:

17 Q. 21-foot rule?

18 THE COURT: Yeah. I don't know if it's  
19 been debunked or just there's -- it doesn't have  
20 the same force and effect.

21 So maybe just --

22 MS. KAZAROSIAN: Well, he just said yes.

23 Okay.

24 THE COURT: Okay. Then it's been  
25 debunked.

1 MS. KAZAROSIAN: I understand.

2 BY MS. KAZAROSIAN:

3 Q. Who -- whose responsibility is it to call for  
4 mental health support?

5 A. I believe whoever's in charge on scene.

6 Q. And so that would have come through the  
7 emergency communications center or would that be  
8 a call that was made through there?

9 A. It probably would be made through there.

10 Q. Or also for -- from someone on the scene; is  
11 that correct?

12 A. Well, I'd assume that they would request ECC  
13 to then call.

14 Q. And you were hearing all the communications,  
15 correct?

16 A. No.

17 Q. Were you hearing any of the communications?

18 A. Some.

19 Q. And, in any of those, did you hear anyone  
20 call for a mental health professional?

21 A. No.

22 Q. And you were trained, then, if there is a  
23 mental health -- a person in a crisis in a mental  
24 health situation that you are supposed to wait  
25 for a mental health professional, correct?

1 A. When that's possible.

2 Q. Okay. True.

3 You had stated several times that it -- it  
4 struck you that no matter how many times  
5 Mr. Faisal was commanded to do something, such as  
6 drop the knife or talk, he was not responsive,  
7 correct?

8 A. Correct.

9 Q. Did that surprise you?

10 A. Yes.

11 Q. Weren't you trained that mental -- people in  
12 a mental health crisis are not generally  
13 responsive to commands?

14 A. Um, I wouldn't -- I wouldn't say that.

15 Q. So you have not had any training that  
16 indicated to you that someone who is caught up  
17 in a mental health crisis may not understand  
18 commands or may not respond to commands?

19 A. It's possible, but I wouldn't say that it's  
20 likely.

21 Q. And you never saw that less than lethal  
22 connect with Mr. Faisal, correct?

23 A. Nope.

24 Q. But you assumed it did?

25 A. Yes.



1 Q. And, based on that assumption, you thought  
2 that he might be under the influence of drugs or  
3 something because it didn't affect him; is that  
4 safe to say?

5 A. No.

6 Q. Okay. What was your impression after you  
7 assumed the less than lethal hit him and it  
8 didn't affect him -- or did you make one?

9 A. Ah, I thought that this could definitely end  
10 the way we don't want it to.

11 Q. Now, you had also testified that you heard  
12 Officer McMahon say several times, Don't make me  
13 do it, correct?

14 A. Correct.

15 Q. Did you ever hear him say, Drop the weapon or  
16 I will shoot?

17 A. He was definitely saying, Drop the weapon. I  
18 don't know if he was saying "shoot."

19 MS. KAZAROSIAN: Your Honor, may I  
20 approach the witness?

21 I have four photos that were part of the  
22 discovery.

23 THE COURT: All right.

24 MS. KAZAROSIAN: Thank you.

25 (Indiscernible) trip on the wire.

1 BY MS. KAZAROSIAN:

2 Q. Officer, could you just take a look at these  
3 four photos and tell me if you recognize what  
4 they depict?

5 A. It's the backyard of 59 Chestnut.

6 Q. All four of them are, right?

7 A. Yes.

8 Q. And do you see the yellow marks in there or  
9 yellow -- do you see any of the yellow, um,  
10 placards?

11 A. Yes.

12 Q. And do you know what those depict?

13 A. Ah, no.

14 Q. And when you look at any of those photos,  
15 can you tell where you may have been in relation  
16 to the trees or where Mr. Faisal was or where  
17 Mr. McMahon was?

18 A. Where I would have been?

19 Q. Yes.

20 A. Off to the left.

21 Q. Okay. And that's in all of the photos?

22 A. Yes.

23 Q. Okay. And, I'm sorry, I should have shown  
24 them to you.

25 MS. KAZAROSIAN: May I have a moment,

1 Judge?

2 MS. SPIROS: Okay. Thank you.

3 MS. KAZAROSIAN: May I have these marked?

4 THE COURT: All right. Does any have --  
5 you can put those in as 15.

6 MS. SPIROS: Fifteen.

7 THE CLERK: I'm going to staple them  
8 together, okay?

9 MS. KAZAROSIAN: Sure.

10 THE COURT: Okay. How many photos,  
11 counselor?

12 MS. KAZAROSIAN: There were four, your  
13 Honor.

14 THE COURT: Okay.

15 (Exhibit No. 15, Four photographs,  
16 received into evidence.)

17 MS. EVANS: Hold on. It's not on, the  
18 source -- now it is.

19 Go ahead.

20 MS. KAZAROSIAN: I see.

21 BY MS. KAZAROSIAN:

22 Q. So, Officer Ayoub, in this photo, can you --  
23 is -- if I point to the area where Mr. McMahon  
24 was, is it -- is it safe to say it's in this area  
25 right here?

1           Can you see where I am pointing?

2       A.    Yes.

3       Q.    And that's in front of the tree that's to the  
4       right of this bank of bushes?

5       A.    Yes.

6       Q.    And then Mr. Faisal would have been back here  
7       where I'm pointing, which is just around under  
8       the iron fence here, probably to the right of  
9       this -- what do you call that -- it's a backboard  
10       where somebody would be laid -- would be placed  
11       upon?

12           Do you see where I'm talking about?

13       A.    Yep, I'd say it's -- yeah, like you said.  
14       Yeah, right in that area there.

15       Q.    Okay. And -- and you were back to the --  
16       towards this tree to the left of the bushes; is  
17       that what you are saying?

18       A.    I was saying I was about parallel.

19       Q.    Parallel to --

20       A.    Not with Officer McMahon; with Faisal.

21       Q.    Okay. So you were maybe about 10 feet back  
22       from this tree to the left?

23       A.    Yeah, somewhere in there.

24       Q.    And you could see Mr. Faisal's face directly  
25       as he was facing Officer McMahon?

1 A. No. I could see his side profile.

2 Q. Okay. Okay.

3 During the time that you were chasing or  
4 going after Mr. Faisal when he was carrying the  
5 knife and passing -- you had mentioned at least  
6 one person -- did you ever notice that he  
7 threatened that person with the knife?

8 A. He didn't pass the person I was talking  
9 about, the UPS driver. The UPS driver drove  
10 away.

11 Q. Okay. Did he pass -- so he didn't pass  
12 anyone that you could see in the public in the  
13 area?

14 A. Ah, not that I saw.

15 Q. And during the time that you were chasing  
16 him, did he ever turn back and charge at any of  
17 the officers chasing him, that he saw?

18 A. No, he never charged, but he would stop and  
19 look at us, face us.

20 Q. And he would smile, as you had described it?

21 A. Smile and self-harm.

22 Q. All right. And you had said you -- when he  
23 was chased into the backyard -- did he ever turn  
24 around and look back at you at that point when he  
25 was in the backyard, did you ever notice that, or

1 back at the officers who were coming in the  
2 driveway?

3 A. Yes.

4 Q. So at one point he had his back to Officer  
5 McMahon?

6 A. I'm not sure.

7 Q. But you said he turned and faced from where  
8 he came, correct?

9 A. Yes.

10 Q. Okay. And Officer McMahon was opposite of  
11 him because he was heading toward him into the  
12 backyard?

13 A. I'm not sure where Officer McMahon was at  
14 that point.

15 He was in the -- somewhere in the side  
16 yard with me, I believe.

17 Q. Okay. So you were both --

18 A. I'm sorry, not in the side yard, but on the  
19 side of the backyard.

20 Q. Okay. Now, when you are looking at this  
21 photograph, again, this is up here, and Officer  
22 McMahon is, you know, in front of this tree here  
23 to the right of the bushes, there is a fence  
24 behind it, correct?

25 A. Correct.

1 Q. And there is a fence to the right of him  
2 quite a distance away?

3 A. Correct.

4 Q. And then there's also an enclosure here to  
5 the left?

6 A. Correct.

7 Q. Now, Mr. Faisal got to about 10 feet away, as  
8 you recall.

9 Did you ever see Mr. -- Officer -- Officer  
10 McMahon try to move to the right or the left to  
11 get back out of the driveway where his backup  
12 was?

13 A. No.

14 MS. KAZAROSIAN: I have -- I have no  
15 further questions.

16 THE COURT: All right. Thank you.

17 All set?

18 MS. SPIROS: Your Honor, could I have a  
19 couple follow-up questions with this witness?

20 THE COURT: Briefly.

21 MS. SPIROS: Very briefly.

22 EXAMINATION

23 BY MS. SPIROS:

24 Q. Your counsel asked you about mental health  
25 professionals and their role with the Cambridge

1 police department.

2 Have you had the opportunity to work with  
3 mental health professionals in the course of your  
4 patrol?

5 A. Yes.

6 Q. And if there is an active situation that's  
7 considered dangerous, generally speaking, or is  
8 there a policy in which the mental health  
9 professional would actually come out and be at  
10 the scene of a situation like that?

11 A. No.

12 Q. Can you explain?

13 A. There's -- as far as I am aware, there's  
14 never to be a mental health counselor, a social  
15 worker, anybody like that, at a scene involving  
16 an active, dangerous -- dangerous weapon.

17 Q. Is that because there's concern for the  
18 mental health worker, as well?

19 A. For their safety, yes.

20 Q. Are they -- mental health workers -- law  
21 enforcement, do they carry guns?

22 A. No.

23 Q. Okay. In terms of the -- the situation in  
24 which counsel asked you whether Officer McMahon  
25 could have gone right -- whether he attempted to



1 go right or left, given your training and  
2 experience and what you were observing, what does  
3 your training tell you about a person who is  
4 advancing towards Officer McMahon or -- or  
5 towards a person who has a -- a bladed weapon in  
6 a situation like this? What does the training  
7 tell you?

8 A. It's much easier for someone to move forward  
9 than backward. You shouldn't start trying to  
10 move around. It's not a football game.

11 If -- if your life's endanger, you want to  
12 have a firm footing when you have to shoot.

13 Q. And with the distance of 10 feet that you  
14 observed Officer McMahon come into with the  
15 deceased Mr. Faisal, do you believe Officer  
16 McMahon's life was in danger?

17 A. Definitely.

18 MS. SPIROS: I have no further questions.

19 THE COURT: All right. All right.

20 Thank you, Officer.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 MS. SPIROS: Your Honor, at this point  
24 I'd ask to call a witness out of order so the  
25 Portuguese interpreter may --

1 THE COURT: I was just about to suggest  
2 it.

3 MS. SPIROS: Excellent.

4 So we would call Francklen Lauriano,  
5 please.

6 THE COURT OFFICER: Francklen Lauriano.

7 Watch your step.

8 Face the clerk.

9 THE CLERK: Swear in the interpreter  
10 first?

11 THE COURT: Yes.

12 THE CLERK: Madam Interpreter, if you  
13 could raise your right hand.

14 Do you solemnly swear that you will  
15 faithfully and impartially interpret all the  
16 testimony given in the matter before the Court to  
17 the best of your able to so help you God?

18 THE INTERPRETER: Yes, I do.

19 INTERPRETER SWORN

20 THE INTERPRETER: Good morning.

21 Maria (indiscernible), Portuguese  
22 interpreter, for the record.

23 THE CLERK: Thank you very much.

24 THE COURT: All right. And swear in the  
25 witness.

1 THE CLERK: If you could raise your right  
2 hand.

3 Do you swear to tell the Court the truth,  
4 the whole truth, and nothing but the truth under  
5 the pains and penalties of perjury?

6 THE WITNESS: Yes.

7 THE CLERK: Thank you very much.

8 FRANCKLEN LAURIANO, SWORN

9 THE COURT: All right. And,  
10 Mr. Lauriano, you can have a seat.

11 THE WITNESS: All right.

12 THE CLERK: Is there another chair?

13 THE INTERPRETER: I think I will be fine.  
14 But, you know, if it gets too long, I  
15 will go get it.

16 I just want to point this a little more  
17 towards me so I -- so my voice can be recorded.

18 THE CLERK: Thank you.

19 THE COURT: All right. And,  
20 Mr. Lauriano, I just want to warn you that this  
21 -- unlike other trials or hearings, this is a  
22 closed hearing, which means there is a  
23 sequestration order, which also means that you  
24 are not to discuss anything you testify to here  
25 in this courtroom with anybody else, other

1 witnesses included, until this particular matter  
2 becomes public at a much later date.

3 Do you understand that?

4 THE WITNESS: Yes.

5 THE COURT: Okay. Thank you.

6 All right. Thank you.

7 MS. SPIROS: May I proceed?

8 Thank you.

9 EXAMINATION

10 BY MS. SPIROS:

11 Q. Good morning, sir.

12 A. Good morning.

13 Q. And I -- my name is Carrie Spiros. I am the  
14 prosecutor. We've met before, I believe, on the  
15 Zoom.

16 I'm going to -- I know you speak English.  
17 If -- I am just going to ask you to use the  
18 services of the interpreter so that we understand  
19 you.

20 A. Oh, okay. No problem.

21 Q. Thank you.

22 Could you please introduce yourself to the  
23 Court, spell both your first and last name for  
24 the record.

25 A. Okay. My name is Francklen Lauriano.

1 Q. Could you spell Lauriano?

2 A. L-A-U-R-I-A-N-O.

3 Q. And Francklen?

4 A. F-R-A-N-C-K-L-E-N.

5 Q. How old are you?

6 A. Fifty-one.

7 Q. When were you born?

8 A. 1972.

9 Q. What month and day?

10 A. 4/4/1972.

11 Q. Sir, do you live -- do you work in Cambridge?

12 A. Yes.

13 Q. Where do you work, sir?

14 A. I've been working at 625 Putnam Street.

15 Q. What is 625 Putnam?

16 THE INTERPRETER: (Interpreting.)

17 A. Okay. Over there it's a building, and I work  
18 for the maintenance over there.

19 This is the same address the victim, the  
20 Faisal.

21 THE COURT: All right. Mr. Lauriano?

22 THE WITNESS: Yes.

23 THE COURT: Okay.

24 We have these services, an interpreter,  
25 for purposes -- for my purposes, it would be

1 better, I think, if you would just use your -- I  
2 know you speak very good English, but for  
3 purposes --

4 THE WITNESS: Okay.

5 THE COURT: -- of me, if you could just  
6 listen to the question as it's interpreted to you  
7 and then answer in your native language and let  
8 the interpreter translate, just so it's easier  
9 for me.

10 Do you understand?

11 THE WITNESS: Yes, your Honor. Yes.

12 THE COURT: Okay. Thank you.

13 BY MS. SPIROS:

14 Q. Sir, you said you work in maintenance.

15 What -- what is your job?

16 What do you do?

17 A. I do custodial, maintenance work inside of  
18 the building, painting, and outside as well.

19 Q. You mentioned the name "Faisal."

20 Do you know the name Faisal?

21 A. He's a resident where I work.

22 Q. And I want to draw your attention to  
23 January 4, 2023, around lunchtime or the middle  
24 of the day.

25 Were you working that day?

1 A. Between 12:30 to 1:30 p.m. on that day I was  
2 having my lunchtime.

3 Q. Where was that, sir? Where were you?

4 A. I was at Chestnut Street across from No. 20.

5 Q. Were you in a car or seated outside?

6 A. Inside the car.

7 Q. And what did you see while you were sitting  
8 in your car?

9 A. I saw two policemen running, one on the  
10 sidewalk and one in the street.

11 Q. What else did you see?

12 A. They run --

13 THE INTERPRETER: May the interpreter  
14 inquire the street name to make sure -- Waverly.

15 THE WITNESS: Waverly.

16 A. They run towards Waverly Street; and, there,  
17 they joined two other police officers that were  
18 following a young man.

19 THE WITNESS (in English): Yeah, the two  
20 other police officers were (indiscernible) and  
21 that Waverly Street.

22 A. The two other policemen, they are coming from  
23 Waverly Street.

24 Q. And you mentioned there was -- they were  
25 following a young man.

1           Did you recognize that person?

2           A.   Not at that moment.

3           Q.   In that moment, what -- what did you see or  
4           what could you see?

5           A.   So the four policemen, they were screaming  
6           because the younger man, he had a knife, a big  
7           knife, big, at the neck.

8                   And they were ordering him, several times  
9           to drop the knife on the ground.

10          Q.   Could you hear them saying anything else?

11          A.   No.   Only the screams and asking for the  
12          knife to be dropped on the floor.

13          Q.   Could you see the knife?

14          A.   Yes.

15                   It was a very large knife, and it went  
16          crossing the neck from here to here.

17          Q.   And you just -- because we are making on oral  
18          record, you just put your fingers up.

19                   About how long would you say that was?

20          A.   It was more or less like this size.

21                   It was a large knife, and it crossed to  
22          the neck from here to here.   And the tip was  
23          here.

24          Q.   You said the tip was -- where was the tip?

25          A.   More or less here.



1           It crossed through the neck.

2       Q.   So it was held across the young man's neck?

3       A.   Yes, exactly.

4       Q.   Do you know if -- can you estimate how many  
5 inches or otherwise the knife was?

6       A.   It was very fast because at that point I  
7 backed up a little bit.

8           I don't now how to say, but I believe that  
9 it was the size of -- of this mic here.

10      Q.   So about a foot?

11      A.   Yes.

12      Q.   Sir, were you -- you said you are backed up.

13           Were you backing up in your car?

14           Were you outside your car at this point?

15           Could you tell us where you were when you  
16 backed up?

17      A.   At that moment when the two policemen, they  
18 joined the two other police -- policemen and they  
19 came at my direction.

20           I left the car, and at that point they  
21 were already ordering him to drop the knife.

22      Q.   And what -- I'm sorry, he's not finished.

23      A.   Okay. And as soon as I saw the situation, I  
24 left my car; and I enter the building, a complex  
25 building of apartments, No. 20.

1           In there there is a mailman, and I  
2           approached him and I told him what I saw on the  
3           street in order to -- also to protect him.

4           Q.   Protect him -- protect him from what?

5           A.   Of the situation that was developing outside  
6           because nobody knew. And I knew.

7           Q.   What was your concern?

8           A.   Well, my concern is that that person outside  
9           could seek shelter inside of the building because  
10          there was no -- there was no -- there was access;  
11          there were no gates.

12          And my concern is that that situation  
13          could come inside the building.

14          Q.   Were you concerned for your own safety and  
15          the safety of the mailman?

16          A.   Yes.

17          I -- I warned him because I know that all  
18          the -- all the other mailmen, they have the keys  
19          for buildings.

20          So I alerted him just in case the  
21          situation came inside the building, he would be  
22          able to open the door.

23          Q.   What did you see next?

24          A.   They -- they passed -- they continued on the  
25          street, they crossed Sidney Street and at that

1 moment the policeman told --

2 THE INTERPRETER: May the interpreter fix  
3 the record?

4 A. At that moment the mailman told me it's okay,  
5 the police is already here. They are under  
6 control.

7 I left the building. I went to the corner  
8 of Sidney Street with Chestnut Street, and I  
9 pointed my cell phone at the policemen's  
10 direction, and I started to record a video.

11 But when I started recording the video,  
12 these policemen, they had already entered the  
13 driveway of the No. 55.

14 And right after that, I heard six shots.

15 And that was the moment that I pointed the  
16 cell, cell phone and was able to record these  
17 shots.

18 Q. And let me go back for a moment.

19 You said they went into the area of  
20 55 Chestnut.

21 Do you know what is in that area?

22 A. It's a normal residence, but it appears that  
23 two properties across -- across from it has a  
24 daycare on the same side.

25 Q. You said a "daycare"?

1 A. Yes.

2 Q. The video recordings, did you recently  
3 provide those recordings to the State Police?

4 A. Yes.

5 Q. Did you take some still photographs as well  
6 with your camera?

7 A. Yes, I took pictures afterwards. I went on  
8 the roof on the building, 625 Putnam Street.

9 Q. And what did you take video of?

10 A. I took pictures of the windows where  
11 supposedly he jumped off.

12 Q. Let me ask you this.

13 At what -- and what point did you realize,  
14 or did you know, that you recognized the person  
15 that the police were chasing?

16 A. It were residents that were there that told  
17 me that he living in there.

18 Q. When you saw the person on the street with  
19 the knife, did you know it was Faisal?

20 A. No.

21 Q. Had you met Faisal before?

22 A. One day before I talked to him, and it was  
23 the only time that I saw him.

24 And he was talking -- and he was talking  
25 about a note that somebody had left there

1 complaining about trash that was left inside the  
2 trash room.

3 Q. At any point that you heard the police  
4 telling the person they were following who you  
5 now know as Faisal to drop the knife, did you  
6 ever see him drop the knife?

7 A. No. No moment at all.

8 MS. SPIROS: I have no further questions,  
9 your Honor.

10 Just for the record, his photograph and  
11 photographs and videos are part of discovery  
12 notice seven.

13 THE COURT: Okay. Thank you.

14 Attorney Anderson, any questions?

15 MR. ANDERSON: Just a couple questions.

16 EXAMINATION

17 BY MR. ANDERSON:

18 Q. Good morning, Mr. Lauriano.

19 My name is Kenny Anderson.

20 I represent Cambridge Police Officer Liam  
21 McMahan.

22 You are familiar with the building at  
23 625 Putnam Street?

24 A. Yes.

25 Q. And the windows in those apartment units,

1 are those windows that can be opened from the  
2 inside?

3 A. Yes.

4 Q. So, for instance, if you burn a piece of  
5 toast and it smells smoky inside, you can open a  
6 window to get fresh air into the apartment?

7 A. Yes.

8 Q. Now, when -- when you saw this person that  
9 you later learned was Faisal on the street, do  
10 you remember what his facial expresses looked  
11 like?

12 A. I didn't recognize him when he was on the  
13 street. This person had an expression very  
14 different.

15 I don't know how to say, his face seemed  
16 to be angry, something like that.

17 Q. Okay. And you were concerned for your safety  
18 when you saw this person with a large knife,  
19 correct?

20 A. Yes.

21 Q. And you were also concerned for the mail  
22 carrier's safety as well?

23 A. Yes.

24 Q. And you warned him that, Be careful, there's  
25 somebody out here with a knife?

1 A. Yes.

2 MR. ANDERSON: I have nothing further.

3 EXAMINATION

4 BY MS. KAZAROSIAN:

5 Q. Good morning, Mr. Lauriano.

6 A. Good morning.

7 Q. My name is Marsha Kazarosian, and I represent  
8 the family Mr. Faisal.

9 Am I correct, when I heard you say that  
10 you have a video but it doesn't show the  
11 shooting, it's just the audio of the shots  
12 ringing out?

13 A. Yes.

14 Q. And when you -- you took the photos from the  
15 roof, that was after the shots had rung out,  
16 correct?

17 A. Yes.

18 Q. Okay. And when you saw the two officers  
19 running after Mr. Faisal and then two more met;  
20 continued to run after him, did you ever see  
21 Mr. Faisal waving the knife at those officers, or  
22 was it just at his neck?

23 A. Always on his neck.

24 MS. KAZAROSIAN: I have no further  
25 questions.

1 THE COURT: All right. Thank you,  
2 Mr. Lauriano.

3 All right. Thank you, Madam Interpreter.

4 THE WITNESS: Your welcome, your Honor.  
5 (Witness excused.)

6 THE COURT: And your next witness?

7 MS. SPIROS: Yes.

8 Your Honor, the Commonwealth calls Susan  
9 Freireich.

10 THE COURT OFFICE: Susan who?

11 MS. SPIROS: Freireich.

12 Never mind. I'm just ahead of myself.

13 THE COURT OFFICER: Susan Freireich.  
14 Susan Freireich.

15 MS. SPIROS: Your Honor, with this  
16 Court's permission, I'm going to try to do all  
17 the civilian's.

18 So I may take one other out of order, if  
19 that's okay.

20 THE COURT: Oh, sure. Sure. Sure.

21 MS. SPIROS: Thank you.

22 And she has Attorney Murphy with her. If  
23 I could put a chair next to the witness stand.

24 Thank you, Mr. Clerk.

25 THE COURT OFFICER: Watch your step.



1 Watch your step.

2 Just stand for a moment.

3 THE CLERK: Ms. Freireich, if you will  
4 raise your right hand.

5 Do you solemnly swear to tell the Court  
6 the truth, the whole truth, and nothing but the  
7 truth under the pains and penalties of perjury?

8 THE WITNESS: Yes.

9 THE CLERK: Thank you very much.

10 SUSAN FREIREICH, SWORN

11 THE COURT: You may have a seat, ma'am.

12 All right. Good morning, Ms. Freireich.  
13 Good morning.

14 THE WITNESS: Good morning.

15 THE COURT: Ms. Freireich -- and Attorney  
16 Murphy will probably tell you a little bit more  
17 about this -- but this is a closed hearing, and  
18 there is a sequestration order.

19 And let me put that in simple terms for  
20 you, okay.

21 During the course of this hearing, and  
22 it's going to go on for several days, you are not  
23 to discuss this case with anyone.

24 Obviously, you can discuss it with  
25 Attorney Murphy; but until this case becomes

1 public at a later date, I'd appreciate if you  
2 don't discuss your testimony here in court with  
3 anybody else other than Attorney Murphy, okay?

4 THE WITNESS: Yes.

5 THE COURT: All right. Thank you, ma'am.  
6 And good morning, Attorney Murphy.

7 MR. MURPHY: Good morning, your Honor.

8 THE COURT: And Attorney Spiros.

9 MS. SPIROS: Did you need a different  
10 seat?

11 THE WITNESS: I need a booster seat for a  
12 kid.

13 MS. SPIROS: Do you want to switch  
14 chairs?

15 THE WITNESS: Maybe if I sit down like  
16 this.

17 THE COURT: We are in juvenile court.

18 THE COURT OFFICER: That's higher.

19 I can move that one up it's got a  
20 little -- (indiscernible).

21 MS. SPIROS: Perfect.

22 THE COURT OFFICER: This is as high as it  
23 goes.

24 THE WITNESS: Yes, it is.

25 THE COURT: Are you comfortable, ma'am?

1 THE WITNESS: Yes. Thank you.

2 THE COURT: Are you comfortable?

3 I'm just going to -- this was moved out  
4 of the way.

5 Just stay -- no, no, you can stay where  
6 you are.

7 I'm just going to point it a little  
8 closer to you. Okay.

9 THE WITNESS: Okay.

10 THE COURT: Okay. All right.

11 MS. SPIROS: May I proceed?

12 THE COURT: You may.

13 MS. SPIROS: Thank you.

14 EXAMINATION

15 BY MS. SPIROS:

16 Q. Good morning, ma'am.

17 A. Good morning.

18 Q. Could you please introduce yourself to the  
19 Court spelling both -- both your first and last  
20 name for the record?

21 A. Okay, I actually use H. and then Susan,  
22 S-U-S-A-N, Freireich, F, as in Frank,  
23 R-E-I-R-E-I-C-H.

24 Q. How old are you, ma'am?

25 A. Eighty-two.

1 Q. What's your date of birth?

2 A. 6/21/40.

3 Q. Can you tell the court where you live?

4 A. 59 Chestnut Street, Cambridge.

5 Q. And do you know, if you do, how many years  
6 you've lived there?

7 A. Many.

8 I -- I can't remember. Maybe 50 years or  
9 something.

10 Is that right? It could be.

11 Q. Well, a long time?

12 A. A long time.

13 Q. Okay. And 59 Chestnut Street, could you tell  
14 the Court what is -- is that a single-family  
15 house?

16 A. It's a two-family.

17 Q. Okay. And do you live on the first or the  
18 second floor?

19 A. I live on the second and third. It's  
20 two-and-a-half stories.

21 MS. KAZAROSIAN: Your Honor, I'm sorry.

22 THE WITNESS: I'm sorry?

23 MS. KAZAROSIAN: I can't hear the witness  
24 very well.

25 THE COURT: Do you want to -- do you want

1 to come up a little closer?

2 MS. KAZAROSIAN: But my stuff is here so  
3 I can't actually --

4 THE WITNESS: What do I --

5 THE COURT: All right. I'm not going to  
6 move her -- Mrs. Freireich.

7 MS. KAZAROSIAN: No. No. No. Maybe  
8 just raise your voice a little bit.

9 THE COURT: Yeah. If -- as best you can.

10 THE WITNESS: I'll try.

11 THE COURT: Okay.

12 THE WITNESS: Is this -- can I move  
13 the -- that's the microphone, right?

14 THE COURT: Yeah. It doesn't amplify, it  
15 just records. It might help --

16 THE WITNESS: Oh, I see, okay.

17 THE COURT: Okay.

18 THE WITNESS: Thank you.

19 BY MS. SPIROS:

20 Q. You said you live on the second and the third  
21 floor?

22 A. Yeah. It's a two-and-a-half-story house, so  
23 there's two -- two rooms and a third floor.

24 Q. And someone else lives on the first floor?

25 A. Yes.

1 Q. And someone else lives on the first floor?

2 A. Yes.

3 Q. Okay. Do you own the house?

4 A. Yes.

5 Q. And, in January of 2023, were you living  
6 there alone on the second and third floor or with  
7 anyone else?

8 A. Alone.

9 Q. Okay. Can you describe what else -- what's  
10 located behind your house?

11 A. A big yard, and it's fenced in.

12 And beyond the far fence are -- I guess  
13 they're condos now, yeah.

14 Q. You said a big yard that's fenced in --

15 A. Yes.

16 Q. -- on all sides?

17 A. Yes.

18 Q. Okay. Is -- are the fences all the same  
19 heights or different heights?

20 A. I think there's still some old chain link  
21 fence there, but then there is a new fence I put  
22 in recently that's the whole right side.

23 If you are looking out towards the  
24 backyard, there is a new fence all the way that  
25 whole length.

1 Q. Do you know how tall that fence is?

2 A. Taller than me.

3 Q. Taller than you?

4 A. But I'm not that tall.

5 Q. How tall are you?

6 A. I'm not that tall. Just under five feet.

7 Q. Okay. It's -- is it taller -- is it safe to  
8 say it's taller than six feet?

9 A. Yeah.

10 Q. Okay.

11 A. It's probably eight feet. I don't know.

12 Q. Is there anything in the backyard by way of  
13 larger trees or bushes?

14 A. There is a very large tree that's at the  
15 right -- if you are looking out from the house,  
16 on the right side there is a large maple tree.

17 Then there's some smaller trees in the  
18 back.

19 Q. And do you have a driveway to your house?

20 A. Yes.

21 Q. And is that on the right or the left side if  
22 you are looking --

23 A. The way we are --

24 Q. -- at the house from the street?

25 A. It's on the right side.

1 Q. And do you normally park -- or, in January of  
2 2023, were you parking a particular vehicle  
3 there?

4 A. Yes, my car.

5 Q. And what color is your car?

6 A. It's red.

7 Q. And where in the driveway do you -- do you  
8 normally park it; all the way down at the end of  
9 the driveway?

10 A. Pretty far down.

11 Q. Pretty far down?

12 A. Not at the end of driveway. Pretty far down,  
13 yeah.

14 Q. Okay. What kind of car --

15 A. Because the back door is there and I -- it's  
16 -- if I'm carrying packages, it's easier to go in  
17 that way.

18 Q. What kind of car is it?

19 A. It's a Ford Focus.

20 Q. Okay. And the -- your home, specifically,  
21 when you enter the home, you go upstairs to get  
22 to the second floor?

23 A. Yes.

24 Q. Okay. And then can you explain the layout of  
25 the second floor for the Court?



1 A. So if I go up those stairs, which I normally  
2 do, I enter in the kitchen.

3 Q. And then from the kitchen?

4 A. From the kitchen beyond then there's the -- I  
5 call it the middle room.

6 I guess it used to be a dining room, but I  
7 don't have a dining room table, so we use the  
8 kitchen for a dining room whatever.

9 And then beyond that is a living room,  
10 and then off to the -- off to the right is a --  
11 another bedroom. That's the guest room.

12 Q. Is there a backdoor that leads out to an area  
13 where you can see the backyard?

14 A. Yeah, the door that's -- when I go up the  
15 steps, I go in -- I go -- there's a door to my  
16 kitchen; I take that.

17 But if I was just to stay at the top of  
18 the steps and turn left, there is a door there,  
19 and that's at the top of a fire escape.

20 Q. And so as you are on the top of that fire  
21 escape, you are able to look out into the  
22 backyard?

23 A. Yes. And I don't have to be on the fire  
24 escape to do that.

25 I can be in the house without opening that

1 door, because if the -- that was January, there  
2 was a storm door which was completely Plexiglass.  
3 You can see through it completely.

4 And, even if the door is closed, there is  
5 a window in that door.

6 You can't hear me, right?

7 MS. EVANS: I can hear you, yes.

8 THE WITNESS: Oh, okay.

9 MS. SPIROS: I am going to approach the  
10 witness with the Court's permission.

11 THE COURT: Sure.

12 MS. SPIROS: I am going to ask you to --

13 THE WITNESS: I might -- do I need my  
14 glasses?

15 I might need my glasses. I don't know.

16 MS. SPIROS: It's photographs.

17 THE WITNESS: Oh, I don't.

18 That's my house.

19 BY MS. SPIROS:

20 Q. Okay. I'm showing you -- excuse me for my  
21 back, Attorney Murphy.

22 Exhibit 9, that's your house on the first  
23 page?

24 A. Yes.

25 Q. Okay. And so you have a little porch area to

1 the left?

2 A. Yes. Yep.

3 Q. And so this second and third floor is where  
4 your residence is?

5 A. Residence, yes. Um-hum.

6 Q. On the second page of Exhibit 9, do you  
7 recognize this house, it's kind of a tanish-brown  
8 color?

9 A. Yes.

10 Q. Is that your neighbor?

11 A. (No audible response.)

12 Q. That's your neighbor's house?

13 A. That's the wrong -- it looks really weird.  
14 Oh, because this is in the background, right?  
15 Boy.

16 Q. If you don't recognize it, that's okay.

17 A. It's an angle I never look at it from, so I  
18 don't know.

19 It probably is. It just looks like it's  
20 wrong color.

21 Q. I am going to show you the third photograph  
22 in the series on Exhibit 9.

23 A. I'm sorry, it's glaring some.

24 Yeah, that's my -- that's my car and  
25 that's my neighbor's.

1           Was that a picture of this house?

2       Q.   So only if you -- I can only ask you what you  
3       recognize.

4       A.   Oh, sorry.  Sorry.

5       Q.   So the red car here, that's your car?

6       A.   That's my car.

7       Q.   Okay.  And then to the left of that, that's  
8       your house, correct?

9       A.   Yes, it is.  Um-hum.

10      Q.   And then this right side would be your  
11      neighbor's house?

12      A.   My next-door neighbor, yep.

13      Q.   Is that 55 Chestnut, if you know?

14      A.   I think it is, yeah.

15      Q.   Okay.  And I want to show you the last two  
16      series in Exhibit 9.

17                 Is that your backyard?

18      A.   Yes, it is.

19      Q.   Okay.  And then, again, is that last -- last  
20      photograph your backyard?

21      A.   Boy, that looks weird.

22      Q.   Is this the back of your house here?

23      A.   Oh, that's what the angle is.

24                 Yes, it is.

25      Q.   And is this that fire escape?

1 A. Yes, it is. Yes.

2 Q. All right.

3 MS. SPIROS: I am just going to face that  
4 to the Court.

5 This is the fire escape she just pointed  
6 out.

7 I'm reluctant to use the overhead.

8 THE COURT: Sure.

9 MS. SPIROS: If I can approach again,  
10 your Honor.

11 THE COURT: Okay.

12 BY MS. SPIROS:

13 Q. I am going to show you a series of a couple  
14 other photographs and to see if you could help  
15 for the Court identify what's depicted in these  
16 photographs?

17 A. Oh, it's a pretty messy kitchen.

18 Q. Is that your kitchen?

19 A. It's my kitchen, yes.

20 Q. Okay. And I'll flip for you, if you don't  
21 mind.

22 The second one, is that also a part of  
23 your kitchen?

24 A. Yes, it is.

25 Q. And there is a window there with some plants

1 on it; is that right?

2 A. Yes.

3 Q. Okay.

4 A. So that looks out -- yeah.

5 Q. And then a closer shot of the window in the  
6 third photograph here.

7 Is -- what does this with the plants in  
8 the window in the kitchen, what does that look  
9 out to?

10 A. It looks over the driveway.

11 Q. It looks over the driveway?

12 A. But -- yeah.

13 Q. Okay. And so these three -- the photographs  
14 that I showed you -- a fair and accurate  
15 depiction of your kitchen?

16 A. Yes.

17 MS. SPIROS: Okay.

18 Could I mark these with the Court's  
19 permission as the next exhibit?

20 THE COURT: Okay. That will be -- I  
21 believe we are up to --

22 THE CLERK: Sixteen.

23 THE COURT: Sixteen.

24 How many photos, counsel?

25 MS. SPIROS: There's three associated

1 with that one.

2 (Exhibit No. 16, Three photographs,  
3 received into evidence.)

4 BY MS. SPIROS:

5 Q. Okay. I'm going to show you a couple more  
6 photograph, if I could.

7 Is that, again, the window with the potted  
8 plants that we were just discussing in the  
9 kitchen?

10 A. Yeah. Yes, it just looks like...

11 Q. And the second photograph in the series, does  
12 that show the window in the kitchen with the  
13 plants looking out into the driveway?

14 A. Yes.

15 Q. Do you see your car in that photograph?

16 A. I do.

17 Q. The same with the third in the series --

18 A. Yes. Um-hum.

19 Q. -- is that right?

20 A. Yes.

21 Q. Is this a fair and accurate depiction --

22 A. Yes.

23 Q. -- of the window?

24 MS. SPIROS: I'd offer these as the next  
25 three -- group exhibit, there are three.

1 THE COURT: All right. Seventeen.

2 THE CLERK: Fifteen. Exhibit 15.

3 (Exhibit No. 15 [sic], Three photographs,  
4 received into evidence.)

5 MS. SPIROS: Your Honor, may I publish  
6 15?

7 THE COURT: Okay.

8 MS. SPIROS: That's the third page of 15.  
9 And I have four more photographs to show  
10 you.

11 This is a series of four.

12 BY MS. SPIROS:

13 Q. Do you recognize what's depicted in this  
14 first photograph?

15 A. Yes.

16 Q. What is that?

17 A. That's the -- this is the door to outside.

18 And, boy, that's messy, isn't it?

19 And this is the top of the stairs -- the  
20 top of the stairs, which is coming up there.

21 So it's the door between my kitchen and  
22 the door that was at the top of the fire escape.

23 Q. Okay.

24 A. What do you call that area anyway?

25 It's a hallway but, yeah.



1 MR. ANDERSON: I'm sorry, Judge, it's  
2 almost really hard to hear.

3 THE COURT: Yeah. Why don't you repeat  
4 her --

5 MS. SPIROS: Certainly.

6 MS. KAZAROSIAN: Could I also ask, is  
7 that 15 or 16?

8 THE COURT: She's showing 15.

9 MS. SPIROS: I -- actually, 15's up. I'm  
10 showing you a new set of photographs.

11 THE COURT: Oh.

12 MS. KAZAROSIAN: Those are additional?

13 MS. SPIROS: Correct.

14 MS. KAZAROSIAN: Oh, okay. All right.

15 BY MS. SPIROS:

16 Q. And so you just -- you indicated this is the  
17 doorway from inside of your house out to the fire  
18 escape area; is that right?

19 A. Yes.

20 Q. Okay. Closer shot of that in the second  
21 series?

22 A. Yeah. It's -- yeah.

23 Q. Okay.

24 A. It's the outside of that door. My kitchen's  
25 on the other side.

1 Q. Understood.

2 A. Yeah.

3 Q. And then the door has a lock on it,  
4 obviously; is that right?

5 A. Oh, I never lock that door.

6 Q. Okay.

7 A. It does -- it does have a lock.

8 Q. Okay.

9 MS. SPIROS: I am going to ask that these  
10 be marked as the next group exhibit, four of  
11 them.

12 THE COURT: Okay. Four, and that will be  
13 Exhibit 18 --

14 THE CLERK: Sixteen -- 16?

15 MS. SPIROS: Seventeen.

16 THE COURT: Sixteen were the three photos  
17 of inside.

18 THE CLERK: I have 15. Oh, wait a  
19 minute. You're right. Sorry, you're right.

20 MS. KAZAROSIAN: I have Exhibit 17 it  
21 should be.

22 MS. EVANS: Sixteen was --

23 MS. SPIROS: We have two 15s, that's why.

24 THE CLERK: My apologies.

25 Okay.

1 MS. SPIROS: So --

2 THE COURT: So 16 is the three photos  
3 inside of Ms. Freireich's house.

4 THE CLERK: Yes. This is 16.

5 MS. SPIROS: Yep.

6 THE COURT: And then 17 is additional  
7 three photos, correct?

8 MS. EVANS: Yes, I believe of the  
9 driveway.

10 THE COURT: Of the driveway.

11 MS. EVANS: And 18 would be the four  
12 photos of the door.

13 THE CLERK: Could I have 17 --

14 MS. KAZAROSIAN: I think mine was  
15 originally 15, and I think I said four photos --

16 THE CLERK: Four photos of the backyard.

17 MS. KAZAROSIAN: I think it might be  
18 five, actually, if you want to check that.

19 But it was -- I originally said it was  
20 four but now it might be five. I think mean was  
21 15.

22 THE CLERK: Okay. So 15 were four or  
23 five photos of the -- could I have -- these  
24 are --

25 MS. KAZAROSIAN: Yep.

1 THE COURT: The backyard.

2 THE CLERK: These were Attorney  
3 Kazarosian's photos.

4 One, two, three, four.

5 MS. KAZAROSIAN: Four, okay, good.

6 THE CLERK: Sixteen were the three photos  
7 of the interior of the house. And then 17 is the  
8 next. We are making as this one. Yep. My  
9 apologies.

10 (Exhibit No. 17, Four photographs,  
11 received into evidence.)

12 THE CLERK: One, two, three, four.

13 MS. KAZAROSIAN: Now you are missing --

14 THE COURT: Yeah, 17 was three photos of  
15 the inside of Mrs. Freireich's house but on the  
16 driveway, out to the driveway from her kitchen  
17 window, I believe. Right?

18 MS. KAZAROSIAN: I think so.

19 I think 17 were the photos of the  
20 driveway by her window.

21 THE CLERK: Okay. So that's the one I'm  
22 missing --

23 MS. KAZAROSIAN: Sixteen is the kitchen.

24 THE CLERK: Right. Okay.

25 THE COURT: So these four photos of the

1 door will be...

2 MS. SPIROS: These should be 18.

3 THE CLERK: I'm sorry.

4 THE COURT: No. That's okay.

5 MS. EVANS: These are both 16 now. This  
6 one is 17.

7 THE CLERK: Thank you very much.

8 MS. SPIROS: Seventeen.

9 THE CLERK: So 18 is four photos. I'm  
10 changing this to 17.

11 MS. SPIROS: Okay.

12 (Exhibit No. 18, Four photographs,  
13 received into evidence.)

14 MS. SPIROS: May I proceed?

15 THE COURT: You may.

16 BY MS. SPIROS:

17 Q. I want to draw your attention now to  
18 January 4th of 2023.

19 Did you have the occasion to see police at  
20 your home -- outside your home that day?

21 A. Chasing someone into my driveway, yes.

22 Q. Sorry, I couldn't --

23 A. Chasing someone into my driveway, yes.

24 Q. Okay. And so you were home at the time of --

25 A. Yes. Oh, yes.

1 Q. -- that this started?

2 A. Oh, yes.

3 Q. Okay. Was anyone else home at the time?

4 A. My significant other was getting ready to  
5 leave to go back to Phoenix where he lives.

6 Q. And what is his name?

7 A. Don.

8 Q. Okay. And what first caught your attention  
9 that day?

10 A. I heard some -- some noise, some shouting  
11 that sounded like it was in the street at the end  
12 of my driveway.

13 Q. Where were you located in the home when you  
14 heard that?

15 A. I was in the middle room which looks out over  
16 that -- well, I don't know, maybe I was in the  
17 kitchen, but it drew my attention, so I looked  
18 out that -- the window that's -- that looks out  
19 on Chestnut Street in the middle room, from the  
20 middle room.

21 Q. From the middle room.

22 And what did you see at that point?

23 A. I saw what looked like a young man -- it  
24 looked like a kid to me, actually, but he was  
25 barefoot. He was running -- he had no shirt on.

1 He only had pants on, as far as I could tell.

2 And the pants to me looked like pajamas.

3 And I -- my immediate thought was -- and then I  
4 saw the cop -- the policeman following him and --

5 Q. How many police officers could you see?

6 A. Two.

7 Q. How many?

8 A. Two.

9 Q. Okay. What else did you see?

10 A. Nothing.

11 Q. And what happened next?

12 A. As they were running in, I went from that  
13 window -- because I want to know why -- why are  
14 they going into my driveway?

15 And I went to subsequent windows. So I  
16 went to a window from which you have a picture, I  
17 think the side window of my kitchen where there's  
18 lots of stuff on a counter, yeah, and plants,  
19 right.

20 And so I sort of followed them as -- as  
21 they went into -- into the backyard, I was  
22 following them in the house.

23 And I ended up looking at them from the  
24 top of the fire escape where I have the whole  
25 view of the entire yard.

1 Q. And so when you say you were following them,  
2 you first mentioned the middle room.

3 You could see the young man, I think you  
4 indicated was running, and the police were -- the  
5 two police were chasing him.

6 What was the next window that you looked  
7 out of?

8 A. The kitchen window. The kitchen window that  
9 looks out on the driveway.

10 Q. The one that we just showed you with the  
11 plants on it?

12 A. Yes.

13 Q. What were you able to see from -- from that  
14 advantage, if anything?

15 A. Like I could see my car, and I could see them  
16 proceeding toward the yard.

17 Q. When you say "them," could you see?

18 A. The -- the young man and his pursuants --  
19 pursuants? Pursuers.

20 Q. Okay. The two police officers?

21 A. Yes.

22 Q. Okay. And then what -- what did -- you said  
23 you looked at another window.

24 What was the next window?

25 A. The next window was the window in the door.



1 Q. Okay.

2 A. Overlooking the driveway.

3 Q. And so the door would have been the door out  
4 to the fire escape?

5 A. Yes.

6 Q. Did you -- was the door open or shut at the  
7 time?

8 A. It was closed. And I did not go on the fire  
9 escape.

10 But I could see everything from there  
11 because it was all transparent. I'm sorry.

12 Q. That's okay. Just when -- when you got to  
13 the door it was closed.

14 Did you open it?

15 A. Yes.

16 Q. Okay. And when you opened --

17 A. Oh, wait. Which door are you talking about  
18 now?

19 Q. When you -- when you got to the door that  
20 goes to the fire escape --

21 A. I did not open that door.

22 Q. Okay. You were able to look through that  
23 window?

24 A. Yes.

25 Q. Okay. And were you talking with Don at that

1 point or was there any interaction?

2 A. I think Don was telling me when you saw --  
3 all I know is he said, don't go there. He told  
4 me not to be looking out that window.

5 Q. Okay. And so you get to the -- to the door  
6 with that window, and then you look out that  
7 window?

8 A. Yes.

9 Q. What did you see?

10 A. I saw the man who was wearing what I thought  
11 were like pajama bottoms and the two policemen  
12 facing each other.

13 The policeman had their back to me. The  
14 young man had his face toward me.

15 I mean, I'm up on the second floor but --  
16 they are facing -- yeah. And that's what I saw.

17 Q. And that's what you saw at that point?

18 A. Um-hum.

19 Q. And to go back to the point where you saw him  
20 being chased by the two police officers in the  
21 middle room window, how long do you think you  
22 were able to observe him for there?

23 A. The middle room window? Just seconds.

24 Q. Seconds?

25 A. Yeah. They were running.

1 Q. This was happening fast?

2 A. Yes.

3 Q. And then when you got to the second window in  
4 the kitchen, again, was it seconds or --

5 A. Seconds.

6 Q. When you got to the last door, you said you  
7 saw the police officers, their back were to you  
8 and the young man was facing you?

9 A. Yes.

10 Q. Did you see anything further then?

11 A. Well, no. I think I said it all.

12 Q. Was there anything you observed happen next  
13 in the backyard?

14 A. There were five shots.

15 Q. You heard five shots or saw them?

16 A. What do you mean by see them?

17 No, I did not see them. You know it  
18 was -- it was very fast. Da, da, da, da, da.

19 I remember asking Don, I said -- you know,  
20 and I was shocked.

21 And then I asked Don, Can that be from one  
22 gun or from more than one gun? And he said it  
23 probably could be from one gun. It could be  
24 either, but it could have been one gun.

25 I'm sorry, I just asked that question

1 because I was curious about it.

2 Q. So you were standing at the -- still at this  
3 point when you heard the shots you were still at  
4 the window at the back door out to the fire  
5 escape?

6 A. Yes.

7 Q. And what -- after you heard the shots, what  
8 did you see?

9 A. Well, I saw him on the ground, and there was  
10 blood on him.

11 So his feet were facing me, his head was  
12 toward the -- further back in the yard, and I  
13 think at some point very soon one of the police  
14 officers went over to him, was standing with  
15 his -- his back to the -- further back in the  
16 yard, and he -- I don't know that he kneeled  
17 down, but he bent down very close. And he may  
18 not have had his knees -- had his knees on the  
19 grass, but he said something like, Stay with me,  
20 buddy.

21 Q. And at that point --

22 A. I think he may have, you know, had his hands  
23 down.

24 Q. Did you continue to watch?

25 A. I did.

1 Q. What else did you see?

2 A. There was nothing else.

3 Q. I'm sorry?

4 A. There was nothing else to see.

5 Q. Did you see the officers doing anything in  
6 the backyard at that point once he was on the  
7 ground?

8 A. Well, after they said, Stay with me buddy,  
9 more -- more officers arrived.

10 And I don't know how soon that was but it  
11 was pretty soon.

12 I think I was still looking out there.  
13 Yes, I was. And --

14 Q. And did --

15 A. Oh, and I heard an ambulance, a siren, and  
16 I -- and then I saw him being put on a stretcher  
17 and being taken away.

18 Q. Where could you see that from, which --

19 A. The same window -- the same transparent door  
20 that we're talking about on the top of the fire  
21 escape.

22 Q. Um-hum. Did you -- when -- from the time you  
23 heard the shots and saw the young man on the  
24 ground, did you stand continuously at that door  
25 with the window, or did you move around in the

1 house?

2 A. I stayed there.

3 Q. Okay. And you said you saw him put on a  
4 stretcher?

5 A. Yes.

6 Q. And was he removed from the backyard?

7 A. Yes.

8 Q. A short time after, did the police come up  
9 and ask to speak with you?

10 A. Yes.

11 Q. Okay. What do you remember from that first  
12 interaction with the first police officers you  
13 spoke with?

14 A. They asked me if I was okay, and I said yes.  
15 And then they asked me what I saw, and I  
16 told them.

17 Q. Okay. Did you speak to another police  
18 officer that night?

19 A. Later on that night I did -- yes, I did speak  
20 to another police officer. I was on my front  
21 porch -- yeah.

22 Q. Fair to say there was a lot of activity  
23 around your house for hours?

24 A. Yes, I was going to mention it, but I wasn't  
25 asked for that so I didn't say it. Yes.

1 Q. And then, later on, did you go for an  
2 interview that was recorded at the police  
3 station; not that day?

4 A. Yes, I did.

5 Q. Did you give the police the permission on the  
6 date of the incident to photograph the backyard  
7 area and the inside of your house, the photos  
8 that we just saw?

9 A. Yes.

10 Q. Did they show you some forms and ask you if  
11 you would consider them and sign them?

12 A. Yes, I think so. And I think I did sign  
13 them.

14 MS. SPIROS: Your Honor, may I approach?

15 THE COURT: You may.

16 BY MS. SPIROS:

17 Q. I'm just going to show you two documents and  
18 ask you if you recognize your name or signature  
19 on these documents?

20 A. Oh, yeah. It did have the witness name yeah.  
21 Yeah. Yeah.

22 Q. You recognize the documents?

23 A. Yes. And my signature, yep.

24 MS. SPIROS: I'd offer these as the next  
25 exhibit. If they could be stapled together.

1 THE COURT: Okay.

2 MS. SPIROS: As a group.

3 THE CLERK: Exhibit 19?

4 THE COURT: Nineteen, yeah, please.

5 (Exhibit No. 19, Two forms, received into  
6 evidence.)

7 BY MS. SPIROS:

8 Q. And so then did the police then come up and  
9 take photographs from -- from your -- from the  
10 home and then from the fire escape, the vantage  
11 point that you had?

12 A. The police did not do that -- a woman did --  
13 but I don't know if she was the police. She  
14 could have been.

15 MS. KAZAROSIAN: I didn't hear anything.

16 THE WITNESS: Oh, I'm sorry.

17 MS. KAZAROSIAN: I'm sorry.

18 A. The police, those policemen did not take  
19 photographs.

20 Q. A different police officer did?

21 A. She may have been a police officer. I don't  
22 know.

23 MS. SPIROS: Thank you.

24 May I approach?

25 THE COURT: You may.



1 BY MS. SPIROS:

2 Q. You talked about a middle room with a window.

3 Is that depicted here?

4 A. Yes. Oh, yes.

5 Q. Okay. Is it sort of in the --

6 A. No. That -- this is the middle room. That's  
7 the living room, which is -- those windows are at  
8 Chestnut Street. I mean, at -- excuse me, yeah,  
9 Chestnut Street. Yeah.

10 And this is the side window when I went to  
11 when I heard the noise -- the commission.

12 MS. SPIROS: Understood.

13 And I'd ask that this be marked.

14 THE COURT: All right. That will be 20.

15 (Exhibit No. 20, Photograph, received  
16 into evidence.)

17 BY MS. SPIROS:

18 Q. Now, I'm going to show you what's been marked  
19 as Exhibit 15 and ask you if this is the vantage  
20 point from your fire escape looking down into the  
21 backyard?

22 A. Yes, it is.

23 Just this one?

24 Just this one.

25 Q. You can look through them.

1 A. Oh.

2 Q. I just want to make sure they are all  
3 consistent.

4 A. Yes.

5 And that -- I think that's the stretcher  
6 or something.

7 How could that be there with the curve  
8 back.

9 Oh, maybe that was -- okay. Forget it.

10 Q. But these are all from your fire escape  
11 looking down --

12 A. Um-hum. Yes.

13 Q. -- into your backyard?

14 A. Yes.

15 Q. And I am going to show you one more, if I  
16 could.

17 The same thing here?

18 A. Yep. Yep.

19 Q. And, in this one, do we actually see sort of  
20 the doorway that you were talking about here with  
21 the little bit of the landing?

22 A. Yeah, I guess that is. Yeah.

23 Q. Thank you.

24 MS. SPIROS: I'd offer this last one as  
25 the next exhibit.

1 THE COURT: Exhibit 21.

2 THE CLERK: Exhibit 21.

3 (Exhibit No. 21, Photograph, received  
4 into evidence.)

5 BY MS. SPIROS:

6 Q. The young man that you saw running into the  
7 backyard and being chased by the police, did you  
8 know him?

9 Did you recognize him?

10 A. Not at all.

11 MS. SPIROS: One second, your Honor, if I  
12 could.

13 I have nothing further for this witness.

14 THE COURT: All right. Thank you.  
15 Attorney Anderson?

16 MR. ANDERSON: I don't know if the  
17 Court's going to take a morning recess.

18 I would just like, A, a moment just to  
19 run to the men's room; and, B, a moment just to  
20 look at exhibits, 16, 17, 18 --

21 THE COURT: Well, why don't we do this.

22 I think Attorney Murphy has other places  
23 to go, along with Ms. Freireich.

24 Why don't we just finish up with the  
25 witness and then we can --

1 MR. ANDERSON: If I could just have a  
2 moment just to look at the photographs.

3 THE COURT: All right.

4 MS. KAZAROSIAN: I'm going to peek over  
5 there, too, because I really haven't seen them.

6 (Pause.)

7 THE COURT: Attorney Anderson.

8 EXAMINATION

9 BY MR. ANDERSON:

10 Q. Okay. Ms. Freireich -- am I pronouncing that  
11 correctly?

12 A. Freireich, yeah.

13 Q. How long have you lived at 59 Chestnut Street?

14 A. I keep trying to remember what that is.

15 Many years. Maybe 50 years.

16 Q. I'm sorry, I can't -- I can't hear you.

17 A. Many years. Maybe 50 years.

18 I can't remember the years.

19 Q. Okay. In your 50 years, how many times have  
20 you seen the police chasing somebody into your  
21 driveway?

22 A. Never.

23 Q. So this was a -- kind of a shocking incident  
24 for you?

25 A. Yes, it was.

1 Q. And you don't know for sure if he came in  
2 through your driveway or if he came through the  
3 house next-door, hopped over a fence, and went  
4 through your backyard around to your driveway?

5 A. I do know for sure that he came in my  
6 driveway because the first time I looked out,  
7 they were at the end of the driveway.

8 Q. Okay. And was he by your car at that point?

9 A. Not yet.

10 Q. Was he -- when you saw him -- you did see him  
11 by your car at some point, correct?

12 A. Yes.

13 Q. And before you -- when you saw him at the  
14 car, was he coming from the front or from the  
15 back?

16 A. He was coming from Chestnut Street, from the  
17 back.

18 Q. Okay.

19 A. Toward the yard.

20 Q. At any point did you hear a police officer  
21 yell the words, "less lethal, less lethal"?

22 A. No.

23 Q. Now, I know from your statement you didn't  
24 testify here in court. When you saw him, you did  
25 not see anything in this gentleman's hands,

1 correct?

2 A. Correct.

3 Q. You did not see a knife?

4 A. Definitely not.

5 Q. You did not see a book?

6 A. No.

7 Q. And you have no knowledge if there were  
8 police officers in your backyard as he was coming  
9 up the driveway going towards the front to the  
10 back?

11 A. I do have knowledge of that.

12 There was no one in my backyard.

13 Q. But you are looking out towards the driveway  
14 at first, correct?

15 A. Yes.

16 Q. And when you are looking out towards the  
17 driveway, you don't know if there's anybody in  
18 your backyard because you are looking at your  
19 driveway, correct?

20 A. Well, that's correct.

21 Q. Okay. And then you left the window looking  
22 out to the driveway to look out the window by the  
23 fire escape, correct?

24 A. Well, the window -- yeah, right.

25 Q. And what distance is that walking from that