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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 3
BEFORE THE HONORABLE JOHN F. COFFEY

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Cambridge, Massachusetts
Courtroom 6
May 24, 2023

Court Transcriber: Lisa Marie Phipps, Certified Shorthand Reporter, Registered Professional Reporter, Certified Realtime Reporter

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

2 (Court called to order.)

3 (9:17 a.m.)

4 THE COURT OFFICER: Court.

5 All rise, please.

6 Hear ye, hear ye, hear ye. All persons

7 having anything to do before the Honorable Judge

8 John Coffey now sitting at Cambridge district

9 within and for the Middlesex County, draw near,

10 give your attendance and you shall be heard.

11 God save the Commonwealth of

12 Massachusetts. Thank you.

13 Court is now in session. You may be

14 seated, please.

15 THE COURT: All right. Thank you.

16 All right. Good morning, everyone.

17 MR. SPIROS: Good morning.

18 MS. EVANS: Good morning.

19 MR. ANDERSON: Judge, I apologize for

20 holding us up here.

21 THE COURT: I got your copy.

22 MS. KAZAROSIAN: Your Honor, and I

23 apologize I didn't realize you were on that text

24 thread that I responded to, so.

25 THE COURT: I wasn't on the text thread.

1 I was on the email.
2 MS. KAZAROSIAN: Email change. Okay.
3 Good.
4 MR. ANDERSON: Did the video -- did the
5 video go on the email?
6 THE COURT: Yeah.
7 MR. ANDERSON: I was trying to...
8 MS. KAZAROSIAN: Okay. Good. Never mind
9 then.
10 THE COURT: I actually opened it up --
11 MS. KAZAROSIAN: I take it back.
12 THE COURT: -- thinking it might be a
13 proposed exhibit, and then I realized that
14 someone stuck was on the Pike.
15 UNIDENTIFIED SPEAKER: ADA Spiros was
16 right, I'm sorry.
17 THE COURT: All right.
18 THE CLERK: So this is a session of the
19 Cambridge District Court.
20 Today's date is May 24, 2023.
21 The Honorable John Coffey is presiding in
22 the matter of Sayed Arif Faisal, Docket No.
23 2352IN1.
24 THE COURT: All right. And just for the
25 record before we begin I notice that the only

1 people in the courtroom are the people who were
2 introduced on the first day, which was Monday,
3 the 22nd, and with that Attorney Spiros -- I
4 believe it's Dr. Keith Marill.
5 MS. SPIROS: Yes.
6 And that will be ADA Evans's witness.
7 THE COURT: Okay. All right.
8 MS. EVANS: And, your Honor, Dr. Marill
9 does have an attorney with him just for the
10 Court's knowledge.
11 THE COURT: Okay. And he'll be allowed
12 to come in.
13 MS. EVANS: Thank you.
14 THE COURT: And what's the attorney's
15 name?
16 MS. EVANS: It is an associate of his
17 Attorney Matt Dunn, so I don't actually know the
18 associate's name --
19 THE COURT: Okay.
20 MS. EVANS: -- that's here.
21 THE COURT: We'll find out.
22 MS. EVANS: We can ask.
23 THE COURT: Okay.
24 MR. SPIROS: If we can have Keith Marill.
25 THE COURT OFFICER: Keith Marill?

1 MR. SPIROS: Yes. Thank you.
2 THE COURT OFFICER: Yes.
3 Stand right up there.
4 THE CLERK: Good morning.
5 Doctor, if you could raise your right
6 hand.
7 Do you swear to tell the truth, the whole
8 truth, and nothing but the truth under the pains
9 and penalties of perjury?
10 MR. MARILL: Yes.
11 KEITH MARILL, SWORN
12 THE CLERK: Thank you very much.
13 THE COURT: All right. Good morning,
14 Doctor.
15 THE WITNESS: Hi.
16 THE COURT: And good morning, counsel.
17 What's your name.
18 MR. SPIEGEL: Jordan Spiegel.
19 THE COURT: Attorney Spiegel, all right.
20 Thank you.
21 THE WITNESS: Good morning, your Honor.
22 THE COURT: And, Attorney Spiegel, I've
23 allow attorneys to witnesses to come in during
24 this hearing, but I'm going to tell you both what
25 I've told every witness as well as any other

1 attorney that may be accompanying the
2 witness here in the court before they begin
3 testifying.
4 This is a closed hearing. It may not
5 become public for several days or several
6 weeks.
7 Obviously, there's a sequestration order
8 and on top of that until this case becomes public
9 at a future date I'm going to ask Dr. Marill that
10 you not discuss this case with anyone, excluding
11 your attorney, okay.
12 Obviously you can speak to him about
13 what you've testified to here today, but,
14 Attorney Spiegel, I'm asking you not to discuss
15 Dr. Marill's testimony with anybody that occurs
16 during here today, except maybe a law partner or
17 an associate, until this matter becomes public,
18 okay.
19 MR. SPIEGEL: Yes, your Honor.
20 THE COURT: All right. All right.
21 Thank you, Doctor.
22 You can have a seat.
23 And Attorney Evans.
24 MS. EVANS: Thank you, your Honor.
25 EXAMINATION

1 BY MS. EVANS:
2 Q. Good morning, Doctor.
3 A. Hi.
4 Q. Can you please state your name and spell your
5 last name for the record?
6 A. Keith Marill, M-A-R-I-L-L.
7 Q. What is your occupation?
8 A. (No audible response.)
9 Q. Also, just so you're aware, that will record,
10 it does not amplify your voice --
11 A. Okay.
12 Q. -- so we are fighting against open windows.
13 A. Okay. I'm an emergency physician.
14 Q. And how long have you been an emergency
15 physician?
16 A. Twenty-nine years.
17 Q. And where do you currently work?
18 A. Mass. General Hospital.
19 Q. How long have you been at Mass. General?
20 A. Essentially 21 years, although for three
21 years I was away on a fellowship.
22 Q. And can you tell us briefly about your
23 educational background?
24 A. I went to medical -- I went to college and
25 medical school in Upstate New York, the

1 University of Rochester, and then I did a
2 residency in internal medicine at the University
3 of New Mexico, and residency in emergency
4 medicine at Texas Tech University in Texas.
5 Q. On January 4th of 2023, were you working that
6 day?
7 A. January 4th?
8 Q. Yes.
9 A. Yes.
10 Q. And were you working in the emergency
11 department at MGH?
12 A. Yes.
13 Q. Did you treat a patient named Sayed Faisal?
14 A. Yes.
15 I'm not sure we knew the patient's name at
16 that -- when they came in the ED -- but I know
17 that to be his name now.
18 Q. And prior to his arrival did you learn
19 anything?
20 A. Prior to his arrival did I learn anything?
21 Q. Yes.
22 Prior to his arrival at MGH, did you learn
23 anything?
24 A. Yeah.
25 We -- so for significant trauma cases, or

1 some other cases, we sometimes get a call on the
2 radio such as from emergency medical services
3 letting us know that a case is -- that they're --
4 they're coming in, so they'll give a brief report
5 and -- and they did that that day.
6 Q. What did you learn?
7 A. They said they had a male patient, and I
8 don't remember exactly -- you know, this is a
9 brief thing that we hear while we're doing our
10 work in ED.
11 But the brief -- there were three issues
12 about this patient.
13 They had -- they had lacerations and I
14 think they said self-induced lacerations.
15 The patient may have fallen or jumped from
16 a second-story height.
17 And the patient had multiple gunshot
18 wounds.
19 So three different issues from -- from my
20 perspective, from a medical perspective.
21 Q. And, upon his arrival at MGH, where did you
22 meet him?
23 A. Essentially in the -- in the what we could
24 call one of the trauma bays.
25 They rolled in. And I may have been

1 standing right at the door; I may have been in
2 the room, I don't remember precisely, but
3 basically an acute area of the ED in a trauma
4 bay.
5 Q. Did you make any initial observations of him?
6 A. Yeah. I mean, we always do.
7 Q. What were those?
8 A. So he's rolled in on a stretcher by Emergency
9 Medical Services.
10 I don't remember which -- which crew,
11 whether it was Boston City or other; that I don't
12 remember.
13 He was obviously in -- in tough shape, in
14 extremis, basically. He was in tough shape.
15 I think he first -- when -- I think when
16 he first rolled in, he might have moved his upper
17 extremities a little bit and -- and he may have
18 had a pulse initially when he first rolled in.
19 I was more focused on -- at least
20 initially -- on his airway because I knew that
21 was going to be my responsibility.
22 And -- and as far as his airway goes the
23 patient was not -- not communicative, awake,
24 alert.
25 It was obvious that he was going to need

1 an airway immediately, essentially.
2 Q. When you say "in extremis," what do you mean
3 by that?
4 A. Not awake, pale, lacerations on the left side
5 of the neck that are bleeding; a gunshot wound to
6 the right chest; tourniquets tied around his arms
7 to try to preserve his blood pressure by the
8 Emergency Medical Services, and blood -- blood
9 from his mouth -- blood in his mouth. Not a good
10 picture.
11 Q. And now you said that your primary -- or one
12 of your first focuses was his airway; is that
13 correct?
14 A. Yeah.
15 When -- when a patient like this -- when
16 the radio -- when we hear this over the radio, we
17 have -- we have certain things that we do to get
18 ready for a patient such as this.
19 So the trauma surgery team was called. A
20 trauma surgeon was there with me.
21 We called the -- the blood bank is
22 notified. They bring O negative blood. We had
23 that immediately available.
24 There's sort of a whole set of -- of
25 cascade of notifications and things that need to

1 happen to prepare for somebody -- for a patient
2 like this in rapid fashion.
3 So, anyhow, the trauma surgeon was there
4 with me, so I knew that -- that I could focus --
5 I was going to focus primarily on what was
6 going on -- he was going to need an airway, and I
7 was going to take care of that immediately
8 while -- while the trauma surgeon was doing some
9 of the other things and his team.
10 Q. Now, you said you were going to take care of
11 the airway immediately.
12 What did you do?
13 A. Well, like I said, the patient was not awake
14 and not protecting their airway.
15 So if -- if you or I, or anybody, has
16 foreign body things in their mouth, bleeding in
17 their mouth, you -- you would cough and spit that
18 out.
19 This patient wasn't doing that; wasn't in
20 a -- wasn't in a state to be able to do that.
21 So -- so if they're not, what we call,
22 protecting their airway then -- then it's
23 necessary to -- to protect it for them.
24 And -- and also if it's not -- if they're
25 not clearly breathing adequately, then it's

1 necessary, A, to protect their airway and, B, to
2 provide respirations for them.
3 So both of those tasks are accomplished by
4 placing a tube in the mouth into the trachea, the
5 main airway.
6 And the tube has a balloon on the end of
7 it, a small balloon that you blow up so that --
8 that way any secretions, anything in the mouth,
9 can't get into the lungs, No. 1.
10 And, No. 2, you can use positive pressure
11 and if you squeeze a bag like you'd see on TV or
12 whatever, you're able to put oxygen into the
13 lungs and breathe for the patient.
14 So those are the two reasons why that's
15 done.
16 And that day was particularly remarkable
17 because that was a Wednesday -- and so I work in
18 a teaching facility; I supervise resident
19 physicians who are -- who are doctors who are now
20 obtaining specialty training in emergency
21 medicine.
22 And, typically, I would supervise them and
23 they would do these procedures, such as putting
24 this tube in to obtain an airway.
25 On this particular day, on Wednesday, they

1 have conference, they're -- they're in training
2 in conference, so I'm in the emergency
3 department.
4 I have physician assistants with me, but
5 they're much less well versed in -- in this -- in
6 this sort of a procedure.
7 So I basically knew that I would do
8 this -- I would need to do this on this day,
9 which would be a little bit different than the
10 usual other days, so I was kind of focused in on
11 that, what was -- the things that I would need to
12 get this done and what have you.
13 Q. And so you proceeded to intubate him?
14 A. Yeah.
15 Q. And is there a process now where you can use
16 a camera sometimes for intubation?
17 A. Yes. Yes.
18 Q. But in this case did you do so?
19 A. No. No. So -- so when I trained in the
20 1990s, we would use what's called a laryngoscope,
21 which is a metal device with a light on it to --
22 to elevate the tongue so that you could see the
23 airway and put the tube in properly.
24 In the late 1990s and early 2000s, video
25 laryngoscopy became available.

1 And it's a wonderful advance such that
2 there's a small video camera on -- on that -- on
3 that instrument.
4 So that when you're intubating somebody
5 nowadays commonly one puts the instrument in and
6 you have a screen, just like any CRT screen, and
7 you can see the airway from that camera as
8 you're -- as you're doing it.
9 And that's -- that's an important advance,
10 that's improved safety and -- and success rate of
11 the procedure.
12 However, in this case, the patient was
13 bleeding profusely from their mouth -- in their
14 mouth, so if one tried to use a video
15 laryngoscope you can -- you can pretty -- I can
16 pretty much know that the -- the camera would
17 be -- would be blocked.
18 It would get blood on it, and you wouldn't
19 be able to see, so it wouldn't be effective.
20 So -- so I just grabbed a regular
21 laryngoscope -- just a regular laryngoscope
22 without any video and -- and used that, suctioned
23 out the blood and then put the tube in.
24 Q. And normally, or oftentimes, when you
25 intubate do you give meds before intubating

1 somebody?
2 A. Sure. So, like I said, nobody -- nobody
3 likes having a foreign body in their -- in their
4 throat. You -- you protect it. You cough.
5 You -- you -- so if you were to try to
6 intubate anybody who's alert and awake, they --
7 they would resist you.
8 So we usually use medicines both to sedate
9 the patient and to paralyze the patient so that
10 they don't contract their vocal cords and block
11 the tube, so we use a combination of medicines,
12 two different medicines usually, most commonly.
13 This is in the emergency setting, which is
14 a little bit different than the anesthesia and
15 the operating room, but it's a variation on a
16 theme.
17 But, anyhow, in any case, in a patient
18 like this who's not awake, in extremis, you can
19 anticipate that they will not -- they're not
20 awake.
21 They -- they're not going to contract
22 their vocal cords or any of that, so you don't
23 need to use medicine essentially, you just do it.
24 And that's what I did and -- and the -- there was
25 no -- he wasn't moving or resisting in anyway.

1 Q. Now, you said you observed a laceration on
2 this individual?
3 A. Yeah. You know, it all happened -- it all
4 was very fast and -- and, you know, kind of
5 dramatic.
6 So I can't remember precisely -- you know,
7 sometimes when we have the luxury of time, I'll
8 actually nowadays will take images.
9 I'll -- I'll use -- we have programs to
10 use our phone, take images, put in the patient's
11 chart and what have you, but -- but this wasn't
12 that kind of situation.
13 But I think -- as I remember I think there
14 were multiple vertical linear lacerations of the
15 left neck and they weren't --
16 MS. KAZAROSIAN: I'm sorry, I didn't
17 hear.
18 A. -- obvious --
19 MS. KAZAROSIAN: That was the left -- of
20 the left --
21 THE WITNESS: Left neck.
22 MS. KAZAROSIAN: Left neck.
23 Thank you.
24 A. They weren't obviously grossly deep, but I
25 didn't get a real good look at them because they

1 were -- they were bleeding a little bit.
2 But, as I remember, to the best of my
3 memory there were multiple linear lacerations
4 right here on the left neck.
5 He had -- he had two -- he had tourniquets
6 on his arms that EMS had placed. These are the
7 things that I could see.
8 And he had a gunshot wound to his left
9 arm, and his right chest, and I think his right
10 leg as well.
11 Understand that when a patient like this
12 comes in, I'm not that interested in his
13 extremities to begin with.
14 We're all about -- unless they're
15 bleeding, we're concentrating on his
16 cardiorespiratory system for survival. That's
17 the first priority.
18 Q. So did one of those wounds take your primary
19 attention?
20 A. Well, yeah.
21 You know, anything that's in the torso, or
22 what you might call the box, you know, in a chest
23 area, that -- that's -- you know, you're --
24 you're thinking -- that's your primary concern,
25 you know, where it looked -- we were told the

1 patient was shot. It looked like a bullet wound,
2 more or less. So where did that bullet go?
3 Once the bullet enters his body it can --
4 it can go in all sorts of directions. It's not a
5 linear pathway.
6 So there's no telling where that went. It
7 could be in his lung, his heart, or elsewhere.
8 Q. So after intubating him and making these
9 observations, what did you do next?
10 A. So the patient rolls in.
11 Again, I knew that I would be responsible
12 for his airway in this particular situation, and
13 so I had my tools gathered, the things that I
14 needed -- suctioned, intubated.
15 And also put a tube in his stomach to
16 evacuate that and see if there was any blood
17 there. That was okay.
18 And understand that even once he was
19 intubated, there's some blood coming back that
20 endotracheal tube, which is not surprising since
21 he has -- you can pretty much guess that that
22 right lung is injured, so that's not particularly
23 surprising, but -- so there's blood in the
24 endotracheal tube; not so much in the
25 orogastric; in the tube going to the stomach was

1 okay.
2 In the meantime, like I said, I think that
3 somebody -- that he had a pulse briefly upon
4 arrival, but shortly after arrival he -- he did
5 not have a pulse.
6 He lost his pulse and, of course, he
7 wasn't -- he wasn't awake or conscious of what
8 have you.
9 So in that setting, in the setting of
10 trauma, you want to -- you have to -- you have to
11 try to relieve the most critical issues as fast
12 as possible.
13 And what that means is that we worry about
14 injuries to the chest, bleeding in the chest, or
15 blood or air outside the lung compressing the
16 lung, making it difficult to breathe.
17 So in that setting a few things happen.
18 We want to put in -- obviously we want to put in
19 intravenous lines in order to resuscitate the
20 patient to give him blood, which was done and he
21 was -- he was getting blood shortly after
22 arrival.
23 That was done by one of the
24 trauma -- trauma residents or fellows, trauma
25 trainees.

1 And then -- and then we place a tube in
2 each chest -- in each -- in each chest to -- for
3 a number of reasons -- to see if there's blood in
4 that chest, to evacuate any blood, and to
5 evacuate any air that might be outside the lung
6 result -- that had resulted from injury.
7 So he received chest tubes on each side
8 within minutes of arriving in the ED.
9 He had a large amount of blood from his
10 right chest tube; again, not surprising since is
11 there was a bullet wound in the right chest.
12 He did not have any blood from the left
13 chest tube, and there was no air rush on either
14 side, so there was no air outside his lungs.
15 So that was done. He had -- he had -- he
16 had a good IV placed.
17 I can't remember, if it was essential --
18 whether it was in a peripheral vein, a central
19 rain, exactly what he had, I don't remember
20 exactly.
21 But he had a good IV. He was getting
22 blood. And he's lost his pulse.
23 So at that point we know that he doesn't
24 have compression on his lungs, but the possibility
25 that his heart is injured remains.

1 So he may have -- he may have damage to
2 his heart or he may have blood outside his heart
3 compressing the heart. There's a number of
4 possibilities.
5 And the next appropriate step, if the
6 patient's pulseless min a setting of acute trauma
7 where he just lost his pulse in ED mand we've put
8 in chest tubes; that does not solve the problem,
9 the next step is open the chest and to
10 investigate the heart.
11 So that's what I said to the trauma
12 surgeon, I said, Well -- this is Dr. Parks -- I
13 said, I think you need to open his chest now.
14 He's like, yeah, you're right.
15 So -- so that's -- so he went ahead and
16 did that.
17 He was standing on the patient's left
18 side; and he did that, opened the chest,
19 investigated the heart.
20 Investigating the heart means a few
21 things.
22 You want to make a small nick in the -- in
23 the -- in the membrane that surrounds the heart
24 because sometimes that can hold blood and that
25 blood can prevent the heart from relaxing and --

1 and filling -- filling with blood.
2 So he made a small nick. There was no
3 blood around the heart.
4 In short, the heart was intact and -- and
5 it had looked like it was -- it was not receiving
6 a lot of blood. It looked like the patient had a
7 low blood volume.
8 You can tell that's -- from feeling and
9 looking -- from feeling the heart primarily.
10 So, in summary, it -- it appeared that he
11 was having what we would call an exsanguinating
12 traumatic arrest, meaning that he has had cardiac
13 arrest from blood loss. That's what it looked
14 like.
15 And you could see where that blood
16 loss -- it -- certainly there was a large amount
17 of blood loss in his right chest.
18 I don't know what he lost in the field.
19 We weren't told that he lost a lot of blood in
20 the field. Sometimes that's the case.
21 We weren't told that. There wasn't a
22 history of that, so -- and he wasn't bleeding a
23 lot from -- from his wounds.
24 I think he had some wrist wounds as well,
25 but they looked minor.

1 So it looked like the problem was
2 basically that bullet in his -- in his right
3 chest and wherever it had gone besides his chest.
4 But we knew that it had not affected his
5 heart or his left lung. That we knew.
6 So the treatment for this is to stop the
7 bleeding.
8 And that means give -- well, No. 1, give
9 blood and, No. 2, stop the bleeding.
10 And at that point he's either bleeding
11 from his right lung or that bullet went into his
12 abdominal cavity and it's coming from there.
13 And at that point he needs to go to the
14 operating room to -- to be further opened to --
15 we don't usually go past what I've described to
16 you in the ED.
17 We'll do a thoracotomy -- it's called a
18 thoracotomy -- opening the chest, investigate the
19 heart -- oh, I didn't mention it, you also clamp
20 the main blood vessel, the aorta such that
21 basically cutoff blood to the lower half of his
22 body because what we're trying to do is preserve
23 blood flow to his heart and his brain.
24 So you cross clamp the aorta, which was
25 done, try to preserve whatever you can going to

1 his heart and his brain; and then he goes to the
2 operating room where they'll, in this case in
3 particular, they open the right side of his
4 chest, investigated that, and then they did
5 what's called a laparotomy and opened his abdomen
6 because ultimately a lot of that blood -- and
7 this part I know from reading his chart, I wasn't
8 in the operating room, but, ultimately, a lot --
9 a large part of his blood loss was because that
10 bullet went through his right diaphragm into his
11 liver, and he was bleeding in the liver; and that
12 can sometimes be difficult to control, but, in
13 any case that's where he had had massive blood
14 loss from his right chest, his lung, and his
15 liver.
16 So that's -- so he went to the operating
17 room, and those things were discovered and what
18 have you.
19 Q. So the thoracotomy and the opening of his
20 chest and the clamping of the aorta, all of that
21 happened in the emergency department; is that
22 right?
23 A. Correct.
24 Q. And then he was transferred to the operating
25 room where --

1 A. Yeah.
2 Q. -- where you're aware that the bullet was
3 ultimately located in his liver?
4 A. Yeah. And all of that happened -- I was -- I
5 was happy about this resuscitation. All of that
6 happened within minutes of arrival. He wasn't in
7 the ED very long.
8 I don't know exactly. It's in the
9 medical -- I don't -- I didn't -- but I know that
10 it wasn't -- he wasn't -- we did what we needed
11 to do and went to Step B.
12 Q. And now you said that the location of it in
13 his liver was of note to you; is that right?
14 A. Of note to me?
15 Q. Like, you commented on the bleeding
16 associated with that.
17 A. Yeah. Well -- right.
18 Like I said, he had an external bullet
19 wound in the right chest; and it appears that
20 that went through -- the bullet, when it entered
21 his right chest, obviously hit his right lung and
22 then went through his diaphragm and injured --
23 and injured the liver.
24 Now, we didn't know that in the ED, but
25 that was clearly a suspicion that he was bleeding

1 internally.
2 We knew he was bleeding in his chest and
3 he may well have been bleeding in his abdomen.
4 We have ways to answer that in the
5 emergency department; but, in this case, in the
6 setting of a code, the best thing to do is -- is
7 to get him to the operating room so that they can
8 open that area and -- and stop that bleeding,
9 that's the fastest -- that's the next way to go.
10 Q. And you also observed lacerations to his
11 wrist; is that correct?
12 A. Yeah, I think so.
13 Again, I didn't really -- they weren't
14 bleeding, so I didn't -- I didn't pay much
15 attention to that.
16 It's not of immediate relevance to me, but
17 I -- I think he did.
18 Like I say, we took off -- he had his
19 tourniquets on his arms -- on his upper arms and
20 during -- you know, we removed those. They
21 served their purpose for transport.
22 I know he had a bullet -- what looked like
23 a bullet wound to his left upper arm; and, as I
24 recall, he had some superficial lacerations to
25 his wrist.

1 And I didn't really get a good look at his
2 legs, but I believe he did have one or two
3 gunshot wounds to his right leg.
4 MS. EVANS: One moment, your Honor.
5 THE COURT: Sure.
6 BY MS. EVANS:
7 Q. Are you ultimately aware if Mr. Faisal passed
8 away at MGH?
9 A. Oh, I know he did.
10 Q. And you're aware of that from --
11 A. I'm aware of that.
12 He went to the operating room. Like I
13 said, they opened the right side of his -- they
14 extended the opening what's called a clam shell
15 procedure to open the entire chest so they can
16 see the right side.
17 They realized he had damage to his
18 diaphragm, so, therefore, they opened his
19 abdomen. They packed it and what have you.
20 But, in the meantime, he's -- I don't --
21 again, I wasn't in the operating room; but he was
22 pulseless for most of the time he was in the
23 emergency department.
24 And I believe they were doing chest
25 compressions, cardiac compressions, while he was

1 in the operating room.
2 And, essentially, he passed away from
3 exsanguination, from blood loss -- at least in my
4 eyes -- from -- from massive blood loss.
5 There's a point where -- even with blood
6 transfusions, there's a point where a person
7 doesn't survive.
8 When you get to massive transfusions, it
9 gets tougher and tougher to pull somebody through
10 that.
11 Q. Thank you, Doctor.
12 MS. EVANS: Nothing further, your Honor.
13 THE COURT: Thank you.
14 Attorney Anderson, any questions?
15 MR. ANDERSON: Just a couple of
16 questions.
17 EXAMINATION
18 BY MR. ANDERSON:
19 Q. Good morning, Dr. Marill. My name is Ken
20 Anderson. I represent Cambridge Police officer
21 Liam McMahon in this matter.
22 You don't have any knowledge of the order
23 of the gunshot wounds, correct? You don't know
24 which wound was first? Second? Third? Fourth?
25 A. I do not.

1 Q. You mentioned that there were tourniquets on
2 Mr. Faisal when he came in. Do you remember
3 chest seals being on his body?
4 A. Chest seal, you mean on the bullet wound?
5 Q. Yes.
6 A. I -- I vaguely -- so that would be, often,
7 standard procedure by Emergency Medical Services.
8 And I would say vaguely, yes, but, like I
9 say, a lot happened in a short period of time.
10 I can't for sure clearly remember a
11 picture in my mind of removing that chest seal
12 off his right chest; but it's quite possible that
13 he had it. That's the best I can say.
14 Q. Okay.
15 A. I can't remember for sure 100 percent.
16 Q. And in terms of the chest tubes you put in,
17 could you just explain that procedure to us?
18 A. Sure.
19 So, again, the reason to do it is because
20 if there's air or blood outside the lung, it can
21 compress the lung such that the lung cannot
22 expand, and, therefore, you can't have adequate
23 respirations.
24 So -- so that has to be decompressed.
25 That's one of the main reasons. And, of course,

1 if there's blood in the chest cavity, you want to
2 remove it. You want to know how much there is
3 and what have you.
4 Normally in a nontrauma situation you
5 would explain this to the patient, you would
6 explain why you're doing it, and obtain verbal
7 and written consent and what have you.
8 You would anesthetize the area where
9 you're -- where you're placing it and -- and then
10 you would go ahead and do it.
11 In this sort of situation the patient's
12 not awake. They're not feeling pain. This is an
13 emergency. You -- you do it.
14 So what that -- what you're doing
15 specifically is you're making an incision that's
16 roughly an inch long in the lateral chest --
17 midlateral chest region.
18 Then you're -- you're going in with a --
19 with a blunt instrument to kind of move the
20 muscles in between the ribs out of the way,
21 you're doing this right over the rib, and you
22 kind of push in.
23 And then eventually you need to push
24 through the -- the lining of the lung, what we
25 call the pleura, you kind of push through that

1 bluntly, not with a sharp instrument.
2 And then you're in the chest cavity. You
3 expand that opening a little bit.
4 Then you take a tube; you put a clamp on
5 the tube to make the -- the end of it as narrow
6 as possible and you place that through the
7 opening that you've made.
8 You advance the -- the tube has holes on
9 the side of it to -- to drain out fluid or air,
10 whatever might be in there.
11 So you advance that tube beyond the hole
12 such that all the openings are within the chest
13 cavity.
14 You sew that tube in on the outside, and
15 then you connect that tube to a -- what's called
16 a pleura-vac, which is a suction device so that
17 it's suctioning out any air or fluid that's in
18 the chest cavity.
19 Q. Okay. Before putting the chest tube in, is
20 there something that's done to disinfect or
21 sanitize the skin around that area where the tube
22 is going in?
23 A. Ideally, yes.
24 You'd put Betadine, an Iodine solution
25 over the chest cavity over that area. You would

1 certainly do that in an elective procedure.
2 Usually you do that in a trauma situation.
3 Again, I don't remember -- his chest tubes
4 were placed by one of the trauma fellows and the
5 trauma attending, I believe.
6 And I wasn't really watching that because
7 I was busy with his airway, so I -- you know, I
8 don't know exactly what -- what solutions or what
9 they used or, et cetera. I wasn't watching that,
10 because that was happening simultaneously.
11 But commonly if -- time permitting, you
12 would put antiseptic solution on.
13 Q. And when the chest itself is opened up would
14 there also be some antiseptic solution?
15 A. Ideally, yes.
16 Q. Okay. And the reason I'm asking if -- if --
17 when a firearm discharges, there's gasses that
18 come out from the barrel of the firearm and --
19 A. Sure.
20 Q. -- potentially stuff, and there's a certain
21 distance where there may be gunshot residue.
22 The -- the actions that you took in the
23 emergency room, had there been some type of
24 evidence that could have been used later on; is
25 it possible that that could have been wiped off

1 during the medical procedures?
2 A. That's possible. He may have -- again, I
3 don't -- I wasn't watching that, so I can't say
4 if he had Betadine placed on his chest.
5 If he did -- oh, so one clarification. So
6 when the tube is put in you would not -- you
7 might wonder, well, do you put the tube in where
8 the bullet went in?
9 No, you would not do that for a number of
10 reasons.
11 The tube is put in -- away from where
12 that -- the -- for one thing the bullet wound was
13 in the front, what we call anterior, and the tube
14 would generally go on the sides.
15 So the tube was not put where the bullet
16 wound exactly was.
17 Could cleaning -- usually, though, when
18 you put on cleaning solution, especially in a
19 situation like this, you just take a bunch of it
20 and put it on all over the place.
21 So could it have -- could he have had
22 cleaning solution placed -- so if he did have a
23 dressing placed on the field, which is commonly
24 the case, though I don't remember for certain for
25 certain, if he did, we would generally remove

1 that just because we don't need it anymore.
2 We're going to put a tube in. So we don't
3 need that -- it's a special kind of dressing that
4 would be used, and once we put a tube in we don't
5 need that. So we would have removed that if it
6 was there.
7 And then, ideally, just take a lot of
8 Iodine solution and place it on his chest,
9 usually widely.
10 It could have been where that bullet
11 went in or not and that I -- I couldn't say for
12 sure.
13 I don't -- I don't specifically remember
14 seeing Betadine all over the anterior right
15 chest, but it's possible there was. I don't
16 know.
17 Q. Okay. And we've heard testimony here from a
18 Cambridge Police officer who had some specialized
19 training in, essentially, battlefield medicine
20 who testified that he made kind of a makeshift
21 seal by wrapping up gauze and then applying
22 pressure with a glove.
23 Do you remember trying to communicate, or
24 anybody from the Cambridge Police who would have
25 been in uniform, trying to communicate what

1 efforts had been done before coming into the
2 hospital?
3 A. I'm sure they did. We always -- you know, we
4 always say, Hey, you know, what do you have?
5 What's -- you know.
6 Again, this was a very pressure-packed
7 sort of rapid situation, so I don't -- I don't
8 remember what conversation we had specifically.
9 I didn't specifically speak to them. Some
10 of the other doctors in the room may have.
11 And let me just -- since you're -- a few
12 things -- two -- two items.
13 One, the seal -- in case anybody is
14 wondering, the point -- the purpose of that
15 seal, that dressing that was evidently placed on,
16 is -- what you want to do is if there's no
17 dressing there when a person breathes they
18 can -- they can -- when you breathe your
19 diaphragm goes down, and you have negative
20 pressure in your chest; you draw air into your
21 lung when you inspire.
22 You're -- you're creating negative
23 pressure by having your diaphragm go down and
24 suck air into your lung through your nose and
25 mouth.

1 So you can imagine if there's a hole in
2 the chest, then you can suck air into that hole
3 in the chest. And that's not good.
4 As I've said, you don't want air outside
5 the lung around the lung in the chest.
6 So you want to block that air from going
7 into the chest.
8 However, if there's pressure, if there is
9 air in the chest outside the lung under pressure,
10 you would like that air to be able to escape.
11 That's a good thing.
12 So the idea is -- what EMS personnel will
13 do -- or police -- what they'll do -- what
14 they're trained to do is place a dressing that is
15 essentially three-sided.
16 So it's a dressing that goes on and blocks
17 air from going into the chest, but if there's air
18 under pressure in the chest it can escape through
19 one side of that dressing.
20 So that's the kind of special dressing
21 that would be placed for this kind of situation.
22 And, like I said, I don't want to say
23 anything that's not -- that I'm not certain of,
24 but evidently that -- that's what he would have
25 had there.

1 And, like I say, once we put in a tube,
2 then that dressing is -- then we're evacuating
3 anything that's outside the lung and the chest,
4 and you don't need that dressing anymore so we
5 would just remove it.
6 And then the other thing I want to say is
7 that he may have also had Iodine solution placed
8 on his chest once he went to the operating room
9 because they expanded his incision across the
10 chest to do this clamshell, so it's possible that
11 he had solution placed on his chest upstairs that
12 I wouldn't have known about.
13 Q. Okay. But it's fair to say that you and your
14 staff at Mass. General did everything you could
15 to keep this gentleman alive?
16 A. That's our job.
17 Q. Okay.
18 MR. ANDERSON: I have nothing further.
19 THE COURT: All right. Thank you.
20 Attorney Kazarosian.
21 MS. KAZAROSIAN: Thank you, your Honor.
22 EXAMINATION
23 BY MS. KAZAROSIAN:
24 Q. Good morning, Dr. Marill.
25 A. Hi.

1 Q. My name is Marsha Kazarosian, and I represent
2 the family of Mr. Faisal.
3 A. Um-hum.
4 Q. You first talked about him coming in he was
5 in extremis.
6 Does that sort of mean he was on the verge
7 of passing away?
8 A. Yes.
9 Q. You also said that prior to intubation you
10 usually use meds for some kind of sedation, a
11 mild sedation, but you don't remember that it was
12 used for this intubation?
13 A. Oh, I know I did.
14 Q. Okay.
15 A. I did -- I make that decision and we wouldn't
16 use that if a patient's not awake.
17 If they're not awake, they're not feeling
18 pain; it's a -- it's of no -- it's of no benefit.
19 And potentially it -- it cause -- the
20 sedating medicine can potentially lower blood
21 pressure some, so it would not be a wise to
22 do -- to use that in an unnecessary situation.
23 It would be detrimental, potentially.
24 Q. Now, once you went into the OR and they were
25 expanding the laceration and going into his chest

1 and stomach, would they have possibly used some
2 kind of sedation at that point?
3 A. Um, that's possible.
4 That would be -- so when he goes to the
5 operating room the anesthesiologist would sort of
6 take control of that -- that issue and they would
7 or would not -- I didn't -- I looked at his
8 record.
9 I didn't note whether he was given any
10 sedating medicines in the operating room in this
11 case.
12 But let me be clear that I didn't -- I
13 guess I didn't realize -- let me be clear about
14 that.
15 He was not awake upon arrival in the ED,
16 and he was not awake the entire time he was in
17 the ED.
18 If he was then we definitely would give
19 him sedating medicines or -- you know, we don't
20 want people in pain.
21 We don't want people remembering what they
22 go through.
23 So some of the medicines we use also help
24 people to not remember the events.
25 We would definitely do that if the patient

1 was awake.
2 He was definitely not awake and so that
3 would not have been beneficial.
4 Q. But you don't know for sure in the OR what
5 they may have given or you didn't check to see if
6 they had given --
7 A. Yeah, I don't know the answer to that.
8 It's -- that's an interesting -- I would -- I
9 would guess that he was not given significant
10 medicine upstairs, but I don't know.
11 Q. Is Versed considered significant medicine?
12 A. Versed is a benzodiazepine-sedating medicine.
13 It's a sedative. It wouldn't put somebody to
14 sleep. It's a sedating medicine.
15 Q. Is that something that might be given in this
16 kind of situation for someone who's going to go
17 in the OR and have his body opened you?
18 A. Um, it could be. It --
19 Q. Okay. Did -- when he came in, though, you
20 said he -- his arms or something was moving and
21 then at that point, after a short period of time,
22 he wasn't moving anymore?
23 A. Correct.
24 Q. Okay. And you said you --
25 A. To the best of my knowledge. I --

1 Q. Right.
2 A. -- I think I that I saw him -- a little bit
3 of movement, this.
4 Q. And you're demonstrating for the record that
5 he -- both arms may be flaring a little bit?
6 A. I think so, very briefly when he first came
7 in.
8 But it wasn't more than seconds when it
9 was clear that he didn't -- that he didn't have a
10 pulse.
11 And at that point, if a person's
12 pulseless, usually they're not -- they're not
13 moving.
14 He wasn't -- for example, often a trauma
15 patient may come in and be -- and resist our
16 activities.
17 They don't really know what we're doing.
18 You know, they don't -- and they may sort of
19 resist us, that's often the case.
20 That was not the case here. He was not
21 doing anything in short order.
22 Q. Now, you had said that you did notice the
23 lacerations on his neck and you remembered
24 possibly on his wrist?
25 A. Correct.

1 Q. Were -- were either of those -- any of those
2 lacerations critical or life-threatening?
3 A. Um, not obviously to me.
4 The neck gets our attention. The neck
5 wounds could have been. I -- I don't know the
6 extent of them.
7 At the moment he came in, they were not
8 bleeding heavily. He was kind of oozing from his
9 neck, but he wasn't bleeding a lot.
10 That could be for a number of reasons.
11 They could have been superficial and not in any
12 significant vessels, or it could have been
13 because he had already had substantial blood loss
14 internally, or externally, and at that point
15 people may not bleed as much anyhow.
16 So I don't know -- I saw the lacerations.
17 I saw they weren't doing much, so I'm not so
18 interested in them at that moment.
19 If he had survived, then we would have to
20 investigate those very carefully.
21 There's a lot of critical structures in a
22 person's neck, blood vessels, neurologic, what
23 have you, so that would require very careful
24 investigation eventually, but it wasn't the first
25 priority, let's put it that way.

1 Q. Thank you. And you did describe the wrist
2 wounds as being minor, so --
3 A. I -- I -- again, that's a little bit -- I
4 can't -- you know, I like -- I think in terms of
5 pictures and I just remember that -- I think he
6 had little somethings on -- on his wrist, but it
7 wasn't anything that -- that I was worried about.
8 It wasn't an important issue at the
9 moment.
10 Q. And if he were -- had the lacerations on his
11 neck before he was shot and was running around,
12 would that indicate to you that the lacerations
13 were not life-threatening?
14 A. I wouldn't venture to say there.
15 Like I said, there's a number of issues to
16 consider with neck wounds, and it doesn't all
17 happen -- it's not like -- if somebody has a
18 wound it can bleed emergently and significantly,
19 but it may be significant and not bleed a whole
20 lot at first.
21 So, for example, if there's an injury to
22 the main artery, the carotid artery, one of the
23 main arteries that goes to the neck and is on the
24 lateral side of your neck, the artery can be
25 injured and not necessarily bleed a lot

1 immediately.
2 There could be damage to the wall that can
3 be temporarily walled off, or there can be damage
4 to the wall that ultimately forms a clot in the
5 artery that prevents blood from going to the
6 brain.
7 So even just for the carotid artery, there
8 are a number of possibilities that one has to
9 think about.
10 I saw those and I thought, huh, I was -- I
11 was thinking I wonder if that's where the blood
12 in his airway is coming from.
13 It's conceivable that whatever was there
14 was the origin of the blood in his airway. I
15 couldn't get a good look.
16 You know, I suctioned the blood that was
17 there in order to get the tube in, but it wasn't
18 the time for me to be looking.
19 You know, he -- he would get -- he would
20 get specifically scoped later to look for airway
21 injury that might have caused that.
22 So, to answer your question, I don't
23 think you can draw conclusions -- I can't draw
24 conclusions as to the seriousness or extent of an
25 injury based on initial hemorrhage, especially in

1 that neighborhood.
2 Q. Understood.
3 Thank you, Doctor.
4 MS. KAZAROSIAN: I have no further
5 questions.
6 THE COURT: All right. Thank you. All
7 right.
8 Thank you very much, Doctor.
9 (Witness excused.)
10 THE COURT: Attorney Spiros.
11 MS. SPIROS: Yes, thank you.
12 Cameron Deane, please.
13 THE COURT OFFICER: I'm sorry, say that
14 last name again.
15 MS. SPIROS: Cameron Deane.
16 THE CLERK: Can you raise your right
17 hand?
18 Do you solemnly swear to tell the truth,
19 the whole truth, and nothing but the truth so
20 help you God?
21 MR. DEANE: I do.
22 CAMERON DEANE, SWORN
23 THE WITNESS: Good morning, your Honor.
24 THE COURT: All right. Good morning,
25 Officer.

1 Officer, just -- I'm sure you're aware
2 there's a sequestration order in this case; and,
3 unlike other cases, due to the nature of this
4 hearing, it's a closed hearing, so that
5 sequestration order is going to carry over until
6 this matter becomes public at a later date.
7 So I'm just going to ask you not to
8 discuss this case or your testimony with anyone,
9 excluding if you have an attorney, until this
10 matter becomes public. Okay?
11 THE WITNESS: Yes. Thank you.
12 THE COURT: All right. Thank you,
13 Officer.
14 All right. Attorney Spiros.
15 MS. SPIROS: Thank you.
16 EXAMINATION
17 BY MS. SPIROS:
18 Q. Good morning, sir.
19 A. Good morning.
20 Q. Can you please for the record, spelling your
21 first and last name and introduce yourself to the
22 Court?
23 A. Yes.
24 Good morning, your Honor. Good morning.
25 My name is Cameron Deane. My first name

1 is C-A-M-E-R-O-N. My last name is D-E-A-N-E.
2 Q. Sir, how are you employed?
3 A. I am a police officer with the City of
4 Cambridge.
5 Q. How long have you been with the City of
6 Cambridge?
7 A. I started there in 2004 and prior to that I
8 was a police officer in the City of Medford for
9 six years.
10 Q. Any military experience prior to that?
11 A. No, ma'am.
12 Q. Can you tell the Court a little bit about
13 your educational background?
14 A. I attended high school at Morris High School
15 and I attended college at Northeastern, at Anna
16 Maria, and finished my degree at Curry College
17 with a bachelor's.
18 Q. And for the Cambridge Police Department, can
19 you talk a little bit about some of the roles
20 that you've held over the years?
21 A. So I began my career in the night operations
22 division as a patrol officer.
23 I've participated in the training
24 division. I've been a trainer for the state
25 since 2003.

1 I've been on the motorcycle unit.
2 I was on the tactical patrol force.
3 And I've also done several plain clothes
4 assignments.
5 Q. And so can you tell us a little bit about
6 your current role and what you're doing now on a
7 daily basis?
8 A. So I am currently assigned as a staff
9 instructor to the recruit academy, which is the
10 Cambridge Northeastern Police Academy, which is
11 located over at Northeastern University.
12 Q. Can you tell the Court if you had any
13 specialized training in your -- in your role?
14 A. Yes. So I have been not only trained as a
15 staff instructor, but I'm also a defensive tactic
16 instructor trainer for the State of
17 Massachusetts.
18 And I'm also a national ICAT instructor
19 for Integrated Communication Assessment and
20 Tactics.
21 Q. If I could ask you first about the defensive
22 tactics instructor training.
23 Could you talk a little bit about what
24 that involved?
25 A. Sure.

1 In 2003, it's a three-week course to be
2 certified by the State of Massachusetts.
3 I attended that out in New Braintree at
4 the State Police Academy.
5 And then, over the years through teaching
6 at different academies around the State on a
7 consistent basis, there's a nomination process
8 that takes place.
9 I was nominated to be an instructor
10 trainer in 2011 and completed that process,
11 which is a several-day process of testing
12 knowledge -- both classroom knowledge and
13 practical knowledge. And then I received that
14 certificate in 2011.
15 And since that time I've been acting as an
16 instructor trainer, which is more of an
17 administrative and mentoring role as well as
18 teaching, so I travel around the state and
19 oversee some of the instructors.
20 I do a lot of the recertifications.
21 I also, for a period of time, was the
22 county coordinator, which is just an assistant to
23 the State coordinator for Bristol County and then
24 for Middlesex County up until 2022.
25 Q. Thank you, sir.

1 Could you just briefly describe what --
2 what is meant by "defensive tactics"?
3 A. So defensive tactics is considered things
4 like use of force, personal defense, police
5 baton, use of oleoresin capsicum spray.
6 It also can go into deescalation. It can
7 go into handcuffing and control and restraint.
8 Q. And you mentioned as well that you are an
9 instructor for the ICAT training; is that
10 correct?
11 A. I am.
12 I'm an instructor nationally for the
13 police executive research forum on ICAT.
14 Q. We've heard a lot about ICAT in this
15 proceeding.
16 Can you tell us what ICAT stands for?
17 A. ICAT stands for Integrating Communication
18 Assessment and Tactics.
19 Q. And when did you first become acquainted with
20 the ICAT training and system?
21 A. So, in 2017, I was asked by my agency to look
22 into ICAT.
23 I flew out to Minnesota and attended the
24 trainer session out there, which was where I
25 first got my initial trainer certificate in ICAT.

1 I then did a shortened version of the
2 program.
3 The Department had asked me to just
4 introduce it to our agency in 2018.
5 So I did that during our in-service
6 training segment.
7 It was a four-hour block of training
8 in which they got a two-hour introduction to
9 ICAT.
10 After that, in 2019, the Police Executive
11 Research Forum came out with their instructors to
12 train our agency at the Cambridge Police
13 Department.
14 I was asked to join their trainers and
15 coteach the department in ICAT, which I did in
16 the spring of 2020 -- I'm sorry, 2019, excuse me.
17 And then, after coteaching from January
18 until April and July of 2019, I was asked to join
19 their national training core.
20 Q. And when you say the national training core,
21 what is it you do in that regard?
22 A. So Police Executive Research Forum will send
23 trainers out to agencies, or they also sponsor
24 the trainer sessions all over the country.
25 If an agency requests the ICAT curriculum

1 be taught to them by (indiscernible) trainers
2 then they'll send a group of us out to that
3 agency.
4 Sometimes it's to train trainers that will
5 then go train the agency, and other times it's to
6 train the entire agency.
7 And I've done both in many, many locations
8 across the country and including some of the --
9 the more notable agencies throughout the United
10 States.
11 Q. When you say notable agency, which ones?
12 A. Ones that have been either in the news or
13 have found themselves in controversy or in
14 someway where Police Executive Research Forum
15 training is coming in after as a result of either
16 compliance to a consent decree or some -- some of
17 those -- so that's also some of the times that I
18 come in and do those trainings.
19 Q. Understood.
20 I want to ask you, if you could, describe
21 for the Court -- and I'll note for the record
22 that the ICAT training materials and guide have
23 been provided in the discovery and have been
24 marked in this case, and we'll get you the
25 discovery notice on that for the record in just

1 one moment.
2 But if we could focus a little bit first
3 just on the ICAT overview or the mission
4 statement.
5 Can you tell the Court what the goal of
6 ICAT is?
7 A. The goal of ICAT is to have officers
8 recognize situations where somebody is either
9 in mental or situational crisis, meaning it's
10 either something mental or it's some emotional
11 thing that has forced them into a situation where
12 they can no longer cope as a normal or as a -- as
13 a -- they're coping mechanisms have failed I
14 should say.
15 And, when that happens, we want officers
16 to try and recognize the assessment of both risk
17 and threat as to what it is that they're looking
18 at when they first arrive on scene.
19 We are also -- want them to use strategies
20 to try and slow down incidents when that is
21 allowed to do so and to recognize situations
22 where immediate action may be necessary versus
23 situations where the situation allows time for
24 them to seek alternatives or additional resources
25 to come on scene.

1 Q. And the training itself, the ICAT training,
2 is that focused specifically for situations where
3 there are not firearms involved?
4 A. That's correct.
5 The focus of the training is on situations
6 where people are either unarmed or armed with
7 something other than a firearm.
8 Q. And when you say "something other than a
9 firearm," generally what are you talking
10 about?
11 A. It could be a stick, knife, bat, a hockey
12 stick. It could be somebody driving a vehicle.
13 It could be anything that -- that -- that
14 could be used to cause harm to others.
15 Q. And can you explain to the Court what the
16 distinction is, why the focus for this training
17 is on nonfirearms related situations?
18 A. The introduction of a firearm changes a
19 dynamic and how you can tactically respond to
20 that.
21 Sometimes, especially if there's nothing
22 to get behind or if there's nothing that can stop
23 some sort of projectile from a weapon, because of
24 the distance that those projectiles can travel
25 and the force and the power that they have, even

1 after traveling those distances, it's very
2 hard to initiate some of the ICAT initiatives
3 when you don't have the ability to get distance
4 and -- and, again, distance usually creates time
5 for us; but, because of the speed of the
6 projectiles, it also cuts down on the amount of
7 time that we can react.
8 Q. Before I get further into kind of the
9 teachings of ICAT, I want to ask you, you
10 mentioned that the Cambridge Police Department
11 was trained in this in spring of 2019; is that
12 right?
13 A. That's correct.
14 Q. And were you asked to produce by one of your
15 supervisors some training records in relation to
16 this specific proceeding?
17 A. I was asked to provide the training guide
18 from 2019 that we used.
19 Q. And you were --
20 A. I'm sorry, it's actually the 2016 training
21 guide, but it was used in 2019.
22 Q. Thank you.
23 And specifically, though, related to the
24 officers, was the entire department required to
25 take this training?

1 A. Yes.
2 At that time the entire department that
3 went through the in-service program was required
4 to take that training.
5 Since that time I've also trained all of
6 the new officers who have arrived through the
7 recruit process because I -- as a trainer at the
8 recruit academy they've got ICAT as well now in
9 addition to the required MPTC program.
10 Q. And, specifically, is there a record kept of
11 the officers who engaged in this training?
12 A. I believe there is, yes.
13 MS. SPIROS: Okay. And for the record,
14 your Honor, the training records for officer Liam
15 McMahon and Officer Robert Colbert were
16 provided --
17 THE COURT: Yep.
18 MS. SPIROS: -- in discovery for the --
19 the materials related to ICAT training guide and
20 this officer's CV or Discovery 6 --
21 THE COURT: Thank you.
22 MS. SPIROS: -- for the purposes of the
23 record.
24 BY MS. SPIROS:
25 Q. Returning sort of back to the -- the ICAT

1 mission statement and the goals of the training,
2 can you tell the Court a little bit about what
3 the officers will go through in this training?
4 What does it look like for them?
5 A. Sure.
6 So the day starts off in the classroom.
7 It's six modules.
8 There's an introductory module, and then
9 we teach them something called the critical
10 decision-making model, which is just a visual
11 representation of a thought process that we try
12 and explain that officers typically would go
13 through when trying to mitigate -- or, I'm
14 sorry, when trying to navigate a critical
15 incident.
16 Then the third one is tactical
17 communication. I'm -- I'm trying to go back to
18 the 2016, so I apologize for one second.
19 And then the fourth module was crisis
20 recognition.
21 And the fifth one was operational tactics.
22 And, in those modules, what -- what we try
23 and do in ICAT is typically we would go to
24 training on risk, and then we'd go to training on
25 tactics, and then we go to training on

1 communication and what was happening was there
2 was no training that really took all of those
3 things and put them into a central location where
4 they all began to -- to wrap with one another.
5 And so that was what attracted me to ICAT
6 in the beginning, and it's also one of the things
7 that keeps me teaching it is that we're trying to
8 combine all these factors together so that the
9 officers are getting a complete package of not
10 only how we would respond, but how would we
11 communicate once we respond, and then how would
12 we respond tactically once we respond, and so it
13 all layers on top of each other.
14 And then the day culminates at the end
15 with a question-and-answer session.
16 And the following morning they are put
17 through scenario training.
18 And so for our agency, and for most
19 agencies that we go to, it's three scenarios that
20 they're asked to go through.
21 And they have to then show us that they
22 understand the tenets of ICAT as they go through
23 those scenarios.
24 So there's role players that come in, and
25 then there's also evaluators at those scenarios.

1 And we watch the individuals as they go
2 through and then we comment and perform.
3 And depending on if it's train the
4 trainer, there's a pass/fail component to it; but
5 if it's just a training for the agency we give
6 our comments and our suggestions as to what we
7 thought went well and what we thought maybe was a
8 missed opportunity.
9 Q. And so one of the overall goals, as I
10 understand it, is to reduce the need to use
11 deadly force in a situation; is that right?
12 A. I think it's to reduce the use of force all
13 together if we can. That's really what the goal
14 of the training is.
15 Q. And the other -- the sort of next piece that
16 ICAT talks about is the idea of sanctity of human
17 life.
18 What is that teaching?
19 A. So the sanctity of human life, and the way
20 that I explain it, it has three parts.
21 It has the individual in crisis, if that's
22 what we're discussing; it has the general public;
23 and it has the officers on scene.
24 And when those parts become out of balance
25 due to one entity or another -- and, you know, I

1 would give the example that if the subject puts
2 the general public at risk, then the officers
3 then have to decide is this immediate enough that
4 I need to take an action to mitigate that risk
5 and bring it back into balance.
6 And that action could be relocation, using
7 force. It just depends on what the situation
8 is -- is describing.
9 For -- if the subject's actions are
10 creating a stir amongst the general population
11 and we think that -- that the community is now
12 creating the risk to the subject, we may have to
13 step in and create a -- a blockage on the
14 community to present.
15 So it really just depends on who's putting
16 that out of balance with each other as to how we
17 respond to that.
18 But what we want is there used to be a
19 thought many years ago about -- you know, it's
20 just okay if I go home; what we've trained our
21 agencies everybody needs to go home.
22 And that should be the goal of what our
23 purpose is on scene.
24 Q. And in terms of the kind of initial steps in
25 the training as it regards dealing with a person

1 in crisis, or an individual in crisis, does it
2 depend on the location of the response?
3 A. Oh, absolutely because the -- one of the
4 things about ICAT, the first tenet, really, is to
5 try and stabilize, and depending on where you are
6 can absolutely dictate how stable that situation
7 is.
8 You know, if -- if -- if I'm in a closed
9 room in a house where I can shut a door and talk
10 to somebody on the other side of the door, that's
11 a pretty stable situation.
12 That person would have to come out, you
13 know, and get through that entity.
14 If I'm in a crowded subway station, it
15 might be a little bit different.
16 That may require a lot more and it may
17 require me to -- to create a parameter where I
18 can only allow this amount of control here
19 because if I allow it to get past me, somebody
20 else could get hurt or something else could go
21 on. So the location becomes key to the stability
22 of the incident.
23 It also depends on what resources you
24 have, what is available to you in those moments
25 that you're trying to stabilize that incident.

1 Q. When you say what is available to you in that
2 moment, primarily what -- what are you relying on
3 first in a crisis situation?
4 A. So, initially, upon responding, when you go
5 to a crisis, you're looking at whether or not
6 there are -- or the factual information.
7 What do I see? What do I know is going on
8 here to the best of my ability?
9 And then I have to assess that as to
10 threats and risks.
11 So risk is the potential of something that
12 could happen.
13 Threat is it is potentially actually
14 happening now; it's immediate.
15 And then the next step is I look at do I
16 have the legal authority to even do anything
17 here?
18 And, if I don't, then I have to ask myself
19 the question why am I here.
20 So those are sort of the first initial
21 steps that we go through.
22 Once we've established that we have legal
23 authority to be on scene to actually respond to
24 this type of call, the next thing is am I capable
25 of handling this by myself or not?

1 And, if I'm not, what resources do I need
2 to get on scene as quickly as possible for
3 initial stabilization?
4 And then I have to ask for those
5 resources. I have to put that stuff into action.
6 And so that's kind of how it flows.
7 So, once we get on scene, the initial
8 stabilization, if we can get it stable, then
9 would allow time to bring in some more additional
10 resources.
11 And, if the stability continues, maybe we
12 can bring in more additional resources if needed
13 and it just depends on what the situation's
14 dictating.
15 If the immediacy of -- of the risk or I
16 should say if the risk becomes an immediate
17 threat, well, we may be out of time.
18 There may not be the opportunity to now
19 wait for more resources to get there because we
20 may have to take an action to preserve the
21 sanctity of life in whatever direction is being
22 threatened by the action.
23 Q. Could you just expand a little bit more on
24 the stabilization piece and what you mean by
25 potentially assessing and calling in additional

1 resources?
2 What is the training in that regard?
3 A. So the first thing we'd like to do is we'd
4 like to reasonably contain whatever the risk or
5 the threat is.
6 And that's based on what's faced by the
7 individuals when they get there -- when I say the
8 "individual," I mean the officers when they
9 arrive on scene, their initial assessment on
10 what's going on.
11 Most of the time we are able to, at least
12 initially begin to stabilize by setting up some
13 sort of containment.
14 So, again, inside a house we may close a
15 door; we may -- we may -- if a person's in a room
16 we may just leave them in that room.
17 We don't want to enter that room because
18 we don't want to create an unstable situation by
19 walking in on that.
20 When you're talking about outdoors,
21 it's -- we call in additional units or additional
22 officers because you're trying to create some
23 sort of perimeter.
24 You're trying to create some sort of area
25 in which the officers and whatever is going on

1 can safely operate.
2 Q. And the training in regards to -- I should
3 ask you before I go further.
4 You're talking about general tenets of
5 ICAT and the teachings of ICAT, correct?
6 A. Correct.
7 Q. You have not specifically reviewed or been
8 asked to opine about a specific opinion related
9 to this case; is that correct?
10 A. No, I have not, ma'am.
11 Q. Okay. And so, just to go back to the outside
12 scenario that you're talking about, how -- can
13 you expand as little bit further on how the
14 outdoor scenario is different in terms of
15 distance and keeping space if a weapon is
16 involved?
17 A. So when we're outdoors, we have a
18 consideration right out of the gate on the risk
19 and the threat -- basically with risk in that we
20 have a duty to protect the general public.
21 So when we're outdoors, that's always at
22 the -- the backdrop of kind of what it is that
23 we're taking for an action; that is the general
24 duty first.
25 The second thing is is there a way to

1 stabilize it where we can create a safe space for
2 the subject as well.
3 And then how do we balance that between
4 having it be a space where we can contain the
5 subject where we can try and begin the -- what
6 I call the introduction or deescalation
7 process -- the verbal deescalation process as
8 it's known -- where we begin to try to engage the
9 person in some way and whether or not we have to
10 create a perimeter that we feel as though is
11 either movable or not movable.
12 And it really depends on what actions
13 we're looking at, what -- what are we faced with
14 as to whether or not that perimeter can move.
15 And we have to -- again, we have to
16 consider things like if we initially close down a
17 small area in, say, a park or a field, but
18 there's still people in the streets outside, we
19 probably would have to keep that to the park or
20 field to the best of our abilities.
21 If it's 2:00 in the morning and there's
22 nobody else around and we can create some sort of
23 moving perimeter that could go across the field a
24 little -- like there may be different options
25 depending on where you're at and -- and what it

1 is that we're allowing to go on.
2 But there's also -- we have to look at,
3 again, every time we move a perimeter like that
4 what's the risk and the threat of moving that
5 perimeter.
6 And there are times where that perimeter
7 cannot move; where we're -- we -- we have to take
8 an action that says, We cannot allow that -- this
9 situation to come out of this particular area.
10 So, again, we're specifically talking
11 about outdoors, but even indoors we -- we may not
12 want somebody coming outside of a house because,
13 once they come outside, we've lost that
14 containment.
15 So there's certain times that we say we
16 really want to keep this in this location right
17 here because we have ourselves in what -- in the
18 ICAT training we call a winnable spot.
19 In other words, as police officers
20 tactically or physically if we put ourselves in
21 an unwinnable position, we may end up allowing
22 harm to someone else in the community.
23 We may end up allowing harm to the
24 officers involved.
25 And, potentially, if we put ourselves in

1 an unwinnable spot, it may result in harm to the
2 individual if that individual begins to take
3 actions that we -- we prepared for, but we didn't
4 take action to stop.
5 Q. And you're talking a little bit about
6 situations that -- that are fluid; is that fair?
7 A. Yes.
8 Q. And in terms of the fluidity and the mobility
9 piece that you were just touching on, and maybe,
10 you know, you can give more space in certain
11 scenarios than in others, does the training
12 address, or is there a piece of -- of the
13 training that looks at when the officers
14 themselves are not necessarily dictating the
15 movements of the person in crisis, but the person
16 in crisis is?
17 A. Yeah.
18 So when we -- when we're in the module on
19 tactical operations, one of the things that we
20 talk about is the officers working as a team and
21 that people understand what their roles are in
22 that team.
23 And that the message is -- we try to make
24 them as clearly as we possibly can -- about
25 whether or not in these particular circumstances

1 if we are progressing with an individual towards
2 diffusing the situation, we may allow for things
3 like greater movement.
4 We may allow for things because we feel as
5 though the risk is coming down.
6 If we can't get anywhere, if we're
7 stalemated, in other words, where we're not able
8 to mitigate the risk up or down, we may maintain
9 that -- that perimeter or maintain that situation
10 with the officers until we can try and gain some
11 sort of interaction with the individual and try
12 and begin that risk down.
13 And then on the -- the other spectrum is
14 if we can't even get past the introduction phase
15 of communicating we have to look at what is the
16 risk that we're faced with and is there a need
17 right now to take an action?
18 And if there's not a need in that moment
19 to take an action then we have time, but if
20 the -- if the -- if the situation -- and it's
21 constantly changing; it's constantly -- like you
22 said, it's very fluid, but risk can go up and
23 down, up and down.
24 And risk can easily just become threat or
25 it can become voluntary compliance. It can go in

1 all directions.

2 So the goal is always voluntary

3 compliance, that's what we would prefer. That

4 is --

5 Q. You use the term "voluntary compliance."

6 A. Yes.

7 Q. What do you mean by that?

8 A. We would prefer that the officers use

9 communication skills to get the individual to

10 recognize rationally, or at least generally,

11 their situation and their surroundings and then

12 to recognize that what we're asking them to do

13 they decide on their own to take those actions.

14 And we try and provide options when we

15 can, so that's one of the -- the tenets of the

16 training is to try to give the individual options

17 that they can -- that they can work through and

18 that option could be, you know, would you like to

19 go to this hospital or this hospital.

20 That option could be would you like me to

21 call someone for you or would you like to come

22 with us somewhere or, I mean, it depends on the

23 crisis situation that there's so many different

24 options that you can layout depending what's

25 going on in the situation.

1 But voluntary compliance means the person
2 makes a decision themselves to engage with the
3 officers and to take an action voluntarily that
4 we can easily predict; that we know that they're
5 going to do it because we see now that they're
6 understanding.
7 We see now that there's been a -- you
8 know, in -- in the -- I know I jump around a
9 little bit, but it's hard to do one without the
10 other.
11 In tactical integration you have to be
12 able to introduce yourself (indiscernible).
13 You have to have some sort of rapport
14 built.
15 And then you have to be able to influence
16 their behavior.
17 And the rapport-building stage is usually
18 where the length of the -- of the interaction
19 goes on as you're trying to get them to trust you
20 and you're trying to trust them that they will do
21 what it is that they're agreeing to do.
22 And then once that trust has been built,
23 that's -- like I said, that's what we aim for is
24 voluntary compliance; that the subject will do
25 what we're asking them to do.

1 Q. And, just to go back a little bit, I want to
2 ask you more about the communication piece and
3 this rapport-building, but you mentioned working
4 as a team.
5 Given the type of scenarios that you might
6 be presented with and the person's in crisis and
7 this being a fluid situation, when you say
8 "working as a team," do you mean like having a
9 meeting and then this one goes there, or is it
10 just kind of unspoken? Could it be a
11 combination?
12 Do you -- I mean, how does the training
13 address that?
14 A. It could be a combination and it depends,
15 again, when we arrive on scene, or when we arrive
16 at whatever it is we're at, that -- what
17 information do we have? And then immediately
18 assessing the risks and the threats.
19 If there is no risk and no threat, we
20 might have a meeting.
21 We may all come together and -- and say
22 how do we want to do this? What do we want to
23 do?
24 When there is a risk, that becomes much
25 more difficult to have those conversations.

1 So a lot of times it could be, Hey, can
2 you do this? Can you do this? You go stand over
3 there. Can you grab this? Those conversations
4 might take place.
5 You may call for a supervisor so that
6 somebody could come down in a supervisory role
7 and begin to take those -- those -- the ability
8 to -- to assign roles and put people in -- in
9 winnable positions.
10 But there are also cases where the
11 fluidity of the situation and the immediacy
12 in trying to stabilize, it can be nonverbal as
13 well.
14 It can be I see that somebody does
15 something, so I'm now going to go do this because
16 I saw this person do this; and then that person
17 sees somebody else do something and they say,
18 Okay, now I think I'm going to go do this, and
19 they may begin to assign themselves their own
20 rules and that can happen as well.
21 Q. You talked about the communication piece and
22 trying to establish communication, a rapport.
23 What does the training teach in regards to
24 that?
25 A. So, in the training, we use something called

1 the behavioral staircase.
2 And the behavioral staircase has several
3 components to it.
4 I'm going to break it down into three.
5 But introduction with empathy, that's two of the
6 steps, and I put that into the central component
7 of introduction.
8 In the introduction phase, we have to be
9 able to have some sort of interaction with the
10 person in crisis in which they can recognize, or
11 I can recognize, that we are attempting to
12 interact with one another. That -- that's the
13 introduction phase.
14 That can be as simple as, Hey, what's
15 going on today?
16 That can be as simple as, I'm Officer
17 so-and-so, what's your name?
18 That can be as simple as, Stop, please.
19 Whatever it is, you're hoping to get
20 something back from them.
21 And when you do get something back from
22 them, now we know we might be able to move into
23 the next phase, which is the rapport phase.
24 So that rapport phase is when -- if we can
25 get there that's where you would begin the --

1 what people describe as the verbal deescalation
2 process. We've had an introduction.
3 We now know that we can hear one another,
4 that you can rationally accept the fact that I'm
5 here as a police officer and I can accept the
6 fact that you seem to understand that I'm here as
7 a police officer and, therefore, now maybe we can
8 have some more communication that is a little
9 more robust and you begin to try and -- instead
10 of -- we're not diagnosing the problem. We're
11 still trying to stabilize. We're just trying to
12 find out in general what is it that we're
13 stepping into and we ask questions like what's
14 going on today? Can you tell me what's up? Hey,
15 how are you? And see what we get back as a
16 response. That's typically the longest phase of
17 communicating.
18 If -- and the rapport phase can go down as
19 well. We can be having a great rapport with
20 somebody, and they can suddenly decide they don't
21 want to speak to us anymore.
22 And now we've lost that ability to speak
23 with them. And, if that happens, we kind of
24 almost have to go back to the introduction phase
25 again. We have to, Are you still with me? Are

1 we still talking? Can you -- but that takes
2 time. Those things all take time.
3 If the rapport phase is successful, now we
4 move into behavioral change. That's what we're
5 looking for.
6 Were we able to get any sort of behavioral
7 change out of the individual?
8 Usually once we start to see behavioral
9 change, influence is right around the corner.
10 And so the three tenets that I usually go
11 is introduction, rapport, and influence, and
12 that's sort of when we're asking our officers in
13 the most simplistic form.
14 When you try to engage with the
15 individual, what happened?
16 If that's unsuccessful, we can't move into
17 the rapport phase.
18 And if you can't move into the rapport
19 phase you can't get to influence.
20 Q. In terms of the scenarios that you train on
21 and in terms of dealing with people in crisis, is
22 there a part of the training that focuses on or
23 teaches specifically mental health related
24 reactions by a particular person, if you know
25 what I mean, impacting their ability to

1 communicate?
2 A. So there is several things infused throughout
3 the training.
4 There is a specific module on crisis
5 recognition.
6 And, in that crisis recognition module,
7 one of the things that we train our officers to
8 recognize is what is instability?
9 What is that -- what does that look like
10 and what might cause those things?
11 What might be happening in that person's
12 life?
13 And, therefore, what types of questions or
14 what types of things might we try and give them
15 to engage.
16 And so we usually call it sticking a --
17 sticking something in a can, something that you
18 can pull out when you can't think of anything
19 else.
20 So, typically, what we -- what we want
21 them to do is, after they've identified the risks
22 and threats, if there's just a risk but there's
23 time that we can begin to develop this
24 conversation is -- again, not to diagnose what's
25 going on, because you can't tell if it's -- in

1 just a few seconds you can't tell if it's mental
2 illness, drugs, alcohol, is the person just going
3 through something in their life that they've lost
4 the ability to cope.
5 It's very difficult to do in just a few
6 seconds by looking at somebody.
7 So we start that piece by trying to, like
8 I said, get them to engage with us and recognize
9 that some of the signs may be when they're in
10 mental crisis that they become hyper-focused on
11 you as an individual sometimes.
12 We call that transfer of malice in which
13 the individual, once you arrive on scene, may no
14 longer be thinking about what it was that they
15 were upset about in the first place; they become
16 upset at you.
17 And so we ask officers to try and be aware
18 of that from a safety perspective of transfer of
19 malice.
20 The second thing is -- is we ask them to
21 try and recognize based off of what the person's
22 saying.
23 If the person is articulating in some way
24 that they're upset by a certain thing, we
25 encourage the officers to try to get them to talk

1 about that, whatever that happens to be.
2 We call it *looking for* -- for hooks. And
3 when you're looking for a hook you're looking for
4 something in which you can get that individual to
5 begin to share whatever it is that's going in
6 their world and then build off of that particular
7 piece so that when they finally do get to the
8 core of what's causing the behavior now and,
9 really, when we talk about stability, what the
10 officers -- that's what they're hoping to get to
11 is what's causing the behavior right now.
12 And then when you're talking about a
13 crisis of this range, you're talking about
14 behaviors that either the person, the community,
15 friends, family -- and I say the individual
16 themselves -- feel is disruptive.
17 A lot of times they don't want to feel
18 this way, but they know that they're feeling this
19 way.
20 And so you're trying to get them to
21 recognize that they're in a crisis, and you want
22 to try and move them passed that moment if you
23 can.
24 Q. And if -- you touched upon this a little bit
25 already, but that first phase of introduction

1 before you get to rapport, if you can't get that
2 hook in that you just talked about, that -- get
3 past that introduction phase, where are you at in
4 terms of the training?
5 A. So if you can't get past the introduction
6 phase and there is no risk we can keep trying.
7 We can keep trying.
8 We -- at that point maybe we can call for
9 more resources.
10 Maybe we can get somebody else on scene
11 that might be able to communicate with that
12 person.
13 Maybe that person doesn't feel like
14 communicating with the police and we might --
15 but those resources take time.
16 Q. And you talked about other resources.
17 How -- how does the -- how does the
18 presence of a threat or a risk, and specifically
19 a weapon, impact whether you could bring in
20 certain resources?
21 A. It impacts it greatly.
22 Q. How?
23 A. Until we can stabilize the risk to a level
24 that we feel comfortable that bringing in an
25 alternative resource that might be able to

1 connect with this person or -- or talk with this
2 person, we have to make sure that the person is
3 stable enough for that resource to be brought in.
4 And that's -- that's a judgment call,
5 depending on what's going on, depending on what
6 the situation is as to -- as to even whether or
7 not you start that process.
8 If we were talking about an officer who is
9 specifically trained in mental health crisis that
10 might already be on scene, maybe we move that
11 person up to the front to try and communicate
12 again because they have some more experience in
13 doing it.
14 If we're talking about activating our --
15 our social worker team, which we refer to as the
16 BEST team, which is a resource that we can call
17 in, that's -- that's available to us.
18 But, again, when the risk has been
19 mitigated to the point that we feel as though
20 it's safe to bring those individuals in, to my
21 knowledge there is no, what I would term
22 co-responder program in the country that...
23 (At 10:42:53 a.m. audio turns off.)
24 (At 10:47:54 a.m. audio turns on.)
25 (Cross-examination by Ms. Kazarosian in

1 progress.)
2 A. ...situationally dependant.
3 If somebody begins to harm themselves and
4 the action is taking place, that may be
5 appropriate, yes.
6 If the person has not yet done it, but is
7 in some way saying, I think I want to cut myself,
8 there may be an opportunity there to say, Why
9 would you want to do that or something along
10 those lines.
11 But when -- when an action or when there's
12 an immediacy to an action, when we -- when we
13 believe it's about to take place, there's not
14 really an opportunity in those moments to try and
15 continue to have those conversations because they
16 may be ineffective.
17 Q. And so part of having effective communication
18 is to ask someone to do something, not to tell
19 them to do something; isn't that correct?
20 A. Again, it's dependant on the situation.
21 It depends on what the immediacy is of the
22 action that you're trying to get them to do.
23 If I'm trying to get them to stop
24 something, then a command may be the most
25 appropriate thing to give.

1 If we're in a discussion and the person
2 says something that personally I take offense to,
3 no, that's not okay for you to yell back at
4 them.
5 You want to try and -- we also want to try
6 and keep our own emotions in check when we can
7 when we're having those discussions.
8 But, in -- in the immediacy of trying
9 to stabilize, there are situations where commands
10 are necessary and there might be situations where
11 commands may not be the most effective thing.
12 Q. When commands are not the most effective
13 thing, is it appropriate to attempt another way
14 to communicate such as lowering voice, asking
15 questions instead of yelling commands?
16 A. I think if stabilization is achieved, then
17 that would be a reasonable step to go into.
18 Q. And when you say "stabilization," what do you
19 mean?
20 A. I mean that the situation is reasonably
21 contained to the point that the risk to those on
22 scene, the risk to the general public, the risk
23 to the subject that they are, what I would call,
24 in a somewhat of a holding pattern in which there
25 is no -- no action.

1 There's no -- there's no act being -- or
2 happening immediately that an action needs to be
3 responded to.
4 Q. If the -- if in the beginning, and the
5 beginning is an important part of the situation,
6 am I -- is that fair to say?
7 A. Yeah, how you enter, yes, absolutely.
8 Q. Yeah. So, in the beginning, if the situation
9 is somewhat contained, and I'll give an example
10 of someone just sitting on the ground cutting
11 themselves, and officers arrive and start yelling
12 commands, is that a situation -- is that the best
13 tactic to approach, according to your ICAT
14 training?
15 MS. SPIROS: Objection, your Honor.
16 THE COURT: Yeah. This is -- what
17 happened, and I understand you're getting that
18 what happened on 625 Putnam Road, is that the
19 address on the -- that is not -- I -- I -- we're
20 past -- I'm past that, okay. All right.
21 MS. KAZAROSIAN: I appreciate that, your
22 Honor.
23 THE COURT: Okay.
24 MS. KAZAROSIAN: I just want to say for
25 the record we've been eliciting information with

1 hypotheticals about certain situations, suicide
2 by cop, et cetera, what happens in the beginning;
3 we're starting to talk about how a situation's
4 created and I would ask be able to inquire of
5 that.
6 THE COURT: Well, but he did testify that
7 it would depend.
8 And I think I -- I think I understand
9 his -- his answer.
10 So move on to another area.
11 MS. KAZAROSIAN: Thank you, your Honor.
12 BY MS. KAZAROSIAN:
13 Q. Is it a fair statement to say if something
14 happens in the beginning that may not be the best
15 tactic that could because a problem to accelerate
16 and perhaps get into a situation where people are
17 then put in danger, whether it's the suspect,
18 whether it's the public at large, or whether it's
19 the officers?
20 A. So, I apologize, can you just re -- restate
21 it again just so I understand what...
22 Q. If we have a situation where, in the
23 beginning, decisions are made that may perhaps
24 escalate a situation, I'll put it that way --
25 A. Okay.

1 Q. -- does that put potentially the -- the
2 public or the officer or the suspect in danger
3 going forward?
4 A. If the situation is relatively stable and it
5 gets escalated by any of the parties on scene
6 then, no, it creates instability. And that's not
7 what we want.
8 Q. Now, in your ICAT training you had discussed
9 containment, and -- and you talked about outside
10 containment.
11 And when you actually gave some examples
12 of containment indoors you said, for example, if
13 they're in a bathroom, shut the door, no one goes
14 in, or, if they're in a room, you contain in the
15 room no one goes in, correct?
16 A. Correct.
17 Q. Is it a better -- does I -- what does ICAT
18 train you about containment outside in a
19 fenced-in area we'll say where there is another
20 officer, individual in that area?
21 A. So I -- I actually want to be clear. We at
22 ICAT, we make sort of a -- a joke that the East
23 Coast and the West Coast can't even agree what a
24 low-ready position is when you're holding your
25 firearm.

1 We don't get into specific tactics. So as
2 far as specifically how we perimeter that and all
3 that, we don't talk about that.
4 But we do say "containment" means are we
5 able to create a type of environment when we're
6 outdoors in which we can effectively stabilize
7 the situation, keeping everyone in a winnable
8 spot, meaning the -- the officers and the general
9 public, because we're outdoors now -- and this is
10 where it makes the difference between the indoor
11 thing -- for the -- for the officers we may be
12 able to stay at the end of a hallway while
13 somebody's indoor contained because they'd still
14 have to come out, come through that hallway, we
15 still have -- once we get outside, there's so
16 many variables that take place.
17 We might have neighbors that suddenly
18 arrive.
19 We may have somebody -- we may -- the
20 presence of police may have attracted people.
21 So, when we're talking about containment,
22 a removable containment -- removable containment
23 is only when specific situations would allow for
24 removable containment.
25 Otherwise, a contained is when the police

1 say, We have this situation in a relatively
2 stable spot in which we don't believe that the
3 individual at this moment is either posing an
4 immediate threat to the officers or an immediate
5 threat to the community.
6 And maybe we might be able to begin having
7 a communication with that person if that allows.
8 Q. So a winnable situation meaning containing
9 in any area where there's no one else that
10 potentially is at risk?
11 A. Correct.
12 Q. And "containing" meaning there's really no
13 other way out other than the area that's
14 protected by officers?
15 A. That's the hope, yes.
16 Q. And if there's an individual in the contained
17 area, does -- is that a good tactic to force the
18 person into that area?
19 A. Again, it -- it depends on the level of
20 risk.
21 It depends on the situation that you're
22 trying to stabilize.
23 So, generally, if you can keep good
24 containment and maintain a reasonable distance
25 from the person, that's -- that's good

1 containment.
2 You don't want to enclose to the point
3 that you begin to cut down on your amount of time
4 to react to anything that might happen; but, on
5 the other side of things, you also have to put
6 yourself in a position to begin effective
7 communication.
8 So I can't stand out in front -- if you're
9 talking about a contained yard, which I believe
10 you are -- if I'm standing out in front of the
11 house and I can't even see the person, I can't
12 begin communication.
13 So at some point to move to where we can
14 operate and attempt to, whatever it is that we're
15 going to attempt to do in this situation to try
16 to stabilize it, we do sometimes have to set up
17 containment in a -- in a variety of ways.
18 And so if you're asking about a person
19 walking into the contained area in -- in a
20 general sort of statement, I'm not really sure
21 what they would be walking into that area for
22 but -- because containment is -- is -- is the
23 containment of the area, so...
24 Q. Right.
25 A. Okay.

1 Q. I think maybe I wasn't clear.
2 What I meant was having a person
3 potentially be contained in the yard, knowing
4 that there are -- is a police officer back there
5 in the yard already, is that potentially a
6 nonwinnable situation because that officer may be
7 at risk?
8 A. So --
9 MS. SPIROS: Objection.
10 Your Honor, I just think we're getting
11 into this very specific case related --
12 THE COURT: Yeah.
13 MS. SPIROS: -- which I tried to stay
14 away from.
15 THE COURT: I'm going to let -- I'm going
16 to let Officer Deane answer this question, okay.
17 MS. SPIROS: Okay.
18 THE COURT: And then we're going to move
19 on.
20 A. So the fact that an officer may find
21 themselves in a position, I don't think would
22 reasonably dictate whether or not we'd -- we'd
23 continue to step up containment.
24 I think once we could contain, we'd be
25 looking to move that officer into a different

1 position if they were at a position of risk
2 maybe, but -- but I -- I don't -- I don't --
3 there would be -- if I found myself in a
4 situation, it still doesn't mean that we can't
5 contain everything and try and move into -- and
6 relocate within that perimeter, if we have to,
7 but it also it depends on what is going on in
8 that actual situation.
9 There are plenty of situations in which it
10 is perfectly acceptable for an officer to enter
11 that area of containment if they believe they're
12 going to engage the individual in conversation
13 and they feel as though the risk isn't there to
14 them -- we call it a reactionary gap -- but if
15 they feel as though they can move into a position
16 where they can react maybe -- maybe they would
17 move into that position.
18 But there's no -- all we're asking in
19 ICAT is recognize that wherever you go within
20 a -- within a situation, if you feel as though
21 you're entering into a spot in which it's
22 becoming unwinnable, something that you can't
23 recover from, that we want you to leave that
24 area.
25 We want you to -- to -- to relocate, or we

1 want you to try and do something to not continue
2 to be in that area if possible.
3 Q. And it's important that -- and ICAT teaches
4 this -- not to rush into situations, unless
5 immediate action is required, correct?
6 A. Right.
7 If immediate action is required, I believe
8 that's page 29 on the manual.
9 Q. And -- well, I got 36, but that's okay.
10 A. On the new one -- on the new one it's on
11 34 to 38. That's all contained in there.
12 Q. It's okay.
13 A. I have the 2016, and I have the 2023.
14 But on the 2023 manual it's on pages 34 to
15 38, I believe, and on the new one it says it
16 on -- I'm sorry, on the 2016 one it says it on
17 page 29 under the -- under the Assessing Risks
18 and Threats section.
19 Q. Now, does it -- does the ICAT training teach
20 about if you're in a contained area how to create
21 distance or create -- or use barriers or -- or
22 use time in your favor?
23 A. It talks about why you would attempt to do
24 those things, yes.
25 Q. And why would you?

1 A. Because any type of a barrier or any type of
2 thing that you can put between you and someone
3 else does necessarily -- it -- it can create
4 additional time, even if that's just a couple of
5 seconds.
6 But there are also many situations, even
7 scenarios that we run with the ICAT people, where
8 we have to train our individuals if there are
9 barriers to try to use them, and if there are not
10 barriers how do we set -- how do we se tup
11 something like that, so -- and -- and barriers
12 are -- again, they're just that, they're not --
13 there's a distinct -- a barrier could be a
14 mailbox; it could be a signpost; it could be
15 something that may just give you an extra second,
16 but it's not designed to stop an action
17 basically.
18 A barrier is just something to kind of set
19 a distance maybe or something like that.
20 Q. It could create time to allow --
21 A. Correct. Yep.
22 Q. And what -- how does repositioning come
23 into play when you're in some kind of confined
24 area?
25 A. So if there's stabilization -- so oftentimes

1 we may have a subject in crisis who has been
2 stabilized, and now maybe we want to move them
3 out of an area where everybody's staring at them
4 and watching them, so we may move that
5 containment to somewhere else where they might
6 feel a little more relaxed or something along
7 those lines.
8 But you have to -- again, it's -- it's --
9 the keyword is "stabilization."
10 It has to be a stable environment before
11 we can start moving perimeters, unless the area
12 that we're in, or the place that you may be
13 located, when this is all occurring allows for
14 some movable perimeter.
15 So I used the example before if I'm in a
16 parking lot at Gillette stadium, and there's
17 absolutely nobody around, and we can form some
18 sort of containment bubble around that person,
19 and that bubble can move, we might be able to do
20 that.
21 But if we're in Gillette stadium in the
22 parking lot and people are coming in to park
23 their cars, we may not be able to move.
24 So there's a lot of factors that come into
25 play when we're talking about -- remember, it's

1 the three entities of sanctity of human life that
2 we're talking about -- it's the general public,
3 us, and the subject.
4 And so when we're in -- when we're trying
5 to perimeter things out, we're trying to create a
6 safe environment for everyone to operate.
7 Q. What about officer repositioning, how does
8 that come into play?
9 A. (No audible response.)
10 Q. If an officer is in the situation faced with
11 a suspect that they feel they're threatened,
12 being threatened by, what about officer
13 repositioning, how does that come into play?
14 A. If it's possible. If it's possible.
15 Q. And that would include moving out of the way,
16 backing up --
17 A. Well, moving out of the way I wouldn't say
18 because, if you're trying to create a perimeter,
19 you may not have the ability to move out of the
20 way.
21 Q. What do you mean when you say "create a
22 perimeter," it's one officer? I mean --
23 A. You just --
24 Q. I'm talking about an officer maybe --
25 A. Are we talking about a single officer --

1 Q. Yes.
2 A. -- or a perimeter?
3 Q. No, I am talking about --
4 A. No.
5 Q. -- I wasn't talking about perimeter at all,
6 but I appreciate the information.
7 A. Okay.
8 Q. I'm talking about repositioning of an officer
9 who may feel threatened.
10 A. I'm sorry, I thought you were talking about
11 repositioning a perimeter.
12 Q. No.
13 A. I apologize, okay.
14 Q. I was talking about repositioning an
15 officer -- and I should have made that clear?
16 THE COURT: Attorney Kazarosian, I'm
17 sorry.
18 MS. KAZAROSIAN: Um-hum.
19 THE COURT: And I -- can you -- how much
20 farther do you -- how much more do you have with
21 this witness?
22 MS. KAZAROSIAN: I don't think much more.
23 THE COURT: All right. Can we move on to
24 another -- because --
25 MS. KAZAROSIAN: Could I get this

1 question asked -- answered?
2 THE COURT: No, let's move on.
3 I didn't like the question, so move on.
4 MS. KAZAROSIAN: I have no further
5 questions, your Honor.
6 THE COURT: All right. Thank you,
7 Officer.
8 THE WITNESS: Okay. Thank you, your
9 Honor.
10 (Witness excused.)
11 THE COURT: And before you call your next
12 witness, I just want to put something on the
13 record because I think during one of the Zoom
14 hearings I think I did indicate, you know, I
15 would allow other attorneys to -- to ask
16 questions that would be beneficial to my role.
17 And I just want to reiterate what the
18 role of the judge who's conducting the inquest is
19 and it's -- I have to make -- make a finding
20 whether any crime -- whether it be intentional or
21 a crime that involves reckless and wanton
22 conduct, a criminal negligence standard has
23 occurred, as a result of the facts as I find
24 them.
25 One of the things I'm not going to be

1 involved in, and I think everybody knows what I'm
2 getting at, is civil liability.
3 That is not the purview of this inquest.
4 And I am generous with all counsels, I
5 think -- people may disagree with me -- some of
6 which is because I want to hear it; I think it
7 might be relevant in issuing my final report,
8 but, going forward, I think because I'm
9 looking -- just looking at who the witnesses
10 will be, they're not the, quote, percipient
11 people to the incident that took place on January
12 4th at 59 Chestnut Street.
13 I don't want this to turn into a --
14 something that it's not, and I'll just leave
15 that.
16 So keep that in mind because I think
17 things are going to be a little tighter going
18 forward, all right.
19 MS. KAZAROSIAN: Your Honor, could I just
20 ask --
21 THE COURT: Sure.
22 MS. KAZAROSIAN: -- we have another
23 expert coming in DiChiara --
24 THE COURT: Yeah.
25 MS. KAZAROSIAN: -- not a percipient

1 witness.

2 THE COURT: Yeah.

3 MS. KAZAROSIAN: We've had at least ten

4 nonpercipient witnesses --

5 THE COURT: Yeah.

6 MS. KAZAROSIAN: -- that I have been

7 limiting my question on.

8 THE COURT: Yeah.

9 MS. KAZAROSIAN: They've talked about

10 training --

11 THE COURT: Yeah.

12 MS. KAZAROSIAN: -- and I have not been

13 allowed to ask --

14 THE COURT: Yeah.

15 MS. KAZAROSIAN: It's nothing to do with

16 civil liability.

17 THE COURT: No.

18 MS. KAZAROSIAN: So I am concerned about

19 my ability to represent my client.

20 THE COURT: I'm going to be very specific

21 then.

22 Training or no training, a person

23 lost their life in the backyard of 59 Chestnut

24 Street.

25 The facts on how that person came to his

1 death is the only thing.
2 Whether there's training, not training,
3 violate the training, outside ICAT, to me, it's
4 not really relevant to what happened that day.
5 It's what the act of what the decedent
6 was doing, what the officers were doing, and what
7 the person who fired those rounds was doing,
8 that's it.
9 MS. KAZAROSIAN: Then I think we're
10 doing.
11 I mean, I appreciate that, your Honor.
12 THE COURT: No. No.
13 MS. KAZAROSIAN: We've had many, many
14 witnesses that don't talk about that.
15 THE COURT: No. No.
16 But it all kind of goes into a picture
17 for me because I do have to make these specific
18 findings.
19 And I didn't -- I think we have DiChiara
20 on the use of force. I think you can ask some
21 questions on that.
22 The State Crime Lab, I think that's
23 pretty straightforward for both Lieutenant
24 Bonasoro and Stephanie Devlin.
25 And Detective Miceli, who's involved in

1 the investigation.
2 But I -- I just don't want this to turn
3 into something that it's not, and that's one of
4 the issues with inquests.
5 And I'm just going to make this general
6 statement that it really is turned into something
7 that I don't think the statute wanted it to be.
8 But I think the person who's the
9 so-called target, I don't want to use that term,
10 but target, he has a right to counsel, and that
11 counsel may want to put in certain evidence.
12 The family of the decedent certainly has
13 a right to be here and certainly has a right to
14 have representation, legal representation.
15 And if there's evidence that that person
16 wants to put forth as it relates to those
17 specific criteria for this inquest, I want to
18 hear it, so I just want to lay that all out.
19 And, like I said yesterday, the district
20 attorney has a -- a strange role in this because
21 they're not the prosecutor and they actually --
22 MS. KAZAROSIAN: And they're not the
23 advocate.
24 THE COURT: They're not the advocate.
25 They are actually my arm.

1 Under the statute, I rely on them and I
2 can give them direction as to where I want this
3 to go or what evidence or what evidence I don't
4 want to hear.
5 So that -- I don't want to make this
6 individual towards any of the attorneys because
7 you all have your roles and I appreciate
8 everything you guys are doing here because you
9 are representing your -- you're representing
10 Mr. McMahon.
11 You're representing the family of Faisal.
12 The prosecutor actually isn't doing
13 anything except getting me the evidence, so...
14 MS. KAZAROSIAN: Well, could I just -- I
15 do appreciate what you said; and I actually took
16 quite to heart what you said yesterday when you
17 said we're all in the same position, but I have
18 to tell you I don't feel that I'm in the same
19 position.
20 THE COURT: No.
21 MS. KAZAROSIAN: And I feel like
22 my -- and I appreciate you are the one that runs
23 this. And I know that, I mean as any judge
24 would, but in an inquest, it's even a more
25 different situation.

1 THE COURT: I said that yesterday, too.
2 I'm in a very --
3 MS. KAZAROSIAN: You are.
4 THE COURT: -- different situation than
5 I'd --
6 MS. KAZAROSIAN: Yes.
7 THE COURT: -- rather be in.
8 MS. KAZAROSIAN: I am too.
9 THE COURT: We all are.
10 MS. KAZAROSIAN: I don't want to do this.
11 But I do want to say, your Honor --
12 THE COURT: Yeah.
13 MS. KAZAROSIAN: -- this is the third
14 day.
15 THE COURT: Yeah.
16 MS. KAZAROSIAN: We've had a lot of
17 witnesses --
18 THE COURT: Yeah.
19 MS. KAZAROSIAN: -- that have had nothing
20 to do with the incident, nothing to the do with
21 the incident.
22 THE COURT: Except they had something to
23 do with how I'm going to look at it.
24 MS. KAZAROSIAN: I understand.
25 And I would like to have the opportunity

1 to give you something to look at that you may not
2 have thought of.
3 I honestly have to tell you I feel as if
4 I'm dealing with two people advocating, and I'm
5 here trying to get my questions in and having to
6 understand what's happening.
7 This isn't civil liability. If there
8 is --
9 THE COURT: I've seen Attorney Spiros
10 advocate, and she's not advocating during these
11 last three days.
12 MS. KAZAROSIAN: I'm not saying she --
13 THE COURT: I've seen Attorney Evans
14 advocate; she's not advocating.
15 I've seen Attorney Anderson advocate and
16 I've held him back a little back too; not as much
17 as you, I'll give you that because...
18 MS. KAZAROSIAN: I just want to make sure
19 it's understood on the record this is the way I
20 feel.
21 I understand everyone has --
22 THE COURT: I know.
23 MS. KAZAROSIAN: I mean no disrespect at
24 all.
25 THE COURT: No. No. And I don't

1 think --
2 MS. KAZAROSIAN: And I have to keep
3 trying.
4 THE COURT: Counsel, I -- I've been ADA
5 Spiros's and Evans's shoes.
6 I've been in Attorney Anderson's shoes.
7 Believe it or not, I've been in your
8 shoes, not at an inquest.
9 MS. KAZAROSIAN: These shoes?
10 THE COURT: Well, not those particular
11 shoes.
12 But -- but I know exactly what the role
13 is. I appreciate the -- the difficulty this is.
14 This is -- you know, except for motor
15 vehicle homicide this is the most serious case
16 I've had as a district court judge.
17 MS. KAZAROSIAN: And death has occurred,
18 yeah.
19 THE COURT: And I -- my heart goes out to
20 the family. My heart goes out to everybody
21 involved in this situation because it's a -- it's
22 tragic.
23 Tragedy, though, I'm left with -- I'll
24 make the decision -- as I said before, whatever I
25 do, whatever my report says, because I make no

1 legal conclusions or make no legal
2 recommendations, always rests with the statutory
3 authority by the district attorney.
4 This is just a vehicle to get all the
5 relevant information out as it relates to the
6 crime, whether it's intentional or wanton and
7 reckless. That's all I'm saying. That's what I
8 want the focus to be.
9 If you want to ask a question go ahead,
10 if you -- okay. I might --
11 MS. KAZAROSIAN: It's too late now.
12 THE COURT: I might stop you.
13 MS. KAZAROSIAN: I know. I'm sure you
14 will.
15 THE COURT: All right.
16 MS. KAZAROSIAN: All right. I will
17 keep -- I understand, and I mean it with no
18 disrespect.
19 Thank you, your Honor.
20 THE COURT: No, I understand.
21 MS. EVANS: May we have a five-minute
22 bathroom break?
23 THE COURT: Yes, we may.
24 MS. EVANS: Thank you.
25 THE COURT OFFICER: Court.

1 All rise, please.
2 You may be seated.
3 (At 11:11 a.m. court recesses.)
4 (At 11:22 a.m. court resumes.)
5 THE COURT OFFICER: Court. All rise,
6 please.
7 Court is now back in session.
8 You may be seated.
9 THE COURT: Okay. Attorney Spiros.
10 MS. SPIROS: Michael Bonasoro.
11 THE COURT OFFICER: Bonasoro.
12 MS. SPIROS: Thank you.
13 THE COURT OFFICER: You're welcome.
14 THE CLERK: If you can raise your right
15 hand.
16 Do you swear to tell the truth, the whole
17 truth, and nothing but the truth under the pains
18 and penalties of perjury?
19 MR. BONASORO: I do.
20 MICHAEL BONASORO, SWORN
21 THE CLERK: Thank you.
22 THE COURT: Good morning, Lieutenant.
23 THE WITNESS: Good morning, your Honor.
24 THE COURT: Lieutenant, I'm sure you're
25 aware there's probably -- there's a sequestration

1 order; but, unlike a regular trial because of the
2 nature of these proceedings, it's a closed
3 hearing and it's got to remain closed for several
4 days, if not several weeks.
5 So I'm just going to ask you not to
6 discuss your testimony here today with anybody
7 until this matter becomes public, okay?
8 THE WITNESS: Understood.
9 THE COURT: Okay. Thank you, Lieutenant.
10 Okay. Attorney Spiros.
11 MS. SPIROS: Thank you.
12 EXAMINATION
13 BY MS. SPIROS:
14 Q. Good morning, sir.
15 A. Good morning.
16 Q. Could you please introduce yourself to the
17 Court, spelling both your first and last name to
18 the record?
19 A. My name is Michael Bonasoro.
20 First is M-I-C-H-A-E-L. Last is
21 B-O-N-A-S-O-R-O.
22 Q. And how are you employed?
23 A. I work for the Mass. State Police, currently
24 assigned to the firearms identification section.
25 Q. What's your rank?

1 A. Lieutenant.

2 Q. And are you supervisor for that unit?

3 A. I am supervisor/training officer.

4 Q. Could you describe the -- any other roles you

5 might have had in law enforcement?

6 A. Law enforcement? I worked for the sheriff's

7 department previously.

8 Prior to that I worked for the U.S. Army

9 for eight years.

10 Q. And in terms of the current role that you

11 have, what is it that your unit does for the

12 State Police?

13 A. So several things that we do.

14 We respond to crime scenes, recover the

15 evidence, preserve the evidence, transport it

16 back, assign it case numbers. We track it,

17 everything gets an item number, log it into

18 what's called the LIMS database.

19 We do (indiscernible), comparisons,

20 test-fires, destroy weapons, attend autopsies.

21 Q. Have you had some specialized training over

22 the years to perform the duties that you

23 currently have?

24 A. I have.

25 So when you get into the -- the unit, you

1 start off with a two-year apprenticeship program.
2 You work with other senior ballisticians.
3 You attend armorer courses.
4 You work hand-in-hand with other
5 ballisticians, do microscope work, seeing how
6 firearms actually put together.
7 You're do factory tours, armorer courses,
8 different types of trainings you consistently do
9 each year to better your skills.
10 Q. And so currently, as the supervisor for this
11 unit, how many people do you supervise?
12 A. Currently 17.
13 Q. Seventeen.
14 I want to draw your attention, sir, now to
15 January 4th of 2023.
16 Were you asked to respond to a particular
17 location on that date?
18 A. I was.
19 Q. And was that 59 Chestnut in Cambridge?
20 A. Yes.
21 Q. And who do you recall -- did you respond by
22 yourself or with others?
23 A. Responded with Trooper Blake Verdon
24 (phonetic) as well as Trooper Jason Boselay
25 (phonetic).

1 Q. And what -- when you got there what were you
2 tasked with doing?
3 A. We had to process the scene, so diagram the
4 scene, work with Crime Scene Services in
5 conjunction; look in to see what type of evidence
6 related to ballistic could be recovered and
7 documented.
8 Once Crime Scene Services was done
9 processing, we recover the evidence, transport it
10 back to the lab and after that I did a markup
11 comparison on the evidence.
12 Q. And, specific to this scene, you just
13 mentioned that you did some diagraming; is that
14 correct?
15 A. I did.
16 Q. I'm going to just hold this up and see if you
17 can tell.
18 Is this your diagram of the scene?
19 A. Yes.
20 Q. Did it focus on the particular evidence that
21 you were able to locate as it regards to
22 ballistic evidence?
23 A. Yes.
24 It focused on the spent discharge casings.
25 Q. Thank you.

1 MS. SPIROS: I'd offer this as the next
2 exhibit.
3 THE COURT: I think we're at 41?
4 THE CLERK: Forty-one.
5 THE COURT: Forty-one.
6 (Exhibit No. 41, Diagram, was received
7 into evidence.)
8 MS. SPIROS: Your Honor, may I have
9 permission to publish the diagram?
10 THE COURT: You may.
11 BY MS. SPIROS:
12 Q. Sir, you can see the diagram?
13 A. I can see it, yeah. It's a little far away.
14 Q. Okay. But, just generally speaking, looking
15 at top of the diagram here, there appear to be
16 some numbers and some boxes here.
17 And this would be, again, at the top of
18 the diagram.
19 What are those indicating there?
20 A. The discharged cartridge casings.
21 Q. The discharged cartridge casings?
22 A. Yes.
23 Q. Okay. And then over here we have another one
24 and then two over here, what is that indicating?
25 A. Those are the nonlethal rounds that were

1 fired.
2 Q. Okay. And so I want to ask you, if I can,
3 sir, when you went about diagraming the scene and
4 responding there what is it that you observed
5 related to the ballistics evidence that was
6 located there?
7 A. All the discharge casings were all in one
8 particular grouping showing that they're all
9 fired by this -- fired at the same location.
10 Q. And how many were located in that particular
11 area in terms of discharge casings?
12 A. There was six discharged cases.
13 Q. When you use the term "discharge casings,"
14 what do you mean?
15 A. So once a live cartridge is fired, what's
16 left over is the discharge casings consistent of
17 the case -- the casing itself and the primer.
18 So what is expelled is the powder and the
19 projectile.
20 Q. And the -- the live cartridge, as you
21 referred to, is that commonly known as a bullet
22 or how would -- could you describe what the live
23 cartridge contains?
24 A. It could be known as a bullet or ammunition,
25 so it has all the components -- it has the

1 cartridge casings, which holds everything
2 together, the powder, the primer, and the
3 projectile all intact.
4 Q. And what type of cartridge casings were
5 located in that kind of clustered area there?
6 A. 9mm.
7 Q. Okay. And the 9mm relates to the type of
8 firearm that discharged those cartridges; is that
9 correct?
10 A. Correct.
11 Q. And at the scene were you also able to
12 retrieve or recover a particular firearm?
13 A. I was.
14 Q. What type of firearm was that?
15 A. It's a 9mm Sig Sauer, Model P320
16 semiautomatic pistol.
17 Q. Okay. I'm going to just display what's been
18 marked as 34.
19 Sir, do you recognize this?
20 A. I do.
21 Q. Is this the firearm that you recovered from
22 59 Chestnut Street?
23 A. Yes.
24 Q. And, if you could tell us, sir, were you --
25 did you provide myself at my request a diagram of

1 how of a 9mm in this particular Sig Sauer gun and
2 the components of the parts of it?
3 A. I did.
4 Q. I'm just going to show you the diagram, is
5 this the diagram you provided to me?
6 A. Yes.
7 Q. Okay.
8 MS. SPIROS: I'd offer this as the next
9 exhibit.
10 THE COURT: Okay. That's 42.
11 (Exhibit No. 42, Diagram, was received
12 into evidence.)
13 BY MS. SPIROS:
14 Q. Before we get into your analysis of the
15 firearm itself I'm going to ask you -- if I can,
16 with the Court's permission to publish this.
17 THE COURT: Sure.
18 Q. And then, I know it's a little bit difficult
19 to see, but could you walk us through, if you
20 can, sir -- if you could walk us through the
21 parts of the firearm as depicted on this diagram?
22 A. I can't see the numbers. Want me to walk up
23 there.
24 Q. If the Court will allow, sure.
25 THE COURT: Yeah. Sure.

1 Yeah, you can, sure.
2 A. Right here marked as No. 2 is the slide
3 slip. It holds the firing pin and everything, so
4 that's what goes back and forth.
5 No. 3 is -- it's called the barrel. The
6 barrel sits inside the slide. That's where the
7 live cartridge is held.
8 Obviously, the trigger here.
9 We have the grip, which houses the
10 magazine.
11 The sights. This is the -- the takedown
12 lever, the different components.
13 So essentially you would load the
14 magazine, rack the slide -- goes back; goes
15 forward, pushes the live cartridge, strips it
16 from the magazine, pushes it into the chamber,
17 which is right before where the barrel starts,
18 now you have what's called a locked breech, and
19 now you can fire the -- the weapon.
20 Q. Thank you. You can resume the stand.
21 You mentioned the -- the part of the gun,
22 No. 10, the trigger area.
23 How does this gun -- how does the trigger
24 work on this gun?
25 A. So you depress the trigger, and it has a

1 Stryker fire system, which cocks the -- the
2 firing pin and sends it forward at the same
3 time.
4 Q. And, in terms of the amount of pressure
5 that's required to pull the trigger on this gun,
6 are you able to -- to give any information about
7 that?
8 A. So it's approximately 5 to 7 pounds to fire
9 each live round.
10 Q. And in this type of firearm for each bullet
11 to come out, is that a separate trigger pull?
12 A. It is.
13 Q. Okay. The magazine that you talked about,
14 are you familiar with, sir, how many live
15 cartridges are in a fully loaded magazine of this
16 nature?
17 A. It depends on the magazine. So some
18 magazines can hold upwards of 30; and,
19 particularly with this magazine, I believe it
20 holded -- it held 17 live cartridges.
21 Q. And, sir, I want to show you a photograph and
22 ask you if you recognize this to be the magazine
23 related to this particular firearm.
24 A. Yes.
25 Q. And the 17 is noted here; is that correct?

1 A. Correct.
2 MS. SPIROS: I'd offer this as the next
3 exhibit.
4 THE COURT: All right. That will be
5 Exhibit 43.
6 (Exhibit No. 43, Photograph, was received
7 into evidence.)
8 THE CLERK: Forty-three?
9 THE COURT: Forty-three, yeah, sorry.
10 MS. SPIROS: With the Court's permission,
11 may I publish 43?
12 BY MS. SPIROS:
13 Q. Sir, part of your goal in this case, I
14 believe you mentioned you took the firearm back
15 to the lab.
16 Before you took it to the lab did you do
17 anything with it at the scene -- at the scene?
18 A. So I inventoried what was being recovered.
19 So I made the firearm safe and empty; noted there
20 was one live cartridge in the chamber. There was
21 11 cartridges in the magazine.
22 I downloaded them so Crime Scene Services
23 could photo them on scene.
24 Q. And so were you able to tell how many -- how
25 many live cartridges were left in total in -- in

1 the magazine and the gun?
2 A. So there was 11 in the magazine; one in the
3 chamber.
4 Q. And so in terms of after you made it safe and
5 you -- you unloaded it, what did you do with it?
6 A. Secured into coin envelopes the loose rounds,
7 put it in a firearms box, described the firearms
8 box with the LIMS number, transported it back to
9 the lab for inventory into the LIMS system.
10 Q. And how about the less-lethal round that you
11 talked about, did you do anything in regards to
12 that on the scene?
13 A. I did not. It was recovered by Cambridge PD.
14 Q. Thank you.
15 Once you got back to the lab, could you
16 briefly describe the analysis you did in this
17 case?
18 A. So I got back to the lab. I document
19 everything; assigned everything an item number.
20 The firearm was assigned at 1-1.
21 The magazine 1-2.
22 The 11 live cartridges were assigned 1-3.
23 And then the live cartridge from the
24 chamber 1-4.
25 And then 1-5 through 1-10 were assigned

1 based on the 9mm discharge casings that were
2 recovered.
3 Q. And the live cartridges that were located by
4 you inside the firearm and the ones -- the
5 discharge cartridges on the ground, were those
6 the same types of ammunition?
7 A. Yes.
8 Q. Okay. Did you later receive some additional
9 spent projectile material?
10 A. I did.
11 Q. From whom?
12 A. The Medical Examiner's Office.
13 Q. And that was two?
14 A. Two -- two spent projectiles, yes.
15 Q. In terms of your analysis of the firearms --
16 the firearm itself back at the lab, what is it
17 that you did in regards to determining whether
18 that was a working firearm or -- or your analysis
19 in general on that?
20 A. So I test-fired with the live cartridges that
21 were submitted; loaded them into the magazine,
22 test-fired it.
23 Used those test-fires to compare against
24 the discharge casings and projectiles that were
25 recovered.

1 Q. And what did you conclude in terms of the
2 comparison that you just mentioned?
3 A. So to a reasonable degree of ballistic
4 certainty, the discharge casings, as well as the
5 projectiles, were fired from that 9mm Sig Sauer
6 P320 pistol.
7 Q. And the Sig Sauer is that a model that is
8 popular with law enforcement?
9 A. It is.
10 MS. SPIROS: If I could have just one
11 moment, your Honor.
12 THE COURT: Sure.
13 MS. SPIROS: I have nothing further for
14 this witness.
15 THE COURT: All right. Attorney
16 Anderson, I just want to ask the Lieutenant a
17 question.
18 So there were 11 live rounds left in the
19 magazine?
20 THE WITNESS: Correct.
21 THE COURT: One in the chamber of the
22 firearm?
23 THE WITNESS: Correct.
24 THE COURT: And six spent shell casings
25 recovered at the scene?

1 THE WITNESS: Yes.
2 THE COURT: So that's 18, so one would
3 have been in the chamber and then the 17 in the
4 magazine; is that --
5 THE WITNESS: Yes, your Honor.
6 THE COURT: All right.
7 THE WITNESS: So everybody tops off, so
8 the magazines holds seven.
9 THE COURT: Okay. All right. Thank you.
10 Attorney Anderson.
11 EXAMINATION
12 BY MR. ANDERSON:
13 Q. Just briefly, Lieutenant Bonasoro.
14 My name is Ken Anderson. I represent
15 Officer Liam McMahon in this matter.
16 When you test-fired this weapon once --
17 once it discharges the bullet, the shell casing
18 is ejected, correct?
19 A. Correct.
20 Q. And did it eject to the -- to the left, to
21 the right, do you recall which way the Sig Sauer
22 ejected those shell casings?
23 A. The ejection port's to the right.
24 Q. Okay. And if someone were to fire five shots
25 standing in the same location, all five shell

1 casings would come back to the right; is that
2 correct?
3 A. That's where they're initially were going to
4 be directed towards, but if they hit something
5 then they'll go somewhere else.
6 Q. Okay. And they're not all going to fall in
7 exactly the same spot, correct?
8 A. Correct.
9 Q. There would be some type of radius where they
10 would fall?
11 A. Yes.
12 Q. And by the time you got there and diagramed
13 them, you had no idea how many people had come
14 through that area in terms of trying to take a
15 machete away from an individual, render medical
16 treatments, ambulance personnel who would come
17 through the area and may have kicked those shell
18 casings?
19 A. Correct.
20 Q. So the location that you found them in may
21 give a general area --
22 A. Yes.
23 Q. -- it may help us determine where they were
24 shot from generally, but you can't specifically
25 state where that person was standing?

1 A. Correct.
2 Q. And you can't state if the person was moving
3 as they were discharging that weapon?
4 A. Correct.
5 Q. Okay.
6 MR. ANDERSON: I have nothing else.
7 THE COURT: Okay. Attorney Kazarosian.
8 MS. KAZAROSIAN: Thank you, your Honor.
9 EXAMINATION
10 BY MS. KAZAROSIAN:
11 Q. Lieutenant Bonasoro, I'm Marsha Kazarosian.
12 Good morning.
13 A. Good morning.
14 Q. I represent the family of Mr. Faisal.
15 Actually just one or two questions.
16 When -- when this Sig Sauer -- when --
17 when it's been shot once, does it automatically
18 then reload and it's ready for the next round to
19 be shot?
20 A. It does.
21 Q. Okay. That's really my only question.
22 Thank you.
23 THE COURT: All right.
24 Attorney Spiros, could you put Exhibit 41
25 up on the screen.

1 MS. SPIROS: Forty-one?
2 THE COURT: Forty-one, yeah.
3 MS. SPIROS: Yes, sir.
4 THE COURT: Thanks.
5 And, Lieutenant, on the upper part of
6 Exhibit 41 -- if you need to go -- go closer
7 please do -- those are the numbers that
8 correspond with the areas where you recovered the
9 six spent shell casings?
10 THE WITNESS: Yeah.
11 So those are the placard numbers assigned
12 by Crime Scene Services.
13 THE COURT: Okay. So those are the
14 placard numbers that were already there?
15 THE WITNESS: Yes.
16 THE COURT: Okay. And -- and what -- as
17 best you can based on your memory where those
18 were found, how far behind where they were found
19 was the end of the yard, if you could remember?
20 THE WITNESS: End of the yard?
21 THE COURT: Yeah.
22 THE WITNESS: So the yard went probably
23 another 20 feet back --
24 THE COURT: Okay.
25 THE WITNESS: -- approximately.

1 THE COURT: Okay. All right. Thank you.

2 MR. ANDERSON: Could I just ask a

3 follow-up question?

4 THE COURT: Sure.

5 EXAMINATION

6 BY MR. ANDERSON:

7 Q. That 20 feet, that's just your guess from

8 today, correct?

9 A. Yes.

10 Q. The last time you were in that yard was back

11 on January 4th?

12 A. Correct.

13 Q. You didn't take any measurements back then?

14 A. No.

15 Q. Have you reviewed any photographs of the yard

16 since then?

17 A. No.

18 Q. Okay.

19 MR. ANDERSON: I have nothing else.

20 THE COURT: Anyone else?

21 MS. SPIROS: I have nothing.

22 THE COURT: All right. Thank you,

23 Lieutenant.

24 THE WITNESS: Thank you.

25 (Witness excused.)

1 MS. KAZAROSIAN: Your Honor, before the
2 next witness is called, could I just make a -- I
3 would like -- I know it's going to be Ernesto
4 Colon.
5 I'm just wondering what the relevance of
6 his testimony is.
7 MS. SPIROS: He's the Army recruiter.
8 He interacted with Mr. Faisal up until
9 the -- a few times up until the night before when
10 he received a text from him.
11 He is the one who understood Mr. Faisal
12 to be exhibiting paranoid behavior and wanting to
13 join the Army.
14 THE COURT: And we have his statement as
15 well as those texts, right?
16 MS. EVANS: Yes.
17 MS. SPIROS: Yes.
18 He did appear today.
19 THE COURT: All right.
20 MS. SPIROS: I'm not trying to be
21 difficult --
22 THE COURT: No. No. No.
23 MS. SPIROS: -- but counsel has had the
24 witness list for weeks.
25 THE COURT: Well, okay.

1 MS. KAZAROSIAN: Well, I also just got a
2 specific direction on what -- where this is
3 going.
4 THE COURT: Yeah, no --
5 MS. KAZAROSIAN: And what the judge wants
6 to hear.
7 THE COURT: But -- but, as I said, that
8 is -- he's a relevant participant in what -- what
9 occurred that day, so Attorney Spiros.
10 MS. SPIROS: I'll be as brief as
11 possible.
12 THE COURT: No. No. No, I'm not rushing
13 anybody either.
14 MS. SPIROS: Ernesto Colon.
15 THE CLERK: Raise your right hand.
16 Do you swear to tell the Court the truth
17 the, the whole truth, and nothing but the truth
18 under the pains and penalties of perjury?
19 MR. COLON: Yes.
20 ERNESTO COLON, SWORN
21 THE CLERK: Thank you.
22 You can have a seat.
23 THE COURT: All right. Good morning,
24 Mr. Colon.
25 THE WITNESS: Good morning.

1 THE COURT: Mr. Colon, I just -- I'm
2 going to instruct you like I'm instructing all
3 the witnesses who have appeared here today and
4 the previous days.
5 There's a sequestration order, which
6 means you're not to discuss your testimony with
7 anybody, and that sequestration order is going to
8 continue until this matter becomes public at a
9 future date.
10 So I'm just going to ask you not to
11 discuss what you testify here today with anybody
12 until this matter becomes public because it's a
13 closed hearing. Okay?
14 THE WITNESS: Understood.
15 THE COURT: Okay. Thank you, Mr. Colon.
16 Attorney Ms. Spiros.
17 MS. SPIROS: Thank you.
18 EXAMINATION
19 BY MS. SPIROS:
20 Q. Good morning, sir.
21 A. Good morning.
22 Q. Could you please tell the Judge what your
23 name is and spell your first and last name for
24 the record?
25 A. My name is Ernesto Colon Rivera.

1 E-R-N-E-S-T-O, C-O-L-O-N, R-I-V-E-R-A.
2 Q. How are you employed, sir?
3 A. U.S. Army recruiter.
4 Q. How long have you been with the Army?
5 A. Sixteen years.
6 Q. What do you do as a recruiter?
7 A. I talk to civilians about the different
8 options that the military has for active duty and
9 reserves.
10 Q. And where are you specifically located out
11 of?
12 A. I'm located in Malden recruiting station.
13 Q. Okay. What's the address for that?
14 A. 325 Main Street, Malden, MA.
15 Q. I want to draw your attention to December of
16 2022 and specifically December 12th of 2022.
17 Did you happen to become introduced to a
18 person named Sayed Faisal?
19 A. Yes.
20 Q. And how did you become introduced to
21 Mr. Faisal?
22 A. I had an applicant named Penday (phonetic).
23 He introduced me to him as a referral.
24 Q. And it was an applicant that you were already
25 working with?

1 A. Um-hum.
2 Q. And was -- did you come to learn the nature
3 of the relationship between Mr. Penday and
4 Mr. Faisal?
5 A. Apparently they was like best friends.
6 Q. And so did you meet Mr. Faisal in person on
7 that date?
8 A. On the 12th, yes.
9 Q. Okay. Can you tell the Court about your
10 interaction with Mr. Faisal on that date?
11 A. So part of the interaction is asking the
12 applicant, or prospect, different questions, what
13 high school he went to, his background, and stuff
14 like that.
15 As I sat down in front of the computer so
16 he could answer all his medical questions, me and
17 other recruiters were talking back and forth, and
18 then he was looking at us -- at us as if we were
19 like talking about him.
20 And then I was like, no, we're not talking
21 about you.
22 I expressed that to Penday -- Penday about
23 the situation, and he said that he had gone to
24 the airport with him one time and then he got
25 stopped.

1 So I guess that's why he was acting that
2 way.
3 Q. And, specifically, did you have an
4 understanding that Mr. Faisal was contemplating
5 joining the Army?
6 A. Yes. It was kind of suddenly, but, yes.
7 Q. Okay. What do you mean by suddenly?
8 A. Because Pen -- Penday was actually in the
9 process before, and I had already had asked him
10 if he was interested -- if he knew anybody that
11 was interested in more information about the
12 Army.
13 And at the point of him starting the
14 process he wasn't; but towards the end, because
15 Penday was about to ship on, I think, January
16 11th, and he told me about Mr. Faisal.
17 Q. And Mr. Penday actually did join the Army,
18 correct, and shipped out?
19 A. Yes. He actually -- he's about to graduate.
20 He should come back for HVAC recruiting towards
21 the end of June, I think.
22 Q. Did you have a further interaction with
23 Mr. Penday on or about December 19th of 2022?
24 A. Penday or --
25 Q. I'm sorry, Mr. Faisal.

1 A. Faisal.
2 Q. Yes.
3 Was there a phone call?
4 A. More -- more over a text. He was like
5 basically asking -- telling me to make sure the
6 president was okay.
7 Q. And did you know what he was talking about?
8 A. Not really.
9 But then I was, like, what's going on? He
10 was supposed to actually test the next day.
11 I called him my supervisor let him know,
12 Hey, I don't think -- I don't think we're going
13 to test this kid for now; that he's apparently
14 going through some issues and was going to
15 postpone an exam.
16 Q. Did you make some general observations about
17 Mr. Faisal and how he appeared to you?
18 A. He was going through a hard time, I guess,
19 because I guess his -- his parents were getting a
20 divorce.
21 I know one time I had to drop him off at a
22 location that apparently was not his house.
23 He said he didn't want to be at his house
24 at the time because of what was going on.
25 Q. Did you note that he was a very intelligent

1 young man?
2 A. Yes.
3 He actually scored a 48 on the -- on the
4 (indiscernible), which is pretty high, especially
5 for a high school student.
6 Sometimes people with bachelors degrees
7 don't get that high.
8 Q. And, sir, in terms of your last communication
9 with Mr. Faisal, was that on or about January 3rd
10 of 2023 via text message?
11 A. Yes.
12 I think I asked him, Hey, are you coming
13 in today and then he was like, no, I got a big
14 headache and that was like the last time.
15 Q. And that was some time in the afternoon?
16 A. Yes.
17 Q. And you provided a copy of the text message
18 to your -- to the police department?
19 A. Yes, they took pictures of the -- of the
20 messages.
21 MS. SPIROS: May I approach?
22 THE COURT: You may.
23 BY MS. SPIROS:
24 Q. Sir, is this a copy of the message that you
25 were just referring to?

1 A. Yes.
2 MS. SPIROS: I'd offer this as the next
3 exhibit.
4 THE COURT: All right. That will be
5 Exhibit 44.
6 (Exhibit No. 44, Text message, was
7 received into evidence.)
8 BY MS. SPIROS:
9 Q. And along that line, sir, were you --
10 sometime after January 4th were you interviewed
11 by the Cambridge Police and the State Police
12 about your interactions with Mr. Faisal?
13 A. Yes.
14 MS. SPIROS: I have nothing further for
15 this witness.
16 THE COURT: All right. Thank you.
17 Attorney Anderson.
18 MR. ANDERSON: I have no questions.
19 THE COURT: All right.
20 Attorney Kazarosian.
21 MS. KAZAROSIAN: I have no questions,
22 your Honor.
23 THE COURT: All right. Thank you.
24 THE WITNESS: All right. Thank you, your
25 Honor.

1 (Witness excused.)
2 MS. SPIROS: Could we have Chuck
3 DiChiara, please.
4 THE COURT OFFICER: DiChiara.
5 MS. SPIROS: DiChiara.
6 THE COURT: DiChiara.
7 MR. ANDERSON: DiChiara.
8 MS. SPIROS: Oh, DiChiara.
9 MS. KAZAROSIAN: Could I ask, before he
10 comes in, if he's being called as an expert, am I
11 going to be allowed to ask hypothetical questions
12 about the incident, if he's being called as an
13 expert?
14 THE COURT: I think you can ask him about
15 the -- I'm going to let you ask him about the
16 training and the use of force and what that
17 entails.
18 MS. KAZAROSIAN: But as an expert --
19 THE COURT: Just bring up --
20 MS. KAZAROSIAN: -- I'm not allowed to
21 ask him as to what his opinion may be as far as
22 this incident and how the training may have
23 related or not related to the incident or how
24 relevant?
25 THE COURT: I don't want opinions.

1 I just want what their training was and
2 how they're trained.
3 MS. KAZAROSIAN: That's it?
4 THE COURT: That's it.
5 MS. KAZAROSIAN: Just how they're
6 trained.
7 THE COURT: Just how they're trained.
8 MS. KAZAROSIAN: That's how his
9 limiting -- okay.
10 THE COURT: Yeah. I don't want them to
11 ask hypothetical opinion because that's not --
12 MS. KAZAROSIAN: All training, okay.
13 Right.
14 THE COURT: -- helpful to me.
15 But what their training is and how
16 they're trained I think is relevant to my
17 determination, okay.
18 MS. KAZAROSIAN: Then that's the
19 limitation?
20 THE COURT: Yeah.
21 MS. KAZAROSIAN: Thanks.
22 THE COURT: And that goes for the DA as
23 well.
24 MS. EVANS: Yes, your Honor. I was
25 actually intending to ask him a question about

1 him not offering opinions, so...
2 THE COURT: Okay. All right.
3 THE CLERK: Raise your right hand.
4 Do you solemnly swear to tell the truth,
5 the whole truth, and nothing but the truth under
6 the pains and penalties of perjury?
7 MR. DICHIARA: I do.
8 CHARLES DICHIARA, SWORN
9 THE CLERK: Thank you very much you can
10 have a seat.
11 THE COURT: All right. And, Attorney
12 Evans.
13 MS. EVANS: Thank you, your Honor.
14 THE COURT: Oh, sorry. Officer DiChiara,
15 good morning.
16 THE WITNESS: How are you, sir.
17 THE COURT: Good. Thank you.
18 I just want to let you know, I'm sure you
19 figured out there's a sequestration order in this
20 case.
21 And, unlike any other case, because of
22 the nature of the proceedings, it's a closed
23 hearing.
24 That sequestration order is going to
25 carry over until this matter becomes public, so

1 I'm just going to ask you not to discuss what you
2 testify here today with anybody until this matter
3 does become public at a future date. Okay?
4 THE WITNESS: Yes, sir.
5 THE COURT: All right.
6 THE WITNESS: Thank you.
7 THE COURT: Okay. Attorney Evans.
8 MS. EVANS: Thank you.
9 EXAMINATION
10 BY MS. EVANS:
11 Q. Good morning.
12 Can you please state your name and spell
13 your last name for the record?
14 A. Yes.
15 If it pleases the Court, my name is
16 Charles, middle initial, M as in Michael, last
17 name DiChiara, D-I, capital C-H-I-A-R-A.
18 Q. Where are you employed?
19 A. I'm a police officer by the City of Waltham.
20 Q. How long have you been with Waltham Police?
21 A. I've been with Waltham Police for, I believe,
22 26 years.
23 Q. And what is your role with Waltham Police?
24 A. I am a police officer currently assigned
25 to -- as a training officer assigned to the

1 training division full-time.
2 Q. How long have you been in that role of a
3 training officer?
4 A. Approximately six years.
5 Q. What specific areas do you train police on
6 in -- at Waltham?
7 A. I train police officers from everything from
8 use of force to defensive tactics, firearms
9 training, patrol procedures, motor vehicle stops,
10 field training.
11 Q. And, prior to that assignment, what did you
12 do with Waltham Police?
13 A. I worked nights in patrol.
14 Q. Can you briefly tell the Court about your
15 educational background?
16 A. I went through the North Andover school
17 system; graduated in '86.
18 Then I went to Salem State College for a
19 short amount of time, and then I became a police
20 officer.
21 I went to the Topsfield Police Academy in
22 1990, and then I completed my bachelor's degree
23 as a police officer over a course of -- it took
24 me about ten years, but I finished.
25 Q. Have you ever been with any other departments

1 other than Waltham?
2 A. Yes, ma'am.
3 Q. Which department?
4 A. I started with North Andover Police
5 Department.
6 Q. And can you -- have you received any
7 specialized training as to firearms and defensive
8 tactics and use of force?
9 A. I have.
10 Q. Can you describe what type of training you've
11 received associated with those?
12 A. I received my training at the basic police
13 academy, and about 25 years ago I became an
14 instructor in firearms and defensive tactics.
15 So I originally went to a 15-day or
16 two-week defensive tactics class, but over the
17 last 25 years it's been thousands of hours in
18 specialized training in the fields of firearms
19 and defensive tactics and use of force.
20 Q. Do you have any particular certificates
21 associated with those?
22 A. I do.
23 Q. What are they?
24 A. I've been trained certified for the State of
25 Massachusetts as a State-certified instructor.

1 I've also been certified through -- as a
2 federal use of force instructor through the
3 federal law enforcement training center referred
4 to as FLETC.
5 And I've been to the basic for science
6 institute 40-hour class.
7 And I've also been to their 19-week
8 Advance Force Science Class.
9 Q. In regards to your certification with the
10 State of Massachusetts, are there different
11 levels to that certification?
12 A. Yes, ma'am.
13 Q. What level are you?
14 A. I am -- so I am currently the state
15 coordinator for use of force and defensive
16 tactics, so there's basically three levels, and
17 then the state coordinator.
18 Q. And how many police officers do you estimate
19 you've trained on use of force and defensive
20 tactics in Massachusetts?
21 A. I would say well over 10,000.
22 Q. Have you trained outside of Massachusetts?
23 A. I have.
24 Q. Where?
25 A. I am also with the (indiscernible) training

1 group, so I've trained police officers in
2 probably -- probably 15 different states; and
3 I've trained internationally officers from
4 Columbia, Canada, Switzerland, and England.
5 Q. And, in addition to being a Waltham officer,
6 do you have any other special assignments that
7 you do?
8 A. I was assigned to the SWAT team for 30 years,
9 and I just retired.
10 Q. What were your duties and responsibilities
11 generally when you were on the SWAT team?
12 A. I was generally assigned to the entry team
13 and one of the Cadre instructors.
14 Q. And now you stated that you are now the state
15 coordinator; is that correct?
16 A. Yes, ma'am.
17 Q. For defensive tactics and use of force?
18 A. Yes, ma'am.
19 Q. How long have you had that role?
20 A. I believe I got that role in 2020.
21 Q. And are you an instructor at any police
22 academies as well?
23 A. Yes, ma'am.
24 Q. Which ones?
25 A. I teach at Randolph Police Academy, the

1 Lowell Police Academy, the Northern Essex
2 Community College Police Academy, and the
3 Merrimack College Police Academy.
4 And also I help out at Fitchburg State
5 University.
6 Q. And now are you on any additional committees
7 or anything as well?
8 A. Yes, ma'am.
9 Q. Which ones?
10 A. I serve on the executive committee for
11 defensive tactics and a separate one for
12 firearms.
13 Q. Are those Massachusetts or national
14 committees?
15 A. Those two are Massachusetts.
16 Q. And in preparation for being asked to testify
17 here today, you weren't provided with any
18 materials or anything to review; is that correct?
19 A. No, ma'am, not at all.
20 Q. And you're not asked to offer an opinion; is
21 that correct?
22 A. That's correct.
23 Q. Have you previously testified in courts in
24 the Commonwealth?
25 A. I have.

1 Q. Does that testimony include on -- use of
2 force or defensive tactic policies?
3 A. Yes, ma'am.
4 Q. And how is the term "use of force" defined as
5 a training instructor on the topic?
6 A. We use -- force is defined as the amount of
7 effort required by police to compel compliance
8 from an unwilling individual.
9 Q. And how would you define as a trainer "deadly
10 force"?
11 A. Deadly force we would define as physical
12 force intended to or likely to cause death or
13 serious bodily injury.
14 Q. And from your training and training others,
15 what generally dictates the amount of force an
16 officer is authorized to use in a given
17 situation?
18 A. We use -- we use a series of standards and
19 guidelines, but we use -- the standard analysis
20 is use of force must be objectively reasonable
21 based on the totality of the circumstances.
22 Q. And when you say a set of standards and
23 guidelines, are those different things?
24 A. Yes.
25 Q. What in particular are you referencing when

1 you say that?
2 A. When we say "standards," we mean standards
3 that the law has to offer, which is we look at
4 the case law in Massachusetts and the state of
5 analysis.
6 We use certain cases to talk about what
7 level of force we should be using.
8 And then guidelines, for guidelines we use
9 a -- we use a use-of-force continuum or we would
10 call it the use-of-force model.
11 And other guidelines would be the police
12 department's own individual policies and
13 procedures.
14 Q. Is there also a policy from the municipal
15 police training committee that you would utilize
16 in those trainings as well on use of force?
17 A. Yes, ma'am.
18 Q. And just for the -- and did you provide those
19 materials to the Commonwealth?
20 A. I did.
21 MS. EVANS: Your Honor, just for the
22 Court's reference, the use of force standard is
23 in Discovery Notice 3 as well as the models.
24 THE COURT: All right. Thank you.
25 BY MS. EVANS:

1 Q. So you testified that you use particular case
2 law that you rely upon in this -- in these type
3 of situations in training; is that correct?
4 A. That's correct.
5 Q. What are some of that case law from your
6 training?
7 A. So the case law we use is just -- even though
8 it's a civil case, for the state of analysis, we
9 use the *Graham vs. Connor* case just to -- because
10 a lot of the policies and industry standards
11 revolve around use of force being objectively
12 reasonable, and then we have the case law in
13 Massachusetts as to when a police officer can use
14 force.
15 Q. And now is the standard objectively
16 reasonable generally the proposition that that
17 case law stands for?
18 A. That's correct.
19 Q. And now are these standards different between
20 the federal and state in other jurisdictions in
21 your experience?
22 A. It's pretty consistent across the country
23 that that's the standard of analysis.
24 Q. And as part of the training you do, do you
25 teach police officers the law as well as the

1 standards and guidelines?
2 A. Yes, ma'am.
3 Q. Do you use specific teaching tools or
4 teaching methods?
5 A. Yes, we do.
6 Q. Would one of those methods be the
7 use-of-force model?
8 A. Yes, ma'am, correct.
9 Q. And what are the general categories of the
10 use-of-force model?
11 A. So there's generally three categories. We
12 would refer to it as a totality triangle, but the
13 totality triangle also falls in line with the
14 use-of-force model.
15 So there's generally three areas.
16 Perceived circumstances would be one.
17 The subject's actions would be the second.
18 And then reasonable officer's response
19 would be the third.
20 So it sets up like a triangle, but there's
21 really five levels.
22 MS. EVANS: Your Honor, may I approach?
23 THE COURT: You may.
24 A. Thank you.
25 Q. Do you recognize that?

1 A. Yes, ma'am, I do.
2 Q. Is that the model we were talking about?
3 A. Yes, it is.
4 Q. Does that denote the three different
5 categories that you just mentioned?
6 A. Yes, it does.
7 MS. EVANS: Your Honor, the Commonwealth
8 would offer this as the next exhibit.
9 THE COURT: That's 45.
10 (Exhibit No. 45, Categories of
11 use-of-force model, was received into evidence.)
12 MS. EVANS: Your Honor, may I publish it?
13 THE COURT: You may.
14 BY MS. EVANS:
15 Q. Can you see this?
16 A. Luckily I know it because I can't see it
17 well, but I think I'm okay.
18 THE COURT: Officer, if you need to you
19 can step down.
20 THE WITNESS: Okay. Okay. Thank you,
21 sir.
22 BY MS. EVANS:
23 Q. And with this use-of-force model, are there
24 different threat or risk perception categories as
25 well?

1 A. Yes, ma'am.
2 Q. Where are they sort of denoted on the -- how
3 are they denoted on the particular model?
4 A. In the use-of-force model, it would be that
5 middle category.
6 Q. And what are those different categories?
7 A. The five categories are strategic, tactical,
8 volatile, harmful, and lethal.
9 Q. How would you move through them in your
10 analysis; in your training?
11 A. So that is basically teaching an officer to
12 respond risk and that is -- that is everything
13 from the call for service, what information
14 you're being given, what kind of area is a
15 high-crime area, have you been there before, what
16 information you have coming in, how many officers
17 are available.
18 So that's when we start our analysis is
19 right in the very beginning.
20 Q. And now can you describe in training the
21 officers how you would utilize the risk
22 perception categories as well as the subject's
23 actions categories related to the officers
24 response?
25 A. Well, to teach an officer to -- to use the

1 appropriate amount of force, we teach them to
2 respond to -- to get that -- to make a good
3 decision, it's based on they should respond to
4 the risk; also with what the subject is doing.
5 So it's a -- the decision-making process
6 is to respond to the risk assessment as well as
7 what the subject is doing and that will help you
8 make a decision on what level of force you should
9 use.
10 Q. Is it fair to say you're trying to make a
11 balanced response?
12 A. Yes, ma'am, balance or proportionate.
13 Q. And where do you begin in determining that
14 level of response?
15 A. Right in the very beginning when you get sent
16 that call and get the information.
17 Q. What are the different responses that can
18 occur under this model?
19 A. So strategic is beginning; that's at the
20 lowest level in the blue there.
21 And strategic just refers to baseline
22 perception of your occupation-accepted risk.
23 So when you come into work it's about
24 situation awareness and being professional and
25 kind of having your head in the game.

1 So it's more or less -- strategic is more
2 or less the mental part of being a police officer
3 and coming into work.
4 Q. What is the second level?
5 A. Tactical -- tactical on the green is when we
6 have an increase in risk.
7 So now we have -- we get sent on a call or
8 you stop the motor vehicle and now there's -- now
9 the risk has increased and so then we start to
10 teach the officer to assess and think tactically
11 at that level.
12 Q. And what is the third level?
13 A. The third level in the yellow is volatile,
14 and that's when we kind of start getting into the
15 hands on.
16 And "volatile" essentially means it's got
17 the potential, like chemicals, it's got the
18 potential to erupt.
19 It could escalate in scope and intensity.
20 It could deescalate. It might stay the same.
21 But the officer is taught and trained to
22 recognize that a volatile situation has a
23 potential to erupt.
24 Q. And now, with the volatile situation, it also
25 notes to the reasonable officer's response the

1 term compliance techniques.
2 What are "compliance techniques"?
3 A. Compliance techniques are meant to gain
4 compliance, sometimes they're referred to pain
5 compliance techniques.
6 But we have a -- when you get into pain
7 compliance techniques there's a whole list of
8 techniques we could use.
9 We could use (indiscernible) joint
10 manipulations, takedowns, pepper spray, using the
11 baton as a controlling device, using the TASER at
12 the (indiscernible) level, or any kind of
13 pressure points or distraction techniques.
14 Q. Are those only hands-on techniques?
15 A. Primarily hands-on techniques, yes, ma'am.
16 Q. What is the fourth level of the model?
17 A. The fourth level is harmful on the yellow,
18 and that just means it's escalated to the point
19 where the officer should focus on self-defense or
20 defense of another because instead of having the
21 potential to go bad, now it's essentially gone
22 bad.
23 Q. And now Level 4 involves defensive
24 techniques?
25 A. Yes, ma'am.

1 Q. What are -- what is meant by "defensive
2 techniques"?
3 A. Defensive techniques are tactics; we refer to
4 as impact techniques, so either personal weapons
5 or intermediate weapons.
6 Your personal weapons would be empty hand
7 strikes, kicks, knee strikes, head butts,
8 basically hand-to-hand combatives.
9 And your intermediate techniques would be
10 either a TASER, a probe deployment, or using your
11 baton or maybe a 40mm 12-gauge less-lethal
12 munition.
13 Q. And what is the Level 5?
14 A. Level 5 is considered deadly force.
15 Q. And in regards to firearms as a trained
16 patrol officer and in the training, does it
17 include when they discharge a firearm where to
18 aim with deadly force?
19 A. Yes, ma'am.
20 Q. Can you describe sort of what that training
21 is that you receive?
22 A. So all police officers are taught only to
23 shoot to stop, not to shoot to kill, and they're
24 taught to shoot at center mass.
25 And what that refers to is center mass of

1 available target. So if we're -- if I'm standing
2 straight up it might be the chest area.
3 If I'm behind the object, it might be a
4 different area.
5 So "center mass" means center mass of the
6 available target.
7 Q. And why is it always center mass?
8 A. It's really for two reasons.
9 First of all, we're -- we're only trained
10 to use deadly force when we need to because it
11 poses significant risk to the officer or others.
12 So the first thing is you want to do is be
13 accurate to stop that deadly threat.
14 And the second thing is we also have to be
15 accurate with the rounds because we're
16 responsible for any rounds that come out of the
17 firearm, so if -- if we miss then that -- that
18 bullet could hurt somebody in the public, so
19 that's why we shoot center mass so that we can --
20 it's mostly for accuracy so that we don't create
21 a substantial risk to the public as well.
22 Q. Are police officers trained on how many shots
23 to discharge when they discharge their firearm?
24 A. No, ma'am.
25 Q. Does Massachusetts train on the use-of-force

1 continuum?
2 A. Yes, ma'am.
3 Q. What about other states in your experience?
4 A. At one time almost all states had a
5 use-of-force continuum. Some states got rid of
6 it and mostly teach case law. Massachusetts
7 teaches both now.
8 Q. And in -- you also mentioned the totality
9 triangle?
10 A. Yes.
11 Q. Is that a different model associated with the
12 use of force?
13 A. It's not a different model. It's just a
14 different way of -- it's another teaching tool,
15 it's a way of visually understanding of how we
16 use force.
17 So instead of using the five -- if I took
18 a triangle and put it in those five stairs, it
19 would still setup lying a triangle, but it's just
20 another way of analyzing the three sides of the
21 triangle, which is we have to analyze risk and
22 what the subject is doing to help us make a
23 decision on what's -- what's a level of force
24 that's reasonable.
25 Q. What are the three considerations of the

1 totality triangle?
2 A. Perceived circumstances, perceived subject's
3 actions, and then reasonable officer's response.
4 Q. Can you describe each of those categories?
5 A. So perceived circumstances is if we put -- if
6 we use it with the use-of-force model, perceived
7 circumstances is your threat perception or your
8 risk perception categories, which is what we just
9 talked about -- strategic, tactic, volatile,
10 harmful, and lethal.
11 Q. And what about perceived subject actions, how
12 is that described?
13 A. Subject's actions is the same -- subject's
14 actions is also five levels.
15 And the five levels would be compliant,
16 passive resistant, active resistant, assault of
17 bodily harm, and assault of serious bodily harm
18 or death. Five levels as well.
19 Q. And are the reasonable officer responses also
20 five levels?
21 A. Yes, ma'am, correct.
22 Q. In correlation to the use-of-force model that
23 we just talked about is it the same?
24 A. That's correct, yes.
25 Q. Do you train as a trainer for the State of

1 Massachusetts on lethal and nonlethal cover?
2 A. Yes, I do.
3 Q. What is "nonlethal cover"?
4 A. Nonlethal, or less-lethal, is -- is force
5 mitigation and is basically using less-lethal
6 options, which is less-lethal munitions.
7 So those would be considered basically
8 like a baton strike, but from a distance, so it's
9 extended baton strike is in -- essentially.
10 So we teach to use less-lethal and
11 nonlethal force if possible for force mitigation
12 under the -- under the guidelines of priority of
13 life.
14 Q. And now if you are employing less-lethal
15 cover are you also employing lethal cover?
16 A. Yes, ma'am.
17 Q. How is that?
18 A. We always have a -- we always have a
19 less-lethal -- if an officer has a less-lethal
20 tool in his hand, he's always going to be covered
21 by an officer with lethal force as well because
22 less-lethal force doesn't always work.
23 It depends on where you hit the person.
24 It depends on clothing.
25 It depends on distance.

1 It depends on the person's mindset.
2 So we always have lethal cover so that
3 there's -- there's an officer there to cover the
4 officer in case it goes bad.
5 Q. And do you train on the use of pepper spray?
6 A. Yes, ma'am.
7 Q. And, from your training, is pepper spray an
8 effective method of quelling deadly force?
9 A. Generally -- generally, no.
10 Pepper spray -- pepper spray is a
11 distraction technique.
12 It works; it's effective, but we use it in
13 much lower levels of force because, to use pepper
14 spray, you have to get close.
15 It's essentially 4 to 6 feet away. So you
16 have to be really close to use the pepper spray
17 and my training and experience with pepper spray,
18 it doesn't work right away.
19 It doesn't cause immediate conclusive
20 control. It sometimes takes 30 seconds, a
21 minute, and people can fight through it.
22 So you have to get really close to hit
23 somebody with pepper spray, so we try to avoid
24 it.
25 You can use it, but it would depend on the

1 totality of the circumstances.
2 Q. Do you also train on the use of TASERs?
3 A. Yes, ma'am.
4 Q. What level of force would the use of TASER be
5 appropriate when you're training officers?
6 A. So TASER is tricky. It actually falls under
7 two categories.
8 So the fist one is called a drive stunt.
9 It falls in at Level 3 as a pain compliance
10 technique.
11 And on that level you're strictly -- it's
12 like a -- we call it a touch stun. You're
13 basically pressing the TASER against the person.
14 The pain is localized, but it just causes
15 strictly a distraction or pain compliance.
16 That's the first level.
17 But then we also fire it with two probes
18 out of it at Level 4 which is -- which is a
19 longer distance and that's a different level of
20 force because you're -- you're firing two probes
21 that impact, and then it causes neuromuscular
22 incapacitation. It causes falls.
23 It's a high level of force. So we can
24 only use it when the person is assaultive or
25 combative to stop their behavior.

1 Q. Are you familiar with the less-lethal
2 shotgun?
3 A. Yes, ma'am.
4 Q. Do you personally train officers on that in
5 the academy and such?
6 A. We don't -- most -- in the curriculum --
7 curriculum when the officer gets back to the own
8 individual agency because there's a bunch of
9 different less-lethal options we don't handle it
10 at the academy level, but police departments
11 across the state all do their own less-lethal
12 training.
13 Q. So do you do so at Waltham in your capacity?
14 A. I do, yes, ma'am.
15 Q. And what level of force are we talking about
16 when we're talking about a less-lethal shotgun?
17 A. So we put -- less-lethal falls kind of in
18 between baton and firearm.
19 So I describe it as high Level 4 into
20 Level 5. So if a -- it's Level 4 and escalating.
21 So you're basically, because you can't
22 control a less-lethal munition as easily as you
23 can a baton strike, we have them -- they have to
24 minimum be assaultive and combative all the way
25 up to deadly force.

1 Q. And in talking about a deadly force situation
2 on the model, is it fair to say when involving
3 that situation a less-lethal option would be a
4 backup to a lethal option?
5 A. It could be a primary. It could be a backup.
6 Q. Are you familiar with the 21-foot rule?
7 A. I am.
8 Q. Is it -- what is it generally?
9 A. So it gets explained as a 21-foot rule, but
10 it's not -- it's not a rule.
11 It doesn't come from any clearly
12 established case law.
13 It, actually, was a test that they ran in
14 the academy; but it really is just an explanation
15 of time versus distance, how long it would take a
16 person to cover certain amount of distance and
17 the time it would take an officer to respond to
18 the threats, so it's more or less a test of
19 timing and human factors versus an actual 21-feet
20 clearcut.
21 Q. So is it fair to say you'd treat it more as a
22 guideline than a rule?
23 A. Yes. Absolutely.
24 Q. Is it something that you were previously
25 trained on?

1 A. Yes, I was.
2 Q. Is it something -- from your experience of
3 still being -- training police, is it something
4 that is still taught?
5 A. We -- we talk about it and teach it only
6 because it -- it was probably taught wrong years
7 ago, and we kind of try to find -- we try to do
8 it better now. So we kind of debunk it.
9 So we explained the 21-foot rule because
10 everybody's heard of it.
11 So we just explain the use of force still
12 has to be reasonable. It still has to be lawful.
13 Outside of 21 feet does not make it
14 illegal, and inside of 21 feet doesn't
15 necessarily make it -- make it reasonable.
16 So we try to just use it as -- to kind of
17 debunk it and use it as a term of basic the test
18 was a normal person could cover 1.5 seconds, 21
19 feet in the time it would take an officer to
20 respond.
21 Q. And now with this guideline and your
22 experience is, it fair to say that the totality
23 of circumstances analysis still needs to be
24 employed as well?
25 A. Yes, every time.

1 Q. Why do you say that?
2 A. Because there is no two use of force
3 situations that have the same factors.
4 Every -- every use of force has a unique
5 set of facts and circumstances right from the
6 call that you originally get.
7 So we have to always be gauging it based
8 on the totality of those particular circumstances
9 and that event.
10 MS. EVANS: One moment, your Honor.
11 BY MS. EVANS:
12 Q. If there is the presence of a weapon in a
13 particular circumstance, does that impact what
14 category of force we're talking about in terms of
15 the use-of-force model?
16 A. Yes, ma'am.
17 If a person is armed, obviously, they
18 present a much higher risk factor, high level of
19 (indiscernible) risk.
20 Q. And when you say "much higher," what do you
21 mean by that?
22 A. If -- if somebody is armed and has the
23 potential to cause an officer or the public
24 injury or serious injury, then they're at deadly
25 force level.

1 MS. EVANS: Nothing further, your Honor.
2 THE COURT: All right. Thank you.
3 Attorney Anderson.
4 EXAMINATION
5 BY MR. ANDERSON:
6 Q. Good afternoon, Officer DiChiara.
7 As you know, I'm Ken Anderson,
8 representing Office McMahon in this matter?
9 Just kind of going back through your --
10 your training career, when you first were
11 instructed and -- and became a trainer, was that
12 specifically to train in your own department?
13 A. Initially, yes, sir.
14 Q. And then is there a certain level of training
15 you get to become -- to get to train at an
16 academy?
17 A. Yes, sir.
18 Q. And did you go through that training?
19 A. I did.
20 Q. And then is there a level of training that
21 you get to train the instructors that train at
22 the academy?
23 A. Yes, sir. Correct.
24 Q. And what is the name for someone who can
25 train the instructors at the academy?

1 A. So at the academy it's a -- it's a lead
2 instructor and to train other instructors it's an
3 instructor trainer.
4 Q. Okay.
5 A. Essentially three levels.
6 Q. So we -- we heard from Officer Deane earlier,
7 who told us he was an instructor trainer.
8 So he's someone who's qualified to train
9 the instructors who then train the people at the
10 academy?
11 A. Correct.
12 Q. And then beyond being an instructor trainer,
13 did there use to be a higher category than that?
14 A. After instructor trainer is just the State
15 coordinator.
16 Q. Okay. And that's your position now?
17 A. Correct, sir.
18 Q. And for how long have you been teaching at
19 the Lowell Police Academy?
20 A. Probably -- probably 25 years.
21 Q. And if I told you Officer Liam McMahon
22 graduated from that academy in 2015, he would
23 have been a student of yours?
24 A. I believe so, yes, sir.
25 Q. And do you recall Officer McMahon at all?

1 A. I don't.
2 Q. Okay.
3 A. But I've had a lot of officers.
4 Q. And you don't socialize with him; you're not
5 friends with him?
6 A. That's correct.
7 Q. Now, you've been called by the Middlesex
8 County District Attorney's Office to testify in
9 other inquests, correct?
10 A. Correct.
11 Q. And how many inquests have you testified in?
12 A. I believe five or six now.
13 Q. And you and I, we had one in Winchester,
14 Newton, and then Burlington?
15 A. Correct.
16 Q. And you also testified in one from Lexington?
17 A. Correct, sir.
18 Q. And you testified in one in Reading as well?
19 A. Correct.
20 Q. And you testified in that trial?
21 A. Correct.
22 Q. Have you also been retained by other entities
23 to testify as an expert witness?
24 A. I have.
25 Q. And what courts have you testified to as an

1 expert witness?
2 A. I've -- I've testified mostly throughout the
3 whole state.
4 In Superior Court I've testified in, I
5 believe, Salem Superior and Worcester Superior
6 Court, and I've testified in U.S. District Court
7 in Boston as well.
8 Q. Now, you were asked some questions about use
9 of TASERs and the context that you would use a
10 TASER in.
11 Do you know if the Cambridge Police
12 Department, if the patrol officers carry TASERs?
13 A. I don't -- I believe they're one of the
14 departments that does not carry TASERs.
15 Q. Okay.
16 MR. ANDERSON: And if I could just state
17 for the record, Judge, Cambridge does not have --
18 THE COURT: Yeah.
19 MR. ANDERSON: -- TASERs.
20 BY MR. ANDERSON:
21 Q. Now, the training that you give at the
22 academy, it's -- it's based upon objective
23 reasonableness?
24 A. Yes, sir.
25 Q. And that comes from a Superior Court case of

1 *Graham vs. Connor*?
2 A. Correct.
3 Q. And if I were to read to you the Cambridge
4 Use of Force Policy, 400.1, Use of Force Roman
5 Numeral V?
6 MS. KAZAROSIAN: Can I object, your
7 Honor?
8 I thought we were sticking to just --
9 THE COURT: Yeah, I think -- I think he
10 can ask that a different way.
11 Is the Cambridge -- let me ask it the way
12 I want to have it asked.
13 MR. ANDERSON: Could I just put the
14 policy in front of him so he can...
15 THE COURT: Oh, sure. Sure. All right.
16 Is the -- do you know if the Cambridge
17 Police Department's Use of Force Policy is
18 consistent with the Use of Force Policy
19 throughout the rest of Massachusetts and what you
20 teach at the academy?
21 THE WITNESS: Yes, sir, it is.
22 THE COURT: All right.
23 MR. ANDERSON: Judge, if I can just --
24 just follow up on that.
25 THE COURT: All right.

1 BY MR. ANDERSON:
2 Q. Section 5 here says, Officers may use deadly
3 force to, A, protect the officer, others from
4 what is reasonably believed to be a threat of
5 death or serious bodily injury.
6 Is that the -- "reasonably believed," is
7 that the objective reasonableness from *Graham vs.*
8 *Connor*?
9 A. Yes, sir.
10 Q. Is that where that comes from?
11 A. Yes, sir.
12 Q. And that's consistent throughout the
13 Commonwealth of Massachusetts?
14 A. It is.
15 Q. And the 15 states that you've also trained
16 in, is that consistent in those states as well?
17 A. Yes, sir.
18 Q. Now, are you familiar with a term called the
19 "reactionary gap"?
20 A. Yes, sir.
21 Q. And what is a reactionary gap?
22 A. "Reactionary gap" is the bare minimum
23 distance that we teach to at least be 4 to 6 feet
24 away from a subject so that you have time to
25 respond to a threat.

1 Q. And, in the academy, if we can go back to the
2 2015 timeframe, is that something that was
3 instructed to recruits back in 2015?
4 A. Yes. Correct.
5 Q. And when in the academy process would you
6 begin talking about the reactionary gap?
7 A. Initially, before we get into any of the
8 hands on defensive tactics, everybody gets an
9 eight hour block of use of force.
10 So right off the bat with use of force
11 when we teach the model we start to teach about
12 preattack indicators, and response, and
13 reactionary gap, so almost -- almost right in the
14 very beginning of defensive tactics and use of
15 force.
16 Q. And then after you introduce that when you
17 begin talking about defensive tactics and use of
18 force, is that reinstilled during academy
19 training?
20 A. It is.
21 Q. And how firmly is that drilled into officers?
22 A. Pretty firmly.
23 When they get into their scenario-based
24 training we try to show them, you know, you have
25 your PowerPoint presentation then we try to show

1 them in realistic drills based on -- on distance
2 as well.
3 Q. So the reactionary gap they're told to stay
4 4 to 6 feet from people just in case there's a
5 reaction by that person so they have room to
6 retreat?
7 A. Correct.
8 Q. And are officers trained to backup and create
9 space if there's someone coming towards them?
10 A. Yes, sir, if they can.
11 Q. And the 21-foot rule that's not a rule,
12 that's a principle that you instruct people in to
13 be mindful that within that distance that someone
14 with an edged weapon can get up and get upon you
15 and harm you before you've had the ability to
16 perceive, draw your firearm and respond?
17 A. That's where it comes from, yes, sir.
18 Q. Now, are you familiar with something known as
19 suicide by cop or police-assisted suicide?
20 THE COURT: I think I have enough of this
21 from Officer Deane, so I -- I don't think we have
22 to go through this again with Officer DiChiara,
23 okay.
24 BY MR. ANDERSON:
25 Q. Just is that something you would have trained

1 in the academy back in 2015?
2 A. Yes, sir.
3 Q. If I could just...
4 Now you were asked about how officers are
5 trained to use deadly force.
6 You mentioned the shoot to stop?
7 A. Correct.
8 Q. And there's not a certain number of bullets
9 that someone are told to shoot?
10 A. That's correct.
11 Q. And you don't shoot once and then reassess,
12 and shoot a second time, a few seconds later, and
13 then a third one if --
14 A. You're -- you're assessing, but you're
15 assessing as you're trying to stop a threat.
16 So you're not -- you're not -- you don't
17 fire one round and then stop.
18 You're trying to -- you stop when the
19 threat goes away so...
20 Q. Okay. And officers are trained to shoot for
21 center mass; they're not trained to shoot a knife
22 out of someone's hand or to shoot them in the
23 leg, correct?
24 A. That's correct.
25 MR. ANDERSON: I have nothing else, your