1 Honor.

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- THE COURT: All right. Thank you.
- 3 Attorney Kazarosian.
- 4 MS. KAZAROSIAN: Thank you, your Honor.

EXAMINATION

- 6 BY MS. KAZAROSIAN:
 - O. Good afternoon, Officer DiChiara.
- 8 A. Good afternoon.
- 9 Q. I'm Marsha Kazarosian.
- 10 I represent the family of Mr. Faisal?
- 11 A. A pleasure.
- 12 Q. Officer DiChiara, you talked about the
- definitions of use of force, and you talked about
- 14 the continuum.
- Could you -- will you -- you also train in
- 16 deescalation, correct?
- 17 A. Yes, ma'am.
- 18 Q. And -- and what do you have as a definition
- 19 or what do you use a definition of
- 20 "deescalation"?
- 21 A. I use a proactive actions or approaches that
- 22 an officer uses to reduce the intensity of an
- encounter, allowing him more options and distance
- 24 in space in order to gain voluntary compliance
- while still maintaining control and safety of the

1 situation.

Q. And what are some of the ways that you teach deescalation techniques?

What are some of the techniques?

A. So there's really two areas. We do physical and verbal.

So physical is going to be how you respond, distance, cover, number of officers, staging an ambulance, calling for a supervisor, one officer giving commands if possible, trying to maintain ballistic cover, a bunch of physical things that you can do.

And then verbally we try to teach the officer to lower his tone; try to talk in a calm voice, if possible.

Try to gain a connection. Try to gain some kind of a connection with the subject that you're talking to.

Q. Now, we talked a few times about the 21-foot rule.

And you did say it had been sort of debunked and that -- but it is a guideline for a reaction time for an officer to assess a situation or risk and to respond; is that correct?

- 1 A. Somewhat ma'am, yes.
- Q. Now, I think Attorney Anderson had asked you
- a question about time to react to someone with an
- 4 edged weapon.
- And he asked you a question and said: Is
- 6 it -- is it true that this includes time to
- 7 assess the situation, get the weapon out, and
- 8 respond; is that correct?
- 9 A. That's --
- 10 Q. The officer's weapon.
- 11 A. That's what he asked, yes, ma'am.
- 12 Q. Now, if the weapon -- the officer's weapon
- 13 already out, that reduces that time and distance
- 14 assessment; isn't that correct?
- 15 A. It could, yes, ma'am.
- 16 | Q. You also talked about the use-of-force
- 17 | continuum and you said it's -- it's taught as
- 18 | well as case law in Massachusetts, but in some
- 19 states they don't teach it at all; is that
- 20 correct?
- 21 A. That's correct.
- Q. What is -- when you say the use-of-force
- 23 continuum versus case law, could you just explain
- 24 that a little more?
- A. Well, we use the use of force -- continuum

- use-of-force model to give guidance -- it's

 almost like a visual teaching tool -- but the

 law -- we really teach the law, which is this is

 use of force and this is when you can use force,

 this is when you can use deadly force, and

 nondeadly force.
 - So we teach -- we teach the laws when an officer can use force.
 - And the use-of-force model is just to give some guidance, like a visual tool, so they can determine the -- the reasonable and proportionate amount of force, so it's more or less guidance.
- Q. And you also -- do you teach with the MPTC as well?
- 15 A. Yes, ma'am.

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- Q. And since 2022 or so have you taught -- are you familiar with the POST Commission?
- 18 A. Yes, ma'am.
- Q. And are you familiar with the POST Commission use of force regulations for Massachusetts?
- 21 A. Yes, ma'am.
- Q. Do you teach those regulations in -- at
- 23 MPT -- the MPTC training?
- 24 A. I do, yes.
- 25 \ Q. And is that taught in in-service training as

- 1 | well, if you know?
- 2 A. It sure is, yes.
- 3 Q. And are you familiar -- if I'm reading this,
- 4 | if you recognize it, and, if not, I can show it
- 5 to you, but the use -- on use of deadly force in
- 6 the POST Commission it talks about an officer
- 7 uses only the amount of force that is objectively
- 8 reasonable; is that correct?
- 9 A. That's correct.
- 10 Q. An officer uses deadly force where the
- imminent harm possess an imminent danger of death
- 12 or serious bodily injury to the officer or
- 13 another person?
- 14 A. Yes, ma'am, correct.
- 15 Q. And the officer attempts as many deescalation
- 16 tactics that are feasible under the
- 17 circumstances, including utilizing barriers where
- 18 | feasible; is that correct?
- 19 A. That's true, yes.
- 20 Q. You also talked a little bit about the use of
- 21 pepper spray or OC spray?
- 22 A. Yes, ma'am.
- 23 Q. And it does make -- and I think you had
- 24 talked about the difference of a situation where
- 25 a weapon is involved?

- 1 A. Yes, ma'am.
- 2 | Q. Would you agree that a weapon being a gun
- 3 involved by use of a suspect is different than if
- 4 a suspect had a knife or an edged weapon or a
- 5 baton or something like that?
- 6 A. Yes.
- 7 Every -- every circumstances is different,
- 8 correct.
- 9 Q. But you did testify that a TASER -- I'm
- 10 sorry, the OC spray or pepper spray is effective
- 11 maybe if it's used within 4 to 6 feet away,
- 12 | correct?
- 13 A. Correct.
- Q. But it does take time to take effect, so that
- has to be considered; is that correct?
- 16 A. Correct.
- 17 Q. And, again, you have to take into
- 18 consideration the totality of the circumstances?
- 19 A. Yes, ma'am, correct.
- 20 Q. When you talk about the reactionary gap,
- 21 and I think Attorney Anderson had asked you about
- 22 the -- what are 6 feet or you talked about that;
- 23 and you said that's the -- the distance to
- 24 respond to a threat -- and I can't read my
- 25 | writing, but -- but to assess indicators when you

- 1 are responding to a threat, correct?
- 2 A. Yes, ma'am.

- Q. And, again, would that reactionary gap be affected by the fact that the officer who was in the position of having to assess has already got a weapon on holster?
- 7 A. It could.

It depends -- again, it depends on the totality of the circumstances, who the subject is, their age, their physical capabilities, the officer's physical capabilities.

- Q. And just to go back for a moment to the use-of-force continuum, do you know or do you have any understanding of why that's not taught anymore in some states?
- A. So in other states they have found sometimes officers use the use-of-force model instead of -- we try to get the officers to teach more critically thinking versus looking at the use-of-force model as a -- as a chart.

So some states have found officers use use-of-force model too much, well, if a person is here, this is the option.

If it's a Level 4, I use a Level 4 option; but it's really not the case, it's really still

based on reasonableness and totality of all the 1 2 circumstances. So the focus is really to help the officer 3 4 learn how to assess the risk at the moment, 5 assess the circumstances, rather than use a hard-and-fast rule of feet or numbers of -- or 6 7 any hard-and-fast rules that the use-of-force continuum would then suggest? 8 9 A. Correct. MS. KAZAROSIAN: I have no further 10 11 questions. 12 THE COURT: All right. Thank you. All right thank you, Officer. 13 THE WITNESS: Thank you. 14 15 (Witness excused.) 16 THE COURT: Ms. Spiros. 17 MS. SPIROS: Stephanie Devlin, please. THE COURT OFFICER: I'll sorry, could you 18 19 say the last name. 20 MS. SPIROS: Devlin. 21 THE CLERK: Raise your right hand. 22 Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth under 23 24 the pains and penalties of perjury. 25 MS. DEVLIN: I do.

1	STEPHANIE DEVLIN, SWORN
2	THE COURT: All right. Good afternoon.
3	THE WITNESS: Good afternoon, your Honor.
4	THE COURT: Ms. Devlin, I'm sure you're
5	aware there's a sequestration order; and, unlike
6	other trials, hearings, this is a closed hearing
7	because of its nature.
8	And it's going to remain closed for
9	several days, if not several weeks, so I'm just
10	going to ask you not to discuss what you testify
11	to here today with anybody else until this
12	becomes a matter of public, okay.
13	THE WITNESS: Understood.
14	THE COURT: All right. Thank you.
15	Okay, Attorney Spiros.
16	MS. SPIROS: Thank you.
17	EXAMINATION
18	BY MS. SPIROS:
19	Q. Good afternoon, ma'am.
20	A. Good afternoon.
21	Q. If you could just introduce yourself to the
22	Court, spelling both your first and last name for
23	the record?
24	A. My name is Stephanie Devlin.
25	My first name S-T-E-P-H-A-N-I-E. Last

- 1 Q. And how -- sorry.
- 2 A. Last name Devlin, D-E-V-L-I-N.
- 3 Q. How are you employed?
- 4 A. I work for the Massachusetts State Police.
- 5 Q. And in what capacity?
- 6 A. I work in the Crime Scene Services section
- 7 out of the Boston laboratory.
- 8 Q. You're a sworn trooper?
- 9 A. I am, yes.
- 10 Q. And so, in your current role, what is it that
- 11 you do?
- 12 A. So crime Scene, we are responsible for
- 13 responding to various types of scenes, whether it
- 14 be an unattended death, breaking and enterings,
- 15 you know, smaller crimes, anything up to
- 16 homicides.
- We're there to support the detectives and
- 18 to supplement their investigation.
- We document scenes.
- 20 We process scenes as well for fingerprint evidence.
- 22 We collect evidence as well, and we
- 23 also process the same evidence at our lab as
- 24 well.
- Q. Prior to being in the Crime Scene Services

- section, what other roles did you hold for the State Police?
 - A. I was in the Division of Field Services for almost two years, a year and a half or so when I first got on the State Police, and I worked out of the Concord barracks and the Danbury barracks as well.

That's traffic enforcement; your typical uniform patrol.

- Q. And, in terms of your current role, did you have some specialized training or -- in order to do this work?
- A. I did, yes.

So when we are accepted into the Crime Scene Services section, you go through extensive training internally, and you also have external trainings as well.

Internally we go through different policies, things -- we're trained in various disciplines -- whether it be crime scene documentation, evidence collection, evidence processing, fingerprint documentation, and identifications.

Q. And is there regular testing of your skill set?

- 1 A. There is, yes.
- Q. I want to ask you if you responded to a scene
- 3 in Cambridge on January 4th of 2023?
- 4 A. Yes, I did.
- 5 Q. And do you recall about what time you
- 6 responded?
- 7 A. I believe I was called to respond around 2:00
- 8 in the afternoon, and I arrived shortly before
- 9 3:00.
- 10 Q. What was happening when you arrived?
- 11 A. We were notified there was an area blocked
- 12 off by Cambridge Police; crime scene tape around
- a certain block of the neighborhood.
- It was -- there was a police-involved
- 15 shooting that we were advised of.
- 16 Q. Was there a lot of activity in the area?
- 17 A. There was, yes.
- 18 | Q. Did you get a briefing from the investigators
- 19 who were already on the scene?
- 20 A. I did.
- 21 There was -- there was a couple different
- 22 times that we had been advised of what was going
- 23 on.
- 24 Initially when I was called, we were
- 25 advised that there was a shooting.

And when I arrived on scene Cambridge detectives had -- I didn't know where exactly we were going, to which house or which address, so they had pointed to the direction of where it was, so it was -- slightly advised there and then a little bit later on there was a little bit more extensive information that we were given.

- Q. Knowing that this was an officer-involved shooting response does that change in anyway the way you do your work?
- A. No, it does not.

- Q. Cambridge Police also had forensic crime scene responders there; is that correct?
- 14 A. That's correct, yes.
 - Q. Can you describe how that worked and how it might have been different than what you normally do?
 - A. So our -- so Cambridge Police has their own crime lab that they process their own evidence for.

They mostly handle nonfatal

investigations. It would be -- you know, I can't

speak necessarily for them; but where the State

Police steps in to take over for Cambridge, it's

usually for a fatal investigation -- anything

- that our detectives are investigating, or we are there to help them as well if they don't have the personnel available, so.
 - Q. After you received the brief -- briefing and learned the areas of focus, what did you do first?
- A. So I was directed to -- there was a couple personnel from Cambridge that they advised that they had weapons, you know, from the officers that were involved that they wanted documented and collected by the State Police.
 - Q. And what -- what were those items?

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- A. One was a service weapon, a pistol, and the other was a less-lethal.
 - I couldn't tell you the -- the types of them, but one was less-lethal.
 - Q. And you indicated that you were going to be documenting those.

How were you doing that?

- A. They were handed to me. I -- I believe I documented a ballistic vest that had -- and it was like an exterior vest carrier.
- There were some magazines for the pistol on that. We documented that.
- There was a duty belt as well of some

- 1 | sort. I -- I couldn't tell you whose was whose.
- But, yeah, we photographed them, and then
- 3 ballistics did -- did their thing, counting the
- 4 ammunition and collection.
- 5 Q. And publishing what's been marked as 34 in
- 6 this case, do you recognize this?
- 7 A. I do, yes.
- 8 Q. Did you take that photograph?
- 9 A. I did.
- 10 Q. And that's the photograph of the firearm that
- 11 you documented at the scene?
- 12 A. Correct, yes.
- 13 Q. Publishing what's been marked as 26, are you
- 14 | familiar with this photograph?
- 15 A. I am, yes.
- 16 Q. Did you take that photograph?
- 17 A. I did.
- 18 Q. And is that the less-lethal weapon that you
- 19 were asked to document?
- 20 A. It is, yes.
- 21 Q. Publishing what has been marked as 33, are
- 22 you familiar with that?
- 23 A. I am.
- Q. Is that the duty vest that you were asked to
- 25 document?

- 1 A. It is, yes.
- Q. And publishing 35, is that the duty belt that
- 3 you were asked to document?
- 4 A. It is, yes.
- 5 Q. Fair to say you took a lot of photographs
- 6 that day?
- 7 A. I did, yes.
- 8 Q. Over 200 photographs?
- 9 A. I -- I'll take your word for it, yeah. It
- 10 was a lot.
- 11 Q. Aside from photographing these items that I
- 12 just asked you about, were you also asked to
- 13 photo document the area of 59 Chestnut Street,
- 14 and particularly the second floor?
- 15 A. I was, yes.
- 16 Q. And can you tell me was there anything of
- 17 particular focus that you were asked to -- to
- 18 look at when you were up at 59 in terms of how
- 19 you documented that?
- 20 A. Yeah.
- 21 So we went in with -- I went in with the
- 22 Detective Unit and it may have been Middlesex
- 23 detectives and Cambridge, I'm not sure if they
- 24 were both there, but it was accompanied by
- 25 detectives.

The homeowner gave consent for us to go up into her residence, and she had actually pointed out her account of what she had witnessed.

She had first pointed out the -- when you walked into the residence, further towards the back there was the kitchen area, and along the right side of the house was a window near the kitchen.

She said she had looked out that window, and it oversaw the driveway of that address, I believe. I'm not sure if it was their address or a shared driveway.

And so I documented what she may have seen from that window as best as possible.

She was much shorter, so I -- I can't tell her exact point of view.

And then she also advised that she had been in the back of her residence, and there was a door after the kitchen that led to an exterior porch that over -- it was -- yeah, an outside porch -- it wasn't covered -- and that oversaw the entire yard.

- Q. And you photographed those angles?
- 24 A. Yes.

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Q. Were you also asked to photograph 55 Chestnut

- Street, so the -- the home to the right of the driveway?
 - A. I was, yes.
 - Q. And after the photographing of 55 Chestnut did other members of the -- of the Massachusetts

 State Police crime lab arrive?
 - A. Yes.

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At some point the -- it would have been the forensic scientist, I believe, that would have shown up at some point. I can't say when exactly.

But they're part of the crime scene response unit. It's a unit -- they're from very various aspects of -- or various units within the crime lab, and it's a team put together that they respond out to crime scenes as well.

So one of the forensic scientists had shown up. I believe he was with a person in training and I -- I couldn't recall his name, but.

- Q. And when that happened did you go some place else other than 55 and 59 Chestnut?
- A. Yes. We had gone to 625 Putnam Ave., I believe it was.
- Q. And what were you able to observe there or do

1 there?

A. So that was a -- 625 Putnam, it's a multi-unit residential building, apartment-style building, and documented the exterior of the apartment -- or of the building.

And there was a paved walkway that seemed to surround the exterior of the building, go along the perimeter.

So we were directed there, documented the exterior as we would, and then worked our way into a more focused point of interest.

- Q. And the focused point of interest had what located there?
- A. So probably halfway down the building there was uniformed Cambridge officers standing by a window that appeared to have been broken.

It looks like it was a first-floor

apartment window. It was open slightly, maybe

six inches or so, and the screen -- the insert of

the screen had been popped out, essentially, or

it was broken and out of the window. It was on

the ground outside of the building; shards of

glass all over the place.

And then as you got a little bit closer to the window, along the window frame and the window

sill from the outside you could see -- we refer to them as red-brown stains, not necessarily -- you can call them anything else other than that, so red-brown stains were visible along the white window frame.

Q. And after you made the observations of that -- that first-floor apartment and the broken window, did you make observations of a walkway and an area towards the back of the building?

A. Yes.

So directly outside that window, again, there was shards of broken glass in the garden/mulch area immediately outside the window and then also out onto the paved walkway.

It -- I believe it was directly -- or directly across from the window.

There was a small -- a small, like, kind of insert cutout area.

Maybe it was for trash -- blocked-off trash area, but there was a larger -- larger shards of glass that were further away from the building.

And all along the paved walkway there was red-brown stains as well.

Q. At some point did you go to the back of that

1 building?

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- 2 A. I did, yes.
- Q. And what did you observe there?
 - A. So with forensic scientists, Brian Cunningham, we had walked, along with the

detectives, walked the pathway towards the back of the window. The forensic scientists are

8 there. They document those red-brown stains.

Anything of an interest that they want to document and make note of, maybe test, they mark off with ruler tape, letter them or number them in sequential order.

So I'm there to walk along with him and document what they are interested in at that point.

And further around to the back of the building that red-brown trail seemed to go for the extent of the -- the perimeter.

Towards the back there was a white sweatshirt that had some significant red-brown stains on there as well, which was eventually -- it was documented and then eventually collected by Forensic Scientist Cunningham.

Q. And did you continue, or were you directed to

a further pathway with the detectives that you were with?

A. Yes.

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So we were -- we were then advised that there was a trail leading through various streets several blocks, a large trail of red-brown stains, and we were advised that that was a path that may have been taken, so we together had walked that path, again, documenting some of those red-brown stains as we went.

We didn't document all of them; just pretty much every block or every street that they had been seen on.

MS. SPIROS: And -- and, your Honor, just for the purposes of the record, the Court has the -- all of the photographs taken by this witness in the fifth notice of discovery.

THE COURT: All right. Thank you.

BY MS. SPIROS:

- Q. After you walked the pathway, did you return to 59 Chestnut Street?
- A. I did, yes.
- O. At some point did you do a diagram there?
 - A. I personally did not do a diagram.
- We had maybe three or four personnel to

include myself, another trooper, my sergeant, my immediate supervisor, and my detective lieutenant was also there.

Typically, at bigger scenes, we divvy up the work.

I was gone for a significant period of time documenting the red-brown stains over at Putnam and the various streets that we walked along.

I think it was, like, something close to two hours that I was gone from my initial response to returning back to the scene.

So I -- one of the other troopers from my office would have documented -- done the diagram.

- Q. And the diagram would have been included in -- in the discovery that was provided?
- 18 A. Yes.

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Q. I want to ask you just about your return to 59 Chestnut Street.

21 Were there already placards in place?

- 22 A. There were, yes.
 - Q. Okay. And the placards help you mark the location of -- of evidence?
- 25 A. There were -- yes, they do.

- And, just in terms of specifically focusing 1 on the spent projectiles that might have been 2 there, did you observe those and what was done 3 with them?
 - The spent projectiles of the less-lethal weapon were in the front driveway of -- I believe it's 59 Chestnut that it belongs to.

There was a red Ford Focus that was parked in the driveway.

I believe Cambridge -- either PD or maybe it was their forensic scientists from their lab that had placed the placards out -- I do not know exactly who it was -- but there were two placards, one and two were in the front driveway on either side of the red Ford Focus.

And those were documented in place, and eventually they were collected much later and turned over to the Middlesex Detective Unit.

- And in terms of -- did you locate and photograph a large knife in place?
- Α. I did, yes.

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- And where was that located generally? 22 Q.
- 23 So if you continued through the back --Α. through the driveway to the backyard, it's a 24 25 pretty large backyard, there was a fence

- 1 bordering the property; and along the right side
- 2 of the fence, I believe it was Placard 9, it may
- 3 have been, and it was closer to the fence and a
- 4 tree that was in the yard as well.
- 5 Q. Did you also photograph and document in its
- 6 | location where it was found -- where you observed
- 7 it a book or a religious book, potentially a
- 8 Quran?
- 9 A. I did, yes.
- 10 Q. Okay. Were you asked to then go back to
- 11 625 Putnam or -- or a building right near there
- 12 to -- 625 Putnam, I should say, Apartment 107 to
- photo document a bedroom there?
- 14 A. Yes.
- I believe we had consent to enter the
- 16 building and, same thing, it was overall
- 17 documentation of the residence and specifically
- 18 that first-floor bedroom off of the kitchen
- 19 | and -- yes.
- 20 Q. Thank you.
- 21 MS. SPIROS: I have no further questions
- 22 for this witness.
- THE COURT: All right. Thank you.
- 24 Attorney Anderson.
- MR. ANDERSON: I don't have any

1 questions.

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- THE COURT: All right. Thank you.
- 3 Attorney Kazarosian.
- 4 MS. KAZAROSIAN: Thank you.

EXAMINATION

- 6 BY MS. KAZAROSIAN:
 - Q. Good morning, Trooper Devlin.
- 8 A. Good morning.
- 9 Q. Marsha Kazarosian -- good afternoon.
- 10 A. Afternoon, yes.
- 11 Q. I'm Marsha Kazarosian, and I represent the
- 12 family of Mr. Faisal.
- 13 A. Okay.
- 14 Q. Did you take any measurements at all of that
- 15 | yard of 59 Chestnut Street?
- 16 A. I personally did not.
- 17 Q. Okay.
- 18 A. So I -- we had several different units
- 19 respond.
- 20 They may have been documented during the
- 21 diagram, but usually in a bigger scene like this
- 22 we have another unit, there are collision
- 23 analysts reconstruction section respond and they
- 24 are responsible for our color and Leica machine.
- 25 I -- I don't know the exact abbreviations

- for it, but it's essentially a machine that does

 a 3D scan of a property or a certain area.
- So it will do a scan; and it takes, I
 think, like, satellite locations and measurements
 of things, but I couldn't speak to them exactly.

Typically, that does measurements.

- Q. But you're not sure if that was used or not?
- A. No. The Leica was -- the Leica was used.
- Q. Okay.
- 10 A. Yes.

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- 11 Q. All right. And when you say it was a pretty
- 12 large backyard, do you -- do you recall about how
- 13 long it was?
- Do you have an idea?
- A. I would be really estimating. I -- I don't want to give an incorrect answer.
- 17 Q. Thank you.
- MS. KAZAROSIAN: I have no further questions.
- 20 THE COURT: All right. Thank you.
- 21 Thank you, Trooper.
- 22 THE WITNESS: Thank you.
- 23 (Witness excused.)
- MS. SPIROS: Your Honor, just on this
 point, I informed Attorney Kazarosian; I don't

1	believe I have informed Attorney Anderson yet,
2	but literally last night the coroner's report
3	came in. It's 20 gigabytes of material.
4	THE COURT: Okay.
5	MS. SPIROS: I was having it put to disk
6	today, and it will be brought to the court
7	tomorrow morning with Lieutenant Donoghue.
8	THE COURT: All right.
9	MS. SPIROS: But all of that mapping is
10	including in that.
11	THE COURT: All right. I was just about
12	to ask you that question.
13	MS. SPIROS: Yes. Yes. I have it. We
14	just got it. CARS traditionally takes a long
15	time.
16	THE COURT: Okay.
17	MS. SPIROS: So I apologize.
18	THE COURT: No, that's all right. We'll
19	have it before the inquest is over.
20	MS. SPIROS: Yes, your Honor. We'll have
21	it by tomorrow morning.
22	THE COURT: All right. That's fine.
23	You have
24	MS. SPIROS: I have two more witnesses.
	F

THE COURT: All right.

1	MS. SPIROS: I don't know if you want to
2	break now.
3	THE COURT: It's quarter to one.
4	Attorney Anderson caused us to be late, so you're
5	causing us to stop early today, okay, so I'm
6	placing blame evenly on both sides of the table.
7	But I think we're going to finish with
8	the witnesses you have here today, two more.
9	MS. SPIROS: Yes.
10	And then we have two tomorrow.
11	THE COURT: And then two tomorrow, okay.
12	MS. SPIROS: Yes.
13	THE COURT: And I don't want anybody to
14	feel like I'm rushing rushing them.
15	MS. SPIROS: Thank you.
16	THE COURT: But it's, I think, just the
17	way I work.
18	MS. SPIROS: We're making good progress.
19	THE COURT: All right. So we'll see
20	everybody here at 2:00.
21	MS. SPIROS: Thank you.
22	THE COURT: All right.
23	THE COURT OFFICER: Court. All rise.
24	(At 12:48 p.m. court recesses.)
25	(At 2:04 p.m. court resumes.)

1	THE CLERK: Court is now back in session.
2	You may be seated.
3	' THE COURT: All right. Good afternoon.
4	MS. SPIROS: Good afternoon.
5	THE COURT: And, Attorney Spiros.
6	MS. SPIROS: Yes. Could we have Officer
7	Miceli.
8	THE CLERK: Good afternoon.
9	MR. MICELI: Good afternoon.
10	THE CLERK: If you would raise your right
11	hand.
12	Do you solemnly swear to tell the truth,
13	the whole truth, and nothing but the truth under
14	the pains and penalties of perjury?
15	MR. MICELI: I do.
16	MICHAEL MICELI, SWORN
17	THE CLERK: Thank you very much.
18	THE COURT: Good afternoon, Officer.
19	THE CLERK: You can have a seat.
20	THE WITNESS: Good afternoon, your Honor.
21	THE COURT: Officer, I'm sure you're
22	aware, there's a sequestration order; and, unlike
23	other matters, because of this this is a
24	closed hearing, I'm going to ask you to not
25	discuss your testimony with anybody until this

- matter becomes public at a future date, okay?

 THE WITNESS: Yes, sir.
- THE COURT: All right. Thank you.
- 4 Attorney Spiros.
- 5 MS. SPIROS: Thank you.

EXAMINATION

7 BY MS. SPIROS:

- 8 Q. Good afternoon, sir.
- 9 A. Good afternoon.
- 10 Q. Could you please introduce yourself to the
- 11 | Court spelling both your first and last name for
- 12 the record?
- 13 A. Sure. Detective Michael Miceli.
- My first name is spelt M-I-C-H-A-E-L. My
- 15 last name M-I-C-E-L-I.
- 16 Q. And how are you employed?
- 17 | A. I am a detective with the Cambridge Police
- 18 Department.
- 19 Q. How long have you been with the City of
- 20 | Cambridge Police Department?
- 21 | A. Since 2008.
- 22 Q. And have you held any other roles for the
- 23 | city -- for the police department?
- 24 A. Yes.
- 25 I worked as a patrol officer prior to

- 1 being a detective.
- 2 I also worked on another agency, too.
- 3 Q. I'm sorry, what was the last part?
- 4 A. I also worked on another agency, too, prior
- 5 to this Cambridge.
- 6 Q. Yes, and that was my next question.
- 7 A. Okay. Sorry.
- 8 | Q. Any other law enforcement experience prior to
- 9 Cambridge?
- 10 A. Yes.
- I've worked to the Tyngsborough Police
- 12 Department.
- 13 | Q. And how about military experience?
- 14 A. No.
- 15 O. Okay. I want to focus your attention now on
- 16 | January 4th of 2023.
- 17 Were you working that day?
- 18 A. Yes.
- 19 Q. And what -- what shift were you working?
- 20 A. I was working the day shift.
- 21 Q. And where -- what was your assignment that
- 22 day initially?
- 23 A. So I work in the Family Social Justice
- 24 section and the unit that I work in is called
- 25 Focused Deterrence.

- 1 Q. And do you have another detective that you
- 2 work with consistently?
- 3 A. Yes.
- 4 O. And who's that?
- 5 A. Detective Michael Schwartz.
- 6 Q. And what is the role of the Family Social
- 7 | Justice section?
- 8 A. The unit that I work in, Focused Deterrence,
- 9 we deal primarily with young adults and juveniles
- 10 that are involved in gun violence in Cambridge.
- 11 Q. I want to draw your attention now to about
- 12 1:30 in the afternoon on the 4th.
- Do you recall hearing something that
- 14 | caught your attention that required response?
- 15 A. Yes.
- 16 Q. What was that?
- 17 A. I overheard a call on the radio for a person
- 18 | with a knife.
- 19 Q. And, as a result, what is it that you did?
- 20 A. Detective Schwartz and I got in our police
- 21 car and -- and began responding.
- 22 \ Q. And where did you go when you began to
- 23 respond?
- 24 A. We drove to 59 Chestnut Street.
- 25 Q. About how long did it take you to get there,

- 1 if you know?
- 2 A. Probably somewhere around between maybe five
- 3 or ten minutes.
- 4 | Q. Did you learn anything else on -- on the way
- 5 | there, or just what you had initially heard?
- 6 A. Yes.
- 7 Q. What did you learn?
- 8 A. We had heard that there was a -- shots fired.
- 9 Q. And so, when you arrived at 59 Chestnut, what
- 10 | did you do first?
- 11 A. I had crime scene tape with me.
- 12 Q. And so --
- 13 A. And I walked down the driveway with the crime
- 14 scene tape.
- 15 \ Q. And what did you do with it?
- 16 A. I began marking off a crime scene.
- 17 Q. Why did you do that?
- 18 A. Because I wanted to secure the scene for
- 19 investigators.
- 20 Q. What -- what could you just observe was
- 21 | happening when you first arrived?
- 22 A. When I first arrived there were -- there was
- 23 an ambulance.
- There were officers that were going onto
- 25 the ambulance.

- 1 And I had met with Detective Sergeant
- 2 Taylor in the driveway along with Detective Asif
- 3 Ali.
- 4 Q. And is that sort of how you knew what to mark
- 5 off?
- 6 A. Yes.
- 7 Q. What else did you observe in the driveway?
- 8 A. I observed a red vehicle, it was a red Ford
- 9 Focus parked in the driveway.
- 10 Q. Was there anything nearby?
- 11 A. Yes.
- 12 Q. What was it?
- 13 A. There was a shell casing that was on the
- 14 driver's side of the motor vehicle.
- 15 It was a shell casing for our -- our
- less-than-lethal, a 40mm weapon.
- 17 And there was also a sponge round for that
- 18 weapon, that was on the passenger side of the
- 19 vehicle.
- 20 Q. And so these are two parts to essentially
- 21 what was the same thing?
- 22 A. Correct.
- 23 Q. After you made those observations in the
- 24 driveway what did you do?
- 25 A. I immediately marked it up with -- marked it

- off with tape and nobody went into the scene.
- 2 Q. Did you then walk into the backyard?
- 3 A. Yes.

8

9

- 4 Q. Can you tell me what you saw there?
- 5 A. I went into the backyard with Detective Asif
- 6 Ali and Sergeant Taylor.
 - And, as we walked through the backyard, I observed some medical equipment. There was a backboard. I believe a medical bag. There was some bloody gauze.
- 11 And there was also a book that was open.
- 12 The book had blood on it and it had some writing
- 13 in Arabic.
- As I continued on, Detective Ali and I noted that there was a six shell casings.
- Q. What did you notice about where they were located?
- 18 A. The six shell -- six shell casings?
- 19 Q. Yes.
- 20 A. They were all located next to each other.
- 21 Q. And --
- 22 A. Like in one area.
- 23 Q. -- in terms of where they were in the -- in
- the backyard itself, where were they located?
- 25 A. They were towards the back of the residence,

- 1 like all the way back.
- There was a large fence in the backyard,
- 3 and they were within pretty close proximity to
- 4 the fence.
- 5 Q. When you say "large," a tall fence?
- 6 A. Yes.
- 7 Q. Taller than you?
- 8 A. Yes.
- 9 Q. And about -- do you know about how far those
- 10 shell casings were from the fence, only if you
- 11 do?
- 12 A. No, I don't.
- 13 | Q. Okay. Did you notice anything else about the
- 14 grass or dirt area?
- 15 A. Yes.
- 16 O. What was that?
- 17 A. There was a large indentation near where the
- 18 shell casings were located.
- 19 It looked like it may have been caused
- 20 from a foot or like a shoe or a boot.
- 21 | Q. After you made those observations, what
- 22 caught your attention next?
- 23 A. After that we observed a large knife,
- 24 Kukri-style knife, that had a red -- red fluids
- on it. It appeared to be blood.

- 1 Q. You said Kukri-style knife.
- 2 Did you know that was the term for the
- 3 knife then or did you learn it later?
- 4 A. No, I learned it later.
- 5 Q. Okay. After you made the observations of the
- 6 knife what did you do?
- 7 A. I then retrieved markers from my car, and I
- 8 began marking the scene.
- 9 Q. Can you tell us about what you marked?
- 10 | A. Sure.
- 11 The first two items that I marked were
- 12 | the -- the less-than-lethal casing that I had
- 13 | just spoke about.
- The second item was the spent -- spent
- less-than-lethal round, the rubber round.
- I believe the third marking was -- I had
- 17 marked off all the shell casings after that.
- 18 Q. And that was from three to eight?
- 19 A. Correct.
- 20 Q. And then what about nine, what was that?
- 21 A. Nine was the footprint -- well, actually nine
- 22 was the knife, the Kukri knife.
- 23 Q. And what was ten, was that the --
- 24 A. Ten -- ten was what I believe to be a
- 25 footprint, a boot or a shoe print.

- 1 Q. In terms of those items, what was done --
- 2 | what happened with those later?
- 3 A. The Mass. State Police crime lab came down.
- They -- they were in charge of the scene.
- 5 Q. And after you did those tasks, were you asked
- 6 to do something else by Lieutenant Brown?
- 7 | A. Yes.
- 8 Q. And what was that?
- 9 A. I was asked to go in to speak with the
- 10 resident, Ms. Susan Frederick, I believe. I
- 11 don't know if I pronounced her name right or not.
- 12 Q. Is it Freireich?
- 13 A. Freireich, yes, to go in and speak with her.
- 14 \ Q. And you did that with who?
- 15 A. Mass. State Police, Trooper Hayes.
- 16 \ Q. Were you aware that she had previously spoken
- 17 to someone -- one of your colleagues?
- 18 A. Yes.
- 19 Q. Who was that?
- 20 A. Detective Asif Ali.
- 21 | Q. And you spoke to Ms. Freireich and documented
- 22 her statements in your report?
- 23 A. Correct.
- MS. SPIROS: And, for the record, your
- 25 Honor, those statements are documented in Officer

Miceli's report in Notice of Discovery 1. 1 2 THE COURT: All right. Thank you. BY MS. SPIROS: 3 4 Q. Did you also become aware that there was a male in the house? 5 Yes. 6 Α. 7 Q. And were you able to speak to him at that 8 point? So I did speak with -- his name was -- he 9 went -- he told me his name was Don. 10 11 I did speak with Don while we had the 12 scene secure. 13 He was on the -- the balcony of his residence, and he was looking down at me. 14 15 And while I was in the backyard securing 16 the scene I said, Hey, did you see anything? 1.7 And he said, I only heard about three qunshots. I didn't see anything. 18 19 And then he said, Your partner -- your --20 the police are talking to my partner right now. Q. Okay. 21 22 MS. SPIROS: One moment, your Honor. BY MS. SPIROS: 23

And as part of the follow ups-in this case

were you and your fellow investigators tasked

24

- 1 | with learning more about the individual who was
- 2 shot in this case?
- 3 A. Yes.
- 4 Q. And as part of that, sir, did you go to a
- 5 particular restaurant to speak with -- a place
- 6 where this individual -- Mr. Faisal previously
- 7 | worked?
- 8 A. Yes.
- 9 Q. Where was that?
- 10 A. Henrietta's Table in Harvard's Square at the
- 11 Charles Hotel.
- 12 Q. And were you able to speak with someone who
- 13 | knew him there?
- 14 A. Yes.
- 15 Q. And the same with CVS, did you become aware
- 16 that Mr. Faisal had worked at CVS?
- 17 A. Yes.
- 18 Q. And were you able to speak with a former
- 19 colleague of him?
- 20 A. Yes.
- 21 Q. Of his -- excuse me, of when he worked there
- 22 I should say?
- 23 A. Yes.
- 24 MS. SPIROS: And those are all in
- 25 Discovery Notice 1, your Honor?

1	THE COURT: Okay. Thank you.
2	MS. SPIROS: Thank you. I have nothing
3	further for this witness.
4	THE COURT: All right. Thank you.
5	Attorney Anderson.
6	MR. ANDERSON: No questions.
7	THE COURT: All right.
8	And Attorney Kazarosian.
9	MS. KAZAROSIAN: I have no questions,
10	your Honor.
11	THE COURT: All right. Thank you.
12	Thank you very much, Lieutenant.
13	THE WITNESS: Thank you, sir.
14	(Witness excused.)
15	THE COURT: Ms. Spiros.
16	MS. SPIROS: Brian Harutunion, please.
17	And this wlill be our last witness for
18	today, your Honor.
19	THE COURT: All right. Thank you.
20	MS. SPIROS: Thank you.
21	MR. HARUTUNIAN: Hi.
22	THE COURT: Good morning good
23	afternoon.
24	THE CLERK: If you could raise your right
25	hand.

1	Do you solemnly swear to tell the truth,
2	the whole truth, and nothing but the truth under
3	the pains and penalties of perjury?
4	MR. HARUTUNIAN: I do.
5	BRIAN HARUTUNIAN, SWORN
6	THE CLERK: Thank you very much.
7	THE COURT: All right. Good afternoon,
8	Detective.
9	THE WITNESS: Good afternoon, your Honor.
10	THE COURT: And, Detective, I'm sure
11	you're aware there's a sequestration order; and,
12	because of the nature of these proceedings,
13	because it's a closed hearing, that sequestration
14	order is going to last until this matter becomes
15	a matter of public record, so I'm going to ask
16	you not to discuss whatever you testify here to
17	today unless until this matter becomes public,
18	okay?
19	THE WITNESS: Absolutely, your Honor.
20	THE COURT: All right. Thank you,
21	Detective.
22	Attorney Spiros.
23	MS. SPIROS: Thank you.
24	EXAMINATION
25	BY MS. SPIROS:

- 1 Q. Good afternoon, sir.
- 2 A. Good afternoon.
- 3 \ Q. Could you introduce yourself to the Court
- 4 spelling both your first and last name for the
- 5 record?
- 6 A. My name is Brian Harutunian.
- 7 That's B-R-I-A-N; last name Harutunian,
- $8 \qquad H-A-R-U-T-U-N-I-A-N.$
- 9 Q. How are you employed, sir?
- 10 A. I am a detective with the Cambridge Police
- 11 Department.
- 12 Q. And how long have you been a detective with
- 13 Cambridge?
- 14 A. About four years -- just over four years now.
- Q. Prior to that did you hold any other roles
- 16 | with Cambridge?
- 17 A. I did. I was a patrol officer.
- 18 Q. Okay. Do you have any other law enforcement
- 19 experience?
- 20 A. Other than just military police experience.
- 21 \ Q. And could you tell the Court about that?
- 22 A. I'm a -- been in the Army for about -- just
- 23 | over 15 years now with -- I'm a military police
- 24 officer in the National Guard.
- 25 Q. I want to talk to you about, if I can,

- 1 January 4th of 2023.
- 2 Was that a date that you were working?
- 3 A. It was.

- Q. And what -- what type of shift were you
- 5 working that day?
- 6 A. I was working a day shift.
- 7 Q. And at some point did a particular call come
- 8 to your attention?
- 9 A. It did.
- 10 Q. Can you describe what that was?
- 11 A. The -- I was actually heading out of the city
- 12 with another detective, and we heard the radio
- 13 transaction of -- it was an individual with a
- 14 knife and that police officers were trying to
- 15 | engage and then ultimately we heard shots fired
- 16 and immediately turned around, headed back to the
- 17 city.
- 18 Q. And you were -- who were you with that day?
- 19 A. Detective David Barkhouse.
- 20 Q. And did you go right to a particular address
- 21 when you turned around?
- 22 | A. We did.
- 23 \ Q. Where did you go?
- 24 A. 59 Chestnut.
- 25 Q. And when you got there what happened?

- 1 A. When we got there immediately the scene was
- 2 active with medical, law enforcement, immediately
- 3 started looking for out supervisors so we can
- 4 assist with whatever duties we needed as
- 5 detectives.
- 6 Q. And did you receive some specific
- 7 | instructions from your supervisor?
 - A. Yes.

- I was instructed to document the fire
- 10 personnel -- Cambridge fire personnel that had
- 11 arrived on scene and to get their names.
- 12 Q. And you did that?
- 13 A. I did.
- 14 Q. And after documenting the -- the Cambridge
- 15 | fire that responded to the scene, what did you do
- 16 next?
- 17 A. At that point we started to try to backtrack
- 18 the -- the route that -- from 59 Chestnut Street
- 19 to the point of origin and at that point I was
- 20 behind 265 Putnam, I believe is the address, is
- 21 where I initially went and discovered the -- do
- 22 you want me to continue what I...
- 23 Q. If you could tell us -- tell the Court what
- 24 you saw, yes.
- 25 A. Okay. So went to the back of 265 Putnam.

- Immediately saw broken glass, droplets of red-brown stains, which I would identify as blood.
 - Immediately saw that this was the back window that was smashed out.

At that time, I immediately saw the patrol officer, Officer Allen, who said that he thought there was evidence around the corner, and I immediately went over to that evidence to secure it.

- 11 Q. And where did you go?
- 12 A. Just around the back, on the pathway of the -- the prior pathway of 265 Putnam.
- 14 | Q. And could it be 625 Putnam?
- 15 A. 625 -- I believe so. I can look at my report just to verify it.
- Q. If your memory is exhausted with the Court's permission?
- 19 THE COURT: Sure.
- 20 I think it was 265 Sydney.
- MS. SPIROS: 2 54 Sydney.
- 22 THE COURT: 254 Sydney and 265 Putnam.
- 23 A. Yes.

4

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So the broken glass was at pathway from 25 255 Sydney Street to the rear of 625 Putnam Ave.

- 1 Q. Thank you.
- 2 And the particular item of evidence that
- 3 | had been brought to your attention was what?
- 4 A. It was a white sweatshirt with a NASA logo on
- 5 it that was -- had brown and red stains on it,
- 6 which, I believe, to be blood at the time.
- 7 Q. So, after you observed this, what did you do?
- 8 A. I notified a supervisor and the supervisor
- 9 told me to stay on scene and secure that property
- 10 until a chemist or Crime Scene Services could
- 11 retrieve that property.
- 12 Q. And when you say "secure that property," you
- 13 physically stood with it for some time; is that
- 14 right?
- 15 A. That is correct.
- I never touched it, but I stood next to it
- 17 to ensure that no one disturbed it or touched it.
- 18 Q. And at some point Crime Scene Services came
- 19 and you were able to turn over custody?
- 20 A. That is correct.
- Q. I want to focus now on some of the follow-ups
- 22 that were done in this case.
- 23 You were involved in the follow-up
- 24 investigation, correct?
- 25 A. That is correct.

- 1 Q. And did one of those follow-up investigations
- 2 involve speaking with a U.S. Army recruiter named
- 3 Ernesto Colon?
- 4 A. That is correct.
- 5 Q. And did you, in fact, speak with him about
- 6 what he might have known about Mr. Faisal?
- 7 A. That is correct.
- 8 Q. Did you document those statements that
- 9 Mr. Colon made in your report?
- 10 A. I did.
- MR. SPIROS: And, for the record, your
- 12 Honor, that would be Report 32 of the Cambridge
- 13 department reports discovery notice one.
- 14 THE COURT: All right thank you.
- 15 BY MS. SPIROS:
- 16 Q. Did you also speak, sir, as part of these
- 17 follow-ups, with a person you learned about named
- 18 Mr. Penday?
- 19 A. I did.
- 20 | Q. Can you tell the Court a little bit about
- 21 what you learned about Mr. Penday and his
- 22 relationship to Mr. Faisal?
- 23 A. From -- from talking with Sergeant First
- 24 Class Colon, we discovered that Mr. Penday was
- 25 good friends with Mr. Sayed Faisal, and that they

- were doing the buddy system to enter the Army together, which would mean that they'd go through
- 3 basic training together, sign the paperwork
- 4 together, and then potentially ship off together.
- 5 Q. And --
- 6 A. Um --
- 7 Q. -- as a result of learning this information,
- 8 did you want to speak directly to Mr. Penday?
- 9 A. That is correct, yes.
- 10 Q. Did you do that?
- 11 A. Yes, I did.
- 12 O. Can you tell the Court what that
- conversation -- where that conversation occurred
- 14 and what you learned?
- A. We immediately learned -- excuse me, I had
- 16 contact with Sergeant First Class Colon.
- From there, my partner at the time was

 Massachusetts State Police Sergeant Matt Wilson.
- We then contacted Mr. Penday, who agreed that he would talk to us.
- 21 We then agreed upon picking him up at his
- 22 current location and brought him to the Cambridge
- 23 Police Department and conducted an audio and
- 24 | video recording in the interview room -- in one
- 25 of the interview rooms of the Cambridge Police

- 1 Department.
- Q. And so that interview was recorded; is that
- 3 | correct?
- 4 A. That is correct.
- 5 Q. And a copy of that was turned over to the
- 6 district attorney's office?
- 7 A. That is correct.
- 8 Q. And that's in Notice 1.
- 9 MS. SPIROS: Your Honor, at this point
- 10 would you like me to take the witness through the
- 11 statements of Mr. Penday?
- 12 THE COURT: Sure.
- 13 BY MS. SPIROS:
- 14 Q. If you could tell the Court what you remember
- 15 | from that interview?
- 16 A. From the interview we learned that Mr. Penday
- 17 | had known Mr. Faisal since 2016.
- 18 They grew up together in Somerville.
- I believe it was high school that they
- 20 went together with.
- 21 From there they remained friends. They
- 22 had different friend groups.
- From the statements -- I'd like to say
- 24 Mr. Penday was physically and verbally upset
- during the -- during the interview because he had

just learned previously what had happened.

From the statements, we learned that -from Mr. Penday that Mr. Faisal was struggling
with a divorce between his two parents, and it
affected him.

From there, Mr. Penday had stated that that's uncommon in their culture.

And from there it -- Mr. Penday had said it affected him.

Mr. Penday had said that he's known -because he was a food server -- he knows when
people are under narcotics, under the influence;
and the last time he spoke to him he believed
that he wasn't.

And then Mr. Penday explained that Mr. Faisal would make statements that Mr. Penday believed were hallucinations, such as he would say that a vehicles -- a black SUV was following me and that it was -- he believed the government or authority was after him.

Mr. Penday had said that at times when he -- when Mr. Faisal had spoken to him it looked like he was just not there in a sense.

We also learned that from Mr. Penday that Mr. Faisal had traveled to Bangladesh -- oh, no,

- excuse me, Nepal and that sometime in -
 returning in September of 2022 -- and that's

 where he had bought the Kukri knife as well and

 brought that back.
 - Q. And just in terms of Mr. Penday's observations of -- you just said that he wasn't -- he described him as not being there.

Did he also describe him as sad and -- and depressed?

A. Yes.

He also -- Mr. Penday had said that he's done research on depression and believed that Mr. Faisal was depressed.

There's also -- he said that Mr. Faisal then didn't talk a lot to him about -- because he was more of a -- a closed person, I would say, but he thought he was one of his closest friends.

Q. And did he make any statements to you about how Mr. Faisal had changed physically?

A. Yes.

Mr. Penday had stated that Mr. Faisal had lost a lot of weight and that he was -- he didn't know if he was -- it was from working out or just different -- different things going on with him.

Q. Was he asked about whether Mr. Faisal had

- ever mentioned hurting himself or others? 1 2 Α. Yes. 3 I --4 Q. Is your memory exhausted? 5 Α. Yeah. I would like to look at my report just to -- because I know I have... 6 7 MS. SPIROS: Your Honor, if I may? THE COURT: Sure. 8 9 Do you have it in front of you. 10 THE WITNESS: I do, your Honor. 11 THE COURT: All right. Go ahead. 12 Refresh your recollection. 13 I'm sorry, the question was? 14 The question was whether or not you inquired or spoke about if Mr. Penday was aware of 15 self-harm or violence? 16 17 I'm drawing your attention to the top of 18 page -- the second page of your report, 31?
 - Mr. Penday had stated to me that he referred to him as Parif (phonetic) -- that was his -- his nickname -- had never mentioned hurting himself or others.
- Q. And that he didn't -- didn't know him to be violent?

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A. Yes.

- 1 A. That is correct.
- Q. Did you also ask to Mr. Penday if he had text
- 3 messages with Mr. Faisal?
- 4 A. That is -- that is correct.
- 5 Q. Okay.
- 6 (Music noise.)
- 7 THE COURT: Wait for that to go by.
- 8 BY MS. SPIROS:
- 9 Q. And as a result of that did Mr. Penday
- 10 produce some text messages to you?
- 11 A. That is correct.
- 12 The next day he was able to screenshot
- 13 | text messages and -- and was able to forward them
- 14 to my email.
- MS. SPIROS: Your Honor, may I approach?
- 16 THE COURT: You may.
- 17 BY MS. SPIROS:
- 18 Q. I'm going to show you a series of three here
- 19 and just ask if you recognize what these are.
- 20 A. Yes.
- 21 These are the -- the screenshot text
- 22 messages that was provided by Mr. Penday to my --
- 23 to myself.
- 24 Q. Thank you.
- MS. SPIROS: I'd offer these as the next

exhibit.

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THE COURT: Okay. Forty-six.

(Exhibit No. 46, three text messages, were received into evidence.)

MS. SPIROS: Thank you.

With the Court's permission, I'm just going to ask the witness to read the text messages.

THE COURT: Sure.

10 BY MS. SPIROS:

- 11 Q. If you could just indicate, if you can, who 12 the speaker is as you read them.
- 13 A. Yes.

So this one's from Arifdog (phonetic), which was identified as Mr. Faisal.

He said, I know what I was trying to say sounded crazy, period.

Next line, But everything I said is right.
You just won't understand these things.

And then Mr. Penday responded, Well, then you officially need help and Army shouldn't be on your list of things to RN.

Take some time. Don't rush this. IK, which is I know, there is a lot of things in your plate, but I can't or anyone can't help you if

you don't want to be helped.

For RN I don't think you realize it, but take some time and -- and when you realize it, let me know so I can help.

The things you be saying is a -- it's a thought we all get when we don't sleep and scroll through Instagram at 4 a.m., but that's it.

What you've been saying is really not normal, bro. You be getting paranoid at some random shit that's not right either.

Mr. Faisal responded, For example, your eyes blew up when I told you that men from that GMC black SUV was talking to you before you met me.

How could I have known that they work for the government?

If you understand the situation, then you would understand that I see things that regular people don't see. And that's what it is.

Does it make sense is now? I could always see these things. I just never told nobody because they'd be -- they'd think I'm crazy. I'm not crazy. I'm just unique.

Mr. Penday responded, WTF GMC you talking about? I left my mom and came outside your crib.

1 Mr. Faisal responded, Come on, man. Don't 2 do this. And then the next screenshot was from 3 Mr. Faisal. Thanks for your concern man, but I'm 4 5 good. Mr. Penday responded, I invite you to life 6 (indiscernible) my home and I only wish you the 7 best, YN, which I believe is you know, and then 8 9 that. 10 And then Mr. Faisal responded, I know 11 that, Bro. IK. Mr. Penday responded, You're seeing 12 things, bro, that's not normal. 13 Mr. Faisal responded, Because I'm not 14 15 normal. Why would I want to be normal. 16 17 And then Mr. Penday put an emoji of an 18 icon going like this with a hand against the 19 forehead. 20 Q. Hand against the forehead? Yeah. That was an emoji icon. 21 Α. Mr. Faisal then said, Bro, I'm feeling 22 good. IK those things sounded crazy, but don't 23

And then Mr. Penday responded, You're like

worry about it.

24

1 a nine-year-old after watching an Illuminati 2 movie. And that's the end of the conversation. 3 And did you have an understanding from the 4 5 investigation that these texts were exchanged around December 17th of 2022? 6 7 A. I believe so, yes. MS. SPIROS: I have nothing further for 8 this witness. 9 10 THE COURT: Thank you. 11 Attorney Anderson. MR. ANDERSON: I -- I don't have any 12 13 questions. THE COURT: All right. 14 15 Attorney Kazarosian. MS. KAZAROSIAN: I do, just a couple. 16 EXAMINATION 17 BY MS. KAZAROSIAN: 18 Good afternoon, Officer Harutunion. 19 Q. 20 Good afternoon, ma'am. Α. Q. I'm Marsha Kazarosian, and I represent the 21 family of Mr. Faisal. 22 23 When you spoke with Mr. Penday about any contact he had had with Mr. Faisal after December 24

17th, did he tell you that he had spoken to him

- in late December, just before New Year's, and
- 2 that Mr. Faisal sounded happy?
- 3 A. Yes.
- 4 Q. Do you recall that?
- 5 A. I do recall that, yes.
- 6 Q. And when you asked about the Kukri knife --
- 7 A. I'm sorry?
- 8 Q. When you asked Mr. Penday about the Kukri
- 9 knife --
- 10 A. Yes.
- 11 Q. -- it's -- did you ask him -- or I think you
- 12 did because the information is that Mr. Penday
- 13 knew why he bought the Kukri knife.
- 14 Do you recall that?
- 15 A. Yes.
- 16 Q. And why did he buy the Kukri knife?
- 17 A. He bought it when he was in Nepal because it
- 18 was a traditional knife.
- MS. KAZAROSIAN: That's all I have, your
- 20 Honor.
- 21 Thank you very much.
- 22 THE COURT: All right. Thank you.
- 23 All right. Thank you very much,
- 24 Detective.
- THE WITNESS: You're welcome, your Honor.

1	(Witness excused.)
2	MS. SPIROS: That's all I have for today,
3	your Honor.
4	THE COURT: Well, that's fine.
5	MS. SPIROS: We have two witnesses
6	tomorrow, Detective Dr. Michele Matthews,
7	Lieutenant Donoghue.
8	THE COURT: Sure.
9	MS. SPIROS: And I will have the USB with
10	the mapping in it.
11	THE COURT: All right. All right. Thank
12	you.
13	And and you have something else?
14	MS. SPIROS: I just wanted to ask if it's
15	possible to start at 9:15 tomorrow. I have a
16	childcare issue.
17	THE COURT: Yeah. Sure. Does anybody
18	have a problem with that?
19	MS. SPIROS: Thank you.
20	THE COURT: Okay. That's fine. All
21	right. So see everybody
22	MR. ANDERSON: Judge, can I just inquire
23	where we stand in terms of making summations?
24	THE COURT: Yeah. The summations, no.
25	I think yes what did I say yesterday,

1	as far as pointing out things that you don't feel			
2	were properly brought up during the testimonial			
3	phase of the inquest, I'll take anything you want			
4	to direct me towards that are contained in the			
5	notices of discovery.			
6	MS. KAZAROSIAN: In the form of a			
7	pleading but not in oral argument?			
8	THE COURT: No.			
9	Just, please, you know, refer to, you			
10	know, just to draw my attention in in just a			
11	little blurb of what it is just so I can go			
12	there			
13	MS. KAZAROSIAN: No argument.			
14	THE COURT: No argument, okay.			
15	MS. SPIROS: Thank you.			
16	MR. ANDERSON: If I can just note an			
17	objection to that.			
18	THE COURT: Sure.			
19	MR. ANDERSON: I'd like to do a quick			
20	summation, nonconfrontational.			
21	THE COURT: No, I know, but I think being			
22	consistent with what I said earlier before lunch			
23	we're not going to have any, okay.			
24	MR. ANDERSON: All right.			
25	THE COURT: All right. Thanks.			

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THE COURT OFFICER: Court.
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              All rise, please.
      (At 2:34 p.m. the matter concluded.)
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