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COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS.
DISTRICT COURT DEPARTMENT OF THE TRIAL COURT

IN RE: INQUEST INTO THE DEATH * 2352 IN000001
OF SAYED ARIF FAISAL *
RE: INQUEST
(ENTIRE TRANSCRIPT IMPOUNDED)
DAY 4
BEFORE THE HONORABLE JOHN F. COFFEY
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Courtroom 6
May 25, 2023
Court Transcriber: Lisa Marie Phipps, Certified Shorthand Reporter, Registered Professional Reporter, Certified Realtime Reporter
 $P R O C E D I N G S$ (Court called to order.) (9:38 a.m.)

THE COURT OFFICER: Court.
All rise.
Hear ye, hear ye, hear ye, all persons having anything to do before the Honorable John Coffey, presiding Justice of the Cambridge District Court, now sitting in Cambridge within and for the inquiry now seated in Cambridge, draw near, draw your attention, you shall be heard.

God save the Commonwealth of
Massachusetts.

Please be seated.
Court is now in session.
THE COURT: All right. Thank you.
I might have to let Judge Franks know that he lost his job as presiding in Cambridge.

I've been moved.
MS. SPIROS: Don't tell him that.
THE COURT: But -- but I'm in Lowell.
THE COURT OFFICER: I'm sorry, your
Honor.
THE COURT: All right. That's -- oh, no. That's okay. That's okay. It's habit.

THE CLERK: Good morning.

Today's date is May 25, 2023. This is the session of the Cambridge District court.

The Honorable John Coffey is presiding in the matter of Sayed Arif Faisal, Docket No. 2352 IN1.

THE COURT: All right.

THE CLERK: Your Honor, we are on the record.

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

Good morning, everyone.

MS. SPIROS: Good morning, your Honor.
MR. ANDERSON: Good morning, your Honor.
MS. EVANS: Good morning, your Honor.

MS. KAZAROSIAN: Good morning, your

Honor.

THE COURT: And $I$ understand we have the same people in the court -- courtroom, so that's good.

And before we begin, do we have to address any preliminary issues?

MS. SPIROS: No, Judge. I just ask after the first two witnesses are called that we discuss the CARS discovery that I had
mentioned --
THE COURT: Sure. Okay. Perfect.
MS. SPIROS: At this point I'd call
Michele Matthews, the medical examiner.
THE COURT: All right. Thank you.
THE CLERK: Judy, could you get Michele Matthews?

THE COURT OFFICER: Uh-hum.
THE CLERK: Is her name -- hold on.
Dr. Michele Matthews.
Thank you.
THE COURT OFFICER: Can you face the clerk?

Raise your right hand.
THE CLERK: Good morning.
Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth under the pains and penalties of perjury?

THE WITNESS: Yes.
THE CLERK: Thank you very much.
Have a seat.
MICHELE MATTHEWS, SWORN
THE COURT OFFICER: Watch your step.
Have a seat.
THE WITNESS: Thank you.

THE COURT: All right. Good morning, Doctor.

THE WITNESS: Good morning.
THE COURT: And, Doctor, before we begin, I just want -- I have been telling all the witnesses who appear here a certain procedure that we are following, because this is -- the nature of these -- these hearings, it's a closed hearings --

THE WITNESS: Uh-hum.
THE COURT: -- and it's not going to be made public for several days, if not several weeks.

So I'm just -- I've asked everybody who testifies here in the last several days not to discuss their testimony with anybody until this matter becomes public, okay?

THE WITNESS: (Inaudible.)
THE COURT: All right. Thank you.
Attorney -- Attorney Spiros?
THE CLERK: Your Honor, $I$ don't usually ask, I think she's a little soft spoken and if we could explain that the mic doesn't --

THE COURT: Oh, sure. Okay.
THE CLERK: -- amplify.

Thank you.
THE COURT: All right. All right. This is another thing I've been asked to tell the witnesses. That microphone in front of you doesn't amplify, it just records.

THE WITNESS: Okay.
THE COURT: So we are competing with the traffic outside because it's warm and we have the windows open. So if you could keep your voice up as much as you can, we'd appreciate it, okay?

THE WITNESS: No problem.
THE COURT: Thank you.
EXAMINATION
BY MS. SPIROS:
Q. Good morning.
A. Good morning.
Q. Could you please introduce yourself for the Court, spelling both your first and last name for the record.
A. Yes. It's Dr. Michele Matthews,
$M-I-C-H-E-L-E, \quad M-A-T-T-H-E-W-S$.
MS. SPIROS: And, for the record, your Honor, Dr. Matthews's CV is in discovery notice six.

Her report is in discovery notice five.

THE COURT: Okay. Thank you.
BY MS. SPIROS:
Q. How are you employed, ma'am?
A. I am a medical examiner at the Chief Medical Examiner's Office of Massachusetts.
Q. What does it mean to be a medical examiner?
A. It means that $I$ do exams to determine why people have died.
Q. How long have you been doing this work?
A. Coming up on four years.
Q. Could you briefly describe your educational background?
A. Sure.

How far back do we start?
Q. Um, medical school?
A. Sure.

I did medical school at Howard University, which is in Washington, D.C., and then $I$ did my residency for general pathology at Harvard, UCLA Medicine Center in Torrance, California.

And then $I$ did my fellowship for forensic pathology at the Boston Office of the Medical Examiner's.

And then $I$ stayed on as full-time staff afterwards.
Q. Could you briefly describe for the court the clinical experience you had prior to being at the Medical Examiner's Office in your current position?
A. I'm not sure $I$ understand the question.
Q. Any clinical experience you had prior to being at the Medical Examiner's Office?
A. Yeah.

That's residency and fellowship are -- is the training.
Q. You've already mentioned that?
A. Yes.
Q. Okay. I want to draw your attention now to January 5 th of 2023.

Did you conduct an examination on a male named Sayed Faisal?
A. Can I have my records out?

THE COURT: You certainly -- you certainly can. I have no problem with that. Does anyone have a problem with that? MS. KAZAROSIAN: No, I don't. MR. ANDERSON: No.
A. Sayed Faisal. Yes.
Q. And just -- you are referring to your records, you created a report and submitted it to
the District Attorney's Office; is that correct? A. Yes, I recorded -- I created the report.

I am not a part of the submission process.
Q. And the -- the examination is often called --
it's commonly called an autopsy; is that correct?
A. Yes.
Q. Where was this conducted?
A. At the Boston Office of the Mass. -- of the Medical Examiner's Office.
Q. Aside from conductang the autopsy itself, did you review any other materials in writing your report?
A. Um, yes. I have access to medical reports, as well as police reports.
Q. So, in this case, would that have been
medical reports from Mass. General Hospital?
A. I believe so.
Q. And police reports from the Cambridge Police Department?
A. Yes.
Q. Could you describe for the Court what an autopsy is generally?
A. Yes, it is generally broken into two phases within the autopsy suite.

The first phase is an external exam where

I take photos of the body.
I examine all external body surfaces for any wounds or identifying characteristics, such as just, like, hair color, eye color, tattoos, scars, and then, again, as any wounds that may be present.

And then, once all of that has been documented on our body diagrams, it turns into, if necessary, an internal exam where all of the organs -- internal organs are examined and weighed and...
Q. And I think you mentioned this sort of off the top when you described what it is that you do, but what is the purpose of the autopsy?
A. To determine why the person is deceased.
Q. And you mentioned that photographs were taken.

Do you take those, or does someone from the state Police those?
A. It depends on the circumstance. I take a set of photos for every case that $I$ have.

Depending on the circumstances of the case, additional police forces will also take photos, or Mass. State will take photos.
Q. And, in terms of other testing that you could
order in a case, is toxicology among the things that you could do?
A. Yes. That is standard on all of our cases. Q. Okay.
A. Most of our cases, sorry.
Q. I want to draw your attention to this specific autopsy and ask you, did you observe some medical intervention to the body when you did the external examination?
A. Yes.
Q. Can you briefly describe that?
A. Um, so he had a few IV lines, or what I've described as being catheters, which are just lines where people put in at the hospital to get access to the -- to his blood flow.

He had an endotracheal tube and an oral gastric tube which are tubes that go into the mouth and down into the trachea or stomach to help regulate those areas.

And then he had incisions across his chest and down his abdomen, which indicates to me that there was a level of surgical intervention that happened as part of life-saving matters. Q. In terms of evidence of injury, could you tell the Court, did you note any evidence of
gunshot wounds?
A. Yes.
Q. How many, if you can tell us?
A. Um, one, two, three, four, five, six -- six entries.
Q. Do you need a moment to...
A. Yeah. Let me...
Q. Sure.
A. One, two, three, four, five, six, seven, elght, nine -- there were ten gunshot wounds.
Q. And ten of those could be -- those -- you can't tell if those were all made by separate singular bullets; is that correct?
A. Correct.

There were different wound paths that connect some of the wounds.
Q. Um, I am going to -- I want to ask you more about that in a moment.

But let me ask you whether you noted -- or if you are able to tell when you do an examination like this what the order of any of these occurred in, like, which shot, which wound was created first?
A. No.

The numbers are just for documentation
matters --
Q. I see.
A. -- as opposed to order of impact.
Q. When you noted the injuries to the body related to the gunshot wounds, what areas were they located in?
A. He has one to the neck that comes out of the mouth.

There's one to his right hand; several to the torso.

One to the right leg and to the left upper arm.
Q. And, in your report, you use the terms "perforating" and "penetrating"?
A. Yes.
Q. Could you tell us what the difference is?
A. A perorating wound is a wound where the projectile doesn't go completely through the body.

And so for those wounds, they perforate the body but don't go through.

So there is usually a projectile that correlates to that wound path and that injury.

And then for penetrating, they -- I might have mixed those two up.

They -- no. I'm right.
No, I'm sorry. I mixed them up. And I do this every time.

Perforating goes through the body completely.

Penetrating, it penetrated the body but did not exit.
Q. Thank you.
A. My mistake. Sorry.
Q. I want to go specifically more through the locations of each of the -- of the injuries that you noted were related to gunshot wounds in this case.

More specifically, can you tell the Court your significant findings in regards to the perforating gunshot wound of the head and neck? A. (No audible response.)
Q. So this would be the one that's documented on page 4, the first large paragraph. A. Yes.

Do you want me to just go through the wound path.
Q. If you can just tell us where was it located; what was the size of it. The general findings that you made.
A. Okay. It was basically behind the left ear and went forward out of the mouth. The entry wound was about a centimeter round.

And then it went through, again, the left side of the neck; left side of the face.

It fractured the mandible, and then it exited through his lower lip.

Um, which -- and then there is just injuries associated with that including, like, tongue lacerations and hemorrhage.
Q. What's "hemorrhage"?
A. Bleeding.
Q. Are you able to determine the direction; and, if so, how do you do that?
A. Yes.

If $I$ feel confident in the drrection that the entry -- for which wound was an entry versus an exit, we do our directions with the body in our anatomic position, which is face forward; hands forward. Like, arms straight down.

And so for this one, it would have been left to right, back to front, and slightly downward.
Q. And is there a specific way that you determine that direction, the tools that you
used?
A. Yes.
(Indiscernible) looking at it and from our training, you get to kind of understand and identify what entry gun wounds look like versus exists based on the way that the wounds themselves look.

And then it also just depends on -- for certain wounds -- like, if there is a projectile still there, then we know that the other one has to be the entry because there is no exit.
Q. Understood.

And now to the -- to the next one noted in your report, the penetrating gunshot wound of the torso, if $I$ could draw your attention to that.

If you could tell us where that was located and what the size was and any damage to the body?
A. Yes.

So this one was on the right side of the chest, kind of towards the medial -- medial to the nipple, so towards the midline on the right side of the chest.

It was 1.3 centimeters by 1.1 centimeters.
And then it went into the right side of
the chest through the right lobe of the liver, and then through the right rib -- the right eleventh rib, and that had a projectile that was recovered.

And then, again, there's hemorrhage and tissue damage along the way.
Q. So, just to back up, when you say that one had a projectile that was recovered.

So you actually found a piece of ammunition in the body?
A. Correct.
Q. And what do you do with that when you find something like that?
A. Um, they are stored for -- as evidence.

We kind of rinse off the projectile as best as possible, and then they are stored in manila envelopes, and they are sealed by me.

And then they get submitted as evidence and then the associated crime lab does whatever gunshot things they do.
Q. Understood.

And so that was a penetrating gunshot wound to the torso.

Now there are perforating gunshot wound to the torso.

So, going to the middle of page 5 of your report --
A. Yes.
Q. -- can you tell us similar characteristics -the similar -- the findings that you made in regards to this wound?
A. Yes.

So this wound was on the lower -- the left lower quadrant of his abdomen, and it was 1.6 by 1.0 centimeters.

And it went just through soft tissues of the abdomen.

So it didn't hit any vital organs but still just had hemorrhage along the way. Q. Let me ask you about that, if $I$ can.

You mentioned the last one, the penetrating gunshot wound to the torso. That struck the liver.

Would that be considered a vital organ?
A. Yes.
Q. To the next wound that you noted on page 5, a perforating gunshot wound to the right upper extremity.

When you use the word -- or the phase right -- "right upper extremity," what are you
referring to?
A. It's the right arm. So from shoulder down to hand.
Q. Okay. And where was this one located and what was its size?
A. This was located on the right hand, and it was 0.8 by 0.8 centimeters.

And then, again, this went through some --
the soft tissue of the hand.
Q. Were you able to determine direction on that one?
A. Yes.

It was from back to front.
If the -- if he was standing in an anatomical position.
Q. And to the next one, the penetrating gunshot wound to the right lower extremity.

Could you -- could you -- I'm sorry.
Could you describe the significant
findings in regards -- in regards to that?
A. Yes.

So this -- the right lower extremity went into the kind of middle of his right thigh.

So lower extremity is legs; upper extremities are arms.
Q. Okay.
A. Um, and for this wound it was 1.0 by 0.7 centimeters.

And it caused a fracture to the right femur, which was associated with a hematoma, which is a collection of blood within the tissues.

And also had injuries to the femoral vessels, which are large blood vessels in the leg.
Q. Of the gunshot wounds that we've discussed, was there any one of them that was more significant than the others in terms of the impact it would have had on the body, if you can tell us?
A. I'm not sure.
Q. I want to ask you about the sharp force injuries that you noted, if $I$ could.
A. Uh-hum.
Q. First to the neck.

What was it that you were able to determine about the sharp force -- force injurıes to the neck?
A. Um, so they were located basically across the middle of the neck, but they were very
superficial wounds.
Q. When you say "superficial wounds," would -if you know, would they have contributed to his cause of death?
A. No.
Q. How about the sharp force injuries to the upper right extremities?
A. To the upper right is similar. There were superficial in size wounds.

So "in size" meaning that they were longer than they were deep.
Q. And those were the left and right wrists that you noted?
A. Correct.
Q. In terms of the internal examination, was there anythang of significance that you relied upon in determining the cause of death in this case from the internal examination?
A. No.

Outside of what was listed as injuries?
No.
The rest of the internal organs were normal.
Q. Could you tell us, if you are able -- able to know, and $I$ think $I$ just asked you this a little
bit -- which injury would have been the fatal one, or the one that actually caused his death? A. No. I wouldn't feel comfortable saying one specific.
Q. Did you form an opinion based on your training and experience as a medical examiner as to the manner and cause of death of Mr. Faisal? A. Yes.

It was multiple gunshot wounds was the cause of death.

MS. SPIROS: If I could just have a moment.

THE COURT: Sure.
BY MS. SPIROS:
Q. You mentioned the term "mandible" earlier.

What is -- what was that?
A. It's your lower jaw.

MS. SPIROS: I have nothing further for this witness.

THE COURT: All right. Thank you.
Attorney Anderson?
MR. ANDERSON: I don't have any questions.

THE COURT: All right. Thank you.
Attorney Kazarosian?

MS. KAZAROSIAN: Thank you, your Honor. EXAMINATION

BY MS. KAZAROSIAN:
Q. Good morning, Dr. Matthews.
A. Good morning.
Q. I'm Marsha Kazarosian, and I represent the family of Mr. Faisal.
A. Okay.
Q. When you talked about ten gunshot wounds, are you -- as part of that assessment talking about entrance and exit wounds or not ten different gun shots, correct?
A. Correct.

There are entrance and exit wounds included in that count.
Q. And there were two wounds that you indicated were back to front.

One was, I believe, on page 4 to the face?
A. Yes.
Q. That was face -- and then when you say
"anatomically," would that position -- does that mean that the deceased would have been facing where the gun was pointing or back to the gun was pointing?

Could you explain that a little --
A. Um.
Q. -- where that (inaudible) comes from?
A. I can't give a definite answer on that because our bodies are not fixed.

So while an anatomical position, it reads back to front, it could have just been that -especially for -- so we're talking about that first wound. It's here on the neck.

So it could have just been at that moment the head turned to the side and that's where the bullet traveled.

So I can't make that prediction of where the deceased was standing relative to the bullet. Just how the bullet entered the body.
Q. I see.

And so the same thing could be said as for the bullet wound to the -- I think it was the hand or the wrist?
A. Yeah.

To the wrist.
Q. It could be moving. Okay.
A. And, again, because our arms are even more mobile than our -- than the main parts of our bodies.

So it could have been that he was, like,
this -- or, you know...
Q. And you're waving your hands around, for the record?
A. Right.

He could have moved --
Q. Yes.
A. -- his hands in any way that...
Q. Understood.

The gunshot wounds that you noted fractured his right femur --
A. Yes.
Q. -- are you able to tell whether that's a wound that, if inflicted, he would have still -still been able to remain on his feet?
A. Um, I'm not sure. I would be making a guess.
Q. Sure. I understand.

And are you able to determine whether or not the gunshot wounds to his extremities were nonfatal wounds potentially?
A. Um...
Q. And that they didn't hit no vital organs or potentially fatal.
A. Um, I could say that the injuries to his upper extremities were probably not fatal.

But I would not feel comfortable saying
that the injury to his right lower extremity could not have in itself been fatal.
Q. And you -- because -- and you had indicated that it hit a femoral artery or --
A. Yes.
Q. -- (inaudible)?
A. It hit the femoral vessels --
Q. Right.
A. -- which are large blood vessels in the body. Q. Okay. Understood.

MS. KAZAROSIAN: Could I just take a moment?

THE COURT: Sure.

BY MS. KAZAROSIAN:
Q. When -- when you examined the body and did the external examination, did you note that there was any indication of Betadine or any such washing of the body before you received the body?
A. I would have to look back at -- at photos to see that. I don't generally document that.

But given that he had had surgery, I would assume there probably was some level of cleaning that happened, at least to his torso.
Q. And you had noted on both the torso and the
femur there was gun - no gun powder stippling or soot identified, correct?
A. Yes.
Q. Does -- can you -- are you able to say that that would indicate some kind of a distance without -- without assuming a distance between the gun and the deceased?

MR. ANDERSON: Objection.
THE COURT: I'll allow that.

You may answer.
A. I would not make that statement because my understanding is that the deceased had some level. of clothing on.

And while the science is not perfect, in general, for gun powder and soot to be on the body depending on distance, because we don't live in a vacuum, him having had surgery and him having had clothes on would also change those projections.
Q. Understood.

And I think one last question is: In your report you didn't note any other bruising or any other abrasions on his body other than the ones from the bullet wounds and the laceration -lacerations; is that a -- is that a fair
statement?
A. Yes.

MS. KAZAROSIAN: I have no further questions.

Thank you.
THE COURT: All right. Thank you.
MS. SPIROS: Your Honor, just briefly.
THE COURT: Sure. Sure.
EXAMINATION
BY MS. SPIROS:
Q. If I could ask, Doctor, could you just -- in your response to the inquiry about stippling and soot, could you just describe what those are or what you understand "stippling" and "soot" to be? A. Yes.

So within the bullet, or somehow in the mechanism of the bullet, when the -- when $a$ bullet is fired, gun powder is also released from the gun as a propellant.

And in the textbook it tells you if you are a certain ways away, or close, that gun powder will either leave, like, a dusting on the skin, which would just be the soot, or it could actually burn the skin, which would be stippling.

And then if it was, like, a contact wound,
then you would have an impression of the gun or something to that extent as opposed to having stippling or just soot.
Q. And. As you mentioned before, there's a number of variable -- variables that go into whether or not those things are present? A. Yes.

MS. SPIROS: Nothing -- nothing further.
THE COURT: All right. Thank you.
MR. ANDERSON: Judge, can $I$-- can $I$ just follow up on that real quick?

THE COURT: All right. EXAMINATION

BY MR. ANDERSON:
Q. Dr. Matthews, you said that you reviewed some of the Cambridge Police reports and the medical records.
A. Yes.
Q. And do you recall that this patient had chest seals put on his body when -- from the police at the scene?
A. He had -- I'm sorry?
Q. Chest seals, seals to keep the wounds from breathing in and out.

Were you aware of that?
A. I don't recall offhand.
Q. And did you receive any notes at all from the EMS employees?
A. Um, I did. I just -- I don't have that committed to memory of what all interventions happened prior to the hospital --
Q. Right.
A. -- or not.
Q. Okay. But just --
A. When he was received at our office, he did not have those on is what $I$ can tell you.
Q. Okay. But part -- part of the discovery we've received is handwritten notes from an Elise Gedansky, who worked for Pro Ambulance, who indicates that there was a cop holding pressure on the right chest on the way there.

If someone was holding something on a wound, is it possible that that could have taken away any gunshot residue or stippling because there was being pressure applied by either a glove or a cloth material?
A. Sure.
Q. Okay.

MR. ANDERSON: I have nothing else.
THE WITNESS: Sorry, should I say yes?

Sorry
THE COURT: Oh, no.
That's fine. That's all right.
All right. Thank you very much, Doctor.
(Witness excused.)
MS. SPIROS: Detective Lieutenant William Donoghue, please.

THE COURT: Okay. Thank you.
THE CLERK: Good morning.
THE WITNESS: Good morning.
THE COURT OFFICER: Stand here.
Face the clerk; raise your right hand.
THE CLERK: Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth under the pains and penalties of perjury?

THE WITNESS: I do.

THE CLERK: Thank you very much. WILLIAM DONOGHUE, SWORN

THE COURT: All right. Good morning, Lieutenant.

THE WITNESS: Good morning, your Honor.
THE COURT: Lieutenant, I'm sure you are aware there is a sequestration order.

And, because of the nature of these proceedings, it's a closed hearing, so I am just
going to ask you not to discuss your testimony here today until this matter becomes a matter of public record, okay?

THE WITNESS: I can.

Thank you.
THE COURT: All right. Thank you, Lieutenant.

Okay. Attorney Spiros.
MS. SPIROS: Yes, thank you, your Honor. EXAMINATION

BY MS. SPIROS:
Q. Good morning, sir.
A. Good morning.
Q. Could you please introduce yourself to the Court, spelling both your first and last name for the record.
A. My name is Detective Lieutenant William Donoghue, $\quad D-O-N-O-G-H-U-E$.
Q. How are you employed?
A. I am employed by the Massachusetts State Police.
Q. And in what role?
A. My current position, I am the commanding officer of the Homicide Unit attached to the Middlesex District Attorney's Office.
Q. How long have you had that role?
A. I've been assigned to the DA's Office for just over 23 years; in my current position as unit commander, two years -- just over two years. Q. So as the unit commander, what does that mean -- does that mean you do every day?
A. So the District Attorney's Office, in my role, is $I$ oversee homicides.

We also have a special -- a special investigations unit that handles our narcotics and organized crime cases.

But my day-to-day is managing death investigations.

Within the DA's office we have approximately 19 troopers assigned to that unit.

We are on-call to respond to any death that occurs within the county, as well as the other component of our office, which is doing special investigations, which could be narcotics, public corruption, threats and so forth.
Q. And before I ask you more about how sort of your unit works on a day-to-day basis, can you tell the Court whether you've had other roles for the state police or other law enforcement agencies?
A. Yes.

Well, when $I$ first started as a police officer, I was in uniform patrol.

I was -- which entailed, you know, a marked cruiser, performing basic patrol functions on the highway.

From that role, I transferred to the Attorney General's Office in Boston.

I was assigned to the Public Integrity Division there.

And, $1 n$ that role, $I$ was -- handled strictly corruption cases as well as undercover narcotics.

I did undercover patrol purchases for within that time for about a year or so.

From that role -- I was there for about three and a half years, and then $I$ transferred to the District Attorney's Office in January of 2000 to the Homicide Unit as a line trooper.
Q. And, in terms of your educational background, can you brief -- can you briefly tell the court about that?
A. I have a bachelor's degree in business administration from Saint Anselm College.

I have a master's degree from Anna Maria

College in criminal justice; and then, you know, graduated from the Mass. State Police Academy in 1993.
Q. Thank you.

Sir, let me ask you a little bit more about your unit itself.

I believe you mentioned you have 17 troopers under your control?
A. Eighteen, yes --
Q. Eighteen.
A. -- well, yeah.
Q. I apologize.
A. That's okay.
Q. And how does -- how does -- how does the supervision work in your unit?

Do your troopers work as teams when they are sent out to a call?

How does that work?
A. Yeah. So within -- for the homicide response, we have 18 -- we are on-call 24 hours a day, every day, 365 days a year.

We have a sergeant, line supervisor, and two troopers would be on-call and have what we would call the duty call, the responsibility for any case that comes in during a 24-hour period.

They would respond directly to those scenes and oversee and manage whatever that could be.

And those cases could be an unattended death, a suspicious death, a suicide, as well as a homicide or anything that would involve violence.
Q. And so when a local city or town needs your assistance, how does that work, they just call and -- and you respond?
A. Exactly.

So the -- essentially, the District Attorney is in charge of any death that occurs outside of a hospital.

It is the District Attorney's authority to handle those cases.

We are the -- the State Police are the designated agent for the DA.

As a practical matter, when a death occurs or a -- any incident where they need assistance, they will call the state police directly for us and then we will -- we will respond essentially as the DA's representative, the investigative branch, as well as the state Police.
Q. And when you respond, do you have other
resources aside from just the troopers assigned to your unit that you can bring to a particular call or a scene?
A. Yes, we do.
Q. Can you talk about that a little bit?
A. So, within the State Police, depending upon what type of case it is, there are multiple resources that we can bring and add to document and conduct a thorough investigation.

That would be Crime Scene Services. We have chemists assigned.

We have ballisticians. We have -- our collision reconstruction group has new software that we are now applying to process and document crime scenes.

We have our search teams that can respond.
Depending on what resources and the nature
of what we are investigating, those are
essentially the basic resources we would call in to assist us in documenting.
Q. And, generally speaking, how does it work when your teams go out in working with the cities or towns in their department?
A. So we would work as a -- as a team.

So the District -- the District Attorney's

Office and the state Police and local police, everyone has a role -- role and responsibilities -- when we would be at a scene like that. The, you know, ultimate authority is with the District Attorney, but we would work as a team in any investigation that we were conducting.
Q. And the case that brings you to court today, that -- that is an officer-involved shooting case; is that right?
A. That's correct.
Q. And can you tell the Court, is there any difference in how you respond or how that works based on the fact that it is of that nature?
A. Well, the -- the process is -- is the same.

The local police have that incident. They would call us to come out and respond.

We would bring in the resources that I just described to that scene.

So the resources would be the same;
certainly, that, in this particular case where a police officer is involved, as the unit commander having experience, it would fall upon me to do those - those interviews of the officers versus having a line trooper interview another line
officer.

So there are some nuisances that would change.

But the basic process in documenting and how we would conduct interviews and the resources the resources that we would bring in would stay the same.
Q. I want to draw your attention, then, to the response in this case that brings you to court for -- on January 4 th of 2023 .

Can you tell us a little bit about how you and the State Police became involved in this response?
A. Well, we received a call from Cambridge Police requesting assistance that they had a shootıng involving one of their officers.

I believe the victim in that case was transported to -- transported to Mass. General Hospital.

They called us -- I would not say immediate -- I think it came -- about 1:15 is when they called us for assistance.
Q. And that's 1:15 in the afternoon?
A. That's correct.
Q. Okay. And so, as a result of getting that
call, did you dispatch a team?
A. Yes.
Q. Did you, yourself, go to the scene that day?
A. Yes, I did.
Q. Who was the team that you instructed to go initially to the scene?
A. Well, the -- I responded directly and would assume control and command of that scene from the State Police.

On that day we had multiple troopers respond and sergeants that would come out, as well as we have another Lieutenant assigned, Lieutenant Eric Gagnon. He is the No. 2 person at the office. He also responded.

So we had multiple troopers and supervisors come out.
Q. Can you tell the court when you arrived what was going on?

What were you observing?
A. So when $I$ arrived, the street was blocked off and $I$ exited; $I$ believe I made first contact with Lleutenant Brown and the scene in the backyard was taped off and secured.
Q. And Lieutenant Brown, is that David Brown?
A. Correct.
Q. He would have been sort of the higher-ranking person for Cambridge at the scene?
A. That's correct.
Q. Okay. And so after you make those initial observations and made contact with Lieutenant Brown, what do you do next?
A. So, you know, I would get a -- or in this case, I did get a preliminary synopsis of what had happened.

Based upon that, I would make some determinations about what resources we would need.

In this particular case, there was firearms discharged.

There was ballistic evidence.
There would be blood evidence that would need to be processed.

So, at that moment, we would reach out to our State Police specialty units; Crime Scene Services, chemists, ballisticians.

And, in this particular case, we also reached out to our Collision Analysis Group, to bring out the -- they have a technology that can assist us in really doing an enhanced documentation of a scene.

And that is a preliminary survey. And to get those resources responding as quickly as possible.
Q. And in this case, also the SERT Team came out; is that right?
A. Yes.

When -- as the information came in, we came to learn that there was interaction much prior to what had happened in the backyard.

In order to document that route of travel, we notified the SERT Team.

They have the ability to, essentially, wear a GPS and then walk that route and transfer that GPS to a map to document that - that route of travel.
Q. And you mention the CARS, the Collision Analysis Reconstruction Section, normally that's something that -- that's the unit that responds to crashes, correct?
A. That is their primary function, correct.
Q. But in this case they were able to assist with some kind of higher technology with mapping; is that right?
A. That's right.
Q. Is that machine called a Leica machine?
A. That's correct.
Q. So after you assessed what resources you needed and called those in, can you tell us what your role was at the scene continuing through the night?
A. So I was interfacing with Lieutenant Brown to make sure that we would do follow-up at the hospital; that a neighborhood canvass was done.

Any witnesses would be located and interviewed; that that scene was continued to be documented.

Essentially, on that -- really in those initial stations, it's ensuring that the documentation of that scene takes place, as well as locating any and all witnesses, which would include eyewitnesses, which would include video, um, any other potential sources of -- of information that we could use, again, to document what -- what had happened.
Q. So you indicated you responded sometime in the afternoon around 1:15 or so.

How long did this last?
How long were you out there for?
A. It was hours.
Q. And sort of towards the end of the night, is
there a regroup that happens in terms of making sure everyone's on the same page for additional followups?
A. Yes.
Q. Okay. And did that happen at the Cambridge Police Department?
A. It did.
Q. You talked a little bit about -- about interviewing officers and how, in this case, you would be performing that function.

Officers who were -- who were percipient witnesses?
A. Correct.
Q. Can you tell the court a little bit more about that process and how that got scheduled and - and sort of what happened in that regard?
A. So in that -- the process would be we had this basic summary of what had happened.

We were able to identify the officers that were on scene.

The initial processing ended up late into the night, and we were there through dark, so those officers were not available to be interviewed.

But the scheduling for that would be
with -- dependent upon the officers's availability in the Department and as well as the attorneys that would be representing the officers that would participate in a police interview. Q. And so it's a matter of Just sort of scheduling it, and it's not always done right away?
A. That's correct.
Q. Okay. And, if you recall, were the first set of interviews done on January 5 th of 2023 .
A. Yes.
Q. And did that -- did that include John Boyle, Robert Colbert, and Stephen Sennott?
A. Yes.
Q. Can you tell the Court a little bit about how these interviews were done, where they were conducted, if they were recorded or not?
A. The interviews were conducted at the Cambridge Police Department, and they were audio and video recorded.
Q. Is that standard in a situation like this?
A. Yes.
Q. Do you ask them at the outset whether or not they want to be audio record -- whether they are comfortable with audio being recorded?
A. That is something that would be discussed, as we would with -- with any witness, but, yes.
Q. Is there anything else you do to ensure that the rights of the officers are -- are kept in mind as these interviews take place?
A. Yes.

We would advise each officer of Miranda, or we would acknowledge and make sure and put on the record that they are there voluntarily; that they've had counsel; that they've had an opportunity to consult with their counsel; they understand their rights.

So we would put all of that on the record.
Q. And of the interviews that you did in this case that were recorded, the six officer interviews, is it your understanding that none of those interviews were compelled by their employex?
A. That's correct.
Q. Is that something you would want to know in advance?
A. Well, that's something -- absolutely.

They -- the officers -- and that is a distinction that we are absolutely in tune to that.

They certainly have the right to not speak with us.

They cannot be -- they cannot be compelled by -- on the condition of their employment to speak to us.

We are very clear about that they're there voluntarily; that they've had an opportunity to consult with their attorney, as well as even -giving them Miranda and having them acknowledge that; that that is a -- a voluntary interview. Q. And when you go about the questioning in this case, you were the primary questioner of these officers; is that right?
A. That's correct.
Q. And, in each case, were there a couple of other people aside from the officer who was being interviewed in the room?
A. Yes.
Q. Who were those people?
A. Lieutenant Dave Brown and Attorney Anderson.
Q. And you are referring to the Attorney Anderson that's in court with us today?
A. That's correct.
Q. And, as the interviews took place and you were asking them questions, what was your -- what
was your technique or your focus in the way that you were doing the questioning?

What's your goal?
A. Well, to find the facts, very specifically; to take a statement, be as thorough as we can or as $I$ can to hear what happened and $\cdots$ yes.
Q. What about the type of questions that you used, were you mindful of that?
A. Yes.
Q. In what way?
A. Well, I am very -- very in tuned to, essentially, asking open-ended questions, very specifically what happened next versus any suggestiveness that $I$ - you know, I need to hear their story and what happened or - as in any witness.

And asking what happened next gives the officer an opportunity to tell me what he -- or are in his words rather than me, you know, forming a question where, you know, I'm feeding them information.

So $I$ am very specifically asking open-ended questions where we can hear the story.

And then there's certainly followup for
clarity, but we need to hear that story from each witness's perspective in their own words.
Q. Did you permit Attorney Anderson to also ask questions?
A. Yes.
Q. And the -- the interviews also varied in terms of the length of time; is that correct? A. Yes.
Q. And, during those interviews, sir, did you also engage the officers in creating diagrams?
A. Yes.
Q. What was the purpose of that?
A. Well, I think -- again, if -- an extra step to make sure what they are saying -- you know, someone can tell us a story by visualizing it, they were there, in order for us to understand it or for the Court to ultimately understand it some day.

A basic diagram is certainly something that can assist with clarity as to where people were positioned and whatnot, understanding it's not to scale, but it assists me as an interviewer.

It would give me the opportunity to ask followup questions, and, you know, really in the
pursuit of making the record as clear we can. But that's a helpful tool for us.
Q. And did you have the witnesses or the officers put their initials and date on -- on each of the diagrams that they drew?
A. Yes.
Q. I asked you about the interviews on January 5 th.

Were there also interviews conducted on January 6th?
A. Yes.
Q. And did those include Brian Pugliares, Casimir Maziarz, Nicholas Ayoub, and Officer Liam McMahon?
A. Yes.
Q. Do you see Officer McMahon in the courtroom today?
A. I do.
Q. Okay. And you conducted the interview of Officer McMahon; is that right?
A. I did. That's correct.
Q. And that was recorded; is that right?
A. That's correct.
Q. And Attorney Anderson was with him at the time?
A. That's correct.
Q. Did you ask him and did he actually create two different diagrams in the course of the interview that you had with him?
A. Yes.
Q. Diagram 1 and 2?
A. Yes, if $I$ can see them.
Q. Certainly.

MS. SPIROS: May I approach?
THE COURT: You may.
A. Yes.
Q. Are those Diagrams 1 and 2 from officer McMahon's interview?
A. Correct.

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

THE COURT: All right. I think we are at 47, right?

THE CLERK: That is 47.
(Exhibit No. 47, Two diagrams, received into evidence.)

MS. SPIROS: I don't know if you want to staple them together or --

THE CLERK: No. Oh, I was going to mark them separately, if that's okay.

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MS. SPIROS: Okay. So 47 - -

THE CLERK: Oh, they could be stapled together.

MS. SPIROS: Okay.
THE CLERK: Whatever you want.
MS. SPIROS: Thank you.
And how many are there are there three?

THE CLERK: Just two.

MS. SPIROS: Yes, two.

THE COURT: Yep.

MS. SPIROS: Okay. Thanks.
BY MS. SPIROS:
Q. And, in terms of Officer McMahon, sir, we just talked about sort of the general practice that you employed in these interviews, giving Miranda, seeıng if it was voluntary, making sure they weren't compelled by their employer.

Did all those things happen for officer McMahon, as well?
A. Yes.
Q. Okay.

MS. SPIROS: Your Honor, I'm not sure if this Court wishes for us to play the interview.

It is in evidence already.
THE COURT: Yeah. I - I listened to it
several times.

MS. SPIROS: Understood.

THE COURT: So unless someone needs to hear it in open court.

MS. KAZAROSIAN: No.

MS. SPIROS: I just wanted to ask the Court.

THE COURT: Okay. All right.
Thank you.
MS. SPIROS: Yep. You're welcome.
BY MS. SPIROS:
Q. I did want to take you back, sir, to -- move back to the area of the backyard at 59 Chestnut and the response there.

I want to show you two photographs, if $I$ can, and see if you recognize what's in these two photographs.

MS. SPIROS: If I may approach, your Honor?

THE COURT: Sure.
A. I do.
Q. What do you recognize those to be?
A. This is the -- the backyard at 59 Chestnut and it depicts -- these aren't labeled, but it depicts the backyard that $I$ suggest would be a
fair and accurate representation of what $I$ saw that day when $I$ arrived at the scene.
Q. And is the second one a slightly different angle but also taken in the backyard and somewhat of the side yard?
A. That's correct, yes.

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

THE COURT: All right. How many pages, two?

THE CLERK: Two.
MS. SPIROS: May I just see those?
THE CLERK: There are two pages?
MS. SPIROS: Two pages, please.
THE COURT: Yes.
(Exhibit No. 48, Two photographs, received into evidence.)

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

THE COURT: Certainly.
MS. SPIROS: Do you want to keep them separate?

I'm not sure -- it doesn't matter.
THE CLERK: Ah... no.
MS. SPIROS: Thank you.

THE CLERK: Thank you.
MS. SPIROS: Publishing 48 .
BY MS. SPIROS:
Q. Can you - sir, can you tell us, you said it was a fair and accurate depiction of what -- of what you remember when you went that day.

I know it's a little bit of a glare, so maybe I'll focus more on your memory than the actual photograph itself.

But can you tell us a little blt about what you remembered in terms of, like, the plants and the trees?

Does this appear accurate to you in terms of how it looked?
A. It does appear accurate, yes.
Q. How about the nature of the ground?

It was January. Do you remember what it was like that day?
A. Yeah, the ground was I would -- I would say the temperature was probably in the low thirties that day.

The ground was certainly firmer than it would be today on a spring day. There's not a lot of grass.

Certainly, you can see less vegetation
than we saw yesterday at the scene.
And then, on this particular photo, you know, from my memory, I make note of the tree. The fence that's to the back and to the right from my vantage point of view.

And then $I$ can see the markings from the shell casings, and then the medical supplies from treatment that were also present the day that $I$ went to the scene.
Q. Now, I just want to focus a little bit on something you just mentioned.

Were you present when the court and the lawyers went for the view at 59 Chestnut earlier in week?
A. I was, yes.
Q. And were you able to note any distinction and sort of how the backyard looked then as it does -- as to what it does now?
A. Much greener, I would say, to -- for the simplest term to look -- just much greener, which would -- you know, it's springtime now, so much more vegetation.

The lawn is green here. The -- you know, there's more dirt showing. The grass is brown from the picture that $I$ see here.

But this was a typical January day that we would find in Boston, in New England, and yesterday was a spring day where there's more vegetation in the back.
Q. And there's two larger trees sort of toward -- or at least two to three larger trees in the -- in the back area, especially one right in front of that white fence.

You see that, what I'm talking about?
A. I do, yes.
Q. That and this photograph has no leaves; is that right?
A. Correct.
Q. But now it has some vegetation on it?
A. Correct.
Q. You mentioned the fences.

In terms of the followup in this case, was -- were the Cambridge Police Department were they asked to do some measurements of the fences in this case?
A. Yes.
Q. And did they actually go out there with a ruler -- with a measuring tape and just put it up to the fence?
A. That's correct.
Q. And they took some photographs of it?
A. That's correct.

MS. SPIROS: May I approach the witness?

THE COURT: You may.
BY MS. SPIROS:
Q. If you could flip through these; and let me know, once you are done if you recognize what's depicted.
A. (No audible response.)
Q. What -- what is depicted here?
A. This is, again, beginning with an overall shot of the backyard and then there are...
there's -- there are five photos in total that depict the measurements of the fence.
Q. And so the -- the two fences that are focused on here, is the one to the right here and then the right, a brownish fence --
A. Correct.
Q. -- pictured right here in Exhibit 48, and the white fence behind the larger tree; is that right?
A. I was looking -- I was looking down when you made that comment --
Q. I'm sorry.
A. If you could... Q. Yes.

In Exhibit 48, looking -- are those -- the photographs that are depicted in what you're holding in your hand, those photographs, focused on the fence to the right of this plcture in 48 and the one towards the back of Exhibit 48 behind the tree; is that right?
A. That is exactly correct.
Q. Okay. And so do the photographs that you have there in terms of the measuring tape indicate the height of each of those fences? A. Yes.
Q. And is one six feet and the other is eight feet?
A. I see the six feet.

The other would be approximately eight feet, correct, based upon this photograph.
Q. Thank you.
A. You're welcome.

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

THE COURT: Okay. That will be Exhibit 49.
(Exhibit No. 49, Five photographs, received into evidence.)

THE CLERK: How many pages?

THE COURT: Five -- five, yeah.

THE CLERK: Thank you.

MS. SPIROS: If I could just have a moment, your Honor.

THE COURT: Yes.

MS. SPIROS: I have nothing further for this witness.

THE COURT: All right. Thank you.
Attorney Anderson?
MR. ANDERSON: I don't have any questions.

THE COURT: All right.

Thank you. And, Attorney Kazarosian?

MS. KAZAROSIAN: I do, your Honor.

Thank you.
EXAMINATION

BY MS. KAZAROSIAN:
Q. Good morning, Detective Donoghue.
A. Good morning.
Q. I'm Marcia Kazarosian, and I represent the family of Mr. Faisal.
A. Good morning.
Q. When you were - when you first got the call, you said it was 1:15 in the afternoon.

Do you recall whether you got that call after the shooting occurred or before?
A. Before or -- before the shooting?
Q. Yeah.
A. No, I got -- I got called after --
Q. After?
A. -- the incident occurred.

Correct.
Q. But you believe it was at 1:15?
A. No. I said approximately, I think.
Q. Okay.
A. You know, I think the accident may have happened at 1:15. I think we were called pretty quickly after that.
Q. All right. And you talked about a SERT Team.
A. Yes.
Q. Can you explain what that means?
A. So the -- that stands for in the

Massachusetts State -- State Police Special Emergency Response Team.

And that's a team that was originally created for a search and rescue and with the -- really the advent of technology they have -- some of their technological resources that they have, if we, for example, were to do a
grid search for a missing child or an elderly person when each of those officers goes out, they have a GPS attached to them.

And with that - that technology, we can determine what has been searched successfully and what has not.

As this case went on on that particular day, I was aware of that technology very specifically to apply it to with that GPS they could walk the route and create an overhead map. So that's a little bit out of their scope.

But, again, as we talked about the resources that would be available to us, we were able to apply, you know, what they do to a particular incident that could enhance us and certainly enhance the Court.
Q. So it's a useful tool in mapping out - A. Yes.
Q. -- the routes or -- does it map out distances or areas?
A. (No audible response.)
Q. Can it give like, for example, the area of Point $A$ to Point $B$ ?
A. That question would be per pointed to the troopers that utilize that technology.

But my answer would be, yes, and certainly in a basic way.

Certainly you could -- having -- being familiar -- you know, if someone is familiar with the area, familiar with the route, and then looking at the map itself, you could certainly generate some distances from that.
Q. And you had said that the Cambridge Police were asked to measure the fences; is that correct?
A. Yes.
Q. Do you know if anyone was asked to measure the perimeter of the yard, like all of the length and width of the entire yard?
A. So I don't know if that question was asked specifically, but the -- the technology of this -- the Leica program is something that is really new; as things are evolving, new to me, as well.

But that machine, it is my understanding, creates a 360-degree view that's almost -- it's interactive, for lack of a better term.
Q. Okay.
A. And those distances, when utilizing that program, should be able to be created.
Q. Okay. And we'll be getting that shortly?
A. That's correct, yes.
Q. Okay. I just want to go to this, which was I think Exhibit 48 on the screen.

You said you could see the placards for where the cartridges were, correct?
A. Yes.
Q. Or do you recall where they were?
A. Um, if $I$ could review the photo again?

I -- I can see them from here but I would prefer - -

THE COURT: Do you want to -- you can step down there.

THE WITNESS: If you'd like me to, of course.

BY MS. KAZAROSIAN:
Q. This will be very quick.
A. That's okay.
Q. So are you talking about these placards here?
A. Yes.
Q. And some of those are from the cartridges; is that correct?
A. That's my understanding, correct.
Q. And do you know what the other ones arefor?
A. I don't know.
Q. Based -- okay.
A. Based upon this photo.
Q. All right. Thank you.

MS. KAZAROSIAN: I have no further questions.

THE COURT: All right. Thank you.
All right. Thank you, Lieutenant.
THE WITNESS: Okay. Thank you, sir.
(Witness excused.)
THE COURT: And Attorney Spiros?
MS. SPIROS: Yep.
Yes, your Honor, at this point, the Commonwealth would move to introduce the CARS report to the court, as well as the eighth notice of discovery documenting the CARS report.

And I'd like to address the Court in terms of how that evidence might be best handled --

THE COURT: Yeah. Sure.
MS. SPIROS: -- at your Honor's discretion, of course.

But I would ask that the underlining data --

THE COURT: So --
MS. SPIROS: -- be marked at this point.

THE COURT: All right. We'll put that in --

MS. SPIROS: And that --
THE COURT: -- as Exhibit 50 now.
So the CARS report -- which is on the flash drive?

MS. EVANS: It's on a little flash drive. THE COURT: Okay.

MS. SPIROS: And that -- the notice of discovery, as well.

THE COURT: So that's Exhibit 50 .
MS. SPIROS: Yes.
THE COURT: And the discovery notice associated with that is eight.

MS. KAZAROSIAN: Excuse me, is the discovery notice 5I, or are they both 50?

THE COURT: Fifty is the --
MS. KAZAROSIAN: The CARS report?
THE COURT: The CARS report.
And we are just referencing that --
MS. KAZAROSIAN: Oh, okay, right.
THE COURT: -- as Discovery Notice No. 8.
MS. KAZAROSIAN: Okay.
THE COURT: Yeah.
(Exhibit No. 50, CARS report, received
into evidence.)
MS. SPIROS: And, your Honor, and I'd -also, in anticipation of the inquest, the Commonwealth had reached out to Attorney Kazarosian inquiring whether one of the family members of Mr. Faisal wished to testify.

I was indicated -- I was told that that was not the case.

But I did ask, as I often do in other cases, for photographs of the -- of Mr. Faisal in life so that could take -- so that could be made part of the record.

THE COURT: I have no problem with that.
MS. SPIROS: So I do have eight
photographs from the family --
THE COURT: Eight photographs. Okay.
MS. SPIROS: -- that I would offer of Mr. Faisal in life.

THE COURT: All right. So that will go in, the eight photos, as 51.

MS. KAZAROSIAN: THE CLERK: So the other notices we didn't --

THE COURT: Did we give numbers to?
MS. KAZAROSIAN: We gave numbers to --
THE COURT: Oh, okay, I'm sorry.

MS. KAZAROSIAN: So I'm wondering if we should.

THE COURT: So -- yeah, so that discovery notice gets 51 .

THE CLERK: Okay.
THE COURT: You're right, Attorney
Kazarosian.

And so --
THE CHERK: No, the CARS report?
THE COURT: The CARS report is 50, and the discovery notice is 51.

THE CLERK: Okay.
(Exhibit No. 51, Discovery notice eight, received into evidence.)

THE COURT: And so the eight photos of Mr. Faisal are now 52 .

THE CLERK: Very good. Thank you.
(Exhibit No. 52, Eight photographs of Mr. Faisal, received into evidence.)

MS. SPIROS: Your Honor, with the Court's permission, I'd like to briefly publish 52.

THE COURT: Okay.
MS. SPIROS: Displaying page 1 .
Displaying page 2 .
Displaying page 3 .

Displaying page 3 .
Displaying page 4.
Displaying page 5 .
Displaying page 6.
Displaying page 6.
Displaying page 7.
Displaying page 8.
THE COURT: Thank you.
MS. SPIROS: Thank you.
THE COURT: okay. And is there any other documentary evidence -- evidence anybody wanted to introduce?

MS. SPIROS: Not in terms of documents from the Commonwealth, your Honor, just by way of explanation as to the Leica material.

THE COURT: Yeah.
MS. SPIROS: If I could address that now? THE COURT: Oh, yes. Yeah, please.

MS. SPIROS: Thank you.
So Attorney Evans and $I$ spoke about this quite a bit from the time yesterday; we got it to this morning.

We've spoken with a couple of members of the CARS Unit at this point, trying to get a better handle on the evidence.

I think our overall assessment is that the program is pretty impressive.

It is very much like a Google Earth, interactive.

You can put in one point, say, for the left side of the backyard and one point to the right side of the backyard, and it will pop up with a distance.

THE COURT: It will pop up with a distance, yep.

MS. SPIROS: And so $I$ think it is helpful.

THE COURT: Yep.
MS. SPIROS: I -- in speaking with both the unit commander and one of their troopers last night, it was just a little too quick of notice to get them here for today.

THE COURT: Sure.
MS. SPIROS: However, I have two
suggestions for the Court; and, obviously, I'm open to whatever --

THE COURT: Sure.
MS. SPIROS: -- suggestions you might have.

But one option we have is, obviously, to
call a live witness at a later date to explore that evidence.

The second options is that they offered to, essentially, take down a list of points of interests by the court, so distances the court is interested in --

THE COURT: Yep.
MS. SPIROS: -- and create those maps and send them to the court.

THE COURT: Okay.
MS. SPIROS: They could also likely send a small -- a short summary of what the program is and how it works.

THE COURT: Okay.

MS. SPIROS: So that would obviate the need for a live witness; however, whatever your Honor thinks --

THE COURT: All right.
MS. SPIROS: -- is most helpful, we will do.

THE COURT: Okay. No. I -- I appreciate that.

Let me ask counsel what -- what they feel on that.

Attorney Kazarosian, you first.

MS. KAZAROSIAN: Thank you, your Honor. That sounds fine. I would suggest that we don't need a live witness.

THE COURT: Yeah.
MS. KAZAROSIAN: But $1 f$ we're going to have points of interest, I would suggest that we have the yard --

THE COURT: Well, that -- well, that, I think -- I think that was the major points of interest here.

MS. SPIROS: Yes.
THE COURT: You alluded to that on the dimensions of the -- of the points where the placards designating the shell casings, the knife, the Coran, the medical -- I believe it was the backboard and there was probably, I can't remember what the others -- was it the -- the gloves?

MS. SPIROS: The gloves.
THE COURT: The gloves, yeah.
MS. SPIROS: Yep.
MS. KAZAROSIAN: So anything in the area basically.

THE COURT: Yeah. And the distances in between that.

MS. SPIROS: In between the --
THE COURT: The shell casings --
MS. SPIROS: And the medical equipment?
THE COURT: And the medical equipment --
MS. SPIROS: Okay. Do you --
THE COURT: -- which is also including the area of the Coran and the knife.

MS. SPIROS: Understood.
THE COURT: And then, from there, the distance from that to the front part of the red Ford Focus where the 40 mm shell casing and the projectile were found.

I think the shell casing was on the left, and the projectile was found on the right side of the Focus, right?

And anything else?
MS. KAZAROSIAN: Just to clarify you --
THE COURT: Oh, go -- no --
MS. KAZAROSIAN: Oh, I'm sorry.
THE COURT: No. Go ahead.
I think Attorney -- I might have talked too fast for Attorney Spiros.

MS. SPIROS: No; what I was going to suggest is, I'll type these up.

THE COURT: Yep.

MS. SPIROS: And I'll send them in an email, and I'll make sure they are correct.

THE COURT: Sure. Okay.
MS. SPIROS: And then do you want the driveway from front to back before we reach the backyard or is that not helpful?

THE COURT: Um, I mean, it -- it might be helpful just to -- I -- I have a pretty good sense of being there.

But I think just for purposes of completing the -- the measurements of that, that might be helpful, as well.

MS. SPIROS: Your Honor, if I could just take a second and have Attorney Evans just sort of turn the computer just to give you a sense of -- of what this is.

She's been playing with it since last night.

It's -- it's really interesting.
THE COURT: Okay.
MS. SPIROS: And so it pops up the distances, and you can move the image all around. THE COURT: Yeah.

MS. EVANS: So now we are going back towards the driveway, and you double click on the
dots - -

MS. SPIROS: And you can zoom in; zoom out.

MS. EVANS: -- and it zooms to where we are. And then you can rotate --

THE COURT: Sure.
MS. EVANS: -- fully within the space.
THE COURT: Okay. That's --
MS. EVANS: And then --
THE COURT: And which is one of the reasons why $I$ have this young man, Attorney Brant, with me.

MS. SPIROS: Yes.
And we have a copy for him as well.
MS. EVANS: We have a copy for him.
THE COURT: Okay. All right.
MS. EVANS: I have very basic
instructions that --
THE COURT: Okay.
MS. EVANS: -- I was provided last night to be able to access myself.

THE COURT: All right.
MS. EVANS: Fair warning to the Court, it required our IT to add to our computers, so that may be an issue for other people, too.

Um...

MS. SPIROS: But we'll work that out.

THE COURT: okay.

MS. EVANS: But, ah -- and then there is a measurement tool, as $I$ mentioned to Attorney Spiros this morning, it is in meters, at least from what $I$ can figure out.

THE COURT: okay. It probably is in meters but we can then --

MS. EVANS: Yes. Yes. Just so - -

THE COURT: -- convert it. Okay.

MS. SPIROS: Do you want us to provide a conversion table?

THE COURT: Attorney Spiros, I think I could do that.

MS. SPIROS: I just wanted to ask.
THE COURT: No, but I appreciate the thought.

MS. SPIROS: It would be difficult for me.

THE COURT: OkaY.

MS. KAZAROSIAN: And, your Honor, just to clarify what we are asking for for distances - THE COURT: Uh-hum.

MS. KAZAROSIAN: -- are we -- are you --
and you may have already said it, but I (indiscernible).

THE COURT: Yeah.
MS. KAZAROSIAN: Would you be looking for the distances between the placards and the tree or the back fence --

THE COURT: Yeah. Yeah. The --
MS. KAZAROSIAN: -- the placards and --
THE COURT: And then the back -- the back fence to the shell casings --

MS. KAZAROSIAN: The cartridge --
THE COURT: -- to the --
MS. KAZAROSIAN: -- so between all of --
THE COURT: -- to the backboard to the Coran, to the knife.

Those are the -- the kinds of -- working backwards, you know.

And then that would -- and then the -where the Ford Focus was to the end of the driveway where the projectile went to the right and the shell casing then went to the left.

And $I$ think it might be helpful, I think it was alluded to that, you know, to -- for Attorney Spiros to circulate that, if there's anything that counsel feels to add to that, I
think the -- the attorneys can work that out, right?

MS. SPIROS: I think -- I think that's the case.

And just in terms of the knife location, your Honor --

THE COURT: Yeah.
MS. SPIROS: -- that was obviously after it was moved away.

THE COURT: After it was moved away. Yeah, yep, yep. Right.

MS. SPIROS: Okay. But you still want that?

THE COURT: I'd still want it --
MS. SPIROS: Okay.
THE COURT: -- just -- it's just that gives the general area.

MS. SPIROS: Understood.
THE COURT: And I'm sure the backboard is not the exact -- but it just kind of gives a general overview.

MR. ANDERSON: No.
And I just think that the distance from the shell casings back to the fence, I don't think is really all that relevant because my
client was facing -- he --

THE COURT: No. I -- this is just for my own --

MR. ANDERSON: Yeah, okay.

THE COURT: Okay.

It just kind of shows - gives me some clarity because there was - there was several witnesses who were estimating distances --

MR. ANDERSON: Okay.
THE COURT: -- including the people who were on the right side of the Focus; the people on the left side of the Focus; officer Ayoub.

So I just -- if I have that general thing, it's helpful because $I$ only saw the backyard once.

And, like $I$ said, the photos $--I$ don't want to say distort it, but they -- they don't really have the depth and the dimensions that $I$ think the Leica program's going to give me.

And then, on top of the Leica program, we are going to get distances which are going to help -- help a lot.

MR. ANDERSON: Okay.
THE COURT: All right?

MS. KAZAROSIAN: And you had asked about
other documents.

The only other thing $I$ would ask, your Honor, when $I$ was questioning Officer Dichiarra, he added that he had -- he also teaches in the post use-of-force regulations.

THE COURT: Yep.
MS. KAZAROSIAN: I'm at a hotel and didn't have the ability to really bring them in.

And $I$ was hoping $I$ would be able to just forward those use-of-force regulations that he testified he taught for the court to review because they are a little different starting in 2022 .

THE COURT: Anybody -- let me hear from counsel on that.

Any -- and let me hear from counsel, and then I'li give you my thoughts.

MS. SPIROS: I'm not sure that we established that this particular officer was trained on post use of force.

THE COURT: Yeah, that's --

MS. SPIROS: That's the only.
THE COURT: That's -- yeah.

MR. ANDERSON: And that was going to
be -- I think post has been kind of a work in progress.

And I know that Attorney Kazarosian --
THE COURT: Yeah. And the training
really has --
MR. ANDERSON: -- is involved with --
THE COURT: Yeah.
And the other thing is let's go to the legal standard, and we'll discuss that.

The legal standard, we have the use-of-force policy from the Cambridge Police; we have what they were trained on by Officer DiChiarra.

But, correct me if $I$ am wrong, it's the same standard for an officer that it would be for a civilian, right?

MS. KAZAROSIAN: Well, a little -- yes, your Honor.

You are talking about the use of force?
THE COURT: The use of deadly force.
MS. KAZAROSIAN: The use of deadly force.
THE COURT: Yeah. Yeah.
MS. KAZAROSIAN: I don't know necessarily what it is for a civilian.

I would just point out that Officer

DiChiarra did testify that he teaches this through the MPTC.

THE COURT: Yeah.
MS. KAZAROSIAN: And it's taught in the in-service training.

THE COURT: Yeah.
MS. KAZAROSIAN: So Officer McMahon would have received that training.

THE COURT: He'd have that.
But he also --
MS. KAZAROSIAN: Which is the post use of force.

THE COURT: He also testified -- again, I just --

MS. KAZAROSIAN: The post use of force is a little different and it ls taught, and he did teach it.

THE COURT: Yeah.
MS. KAZAROSIAN: They are taught at all the in-service training.

THE COURT: But, in any -- but I'm talking about the criminal standard.

The criminal standard in any criminal case, whether you are an officer or a civilian, it's the same standard. Right?

MR. ANDERSON: I -

MS. KAZAROSIAN: For use of force, are you saying or for...

THE COURT: For use of force.

MS. KAZAROSIAN: I can't - I don't know. I $\operatorname{can}^{\prime} t-\operatorname{can}^{\prime} t$ tell--I can't say -

THE COURT: Oh, okay. Okay.
MR. ANDERSON: I - I think I would disagree with that.

I think the officers may be in a different situation.

It's not just a standard self-defense case, because the officers, you know, they are there. They have a duty to interject themselves into the situation.

THE COURT: Right. But...

MR. ANDERSON: And I think it's different than --

THE COURT: Well, it's a little different maybe on defense of others but when it comes to defense of self because in -- right?

I know the common standard. That's a sort of a civil -- on the civil liability.

Attorney Spiros, what's your take on that?

I know the wording is a little different but...

MS. SPIROS: I think it's in line with each other.

THE COURT: Yeah.
MS. SPIROS: It's in line.
THE COURT: It overlaps with additional words.

It's the same -- it's the same general standard, right?

MS. SPIROS: Yeah.
MS. KAZAROSIAN: My -- my only request is on these regs because he testified to them.

He said that he teaches them, and they are part of the yearly in-service training and through the MPTC.

He did testify, so I'm asking that
they --
THE COURT: Yeah.
MS. KAZAROSIAN: -- be considered by the Court.

THE COURT: I mean, If someone wanted to send them to me, I'll -- we'll mark -- we'li mark them.

MS. KAZAROSIAN: All right. Thank you,
your Honor.
THE COURT: But $I$ don't know if it's relevant to my role on -- my -- my duty $I$ have in this case.

MS. KAZAROSIAN: Well, he testified to use the force.

THE COURT: No. Well, $I$ know, use of force, but again --

MS. KAZAROSIAN: And what the standards are.

THE COURT: -- I have to -- I have a apply the criminal standards.

MS. KAZAROSIAN: Oh, absolutely.
THE COURT: Yeah. Yeah.
MS. KAZAROSIAN: I understand. But...
MR. ANDERSON: And I just -- I just passed up what $I$ would contend is the objective reasonableness standard.

THE COURT: Okay.
MR. ANDERSON: And that's consistent with the policy from the Cambridge Police.

THE COURT: Right.
That's -- that's under the Connor -which is, like I said, it's -- it just -- with a couple of different words on it, it overlaps what
it judge would instruct a jury on in a self-defense case involving deadly force, right.

MR. ANDERSON: But I'd suggest if -- if this case were actually presented to a jury, that this would be -- this should be the jury instructions given to a jury in terms of the officer's --

THE COURT: This would be -- yeah.
MR. ANDERSON: -- actions, yes.
MS. KAZAROSIAN: Oh, I'm sorry.
We were -- we didn't hear that this started (indiscernible).

I apologize.
MR. ANDERSON: Because it's not just -you know, I think there are some specific language in the cases that talk about you can't look at it in 2020 hindsight.

THE COURT: Right. Yep.
MR. ANDERSON: You have to look at it as rapidly changing situation, intense.

THE COURT: Right. No. And I -- that's like the added words, but I'm just talking out loud now or thinking out loud.

An individual, not an officer, how is it
different for -- because he -- he has to use that objective standard, right, you know, whether or not he feels he's...

MR. ANDERSON: I'd have to look at the -- at the self-defense jury instruction.

THE COURT: I'll -- the reason I ask the way I asked it, $I$ looked at it, again, this morning.

So -- so, I mean, I'll take this. But, again...

MS. KAZAROSIAN: Your Honor, I - I thought you had indicated you weren't going to, so I didn't have a chance to review this myself (inaudible).

THE COURT: Oh, okay. Here's what I'm going to do then. Here's what I'm golng to do.

MS. KAZAROSIAN: -- prior to this.

THE COURT:

I think $I$ know the Graham -- the Connor case, so $I$ have that.

All right. So I'm not going to take that.

MR. ANDERSON: I would --

MS. KAZAROSIAN: Thank you, your Honor.

MR. ANDERSON: Okay.

THE COURT: All right.
MS. EVANS: May $I$ ask one question?
I just want to ask if he wants my
instructions?

THE COURT: Attorney Evans?

MS. SPIROS: Yeah.

MS. EVANS: I was just going to inquire if you want my very basic instructions to try to attempt the Leica material yourself, your Honor? THE COURT: Yes, I do.

MS. EVANS: Okay. Thank you.

MS. KAZAROSIAN: Oh, and you had --

THE COURT: And, Attorney Kazarosian, too.

MS. EVANS: Yes.

MS. KAZAROSIAN: Yes, sorry.

And you had also indicated that if there were any documents --

THE COURT: Any -- any specific
references --

MS. KAZAROSIAN: Right.
THE COURT: -- to the discovery notice that $I$ have, if you want to just point them out, you know, the -- you know, the discovery.

MS. KAZAROSIAN: And could we have, like,
a - - could I have a week?
THE COURT: Oh, we'll give you a week. Oh, yeah.

MS. KAZAROSIAN: Okay, great.
Thank you, your Honor.
THE COURT: Oh, yeah. Yeah. Oh, yeah. Yeah, absolutely.

MS. KAZAROSIAN: A week from today though?

THE COURT: No. Let's do $1 t$ a week from next -- well, let's do $1 t$ a week from next Tuesday.

MS. KAZAROSIAN: Thank you, your Honor.
THE COURT: Okay. Which is the 5th.
Is it the 5th?
Is that June 5 th.
MS. KAZAROSIAN: No.
MS. EVANS: I think it's the 6th.
MS. KAZAROSIAN: Is it?
THE COURT: Or the 6th. Yeah.
MS. KAZAROSIAN: Thank you.
THE COURT: Okay. All right.
MS. SPIROS: 6th.
THE COURT: All right. Anything else?
MS. SPIROS: No, your Honor.

Thank you.
MS. KAZAROSIAN: No, your Honor.
MR. ANDERSON: Unfair question, but do have any general parameters in terms of when you would expect --

THE COURT: Yeah. It will be after the end of July because $I$ have a couple of other things that $I$ have to do and -- and this -this -- and there is an awful lot.

And I've gone through it before, but before $I$ prepare a report, I'm going to go through it all again.

There's -- I've already started just typing up my notes of -- for the -- just so that I can get -- get something on my computer.

But before -- before we adjourn for the day, $I$ just want to say a couple things.

First of all, $I$ just want the family of Faisal to know that $I$ know this has been difficult for them to sit through this inquest involving the death of their child, and they have the sympathy of the Court.

I also want to let Officer McMahon know that I'm sure it's been difficult for him to sit through this.

And, unfortunately, $I$ don't want to say it comes with the territory of the job; but, unfortunately, it does come with the territory of the job.

The other thing $I$ want to point out is a couple of things.

First of all, Attorney Spiros, Attorney Evans, Attorney Anderson, and Attorney Kazarosian, under these difficult circumstances of this case, I think all four of you have exemplified the professionalism that we all aspire to in this field.

So I know there's been some back and forth between counsel and myself -- or maybe even counsel -- but that -- again, that goes with the territory and it's part of the job. I don't take anything personal.

And $I$ think all of you have done an exceptional job advocating, even though you are not supposed to advocate, and presenting this to me so that $I$ can finish up my role in this case.

So I just wanted to say how much respect I have for all four of the attorneys in this -in this courtroom. I mean that sincerely.

It's an awful lot of work. It takes an awful lot of sacrifice to do what you people do.

It does not go unnoticed by me or any of the other professionals in this court.

And $I$ want to thank each and every one of you for your job here, because the way you performed it makes my job a little easier.

So $I$ want to thank each and every one of you.

MS. SPIROS: Thank you.
MS. EVANS: Thank you.
MS. KAZAROSIAN: Thank you, your Honor.
MR. ANDERSON: Thank you, your Honor.
THE COURT: All right. With that, we are adjourned.

And, as you know, there is the impoundment order and when that becomes unimpounded is not up to me.

All right. Thank you, all.
MS. KAZAROSIAN: Thank you very much, your Honor.

MR. ANDERSON: Thank you.
MS. SPIROS: Thank you, Madam Clerk.
MS. EVANS: Thank you.


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| $\begin{aligned} & 4510 \\ & \text { functions [1] - } 355 \end{aligned}$ | $\begin{aligned} & \text { goes [3]-154, 63 } 2, \\ & 9215 \end{aligned}$ | H |
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| G | $8816,8821,897 \text {, }$ | $\begin{aligned} & 1914,218,2114, \\ & 273,2722,2725 \end{aligned}$ |
| ```G [2]-31, 3318 Gagnon [1]-41 13 gastric [1]-12 17 gave [1]-68 24 Gedansky [1]-31 14 General [2]-10 16, 4018 general [9]-8 19, 1524,2815 , 53 14, 79.17, \(7921,8013,859\), 914 General's [1]-35 8 generally [4]-10 22. \(1023,2721,3821\) generate [1]-647 get [12]-56, 12 14, 17.4, 18 18, 427 , \(428,432,7024\), \(7117,8021,91 \cdot 15\) gets [1]-69 4 getting [2]-4025, 651 give [8]-25 3,50 24, 6322,6823 , \(7515,80 \cdot 19\), 81 18, 902 given [2]-27 22, 877``` | ```Goldman [1]-1 15 gone [1]-91 10 good [25]-4 1, 4.12, 4 13, 4 14, 4 15, 4 16, 4 20, 5 15, \(61,63,715,716\), 24 4, 24 5, 329 , 32 10, 32 19, 32 21, 33.12, 3313,61 19, 6120,6123 , 69 17, 75-8 GOOD [1]-95 15 Google [1]-713 got [6] - 45•15, 61 24, \(621,625,7021\) GPS [4]-43 13, \(4314,633,639\) graduated [1]-362 Graham [1]-88 19 grass [2] - 56 24, 5724 great [1]-90 4 green [1]-57 23 greener [2]-57 19, 5720 grid [1]-631 ground [3]-56 16,``` | ```28 12, 28 17, 28 18, 3019 , \(3022,341,3423\), 4015,4110 , 41 15, 429,439 , 44 19, 4517, 45 18, 47 10, 487 , \(524,648,684\), \(8025,814,8812\), 8912,8917 hair [1]-114 half [1]-35 17 hand [8]-5 14, 149 , \(203,206,209\), \(2518,3212,604\) handle [2]-37 16, 7025 handled [2]-3511, 6618 handles [1]-34 10 hands [3]-16 20, 26 2, 267 handwritten [1] - 3113 happen [2]-45 5, 5318 happened [13]- 1223, 27 24, 31 6,``` |

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