

1 THE FLORIDA SENATE

2
3 IN RE: EXECUTIVE ORDER OF SUSPENSION, NO. 19-14
4 SUSPENSION OF MR. SCOTT ISRAEL, SHERIFF
BROWARD COUNTY, FLORIDA

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7 TRANSCRIPT OF PROCEEDINGS
8 HEARING FOR REVIEW OF EXECUTIVE ORDER OF SUSPENSION

9 Volume II
(Pages 151 through 307)

10 DATE TAKEN: TUESDAY, JUNE 18, 2019

11 TIME: 1:45 P.M. - 5:41 P.M.

12 PLACE: FLORIDA STATE CAPITOL
13 400 SOUTH MONROE STREET,
TALLAHASSEE, FLORIDA 32399

14 BEFORE: DUDLEY GOODLETTE, SPECIAL MASTER
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P R O C E E D I N G S**VOLUME II**

(Proceedings continued from Volume I.)

SPECIAL MASTER: Let me just give everyone sort of a sense of where I think the timing is today. We'll take perhaps one more break around 3:30 today. Schedule allowing. I'm inclined to go until 6 o'clock tonight, and I want to start at 8 o'clock in the morning. A lot of people are here from out-of-town. That gives a little bit more leeway in terms of travel, et cetera. So unless someone has an objection to that time frame, that's how we're going to proceed today, if you will.

And we're now on cross-examination, Mr. Primrose.

MR. MACIVER: Thank you, Special Master. John MacIver for the Governor.

CROSS-EXAMINATION

BY MR. MACIVER:

Q Mr. Dale, just a few more questions. During your testimony there was some allusion to Criminal Justice Standards and Training Commission; although, I think they were referred to as the FDLE standards. Those are the standards that are the minimum standards for every officer in Florida; is the

1 correct?

2 A Yes.

3 Q So a police officer in the smallest rural
4 town in Florida or an officer in the largest
5 municipality, they're all required to meet those
6 standards?

7 A Yes, those are standards for every law
8 enforcement officer in the state that he must have in
9 order to execute his duties.

10 Q And you'd agree that any policies above
11 those minimums would vary from agency to agency?

12 A They could train as the way they see fit.

13 Q And it's also fair to say that policies
14 sufficient for, say, Bristol or Lulu might not be
15 adequate for Jacksonville or Miami or Broward
16 Sheriff's Office?

17 A Every policy is probably written a little
18 differently.

19 Q Thank you. The discretion to adopt the
20 policies over and above are within the discretion of
21 the sheriff, correct?

22 A Yes.

23 Q And whether those policies are adequate
24 for the agency is something that the sheriff is
25 ultimately accountable for, correct?

1 A He's responsible for all the policy.

2 Q Thank you. Referring to the Fort
3 Lauderdale Airport shooting, you had suggested you
4 were proud of everyone's performance that day earlier
5 in your testimony, and probably rightfully so.

6 You had to make a lot of decisions as
7 situations arose on that day, correct?

8 A It's a fluid situation, so based on
9 whatever limited information you have at the time, is
10 the way that --

11 Q I think the primary example we talked
12 about the most was how to evacuate tens of thousands
13 of people?

14 A Correct. It's not something that you
15 necessarily train for.

16 Q So you were making decisions on those
17 pretty much on the fly as the situations arose, so
18 that would indicate that at that time there was no
19 plan ahead of time for what to do in that situation?

20 A There is no plan in place for everything
21 that happens in life. I mean, you just sometimes have
22 to adapt and do your best.

23 Q In this specific instance though nobody
24 had previously asked the question of, wow, what would
25 we do with all these people if we had to shut down at

1 the airport?

2 A You'd have to ask BCAD. That's -- the
3 BCAD would have what they call COOP, Continuity of
4 Operations Plans.

5 Q It's also the type of question that might
6 be asked though if you were conducting a full scale
7 and site specific training event, correct, you might
8 say what would we do with all the people?

9 A I never had that question asked in terms
10 of a mass evacuation of any event that I've even been
11 a part of from air shows to concerts to -- I've been
12 part of Super Bowls. I've never seen a plan in place
13 to evacuate the entire Super Bowl. It's just
14 something that you deal with that situation.

15 And I don't know if you could move 15,000
16 people with a handful of deputies.

17 Q You testified that your separation was
18 voluntarily, but contingent upon the suspension of
19 Mr. Israel, correct?

20 A Yes.

21 Q I guess what we could call the executive
22 command staff level?

23 A Yes.

24 Q Are you carrying your credentials with any
25 other agency at the moment?

1 A No, I'm retired Fort Lauderdale PD.

2 Q Do your credentials expire by a certain
3 time frame if you don't reaffiliate with an agency?

4 A At some point. I believe four years after
5 you separate you have to either keep up your training
6 to keep your certification current, or if you let it
7 lapse, after that four years then you have to
8 re-attend another academy.

9 Q If Mr. Israel were reinstated as a
10 sheriff, would you expect to get your job back?

11 A I would assume he probably would ask me if
12 I wanted to come back.

13 Q Have you at any time during your testimony
14 today had to consciously consider that bias when
15 giving your testimony?

16 A I'll be honest with you. At this point I
17 don't plan on going back. I don't believe that I
18 would want to go back, so -- I mean, I'm not ruling it
19 out, but it has absolutely nothing to do with my
20 testimony.

21 Q Fair enough.

22 Lastly, when we were talking earlier about
23 the purpose of the mandatory body armor provision, you
24 had said that the agency had wanted to put in place a
25 policy that would mandate body armor, but you got

1 pushback from the unions; is that correct?

2 A Yes.

3 Q I assume then that would go toward some
4 level of negotiation. Were you directly involved with
5 those negotiations with the union?

6 A With the impact bargaining, no, I wasn't.

7 Q Are you familiar what was exchanged in
8 trade or what the cost benefit analysis was? In
9 short, what did the agency get for giving up mandatory
10 body armor?

11 A We didn't give up mandatory body armor.
12 We sought to implement it. The union objected to the
13 implementation, and we wanted to bargain.

14 Now, the requirement for impact bargaining
15 is only that we bargain. It doesn't mean we have to
16 give anything up, and it doesn't mean we can't impose
17 it. It just means that we have to sit at a table and
18 listen to them.

19 Q So you went to impact bargaining on
20 mandatory body armor?

21 A Yes, that's my understanding. That's the
22 only way we can --

23 Q Were you able to institute mandatory body
24 armor?

25 A We did.

1 MR. MACIVER: No further questions.

2 SPECIAL MASTER: Mr. Kuehne, redirect.

3 REDIRECT EXAMINATION

4 BY MR. KUEHNE:

5 Q Colonel Dale, you were asked on
6 cross-examination a question that went kind of like
7 this. So you guys were unprepared to evacuate 20,000
8 civilians from the airport. Remember that question?

9 A Yes.

10 Q Tell us how prepared BSO in conjunction
11 with all the other responding agencies were to
12 evacuate 20,000 people from the Fort Lauderdale
13 Airport without a single injury?

14 A You know, you use the resources that are
15 present and you put together a plan among the group of
16 you, which is part of an incident command, and you
17 implement that plan in a coordinated fashion, which we
18 did. And we certainly wouldn't take action that we
19 thought was jeopardizing the safety of others, and we
20 weren't.

21 Q Is part of the training at BSO to train
22 for the unexpected?

23 A Absolutely. I mean, this is life.
24 Everything is fluid no matter whether it's a domestic
25 violence call. If there is any one thing in law

1 enforcement that you're taught is nothing is routine.
2 You can't foresee every single possibility for every
3 incident. If that were the case, we'd never have an
4 after action. We would just do it perfectly every
5 time. To say something that you should be prepared
6 for every incident, I don't even know where something
7 like that could come from. It just defies logic.

8 Q Does Broward Sheriff's Office as an
9 institution during the time frame we're talking about
10 train its people to prepare for the unexpected?

11 A Absolutely. You have to improvise. You
12 have to overcome and adapt to whatever it is you're
13 faced with. If we had a policy book that covered
14 everything, it would be too big for us to read. You
15 do your best to provide guidelines and policy, and you
16 hire smart intelligent people that need to assess the
17 circumstances that are put in front of them and adapt
18 to it.

19 Q You were asked on cross questions about
20 the body armor requirement?

21 A Yes.

22 Q So BSO under the direction of Sheriff
23 Israel was able to implement mandatory body armor?

24 A We did, yes.

25 Q Not required by the State of Florida?

1 A No.

2 Q Now let me ask you this. You were asked
3 about the standards, that the standards to be a police
4 officer in some smaller community as though somehow
5 that's not a desirable place to police. You've worked
6 in smaller communities as well as bigger communities,
7 right?

8 A Well, in BSO we do police some smaller
9 communities.

10 Q Police smaller municipalities where you
11 are contracted. Is there anything lowly or considered
12 beneath a law enforcement officer to be trained in
13 standard so you can police a small town?

14 A There are just different types of calls
15 that maybe in a rural area you may have a problem like
16 loose farm animals. That's not going to happen in
17 Downtown Fort Lauderdale. You may have policies for
18 airports. If you don't have an airport in your
19 jurisdiction, you really don't need a policy for
20 airports. So a lot of your policy resolves around the
21 environment to which you police.

22 Q As you understand the operation of FDLE
23 and the Florida Training Standards Commission,
24 couldn't it impose different standards for law
25 enforcement agencies of different sizes?

1 A I don't see why it couldn't.

2 Q Have they ever done that as far as you
3 know?

4 A I don't know if they have or not.

5 Q Have they ever said we've studied the
6 Pulse shooting or we've studied the Fort Lauderdale
7 Airport shooting or we studied the MSD shooting, and
8 we are now going to require large agencies or maybe
9 every sheriff's office to fulfill standards that
10 require active shooter training?

11 A It could.

12 Q Or standards that require let's get a lot
13 of people out of a big place in a short period of
14 time?

15 A They could have, yes.

16 Q Or let's have required training on active
17 shooting?

18 A Yes.

19 Q To your knowledge up to the time you left,
20 January of 2019, under Governor DeSantis's
21 governorship has the FDLE implemented any of that?

22 A I'm not aware of any efforts to do it. I
23 served as the Training Director for BSO, and part of
24 that encompasses regular attendance at the Criminal
25 Justice Standards and Training Commission

1 meetings where they discuss expanding curriculum for
2 minimum standards, basic standards, and I've heard no
3 conversation or even movement to try to implement such
4 a measure.

5 Q Doesn't the Governor have direct
6 appointees on that standards commission?

7 A Last count I heard they have 21 members,
8 and the Governor has a certain number of positions
9 that he's allotted to implement, place on that
10 committee.

11 Q The Governor appoints people to the
12 commission that sets the standards for law enforcement
13 in the State of Florida?

14 A Yes.

15 Q That as far as you know today have no
16 active shooter requirement or training?

17 A Yes.

18 MR. KUEHNE: Nothing further.

19 SPECIAL MASTER: Thank you, Colonel Dale.

20 Is there any objection to releasing
21 Mr. Dale from his subpoena?

22 MR. KUEHNE: There is not, but I do have a
23 question about that, sir.

24 SPECIAL MASTER: Okay.

25 MR. KUEHNE: I agree to have him released.

1 I think -- I've not asked him. I think if
2 released, he would like to know if he's then
3 able to attend the rest of the hearing if he
4 wants to with the instructions that he would
5 not be able to discuss anything with any other
6 witnesses at all. He's going to be here the
7 rest of the day and my sense is -- we can ask
8 him -- that he'd like to watch.

9 SPECIAL MASTER: I would prefer not to
10 have him. Just the optics of that might be
11 misconstrued, and I would prefer that that not
12 occur.

13 MR. KUEHNE: So we have no objection to
14 releasing. Will you make certain to instruct
15 the witness not to come back?

16 SPECIAL MASTER: Yes, so instructed.
17 Thank you.

18 Please call your next witness, Counselor.

19 MR. KUEHNE: Can I have one moment to
20 consult?

21 SPECIAL MASTER: You may, yes, indeed.

22 MR. KUEHNE: For his second witness
23 Sheriff Israel calls John Curcio, Deputy
24 Curcio.

25 SPECIAL MASTER: Thank you.

1 Detective Curcio, if you would, please.

2 Do you swear and/or affirm that the testimony
3 you're about to give will be the truth, the
4 whole truth and nothing but the truth?

5 THE WITNESS: Yes, I do.

6 SPECIAL MASTER: Thank you.

7 WHEREUPON,

8 JOHN WILLIAM JOSEPH CURCIO,
9 called as a witness by Scott Israel, was duly sworn by
10 the Special Master and in answer to questions
11 propounded, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. KUEHNE:

14 Q Good afternoon. Tell us your name and
15 your current employment status.

16 A John William Joseph Curcio. I am a
17 homicide detective for the Broward Sheriff's Office.

18 Q How long have you served with the BSO?

19 A I came to BSO in 2009.

20 Q Describe the entirety of your law
21 enforcement experience.

22 A I've been a sworn law enforcement officer
23 in the State of Florida since 1980. I did 30 years,
24 just under 30 years with the Fort Lauderdale Police
25 Department. I retired for about ten days and then I

1 went to the Broward Sheriff's Office, and that's where
2 I am currently.

3 Q So you retired after about 30 years as a
4 sworn law enforcement officer with the City of Fort
5 Lauderdale?

6 A Yes.

7 Q Describe generally the path you took at
8 the Fort Lauderdale Police Department, the kind of
9 things. I presume you started at a road patrol?

10 A Yes, I started out obviously as a road
11 patrol uniform. Then I went to a unit known as the
12 Tactical Impact Unit, which was a plain clothes
13 surveillance unit that followed violent fugitive
14 offenders in progress type crimes. 1988 I became a
15 robbery detective. 1996 I became a homicide detective
16 with the Fort Lauderdale Police Department until I
17 retired. I went to Broward Sheriff's Office. They
18 had a policy where they insisted seeing me in uniform
19 for a short period of time, and then I became a
20 homicide detective with them since 2009 late until
21 2019.

22 Q So you've had about 30 years with Fort
23 Lauderdale and about ten years with BSO?

24 A Yes, just under 30 with Fort Lauderdale
25 just over 10 with BSO at the moment.

1 Q So about a 40 year law enforcement career
2 so far?

3 A Yes.

4 Q During that time have you been
5 continuously certified as a law enforcement officer by
6 the State of Florida?

7 A Yes.

8 Q Gone through all the required training?

9 A Yes.

10 Q Gone through more than required training?

11 A Yes.

12 Q Gone through training that are in addition
13 to what is mandatory by FDLE?

14 A Correct.

15 Q You started with BSO, I mean, restarted,
16 but you joined BSO?

17 A Right.

18 Q And you had to be a uniformed officer for
19 awhile?

20 A They had a policy at the time, with
21 Sheriff Lamberti at the time, who hired me, that they
22 wanted you to go to uniform first. And I chose a city
23 in BSO's command, Lauderdale Lakes, and I became a
24 road deputy for probably 10 or 11 months. And then
25 they moved me to homicide where I have been ever

1 since.

2 Q So you had been a long serving detective,
3 still a law enforcement officer sworn?

4 A Right.

5 Q Still carried a gun?

6 A Yes.

7 Q But didn't routinely do road patrol as you
8 came to retire at Fort Lauderdale?

9 A No, I was a homicide detective my last
10 13 years with Fort Lauderdale.

11 Q And you were able to step into the
12 position of a road patrol deputy?

13 A I had a FTO for a short period of time
14 teach me all the new systems.

15 Q A field training officer, FTO?

16 A Well, yes, they call it an FTD, field
17 training deputy. But that was more to learn the new
18 report writing systems. Those type of things. Not
19 the law enforcement. I still remember how to be a
20 policeman.

21 Q Is that because as a sworn law enforcement
22 officer no matter what your assignment, no matter what
23 your rank, no matter where you're reporting you have
24 to be ready on a moment's notice to do traditional
25 policing?

1 A Sure.

2 Q You might be called upon to respond to a
3 scene of a crime?

4 A Yes.

5 Q You may come upon a crime?

6 A That's correct.

7 Q You may come upon an active shooter?

8 A That's correct.

9 Q Even if you're not SWAT?

10 A I was SWAT, but even if you're not SWAT.

11 Q You were SWAT. So you were with Special
12 Weapons and Tactics with Fort Lauderdale?

13 A Yes.

14 Q Heavy duty training for SWAT, more than a
15 road patrol officer gets?

16 A Yes.

17 Q So you joined BSO and it was the prior
18 sheriff, Sheriff Lamberti?

19 A Yes.

20 Q And you're still with BSO?

21 A Yes.

22 Q Doing detective work?

23 A Yes, still homicide detective.

24 Q Still homicide. So you have been through
25 active shooter training?

1 A Yes, I have.

2 Q And you understand that's a requirement of
3 BSO, but not a requirement of FDLE?

4 A To be honest with you, I don't know who it
5 is. They send me to training and I go. I don't ask
6 if it's for my certification or not. I just go to
7 whatever training they tell me to go to.

8 Q And as a homicide detective, you have
9 special training as a homicide detective?

10 A I'm kind of on-the-job experience guy.
11 I've been doing it for 25 years. I prefer to actually
12 do the work. I've been to training. I do the work of
13 a homicide detective, but I don't necessarily go to
14 homicide classes a lot.

15 Q Okay. I want to direct your attention to
16 the Marjory Stoneman Douglas High School mass tragedy.
17 Are you familiar with it?

18 A I was there that day.

19 Q You reported, you responded that day?

20 A Yes, I did.

21 Q Were you also tasked as if not the lead, a
22 lead investigator for the crime?

23 A Yes, I was the lead investigator for that
24 crime.

25 Q That's where you're called the lead

1 investigator?

2 A There is two of us that are working. I
3 call Zach Scott the co-lead, but I'm the one who went
4 to the Grand Jury to get the suspect indicted. I
5 wrote the probable cause. I interviewed him, so
6 technically I'm the lead detective.

7 Q So Zach Scott is a co-lead, Detective
8 Curcio lead. And fair to say that you have as much of
9 an understanding of every detail of MSD as anybody at
10 BSO?

11 A I read everything that's been documented
12 not only in my case, which lead to the criminal charge
13 indicting of the shooter to all of the statements on
14 the Governor's investigation. I listened to all of
15 those because that's part of discovery on my case.
16 I've listened to all the statements in reference to
17 the Commission investigation, read all their reports
18 since that's part of the discovery on our criminal
19 case as well. I've actually read some civil
20 depositions on the case as well pertaining to various
21 aspects of follow-up on the shooting.

22 Q Okay. So the general answer is you
23 probably are the most knowledgeable at BSO about the
24 MSD shooting?

25 A I personally have read everything I can

1 read on all aspects of this case.

2 Q Is part of that what drives you as a law
3 enforcement officer, to know the most you can?

4 A Well, me reviewing the Governor's
5 investigation and the Commission investigation, their
6 statement, is to make sure that when they were
7 interviewing people that I wasn't present for, that
8 there wasn't things that our state attorney as well
9 needed to be aware of to continue the criminal
10 indictment prosecution of the shooter.

11 Q Because you are the lead investigator for
12 that pending capital first-degree murder prosecution
13 of the shooter?

14 A That is correct.

15 Q And at some point trial proceedings or
16 something along those lines will proceed, and you'll
17 likely have a significant role therein?

18 A I would assume so, yes.

19 Q You responded to the MSD High School
20 scene?

21 A Yes, I did.

22 Q Can you give us a sense of when in
23 relation to the report of a shooting you get there?

24 A I can remember exactly. We were up in our
25 squad room in our Public Safety Building. Colonel

1 DiMaggio came in and told us there was an active
2 shooter. There was probably five or six of us in the
3 squad at that time. We jumped on the turnpike, lights
4 and siren. Got up to the east side of the campus.
5 Just a little before our SWAT team, the BSO SWAT team
6 began to enter the building. It's around that time
7 frame when the miscommunication came out about the
8 20-minute delay when everybody believed the shooter
9 was still on the second floor. We were on the east
10 side when that happened.

11 Q Let me stop you there. And I don't mean
12 to stop what you're saying, but I want to get a little
13 explanation on the 20-minute delay.

14 A Right.

15 Q Tell me as best you can what that is.

16 A What ended up happening -- and this is all
17 learned after the fact -- is there was a period of
18 time when members of the Coral Springs Police
19 Department and the BSO Sheriff's Office were inside
20 the building and there was a miscommunication over the
21 radios that the shooter was on the second floor, the
22 third floor coming down to the second floor. And that
23 ended up being because somebody was watching back a
24 video from 20 minutes earlier on the school video
25 system. But when we heard it on the radio, we thought

1 it was live.

2 Q So the school system operated by Broward
3 County schools had a 20-minute delay in their --

4 A No, what they did is they played it back.
5 We learned the scenario way after the fact by watching
6 body cameras and interviewing people. The first
7 person who witnessed the shooting come on campus knew
8 him by face, but didn't know -- he couldn't remember
9 his name, so that generated conversation over the
10 school radio -- not the BSO radio, but the school
11 radio -- trying to identify who this person was. So
12 other faculty members inside the administration office
13 played the video backwards to figure out who the
14 shooter was, and that's how we got his true name for
15 us to put out over the air and get him captured. But
16 it was them playing the camera system back that caused
17 the 20-minute delay. The school system was not set on
18 a 20-minute delay.

19 Q At that point when you identify the name
20 of the shooter, is that the result of some
21 coordination between you, meaning BSO, and the Broward
22 schools?

23 A Yes, it was later -- again, this was all
24 after the fact we learned. This was deputies, Coral
25 Springs and people with the school board radio kind of

1 all huddled up because nobody could communicate
2 together because of the radio problems. And that's
3 how this identification of Nikolas Cruz became who we
4 know we were looking for.

5 Q When you say radio problem, this is
6 Broward County Emergency Radio Communication System
7 problem?

8 A The radio problem was worse than just the
9 Broward County system. We had Coral Springs on the
10 scene. It was a different radio system totally. And
11 again, we learned this after the fact. People had to
12 kind of huddle up with one of each radio to figure out
13 what everybody was doing together because there was
14 two different radio systems, and one of them was
15 absolutely nonfunctioning.

16 Q And of all the different radio systems,
17 BSO did not control any of them?

18 A No, not the sheriff's office. It was all
19 done by the county.

20 Q So you get there around the same time SWAT
21 is getting there, and explain when I interrupted you
22 your process.

23 A At that point when we got up on the east
24 side, there was a mass of students already coming off
25 the campus self-evacuating. So we were trying to

1 gather all of them up to gather intelligence as to
2 actually what was going on because there was such
3 limited information over the Sheriff's Office radio
4 system. Not only because of the radio failure, but
5 because 911 calls were not coming into the Sheriff's
6 Office radio system. They were going to the Coral
7 Springs Fire Department.

8 So we're rounding up students, literally
9 hundreds of them, and putting them on the swale to try
10 to identify who saw what, what's the shooter wearing,
11 who's the shooter and have them drop all their
12 backpacks in the middle of the road because we're also
13 concerned about possible incinerating device and
14 everything else. So it was myself, a bunch of uniform
15 guys, all homicide guys who came up with me corralling
16 hundreds of students while the SWAT team was moving up
17 onto the second floor.

18 Q Was it part of your detective training and
19 experience to try to gather as many potential
20 witnesses as you could?

21 A Well, we weren't even passed that. We
22 didn't know if the suspect was in the group at that
23 point in time. With these hundreds of people coming
24 off in masses we had no idea if the suspect was
25 intermingled with them or not.

1 Q Was that something that concerned you as a
2 law enforcement officer?

3 A Well, obviously, you have reports of an
4 active shooter, you want to find out who he is and
5 where he's at. There is no rule that he can't come
6 out in the crowd and then start shooting people in the
7 crowd as well.

8 Q So you need to be prepared for that?

9 A Yes, we were all -- obviously we had our
10 rifles as well even though we were detectives.

11 Q At this time I just want to have you make
12 clear the shooter had not been apprehended?

13 A At that stage he had not even been
14 identified yet, let alone apprehended. We didn't have
15 any idea who we were looking for.

16 Q So SWAT team members arrive, detectives
17 arrive and does it look to you as though SWAT is
18 trying to go to and find the shooter?

19 A My information about SWAT was what we
20 could hear over the radio when we could hear something
21 and that they were in the 1200 building on the second
22 floor doing the search of that building.

23 Q Okay. When did you come to know that
24 Former Deputy Peterson, Scott Peterson, was the SRO at
25 Marjory Stoneman Douglas High School?

1 A Probably much later in the evening because
2 what ended up happening is after they identified the
3 shooter and he was located, I went immediately with
4 him to the hospital where he had to be medically
5 cleared.

6 Q Tell me who the him is. You went with him
7 to the hospital?

8 A Nikolas Cruz.

9 Q Okay. The shooter. Okay.

10 A Yes. And then I went from the hospital
11 with Nikolas Cruz and other officers and deputies down
12 to the Public Safety Building where I interviewed him.
13 So I was tied up with him, Nikolas Cruz, for hours, so
14 it was probably either later that evening or the next
15 day. We didn't go home for almost three days, so it
16 kind of blurred. I learned about Scott Peterson
17 probably after we had booked Nikolas Cruz.

18 Q The early part of the response, the
19 children being gathered up, backpacks being left, is
20 BSO assisted by other responding agencies?

21 A Yes. There was all kinds of agencies out
22 there. I couldn't name all -- obviously, I saw Coral
23 Springs out there, but I couldn't remember who else
24 was there.

25 Q Did you see or did you learn of a command

1 center or mobile command operations point?

2 A I did not because, again, once they said
3 they had him, I knew what my assignment was going to
4 be, which was go to him. I left my supervisors and
5 the other homicide detectives on scene because they
6 were going to take care of the crime scene aspect of
7 the school itself. So I started heading to where he
8 got apprehended and then he told me he was going to
9 get medically clear, so I had to turn back around and
10 go to North Broward Hospital.

11 Q And then for some period of hours you're
12 handling matters with the then suspect who we know to
13 be the killer?

14 A I would say it was probably about 11 hours
15 because I had to start authoring search warrants for
16 his phone and different aspects of follow-up. That
17 type of stuff.

18 Q All the type of follow-up that is
19 essential to doing good detective work at BSO?

20 A Yes.

21 Q Or at any police agency?

22 A Yes.

23 Q Were you assisted in that process by other
24 BSO members?

25 A Yes, we had detectives at different

1 locations. We executed search warrants at two
2 different residential areas. We had state attorneys
3 with us at each location. We had state attorneys with
4 me at the station as I was authoring different
5 warrants for the phone, his phone, Nikolas Cruz's
6 phone and things like that. So we had a lot of people
7 in there assisting us.

8 Q I want you to cattle this question to a
9 time frame because I'll ask you the same thing a
10 little bit differently.

11 But at the time that you arrived at the
12 school, are you aware of anybody at BSO having been
13 given advanced notice that a shooting was going to
14 take place, like a phone call saying I'm going to go
15 in and kill somebody that day to alert you that
16 something was going to happen?

17 A No.

18 Q And subsequently did you learn that
19 nothing like that, no notice of the event was ever
20 made?

21 A No, there was no notice at all.

22 Q Is that unusual for active killer, active
23 shooter situations that police are not notified in
24 advance?

25 A I would say it's probably not abnormal

1 that you don't know what's going to happen or what
2 causes somebody to select that day to be the day they
3 decide to do it.

4 Q You have post MSD -- I know you say you
5 were there for three days straight. This was a
6 significant event, large scale event?

7 A Yes.

8 Q Mass tragedies?

9 A Yes.

10 Q And is it fair to say that a large part of
11 your time post MSD shooting has been spent on the
12 investigation of what happened at MSD?

13 A Yes.

14 Q Is there anyone who you know of who has
15 more information on the MSD school shooting than you?

16 A Individually, I can't think of anybody
17 individually. Collectively there is teams of
18 investigators, but I've read literally everything.
19 I've listened to ever audio statement of everything on
20 the Commission, everything on the Governor's. So I'm
21 one of those kind of guys I don't want you to tell me
22 what that statement says. I want to hear it myself.
23 So I listened to it all myself.

24 Q Were you asked to brief the then Governor
25 or the successor Governor on the MSD school shooting?

1 A No.

2 Q The previous Governor, Governor Scott, at
3 the time of the MSD shooting, you were not asked to
4 brief him or let's say one of his senior people?

5 A No. But just to clarify, we started out
6 with the criminal investigation. Once we realized
7 there was something with Peterson that needed to be
8 internally investigated through IA that was taken away
9 from the homicide unit aspect. I didn't get back
10 involved in the response type investigation until
11 December 2018 when I started reviewing the Governor's
12 investigation and the Senate investigation. So for
13 that lull of nine months they were conducting their
14 own investigation. I didn't get to review their
15 statements until, obviously, they took their
16 statements.

17 Q Meaning internal affairs?

18 A Right.

19 Q And did you also understand that during
20 the time frame you're talking about after the shooting
21 and before the MSD report, that the Governor had
22 instructed the FDLE to conduct a criminal
23 investigation of the matter?

24 A Yes. It started out, again, internal
25 affairs was tasked with part of the investigation,

1 BSO's Internal Affairs, then the Governor's
2 investigation was tasked next and then the Commission
3 was tasked kind of third in succession. So I was
4 aware of -- I refer to it as Inspector Riddick's
5 investigation, which is the Governor's investigation
6 because that's who I primarily dealt with throughout
7 that.

8 Q And Inspector Riddick is the inspector who
9 recently authored the probable cause memorandum for
10 the criminal charges against the former Deputy
11 Peterson?

12 A That is correct.

13 Q You mentioned the MSD Commission, Marjory
14 Stoneman Douglas High School Public Safety Commission.
15 You understand that was a commission initiated by the
16 Governor?

17 A I'd have to read the letter to see who
18 commissioned it. I know we were told through both the
19 Governor and the Senate investigation to fully
20 cooperate with them. Whatever they wanted, whatever
21 they needed to fully provide them. So again, I
22 started with the Governor and then I don't remember
23 who ordered what. But I know we cooperated fully as a
24 homicide unit with whatever they needed.

25 Q And did BSO cooperate fully with the

1 Marjory Stoneman Douglas Commission?

2 A Absolutely.

3 Q And as far as you know with whatever the
4 Inspector Riddick FDLE investigation was doing?

5 A I was in contact with both those
6 investigations different investigators almost on a
7 weekly basis. Whatever they needed, we provided them.
8 When they came into town, we assisted whenever we
9 could.

10 Q Prior to the release of the Marjory
11 Stoneman Douglas report were you as the lead
12 investigator given an opportunity to review and make
13 comments before publication?

14 A They sent us, and I think it was
15 December 14, 2018, a copy of what they called the
16 draft report that was not the final report to review
17 for any inconsistencies. But we were given like a
18 seven-day window to look at it for any
19 inconsistencies.

20 Q Were you able to respond or offer input
21 during that seven or whatever days?

22 A I was able to begin to provide
23 information, but we had not gotten any of their
24 statements yet to review to compare to what was
25 written in the report. I reviewed them after. The

1 report was, I think, authored on January 4, 2019.

2 Q So the MSD Commission did not give you as
3 the lead detective the statements for you to review
4 and offer comment before final publication of the
5 report?

6 A I had not gotten as of that point. I
7 think you have to understand the amount of statements
8 you're talking about. I think the Governor's
9 investigation was 182 statements, and the Senate was
10 around like 150. So I was still doing the Governor's
11 when I got the email from Colonel Dale, and other
12 people got it as well, to review the draft report.
13 But we had not been provided any of the statements on
14 the Commission report as of that date.

15 Q Would having had early access to the
16 statements from the Commission report have been
17 helpful to you in reviewing the draft for
18 inconsistencies, et cetera?

19 A Well, there was a few things that we spoke
20 about that I saw in the quick review just reading it
21 that I spoke to them about. But there was other
22 things that I tried to do research on that I couldn't
23 get it done in time for the final report to come out.
24 One of them was the radio issue.

25 Q Do you remember the topics of the items

1 you were able to discuss after seeing the draft of the
2 MSD report?

3 A One was a particular statement I took from
4 a school board member that when in the report itself
5 there was some wording that I didn't think was 100%
6 accurate as far as what he had said in that statement,
7 and it had to do with code red type questioning. The
8 thing that stood out to me right off the bat when I
9 read it, and I tried to get it done before the draft
10 report was due, was there was a lot of speculation as
11 to when the throttling occurred with the Broward
12 County radio system. That if you looked at the
13 Commission report they were speculating based on
14 different things like body cameras when the throttling
15 began to occur. So I tried to contact the guy who is
16 in charge of the county radio system to get specifics
17 on that aspect of when throttling occurred and also
18 radio key ups if they --

19 Q Pressing the button?

20 A Yes. Radio key ups for some of the
21 immediate command that was out on the scene that came
22 under scrutiny during different aspects of the
23 investigation.

24 Q Did you as part of your investigative work
25 to evaluate the active shooter response to the MSD

1 incident?

2 A Well, again, as part of my job reviewing
3 all these statements taken by the Governor's
4 investigation and the Senate I reviewed all the
5 statements of deputies who went inside by side with
6 Coral Springs officers to do the first extractions.
7 And then obviously I reviewed the statements of the
8 BSO deputies that took perimeter points at different
9 locations around the school.

10 Q Did you have an understanding of the BSO
11 active shooter policy at the time of the MSD shooting?

12 A Yes, I did.

13 Q And you received training on that policy?

14 A Yes.

15 Q Did you understand the policy to be a goal
16 of eliminating, obtaining the surrender or obtaining
17 the arrest of the assailant, the shooter?

18 A Yes.

19 Q And in the course of your investigation
20 and the interviews you did and the reports you read
21 did you identify any Broward policy, Broward Sheriff's
22 Office policy that's inconsistent with your
23 understanding of and training on the policy?

24 A No.

25 Q Did you weigh in as part of your

1 investigation on the use of the word "may" in the
2 policy? And I can give you the policy if you need to
3 look at it.

4 A I'm fine.

5 Q Did you weigh in on or evaluate the
6 presence the word "may" and how it impacted the active
7 shooter response?

8 A As far as the policy whether it were "may"
9 or "shall" when you review the statements of the
10 deputies who went in, and again I want to say this
11 over and over again, side-by-side with Coral Springs
12 to do the first extractions, Deputies Hanks, Volpe,
13 Valdez, Carbocci and Johnson gave very specific
14 reasons as to why they went in that building. And it
15 had nothing to do with may or shall. And I'm
16 paraphrasing somewhat, but their version was when they
17 arrived on scene, they could not tell from the radio
18 communications exactly what was happening. But they
19 saw Coral Springs guys running towards 1200 building
20 who seemed to know something more than they knew, so
21 they followed them in.

22 Q And that extraction you're talking about,
23 that means in police parlance going to the --

24 A No, they're actually entering the
25 building, looking for assailant, but dragging out

1 injured victims. The first extraction of four Coral
2 Springs officers with the doorway being held for cover
3 by BSO guy. That person was extracted on a golf cart
4 by a BSO deputy and a Coral Springs officer. The
5 second extraction was a BSO deputy and Coral Springs
6 extracting the second person off the first floor out
7 of the building as they're searching for the gunman as
8 they're entering. Again, those deputies that I just
9 named in their statements were very clear as to why
10 they went in the building. And it's just what I
11 stated. It had nothing to do with policy or may or
12 shall.

13 Q Is it your understanding that their why of
14 going to the building is precisely consistent with the
15 training on active shooter that BSO gives?

16 A Yes.

17 Q You also as part of your review gathered
18 up documentation pertaining to the police interaction
19 with the shooter, the prior police interaction with
20 the shooter; didn't you?

21 A Yes. I mean, obviously we pulled the past
22 reports of -- there were statements taken not by me
23 but one of my sergeants from the deputies who had
24 previous interactions with him or with his name. Not
25 necessarily with him. Just sometimes his name. So I

1 read all those reports as well.

2 Q And as part of your detective review of
3 that, were there any incidents of this police shooter
4 interaction that in your view as an experienced
5 detective ordinarily would lead to an arrest of that
6 individual?

7 A Well, the two things I believe you're
8 talking about, they only had his name allegedly. They
9 didn't have his date of birth. And he wasn't living
10 in Broward County at the time. So I don't think
11 either one of them would have lead to an arrest if
12 they actually had him in front of them.

13 Q As far as you understand the police did
14 not have the person in front of them on either of
15 those occasions?

16 A No, they did not.

17 Q You're aware of disciplinary sanctions
18 visited on two deputies for not correctly handling one
19 of the shooter, two of the shooter interactions?

20 A I read the internal affairs as part of the
21 discovery on my criminal case, and it was more
22 documentation that they didn't do what they agency
23 felt would have been a more thorough report of the
24 encounter or incident that they were called to.

25 Q You know that after the MSD tragedy the

1 Florida Legislature passed what's known as a Red Flag
2 Law, a risk protection authorization?

3 A I have the unit right aside of where I
4 work at BSO. They work aside of us.

5 Q Your understanding is that BSO actively
6 implemented that new law?

7 A Yes.

8 Q But prior to the passing of that law are
9 you aware that BSO and other law enforcement agencies
10 had worked to try to get a law like this in place?

11 A That's outside of my area of expertise.

12 Q But you do know that prior to the law, law
13 enforcement couldn't just take somebody's lawfully
14 owned weapons away unless they were adjudicated
15 mentally ill or Baker Acted and not released?

16 A That's correct.

17 Q In your investigative work for MSD, did
18 you come upon any deficiency in the training of BSO
19 deputies for responding to active shooter?

20 A Again, my entire involvement in the
21 deputies who went in and the deputies who didn't go in
22 who took perimeter points is based on what their
23 statements were. I already discussed what the guys
24 who went in said. The guys who didn't go in said
25 specifically why they didn't go in was because they

1 were given perimeter points by Scott Peterson. They
2 were given assignments by Scott Peterson. They
3 weren't sure from BSO's radio communication exactly
4 where the shooter was. Those ones who didn't go in
5 were similar to the ones who did go in and they said
6 may or shall had no impact on their decision. Even
7 Scott Peterson when I interviewed him said that he
8 knew what his assignment was. He said it in previous
9 things I've read since as far as rebuttal reports that
10 he's actually brought to law enforcement to read where
11 he states he knew what his assignment was, he knew
12 what he was supposed to do and, of course, he gives
13 his reasons as to why he didn't do it.

14 Q As the case detective were you given any
15 heads up about the probable cause affidavit for the
16 arrest warrant of former Deputy Peterson?

17 A I knew they were investigating with the
18 possibility of criminal charges. The day of the
19 incident I learned about it maybe an hour and a half
20 before it occurred.

21 Q Nothing prior to that time?

22 A Again, I knew that they were looking to
23 present to the state attorney certain what they
24 believed were criminal violations. But as far as the
25 day it happened, maybe an hour, an hour and a half

1 before I heard about it.

2 Q And you've since saw the probable cause
3 affidavit?

4 A Yes, it's actually a warrant.

5 Q Okay. The warrant and the affidavit?

6 A Yes.

7 Q For arrest of Scott Peterson on criminal
8 charges?

9 A Yes.

10 Q That was not any part of any
11 recommendation by you?

12 A No. We were there to assist them. We
13 weren't there to -- they were separate investigations.
14 We were there to assist them. We were not part of the
15 investigation with the Riddick investigation or with
16 the Commission. We just assisted with whatever they
17 needed.

18 Q All told how many, if you know, BSO
19 officers responded to the scene at MSD?

20 A I couldn't even tell you.

21 Q Including Fire and Rescue, which is under
22 the sheriff's office?

23 A To be honest, I could not tell you how
24 many people were out there.

25 Q But a significant number?

1 A Yes.

2 Q And equally significant other law
3 enforcement responders?

4 A Yes. There were all kinds of different
5 agencies out there. You know, SWAT teams, paramedics.

6 Q Including federal agencies, the FBI
7 appeared?

8 A Yes.

9 Q Much of it on the scene and then after the
10 fact detective gathering facts, is it fair to say
11 that, radio communication aside, the agencies and
12 responders worked cooperatively to conduct the law
13 enforcement function at that location?

14 A Yes. And again, sometimes I just want to
15 make a comment.

16 Q Sure.

17 A What happened up there that day a fraction
18 of a single percentage point of anybody in law
19 enforcement ever experienced doing it on two different
20 radio communication systems, one of which was not
21 working, the fact that people were able to go to hand
22 singles, runners to get information around that 45
23 acre campus. People were adapting because of the
24 failures of the communication system and other factors
25 just of the mass casualty event. So people, they

1 adapted well. Especially the SWAT teams and the
2 paramedics.

3 Q In your experience in your assignment is
4 your explanation of the adapting on the scene part of
5 what good law enforcement officers are trained to do?

6 A Yes.

7 Q How about good BSO officers?

8 A Yes.

9 Q How about BSO officers?

10 A Yes, everybody was dealing with the same
11 thing up there. We had the radios that were not
12 working. Cell towers actually failed because of the
13 amount of cell phone activity on the repeater cell
14 towers. So people were adapting to literally not
15 being able to communicate with each other.

16 Q Among the people who responded to the
17 scene of MSD, included Sheriff Israel?

18 A I learned that after the fact because I
19 was already at the station with the suspect.

20 Q But you did learn that Sheriff Israel and
21 other senior command responded to the scene?

22 A Yes.

23 Q And some stayed there for long periods of
24 time?

25 A I would assume so. Again, I spent almost

1 11 or 12 hours with the suspect.

2 Q Detective, you were issued a subpoena
3 through or given to the general counsel at the BSO?

4 A That's correct.

5 Q And you arranged in compliance with the
6 subpoena through the general counsel's office to get
7 up here?

8 A That's correct.

9 MR. KUEHNE: Nothing further.

10 SPECIAL MASTER: Thank you.

11 Cross-examination, Mr. McIver.

12 MR. MACIVER: Special Master, Detective
13 Curcio's supplemental investigatory report is
14 incredibly detailed. It's exemplary work and
15 it has been entered into the record. To the
16 extent that anything he has offered on direct
17 might be context, we believe we can do that in
18 our PRO. Thank you.

19 MR. KUEHNE: Nothing further. I do want
20 to make certain the Special Master is aware
21 that supplemental report that was referred to
22 is Exhibit L in the Governor's list just so
23 that we know what he's referring to.

24 SPECIAL MASTER: For the record, that is
25 noted, Exhibit L.

1 Thank you, Detective. Any reason not to
2 release the detective from the subpoena?

3 MR. KUEHNE: None from Sheriff Israel.

4 SPECIAL MASTER: Mr. Kaplan.

5 MR. KAPLAN: May I have one moment with
6 Mr. Israel?

7 SPECIAL MASTER: Yes, you may take a
8 moment.

9 MR. KAPLAN: Thank you so much.

10 (Whereupon, a recess was taken.)

11 MR. KUEHNE: Thank you, Special Master.
12 We have no further need for the witness under
13 subpoena.

14 SPECIAL MASTER: Okay. Who might you be
15 calling as your next witness so the Sergeant
16 can get him from the sequestration room?

17 MR. KUEHNE: Robert Pusins.

18 SPECIAL MASTER: Thank you.

19 Mr. Pusins, raise you're right hand,
20 please. Do you swear or affirm that the
21 testimony you're about to give will be the
22 truth and nothing but the truth so help you
23 God?

24 THE WITNESS: I do.

25 SPECIAL MASTER: Just to interrupt for a

1 second. Do you have another witness before
2 Sheriff Israel? There was one witness that you
3 weren't sure was going to be available.

4 MR. KUEHNE: No, the next witness is
5 Sheriff Israel.

6 SPECIAL MASTER: That would be your final
7 witness?

8 MR. KUEHNE: Yes.

9 SPECIAL MASTER: Okay. Just wanted to
10 know for purposes of the process. Thank you.
11 Sorry to interrupt.

12 WHEREUPON,

13 ROBERT RANDY PUSINS,
14 called as a witness by Scott Israel, was duly sworn by
15 the Special Master and in answer to questions
16 propounded, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. KUEHNE:

19 Q Tell us your name and how you are
20 professionally engaged.

21 A My name is Robert Randy Pusins,
22 P-U-S-I-N-S. I'm currently self-employed. I have a
23 consulting practice where I work as an expert in
24 police practices and police procedures.

25 Q Mr. Pusins, please give us an explanation

1 of your law enforcement history.

2 A I joined the Fort Lauderdale Police
3 Department in 1974. I went through the police
4 academy. I became a police officer. I served as a
5 uniformed police officer for about two and a half
6 years. And during that time I also served as a Field
7 Training Officer where I trained new officers coming
8 out of the police academy.

9 In 1977 I was appointed as a detective,
10 and I was assigned to the Investigative Bureau. And I
11 spent seven years there. I worked in a number of
12 different squads. The majority of my time was spent
13 investigating major violent crimes. I spent two years
14 working homicide. And after seven years as a
15 detective, I was promoted to the rank of Sergeant. I
16 spent five years in a patrol division supervising
17 police officers.

18 After those five years I was promoted to
19 the rank of captain. I was then assigned again to
20 patrol division. I supervised sergeants, police
21 officers, civilian employees. I was responsible for a
22 shift in one part of the City of Fort Lauderdale. I
23 served in that capacity for three years.

24 I was then appointed as Captain in the
25 Support Services Bureau, administrative position. My

1 responsibilities at the time included a number of
2 units or activities including the training unit,
3 records, forfeiture, the fleet, the building,
4 property, evidence and some other ancillary
5 responsibilities. I served in that capacity for four
6 years where I was appointed as a district commander.
7 As a District Commander in the Patrol Division I was
8 responsible for all uniformed police services in one
9 third of the city. I served in that capacity for
10 approximately two or three years.

11 I was then appointed as an Assistant Chief
12 of the Operations Bureau. I served in that capacity
13 for about a year. Perhaps a little bit more. We then
14 had a change in leadership within the agency, and I
15 was then -- assistant chiefs are appointed positions.
16 But my civil service rank was a major. We had a new
17 police chief come in. I was then assigned as a major.
18 And I was responsible for support units, operation
19 support units including the SWAT team, canine,
20 traffic, homicide, the boats, motorcycles, crime
21 prevention and some other activities during that time.
22 And I stayed in that capacity until I retired in 2004.
23 A total of 30 years with the Fort Lauderdale Police
24 Department.

25 In 2013 I joined the Broward Sheriff's

1 Office as an Executive Director as part of Sheriff
2 Israel's Executive Command Staff. My title was
3 Executive Director, as I said, and I was responsible
4 for the Department of Community Services. At that
5 time I had a wide range of responsibilities including
6 the Public Information Office, Crime Stoppers,
7 Community Affairs, Community Outreach, Chaplain's
8 Office and a few other activities. And over the next
9 few years those responsibilities had evolved, if you
10 will, and it came to a point where my primary
11 responsibility became regional communications. And
12 the Director of Regional Communications reported to
13 me. I had other responsibilities as well, but that's
14 generally my primary focus during the last two or
15 three years of my service with the Sheriff's Office.
16 I had joined the Sheriff's Office with the intent of
17 serving for five years. I committed to that term and
18 served five years and two months.

19 I then resigned from the Sheriff's Office
20 and I resumed my practice as an expert, and I have
21 been doing that ever since.

22 Q What's the subject matter of your private
23 practice as an expert?

24 A I'm an expert in police practices and
25 police procedures, and I get involved in lawsuits

1 involving policemen's conduct or defense of police
2 officers in a wide range of actives including police
3 pursuits, use of force, procedures, hiring, training
4 issues. Issues along that line where based on my
5 experience, my training and my education I believe I
6 can provide assistance to the trier of fact to
7 understand the issues and help them come to a decision
8 about whatever the issue may be. And I've been doing
9 this for 22 years. So I don't want you to think I
10 just became an expert. I started working as an expert
11 in 1997 and continue to today. I've been retained in
12 about 22 or 23 states. I've testified in state and
13 federal court from Miami to Vermont. Always been
14 qualified as an expert. Never been not qualified.
15 And as I said, continue to serve in that capacity
16 today.

17 Q Mr. Pusins, in connection with your work
18 with BSO, you joined BSO under Sheriff Israel's
19 sheriff status?

20 A Yes.

21 Q And you served five years as you had
22 committed to do?

23 A Yes.

24 Q Your separation from BSO was voluntary?

25 A Yes. As a matter of fact, I like to plan,

1 so I had actually given the sheriff seven months
2 notice that I was leaving. I notified him in
3 September 2017, and I actually left April 13th of 2018.

4 Q During your tenure as a command officer --
5 you were a command officer as executive director on
6 the command staff?

7 A Yes, I was part of the command staff.

8 Q You familiarized yourself with BSO
9 policies and procedures as they pertained to law
10 enforcement?

11 A Yes.

12 Q The policy known as Active Shooter, Policy
13 4.37, you're familiar with that?

14 A Yes, I am.

15 Q You know it's been much derided as a
16 result of the follow-up from the Marjory Stoneman
17 Douglas High School tragedy?

18 A Yes.

19 Q The policy, and I can hand it to you, it's
20 Exhibit 1. Would you like to have it in front of you?

21 A Sure.

22 Q You're also aware of the training on that
23 policy in the course of BSO?

24 A I'm generally aware of the training, yes.

25 Q You're not a training officer?

1 A I am not.

2 Q You've reviewed material pertaining to
3 training on the policy?

4 A I don't recall specifically reviewing the
5 lesson plan on this particular policy, but I am
6 familiar from speaking to others who are more familiar
7 with the lesson plan. So in that regard I do have
8 some familiar -- I am familiar with the policy and the
9 training.

10 Q So in the five years as BSO Executive
11 Director and familiarity with the policy 4.37, Israel
12 Exhibit 1, the policy itself contains the word "may,"
13 right?

14 A Yes.

15 Q And it's Subpart C on Page 2. And you
16 understand the contention that policies either must or
17 should contain the word "shall" instead of "may." Are
18 you aware of that?

19 A Yes.

20 Q Now, there's been testimony already -- I
21 just want to make sure you agree with it -- that FDLE
22 and no State of Florida governmental agency requires
23 any active shooter policy whatsoever?

24 A That's correct.

25 Q And none require training in active

1 shooter or active killing?

2 A That's correct.

3 Q But there are models and standards for
4 active shooter around the country?

5 A Yes.

6 Q And so some of them are published by law
7 enforcement organizations?

8 A Yes.

9 Q Like International Association of Chiefs
10 of Police?

11 A Yes, the International Association of
12 Chiefs of Police, or the IACP as it's commonly known,
13 has for over 30 years been publishing model policies.
14 And they also publish concepts and issues, papers
15 regarding issues that are facing law enforcement.
16 They do have a model policy on active shooter, and
17 they also have a concepts and issues paper on model on
18 active shooter. And the concepts and issues papers
19 are designed to provide some background information to
20 law enforcement as to how the IACP reached the
21 conclusion that the information that's in their model
22 policy is the current best practice in law
23 enforcement. So yes, I'm aware of the IACP. I'm
24 aware of their national training center, which
25 publishes those policies and those concepts and issues

1 papers.

2 Q I'm going to hand you Israel Exhibit 7 and
3 that starts at Bates No. Israel 142 and Israel Exhibit
4 8, Bates Israel 147. Exhibit 7 is an exhibit and it's
5 denominated IACP Model, Policy Active Shooter and
6 Exhibit 8 is IACP Law Enforcement Policy Center Active
7 Shooter Model Policy.

8 I'm going to hand these to you. Are these
9 two of the documents you were referring to when
10 mentioning IACP standard or model policies?

11 A Yes.

12 Q IACP is not a law enforcement
13 organization?

14 A It is not.

15 Q It's not a governmental entity that has
16 arrest powers?

17 A No.

18 Q It's rather a consortium that involves law
19 enforcement community at the highest levels developing
20 best practices and model standards?

21 A Yes.

22 Q And is it an organization that is
23 generally held in the highest of respect by all
24 manners of law enforcement agencies?

25 A Yes. And to expand upon that, there are a

1 number of organizations that are supportive of law
2 enforcement issues such as PERF and National Tactical
3 Offices Associations and other professional
4 organizations. But no other organization has the
5 reputation and status that the IACP has in law
6 enforcement profession. The IACP is looked at as the
7 leader in law enforcement on contemporary thought on
8 issues facing law enforcement. They're looked at, if
9 you will, as the gold standard as to how law
10 enforcement should be relating to and responding to
11 issues that come up that affect law enforcement.

12 They're just the leaders in law
13 enforcement thought as far as model policies and best
14 practices and guidance given to law enforcement.

15 Q You mentioned PERF, Police Executive
16 Research Forum?

17 A Yes.

18 Q I may ask you about that in a little bit.
19 Back to the IACP. In your knowledge and experience is
20 the IACP utilized as a source of relevant information
21 to federal agencies, like the FBI, when it's putting
22 together training and practices?

23 A I think IACP is viewed by all law
24 enforcement as a leader in contemporary thought on
25 issues based on law enforcement. As a matter of fact,

1 the IACP hosts an annual conference, an international
2 conference. And traditionally the keynote speakers
3 are the Director of the FBI, the Director of DEA, the
4 Director of Homeland Security, the Director of the
5 Department of Homeland Security itself. So it is a
6 well-established, well-renowned, well-admired
7 organization by all law enforcement professionals even
8 on a federal level.

9 Q The two exists deal with active shooter?

10 A Yes.

11 Q So first given your familiarity with the
12 IACP model policy and thought, is the Exhibit 1 Active
13 Shooter Policy in effect at the time of MSD shooting
14 and at the time of the Fort Lauderdale shooting,
15 that's Exhibit 1, consistent with the model policy and
16 principles of the IACP?

17 A Yes.

18 Q Is it consistent with any and every model
19 policy on active shooter of which you are aware?

20 A Yes.

21 Q Does it depart, does it, Exhibit 1, BSO
22 Active Shooter Policy 4.37 in effect at the time we're
23 talking about, does that policy contradict or run
24 counter to any mandatory active shooter policy that
25 you know of anywhere?

1 A No.

2 Q Now, I've tabbed just to get it to you on
3 Page 2, which is Israel 143 of Exhibit 7, the model
4 policy, Active Shooter, and I've tabbed a section
5 called B. Can you read the title of Section B and
6 then paragraph 1?

7 A The title of Section B is Individual
8 Officer Intervention. No. 1, in some instances an
9 individual officer maybe present within or near the
10 active shooter location such as a mall or school.
11 Whether on or off-duty in uniform or civilian clothes
12 he or she may determine that immediate action is
13 necessary and reasonable to stop the threat. That
14 decision may take into consideration the officer's
15 capability to effectively intervene based on his or
16 her training.

17 Q Could you read Section 2 immediately
18 following?

19 A Yes. As soon as practical, officers shall
20 notify communications that an active shooter situation
21 exists. The officer or officers should provide the
22 following information and updates as available. A,
23 The identity location, manner of dress, the proposed
24 actions of the officer at the scene. B, Information
25 about the suspect to include a physical description,

1 weapons, equipment such as body armor and current
2 location and actions. And C, Available information on
3 persons injured or under threat, their locations,
4 emergency resources required and recommended points of
5 entry.

6 Q Does the BSO policy as you understood it
7 and in place during your time with BSO and during the
8 effective time frame meet and comply with that model
9 policy?

10 A Yes, it does.

11 Q The next exhibit is Exhibit 8. That's the
12 Active Shooter Concept and Issues paper. Is it fair
13 to say that's generally a discussion of the myriad of
14 factors and issues that get wound into the development
15 of active shooter policies?

16 A Yes, that's fair.

17 Q And did BSO in developing its active
18 shooter policy take advantage of the literature and
19 the thinking in the field on active shooter policies?

20 A Yes. And that's just something that's
21 just a standard in law enforcement when reviewing
22 policies whether it's a policy on active shooter or
23 any other policy. A pursuit policy, for example, or
24 use of force policy. You certainly want to find out
25 what's relevant in the industry, what recent court

1 cases may have an influence on the policy. So it's
2 always advisable as you're reviewing policies,
3 amending them, to take into consideration the
4 literature that's out there in the field including
5 recent court cases that may have an impact on the
6 policy itself.

7 Q You're aware that BSO after the MSD
8 tragedy searched out and collated all of the active
9 shooter policies within the State of Florida?

10 A Yes.

11 Q Not done by you, but done by Captain
12 Diefenbacher?

13 A Yes.

14 Q Who you understand to be somebody
15 knowledgeable about training and policies at BSO?

16 A As well as being a lawyer himself.

17 Q And a lawyer?

18 A Yes.

19 Q And the compendium -- and I can hand it to
20 you, but it's Exhibit 30, Israel Exhibit 30 starting
21 at page 2142. Exhibit 30, the compendium, put
22 together by BSO post Marjory Stoneman Douglas included
23 the policies for active shooter existing in the State
24 of Florida?

25 A Yes.

1 Q And a spreadsheet outline summarizing the
2 types of policies?

3 A Yes.

4 Q And that the BSO policy is consistent with
5 the large scale operation of active shooter policies
6 in the State of Florida?

7 A Absolutely.

8 Q And some law enforcement agencies and
9 sheriff's offices have no active shooter policy?

10 A That's correct.

11 Q And that's allowed under FDLE, right, to
12 have no active shooter policy?

13 A Yes. FDLE or there is nobody in law
14 enforcement that mandates that an agency has a
15 particular policy. The only body that has such a
16 mandate is through accreditation such as the
17 Commission on Accreditation for Law Enforcement
18 Agencies. But that's a voluntary process. And if an
19 agency volunteers to obtain accreditation status via
20 Commission on Accreditation For Law Enforcement
21 Agencies, then they publish standards, if you will,
22 that can be met by having policies. But that's a
23 voluntary policy. And even Commission on
24 Accreditation For Law Enforcement Agencies, that has
25 467 standards that they require agencies to have if

1 they want to achieve accreditation status even they do
2 not require an active shooter policy. So there is no
3 entity in law enforcement that requires or mandates
4 the agency must have an active shooter policy. It's
5 determination that's made by individual agencies.

6 Q Is it consistent with your understanding
7 of the model policy and section 4.37 of the BSO policy
8 that the policies focus on the goal of eliminating,
9 obtaining the surrender or the arrest of the
10 assailant, the shooter or killer?

11 A That's the general purpose and focus of
12 all of these policies regarding active shooters is to
13 stop the threat, to either put the offender in a
14 barricaded situation, get him to surrender or going
15 back to stopping the threat, killing him, if that's
16 what it took to stop that threat. That's the three
17 general goals of any active shooter policy.

18 Q When Captain Diefenbacher's compendium was
19 put together, there are some Florida agencies that
20 used the word "shall" rather than "may" in the active
21 killer policy. Are you familiar with that?

22 A Yes.

23 Q Is it fair to say given Captain
24 Diefenbacher's review and compendium that even the
25 presence of the word "shall" is included with

1 underlying factors that require the responder to
2 evaluate what the response is and must be?

3 A Yes. And to elaborate on that, the
4 "shall" to mean is indicating the commander's intent
5 this is what you want your police officer to do. But
6 there's qualifiers, and the qualifiers are based on
7 the information that may be available. And that's
8 similar language that's included in many of the
9 policies. Law enforcement is taught right from the
10 beginning about Graham v. Connor, the 1989 Supreme
11 Court case that talks about how we evaluate force.
12 And Graham v. Connor very clearly instructs law
13 enforcement, and law enforcement is well aware of
14 this, that it's the totality of circumstances that has
15 to be considered when you determine whether you're
16 going to use force or not. When a law enforcement
17 officer engages in a pursuit, it's the totality of
18 circumstances that have to be considered, the type of
19 crime you're pursuing somebody for, the traffic
20 conditions, the weather, the capability of the police
21 vehicle versus the capability of the offender's
22 vehicle. All of those have to be considered and
23 evaluated continuously as you make decisions whether
24 it's force, whether it's pursuits and in this case
25 whether it's an active shooter. You have to

1 constantly consider the totality of circumstances that
2 will help guide you as you progress through responding
3 to that incident.

4 Q In police parlance and policy making is
5 there a concept known as a false imperative?

6 A Yes.

7 Q And in your knowledge and based in part on
8 Captain Diefenbacher's compilation of active shooter
9 policies in the State of Florida are there policies
10 that have what is denominated as a false imperative?

11 A Yes.

12 Q What is that in police parlance?

13 A So my understanding of it is is that again
14 it goes back to the commander's intent. This is what
15 we want you to do; however, we also expect you to be
16 rational thinking human beings and make decisions on
17 the totality of circumstances. So a "shall" policy
18 indicates to any common person that you have no
19 choice, this is what you must do. But most law
20 enforcement knows not only through their training but
21 through other language that's in the policy that the
22 "shall" really means a "may" when you have to consider
23 the totality of circumstances or other factors that
24 may be evident to the police officer that's responding
25 to whatever the issue is. So just seeing a "shall" to

1 a common person means you have no choice. You must do
2 that. But for law enforcement who are taught from the
3 academy level totality of circumstances, continually
4 evaluate every situation whether it's a pursuit, a use
5 of force or in this case an active shooter, it is a
6 false imperative because they know you have to
7 consider all of the factors when you make a rational
8 reasonable decision to proceed.

9 Q Is consideration of the totality of
10 circumstances viewed as the preferred approach when
11 assessing the model policies of IACP and other
12 standards?

13 A Yes. But police officers do not -- we
14 don't want to teach police officers to blindly follow
15 what may appear to be a false imperative. We want
16 them to be rational, reasonable thinking human beings
17 and make their decisions on the totality of
18 circumstances. Now, of course, the totality of
19 circumstances is information that you may have to help
20 guide your actions. The information may be partial.
21 You may have a lot more information. So that
22 information is always evolving as you process through
23 the incident, so you are constantly evaluating those
24 circumstances. So we would never ask a law
25 enforcement officer to blindly follow what appears to

1 be a "shall" policy without considering a totality of
2 circumstances in every action that he takes even if
3 it's an active shooter response.

4 Q You're aware that the -- you know of the
5 Marjory Stoneman Douglas High School Public Safety
6 Commission?

7 A Yes.

8 Q It issued a report?

9 A Yes.

10 Q The commission chair is a sheriff who is
11 also a lawyer, Bob Gualtieri?

12 A Yes.

13 Q And he is the Sheriff of Pinellas County?

14 A Yes.

15 Q You've had occasion to look at the active
16 shooter policy for Pinellas County which was actually
17 part of the compilation done by Captain Diefenbacher;
18 haven't you?

19 A I haven't looked at that policy in detail,
20 but I have read or heard of the summation of the
21 policy. But I myself have not personally reviewed
22 that policy.

23 Q So you've not reviewed the policy. You've
24 reviewed the summary done by Captain Diefenbacher and
25 other policies?

1 A Yes.

2 Q And as far as you understand is that
3 summary compendium of all those policies that's part of
4 Israel Exhibit 30 accurate?

5 A Yes.

6 Q And isn't the Pinellas County Active
7 Shooter Policy that was in place at the time of the
8 MSD shooting a policy that does require the responding
9 officers to consider the totality of the circumstances
10 before responding?

11 A Yes, like most policies do.

12 Q And is that, although the wording is
13 different, consistent with the BSO policy?

14 A Yes.

15 Q And as you understand it, is that policy,
16 the Pinellas Sheriff's Office policy, an absolute
17 command that bar nothing else the first responding
18 officer must immediately go in without any
19 consideration and confront the shooter?

20 A I know of no policy by any agency that has
21 language that would direct a law enforcement officer
22 to go in as you've just described. All policies that
23 I've seen as well as the recommendation from IACP
24 talks about evaluating the event and the circumstances
25 and the facts. And that's part of the totality of

1 circumstances. So I know of no agency policy that is
2 that specific and that direct where the officer would
3 not have the ability to reason and make a reasonable
4 assessment of the facts before they take action. Now,
5 sometimes the assessment can be very quickly
6 completed, but they still should be making that
7 reasonable assessment for everything that they do.
8 And I go back to pursuits. I go back to use of force.
9 We're talking about the totality of circumstances and
10 they constantly evaluate those circumstances because
11 they may change and cause an action that was started
12 to be stopped. Because those circumstances and those
13 facts and that information becomes available, he's
14 now -- a police officer is now processing that
15 information and making a different decision. And we
16 want them to do that. We want them to be able to
17 change their minds when they start a pursuit. We want
18 them to change their minds when they are in a use of
19 force incident, to stop a use of force when it becomes
20 unreasonable or no longer necessary to gain
21 compliance. So police officers have to use their
22 head. They have to think. They have to be always
23 aware of the circumstances and the facts. And we
24 wouldn't want it any other way. And the public
25 wouldn't want it any other way either.

1 Q Did the implementation of Policy 4.37,
2 Israel Exhibit 1, in anyway fall below the standards
3 applicable for law enforcement agencies?

4 A No.

5 Q Did the implementation, the setting of
6 that policy in anyway fall below any standards or
7 protocols required of law enforcement agencies in the
8 State of Florida?

9 A No.

10 Q BSO has SROs, School Resource Officers?

11 A Yes.

12 Q And you're aware that SROs are fully
13 engaged law enforcement officers?

14 A They're fully certified and trained law
15 enforcement officers and recognized by the State of
16 Florida as law enforcement officers.

17 Q BSO, on top of the required training for
18 deputies for law enforcement officers, has additional
19 40-hour training for SROs for the status of being
20 SROs?

21 A Yes.

22 Q And in Broward County the SROs are
23 certified as SROs; they're not just some deputy that's
24 thrown into that position one day?

25 A Deputies who serve as School Resource

1 Officers obtain training to become a certified school
2 resource officer serving at schools. So yes, that
3 training is required. And it's training that's
4 specific for a law enforcement to perform the function
5 of a school resource officer at a school.

6 Q And among those duties of a school
7 resource officer includes the recognition that
8 horrible things could happen in a school?

9 A Unfortunately, yes.

10 Q It includes the recognition -- let me
11 change the question.

12 From a law enforcement response kind of
13 view, Columbine is a fairly significant change in the
14 direction of law enforcement; isn't it?

15 A Yes, it was.

16 Q The idea of a mass shooting at a school
17 done by described schoolmates, not some terrorist who
18 parachutes in?

19 A Yes.

20 Q As of post Columbine -- and that was
21 awhile ago -- post Columbine is it a reality in law
22 enforcement that school resource officers are as part
23 of their specialized training made aware of the
24 possibility that their school might become a target?

25 A Yes.

1 Q And at BSO are School Resource Officers
2 given the training as you understand it to include
3 that as well as all the other myriad aspects of what
4 it takes to be a school resource officer?

5 A Yes, the school resource officers at the
6 Broward Sheriff's Office not only went through the
7 mandatory retraining that's required by the Florida
8 Department of Law Enforcement, but they also went
9 through training that was mandated by the Sheriff's
10 Office, Sheriff Israel, to include active shooter
11 training. They're just like another deputy with just
12 a different assignment. So all deputies are required
13 to go through active shooter training and that
14 certainly included those assigned as school resource
15 officers or deputies.

16 Q You're aware of SWAT units at BSO?

17 A Yes.

18 Q And you supervise SWAT units at the Fort
19 Lauderdale Police Department?

20 A Yes.

21 Q SWAT officers go through very specialized
22 training; fair to say?

23 A They do, yes.

24 Q And is it fair to say that no standards in
25 the State of Florida requires that all police officers

1 be trained as if they were SWAT officers?

2 A That's correct. And you wouldn't want
3 that. No. 1, all officers would not meet the physical
4 standards and requirements to be able to respond
5 effectively and efficiently to a SWAT situation. So
6 they all don't have that training. And you certainly
7 want somebody -- you don't want to force a deputy or a
8 police officer to perform a SWAT function, which is a
9 high-risk activity if he did not desire to do so. So
10 only those that request to go to SWAT are considered.
11 And only those that successfully pass the training are
12 allowed on the SWAT team. So it's a different type of
13 law enforcement officer with different skill set than
14 a typical standard police officer.

15 Q Whether accepted by law enforcement
16 officers or not, isn't it commonly said in law
17 enforcement agencies that SWAT is akin to the Ranger's
18 or the Green Berets of the military, the train-est of
19 the trained, the most skilled?

20 A I'm sure the SWAT operators would use some
21 of those references, but I would certainly agree with
22 you that the SWAT operators are more skilled, more
23 trained, more physically fit than the average police
24 officer in any police agency. Not only in the US, but
25 internationally. Those are the fist of all officers

1 who have more specific training for high risk SWAT
2 situations and they're certainly different in their
3 background and skill set than the average police
4 officer.

5 Q In your knowledge of BSO and the SRO's,
6 School Resource Officers, the specialized training
7 they do, is it considered in law enforcement circles a
8 good fit for a SWAT member to be a school resource
9 officer?

10 A Generally I would say, no. And the reason
11 is if you wanted to be a SWAT operator, you are really
12 one that is interested in higher level of service, if
13 you will, in a high-risk fast moving environment with
14 typically violent offenders. If you take that same
15 mindset and now look at a school resource officer's
16 position, it probably would not be a good fit. We
17 want our school resource officers to be able to relate
18 to and have compassion and empathy and understanding
19 with young people who are finding their way in life
20 and take the time and have the patience to mentor them
21 and be a role model for them. Where a SWAT officer is
22 an A type personality who is on the go and ready for
23 that next high-risk event because that's what he's
24 trained for, that's what he lives for, or her, and
25 would just not be compatible with an assignment to a

1 school. You want to have a softer, more empathetic,
2 more understanding approach with children. SWAT
3 officers are dealing with high-risk offenders. They
4 demand a compliance especially when weapons are
5 involved, and that's their direct approach dealing
6 with high-risk offenders. That same method of
7 approach would probably not be very successful in
8 dealing with teenagers or younger children who are in
9 schools.

10 Q In identifying is that dichotomy, does
11 that recognition of a different or additional skill
12 set in anyway alter the law enforcement status of a
13 school resource officer?

14 A Not at all. As I said earlier, they're
15 certified law enforcement officers who have been fully
16 trained by the State of Florida's requirements and
17 fully certified and have the responsibility to respond
18 as a law enforcement officer whether they're working
19 in a school or any other environment.

20 It differs from SWAT because SWAT is a
21 high risk assignment where you're dealing with
22 offenders who have more than likely demonstrated a
23 propensity for violence. And that takes anybody with
24 not only the skill set, but also the equipment a SWAT
25 operator to handle. It's a different environment in a

1 school. It's completely different, and you can not
2 compare the two. You can not reasonably compare the
3 two. It doesn't work.

4 Q At BSO SROs are officers chosen having
5 indicated an interest in serving as an SRO?

6 A Yes, they have to apply for that position.
7 Typically not only BSO, but typically anywhere in law
8 enforcement they would put out an announcement
9 indicating there is an opening for this particular
10 position and if you're interested, apply for it. And
11 then you would go through a selection process.

12 Q An evaluation and selective process?

13 A Yes.

14 Q And at BSO are officers routinely
15 evaluated for their positions, whether they fulfill
16 their requirements or not?

17 A Yes. That's a supervisory responsibility
18 that's a constant ongoing process. Of course, we do
19 have an annual performance evaluation. But if we have
20 effective supervisors in any law enforcement agency,
21 they should constantly evaluate their personnel as to
22 their ability to perform appropriately and reasonably
23 and not wait for an annual evaluation. It's a
24 constant daily process if you will. And it's their
25 responsibility to do that.

1 Q At BSO is it understood or suggested that
2 SROs are assigned because it's a cushy job, they're
3 waiting for retirement, let's put them in a school?

4 A No. It really does take a special
5 individual to work at a school and work with children
6 and young adults especially at the high school level.
7 Just like it takes a special individual to be a SWAT
8 operator or to ride a motorcycle. Those are different
9 skill sets. What we want to do at the sheriff's
10 office or any other agency is to put, if you will, a
11 round plug in a round hole. We want to fit somebody
12 with a certain set of skill sets to help him or her to
13 be successful in their assignment. So if you have
14 somebody that, for example, has a lot of complaints,
15 has difficulty interacting with people, is not
16 empathetic, not sympathetic, has little patience or
17 tolerance, that's not the person you want to put in a
18 school resource officer position. You want somebody
19 that can relate to children and be effective as a role
20 model while still maintaining his effectiveness as a
21 law enforcement officer.

22 Q You understand that former Deputy Peterson
23 was actually a long time SRO?

24 A He was.

25 Q He didn't just join the SRO as he was

1 nearing retirement?

2 A That's correct.

3 Q He was a young officer who sought out and
4 was deemed appropriate for the SRO status?

5 A Yes.

6 Q And as you understand it, well before
7 Sheriff Israel became sheriff?

8 A Yes.

9 Q Are you aware of an organization called
10 National Tactical Officers Association, NTOA?

11 A Yes, I'm not only aware of it, I'm also a
12 member of that organization.

13 Q What is that organization?

14 A It's an organization as its title
15 indicates of tactical officers who deal with issues
16 that face tactical or SWAT officers. Again, high-risk
17 training, high-risk events. The organization provides
18 training, specialized training to SWAT operators.
19 They also publish articles on organizations regarding
20 events dealing with high-risk incidents that a
21 tactical officer would be assigned to respond to.

22 Q Is the BSO Active Shooter Policy
23 consistent with any of the standards or models from
24 the NTOA?

25 A Yes. And again, it's all about totality

1 of circumstances. It's taking all the information
2 that you have available to you and processing that to
3 help you determine the best course of action. It's a
4 standard in law enforcement. I've said it before.
5 NTOA follows that same standard. You always process
6 the information that you have and based on your skill
7 set, the circumstances, the equipment available, you
8 then have a response to that event.

9 Q You mentioned I think that FDLE has no
10 requirement for active shooter policies or active
11 shooter training?

12 A That's correct. It's my understanding
13 that FDLE has the responsibility to determine what
14 training and what subjects are to be included in basic
15 recruit training for the police academy. They make
16 that determination. They also make the determination
17 with the assistance of Criminal Justice Standards and
18 Training Commission as to what training should be
19 required for officers to retain their certification.
20 It's been long established, since I've been in law
21 enforcement since the mid '70s, that law enforcement
22 officers are required to receive 40 hours of Criminal
23 Justice Standards and Training Commission
24 recognized courses, 40 hours of those courses every
25 four years, to retain their certification. That's the

1 minimum standard. But those standards do not include
2 active shooter at all.

3 Q You're aware of the Pulse shooting in
4 Orlando, that mass tragedy?

5 A Yes.

6 Q About three years ago. I think we just
7 had the three-year anniversary.

8 A Yes.

9 Q Since the Pulse shooting FDLE has not
10 implemented an active shooter mandate?

11 A No, they have not.

12 Q Post Fort Lauderdale Airport did FDLE
13 implement such a mandate?

14 A No, they have not.

15 Q Post Marjory Stoneman Douglas did FDLE
16 implement such a mandate?

17 A No, they have not.

18 Q How about the Criminal Justice Standards
19 and Training Commission, did it respond to any of
20 those events with a mandatory requirement for active
21 shooter training?

22 A No, they have not.

23 Q You, as part of your post BSO
24 responsibilities, stay up-to-date on Florida and
25 national standards?

1 A I do. I'm actually a life member of the
2 IACP, International Association of Chiefs of Police.
3 I'm a member of the FBI National Academy Associates.
4 Also a member of PERF, the Police Executive Research
5 Forum. I'm a member of the National Tactical Officers
6 Association. I subscribe to dozens of law enforcement
7 newsletters about professionals that publish articles
8 on training and current issues in law enforcement. So
9 I do my best to stay current on issues facing law
10 enforcement even though I'm no longer with the
11 Sheriff's Office, but it's part of my practice as a
12 consultant.

13 Q During this Governor's governing has FDLE
14 added active shooter training mandate to its
15 requirements?

16 A No, they have not.

17 Q Through today?

18 A Through today they have not.

19 Q During this Governor's governorship has
20 the Criminal Justice Standards and Training Commission
21 required active shooter training or policies?

22 A No, they have not.

23 Q And the Governor appoints members to the
24 Criminal Justice Standards and Training Commission,
25 doesn't he or she, whoever holds that office?

1 A Yes.

2 Q And the Governor is the Senior Executive
3 for the Commissioner of the Florida Department of Law
4 Enforcement?

5 A Yes, that's my understanding.

6 Q An executive agency?

7 A Yes.

8 MR. KUEHNE: No further questions.

9 SPECIAL MASTER: Thank you.

10 Cross-examination, Mr. Primrose.

11 MR. PRIMROSE: No questions.

12 SPECIAL MASTER: No further questions.

13 Any reason to not to release Mr. Pusins from
14 his subpoena?

15 MR. KUEHNE: No, Special Master.

16 SPECIAL MASTER: Thank you, sir.

17 Why don't we take a ten-minute break?

18 Let's reconvene at 4:00 for the last witness,
19 thank you.

20 (Whereupon, a recess was taken.)

21 SPECIAL MASTER: It's 4:00. Let's
22 reconvene, and please call your next witness,
23 Mr. Kuehne.

24 MR. KUEHNE: Our next witness is Sheriff
25 Israel.

1 SPECIAL MASTER: Thank you.

2 Raise your right hand, sir. Do you
3 solemnly affirm that the testimony you're about
4 to give will be the truth, the whole truth and
5 nothing but the truth?

6 THE WITNESS: I do.

7 WHEREUPON,

8 SCOTT ISRAEL,
9 called as a witness, was duly sworn by the Special
10 Master and in answer to questions propounded, testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. KUEHNE:

14 Q Tell us your name.

15 A Scott Israel.

16 Q You are the elected Sheriff of Broward
17 County?

18 A I am.

19 Q I recognize that you are suspended by the
20 Governor, but you understand this is a Special Master
21 review for the Florida Senate of the Governor's
22 suspension?

23 A Yes, sir.

24 Q Before you became Sheriff of Broward
25 County, you had a career in law enforcement?

1 A I did.

2 Q Tell us about that.

3 A I began my career as a Fort Lauderdale
4 Police Officer in 1979. I graduated through the ranks
5 of the Fort Lauderdale Police Department. Among many
6 positions, two positions I'm very proud of is I was an
7 undercover narcotics detective working on local,
8 state, national and even international drug
9 investigations as an undercover operative. From -- I
10 got promoted to sergeant I believe 1988. I got
11 promoted to captain in, I think, 1994. I was a SWAT
12 commander. I understand as a SWAT commander police
13 movements, police tactics. I think I'd be considered
14 in the industry a tactician.

15 I retired Fort Lauderdale Police
16 Department in the year 2004 after 25 years of service.
17 I went on to become a Police Chief with the City of
18 North Bay in Dade County. I voluntarily resigned in
19 2008 from that position. I ran for sheriff. I ran
20 unsuccessfully 2008. And then I decided to run again
21 in 2012. I won the position of sheriff in 2012. I
22 ran for election in 2016. The team won
23 overwhelmingly, and here I am today.

24 Q The term of office as Elected Sheriff of
25 Broward County is four years?

1 A Yes.

2 Q That term of what you were elected by the
3 people of Broward County for four years commencing
4 November 2016 through November 2020?

5 A Actually, it's January 2013 through
6 January of 2021.

7 Q The next election for sheriff is November
8 of 2020?

9 A Or primary in August of 2020.

10 Q Okay. Primary. The sheriff's role is a
11 partizan elected position?

12 A Absolutely.

13 Q And the Florida Constitution requires
14 that, right?

15 A Correct.

16 Q You're a constitutional officer?

17 A I am.

18 Q A constitutional position set out in the
19 Florida Constitution?

20 A Correct.

21 Q And every county, let's say,
22 pre-November 2018, because my question will be a
23 little different, but pre-November 2018 almost every
24 Florida county was required to have an elected
25 sheriff?

1 A That's correct.

2 Q A number of counties that are charter
3 counties had the equivalent of a sheriff rolled into
4 another office?

5 A That's correct.

6 Q For example, Miami-Dade County, the
7 largest county, the consolidated government runs the
8 equivalent of the sheriff's department?

9 A That's correct.

10 Q Known as the Public Safety Department?

11 A Yes.

12 Q Besides Miami-Dade County is the Broward
13 Sheriff's Office the largest of the Florida sheriff's
14 offices?

15 A It is.

16 Q And it's the constitution that requires
17 running as the representative of a party and then if
18 there is opposition, then those two parties have a
19 general election and one wins?

20 A Yes.

21 Q You ran as a Democrat?

22 A Yes.

23 Q And were elected as a Democrat?

24 A Yes.

25 Q First time?

1 A 2012.

2 Q And second time?

3 A 2016.

4 Q And the people of Broward County had an
5 opportunity for four years to evaluate you?

6 A They sure did.

7 Q What did they say to you when you sought
8 service again as their elected sheriff?

9 A I've been told that in 2016 we won by the
10 single largest margin in the sheriff race in the
11 history of Broward County.

12 Q Significant approval?

13 A Yes, sir.

14 Q Now, do you consider yourself in the time
15 you've been sheriff to be a sheriff or a politician?

16 A A sheriff.

17 Q But part of your role as an elected
18 official is to involve yourself in political matters?

19 A Most certainly.

20 Q And is part of that process as the elected
21 sheriff involving yourself in the community?

22 A Yes, sir. I actually ran for sheriff to
23 connect with our community. Community policing has
24 many different definitions. I've heard them all, but
25 mainly what it is is the head of an agency being

1 visible, being available, touching people, having them
2 touch you, having them have your personal phone
3 number, getting up at 1, 2, 3, 4 in the morning and
4 going out to an event or a critical incident if you
5 think you can help make it safer, safer for the
6 deputies, safer for the citizens. And also, sworn
7 deputies are a fraction of our agency. We have almost
8 6,000 people. We have firefighters. We have
9 detention deputies. We have civilians. It's a city
10 basically, so you want to be approachable. And I've
11 worked very hard to do that.

12 Q On an everyday occasion, weeks or months,
13 in your position as sheriff, do you participate in
14 community events?

15 A Continually.

16 Q Let's say, as we focus on the time frame
17 that's mostly about this case, 2017 and 2018. Give us
18 a sense of the kind of community involvement you do,
19 and secondarily I'll ask your organization does. So
20 let's focus on you as sheriff.

21 A I think the community event that's evolved
22 that I'm most proud of is I partnered with a former
23 Palm Beach Sheriff's Deputy Boca Raton Police Officer
24 named Wayne Barton who got into food distribution.
25 And in the four years I've partnered with Wayne we

1 have distributed over 4 million pounds of food for
2 free to people. I've been criticized -- and that's
3 okay, I understand people have the right to criticize
4 -- for getting involved in these food distribution
5 events. But if I'm able to use a position that God
6 bestowed upon me to feed people, why wouldn't I take
7 advantage of that? And I tell you, and Broward County
8 knows this, the grocery giveaways are absolute
9 community sly policing. Because when you give food to
10 people who wouldn't eat if they didn't get that food,
11 they are going to trust you. They're going to take
12 your phone number down. And when Johnny goes to
13 school with a gun or Sally goes to school with
14 cocaine, they're going to call you up and they're
15 going to tell you about it.

16 I've been called the most visible sheriff
17 that Broward County ever had. And through grocery
18 giveaways and gun buybacks and doing things that let
19 me integrate with the community -- you know what, I've
20 seen a lot of sheriffs out in communities, and they're
21 called Sheriff Smith or Sheriff Jones. And that's
22 fantastic. I love the word sheriff. But when I'm out
23 in the community and the community calls me Scott and
24 they call you by your first name, you know you're
25 connecting. You know you're making an impact. And

1 that's why I ran for sheriff. And that's what I'm
2 most proud of, sir.

3 Q Have you found in discharging your role as
4 sheriff that community involvement like you've
5 described actually helps you execute the
6 responsibility as conservator of the peace?

7 A Absolutely.

8 Q In what manner?

9 A Well, I was in one of our contract cities,
10 Lauderdale Lakes, and I was at a town hall meeting.
11 And then a woman was talking about being stopped in
12 another county. She was an African American woman.
13 And she felt she was stopped basically because of her
14 skin color. And another woman stood up and she said,
15 Sheriff, she goes, before you became sheriff our kids
16 ran away from the cop cars and now they run towards
17 them. And when people know you care and there's that
18 connection -- I was a football coach at Stoneman
19 Douglas High School. Not a lot of people know that.
20 But I coached at Stoneman Douglas for years. I
21 coached the Coral Spring Chargers, the town we lived
22 in, the town team. I coached the youngsters for
23 years. When you're not talking the talk, but you're
24 walking the walk, then people see that. They befriend
25 you. And when they trust you, you become a safer

1 community.

2 Q And is that your view of discharging your
3 constitutional obligations as a sheriff?

4 A Yes.

5 Q You're not the only sheriff in the State
6 of Florida?

7 A No.

8 Q There are one per county other than
9 Miami-Dade. Do you interact with other sheriffs
10 throughout the State of Florida?

11 A Not often, but at conferences and things
12 like that. But not a lot of interaction.

13 Q Before you ran for sheriff and before you
14 ran successfully for sheriff, did you undertake an
15 effort to learn what it is a sheriff does and what a
16 sheriff is responsible for?

17 A Absolutely.

18 Q A sheriff is not just a high level police
19 officer, right? You mentioned that in Broward County
20 a sheriff has a wide range of duties that may not
21 ordinarily be considered just law enforcement
22 directed?

23 A That's correct.

24 Q And do you have expertise in fire and
25 rescue?

1 A No, I don't have expertise. No.

2 Q You've been around fire and rescue for all
3 of your law enforcement career?

4 A Yes.

5 Q But as far as policies and procedures for
6 fire and rescue, did you start the job knowing all of
7 that?

8 A Absolutely not.

9 Q Or knowing what the training is to be a
10 certified EMT?

11 A No, I did not.

12 Q Or go to fire school or whatever the
13 equivalent of a police academy is?

14 A No. But actually, when I decided I was
15 going to run for sheriff, I went to a long time friend
16 who is now a retired fighter from the Fort Lauderdale
17 Fire Department and I went out to the Coral Springs
18 Academy. Not to become a firefighter certainly, but
19 to understand what they do. And when you can
20 understand what people do, you're more receptive to
21 their suggestions. If you're going to lead people,
22 you ought to know what they do and how you could help
23 make changes.

24 Q When you ran for sheriff and you were
25 elected, did you make a commitment to the people of

1 Broward that you would staff your agency with highly
2 qualified senior core leadership?

3 A You bet.

4 Q So for example, when it came to the fire
5 rescue function that you had no personal knowledge of,
6 but you tried to learn about it?

7 A Yes.

8 Q Tried to walk in their shoes?

9 A Yes.

10 Q And did that help you identify how you
11 could be the leader of a team that includes a
12 knowledgeable fire rescue person?

13 A Absolutely.

14 Q And was that a commitment to the people of
15 Broward County that you would do that?

16 A Absolutely.

17 Q You've never been a detention deputy?

18 A No.

19 Q Yet the Broward Sheriff's Office runs the
20 detention function?

21 A Yes. And I might say we have the finest
22 detention deputies in the land.

23 Q And you made an effort not being a
24 detention deputy in the past to learn what detention
25 deputies do?

1 A I did.

2 Q To spend time with them?

3 A Yes.

4 Q And within your structure of BSO is
5 detention deputy viewed as the lowest of the low for
6 people who just can't be real law enforcement
7 officers?

8 A Not by me. Never has. Detention deputies
9 are an incredibly important component of keeping
10 Broward County safe. I look at detention deputies,
11 law enforcement, firefighters and civilians as a
12 football team. Everyone is instrumental. They play
13 different positions. And they're not interchangeable.
14 And being a good firefighter doesn't mean you could or
15 would or should be a deputy sheriff. So you have to
16 identify leaders. You have to put round plugs in
17 round holes. And make sure -- leaders don't have to
18 look alike. They don't have to think alike. But they
19 have to be on the same mission. And the mission is to
20 deliver safe services and protect the county by
21 treating people with dignity and respect. And that's
22 what I've always preached.

23 Q Did it appear to you during the
24 questioning of some of the witnesses that the
25 Governor's office attempted to malign some of the

1 witnesses by suggesting you hired them because they'd
2 be your guy?

3 A Yes, it really was.

4 Q What's your response to that?

5 A It really was bothersome. Some of the
6 police leaders that you've seen today, and you'll read
7 their depositions, I'm blessed that these men and
8 woman came into my life. And I asked them to come to
9 the Broward Sheriff's Office and help me on this
10 mission not because they were my friends, but because
11 they became my friends by being honorable, ethical,
12 talented people. And to hear the attorney ask today,
13 Were you thinking about getting your job back before
14 you answered, that's not what these men and women are
15 all about. If I was wrong they'd come here before God
16 and country and they'd tell you I'm wrong. These are
17 men and women who are going to speak the truth. And
18 that's why they're my friends. And I'm blessed and my
19 wife and I were blessed that these people came into
20 our lives.

21 Q Did you chose your command core because
22 they are the best of the best?

23 A Absolutely.

24 Q Jack Dale, Colonel Jack Dale, you hired
25 him. Was he your bosom buddy before you hired him?

1 A No. A friend, but not a bosom buddy.

2 Q You hadn't worked with him in a lot of
3 years?

4 A Many, many years.

5 Q Did he have the credentials, the
6 qualifications, the personality to go fill that
7 position?

8 A You can't get a better team than starting
9 with Jack Dale.

10 Q Robert Pusins, was he your bosom buddy?

11 A We were friends, not bosom buddies. But
12 he was actually my boss for many years. And I said
13 that's the kind of boss that I hope I can approach if
14 I become the leader of the agency. And I called
15 Bobby. These folks didn't call me for these
16 positions. I called them. I recruited them.

17 Q Did you know that Bob Pusins is actually
18 nationally recognized in police standards and
19 practices circles?

20 A I didn't know that until later.

21 Q But you learned that?

22 A I learned that, yes.

23 Q And in fact, he is?

24 A He is.

25 Q He's not just an expert, he's called upon

1 law enforcement agencies around the country to assess
2 and offer opinion and evaluation?

3 A Yes, and he was called upon by the now
4 suspended Sheriff of Broward County to give me advice,
5 guidance, and I sought his input continually when we
6 worked together.

7 Q There are other witnesses that testified
8 in deposition. That record is before the special
9 master. You've read all those depositions, right?

10 A Yes.

11 Q Some of those witnesses were command
12 staff?

13 A Yes.

14 Q The Undersheriff Steve Kinsey, career law
15 enforcement officer?

16 A Yes, extremely talented and honorable.

17 Q Did he become undersheriff because he's
18 your duty guy?

19 A No.

20 Q Do whatever you say?

21 A No, sir.

22 Q Colonel James Polan testified. He was
23 part of your command staff?

24 A Yes, Colonel James Polan would be here.
25 He's on a cruise.

1 Q He testified by deposition?

2 A He sure did.

3 Q You read his deposition?

4 A I did.

5 Q You hired him at the BSO command level
6 position?

7 A I did. He's probably the most tactically
8 knowledgeable person I've ever had the honor of
9 meeting in my police career. His ability to
10 understand and predict and be proactive with training
11 and tactics and movement and changes is exemplary and
12 honored.

13 Colonel Polan was actually working in
14 Milwaukee when I became sheriff and I called him
15 immediately and said, Do you want to do this with us?
16 And he had just moved to Milwaukee, had a new home.
17 And then about seven, eight months later he heard how
18 much fun and how productive we were being and he
19 called me up and he goes, Another opening exists,
20 count me in. Several months later an opening existed
21 and he came down.

22 Q Was he qualified for the job?

23 A As qualified as anybody I ever worked
24 with.

25 Q You also had as part of your command staff

1 a lawyer as general counsel. Who was that?

2 A Ronald Gunzburger.

3 Q Talented lawyer?

4 A Yes.

5 Q Good civil servant, public servant?

6 A Yes.

7 Q Was he, Ron Gunzburger, your general
8 counsel, part of your inner circle as command staff
9 helping you make decisions?

10 A Yes. Certainly anything that could even
11 touch the realm of legalities I would absolutely
12 converse with him.

13 Q Did you have him in the room when you had
14 command staff level meetings?

15 A Yes.

16 Q Discussed sheriff business?

17 A All the time.

18 Q Now, he resigned from the Broward
19 Sheriff's Office as general counsel after you were
20 suspended, right?

21 A Yes. Well, no. He resigned months later
22 to take another job.

23 Q It was after you were suspended?

24 A Yes.

25 Q He continued in that position?

1 A Yes.

2 Q And then he resigned voluntarily as you
3 understand it?

4 A Yes.

5 Q And is he now working for, is it, the
6 Mayor of Maryland or Baltimore?

7 A I believe he works directly for Governor
8 Hogan.

9 Q So he's working for the Governor of
10 Maryland?

11 A He is.

12 Q And by the way, do you know that Governor
13 Hogan is a Republican?

14 A I do know that, yes.

15 Q Was there any partisan bent to your
16 command staff?

17 A We never -- I was a politician. Politics
18 was my life. Not their lives. Their lives was about
19 firefighting, about law enforcement, detention
20 enforcement, and we never brought politics into the
21 building. Never.

22 Q Was your command staff composed of yes men
23 and women? Just the bottle heads?

24 A That's not my DNA. I wouldn't want a
25 command staff like that.

1 Q You became, you, Sheriff Israel, became a
2 issue during the 2018 campaign for Governor; didn't
3 you?

4 A I did.

5 Q And was that effectively announced by the
6 then candidate now Governor that you were a campaign
7 issue?

8 A Yes.

9 Q In fact, the Governor, then candidate for
10 Governor, campaign for Governor using you as an issue?

11 A He said, I would suspend that sheriff. To
12 this day I've never met or had a conversation with
13 Governor DeSantis. I'm 63 years old, I spent 40 years
14 in law enforcement and sadly he didn't even think it
15 was important enough for me to fly to Tallahassee or
16 meet him somewhere to discuss my views, the facts that
17 I knew, instead of all these false narratives that are
18 out there. We never had a chance to sit down and for
19 me to explain these things about communication and
20 training and tactics and policies and procedures. And
21 to this very day I think I deserve that opportunity.

22 Q And you affirmatively not only made
23 yourself available, affirmatively requested, I'd love
24 to meet with you and talk about what you have been
25 saying about me?

1 A Yes.

2 Q The two tragic events, these active
3 shooter that lead to the loss of innocent lives,
4 occurred under the gubernatorial watch of Governor
5 Scott?

6 A Both of them.

7 Q Both. Fair to say that the Hollywood Fort
8 Lauderdale Airport shooting wasn't as charged
9 politically as the MSD Marjory Stoneman Douglas School
10 shooting came to be?

11 A That's a very fair statement, sir.

12 Q After the Marjory Stoneman Douglas school
13 shooting, when it became apparent to you that there
14 were going to be a series of investigations and it was
15 a major matter for the State of Florida to essentially
16 evaluate and figure out how to stop this from
17 happening again, you had communication with the then
18 Governor's officer; didn't you?

19 A I had communication directly with Governor
20 Scott.

21 Q And you offered Governor Scott the
22 opportunity to answer any questions he had, give him
23 your view as a constitutional elected official, Chief
24 Law Enforcement officer in Broward County because
25 Marjory Stoneman Douglas really was a matter that

1 needed the attention of the State of Florida in
2 addition to Broward County, right?

3 A Yes, Governor Scott and the President and
4 the First Lady sat in my office, and I assured them
5 they would have full cooperation of the Broward
6 Sheriff's Office. Governor Scott was very involved,
7 was very concerned. And then when he called me a
8 short time later, he told me that he thought it was in
9 the best interest of the state to have FDLE to do an
10 investigation regarding the law enforcement response,
11 I told him he would have my full cooperation. The
12 Director for, still current Director for FDLE,
13 Director Swearingen, called me and told me what some
14 of the parameters would be and asked me not to get
15 involved, not to have our agency get involved. And he
16 was absolutely right. First of all, the credibility
17 with Broward County, the public was going to believe
18 in something if it was done by another agency not
19 called Broward Sheriff's Office. When the Marjory
20 Stoneman Douglas Commission arose, I had a very
21 similar conversation with the Chairman, Sheriff
22 Gualtieri, and he asked us to stay away from certain
23 things and not to overlap and not to read the Officers
24 Bill of Rights, not to Garrity them. And I completely
25 agreed. And we were good neighbors and we cooperated.

1 As you heard Detective Curcio say today, we worked
2 hand in hand. We did whatever we could as a
3 collateral agency to assist in these investigations.
4 I'm a very transparent sheriff, and that's how I
5 demanded our agency be.

6 Q Did you receive a commitment from then
7 Governor Scott that no decisions would be made about
8 BSO or it's leader, you, without first having an
9 opportunity to confer?

10 A Yes. Actually, my name really never even
11 came up. Governor Scott told me of the investigation.
12 And he said whatever was going to happen would happen
13 after the investigation was over, he had a chance to
14 sit down with his staff, like any leader would,
15 analyze it, read it, question me about it and then
16 make whatever appropriate decisions he had to make.
17 But you could just imagine how demoralizing it was to
18 me and my family to here in March, two months --
19 investigation hadn't even commenced, and I hear a
20 candidate for Governor saying I'll suspend that guy.
21 That's not how America should be run.

22 Q When that first happened, that the
23 candidate makes this statement, do you say to the then
24 Governor something about if this is the decision for
25 you, I'll answer any questions you have, let you know

1 what's going on, make it clear that you were available
2 to help?

3 A I remember having that conversation, but
4 not with Governor Scott. I just can't recall who I
5 had it with. But Governor Scott and I, I don't
6 believe I ever had a conversation with Governor
7 DeSantis's name being mentioned, so I don't
8 specifically remember that.

9 Q And where was that political position
10 taken by the then candidate when he said I'd suspend
11 that guy? Wasn't that at a Broward County event?

12 A I heard it three or four times. The
13 social media. What it is, my cell phone was -- my
14 text messaging was -- he said it a few times, but I
15 don't remember where he was the first time he said it.
16 But I know Broward County people were there because
17 they were the one texting me.

18 Q At anytime postelection, no more
19 candidate, did the Governor-elect or any of his
20 representatives reach out to you to schedule a meeting
21 to discuss what, if anything, would be done with you?

22 A Never.

23 Q Were you aware of reports that
24 postelection the Governor-elect strongly urged
25 Governor Scott to suspend you before he left office?

1 A I did hear that.

2 Q And did Governor Scott suspend you?

3 A No, sir.

4 Q You were elected as a Democrat, right?

5 A Yes, sir.

6 Q Governor Scott was elected twice as a
7 Republican for Governor and the third time for United
8 State Senator as Republican?

9 A He sure was.

10 Q You shared no party affiliation?

11 A No.

12 Q Did Governor Scott make you a political
13 issue at all ever?

14 A Never.

15 Q You're aware of Section 30.15 of Florida
16 Statutes. That's the sheriff's chapter and sheriff's
17 statutes on the power and duties of sheriff, right?

18 A I am.

19 Q And before you became sheriff you became
20 aware of it, studied up on it to learn your statutory
21 duties?

22 A I did.

23 Q In addition to your constitutional duties?

24 A Yes, and every newly elected sheriff comes
25 right up here to Tallahassee before you take office

1 before you're sworn in and you go to a 40-hour
2 "Sheriff School" where you learn about the state
3 statutes and the responsibilities as they affect you.

4 Q And who provides that guidance to elected
5 sheriffs?

6 A I think it was sponsored by the Florida
7 Sheriff's Association.

8 Q And that's an effort to get all Florida
9 sheriffs as you understand it up to speed on what is
10 expected of their duties as sheriffs of a county?

11 A Correct.

12 Q One of the statutory requirements in
13 Section 30.15 is that sheriffs shall "be conservators
14 of the peace in their counties."

15 A Yes.

16 Q Are you aware of that?

17 A Yes.

18 Q Is that a uniquely law enforcement
19 phraseology, conservator of the peace?

20 A I would say so.

21 Q Is that your understanding, that it has
22 meaning in the law enforcement sheriff's function?

23 A Yes. I wouldn't agree with the way
24 counsel espoused it today, but --

25 Q Well, let me ask you this. Sheriff's are

1 conservators of the peace under the statute?

2 A Yes.

3 Q And as part of Florida Sheriffs
4 Association's 40-hour training for new sheriffs you
5 learned about what sheriffs are supposed to do, what
6 they're held responsible for?

7 A Yes.

8 Q Not just what the law obligates them to
9 do, but what sheriffs are supposed to do by holding
10 that office?

11 A Yes.

12 Q By the way, this requirement -- strike
13 that.

14 This training done by the Florida
15 Sheriff's Association, it's not mandatory. You were
16 elected sheriff, you could tell them I'm not taking
17 your training?

18 A I think it might be mandatory. I'm not
19 positive about that. I think it might be in the state
20 statute that an incoming sheriff has to attend a
21 40-hour block.

22 Q And you attended?

23 A Yes.

24 Q Along with other sheriffs?

25 A Yes.

1 Q And you heard the Governor's lawyer in
2 opening remarks to the Special Master give a
3 definition of conservator of the peace and it said --
4 I'd have to look in my notes because I wrote it down,
5 but as best I can paraphrase conservator of the peace
6 means preventing crime for occurring. Did the
7 Governor's lawyer say that?

8 A He certainly did.

9 Q Is there any part of your understanding or
10 training of sheriff that mandates that the sheriff has
11 to prevent any crime from happening in his or her
12 county?

13 A No. Special Master if I could prevent
14 crime, I'd prevent Alzheimer's disease and cancer.
15 That's not what the conservator of the peace means to
16 me. It means giving your best every single day to
17 taking a proactive approach instead of reactive
18 approach in law enforcement. There was so many
19 misstatements an untruths. I developed a training at
20 Pompano Beach high school --

21 Q Sheriff, let me focus you --

22 A I'm sorry.

23 Q Conservator of the peace. Did you
24 understand what is expected of you as conservator of
25 the peace in Broward County?

1 A I did.

2 Q Did you act to be conservator of the peace
3 in Broward County?

4 A Everyday.

5 Q Did you put processes and people in place
6 to further the statutory requirement of conservator of
7 the peace?

8 A I did.

9 Q And have you ever heard of any sheriff in
10 the State of Florida who has said their role, their
11 job is to make sure crime doesn't occur in their
12 respective county?

13 A I never heard that.

14 Q Have you ever read a Florida Statute that
15 says sheriffs are charged with the statutory
16 responsibility to make sure no crime occurs?

17 A Never heard that.

18 Q Have you ever read any Florida court
19 decision where judges for the Florida Supreme Court
20 has held that sheriffs are going to be measured
21 against whether they've prevented any crime from
22 occurring in their county?

23 A I never read anything like that.

24 Q How about prevented horrible crimes from
25 happening in their county?

1 A I never read that.

2 Q Did you do work as sheriff to try to
3 prevent crime?

4 A I did, sir.

5 Q Give us some examples of what you did as
6 sheriff to try to prevent crimes from happening or
7 lessen the number of crimes?

8 A Well, I believe one of the first things I
9 did is I created a squad called VIPER. The folks in
10 the squad, they came up with the name VIPER. They
11 wanted VIPER. They were going to get that -- it stood
12 for Violence Intervention Proactive Enforcement. And
13 through my reading, and I'm a reader, I found out that
14 approximately 6% of the people in any county, not only
15 Broward but any county in America, 6% of the people
16 actually commit 69% of the violent crimes. By that
17 I'm talking armed robberies, sexual batteries, armed
18 burglaries, carjacking. And it made sense. So we
19 started a unit that proactively went through
20 investigative techniques after these 6% of the
21 criminals in our county and we were able to bring
22 violent crime way down. As far as misdemeanors, I
23 don't support anybody committing a misdemeanor crime.
24 But I believe in diversion for people who commit
25 misdemeanors. I believe in second and third chances.

1 As I said, I'm a football coach. I also
2 wanted to measure our success. I'm talking about
3 misdemeanors. But I wanted to measure our success by
4 the kids we were able to keep out of jail. Not in
5 jail. And when I was criticized by some people for
6 that, all we had to do was look at the recidivistic
7 rates. And in Broward County the recidivism rate of
8 adults is about 63, 64%. And the people we were able
9 to arrest, but did not arrest and put into a civil
10 citation program where their records go away if they
11 complete 45 to 60 day course in anger management,
12 narcotics, drugs, alcohol, the recidivism rate in this
13 program is about 4 to 5%. So the young kids were
14 getting it. I was told that if you don't arrest young
15 kids, you can't bring violent crime down. We proved
16 them wrong at the agency. Our men and women worked so
17 hard and so diligently that they reduced violent crime
18 and kept young people out of jail. And we got so many
19 testimonials from parents. And that's just the way we
20 did things, sir.

21 Q Fair to say that you were not able to
22 eliminate crime in Broward County?

23 A Fair to say.

24 Q But you, the Broward Sheriff's Office kept
25 detailed records of crime statistics in Broward

1 County?

2 A Absolutely.

3 Q Before your tenure and during your tenure?

4 A Absolutely.

5 Q Exhibit 18, Israel Exhibit 18, it's Bates
6 stamped Israel 1659. I'm not going to make you an
7 experts on these, but is Exhibit 18 representative of
8 the type of statistics the BSO keeps on crime reports,
9 crimes cleared in the collateral aspects of criminal
10 law enforcement?

11 A It is indicative of that.

12 Q And is it fair to say that the crime
13 statistics during your tenure tended and trended down?

14 A Due to the incredible work of our
15 civilians, nonsworn and our sworn deputies and the
16 leaders I put in place, those groups coming together,
17 those statistics are accurate and we kept crime down.

18 Q There is lots of factors that affect the
19 crime rate, right?

20 A Yes.

21 Q The clearance rate for crimes went up in
22 Broward County?

23 A Yes.

24 Q Did efforts include working with other law
25 enforcement agencies to assist them in the crime

1 fighting process?

2 A Yes. I think one of our biggest successes
3 was we called it the BAT team. They named it. Stands
4 for Burglary Apprehension. And we worked with the
5 Coral Springs Police Department. They labeled theirs
6 BARE. Burglary something. I don't remember what it
7 was. But these teams would work together. And the
8 work that these men and women did throughout Broward
9 County -- because burglary is not a crime that stays
10 within your boundaries. If somebody is going to
11 burglarize one county or one city, he or she, if they
12 find a victim, they're not going to stay within
13 jurisdiction. And these teams working together, they
14 had a major impact on burglaries, on arrests,
15 apprehensions. You arrest a burglar, for the most
16 part you'll get a man or woman who has done many, many
17 crimes. Burglars don't do one crime. That's their
18 job.

19 Q By the way, as elected sheriff were you
20 attentive to the needs or the demands of the
21 community?

22 A Very much so.

23 Q For example, were there ever some
24 communities that expressed outrage that certain kinds
25 of crimes were happening?

1 A Yes.

2 Q And as elected sheriff were you attentive
3 to that?

4 A Yes. And because of that, and knowing
5 that even before I became sheriff, I started what we
6 call a Community Outreach Unit. And the Community
7 Outreach Unit, another criticism that -- you know, the
8 critics -- was they weren't police officers. And
9 people said, We need boots on the ground. And I said,
10 No, we don't need boots on the ground. We need people
11 on the ground. So I matched people in communities,
12 hired them with the Broward Sheriff's Office and put
13 them back in their very community. The Jewish
14 community, working with Kibbutz. The GLBT community.
15 These people who are familiar faces there could go
16 into a house, could go into a room not with a badge
17 and gun, but with their hearts and minds and they can
18 connect with people. And then we found out what are
19 the problems in this community. The best leaders are
20 the best listeners. So we would listen to the
21 community and develop solutions in concert with the
22 community. I wasn't a sheriff who told the
23 communities this is how we solve a problem. Let's
24 huddle up, let's get together and let's solve the
25 problem together.

1 Q Is this what the conservator of the peace
2 does?

3 A Yes.

4 Q Was any of your sheriffing, any of your
5 exercise of law enforcement partisan in anyway?

6 A Never. I always said this, sir, I was the
7 elected democratic Sheriff of Broward County, but
8 anybody who knows me I was a sheriff for Republicans,
9 Democrats, Independents, African American, Hispanics.
10 I was the Sheriff for every single person in Broward
11 County because I loved our communities.

12 Q What's that exhibit in front of you?

13 A It looks like 1B or 18.

14 Q So Exhibit 18 is in front of you?

15 A Okay.

16 Q Is a compellation of statistics that trend
17 toward reducing crime and increasing successful
18 closing of crimes part of the job of conservator of
19 the peace?

20 A Absolutely.

21 Q Now, some of the statistics BSO keeps
22 involves the recovery of restitution and stolen
23 property?

24 A Right.

25 Q BSO keeps stats on that, too?

1 A Yes.

2 Q Is it fair to say those stats, Exhibit 18,
3 reflect that BSO recovered more stolen property,
4 recovered more valuables, recovered more victim things
5 trending upward?

6 A That's correct.

7 Q Is that the role of conservator of the
8 peace?

9 A That is one of roles.

10 Q And that's not a statutory definition,
11 right?

12 A No, it's not.

13 Q Is that your understanding of the duties
14 of a sheriff?

15 A Yes, sir.

16 Q Now, BSO also took over the municipal law
17 enforcement function of some municipalities?

18 A That's correct.

19 Q A municipality can have a police
20 department. But BSO, before you got three, after you
21 were suspended, has contracts with other governmental
22 entities to perform police functions?

23 A That's correct.

24 Q And a team at your office at BSO would
25 negotiate the contours of a contract?

1 A That's correct.

2 Q And you would offer your input?

3 A Well, they would report to me
4 intermittently as they saw they needed my input, and
5 then, of course, before anything was signed, I would
6 get a complete review.

7 Q Fair to say that that's a negotiation?

8 A Yes.

9 Q They don't tell you this is what we want,
10 take it or leave it; you don't say this is what we
11 want, take it or leave it?

12 A That's not how it goes, no.

13 Q Did you as sheriff actively invite
14 municipalities to consider the sheriff's office as
15 part of their law enforcement source of solution?

16 A You mean municipalities that we did not
17 have when I became sheriff?

18 Q Correct.

19 A I've never had one conversation with any
20 city trying to solicit them. If they wanted us, they
21 knew how to get ahold of me.

22 Q So you didn't go out trying to be the only
23 law enforcement in Broward County?

24 A Never.

25 Q How could you be conservator of the peace

1 where the Governor says your job is to prevent all
2 crime and not be able to exercise all the law
3 enforcement function in Broward County?

4 A It's an illogical statement, sir.

5 Q You understand that the Constitution of
6 the State of Florida has a position of sheriff, but
7 also authorizes municipalities to exercise law
8 enforcement function within their municipalities?

9 A I do.

10 Q Did you ever fight that or prevent
11 municipalities from exercising law enforcement
12 function because you were the conservator of the peace
13 and had to prevent every crime from occurring at least
14 according to the Governor?

15 A No.

16 Q There are also governmental agencies in
17 Broward that have governmental authority that does not
18 ordinarily reach the BSO; isn't that right?

19 A That's right.

20 Q We have an airport?

21 A Yes.

22 Q Fort Lauderdale International Airport?

23 A Yes.

24 Q And there is a seaport?

25 A Yes.

1 Q Those are governmental entities part of
2 Broward County; aren't they?

3 A Yes.

4 Q And did Broward County in your tenure,
5 before your tenure have contractual agreements with
6 those two ports, airport and seaport?

7 A Yes.

8 Q And to those contracts, were those, let's
9 say, seriously negotiated by governmental entities?

10 A Yes.

11 Q BSO and Broward County Aviation Division
12 for the airport?

13 A Well, I don't know if it would be BSO and
14 Broward County Aviation Division. It might have been
15 BSO and the County Administrator because the Aviation
16 Division reports through our County Administrator, so
17 she may have done the negotiations. I don't know
18 which group did the actual negotiations.

19 Q Okay. Well, you know that part of the
20 Israel exhibits include the actual contracts entered
21 into to perform law enforcement function for Broward
22 County entities?

23 A Yes, that's correct.

24 Q And you're aware of those?

25 A Yes.

1 Q I'm not going to ask you to go through
2 them. They're lot of legal. But fair to say those
3 were very seriously vetted and negotiated by people
4 who understand the responsibilities of government?

5 A Absolutely.

6 Q Understand the duties of government?

7 A Absolutely.

8 Q Understand the necessity of having
9 effective law enforcement for a governmental entity?

10 A Yes.

11 Q You know that in Broward County the Fort
12 Lauderdale Airport could, if it wanted to, have its
13 own police force?

14 A It could. It could expand the police
15 force. They could pay us more money and have more or
16 less Broward County Sheriff's Office.

17 Q Let me take this a step at a time.

18 A Okay.

19 Q If Fort Lauderdale Hollywood Airport, the
20 decision of the Broward County Administrator was we
21 don't want to deal with the sheriff, we want our own
22 law enforcement agency; it could do that?

23 A Of course.

24 Q Same with the seaport?

25 A Of course.

1 Q But Broward County contracted with BSO to
2 provide that law enforcement function?

3 A Correct.

4 Q Did BSO at anytime under your sheriffship,
5 under your status as sheriff breach or not fulfill
6 either of those contracts even for a minute?

7 A Not even for a minute.

8 Q Now, the Governor claims that one of the
9 reasons you were neglectful of your duty or
10 incompetent is because you decreased police personnel
11 at the Fort Lauderdale Airport at the time passenger
12 traffic was increasing. You read that?

13 A I have.

14 Q You've heard that?

15 A I have. It's untrue.

16 Q That's not true; is it?

17 A It's patently false. It's just untrue.

18 Q But the Governor has said one of the
19 reasons you're incompetent is because, citing to a
20 report, The number of personnel assigned to Fort
21 Lauderdale International Airport decreased at the time
22 passenger traffic increased. And that's just flat out
23 100% not true?

24 A It's not true.

25 Q By the way, was the Governor citing to a

1 draft, first draft not vetted after action report that
2 was never intended to be a statement of what happened
3 at Fort Lauderdale International Airport?

4 A All that report was was a first draft and
5 the Captain was instructed to just go gather
6 information, and over the course of months, if not a
7 year, we would have a series of meetings so command
8 staff people from other agencies could come together
9 to discuss -- I don't want to trivialize this. But he
10 was told to go out and get all the ingredients, but
11 our command staff and others would bake. It was never
12 our intention to release that. So criticizing that
13 report, calling even a report other than a rough
14 draft, that was released because of the law it was
15 considered public record and we released it. The
16 intention was gather facts, gather opinions, gather
17 everything and over a period of time. But certainly a
18 Captain wasn't going to dictate to an agency, to a
19 county a final report on one of the most critical
20 incidents in the history of the county. This was
21 going to be discussed and taken apart and peeled back
22 by a series of men and women over many, many months.

23 Q That's one fact that the Governor has
24 grasped onto from that first after action report draft
25 that is just flat out false?

1 A Flat out false.

2 Q Fair to say -- and I'm not going to take
3 you page by page through that first report, but that
4 first report did as it's intended, gather as much
5 information as possible so that the process could work
6 its way of process that included vetting, yes?

7 A Yes, sir.

8 Q Determining accuracy?

9 A Yes.

10 Q Determining importance?

11 A Yes.

12 Q Bringing in specialized individuals who
13 knew a particular function?

14 A Yes. That first report had no SME,
15 subject matter expert. Not one subject matter expert
16 had weighed in. This was going to happen over a
17 period of time. And had the Governor's attorney or
18 the Governor invited me up or spoke to me, all of
19 these things could have been explained.

20 Q And then the assignment was it to Captain?

21 A Cedeno?

22 Q No, Captain Cedeno did the first report.

23 A Diefenbacher.

24 Q Diefenbacher. That assignment to do the
25 next level of review, was that a fix-it job?

1 A No.

2 Q Was that the normal process?

3 A It was the second step in the process. It
4 was just the second step.

5 Q Now, there is testimony in the record,
6 undersheriff -- the undersheriff was Steve Kinsey?

7 A Yes.

8 Q The undersheriff testified without
9 contradiction that the final report known as the
10 critical incident report issued and published was his
11 final work that you signed off on?

12 A Yes.

13 Q And he testified that he did it after it
14 worked its way up to him and that report is his that
15 you had no directory involvement in telling him write
16 this, don't write that, exclude this, include that?

17 A That's so true.

18 Q Is that correct?

19 A That's incredibly accurate. My
20 involvement with him was when it was done, he came in
21 my office and he gave me a complete briefing and he
22 took me through that report from A through Z in a
23 comprehensive eloquent manner. He always does. And
24 then I signed off on that report.

25 Q Did you in your role as sheriff determine

1 that as conservator of the peace that report was
2 accurate and served the purpose for which it was
3 written?

4 A Absolutely.

5 Q Was there any effort by you to sanitize
6 the report or clean it up and make the BSO look great
7 when the BSO shouldn't look so great?

8 A No, sir.

9 Q Was there any part of that -- strike that.
10 The report uses a topical heading called
11 Opportunities For Improvement.

12 A Yes.

13 Q Is that what's typical of reports of this
14 type?

15 A Very typical.

16 Q Now, opportunities for improvement, to
17 some that sounds like a measured criticism with some
18 ability to motivate people going forward; is that the
19 intention of an opportunity for improvement?

20 A The report, the word, the term opportunity
21 for improvement is just that. An opportunity to see
22 things that you could have done better, improve upon
23 them, make some changes because these are -- counsel,
24 can I speak about the actual airport, what was going
25 on regarding that report?

1 Q Let me -- I'm going to get to that.

2 A Okay.

3 Q Was there any part of the final report,
4 the critical incident report -- and by the way, just
5 so we're referring to the right one, Special Master,
6 it's Exhibit E. Governor DeSantis Exhibit E is the
7 final report known as the Critical Incident Report.

8 I can show it to you if you need to. Do
9 you need to see it?

10 A No, sir.

11 Q Is there any part of that final report,
12 the final report that was whitewashed?

13 A None.

14 Q Does the report offer opportunities for
15 improvement on the part of BSO?

16 A It certainly does.

17 Q The process of doing an after action
18 review getting to a critical incident report, BSO is
19 not the only agency that was involved in the Fort
20 Lauderdale Hollywood International Airport shooting?

21 A No, we weren't.

22 Q Did other agencies of which you are aware
23 go through the same exercise?

24 A I don't know.

25 Q Did BSO in connection with its development

1 of an effective comprehensive report deal with other
2 agencies?

3 A Yes.

4 Q For example, BCAD, we talked about BCAD,
5 Broward County Aviation Division?

6 A We did.

7 Q That controls the airport?

8 A Yes.

9 Q Did BSO interact or intersect with BCAD
10 over the after incident evaluation?

11 A Yes.

12 Q Was that important?

13 A Very important.

14 Q How about with other parts of Broward
15 County like bus transportation; did BSO coordinate
16 with them for purposes of evaluating a critical
17 incident report?

18 A Yes.

19 Q Why?

20 A Because it was important to get from their
21 perspective what was done right, what could have been
22 done better, what was seamless, what transportation
23 issues did we have, what communications issues did we
24 have. My job as sheriff was to bring all stakeholders
25 together so they could feel comfortable that they were

1 heard and that we were listening to them and they were
2 listening to us. And together the next time God
3 forbid this were to happen, we could do better.

4 Q Did BSO also intersect with other
5 responding agencies like the FBI or Customs or
6 Homeland Security in putting its critical incident
7 report together?

8 A Yes.

9 Q Why would you do that?

10 A Same reason, just to make sure that we're
11 -- it's like watching game film. You're not going to
12 get better if you don't take a real look at what you
13 did right, what you did wrong. When you go back and
14 find out the things we did right that day, we
15 reinforce that, continue to train that way. If there
16 were things we could have done better or another
17 agency could have done better, then you want to let
18 them know about that and make changes. You don't want
19 to do the same thing over and over again. The poet
20 called that insanity. We want to improve, and the
21 only way to improve is to have heartfelt honest
22 discussions and having thick skin and listening to
23 what other people say about your agency and what you
24 say about theirs.

25 Q Is that what your experience of what a

1 critical incident report or after incident report is
2 supposed to do?

3 A Yes.

4 Q And has BSO done a lot of these?

5 A Yes.

6 Q Any of that magnitude up to this time?

7 A Not up to the time of the airport, no.

8 Q Is doing a critical incident report
9 evaluating the good and the bad part of being
10 conservator of the peace for you?

11 A Absolutely.

12 Q Since we are talking about the Broward
13 Fort Lauderdale Airport, you mentioned that you had
14 experience as a SWAT officer?

15 A Much experience.

16 Q Even a SWAT commander?

17 A Yes.

18 Q SWAT is a very specialized area of law
19 enforcement?

20 A Very specialized.

21 Q Highly trained?

22 A Highly trained.

23 Q Has there ever been, as far as you know, a
24 requirement that all deputies be trained like SWAT
25 officers?

1 A I wouldn't allow that.

2 Q Well, first answer the question.

3 A No.

4 Q Has the Governor's office ever called on,
5 as far as you know, any sheriff and said, Hey, post
6 Pulse I want you to train every law enforcement
7 officer as a SWAT officer, as far as you know?

8 A No, sir.

9 Q As conservator of the peace as elected
10 sheriff is that a good idea?

11 A No.

12 Q Why not?

13 A Because you need to put round plugs in
14 round holes. I mention sport analogies. LeBron James
15 is one of the greatest basketball players on our
16 planet, and Tom Brady is one of the greatest
17 quarterbacks. You can't switch them and expect the
18 New England Patriots and the Lakers to be just as
19 great. You've got to find out what people are good
20 at, what they have a zeal for, what they're meant for.
21 Like what we decided to do with our professions. You
22 want to give a SWAT operator an AK and carnal gear,
23 and you want to let them do their thing. You want to
24 have people who want to be with children gravitate to
25 a school resource officer. People want to

1 investigate, you put them toward homicide and robbery.
2 You want to put a round plug in a round hole, and
3 that's what leaders do.

4 As a SWAT team commander I can tell you
5 there is an equilateral triangle that we have in every
6 SWAT practice. It's a circle and it's divided in 3.
7 We have education intelligence, firearm proficiency
8 and physical fitness. And each of them to be an elite
9 SWAT operator is 33 and a 3rd percent of their makeup.
10 If they're very intelligent, hardworking people and
11 they're incredibly physically fit, but they can't
12 shoot, they can't be on the SWAT team. They have to
13 have all three. They're unique Type A personality
14 people. And SWAT operators are not necessarily going
15 to be good at -- not that they can't, but they're not
16 necessarily going to be good at other aspects in the
17 agency. And people who excel at other aspects in the
18 agency are not going to be able to say, okay, here's
19 your helmet and gear and go be a SWAT operator. It
20 just doesn't work like that.

21 Q Prior to becoming an elected sheriff, you
22 had no supervisory responsibility over SRO, school
23 resource officers; had you?

24 A No.

25 Q But when you became sheriff, did you learn

1 what an SRO was?

2 A Absolutely. Well, from Fort Lauderdale I
3 knew their job description.

4 Q Did you consider SRO to be yet another
5 specialized division within Broward Sheriff's Office?

6 A I didn't really consider it to be
7 specialized. I mean, you had to apply for it. But it
8 was you're a deputy sheriff. And any day I wanted to
9 or any of our leaders wanted to, we could have taken a
10 patrol deputy off the road and put him or her in
11 school if they had the proper training and
12 qualifications and interchange them. They were
13 certainly an important component and are an important
14 component of our cities and our county, but I didn't
15 see them as higher or lower on the scale of any
16 deputy. They were deputy sheriffs.

17 Q Did you, as you understood, the SROs go
18 through specialized training for SROs?

19 A Yes.

20 Q And did you make sure that happened under
21 your watch?

22 A Yes.

23 Q While you were sheriff was SRO status
24 designed for the dregs of the BSO?

25 A Never.

1 Q Not that BSO has any dregs, but sort of an
2 after effect?

3 A Never.

4 Q Deputies who couldn't do it were sent to
5 SRO?

6 A Never.

7 Q In fact, was your leadership mindset just
8 the opposite?

9 A Just the opposite.

10 Q SROs are important?

11 A Absolutely.

12 Q Now, BSO also has contracts with the
13 Broward School Board?

14 A We do.

15 Q And that's another governmental agency?

16 A It is.

17 Q Broward School Board could have, if it
18 chose, have its own law enforcement department?

19 A They do. A lot of people think we provide
20 all the school resource officers. I think we might
21 have 60% of the schools in Broward County, and they
22 contract with just about every other city that has
23 schools.

24 Q And Broward School Board also has its own,
25 although small, its own law enforcement division?

1 A It certainly does.

2 Q Now, school boards can have their own
3 police force?

4 A They can.

5 Q In the state of Florida?

6 A Dade County does.

7 Q Governmental agency, they can have sworn
8 certified FDLE certified law enforcement officers?

9 A They can.

10 Q And as far as you understand, law
11 enforcement officers who work for a school board are
12 required to have exactly the same training as BSO
13 deputies for requirements?

14 A Yes.

15 Q Now, you mentioned Miami-Dade County has a
16 school board that has its own police force?

17 A That's correct.

18 Q The Miami-Dade Police Department, the
19 equivalent of the County Sheriff's Office, does not
20 have law enforcement responsibilities for schools in
21 Miami-Dade?

22 A That's correct.

23 Q But you contract with Broward schools, and
24 that contract includes specifications for which
25 schools get SROs, how many SROs, right?

1 A That's correct.

2 Q Now, BSO doesn't have the unilateral
3 ability to say to Broward County schools, ah, no, no,
4 no, we want five officers in this school, seven
5 officers in that school, this school, nah, we don't
6 need one, we need two over there?

7 A We don't have that ability.

8 Q But do you negotiate -- are you aware of
9 the negotiations with Broward schools over these
10 contracts?

11 A Yes.

12 Q Do you negotiate with Broward schools over
13 what is the sheriff's view of the best and work out an
14 agreeable solution?

15 A Yes.

16 Q If Broward County schools ever wanted to
17 enter a contract with BSO under your leadership that
18 didn't satisfy you or your leadership team as to the
19 needs and requirements, would you sign the contract?

20 A Could you repeat that?

21 Q If BSO had provisions in a contract that
22 you did not think allowed you to effectively exercise
23 your law enforcement function, would you sign it?

24 A No, sir.

25 Q What would they do if they didn't have BSO

1 over a barrel making them do a law enforcement
2 function? They'd have to find other resources?

3 A They'd have to find other resources.

4 Q That's because as a governmental entity
5 they have that power?

6 A Yes.

7 Q Broward Sheriff doesn't have that power --

8 A No.

9 Q -- to make them do something?

10 A No.

11 Q Fort Lauderdale, Hollywood.

12 MR. KUEHNE: Special Master, just in terms
13 of where we are, I have some time to go.
14 Remind when we you intend to break. Assuming
15 it's a good time?

16 SPECIAL MASTER: I intend to finish today
17 and not come back tomorrow, so we'll stay for
18 as long as we need to today.

19 MR. KUEHNE: Okay. Thank you.

20 BY MR. KUEHNE:

21 Q Fort Lauderdale Hollywood Airport contract
22 for law enforcement, did BSO provide the law
23 enforcement officers required by that contract?

24 A Yes.

25 Q And on top of that didn't BSO have other

1 officers who were at the airport even though they
2 weren't part of that contract?

3 A Detail officers.

4 Q Now, one of the heroes -- well, let me ask
5 you this. Do you consider Deputy Jesse Madrigal to be
6 a hero?

7 A You bet.

8 Q He testified at deposition that he's
9 embarrassed to be called a hero.

10 A Mm-hmm.

11 Q Does that surprise you?

12 A No, it doesn't. He is a hero. That's
13 uncontested. It does not surprise me that he would
14 not consider himself a hero. Here's a man who served
15 in the military. He did three tours of duty between
16 Iraq and Afghanistan and then just came back and he
17 just treated that day as if he just did his job.

18 Q And he's an aviation detail deputy, right?

19 A Yes.

20 Q He's a pilot?

21 A He's a pilot.

22 Q Works with the airplanes?

23 A He does. Helicopters.

24 Q And he's not trained as a SWAT officer?

25 A He's not.

1 Q But you became aware of his action at the
2 time of the airport shootings?

3 A Yes.

4 Q Fair to say 70 plus seconds the shooter
5 was in custody?

6 A In custody, handcuffed.

7 Q Deputy Madrigal went straight to where the
8 perceived shooting was to eliminate, obtain, surrender
9 or arrest the perpetrator?

10 A Yes.

11 Q Is that what he was trained to do?

12 A Certainly was.

13 Q Is that what BSO trained him to do?

14 A Yes.

15 Q He was recognized as Deputy of the Year by
16 the Florida Sheriff's Association for that heroism and
17 response?

18 A Yes, and then a year later by the incoming
19 Governor, the new Governor, Governor DeSantis
20 recognized him again for his heroism.

21 Q BSO had a contract for a number of
22 deputies assigned to the Fort Lauderdale Hollywood
23 International Airport that day, January 6, 2017, if
24 you don't remember the day?

25 A I do remember.

1 Q And in addition there were other BSO
2 officers there before the shooting ever happened, such
3 as Deputy Madrigal who was on detail?

4 A Right.

5 Q And there is also a whole array of non-BSO
6 law enforcement officers housed at and working at Fort
7 Lauderdale Hollywood International Airport?

8 A That's correct.

9 Q There is also federal security
10 professionals like TSA. Not law enforcement officers,
11 but certainly have a homeland security function at the
12 airport?

13 A That's correct.

14 Q Now, the Governor's office in claiming you
15 were incompetent and neglected your duty, says that
16 BSO didn't have full scale active drill, active
17 shooter scenarios at Fort Lauderdale Airport. Do you
18 remember that the Governor's lawyer said that?

19 A Oh, I remember crystal clear.

20 Q And the Governor has written that in
21 papers?

22 A Oh, yes.

23 Q And the Governor said you neglected your
24 duty because everybody knows you have to have full
25 scale active shooter training at the Fort Lauderdale

1 Airport; did you?

2 A Yes.

3 Q You did?

4 A Yes, sir.

5 Q Did the Governor call you up and say,
6 Sheriff Israel, can you tell me if you ever had these
7 active shooter full scale at the airport?

8 A No, I never had a conversation with the
9 Governor.

10 Q You also had a full scale active shooter
11 real life simulation of the seaport?

12 A We did.

13 Q That involved a terrorism scenario?

14 A Yes.

15 Q That involved numerous law enforcement
16 agencies?

17 A Yes.

18 Q Involved the airport itself?

19 A Yes.

20 Q In fact, you had to get permission from
21 the airport BCAD to do this?

22 A Yes.

23 Q Is that easy to do?

24 A No.

25 Q If you were Broward Sheriff and said next

1 Saturday we want to do a full scale active shooter
2 training in Terminal 2 because we're inviting the
3 Governor to see this training; would it happen?

4 A It would not happen.

5 Q Complicated process?

6 A Complicated process. So much approval.

7 Q Lots of governance involved?

8 A Lots.

9 Q In fact, as far as you know, given your
10 knowledge and responsibility as Broward Sheriff, could
11 anybody individually make that happen like this?

12 A No.

13 Q But BSO did it?

14 A Yes, in concert with other people who
15 worked very, very hard with us to get it done.

16 Q Credit to a lot of people?

17 A Yes.

18 Q And was that active shooter scenario at
19 the airport and seaport large scale, big impact, was
20 that required by FDLE?

21 A No, it wasn't.

22 Q Or any agency?

23 A No, it wasn't. And I participated.

24 Q Did BSO also work on a joint active
25 shooter large scale training at the Miami

1 International Airport?

2 A We did.

3 Q How did that come about?

4 A A lot of training and a lot of practice
5 and a lot of agencies coming together to do that.

6 Q Why in the world would Broward County
7 Sheriff's Office, conservator of the peace in Broward
8 County, have any interest in going down to Miami-Dade
9 County to do an active shooter live action scale
10 training exercise at MIA?

11 A Because I wanted it done. I wanted our
12 people to train as a conservator of the peace. And
13 you get an opportunity to go to any airport, if I
14 found out the Orlando Airport was doing active shooter
15 training and they invited some of our teams there, I'd
16 send them up there. That training is so hard to come
17 by and it's invaluable and we push that.

18 Q Operation Vigilant Port is what it was
19 called?

20 A That's what it was called.

21 Q Was there any, in your view as sheriff,
22 lack of training in any of the mandatory or even
23 suggested areas for officers assigned at the airport?

24 A No.

25 Q Were officers assigned to the airport

1 because they were lackadaisical or didn't seriously
2 take their law enforcement responsibilities?

3 A Certainly not.

4 Q Another reason the Governor suspended you
5 claimed for incompetence or neglect of duty is because
6 that first after action report had an observation that
7 some of the deputies at the airport were lackadaisical
8 and were not attentive to their duties and
9 responsibilities; is that true?

10 A No.

11 Q Was there ever any finding that that was
12 the case?

13 A Never.

14 Q Was there ever any report anywhere that
15 deputies at the airport or seaport were lackadaisical,
16 didn't take their job seriously?

17 A From what the Undersheriff Kinsey told me,
18 that was one person's takeaway, his thought. It was
19 very appropriate that he put it in because it needed
20 to be looked at, it needed to be investigated and we
21 don't take things that may be tainted -- you know,
22 we're not going to cleanse the information until we're
23 able to investigate it and look into it. So it was
24 very appropriate it went in there. But when the
25 undersheriff and his staff found it to be inaccurate,

1 it certainly wasn't going to be part of the final
2 product.

3 Q Now, you were not at the Fort Lauderdale
4 Airport when the shooting took place?

5 A No, shortly thereafter.

6 Q You responded?

7 A Oh, yes.

8 Q Is that part of being conservator of the
9 peace, for the sheriff to respond to an active shooter
10 scene?

11 A Yes.

12 Q Did you assist your officers, your
13 deputies and command staff in doing law enforcement
14 function at the airport?

15 A I didn't perform any law enforcement
16 functions per se, but as the leader of the agency I
17 was in the hip pocket of George Piro who's the SAC of
18 the FBI as he was in mine. And we worked together
19 seamlessly. He was handling the homicide scene. We
20 were handling the clearing of the airport.

21 Special Master, I don't get offended very
22 easily, but to hear Counsel this morning say there was
23 chaos and confusion at the airport, of course there
24 was confusion and chaos at airport. There were 20,000
25 people running haphazardly. People didn't know where

1 gunshots were coming. People were hiding under cars.
2 A woman was bit by a canine. When people saw her
3 bleeding from the parking garage, they started making
4 calls, a woman was shot, a woman was shot. So I'm
5 thinking in my mind as a leader this is the Twin
6 Tower, the South Tower, the North Tower, this is the
7 Pentagon, perhaps this is a multifaceted terrorism
8 attack. So I spoke to the airport director and said,
9 We need to clear this entire airport. We need to
10 close down the airport in the interest of safety. I'm
11 so proud of the fact that after we arrived only one
12 person was injured and not seriously. The
13 Undersheriff and I were together. In a series of
14 about two minutes three different women came up to us.
15 This is where people's mindsets were. Two woman were
16 crying and one was rather calm. One of the woman was
17 crying and said, My bandage is ripped; what do I do?
18 Another woman said, My dogs are in Broward County. If
19 I can't get out of here, how am I going to feed my
20 dogs. I'm getting goosebumps. The calm woman said, I
21 think my father was shot and killed. It was a series
22 of emotions. People were on planes. Firefighters
23 didn't know what to do. We had self-dispatching.
24 It's estimated that 4 or 500 law enforcement officials
25 from around the county, Tri-County area showed up to

1 help because that's what cops are. They want to help.
2 And we needed to find places for them to go. And that
3 all appeared in the after action report.

4 But to say there was confusion or chaos,
5 did he think this was a bakery on a Saturday morning
6 at Publix? People were dead. People were dying.
7 People were confused. This is what happens at an
8 active killing situation.

9 Q Did there come a time when you were at the
10 Fort Lauderdale Hollywood International Airport that
11 the FBI took over as the lead on the investigation?

12 A Yes, they sure did.

13 Q Is that because terrorism might have been
14 involved?

15 A That is, sir.

16 Q You mentioned seeking to have the airport
17 closed down. Was that your decision to make?

18 A Yes. Well, it wasn't my decision to make.
19 I don't have the authority at the airport. But I told
20 the airport director we might have an active killer.
21 We need to shut down this airport in the interest of
22 public safety until we could clear. And we had to
23 arrange for -- I think there were 17 or 18 SWAT teams
24 that actually had to come up to clear the airport
25 before we could let people move about and make it safe

1 for people. The only thing I wanted to do that day is
2 make sure nobody else died.

3 Q With the concurrence of the FBI was the
4 airport shut down?

5 A Yes.

6 Q And was it your understanding that
7 shutting down the airport required FAA approval in
8 Washington, DC at the FAA Headquarters?

9 A I did not know that at the time. I know
10 that now.

11 Q You knew that after?

12 A I knew that after.

13 Q It took a lot of decision makers --

14 A Yes.

15 Q -- to make the decision to shut down a
16 center of commerce important for the United States,
17 not just Broward County?

18 A Yes.

19 Q And you understood that?

20 A I understood it.

21 Q Is there any part of the response that BSO
22 had at the Fort Lauderdale International Airport that
23 was inconsistent and did not fulfill your role as
24 conservator of the peace?

25 A No. If I could go back there, I'd have

1 five people alive. But other than those people who
2 perished, I wouldn't change a thing. As Colonel Dale
3 said here today, and I thank Counsel for agreeing with
4 him, We were so proud of our people. I never went
5 home feeling more proud to be part of an agency and
6 more proud of my patch. Law enforcement and BSO, they
7 were exemplary that day.

8 Q Was there any part of the airport incident
9 in anyway directly or indirectly that involved you
10 neglecting your duties of office?

11 A Well, like everybody else in the sports
12 bar, been called some names in my time, but in my
13 63 years on earth I've never been called incompetent
14 and I've never been called negligent. I'm a
15 hardworking studious person who cares deeply about the
16 community. And I know how incredibly serious it is.
17 These hearings are about taking my livelihood away
18 from me. But incompetent or negligent, no, sir.

19 Q The draft after action report has a
20 portion seized upon by the Governor in supposed proof
21 that you were incompetent and neglected your duty and
22 this is what it says, this is what the Governor says.

23 The initial draft report acknowledges that
24 the initial response was timely. But that there were
25 too many loose ends that allowed for confusion and a

1 deficient BSO airport district command greatly
2 contributed to unforeseen obstacles.

3 A It's just an untruthful statement.

4 Q Well, part of it is true that the initial
5 response was timely; you agree with that?

6 A Yes, I do agree with that.

7 Q The rest when prepared in that initial
8 report when that was vetted, was there any
9 confirmation of that observation?

10 A It was almost when I read that for the
11 first time it was almost like the Governor ordered the
12 word incompetent and negligent and the attorneys were
13 going to work backwards finding a place to put those
14 two words. It was the opposite of what happened.
15 It's the complete opposite.

16 SPECIAL MASTER: Counselor, I want to come
17 back and revisit the question you were asking
18 me before. How much longer is your direct
19 examination going to be this afternoon? I am
20 not trying to hurry you. I'm just asking.

21 MR. KUEHNE: Special Master, I had
22 anticipated that Sheriff Israel would testify
23 on direct for three hours. I still think
24 that's the case. But that was my anticipation,
25 that it would take him three hours to get

1 through the essentials of this. So I'm not
2 trying to belabor anything, but it's really
3 consistent with what I had expected from this
4 witness, or I am expecting from this witness.

5 SPECIAL MASTER: In view of that, I'm
6 going to reconsider what I had indicated to you
7 earlier. I'm going to conclude today fairly
8 quickly, come back tomorrow afternoon to
9 complete your direct examination and then with
10 cross-examination to follow.

11 MR. KUEHNE: That's fine.

12 SPECIAL MASTER: I know this final hearing
13 was scheduled for three days, so we have some
14 extra time. I was anticipating that we may, in
15 the interest of getting people moving back and
16 forth, to get concluded today. But I've
17 reconsider that and decided that I'd like to
18 conclude whenever you're -- in the not too
19 distant future conclude today and you come back
20 on direct tomorrow and we'll finish. That's my
21 better judgement now.

22 MR. KUEHNE: Thank you, sir. I think I
23 can close out this section quite quickly.

24 DIRECT EXAMINATION

25 BY MR. KUEHNE:

1 Q The Governor also states, again, as
2 justification -- now I'm going to read it.

3 The Governor's bench memorandum says,
4 "This deficiency was confirmed in the mindset section
5 finding that some personnel were not familiar with the
6 Fort Lauderdale Airport's environment and that the BSO
7 airport district must establish standard operating
8 procedures, SOP, to better meet and exceed emergency
9 expectations. The current standard leaves much for
10 improvement in establishing unified front for
11 combatting current active shooter and terrorist
12 trends."

13 Quoting from or excerpting from that
14 initial after action report, was that assertion made
15 part of the vetting process going from the initial
16 rough to a final report?

17 A I don't know. I don't think I've ever
18 read the initial one. I know I just -- I sat down
19 with the Undersheriff to go over the -- but the
20 statement's fictional.

21 Q You didn't have a thumb on what you wanted
22 the report to say?

23 A No, sir.

24 Q Is any of that statement accurate?

25 A No, sir.

1 Q Was there an effort on the part of BSO
2 command to have an accurate yet complete critical
3 incident report?

4 A Yes.

5 Q Would it have been consistent with your
6 role as conservator of the peace to include portions,
7 facts in a critical incident report that were not
8 true?

9 A No.

10 Q Finally, before we break, the Governor
11 contends that among the other neglect of duty or
12 incompetence is this section of the initial draft
13 report. And I'm reading.

14 "The initial draft report continued to
15 find in an AOI under sense of urgency wherein the
16 event revealed weaknesses and unfamiliarity by many
17 involved."

18 Is that true?

19 A It's just not true. As I said, I mean,
20 you're critiquing -- they're critiquing a rough draft
21 that was one person's opinion of what happened before
22 everybody else got to examine it. It's bizarre. It's
23 not fair. It's doesn't lead to an accurate document.

24 Q And then the Governor's justification
25 includes this quote from that earlier draft report.

1 "Joint agency disaster drills, threat
2 assessments, aviation tabletops, ICS exercises, and
3 annual BSO SWAT tactical airport training looks goods
4 on paper, but how deep is such training rooted in the
5 initial layer of protection. Tabletop exercises, ICS
6 and disaster drills are not frequent enough and do not
7 go far beyond the placing of phone call, email, X or
8 online check to confirm readiness level and threat
9 compliance. These practices are infrequent and
10 extremely deficient in stimulating or preparing any
11 participant for what is to come." Hear that?

12 A I did. It's hurtful because, again, it's
13 untrue. Not only have we trained properly there,
14 but -- I don't want to belabor -- but because of our
15 relationship with the Navy SEALs, our SWAT team trains
16 yearly on Blackhawks in the middle of the night so
17 we're prepared to work with Homeland Security. We've
18 done everything we could to prepare for an
19 antiterrorism perspective. I'd like to talk about
20 what we did in Pompano.

21 Q We'll get to that. I'm just closing with
22 this.

23 A Okay.

24 Q As you understand it, was that initial
25 draft report vetted, examined participated in by

1 anybody who is charge of training?

2 A No.

3 Q By anybody who schedules tabletop
4 exercises?

5 A No.

6 Q By anybody who determines the appropriate
7 level of training for officers and specialized
8 sessions?

9 A No.

10 MR. KUEHNE: This is a convenient breaking
11 time, sir.

12 SPECIAL MASTER: That's fine for me.
13 Consistent with me changing my mind, we're
14 going to start tomorrow at 9 o'clock rather
15 than 8. I want to be consistent and change my
16 mind twice. So let's begin at 9:00 in the
17 morning.

18 Thank you very much. And for the record,
19 it's 5:40 on the 18th, and we're going to
20 conclude for the day.

21 (Whereupon, proceedings were continued in
22 Volume III.)

23 * * * * *

24

25

1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA)4 COUNTY OF LEON)
5

6 I, Doreen Mannino, Court Reporter, do hereby
7 certify that I was authorized to and did report in
8 stenotypy and electronically the foregoing proceedings,
9 and that the foregoing pages constitute a true and
10 correct transcription of my recording thereof.

11 IN WITNESS WHEREOF, I have hereunto affixed my
12 hand the 8th day of July 2019 at Tallahassee, Leon
13 County, Florida.

14
15 
1617 _____
18 Doreen M. Mannino

DOREEN M. MANNINO
Commission # GG 270563
Expires November 28, 2022
Bonded thru Budget Notary Services

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24
25

**CONDENSED
TRANSCRIPT**

THE FLORIDA SENATE

IN RE: EXECUTIVE ORDER OF SUSPENSION, NO. 19-14
SUSPENSION OF MR. SCOTT ISRAEL, SHERIFF
BROWARD COUNTY, FLORIDA

TRANSCRIPT OF PROCEEDINGS
HEARING FOR REVIEW OF EXECUTIVE ORDER OF SUSPENSION

Volume II
(Pages 151 through 307)

DATE TAKEN: TUESDAY, JUNE 18, 2019

TIME: 1:45 P.M. - 5:41 P.M.

PLACE: FLORIDA STATE CAPITOL
400 SOUTH MONROE STREET,
TALLAHASSEE, FLORIDA 32399

BEFORE: DUDLEY GOODLETTE, SPECIAL MASTER

Reported by:

DOREEN M. MANNINO, Court Reporter
For the Record Reporting, Inc.
1500 Mahan Drive, Suite 140
Tallahassee, Florida, 32308

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P R O C E E D I N G S
VOLUME II

(Proceedings continued from Volume I.)

SPECIAL MASTER: Let me just give everyone
sort of a sense of where I think the timing is
today. We'll take perhaps one more break
around 3:30 today. Schedule allowing. I'm
inclined to go until 6 o'clock tonight, and I
want to start at 8 o'clock in the morning. A
lot of people are here from out-of-town. That
gives a little bit more leeway in terms of
travel, et cetera. So unless someone has an
objection to that time frame, that's how we're
going to proceed today, if you will.

And we're now on cross-examination, Mr.
Primrose.

MR. MACIVER: Thank you, Special Master.
John MacIver for the Governor.

CROSS-EXAMINATION

BY MR. MACIVER:

Q Mr. Dale, just a few more questions.
During your testimony there was some allusion to
Criminal Justice Standards and Training Commission;
although, I think they were referred to as the FDLE
standards. Those are the standards that are the
minimum standards for every officer in Florida; is the

1 correct?

2 A Yes.

3 Q So a police officer in the smallest rural

4 town in Florida or an officer in the largest

5 municipality, they're all required to meet those

6 standards?

7 A Yes, those are standards for every law

8 enforcement officer in the state that he must have in

9 order to execute his duties.

10 Q And you'd agree that any policies above

11 those minimums would vary from agency to agency?

12 A They could train as the way they see fit.

13 Q And it's also fair to say that policies

14 sufficient for, say, Bristol or Lulu might not be

15 adequate for Jacksonville or Miami or Broward

16 Sheriff's Office?

17 A Every policy is probably written a little

18 differently.

19 Q Thank you. The discretion to adopt the

20 policies over and above are within the discretion of

21 the sheriff, correct?

22 A Yes.

23 Q And whether those policies are adequate

24 for the agency is something that the sheriff is

25 ultimately accountable for, correct?

1 the airport?

2 A You'd have to ask BCAD. That's -- the

3 BCAD would have what they call COOP, Continuity of

4 Operations Plans.

5 Q It's also the type of question that might

6 be asked though if you were conducting a full scale

7 and site specific training event, correct, you might

8 say what would we do with all the people?

9 A I never had that question asked in terms

10 of a mass evacuation of any event that I've even been

11 a part of from air shows to concerts to -- I've been

12 part of Super Bowls. I've never seen a plan in place

13 to evacuate the entire Super Bowl. It's just

14 something that you deal with that situation.

15 And I don't know if you could move 15,000

16 people with a handful of deputies.

17 Q You testified that your separation was

18 voluntarily, but contingent upon the suspension of

19 Mr. Israel, correct?

20 A Yes.

21 Q I guess what we could call the executive

22 command staff level?

23 A Yes.

24 Q Are you carrying your credentials with any

25 other agency at the moment?

1 A He's responsible for all the policy.

2 Q Thank you. Referring to the Fort

3 Lauderdale Airport shooting, you had suggested you

4 were proud of everyone's performance that day earlier

5 in your testimony, and probably rightfully so.

6 You had to make a lot of decisions as

7 situations arose on that day, correct?

8 A It's a fluid situation, so based on

9 whatever limited information you have at the time, is

10 the way that --

11 Q I think the primary example we talked

12 about the most was how to evacuate tens of thousands

13 of people?

14 A Correct. It's not something that you

15 necessarily train for.

16 Q So you were making decisions on those

17 pretty much on the fly as the situations arose, so

18 that would indicate that at that time there was no

19 plan ahead of time for what to do in that situation?

20 A There is no plan in place for everything

21 that happens in life. I mean, you just sometimes have

22 to adapt and do your best.

23 Q In this specific instance though nobody

24 had previously asked the question of, wow, what would

25 we do with all these people if we had to shut down at

1 A No, I'm retired Fort Lauderdale PD.

2 Q Do your credentials expire by a certain

3 time frame if you don't reaffiliate with an agency?

4 A At some point. I believe four years after

5 you separate you have to either keep up your training

6 to keep your certification current, or if you let it

7 lapse, after that four years then you have to

8 re-attend another academy.

9 Q If Mr. Israel were reinstated as a

10 sheriff, would you expect to get your job back?

11 A I would assume he probably would ask me if

12 I wanted to come back.

13 Q Have you at any time during your testimony

14 today had to consciously consider that bias when

15 giving your testimony?

16 A I'll be honest with you. At this point I

17 don't plan on going back. I don't believe that I

18 would want to go back, so -- I mean, I'm not ruling it

19 out, but it has absolutely nothing to do with my

20 testimony.

21 Q Fair enough.

22 Lastly, when we were talking earlier about

23 the purpose of the mandatory body armor provision, you

24 had said that the agency had wanted to put in place a

25 policy that would mandate body armor, but you got

1 pushback from the unions; is that correct?

2 A Yes.

3 Q I assume then that would go toward some
4 level of negotiation. Were you directly involved with
5 those negotiations with the union?

6 A With the impact bargaining, no, I wasn't.

7 Q Are you familiar what was exchanged in
8 trade or what the cost benefit analysis was? In
9 short, what did the agency get for giving up mandatory
10 body armor?

11 A We didn't give up mandatory body armor.
12 We sought to implement it. The union objected to the
13 implementation, and we wanted to bargain.

14 Now, the requirement for impact bargaining
15 is only that we bargain. It doesn't mean we have to
16 give anything up, and it doesn't mean we can't impose
17 it. It just means that we have to sit at a table and
18 listen to them.

19 Q So you went to impact bargaining on
20 mandatory body armor?

21 A Yes, that's my understanding. That's the
22 only way we can --

23 Q Were you able to institute mandatory body
24 armor?

25 A We did.

1 enforcement that you're taught is nothing is routine.
2 You can't foresee every single possibility for every
3 incident. If that were the case, we'd never have an
4 after action. We would just do it perfectly every
5 time. To say something that you should be prepared
6 for every incident, I don't even know where something
7 like that could come from. It just defies logic.

8 Q Does Broward Sheriff's Office as an
9 institution during the time frame we're talking about
10 train its people to prepare for the unexpected?

11 A Absolutely. You have to improvise. You
12 have to overcome and adapt to whatever it is you're
13 faced with. If we had a policy book that covered
14 everything, it would be too big for us to read. You
15 do your best to provide guidelines and policy, and you
16 hire smart intelligent people that need to assess the
17 circumstances that are put in front of them and adapt
18 to it.

19 Q You were asked on cross questions about
20 the body armor requirement?

21 A Yes.

22 Q So BSO under the direction of Sheriff
23 Israel was able to implement mandatory body armor?

24 A We did, yes.

25 Q Not required by the State of Florida?

1 MR. MACIVER: No further questions.

2 SPECIAL MASTER: Mr. Kuehne, redirect.

3 REDIRECT EXAMINATION

4 BY MR. KUEHNE:

5 Q Colonel Dale, you were asked on
6 cross-examination a question that went kind of like
7 this. So you guys were unprepared to evacuate 20,000
8 civilians from the airport. Remember that question?

9 A Yes.

10 Q Tell us how prepared BSO in conjunction
11 with all the other responding agencies were to
12 evacuate 20,000 people from the Fort Lauderdale
13 Airport without a single injury?

14 A You know, you use the resources that are
15 present and you put together a plan among the group of
16 you, which is part of an incident command, and you
17 implement that plan in a coordinated fashion, which we
18 did. And we certainly wouldn't take action that we
19 thought was jeopardizing the safety of others, and we
20 weren't.

21 Q Is part of the training at BSO to train
22 for the unexpected?

23 A Absolutely. I mean, this is life.
24 Everything is fluid no matter whether it's a domestic
25 violence call. If there is any one thing in law

1 A No.

2 Q Now let me ask you this. You were asked
3 about the standards, that the standards to be a police
4 officer in some smaller community as though somehow
5 that's not a desirable place to police. You've worked
6 in smaller communities as well as bigger communities,
7 right?

8 A Well, in BSO we do police some smaller
9 communities.

10 Q Police smaller municipalities where you
11 are contracted. Is there anything lowly or considered
12 beneath a law enforcement officer to be trained in
13 standard so you can police a small town?

14 A There are just different types of calls
15 that maybe in a rural area you may have a problem like
16 loose farm animals. That's not going to happen in
17 Downtown Fort Lauderdale. You may have policies for
18 airports. If you don't have an airport in your
19 jurisdiction, you really don't need a policy for
20 airports. So a lot of your policy resolves around the
21 environment to which you police.

22 Q As you understand the operation of FDLE
23 and the Florida Training Standards Commission,
24 couldn't it impose different standards for law
25 enforcement agencies of different sizes?

1 A I don't see why it couldn't.
 2 Q Have they ever done that as far as you
 3 know?
 4 A I don't know if they have or not.
 5 Q Have they ever said we've studied the
 6 Pulse shooting or we've studied the Fort Lauderdale
 7 Airport shooting or we studied the MSD shooting, and
 8 we are now going to require large agencies or maybe
 9 every sheriff's office to fulfill standards that
 10 require active shooter training?
 11 A It could.
 12 Q Or standards that require let's get a lot
 13 of people out of a big place in a short period of
 14 time?
 15 A They could have, yes.
 16 Q Or let's have required training on active
 17 shooting?
 18 A Yes.
 19 Q To your knowledge up to the time you left,
 20 January of 2019, under Governor DeSantis's
 21 governorship has the FDLE implemented any of that?
 22 A I'm not aware of any efforts to do it. I
 23 served as the Training Director for BSO, and part of
 24 that encompasses regular attendance at the Criminal
 25 Justice Standards and Training Commission

1 I think -- I've not asked him. I think if
 2 released, he would like to know if he's then
 3 able to attend the rest of the hearing if he
 4 wants to with the instructions that he would
 5 not be able to discuss anything with any other
 6 witnesses at all. He's going to be here the
 7 rest of the day and my sense is -- we can ask
 8 him -- that he'd like to watch.
 9 SPECIAL MASTER: I would prefer not to
 10 have him. Just the optics of that might be
 11 misconstrued, and I would prefer that that not
 12 occur.
 13 MR. KUEHNE: So we have no objection to
 14 releasing. Will you make certain to instruct
 15 the witness not to come back?
 16 SPECIAL MASTER: Yes, so instructed.
 17 Thank you.
 18 Please call your next witness, Counselor.
 19 MR. KUEHNE: Can I have one moment to
 20 consult?
 21 SPECIAL MASTER: You may, yes, indeed.
 22 MR. KUEHNE: For his second witness
 23 Sheriff Israel calls John Curcio, Deputy
 24 Curcio.
 25 SPECIAL MASTER: Thank you.

1 meetings where they discuss expanding curriculum for
 2 minimum standards, basic standards, and I've heard no
 3 conversation or even movement to try to implement such
 4 a measure.
 5 Q Doesn't the Governor have direct
 6 appointees on that standards commission?
 7 A Last count I heard they have 21 members,
 8 and the Governor has a certain number of positions
 9 that he's allotted to implement, place on that
 10 committee.
 11 Q The Governor appoints people to the
 12 commission that sets the standards for law enforcement
 13 in the State of Florida?
 14 A Yes.
 15 Q That as far as you know today have no
 16 active shooter requirement or training?
 17 A Yes.
 18 MR. KUEHNE: Nothing further.
 19 SPECIAL MASTER: Thank you, Colonel Dale.
 20 Is there any objection to releasing
 21 Mr. Dale from his subpoena?
 22 MR. KUEHNE: There is not, but I do have a
 23 question about that, sir.
 24 SPECIAL MASTER: Okay.
 25 MR. KUEHNE: I agree to have him released.

1 Detective Curcio, if you would, please.
 2 Do you swear and/or affirm that the testimony
 3 you're about to give will be the truth, the
 4 whole truth and nothing but the truth?
 5 THE WITNESS: Yes, I do.
 6 SPECIAL MASTER: Thank you.
 7 WHEREUPON,
 8 JOHN WILLIAM JOSEPH CURCIO,
 9 called as a witness by Scott Israel, was duly sworn by
 10 the Special Master and in answer to questions
 11 propounded, testified as follows:
 12 DIRECT EXAMINATION
 13 BY MR. KUEHNE:
 14 Q Good afternoon. Tell us your name and
 15 your current employment status.
 16 A John William Joseph Curcio. I am a
 17 homicide detective for the Broward Sheriff's Office.
 18 Q How long have you served with the BSO?
 19 A I came to BSO in 2009.
 20 Q Describe the entirety of your law
 21 enforcement experience.
 22 A I've been a sworn law enforcement officer
 23 in the State of Florida since 1980. I did 30 years,
 24 just under 30 years with the Fort Lauderdale Police
 25 Department. I retired for about ten days and then I

1 went to the Broward Sheriff's Office, and that's where
2 I am currently.

3 Q So you retired after about 30 years as a
4 sworn law enforcement officer with the City of Fort
5 Lauderdale?

6 A Yes.

7 Q Describe generally the path you took at
8 the Fort Lauderdale Police Department, the kind of
9 things. I presume you started at a road patrol?

10 A Yes, I started out obviously as a road
11 patrol uniform. Then I went to a unit known as the
12 Tactical Impact Unit, which was a plain clothes
13 surveillance unit that followed violent fugitive
14 offenders in progress type crimes. 1988 I became a
15 robbery detective. 1996 I became a homicide detective
16 with the Fort Lauderdale Police Department until I
17 retired. I went to Broward Sheriff's Office. They
18 had a policy where they insisted seeing me in uniform
19 for a short period of time, and then I became a
20 homicide detective with them since 2009 late until
21 2019.

22 Q So you've had about 30 years with Fort
23 Lauderdale and about ten years with BSO?

24 A Yes, just under 30 with Fort Lauderdale
25 just over 10 with BSO at the moment.

1 since.

2 Q So you had been a long serving detective,
3 still a law enforcement officer sworn?

4 A Right.

5 Q Still carried a gun?

6 A Yes.

7 Q But didn't routinely do road patrol as you
8 came to retire at Fort Lauderdale?

9 A No, I was a homicide detective my last
10 13 years with Fort Lauderdale.

11 Q And you were able to step into the
12 position of a road patrol deputy?

13 A I had a FTO for a short period of time
14 teach me all the new systems.

15 Q A field training officer, FTO?

16 A Well, yes, they call it an FTD, field
17 training deputy. But that was more to learn the new
18 report writing systems. Those type of things. Not
19 the law enforcement. I still remember how to be a
20 policeman.

21 Q Is that because as a sworn law enforcement
22 officer no matter what your assignment, no matter what
23 your rank, no matter where you're reporting you have
24 to be ready on a moment's notice to do traditional
25 policing?

1 Q So about a 40 year law enforcement career
2 so far?

3 A Yes.

4 Q During that time have you been
5 continuously certified as a law enforcement officer by
6 the State of Florida?

7 A Yes.

8 Q Gone through all the required training?

9 A Yes.

10 Q Gone through more than required training?

11 A Yes.

12 Q Gone through training that are in addition
13 to what is mandatory by FDLE?

14 A Correct.

15 Q You started with BSO, I mean, restarted,
16 but you joined BSO?

17 A Right.

18 Q And you had to be a uniformed officer for
19 awhile?

20 A They had a policy at the time, with
21 Sheriff Lamberti at the time, who hired me, that they
22 wanted you to go to uniform first. And I chose a city
23 in BSO's command, Lauderdale Lakes, and I became a
24 road deputy for probably 10 or 11 months. And then
25 they moved me to homicide where I have been ever

1 A Sure.

2 Q You might be called upon to respond to a
3 scene of a crime?

4 A Yes.

5 Q You may come upon a crime?

6 A That's correct.

7 Q You may come upon an active shooter?

8 A That's correct.

9 Q Even if you're not SWAT?

10 A I was SWAT, but even if you're not SWAT.

11 Q You were SWAT. So you were with Special
12 Weapons and Tactics with Fort Lauderdale?

13 A Yes.

14 Q Heavy duty training for SWAT, more than a
15 road patrol officer gets?

16 A Yes.

17 Q So you joined BSO and it was the prior
18 sheriff, Sheriff Lamberti?

19 A Yes.

20 Q And you're still with BSO?

21 A Yes.

22 Q Doing detective work?

23 A Yes, still homicide detective.

24 Q Still homicide. So you have been through
25 active shooter training?

1 A Yes, I have.

2 Q And you understand that's a requirement of

3 BSO, but not a requirement of FDLE?

4 A To be honest with you, I don't know who it

5 is. They send me to training and I go. I don't ask

6 if it's for my certification or not. I just go to

7 whatever training they tell me to go to.

8 Q And as a homicide detective, you have

9 special training as a homicide detective?

10 A I'm kind of on-the-job experience guy.

11 I've been doing it for 25 years. I prefer to actually

12 do the work. I've been to training. I do the work of

13 a homicide detective, but I don't necessarily go to

14 homicide classes a lot.

15 Q Okay. I want to direct your attention to

16 the Marjory Stoneman Douglas High School mass tragedy.

17 Are you familiar with it?

18 A I was there that day.

19 Q You reported, you responded that day?

20 A Yes, I did.

21 Q Were you also tasked as if not the lead, a

22 lead investigator for the crime?

23 A Yes, I was the lead investigator for that

24 crime.

25 Q That's where you're called the lead

investigator?

A There is two of us that are working. I

call Zach Scott the co-lead, but I'm the one who went

to the Grand Jury to get the suspect indicted. I

wrote the probable cause. I interviewed him, so

technically I'm the lead detective.

Q So Zach Scott is a co-lead, Detective

Curcio lead. And fair to say that you have as much of

an understanding of every detail of MSD as anybody at

BSO?

A I read everything that's been documented

not only in my case, which lead to the criminal charge

indicting of the shooter to all of the statements on

the Governor's investigation. I listened to all of

those because that's part of discovery on my case.

I've listened to all the statements in reference to

the Commission investigation, read all their reports

since that's part of the discovery on our criminal

case as well. I've actually read some civil

depositions on the case as well pertaining to various

aspects of follow-up on the shooting.

Q Okay. So the general answer is you

probably are the most knowledgeable at BSO about the

MSD shooting?

A I personally have read everything I can

read on all aspects of this case.

Q Is part of that what drives you as a law

enforcement officer, to know the most you can?

A Well, me reviewing the Governor's

investigation and the Commission investigation, their

statement, is to make sure that when they were

interviewing people that I wasn't present for, that

there wasn't things that our state attorney as well

needed to be aware of to continue the criminal

indictment prosecution of the shooter.

Q Because you are the lead investigator for

that pending capital first-degree murder prosecution

of the shooter?

A That is correct.

Q And at some point trial proceedings or

something along those lines will proceed, and you'll

likely have a significant role therein?

A I would assume so, yes.

Q You responded to the MSD High School

scene?

A Yes, I did.

Q Can you give us a sense of when in

relation to the report of a shooting you get there?

A I can remember exactly. We were up in our

squad room in our Public Safety Building. Colonel

DiMaggio came in and told us there was an active

shooter. There was probably five or six of us in the

squad at that time. We jumped on the turnpike, lights

and siren. Got up to the east side of the campus.

Just a little before our SWAT team, the BSO SWAT team

began to enter the building. It's around that time

frame when the miscommunication came out about the

20-minute delay when everybody believed the shooter

was still on the second floor. We were on the east

side when that happened.

Q Let me stop you there. And I don't mean

to stop what you're saying, but I want to get a little

explanation on the 20-minute delay.

A Right.

Q Tell me as best you can what that is.

A What ended up happening -- and this is all

learned after the fact -- is there was a period of

time when members of the Coral Springs Police

Department and the BSO Sheriff's Office were inside

the building and there was a miscommunication over the

radios that the shooter was on the second floor, the

third floor coming down to the second floor. And that

ended up being because somebody was watching back a

video from 20 minutes earlier on the school video

system. But when we heard it on the radio, we thought

1 it was live.

2 Q So the school system operated by Broward
3 County schools had a 20-minute delay in their --

4 A No, what they did is they played it back.
5 We learned the scenario way after the fact by watching
6 body cameras and interviewing people. The first
7 person who witnessed the shooting come on campus knew
8 him by face, but didn't know -- he couldn't remember
9 his name, so that generated conversation over the
10 school radio -- not the BSO radio, but the school
11 radio -- trying to identify who this person was. So
12 other faculty members inside the administration office
13 played the video backwards to figure out who the
14 shooter was, and that's how we got his true name for
15 us to put out over the air and get him captured. But
16 it was them playing the camera system back that caused
17 the 20-minute delay. The school system was not set on
18 a 20-minute delay.

19 Q At that point when you identify the name
20 of the shooter, is that the result of some
21 coordination between you, meaning BSO, and the Broward
22 schools?

23 A Yes, it was later -- again, this was all
24 after the fact we learned. This was deputies, Coral
25 Springs and people with the school board radio kind of

1 all huddled up because nobody could communicate
2 together because of the radio problems. And that's
3 how this identification of Nikolas Cruz became who we
4 know we were looking for.

5 Q When you say radio problem, this is
6 Broward County Emergency Radio Communication System
7 problem?

8 A The radio problem was worse than just the
9 Broward County system. We had Coral Springs on the
10 scene. It was a different radio system totally. And
11 again, we learned this after the fact. People had to
12 kind of huddle up with one of each radio to figure out
13 what everybody was doing together because there was
14 two different radio systems, and one of them was
15 absolutely nonfunctioning.

16 Q And of all the different radio systems,
17 BSO did not control any of them?

18 A No, not the sheriff's office. It was all
19 done by the county.

20 Q So you get there around the same time SWAT
21 is getting there, and explain when I interrupted you
22 your process.

23 A At that point when we got up on the east
24 side, there was a mass of students already coming off
25 the campus self-evacuating. So we were trying to

1 gather all of them up to gather intelligence as to
2 actually what was going on because there was such
3 limited information over the Sheriff's Office radio
4 system. Not only because of the radio failure, but
5 because 911 calls were not coming into the Sheriff's
6 Office radio system. They were going to the Coral
7 Springs Fire Department.

8 So we're rounding up students, literally
9 hundreds of them, and putting them on the swale to try
10 to identify who saw what, what's the shooter wearing,
11 who's the shooter and have them drop all their
12 backpacks in the middle of the road because we're also
13 concerned about possible incinerating device and
14 everything else. So it was myself, a bunch of uniform
15 guys, all homicide guys who came up with me corralling
16 hundreds of students while the SWAT team was moving up
17 onto the second floor.

18 Q Was it part of your detective training and
19 experience to try to gather as many potential
20 witnesses as you could?

21 A Well, we weren't even passed that. We
22 didn't know if the suspect was in the group at that
23 point in time. With these hundreds of people coming
24 off in masses we had no idea if the suspect was
25 intermingled with them or not.

1 Q Was that something that concerned you as a
2 law enforcement officer?

3 A Well, obviously, you have reports of an
4 active shooter, you want to find out who he is and
5 where he's at. There is no rule that he can't come
6 out in the crowd and then start shooting people in the
7 crowd as well.

8 Q So you need to be prepared for that?

9 A Yes, we were all -- obviously we had our
10 rifles as well even though we were detectives.

11 Q At this time I just want to have you make
12 clear the shooter had not been apprehended?

13 A At that stage he had not even been
14 identified yet, let alone apprehended. We didn't have
15 any idea who we were looking for.

16 Q So SWAT team members arrive, detectives
17 arrive and does it look to you as though SWAT is
18 trying to go to and find the shooter?

19 A My information about SWAT was what we
20 could hear over the radio when we could hear something
21 and that they were in the 1200 building on the second
22 floor doing the search of that building.

23 Q Okay. When did you come to know that
24 Former Deputy Peterson, Scott Peterson, was the SRO at
25 Marjory Stoneman Douglas High School?

1 A Probably much later in the evening because
2 what ended up happening is after they identified the
3 shooter and he was located, I went immediately with
4 him to the hospital where he had to be medically
5 cleared.

6 Q Tell me who the him is. You went with him
7 to the hospital?

8 A Nikolas Cruz.

9 Q Okay. The shooter. Okay.

10 A Yes. And then I went from the hospital
11 with Nikolas Cruz and other officers and deputies down
12 to the Public Safety Building where I interviewed him.
13 So I was tied up with him, Nikolas Cruz, for hours, so
14 it was probably either later that evening or the next
15 day. We didn't go home for almost three days, so it
16 kind of blurred. I learned about Scott Peterson
17 probably after we had booked Nikolas Cruz.

18 Q The early part of the response, the
19 children being gathered up, backpacks being left, is
20 BSO assisted by other responding agencies?

21 A Yes. There was all kinds of agencies out
22 there. I couldn't name all -- obviously, I saw Coral
23 Springs out there, but I couldn't remember who else
24 was there.

25 Q Did you see or did you learn of a command

center or mobile command operations point?

2 A I did not because, again, once they said
3 they had him, I knew what my assignment was going to
4 be, which was go to him. I left my supervisors and
5 the other homicide detectives on scene because they
6 were going to take care of the crime scene aspect of
7 the school itself. So I started heading to where he
8 got apprehended and then he told me he was going to
9 get medically clear, so I had to turn back around and
10 go to North Broward Hospital.

11 Q And then for some period of hours you're
12 handling matters with the then suspect who we know to
13 be the killer?

14 A I would say it was probably about 11 hours
15 because I had to start authoring search warrants for
16 his phone and different aspects of follow-up. That
17 type of stuff.

18 Q All the type of follow-up that is
19 essential to doing good detective work at BSO?

20 A Yes.

21 Q Or at any police agency?

22 A Yes.

23 Q Were you assisted in that process by other
24 BSO members?

25 A Yes, we had detectives at different

1 locations. We executed search warrants at two
2 different residential areas. We had state attorneys
3 with us at each location. We had state attorneys with
4 me at the station as I was authoring different
5 warrants for the phone, his phone, Nikolas Cruz's
6 phone and things like that. So we had a lot of people
7 in there assisting us.

8 Q I want you to cattle this question to a
9 time frame because I'll ask you the same thing a
10 little bit differently.

11 But at the time that you arrived at the
12 school, are you aware of anybody at BSO having been
13 given advanced notice that a shooting was going to
14 take place, like a phone call saying I'm going to go
15 in and kill somebody that day to alert you that
16 something was going to happen?

17 A No.

18 Q And subsequently did you learn that
19 nothing like that, no notice of the event was ever
20 made?

21 A No, there was no notice at all.

22 Q Is that unusual for active killer, active
23 shooter situations that police are not notified in
24 advance?

25 A I would say it's probably not abnormal

1 that you don't know what's going to happen or what
2 causes somebody to select that day to be the day they
3 decide to do it.

4 Q You have post MSD -- I know you say you
5 were there for three days straight. This was a
6 significant event, large scale event?

7 A Yes.

8 Q Mass tragedies?

9 A Yes.

10 Q And is it fair to say that a large part of
11 your time post MSD shooting has been spent on the
12 investigation of what happened at MSD?

13 A Yes.

14 Q Is there anyone who you know of who has
15 more information on the MSD school shooting than you?

16 A Individually, I can't think of anybody
17 individually. Collectively there is teams of
18 investigators, but I've read literally everything.
19 I've listened to ever audio statement of everything on
20 the Commission, everything on the Governor's. So I'm
21 one of those kind of guys I don't want you to tell me
22 what that statement says. I want to hear it myself.
23 So I listened to it all myself.

24 Q Were you asked to brief the then Governor
25 or the successor Governor on the MSD school shooting?

1 A No.

2 Q The previous Governor, Governor Scott, at
3 the time of the MSD shooting, you were not asked to
4 brief him or let's say one of his senior people?

5 A No. But just to clarify, we started out
6 with the criminal investigation. Once we realized
7 there was something with Peterson that needed to be
8 internally investigated through IA that was taken away
9 from the homicide unit aspect. I didn't get back
10 involved in the response type investigation until
11 December 2018 when I started reviewing the Governor's
12 investigation and the Senate investigation. So for
13 that lull of nine months they were conducting their
14 own investigation. I didn't get to review their
15 statements until, obviously, they took their
16 statements.

17 Q Meaning internal affairs?

18 A Right.

19 Q And did you also understand that during
20 the time frame you're talking about after the shooting
21 and before the MSD report, that the Governor had
22 instructed the FDLE to conduct a criminal
23 investigation of the matter?

24 A Yes. It started out, again, internal
25 affairs was tasked with part of the investigation,

1 BSO's Internal Affairs, then the Governor's
2 investigation was tasked next and then the Commission
3 was tasked kind of third in succession. So I was
4 aware of -- I refer to it as Inspector Riddick's
5 investigation, which is the Governor's investigation
6 because that's who I primarily dealt with throughout
7 that.

8 Q And Inspector Riddick is the inspector who
9 recently authored the probable cause memorandum for
10 the criminal charges against the former Deputy
11 Peterson?

12 A That is correct.

13 Q You mentioned the MSD Commission, Marjory
14 Stoneman Douglas High School Public Safety Commission.
15 You understand that was a commission initiated by the
16 Governor?

17 A I'd have to read the letter to see who
18 commissioned it. I know we were told through both the
19 Governor and the Senate investigation to fully
20 cooperate with them. Whatever they wanted, whatever
21 they needed to fully provide them. So again, I
22 started with the Governor and then I don't remember
23 who ordered what. But I know we cooperated fully as a
24 homicide unit with whatever they needed.

25 Q And did BSO cooperate fully with the

1 Marjory Stoneman Douglas Commission?

2 A Absolutely.

3 Q And as far as you know with whatever the
4 Inspector Riddick FDLE investigation was doing?

5 A I was in contact with both those
6 investigations different investigators almost on a
7 weekly basis. Whatever they needed, we provided them.
8 When they came into town, we assisted whenever we
9 could.

10 Q Prior to the release of the Marjory
11 Stoneman Douglas report were you as the lead
12 investigator given an opportunity to review and make
13 comments before publication?

14 A They sent us, and I think it was
15 December 14, 2018, a copy of what they called the
16 draft report that was not the final report to review
17 for any inconsistencies. But we were given like a
18 seven-day window to look at it for any
19 inconsistencies.

20 Q Were you able to respond or offer input
21 during that seven or whatever days?

22 A I was able to begin to provide
23 information, but we had not gotten any of their
24 statements yet to review to compare to what was
25 written in the report. I reviewed them after. The

1 report was, I think, authored on January 4, 2019.

2 Q So the MSD Commission did not give you as
3 the lead detective the statements for you to review
4 and offer comment before final publication of the
5 report?

6 A I had not gotten as of that point. I
7 think you have to understand the amount of statements
8 you're talking about. I think the Governor's
9 investigation was 182 statements, and the Senate was
10 around like 150. So I was still doing the Governor's
11 when I got the email from Colonel Dale, and other
12 people got it as well, to review the draft report.
13 But we had not been provided any of the statements on
14 the Commission report as of that date.

15 Q Would having had early access to the
16 statements from the Commission report have been
17 helpful to you in reviewing the draft for
18 inconsistencies, et cetera?

19 A Well, there was a few things that we spoke
20 about that I saw in the quick review just reading it
21 that I spoke to them about. But there was other
22 things that I tried to do research on that I couldn't
23 get it done in time for the final report to come out.
24 One of them was the radio issue.

25 Q Do you remember the topics of the items

1 you were able to discuss after seeing the draft of the
2 MSD report?

3 A One was a particular statement I took from
4 a school board member that when in the report itself
5 there was some wording that I didn't think was 100%
6 accurate as far as what he had said in that statement,
7 and it had to do with code red type questioning. The
8 thing that stood out to me right off the bat when I
9 read it, and I tried to get it done before the draft
10 report was due, was there was a lot of speculation as
11 to when the throttling occurred with the Broward
12 County radio system. That if you looked at the
13 Commission report they were speculating based on
14 different things like body cameras when the throttling
15 began to occur. So I tried to contact the guy who is
16 in charge of the county radio system to get specifics
17 on that aspect of when throttling occurred and also
18 radio key ups if they --

19 Q Pressing the button?

20 A Yes. Radio key ups for some of the
21 immediate command that was out on the scene that came
22 under scrutiny during different aspects of the
23 investigation.

24 Q Did you as part of your investigative work
25 to evaluate the active shooter response to the MSD

1 investigation on the use of the word "may" in the
2 policy? And I can give you the policy if you need to
3 look at it.

4 A I'm fine.

5 Q Did you weigh in on or evaluate the
6 presence the word "may" and how it impacted the active
7 shooter response?

8 A As far as the policy whether it were "may"
9 or "shall" when you review the statements of the
10 deputies who went in, and again I want to say this
11 over and over again, side-by-side with Coral Springs
12 to do the first extractions, Deputies Hanks, Volpe,
13 Valdez, Carbocci and Johnson gave very specific
14 reasons as to why they went in that building. And it
15 had nothing to do with may or shall. And I'm
16 paraphrasing somewhat, but their version was when they
17 arrived on scene, they could not tell from the radio
18 communications exactly what was happening. But they
19 saw Coral Springs guys running towards 1200 building
20 who seemed to know something more than they knew, so
21 they followed them in.

22 Q And that extraction you're talking about,
23 that means in police parlance going to the --

24 A No, they're actually entering the
25 building, looking for assailant, but dragging out

1 incident?

2 A Well, again, as part of my job reviewing
3 all these statements taken by the Governor's
4 investigation and the Senate I reviewed all the
5 statements of deputies who went inside by side with
6 Coral Springs officers to do the first extractions.
7 And then obviously I reviewed the statements of the
8 BSO deputies that took perimeter points at different
9 locations around the school.

10 Q Did you have an understanding of the BSO
11 active shooter policy at the time of the MSD shooting?

12 A Yes, I did.

13 Q And you received training on that policy?

14 A Yes.

15 Q Did you understand the policy to be a goal
16 of eliminating, obtaining the surrender or obtaining
17 the arrest of the assailant, the shooter?

18 A Yes.

19 Q And in the course of your investigation
20 and the interviews you did and the reports you read
21 did you identify any Broward policy, Broward Sheriff's
22 Office policy that's inconsistent with your
23 understanding of and training on the policy?

24 A No.

25 Q Did you weigh in as part of your

1 injured victims. The first extraction of four Coral
2 Springs officers with the doorway being held for cover
3 by BSO guy. That person was extracted on a golf cart
4 by a BSO deputy and a Coral Springs officer. The
5 second extraction was a BSO deputy and Coral Springs
6 extracting the second person off the first floor out
7 of the building as they're searching for the gunman as
8 they're entering. Again, those deputies that I just
9 named in their statements were very clear as to why
10 they went in the building. And it's just what I
11 stated. It had nothing to do with policy or may or
12 shall.

13 Q Is it your understanding that their why of
14 going to the building is precisely consistent with the
15 training on active shooter that BSO gives?

16 A Yes.

17 Q You also as part of your review gathered
18 up documentation pertaining to the police interaction
19 with the shooter, the prior police interaction with
20 the shooter; didn't you?

21 A Yes. I mean, obviously we pulled the past
22 reports of -- there were statements taken not by me
23 but one of my sergeants from the deputies who had
24 previous interactions with him or with his name. Not
25 necessarily with him. Just sometimes his name. So I

1 read all those reports as well.

2 Q And as part of your detective review of
3 that, were there any incidents of this police shooter
4 interaction that in your view as an experienced
5 detective ordinarily would lead to an arrest of that
6 individual?

7 A Well, the two things I believe you're
8 talking about, they only had his name allegedly. They
9 didn't have his date of birth. And he wasn't living
10 in Broward County at the time. So I don't think
11 either one of them would have lead to an arrest if
12 they actually had him in front of them.

13 Q As far as you understand the police did
14 not have the person in front of them on either of
15 those occasions?

16 A No, they did not.

17 Q You're aware of disciplinary sanctions
18 visited on two deputies for not correctly handling one
19 of the shooter, two of the shooter interactions?

20 A I read the internal affairs as part of the
21 discovery on my criminal case, and it was more
22 documentation that they didn't do what they agency
23 felt would have been a more thorough report of the
24 encounter or incident that they were called to.

25 Q You know that after the MSD tragedy the

1 Florida Legislature passed what's known as a Red Flag
2 Law, a risk protection authorization?

3 A I have the unit right aside of where I
4 work at BSO. They work aside of us.

5 Q Your understanding is that BSO actively
6 implemented that new law?

7 A Yes.

8 Q But prior to the passing of that law are
9 you aware that BSO and other law enforcement agencies
10 had worked to try to get a law like this in place?

11 A That's outside of my area of expertise.

12 Q But you do know that prior to the law, law
13 enforcement couldn't just take somebody's lawfully
14 owned weapons away unless they were adjudicated
15 mentally ill or Baker Acted and not released?

16 A That's correct.

17 Q In your investigative work for MSD, did
18 you come upon any deficiency in the training of BSO
19 deputies for responding to active shooter?

20 A Again, my entire involvement in the
21 deputies who went in and the deputies who didn't go in
22 who took perimeter points is based on what their
23 statements were. I already discussed what the guys
24 who went in said. The guys who didn't go in said
25 specifically why they didn't go in was because they

1 were given perimeter points by Scott Peterson. They
2 were given assignments by Scott Peterson. They
3 weren't sure from BSO's radio communication exactly
4 where the shooter was. Those ones who didn't go in
5 were similar to the ones who did go in and they said
6 may or shall had no impact on their decision. Even
7 Scott Peterson when I interviewed him said that he
8 knew what his assignment was. He said it in previous
9 things I've read since as far as rebuttal reports that
10 he's actually brought to law enforcement to read where
11 he states he knew what his assignment was, he knew
12 what he was supposed to do and, of course, he gives
13 his reasons as to why he didn't do it.

14 Q As the case detective were you given any
15 heads up about the probable cause affidavit for the
16 arrest warrant of former Deputy Peterson?

17 A I knew they were investigating with the
18 possibility of criminal charges. The day of the
19 incident I learned about it maybe an hour and a half
20 before it occurred.

21 Q Nothing prior to that time?

22 A Again, I knew that they were looking to
23 present to the state attorney certain what they
24 believed were criminal violations. But as far as the
25 day it happened, maybe an hour, an hour and a half

1 before I heard about it.

2 Q And you've since saw the probable cause
3 affidavit?

4 A Yes, it's actually a warrant.

5 Q Okay. The warrant and the affidavit?

6 A Yes.

7 Q For arrest of Scott Peterson on criminal
8 charges?

9 A Yes.

10 Q That was not any part of any
11 recommendation by you?

12 A No. We were there to assist them. We
13 weren't there to -- they were separate investigations.
14 We were there to assist them. We were not part of the
15 investigation with the Riddick investigation or with
16 the Commission. We just assisted with whatever they
17 needed.

18 Q All told how many, if you know, BSO
19 officers responded to the scene at MSD?

20 A I couldn't even tell you.

21 Q Including Fire and Rescue, which is under
22 the sheriff's office?

23 A To be honest, I could not tell you how
24 many people were out there.

25 Q But a significant number?

1 A Yes.
 2 Q And equally significant other law
 3 enforcement responders?
 4 A Yes. There were all kinds of different
 5 agencies out there. You know, SWAT teams, paramedics.
 6 Q Including federal agencies, the FBI
 7 appeared?
 8 A Yes.
 9 Q Much of it on the scene and then after the
 10 fact detective gathering facts, is it fair to say
 11 that, radio communication aside, the agencies and
 12 responders worked cooperatively to conduct the law
 13 enforcement function at that location?
 14 A Yes. And again, sometimes I just want to
 15 make a comment.
 16 Q Sure.
 17 A What happened up there that day a fraction
 18 of a single percentage point of anybody in law
 19 enforcement ever experienced doing it on two different
 20 radio communication systems, one of which was not
 21 working, the fact that people were able to go to hand
 22 singles, runners to get information around that 45
 23 acre campus. People were adapting because of the
 24 failures of the communication system and other factors
 25 just of the mass casualty event. So people, they

1 11 or 12 hours with the suspect.
 2 Q Detective, you were issued a subpoena
 3 through or given to the general counsel at the BSO?
 4 A That's correct.
 5 Q And you arranged in compliance with the
 6 subpoena through the general counsel's office to get
 7 up here?
 8 A That's correct.
 9 MR. KUEHNE: Nothing further.
 10 SPECIAL MASTER: Thank you.
 11 Cross-examination, Mr. McIver.
 12 MR. MACIVER: Special Master, Detective
 13 Curcio's supplemental investigatory report is
 14 incredibly detailed. It's exemplary work and
 15 it has been entered into the record. To the
 16 extent that anything he has offered on direct
 17 might be context, we believe we can do that in
 18 our PRO. Thank you.
 19 MR. KUEHNE: Nothing further. I do want
 20 to make certain the Special Master is aware
 21 that supplemental report that was referred to
 22 is Exhibit L in the Governor's list just so
 23 that we know what he's referring to.
 24 SPECIAL MASTER: For the record, that is
 25 noted, Exhibit L.

1 adapted well. Especially the SWAT teams and the
 2 paramedics.
 3 Q In your experience in your assignment is
 4 your explanation of the adapting on the scene part of
 5 what good law enforcement officers are trained to do?
 6 A Yes.
 7 Q How about good BSO officers?
 8 A Yes.
 9 Q How about BSO officers?
 10 A Yes, everybody was dealing with the same
 11 thing up there. We had the radios that were not
 12 working. Cell towers actually failed because of the
 13 amount of cell phone activity on the repeater cell
 14 towers. So people were adapting to literally not
 15 being able to communicate with each other.
 16 Q Among the people who responded to the
 17 scene of MSD, included Sheriff Israel?
 18 A I learned that after the fact because I
 19 was already at the station with the suspect.
 20 Q But you did learn that Sheriff Israel and
 21 other senior command responded to the scene?
 22 A Yes.
 23 Q And some stayed there for long periods of
 24 time?
 25 A I would assume so. Again, I spent almost

1 Thank you, Detective. Any reason not to
 2 release the detective from the subpoena?
 3 MR. KUEHNE: None from Sheriff Israel.
 4 SPECIAL MASTER: Mr. Kaplan.
 5 MR. KAPLAN: May I have one moment with
 6 Mr. Israel?
 7 SPECIAL MASTER: Yes, you may take a
 8 moment.
 9 MR. KAPLAN: Thank you so much.
 10 (Whereupon, a recess was taken.)
 11 MR. KUEHNE: Thank you, Special Master.
 12 We have no further need for the witness under
 13 subpoena.
 14 SPECIAL MASTER: Okay. Who might you be
 15 calling as your next witness so the Sergeant
 16 can get him from the sequestration room?
 17 MR. KUEHNE: Robert Pusins.
 18 SPECIAL MASTER: Thank you.
 19 Mr. Pusins, raise your right hand,
 20 please. Do you swear or affirm that the
 21 testimony you're about to give will be the
 22 truth and nothing but the truth so help you
 23 God?
 24 THE WITNESS: I do.
 25 SPECIAL MASTER: Just to interrupt for a

second. Do you have another witness before Sheriff Israel? There was one witness that you weren't sure was going to be available.

MR. KUEHNE: No, the next witness is Sheriff Israel.

SPECIAL MASTER: That would be your final witness?

MR. KUEHNE: Yes.

SPECIAL MASTER: Okay. Just wanted to know for purposes of the process. Thank you.

Sorry to interrupt.

WHEREUPON,

ROBERT RANDY PUSINS, called as a witness by Scott Israel, was duly sworn by the Special Master and in answer to questions propounded, testified as follows:

DIRECT EXAMINATION

BY MR. KUEHNE:

Q Tell us your name and how you are professionally engaged.

A My name is Robert Randy Pusins, P-U-S-I-N-S. I'm currently self-employed. I have a consulting practice where I work as an expert in police practices and police procedures.

Q Mr. Pusins, please give us an explanation

of your law enforcement history.

A I joined the Fort Lauderdale Police Department in 1974. I went through the police academy. I became a police officer. I served as a uniformed police officer for about two and a half years. And during that time I also served as a Field Training Officer where I trained new officers coming out of the police academy.

In 1977 I was appointed as a detective, and I was assigned to the Investigative Bureau. And I spent seven years there. I worked in a number of different squads. The majority of my time was spent investigating major violent crimes. I spent two years working homicide. And after seven years as a detective, I was promoted to the rank of Sergeant. I spent five years in a patrol division supervising police officers.

After those five years I was promoted to the rank of captain. I was then assigned again to patrol division. I supervised sergeants, police officers, civilian employees. I was responsible for a shift in one part of the City of Fort Lauderdale. I served in that capacity for three years.

I was then appointed as Captain in the Support Services Bureau, administrative position. My

responsibilities at the time included a number of units or activities including the training unit, records, forfeiture, the fleet, the building, property, evidence and some other ancillary responsibilities. I served in that capacity for four years where I was appointed as a district commander. As a District Commander in the Patrol Division I was responsible for all uniformed police services in one third of the city. I served in that capacity for approximately two or three years.

I was then appointed as an Assistant Chief of the Operations Bureau. I served in that capacity for about a year. Perhaps a little bit more. We then had a change in leadership within the agency, and I was then -- assistant chiefs are appointed positions. But my civil service rank was a major. We had a new police chief come in. I was then assigned as a major. And I was responsible for support units, operation support units including the SWAT team, canine, traffic, homicide, the boats, motorcycles, crime prevention and some other activities during that time. And I stayed in that capacity until I retired in 2004. A total of 30 years with the Fort Lauderdale Police Department.

In 2013 I joined the Broward Sheriff's

Office as an Executive Director as part of Sheriff Israel's Executive Command Staff. My title was Executive Director, as I said, and I was responsible for the Department of Community Services. At that time I had a wide range of responsibilities including the Public Information Office, Crime Stoppers, Community Affairs, Community Outreach, Chaplain's Office and a few other activities. And over the next few years those responsibilities had evolved, if you will, and it came to a point where my primary responsibility became regional communications. And the Director of Regional Communications reported to me. I had other responsibilities as well, but that's generally my primary focus during the last two or three years of my service with the Sheriff's Office. I had joined the Sheriff's Office with the intent of serving for five years. I committed to that term and served five years and two months.

I then resigned from the Sheriff's Office and I resumed my practice as an expert, and I have been doing that ever since.

Q What's the subject matter of your private practice as an expert?

A I'm an expert in police practices and police procedures, and I get involved in lawsuits

1 involving policemen's conduct or defense of police
 2 officers in a wide range of activities including police
 3 pursuits, use of force, procedures, hiring, training
 4 issues. Issues along that line were based on my
 5 experience, my training and my education I believe I
 6 can provide assistance to the trier of fact to
 7 understand the issues and help them come to a decision
 8 about whatever the issue may be. And I've been doing
 9 this for 22 years. So I don't want you to think I
 10 just became an expert. I started working as an expert
 11 in 1997 and continue to today. I've been retained in
 12 about 22 or 23 states. I've testified in state and
 13 federal court from Miami to Vermont. Always been
 14 qualified as an expert. Never been not qualified.
 15 And as I said, continue to serve in that capacity
 16 today.

17 Q Mr. Pusins, in connection with your work
 18 with BSO, you joined BSO under Sheriff Israel's
 19 sheriff status?

20 A Yes.

21 Q And you served five years as you had
 22 committed to do?

23 A Yes.

24 Q Your separation from BSO was voluntary?

25 A Yes. As a matter of fact, I like to plan,

1 so I had actually given the sheriff seven months
 2 notice that I was leaving. I notified him in
 3 September 2017, and I actually left April 13th of 2018.

4 Q During your tenure as a command officer --
 5 you were a command officer as executive director on
 6 the command staff?

7 A Yes, I was part of the command staff.

8 Q You familiarized yourself with BSO
 9 policies and procedures as they pertained to law
 10 enforcement?

11 A Yes.

12 Q The policy known as Active Shooter, Policy
 13 4.37, you're familiar with that?

14 A Yes, I am.

15 Q You know it's been much derided as a
 16 result of the follow-up from the Marjory Stoneman
 17 Douglas High School tragedy?

18 A Yes.

19 Q The policy, and I can hand it to you, it's
 20 Exhibit 1. Would you like to have it in front of you?

21 A Sure.

22 Q You're also aware of the training on that
 23 policy in the course of BSO?

24 A I'm generally aware of the training, yes.

25 Q You're not a training officer?

1 A I am not.

2 Q You've reviewed material pertaining to
 3 training on the policy?

4 A I don't recall specifically reviewing the
 5 lesson plan on this particular policy, but I am
 6 familiar from speaking to others who are more familiar
 7 with the lesson plan. So in that regard I do have
 8 some familiar -- I am familiar with the policy and the
 9 training.

10 Q So in the five years as BSO Executive
 11 Director and familiarity with the policy 4.37, Israel
 12 Exhibit 1, the policy itself contains the word "may,"
 13 right?

14 A Yes.

15 Q And it's Subpart C on Page 2. And you
 16 understand the contention that policies either must or
 17 should contain the word "shall" instead of "may." Are
 18 you aware of that?

19 A Yes.

20 Q Now, there's been testimony already -- I
 21 just want to make sure you agree with it -- that FDLE
 22 and no State of Florida governmental agency requires
 23 any active shooter policy whatsoever?

24 A That's correct.

25 Q And none require training in active

1 shooter or active killing?

2 A That's correct.

3 Q But there are models and standards for
 4 active shooter around the country?

5 A Yes.

6 Q And so some of them are published by law
 7 enforcement organizations?

8 A Yes.

9 Q Like International Association of Chiefs
 10 of Police?

11 A Yes, the International Association of
 12 Chiefs of Police, or the IACP as it's commonly known,
 13 has for over 30 years been publishing model policies.
 14 And they also publish concepts and issues, papers
 15 regarding issues that are facing law enforcement.
 16 They do have a model policy on active shooter, and
 17 they also have a concepts and issues paper on model on
 18 active shooter. And the concepts and issues papers
 19 are designed to provide some background information to
 20 law enforcement as to how the IACP reached the
 21 conclusion that the information that's in their model
 22 policy is the current best practice in law
 23 enforcement. So yes, I'm aware of the IACP. I'm
 24 aware of their national training center, which
 25 publishes those policies and those concepts and issues

papers.

Q I'm going to hand you Israel Exhibit 7 and that starts at Bates No. Israel 142 and Israel Exhibit 8, Bates Israel 147. Exhibit 7 is an exhibit and it's denominated IACP Model, Policy Active Shooter and Exhibit 8 is IACP Law Enforcement Policy Center Active Shooter Model Policy.

I'm going to hand these to you. Are these two of the documents you were referring to when mentioning IACP standard or model policies?

A Yes.

Q IACP is not a law enforcement organization?

A It is not.

Q It's not a governmental entity that has arrest powers?

A No.

Q It's rather a consortium that involves law enforcement community at the highest levels developing best practices and model standards?

A Yes.

Q And is it an organization that is generally held in the highest of respect by all manners of law enforcement agencies?

A Yes. And to expand upon that, there are a

number of organizations that are supportive of law enforcement issues such as PERF and National Tactical Offices Associations and other professional organizations. But no other organization has the reputation and status that the IACP has in law enforcement profession. The IACP is looked at as the leader in law enforcement on contemporary thought on issues facing law enforcement. They're looked at, if you will, as the gold standard as to how law enforcement should be relating to and responding to issues that come up that affect law enforcement.

They're just the leaders in law enforcement thought as far as model policies and best practices and guidance given to law enforcement.

Q You mentioned PERF, Police Executive Research Forum?

A Yes.

Q I may ask you about that in a little bit. Back to the IACP. In your knowledge and experience is the IACP utilized as a source of relevant information to federal agencies, like the FBI, when it's putting together training and practices?

A I think IACP is viewed by all law enforcement as a leader in contemporary thought on issues based on law enforcement. As a matter of fact,

the IACP hosts an annual conference, an international conference. And traditionally the keynote speakers are the Director of the FBI, the Director of DEA, the Director of Homeland Security, the Director of the Department of Homeland Security itself. So it is a well-established, well-renowned, well-admired organization by all law enforcement professionals even on a federal level.

Q The two exists deal with active shooter?

A Yes.

Q So first given your familiarity with the IACP model policy and thought, is the Exhibit 1 Active Shooter Policy in effect at the time of MSD shooting and at the time of the Fort Lauderdale shooting, that's Exhibit 1, consistent with the model policy and principles of the IACP?

A Yes.

Q Is it consistent with any and every model policy on active shooter of which you are aware?

A Yes.

Q Does it depart, does it, Exhibit 1, BSO Active Shooter Policy 4.37 in effect at the time we're talking about, does that policy contradict or run counter to any mandatory active shooter policy that you know of anywhere?

A No.

Q Now, I've tabbed just to get it to you on Page 2, which is Israel 143 of Exhibit 7, the model policy, Active Shooter, and I've tabbed a section called B. Can you read the title of Section B and then paragraph 1?

A The title of Section B is Individual Officer Intervention. No. 1, in some instances an individual officer maybe present within or near the active shooter location such as a mall or school. Whether on or off-duty in uniform or civilian clothes he or she may determine that immediate action is necessary and reasonable to stop the threat. That decision may take into consideration the officer's capability to effectively intervene based on his or her training.

Q Could you read Section 2 immediately following?

A Yes. As soon as practical, officers shall notify communications that an active shooter situation exists. The officer or officers should provide the following information and updates as available. A, The identity location, manner of dress, the proposed actions of the officer at the scene. B, Information about the suspect to include a physical description,

1 weapons, equipment such as body armor and current
2 location and actions. And C, Available information on
3 persons injured or under threat, their locations,
4 emergency resources required and recommended points of
5 entry.

6 Q Does the BSO policy as you understood it
7 and in place during your time with BSO and during the
8 effective time frame meet and comply with that model
9 policy?

10 A Yes, it does.

11 Q The next exhibit is Exhibit 8. That's the
12 Active Shooter Concept and Issues paper. Is it fair
13 to say that's generally a discussion of the myriad of
14 factors and issues that get wound into the development
15 of active shooter policies?

16 A Yes, that's fair.

17 Q And did BSO in developing its active
18 shooter policy take advantage of the literature and
19 the thinking in the field on active shooter policies?

20 A Yes. And that's just something that's
21 just a standard in law enforcement when reviewing
22 policies whether it's a policy on active shooter or
23 any other policy. A pursuit policy, for example, or
24 use of force policy. You certainly want to find out
25 what's relevant in the industry, what recent court

1 cases may have an influence on the policy. So it's
2 always advisable as you're reviewing policies,
3 amending them, to take into consideration the
4 literature that's out there in the field including
5 recent court cases that may have an impact on the
6 policy itself.

7 Q You're aware that BSO after the MSD
8 tragedy searched out and collated all of the active
9 shooter policies within the State of Florida?

10 A Yes.

11 Q Not done by you, but done by Captain
12 Diefenbacher?

13 A Yes.

14 Q Who you understand to be somebody
15 knowledgeable about training and policies at BSO?

16 A As well as being a lawyer himself.

17 Q And a lawyer?

18 A Yes.

19 Q And the compendium -- and I can hand it to
20 you, but it's Exhibit 30, Israel Exhibit 30 starting
21 at page 2142. Exhibit 30, the compendium, put
22 together by BSO post Marjory Stoneman Douglas included
23 the policies for active shooter existing in the State
24 of Florida?

25 A Yes.

1 Q And a spreadsheet outline summarizing the
2 types of policies?

3 A Yes.

4 Q And that the BSO policy is consistent with
5 the large scale operation of active shooter policies
6 in the State of Florida?

7 A Absolutely.

8 Q And some law enforcement agencies and
9 sheriff's offices have no active shooter policy?

10 A That's correct.

11 Q And that's allowed under FDLE, right, to
12 have no active shooter policy?

13 A Yes. FDLE or there is nobody in law
14 enforcement that mandates that an agency has a
15 particular policy. The only body that has such a
16 mandate is through accreditation such as the
17 Commission on Accreditation for Law Enforcement
18 Agencies. But that's a voluntary process. And if an
19 agency volunteers to obtain accreditation status via
20 Commission on Accreditation For Law Enforcement
21 Agencies, then they publish standards, if you will,
22 that can be met by having policies. But that's a
23 voluntary policy. And even Commission on
24 Accreditation For Law Enforcement Agencies, that has
25 467 standards that they require agencies to have if

1 they want to achieve accreditation status even they do
2 not require an active shooter policy. So there is no
3 entity in law enforcement that requires or mandates
4 the agency must have an active shooter policy. It's
5 determination that's made by individual agencies.

6 Q Is it consistent with your understanding
7 of the model policy and section 4.37 of the BSO policy
8 that the policies focus on the goal of eliminating,
9 obtaining the surrender or the arrest of the
10 assailant, the shooter or killer?

11 A That's the general purpose and focus of
12 all of these policies regarding active shooters is to
13 stop the threat, to either put the offender in a
14 barricaded situation, get him to surrender or going
15 back to stopping the threat, killing him, if that's
16 what it took to stop that threat. That's the three
17 general goals of any active shooter policy.

18 Q When Captain Diefenbacher's compendium was
19 put together, there are some Florida agencies that
20 used the word "shall" rather than "may" in the active
21 killer policy. Are you familiar with that?

22 A Yes.

23 Q Is it fair to say given Captain
24 Diefenbacher's review and compendium that even the
25 presence of the word "shall" is included with

underlying factors that require the responder to evaluate what the response is and must be?

A Yes. And to elaborate on that, the "shall" to mean is indicating the commander's intent this is what you want your police officer to do. But there's qualifiers, and the qualifiers are based on the information that may be available. And that's similar language that's included in many of the policies. Law enforcement is taught right from the beginning about Graham v. Connor, the 1989 Supreme Court case that talks about how we evaluate force. And Graham v. Connor very clearly instructs law enforcement, and law enforcement is well aware of this, that it's the totality of circumstances that has to be considered when you determine whether you're going to use force or not. When a law enforcement officer engages in a pursuit, it's the totality of circumstances that have to be considered, the type of crime you're pursuing somebody for, the traffic conditions, the weather, the capability of the police vehicle versus the capability of the offender's vehicle. All of those have to be considered and evaluated continuously as you make decisions whether it's force, whether it's pursuits and in this case, whether it's an active shooter. You have to

a common person means you have no choice. You must do that. But for law enforcement who are taught from the academy level totality of circumstances, continually evaluate every situation whether it's a pursuit, a use of force or in this case an active shooter, it is a false imperative because they know you have to consider all of the factors when you make a rational reasonable decision to proceed.

Q Is consideration of the totality of circumstances viewed as the preferred approach when assessing the model policies of IACP and other standards?

A Yes. But police officers do not -- we don't want to teach police officers to blindly follow what may appear to be a false imperative. We want them to be rational, reasonable thinking human beings and make their decisions on the totality of circumstances. Now, of course, the totality of circumstances is information that you may have to help guide your actions. The information may be partial. You may have a lot more information. So that information is always evolving as you process through the incident, so you are constantly evaluating those circumstances. So we would never ask a law enforcement officer to blindly follow what appears to

constantly consider the totality of circumstances that will help guide you as you progress through responding to that incident.

Q In police parlance and policy making is there a concept known as a false imperative?

A Yes.

Q And in your knowledge and based in part on Captain Diefenbacher's compilation of active shooter policies in the State of Florida are there policies that have what is denominated as a false imperative?

A Yes.

Q What is that in police parlance?

A So my understanding of it is that again it goes back to the commander's intent. This is what we want you to do; however, we also expect you to be rational thinking human beings and make decisions on the totality of circumstances. So a "shall" policy indicates to any common person that you have no choice, this is what you must do. But most law enforcement knows not only through their training but through other language that's in the policy that the "shall" really means a "may" when you have to consider the totality of circumstances or other factors that may be evident to the police officer that's responding to whatever the issue is. So just seeing a "shall" to

be a "shall" policy without considering a totality of circumstances in every action that he takes even if it's an active shooter response.

Q You're aware that the -- you know of the Marjory Stoneman Douglas High School Public Safety Commission?

A Yes.

Q It issued a report?

A Yes.

Q The commission chair is a sheriff who is also a lawyer, Bob Gualtieri?

A Yes.

Q And he is the Sheriff of Pinellas County?

A Yes.

Q You've had occasion to look at the active shooter policy for Pinellas County which was actually part of the compilation done by Captain Diefenbacher; haven't you?

A I haven't looked at that policy in detail, but I have read or heard of the summation of the policy. But I myself have not personally reviewed that policy.

Q So you've not reviewed the policy. You've reviewed the summary done by Captain Diefenbacher and other policies?

1 A Yes.

2 Q And as far as you understand is that

3 summary compendium of all those policies that's part of

4 Israel Exhibit 30 accurate?

5 A Yes.

6 Q And isn't the Pinellas County Active

7 Shooter Policy that was in place at the time of the

8 MSD shooting a policy that does require the responding

9 officers to consider the totality of the circumstances

10 before responding?

11 A Yes, like most policies do.

12 Q And is that, although the wording is

13 different, consistent with the BSO policy?

14 A Yes.

15 Q And as you understand it, is that policy,

16 the Pinellas Sheriff's Office policy, an absolute

17 command that bar nothing else the first responding

18 officer must immediately go in without any

19 consideration and confront the shooter?

20 A I know of no policy by any agency that has

21 language that would direct a law enforcement officer

22 to go in as you've just described. All policies that

23 I've seen as well as the recommendation from IACP

24 talks about evaluating the event and the circumstances

25 and the facts. And that's part of the totality of

1 Q Did the implementation of Policy 4.37,

2 Israel Exhibit 1, in anyway fall below the standards

3 applicable for law enforcement agencies?

4 A No.

5 Q Did the implementation, the setting of

6 that policy in anyway fall below any standards or

7 protocols required of law enforcement agencies in the

8 State of Florida?

9 A No.

10 Q BSO has SROs, School Resource Officers?

11 A Yes.

12 Q And you're aware that SROs are fully

13 engaged law enforcement officers?

14 A They're fully certified and trained law

15 enforcement officers and recognized by the State of

16 Florida as law enforcement officers.

17 Q BSO, on top of the required training for

18 deputies for law enforcement officers, has additional

19 40-hour training for SROs for the status of being

20 SROs?

21 A Yes.

22 Q And in Broward County the SROs are

23 certified as SROs; they're not just some deputy that's

24 thrown into that position one day?

25 A Deputies who serve as School Resource

1 circumstances. So I know of no agency policy that is

2 that specific and that direct where the officer would

3 not have the ability to reason and make a reasonable

4 assessment of the facts before they take action. Now,

5 sometimes the assessment can be very quickly

6 completed, but they still should be making that

7 reasonable assessment for everything that they do.

8 And I go back to pursuits. I go back to use of force.

9 We're talking about the totality of circumstances and

10 they constantly evaluate those circumstances because

11 they may change and cause an action that was started

12 to be stopped. Because those circumstances and those

13 facts and that information becomes available, he's

14 now -- a police officer is now processing that

15 information and making a different decision. And we

16 want them to do that. We want them to be able to

17 change their minds when they start a pursuit. We want

18 them to change their minds when they are in a use of

19 force incident, to stop a use of force when it becomes

20 unreasonable or no longer necessary to gain

21 compliance. So police officers have to use their

22 head. They have to think. They have to be always

23 aware of the circumstances and the facts. And we

24 wouldn't want it any other way. And the public

25 wouldn't want it any other way either.

1 Officers obtain training to become a certified school

2 resource officer serving at schools. So yes, that

3 training is required. And it's training that's

4 specific for a law enforcement to perform the function

5 of a school resource officer at a school.

6 Q And among those duties of a school

7 resource officer includes the recognition that

8 horrible things could happen in a school?

9 A Unfortunately, yes.

10 Q It includes the recognition -- let me

11 change the question.

12 From a law enforcement response kind of

13 view, Columbine is a fairly significant change in the

14 direction of law enforcement; isn't it?

15 A Yes, it was.

16 Q The idea of a mass shooting at a school

17 done by described schoolmates, not some terrorist who

18 parachutes in?

19 A Yes.

20 Q As of post Columbine -- and that was

21 awhile ago -- post Columbine is it a reality in law

22 enforcement that school resource officers are as part

23 of their specialized training made aware of the

24 possibility that their school might become a target?

25 A Yes.

Q And at BSO are School Resource Officers given the training as you understand it to include that as well as all the other myriad aspects of what it takes to be a school resource officer?

A Yes, the school resource officers at the Broward Sheriff's Office not only went through the mandatory retraining that's required by the Florida Department of Law Enforcement, but they also went through training that was mandated by the Sheriff's Office, Sheriff Israel, to include active shooter training. They're just like another deputy with just a different assignment. So all deputies are required to go through active shooter training and that certainly included those assigned as school resource officers or deputies.

Q You're aware of SWAT units at BSO?

A Yes.

Q And you supervise SWAT units at the Fort Lauderdale Police Department?

A Yes.

Q SWAT officers go through very specialized training; fair to say?

A They do, yes.

Q And is it fair to say that no standards in the State of Florida requires that all police officers

be trained as if they were SWAT officers?

A That's correct. And you wouldn't want that. No. 1, all officers would not meet the physical standards and requirements to be able to respond effectively and efficiently to a SWAT situation. So they all don't have that training. And you certainly want somebody -- you don't want to force a deputy or a police officer to perform a SWAT function, which is a high-risk activity if he did not desire to do so. So only those that request to go to SWAT are considered. And only those that successfully pass the training are allowed on the SWAT team. So it's a different type of law enforcement officer with different skill set than a typical standard police officer.

Q Whether accepted by law enforcement officers or not, isn't it commonly said in law enforcement agencies that SWAT is akin to the Ranger's or the Green Berets of the military, the train-est of the trained, the most skilled?

A I'm sure the SWAT operators would use some of those references, but I would certainly agree with you that the SWAT operators are more skilled, more trained, more physically fit than the average police officer in any police agency. Not only in the US, but internationally. Those are the fist of all officers

who have more specific training for high risk SWAT situations and they're certainly different in their background and skill set than the average police officer.

Q In your knowledge of BSO and the SRO's, School Resource Officers, the specialized training they do, is it considered in law enforcement circles a good fit for a SWAT member to be a school resource officer?

A Generally I would say, no. And the reason is if you wanted to be a SWAT operator, you are really one that is interested in higher level of service, if you will, in a high-risk fast moving environment with typically violent offenders. If you take that same mindset and now look at a school resource officer's position, it probably would not be a good fit. We want our school resource officers to be able to relate to and have compassion and empathy and understanding with young people who are finding their way in life and take the time and have the patience to mentor them and be a role model for them. Where a SWAT officer is an A type personality who is on the go and ready for that next high-risk event because that's what he's trained for, that's what he lives for, or her, and would just not be compatible with an assignment to a

school. You want to have a softer, more empathetic, more understanding approach with children. SWAT officers are dealing with high-risk offenders. They demand a compliance especially when weapons are involved, and that's their direct approach dealing with high-risk offenders. That same method of approach would probably not be very successful in dealing with teenagers or younger children who are in schools.

Q In identifying is that dichotomy, does that recognition of a different or additional skill set in anyway alter the law enforcement status of a school resource officer?

A Not at all. As I said earlier, they're certified law enforcement officers who have been fully trained by the State of Florida's requirements and fully certified and have the responsibility to respond as a law enforcement officer whether they're working in a school or any other environment.

It differs from SWAT because SWAT is a high risk assignment where you're dealing with offenders who have more than likely demonstrated a propensity for violence. And that takes anybody with not only the skill set, but also the equipment a SWAT operator to handle. It's a different environment in a

1 school. It's completely different, and you can not
2 compare the two. You can not reasonably compare the
3 two. It doesn't work.

4 Q At BSO SROs are officers chosen having
5 indicated an interest in serving as an SRO?

6 A Yes, they have to apply for that position.
7 Typically not only BSO, but typically anywhere in law
8 enforcement they would put out an announcement
9 indicating there is an opening for this particular
10 position and if you're interested, apply for it. And
11 then you would go through a selection process.

12 Q An evaluation and selective process?

13 A Yes.

14 Q And at BSO are officers routinely
15 evaluated for their positions, whether they fulfill
16 their requirements or not?

17 A Yes. That's a supervisory responsibility
18 that's a constant ongoing process. Of course, we do
19 have an annual performance evaluation. But if we have
20 effective supervisors in any law enforcement agency,
21 they should constantly evaluate their personnel as to
22 their ability to perform appropriately and reasonably
23 and not wait for an annual evaluation. It's a
24 constant daily process if you will. And it's their
25 responsibility to do that.

1 nearing retirement?

2 A That's correct.

3 Q He was a young officer who sought out and
4 was deemed appropriate for the SRO status?

5 A Yes.

6 Q And as you understand it, well before
7 Sheriff Israel became sheriff?

8 A Yes.

9 Q Are you aware of an organization called
10 National Tactical Officers Association, NTOA?

11 A Yes, I'm not only aware of it, I'm also a
12 member of that organization.

13 Q What is that organization?

14 A It's an organization as its title
15 indicates of tactical officers who deal with issues
16 that face tactical or SWAT officers. Again, high-risk
17 training, high-risk events. The organization provides
18 training, specialized training to SWAT operators.
19 They also publish articles on organizations regarding
20 events dealing with high-risk incidents that a
21 tactical officer would be assigned to respond to.

22 Q Is the BSO Active Shooter Policy
23 consistent with any of the standards or models from
24 the NTOA?

25 A Yes. And again, it's all about totality

1 Q At BSO is it understood or suggested that
2 SROs are assigned because it's a cushy job, they're
3 waiting for retirement, let's put them in a school?

4 A No. It really does take a special
5 individual to work at a school and work with children
6 and young adults especially at the high school level.
7 Just like it takes a special individual to be a SWAT
8 operator or to ride a motorcycle. Those are different
9 skill sets. What we want to do at the sheriff's
10 office or any other agency is to put, if you will, a
11 round plug in a round hole. We want to fit somebody
12 with a certain set of skill sets to help him or her to
13 be successful in their assignment. So if you have
14 somebody that, for example, has a lot of complaints,
15 has difficulty interacting with people, is not
16 empathetic, not sympathetic, has little patience or
17 tolerance, that's not the person you want to put in a
18 school resource officer position. You want somebody
19 that can relate to children and be effective as a role
20 model while still maintaining his effectiveness as a
21 law enforcement officer.

22 Q You understand that former Deputy Peterson
23 was actually a long time SRO?

24 A He was.

25 Q He didn't just join the SRO as he was

1 of circumstances. It's taking all the information
2 that you have available to you and processing that to
3 help you determine the best course of action. It's a
4 standard in law enforcement. I've said it before.
5 NTOA follows that same standard. You always process
6 the information that you have and based on your skill
7 set, the circumstances, the equipment available, you
8 then have a response to that event.

9 Q You mentioned I think that FDLE has no
10 requirement for active shooter policies or active
11 shooter training?

12 A That's correct. It's my understanding
13 that FDLE has the responsibility to determine what
14 training and what subjects are to be included in basic
15 recruit training for the police academy. They make
16 that determination. They also make the determination
17 with the assistance of Criminal Justice Standards and
18 Training Commission as to what training should be
19 required for officers to retain their certification.
20 It's been long established, since I've been in law
21 enforcement since the mid '70s, that law enforcement
22 officers are required to receive 40 hours of Criminal
23 Justice Standards and Training Commission
24 recognized courses, 40 hours of those courses every
25 four years, to retain their certification. That's the

1 minimum standard. But those standards do not include
2 active shooter at all.

3 Q You're aware of the Pulse shooting in
4 Orlando, that mass tragedy?

5 A Yes.

6 Q About three years ago. I think we just
7 had the three-year anniversary.

8 A Yes.

9 Q Since the Pulse shooting FDLE has not
10 implemented an active shooter mandate?

11 A No, they have not.

12 Q Post Fort Lauderdale Airport did FDLE
13 implement such a mandate?

14 A No, they have not.

15 Q Post Marjory Stoneman Douglas did FDLE
16 implement such a mandate?

17 A No, they have not.

18 Q How about the Criminal Justice Standards
19 and Training Commission, did it respond to any of
20 those events with a mandatory requirement for active
21 shooter training?

22 A No, they have not.

23 Q You, as part of your post BSO
24 responsibilities, stay up-to-date on Florida and
25 national standards?

1 A I do. I'm actually a life member of the
2 IACP, International Association of Chiefs of Police.
3 I'm a member of the FBI National Academy Associates.
4 Also a member of PERF, the Police Executive Research
5 Forum. I'm a member of the National Tactical Officers
6 Association. I subscribe to dozens of law enforcement
7 newsletters about professionals that publish articles
8 on training and current issues in law enforcement. So
9 I do my best to stay current on issues facing law
10 enforcement even though I'm no longer with the
11 Sheriff's Office, but it's part of my practice as a
12 consultant.

13 Q During this Governor's governing has FDLE
14 added active shooter training mandate to its
15 requirements?

16 A No, they have not.

17 Q Through today?

18 A Through today they have not.

19 Q During this Governor's governorship has
20 the Criminal Justice Standards and Training Commission
21 required active shooter training or policies?

22 A No, they have not.

23 Q And the Governor appoints members to the
24 Criminal Justice Standards and Training Commission,
25 doesn't he or she, whoever holds that office?

1 A Yes.

2 Q And the Governor is the Senior Executive
3 for the Commissioner of the Florida Department of Law
4 Enforcement?

5 A Yes, that's my understanding.

6 Q An executive agency?

7 A Yes.

8 MR. KUEHNE: No further questions.

9 SPECIAL MASTER: Thank you.

10 Cross-examination, Mr. Primrose.

11 MR. PRIMROSE: No questions.

12 SPECIAL MASTER: No further questions.

13 Any reason to not to release Mr. Pusins from
14 his subpoena?

15 MR. KUEHNE: No, Special Master.

16 SPECIAL MASTER: Thank you, sir.

17 Why don't we take a ten-minute break?

18 Let's reconvene at 4:00 for the last witness,
19 thank you.

20 (Whereupon, a recess was taken.)

21 SPECIAL MASTER: It's 4:00. Let's

22 reconvene, and please call your next witness,

23 Mr. Kuehne.

24 MR. KUEHNE: Our next witness is Sheriff
25 Israel.

1 SPECIAL MASTER: Thank you.

2 Raise your right hand, sir. Do you
3 solemnly affirm that the testimony you're about
4 to give will be the truth, the whole truth and
5 nothing but the truth?

6 THE WITNESS: I do.

7 WHEREUPON,

8 SCOTT ISRAEL,

9 called as a witness, was duly sworn by the Special
10 Master and in answer to questions propounded, testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. KUEHNE:

14 Q Tell us your name.

15 A Scott Israel.

16 Q You are the elected Sheriff of Broward
17 County?

18 A I am.

19 Q I recognize that you are suspended by the
20 Governor, but you understand this is a Special Master
21 review for the Florida Senate of the Governor's
22 suspension?

23 A Yes, sir.

24 Q Before you became Sheriff of Broward
25 County, you had a career in law enforcement?

1 A I did.

2 Q Tell us about that.

3 A I began my career as a Fort Lauderdale

4 Police Officer in 1979. I graduated through the ranks

5 of the Fort Lauderdale Police Department. Among many

6 positions, two positions I'm very proud of is I was an

7 undercover narcotics detective working on local,

8 state, national and even international drug

9 investigations as an undercover operative. From -- I

10 got promoted to sergeant I believe 1988. I got

11 promoted to captain in, I think, 1994. I was a SWAT

12 commander. I understand as a SWAT commander police

13 movements, police tactics. I think I'd be considered

14 in the industry a tactician.

15 I retired Fort Lauderdale Police

16 Department in the year 2004 after 25 years of service.

17 I went on to become a Police Chief with the City of

18 North Bay in Dade County. I voluntarily resigned in

19 2008 from that position. I ran for sheriff. I ran

20 unsuccessfully 2008. And then I decided to run again

21 in 2012. I won the position of sheriff in 2012. I

22 ran for election in 2016. The team won

23 overwhelmingly, and here I am today.

24 Q The term of office as Elected Sheriff of

25 Broward County is four years?

1 A That's correct.

2 Q A number of counties that are charter

3 counties had the equivalent of a sheriff rolled into

4 another office?

5 A That's correct.

6 Q For example, Miami-Dade County, the

7 largest county, the consolidated government runs the

8 equivalent of the sheriff's department?

9 A That's correct.

10 Q Known as the Public Safety Department?

11 A Yes.

12 Q Besides Miami-Dade County is the Broward

13 Sheriff's Office the largest of the Florida sheriff's

14 offices?

15 A It is.

16 Q And it's the constitution that requires

17 running as the representative of a party and then if

18 there is opposition, then those two parties have a

19 general election and one wins?

20 A Yes.

21 Q You ran as a Democrat?

22 A Yes.

23 Q And were elected as a Democrat?

24 A Yes.

25 Q First time?

1 A Yes.

2 Q That term of what you were elected by the

3 people of Broward County for four years commencing

4 November 2016 through November 2020?

5 A Actually, it's January 2013 through

6 January of 2021.

7 Q The next election for sheriff is November

8 of 2020?

9 A Or primary in August of 2020.

10 Q Okay. Primary. The sheriff's role is a

11 partizan elected position?

12 A Absolutely.

13 Q And the Florida Constitution requires

14 that, right?

15 A Correct.

16 Q You're a constitutional officer?

17 A I am.

18 Q A constitutional position set out in the

19 Florida Constitution?

20 A Correct.

21 Q And every county, let's say,

22 pre-November 2018, because my question will be a

23 little different, but pre-November 2018 almost every

24 Florida county was required to have an elected

25 sheriff?

1 A 2012.

2 Q And second time?

3 A 2016.

4 Q And the people of Broward County had an

5 opportunity for four years to evaluate you?

6 A They sure did.

7 Q What did they say to you when you sought

8 service again as their elected sheriff?

9 A I've been told that in 2016 we won by the

10 single largest margin in the sheriff race in the

11 history of Broward County.

12 Q Significant approval?

13 A Yes, sir.

14 Q Now, do you consider yourself in the time

15 you've been sheriff to be a sheriff or a politician?

16 A A sheriff.

17 Q But part of your role as an elected

18 official is to involve yourself in political matters?

19 A Most certainly.

20 Q And is part of that process as the elected

21 sheriff involving yourself in the community?

22 A Yes, sir. I actually ran for sheriff to

23 connect with our community. Community policing has

24 many different definitions. I've heard them all, but

25 mainly what it is is the head of an agency being

1 visible, being available, touching people, having them
2 touch you, having them have your personal phone
3 number, getting up at 1, 2, 3, 4 in the morning and
4 going out to an event or a critical incident if you
5 think you can help make it safer, safer for the
6 deputies, safer for the citizens. And also, sworn
7 deputies are a fraction of our agency. We have almost
8 6,000 people. We have firefighters. We have
9 detention deputies. We have civilians. It's a city
10 basically, so you want to be approachable. And I've
11 worked very hard to do that.

12 Q On an everyday occasion, weeks or months,
13 in your position as sheriff, do you participate in
14 community events?

15 A Continually.

16 Q Let's say, as we focus on the time frame
17 that's mostly about this case, 2017 and 2018. Give us
18 a sense of the kind of community involvement you do,
19 and secondarily I'll ask your organization does. So
20 let's focus on you as sheriff.

21 A I think the community event that's evolved
22 that I'm most proud of is I partnered with a former
23 Palm Beach Sheriff's Deputy Boca Raton Police Officer
24 named Wayne Barton who got into food distribution.
25 And in the four years I've partnered with Wayne we

1 have distributed over 4 million pounds of food for
2 free to people. I've been criticized -- and that's
3 okay, I understand people have the right to criticize
4 -- for getting involved in these food distribution
5 events. But if I'm able to use a position that God
6 bestowed upon me to feed people, why wouldn't I take
7 advantage of that? And I tell you, and Broward County
8 knows this, the grocery giveaways are absolute
9 community sly policing. Because when you give food to
10 people who wouldn't eat if they didn't get that food,
11 they are going to trust you. They're going to take
12 your phone number down. And when Johnny goes to
13 school with a gun or Sally goes to school with
14 cocaine, they're going to call you up and they're
15 going to tell you about it.

16 I've been called the most visible sheriff
17 that Broward County ever had. And through grocery
18 giveaways and gun buybacks and doing things that let
19 me integrate with the community -- you know what, I've
20 seen a lot of sheriffs out in communities, and they're
21 called Sheriff Smith or Sheriff Jones. And that's
22 fantastic. I love the word sheriff. But when I'm out
23 in the community and the community calls me Scott and
24 they call you by your first name, you know you're
25 connecting. You know you're making an impact. And

1 that's why I ran for sheriff. And that's what I'm
2 most proud of, sir.

3 Q Have you found in discharging your role as
4 sheriff that community involvement like you've
5 described actually helps you execute the
6 responsibility as conservator of the peace?

7 A Absolutely.

8 Q In what manner?

9 A Well, I was in one of our contract cities,
10 Lauderdale Lakes, and I was at a town hall meeting.
11 And then a woman was talking about being stopped in
12 another county. She was an African American woman.
13 And she felt she was stopped basically because of her
14 skin color. And another woman stood up and she said,
15 Sheriff, she goes, before you became sheriff our kids
16 ran away from the cop cars and now they run towards
17 them. And when people know you care and there's that
18 connection -- I was a football coach at Stoneman
19 Douglas High School. Not a lot of people know that.
20 But I coached at Stoneman Douglas for years. I
21 coached the Coral Spring Chargers, the town we lived
22 in, the town team. I coached the youngsters for
23 years. When you're not talking the talk, but you're
24 walking the walk, then people see that. They befriend
25 you. And when they trust you, you become a safer

1 community.

2 Q And is that your view of discharging your
3 constitutional obligations as a sheriff?

4 A Yes.

5 Q You're not the only sheriff in the State
6 of Florida?

7 A No.

8 Q There are one per county other than
9 Miami-Dade. Do you interact with other sheriffs
10 throughout the State of Florida?

11 A Not often, but at conferences and things
12 like that. But not a lot of interaction.

13 Q Before you ran for sheriff and before you
14 ran successfully for sheriff, did you undertake an
15 effort to learn what it is a sheriff does and what a
16 sheriff is responsible for?

17 A Absolutely.

18 Q A sheriff is not just a high level police
19 officer, right? You mentioned that in Broward County
20 a sheriff has a wide range of duties that may not
21 ordinarily be considered just law enforcement
22 directed?

23 A That's correct.

24 Q And do you have expertise in fire and
25 rescue?

1 A No, I don't have expertise. No.

2 Q You've been around fire and rescue for all

3 of your law enforcement career?

4 A Yes.

5 Q But as far as policies and procedures for

6 fire and rescue, did you start the job knowing all of

7 that?

8 A Absolutely not.

9 Q Or knowing what the training is to be a

10 certified EMT?

11 A No, I did not.

12 Q Or go to fire school or whatever the

13 equivalent of a police academy is?

14 A No. But actually, when I decided I was

15 going to run for sheriff, I went to a long time friend

16 who is now a retired fighter from the Fort Lauderdale

17 Fire Department and I went out to the Coral Springs

18 Academy. Not to become a firefighter certainly, but

19 to understand what they do. And when you can

20 understand what people do, you're more receptive to

21 their suggestions. If you're going to lead people,

22 you ought to know what they do and how you could help

23 make changes.

24 Q When you ran for sheriff and you were

25 elected, did you make a commitment to the people of

1 A I did.

2 Q To spend time with them?

3 A Yes.

4 Q And within your structure of BSO is

5 detention deputy viewed as the lowest of the low for

6 people who just can't be real law enforcement

7 officers?

8 A Not by me. Never has. Detention deputies

9 are an incredibly important component of keeping

10 Broward County safe. I look at detention deputies,

11 law enforcement, firefighters and civilians as a

12 football team. Everyone is instrumental. They play

13 different positions. And they're not interchangeable.

14 And being a good firefighter doesn't mean you could or

15 would or should be a deputy sheriff. So you have to

16 identify leaders. You have to put round plugs in

17 round holes. And make sure -- leaders don't have to

18 look alike. They don't have to think alike. But they

19 have to be on the same mission. And the mission is to

20 deliver safe services and protect the county by

21 treating people with dignity and respect. And that's

22 what I've always preached.

23 Q Did it appear to you during the

24 questioning of some of the witnesses that the

25 Governor's office attempted to malign some of the

1 Broward that you would staff your agency with highly

2 qualified senior core leadership?

3 A You bet.

4 Q So for example, when it came to the fire

5 rescue function that you had no personal knowledge of,

6 but you tried to learn about it?

7 A Yes.

8 Q Tried to walk in their shoes?

9 A Yes.

10 Q And did that help you identify how you

11 could be the leader of a team that includes a

12 knowledgeable fire rescue person?

13 A Absolutely.

14 Q And was that a commitment to the people of

15 Broward County that you would do that?

16 A Absolutely.

17 Q You've never been a detention deputy?

18 A No.

19 Q Yet the Broward Sheriff's Office runs the

20 detention function?

21 A Yes. And I might say we have the finest

22 detention deputies in the land.

23 Q And you made an effort not being a

24 detention deputy in the past to learn what detention

25 deputies do?

1 witnesses by suggesting you hired them because they'd

2 be your guy?

3 A Yes, it really was.

4 Q What's your response to that?

5 A It really was bothersome. Some of the

6 police leaders that you've seen today, and you'll read

7 their depositions, I'm blessed that these men and

8 woman came into my life. And I asked them to come to

9 the Broward Sheriff's Office and help me on this

10 mission not because they were my friends, but because

11 they became my friends by being honorable, ethical,

12 talented people. And to hear the attorney ask today,

13 Were you thinking about getting your job back before

14 you answered, that's not what these men and women are

15 all about. If I was wrong they'd come here before God

16 and country and they'd tell you I'm wrong. These are

17 men and women who are going to speak the truth. And

18 that's why they're my friends. And I'm blessed and my

19 wife and I were blessed that these people came into

20 our lives.

21 Q Did you chose your command core because

22 they are the best of the best?

23 A Absolutely.

24 Q Jack Dale, Colonel Jack Dale, you hired

25 him. Was he your bosom buddy before you hired him?

1 A No. A friend, but not a bosom buddy.
 2 Q You hadn't worked with him in a lot of
 3 years?
 4 A Many, many years.
 5 Q Did he have the credentials, the
 6 qualifications, the personality to go fill that
 7 position?
 8 A You can't get a better team than starting
 9 with Jack Dale.
 10 Q Robert Pusins, was he your bosom buddy?
 11 A We were friends, not bosom buddies. But
 12 he was actually my boss for many years. And I said
 13 that's the kind of boss that I hope I can approach if
 14 I become the leader of the agency. And I called
 15 Bobby. These folks didn't call me for these
 16 positions. I called them. I recruited them.
 17 Q Did you know that Bob Pusins is actually
 18 nationally recognized in police standards and
 19 practices circles?
 20 A I didn't know that until later.
 21 Q But you learned that?
 22 A I learned that, yes.
 23 Q And in fact, he is?
 24 A He is.
 25 Q He's not just an expert, he's called upon

1 law enforcement agencies around the country to assess
 2 and offer opinion and evaluation?
 3 A Yes, and he was called upon by the now
 4 suspended Sheriff of Broward County to give me advice,
 5 guidance, and I sought his input continually when we
 6 worked together.
 7 Q There are other witnesses that testified
 8 in deposition. That record is before the special
 9 master. You've read all those depositions, right?
 10 A Yes.
 11 Q Some of those witnesses were command
 12 staff?
 13 A Yes.
 14 Q The Undersheriff Steve Kinsey, career law
 15 enforcement officer?
 16 A Yes, extremely talented and honorable.
 17 Q Did he become undersheriff because he's
 18 your duty guy?
 19 A No.
 20 Q Do whatever you say?
 21 A No, sir.
 22 Q Colonel James Polan testified. He was
 23 part of your command staff?
 24 A Yes, Colonel James Polan would be here.
 25 He's on a cruise.

1 Q He testified by deposition?
 2 A He sure did.
 3 Q You read his deposition?
 4 A I did.
 5 Q You hired him at the BSO command level
 6 position?
 7 A I did. He's probably the most tactically
 8 knowledgeable person I've ever had the honor of
 9 meeting in my police career. His ability to
 10 understand and predict and be proactive with training
 11 and tactics and movement and changes is exemplary and
 12 honored.
 13 Colonel Polan was actually working in
 14 Milwaukee when I became sheriff and I called him
 15 immediately and said, Do you want to do this with us?
 16 And he had just moved to Milwaukee, had a new home.
 17 And then about seven, eight months later he heard how
 18 much fun and how productive we were being and he
 19 called me up and he goes, Another opening exists,
 20 count me in. Several months later an opening existed
 21 and he came down.
 22 Q Was he qualified for the job?
 23 A As qualified as anybody I ever worked
 24 with.
 25 Q You also had as part of your command staff

1 a lawyer as general counsel. Who was that?
 2 A Ronald Gunzburger.
 3 Q Talented lawyer?
 4 A Yes.
 5 Q Good civil servant, public servant?
 6 A Yes.
 7 Q Was he, Ron Gunzburger, your general
 8 counsel, part of your inner circle as command staff
 9 helping you make decisions?
 10 A Yes. Certainly anything that could even
 11 touch the realm of legalities I would absolutely
 12 converse with him.
 13 Q Did you have him in the room when you had
 14 command staff level meetings?
 15 A Yes.
 16 Q Discussed sheriff business?
 17 A All the time.
 18 Q Now, he resigned from the Broward
 19 Sheriff's Office as general counsel after you were
 20 suspended, right?
 21 A Yes. Well, no. He resigned months later
 22 to take another job.
 23 Q It was after you were suspended?
 24 A Yes.
 25 Q He continued in that position?

1 A Yes.
 2 Q And then he resigned voluntarily as you
 3 understand it?
 4 A Yes.
 5 Q And is he now working for, is it, the
 6 Mayor of Maryland or Baltimore?
 7 A I believe he works directly for Governor
 8 Hogan.
 9 Q So he's working for the Governor of
 10 Maryland?
 11 A He is.
 12 Q And by the way, do you know that Governor
 13 Hogan is a Republican?
 14 A I do know that, yes.
 15 Q Was there any partisan bent to your
 16 command staff?
 17 A We never -- I was a politician. Politics
 18 was my life. Not their lives. Their lives was about
 19 firefighting, about law enforcement, detention
 20 enforcement, and we never brought politics into the
 21 building. Never.
 22 Q Was your command staff composed of yes men
 23 and women? Just the bottle heads?
 24 A That's not my DNA. I wouldn't want a
 25 command staff like that.

1 A Yes.
 2 Q The two tragic events, these active
 3 shooter that lead to the loss of innocent lives,
 4 occurred under the gubernatorial watch of Governor
 5 Scott?
 6 A Both of them.
 7 Q Both. Fair to say that the Hollywood Fort
 8 Lauderdale Airport shooting wasn't as charged
 9 politically as the MSD Marjory Stoneman Douglas School
 10 shooting came to be?
 11 A That's a very fair statement, sir.
 12 Q After the Marjory Stoneman Douglas school
 13 shooting, when it became apparent to you that there
 14 were going to be a series of investigations and it was
 15 a major matter for the State of Florida to essentially
 16 evaluate and figure out how to stop this from
 17 happening again, you had communication with the then
 18 Governor's officer; didn't you?
 19 A I had communication directly with Governor
 20 Scott.
 21 Q And you offered Governor Scott the
 22 opportunity to answer any questions he had, give him
 23 your view as a constitutional elected official, Chief
 24 Law Enforcement officer in Broward County because
 25 Marjory Stoneman Douglas really was a matter that

1 Q You became, you, Sheriff Israel, became a
 2 issue during the 2018 campaign for Governor; didn't
 3 you?
 4 A I did.
 5 Q And was that effectively announced by the
 6 then candidate now Governor that you were a campaign
 7 issue?
 8 A Yes.
 9 Q In fact, the Governor, then candidate for
 10 Governor, campaign for Governor using you as an issue?
 11 A He said, I would suspend that sheriff. To
 12 this day I've never met or had a conversation with
 13 Governor DeSantis. I'm 63 years old, I spent 40 years
 14 in law enforcement and sadly he didn't even think it
 15 was important enough for me to fly to Tallahassee or
 16 meet him somewhere to discuss my views, the facts that
 17 I knew, instead of all these false narratives that are
 18 out there. We never had a chance to sit down and for
 19 me to explain these things about communication and
 20 training and tactics and policies and procedures. And
 21 to this very day I think I deserve that opportunity.
 22 Q And you affirmatively not only made
 23 yourself available, affirmatively requested, I'd love
 24 to meet with you and talk about what you have been
 25 saying about me?

1 needed the attention of the State of Florida in
 2 addition to Broward County, right?
 3 A Yes, Governor Scott and the President and
 4 the First Lady sat in my office, and I assured them
 5 they would have full cooperation of the Broward
 6 Sheriff's Office. Governor Scott was very involved,
 7 was very concerned. And then when he called me a
 8 short time later, he told me that he thought it was in
 9 the best interest of the state to have FDLE to do an
 10 investigation regarding the law enforcement response,
 11 I told him he would have my full cooperation. The
 12 Director for, still current Director for FDLE,
 13 Director Swearingen, called me and told me what some
 14 of the parameters would be and asked me not to get
 15 involved, not to have our agency get involved. And he
 16 was absolutely right. First of all, the credibility
 17 with Broward County, the public was going to believe
 18 in something if it was done by another agency not
 19 called Broward Sheriff's Office. When the Marjory
 20 Stoneman Douglas Commission arose, I had a very
 21 similar conversation with the Chairman, Sheriff
 22 Gualtieri, and he asked us to stay away from certain
 23 things and not to overlap and not to read the Officers
 24 Bill of Rights, not to Garrity them. And I completely
 25 agreed. And we were good neighbors and we cooperated.

1 As you heard Detective Curcio say today, we worked
2 hand in hand. We did whatever we could as a
3 collateral agency to assist in these investigations.
4 I'm a very transparent sheriff, and that's how I
5 demanded our agency be.

6 Q Did you receive a commitment from then
7 Governor Scott that no decisions would be made about
8 BSO or it's leader, you, without first having an
9 opportunity to confer?

10 A Yes. Actually, my name really never even
11 came up. Governor Scott told me of the investigation.
12 And he said whatever was going to happen would happen
13 after the investigation was over, he had a chance to
14 sit down with his staff, like any leader would,
15 analyze it, read it, question me about it and then
16 make whatever appropriate decisions he had to make.
17 But you could just imagine how demoralizing it was to
18 me and my family to here in March, two months --
19 investigation hadn't even commenced, and I hear a
20 candidate for Governor saying I'll suspend that guy.
21 That's not how America should be run.

22 Q When that first happened, that the
23 candidate makes this statement, do you say to the then
24 Governor something about if this is the decision for
25 you, I'll answer any questions you have, let you know

1 what's going on, make it clear that you were available
2 to help?

3 A I remember having that conversation, but
4 not with Governor Scott. I just can't recall who I
5 had it with. But Governor Scott and I, I don't
6 believe I ever had a conversation with Governor
7 DeSantis's name being mentioned, so I don't
8 specifically remember that.

9 Q And where was that political position
10 taken by the then candidate when he said I'd suspend
11 that guy? Wasn't that at a Broward County event?

12 A I heard it three or four times. The
13 social media. What it is, my cell phone was -- my
14 text messaging was -- he said it a few times, but I
15 don't remember where he was the first time he said it.
16 But I know Broward County people were there because
17 they were the one texting me.

18 Q At anytime postelection, no more
19 candidate, did the Governor-elect or any of his
20 representatives reach out to you to schedule a meeting
21 to discuss what, if anything, would be done with you?

22 A Never.

23 Q Were you aware of reports that
24 postelection the Governor-elect strongly urged
25 Governor Scott to suspend you before he left office?

1 A I did hear that.

2 Q And did Governor Scott suspend you?

3 A No, sir.

4 Q You were elected as a Democrat, right?

5 A Yes, sir.

6 Q Governor Scott was elected twice as a
7 Republican for Governor and the third time for United
8 State Senator as Republican?

9 A He sure was.

10 Q You shared no party affiliation?

11 A No.

12 Q Did Governor Scott make you a political
13 issue at all ever?

14 A Never.

15 Q You're aware of Section 30.15 of Florida
16 Statutes. That's the sheriff's chapter and sheriff's
17 statutes on the power and duties of sheriff, right?

18 A I am.

19 Q And before you became sheriff you became
20 aware of it, studied up on it to learn your statutory
21 duties?

22 A I did.

23 Q In addition to your constitutional duties?

24 A Yes, and every newly elected sheriff comes
25 right up here to Tallahassee before you take office

1 before you're sworn in and you go to a 40-hour
2 "Sheriff School" where you learn about the state
3 statutes and the responsibilities as they affect you.

4 Q And who provides that guidance to elected
5 sheriffs?

6 A I think it was sponsored by the Florida
7 Sheriff's Association.

8 Q And that's an effort to get all Florida
9 sheriffs as you understand it up to speed on what is
10 expected of their duties as sheriffs of a county?

11 A Correct.

12 Q One of the statutory requirements in
13 Section 30.15 is that sheriffs shall "be conservators
14 of the peace in their counties."

15 A Yes.

16 Q Are you aware of that?

17 A Yes.

18 Q Is that a uniquely law enforcement
19 phraseology, conservator of the peace?

20 A I would say so.

21 Q Is that your understanding, that it has
22 meaning in the law enforcement sheriff's function?

23 A Yes. I wouldn't agree with the way
24 counsel espoused it today, but --

25 Q Well, let me ask you this. Sheriff's are

conservators of the peace under the statute?

A Yes.

Q And as part of Florida Sheriffs Association's 40-hour training for new sheriffs you learned about what sheriffs are supposed to do, what they're held responsible for?

A Yes.

Q Not just what the law obligates them to do, but what sheriffs are supposed to do by holding that office?

A Yes.

Q By the way, this requirement -- strike that.

This training done by the Florida Sheriff's Association, it's not mandatory. You were elected sheriff, you could tell them I'm not taking your training?

A I think it might be mandatory. I'm not positive about that. I think it might be in the state statute that an incoming sheriff has to attend a 40-hour block.

Q And you attended?

A Yes.

Q Along with other sheriffs?

A Yes.

A I did.

Q Did you act to be conservator of the peace in Broward County?

A Everyday.

Q Did you put processes and people in place to further the statutory requirement of conservator of the peace?

A I did.

Q And have you ever heard of any sheriff in the State of Florida who has said their role, their job is to make sure crime doesn't occur in their respective county?

A I never heard that.

Q Have you ever read a Florida Statute that says sheriffs are charged with the statutory responsibility to make sure no crime occurs?

A Never heard that.

Q Have you ever read any Florida court decision where judges for the Florida Supreme Court has held that sheriffs are going to be measured against whether they've prevented any crime from occurring in their county?

A I never read anything like that.

Q How about prevented horrible crimes from happening in their county?

Q And you heard the Governor's lawyer in opening remarks to the Special Master give a definition of conservator of the peace and it said -- I'd have to look in my notes because I wrote it down, but as best I can paraphrase conservator of the peace means preventing crime for occurring. Did the Governor's lawyer say that?

A He certainly did.

Q Is there any part of your understanding or training of sheriff that mandates that the sheriff has to prevent any crime from happening in his or her county?

A No. Special Master if I could prevent crime, I'd prevent Alzheimer's disease and cancer. That's not what the conservator of the peace means to me. It means giving your best every single day to taking a proactive approach instead of reactive approach in law enforcement. There was so many misstatements and untruths. I developed a training at Pompano Beach high school --

Q Sheriff, let me focus you --

A I'm sorry.

Q Conservator of the peace. Did you understand what is expected of you as conservator of the peace in Broward County?

A I never read that.

Q Did you do work as sheriff to try to prevent crime?

A I did, sir.

Q Give us some examples of what you did as sheriff to try to prevent crimes from happening or lessen the number of crimes?

A Well, I believe one of the first things I did is I created a squad called VIPER. The folks in the squad, they came up with the name VIPER. They wanted VIPER. They were going to get that -- it stood for Violence Intervention Proactive Enforcement. And through my reading, and I'm a reader, I found out that approximately 6% of the people in any county, not only Broward but any county in America, 6% of the people actually commit 69% of the violent crimes. By that I'm talking armed robberies, sexual batteries, armed burglaries, carjacking. And it made sense. So we started a unit that proactively went through investigative techniques after these 6% of the criminals in our county and we were able to bring violent crime way down. As far as misdemeanors, I don't support anybody committing a misdemeanor crime. But I believe in diversion for people who commit misdemeanors. I believe in second and third chances.

As I said, I'm a football coach. I also wanted to measure our success. I'm talking about misdemeanors. But I wanted to measure our success by the kids we were able to keep out of jail. Not in jail. And when I was criticized by some people for that, all we had to do was look at the recidivistic rates. And in Broward County the recidivism rate of adults is about 63, 64%. And the people we were able to arrest, but did not arrest and put into a civil citation program where their records go away if they complete 45 to 60 day course in anger management, narcotics, drugs, alcohol, the recidivism rate in this program is about 4 to 5%. So the young kids were getting it. I was told that if you don't arrest young kids, you can't bring violent crime down. We proved them wrong at the agency. Our men and women worked so hard and so diligently that they reduced violent crime and kept young people out of jail. And we got so many testimonials from parents. And that's just the way we did things, sir.

Q Fair to say that you were not able to eliminate crime in Broward County?

A Fair to say.

Q But you, the Broward Sheriff's Office kept detailed records of crime statistics in Broward

County?

A Absolutely.

Q Before your tenure and during your tenure?

A Absolutely.

Q Exhibit 18, Israel Exhibit 18, it's Bates stamped Israel 1659. I'm not going to make you an experts on these, but is Exhibit 18 representative of the type of statistics the BSO keeps on crime reports, crimes cleared in the collateral aspects of criminal law enforcement?

A It is indicative of that.

Q And is it fair to say that the crime statistics during your tenure tended and trended down?

A Due to the incredible work of our civilians, nonsworn and our sworn deputies and the leaders I put in place, those groups coming together, those statistics are accurate and we kept crime down.

Q There is lots of factors that affect the crime rate, right?

A Yes.

Q The clearance rate for crimes went up in Broward County?

A Yes.

Q Did efforts include working with other law enforcement agencies to assist them in the crime

fighting process?

A Yes. I think one of our biggest successes was we called it the BAT team. They named it. Stands for Burglary Apprehension. And we worked with the Coral Springs Police Department. They labeled theirs BARE. Burglary something. I don't remember what it was. But these teams would work together. And the work that these men and women did throughout Broward County -- because burglary is not a crime that stays within your boundaries. If somebody is going to burglarize one county or one city, he or she, if they find a victim, they're not going to stay within jurisdiction. And these teams working together, they had a major impact on burglaries, on arrests, apprehensions. You arrest a burglar, for the most part you'll get a man or woman who has done many, many crimes. Burglars don't do one crime. That's their job.

Q By the way, as elected sheriff were you attentive to the needs or the demands of the community?

A Very much so.

Q For example, were there ever some communities that expressed outrage that certain kinds of crimes were happening?

A Yes.

Q And as elected sheriff were you attentive to that?

A Yes. And because of that, and knowing that even before I became sheriff, I started what we call a Community Outreach Unit. And the Community Outreach Unit, another criticism that -- you know, the critics -- was they weren't police officers. And people said, We need boots on the ground. And I said, No, we don't need boots on the ground. We need people on the ground. So I matched people in communities, hired them with the Broward Sheriff's Office and put them back in their very community. The Jewish community, working with Kibbutz. The GLBT community. These people who are familiar faces there could go into a house, could go into a room not with a badge and gun, but with their hearts and minds and they can connect with people. And then we found out what are the problems in this community. The best leaders are the best listeners. So we would listen to the community and develop solutions in concert with the community. I wasn't a sheriff who told the communities this is how we solve a problem. Let's huddle up, let's get together and let's solve the problem together.

1 Q Is this what the conservator of the peace
2 does?
3 A Yes.
4 Q Was any of your sheriffing, any of your
5 exercise of law enforcement partisan in anyway?
6 A Never. I always said this, sir, I was the
7 elected democratic Sheriff of Broward County, but
8 anybody who knows me I was a sheriff for Republicans,
9 Democrats, Independents, African American, Hispanics.
10 I was the Sheriff for every single person in Broward
11 County because I loved our communities.
12 Q What's that exhibit in front of you?
13 A It looks like 1B or 18.
14 Q So Exhibit 18 is in front of you?
15 A Okay.
16 Q Is a compellation of statistics that trend
17 toward reducing crime and increasing successful
18 closing of crimes part of the job of conservator of
19 the peace?
20 A Absolutely.
21 Q Now, some of the statistics BSO keeps
22 involves the recovery of restitution and stolen
23 property?
24 A Right.
25 Q BSO keeps stats on that, too?

1 A That's correct.
2 Q And you would offer your input?
3 A Well, they would report to me
4 intermittently as they saw they needed my input, and
5 then, of course, before anything was signed, I would
6 get a complete review.
7 Q Fair to say that that's a negotiation?
8 A Yes.
9 Q They don't tell you this is what we want,
10 take it or leave it; you don't say this is what we
11 want, take it or leave it?
12 A That's not how it goes, no.
13 Q Did you as sheriff actively invite
14 municipalities to consider the sheriff's office as
15 part of their law enforcement source of solution?
16 A You mean municipalities that we did not
17 have when I became sheriff?
18 Q Correct.
19 A I've never had one conversation with any
20 city trying to solicit them. If they wanted us, they
21 knew how to get ahold of me.
22 Q So you didn't go out trying to be the only
23 law enforcement in Broward County?
24 A Never.
25 Q How could you be conservator of the peace

1 A Yes.
2 Q Is it fair to say those stats, Exhibit 18,
3 reflect that BSO recovered more stolen property,
4 recovered more valuables, recovered more victim things
5 trending upward?
6 A That's correct.
7 Q Is that the role of conservator of the
8 peace?
9 A That is one of roles.
10 Q And that's not a statutory definition,
11 right?
12 A No, it's not.
13 Q Is that your understanding of the duties
14 of a sheriff?
15 A Yes, sir.
16 Q Now, BSO also took over the municipal law
17 enforcement function of some municipalities?
18 A That's correct.
19 Q A municipality can have a police
20 department. But BSO, before you got there, after you
21 were suspended, has contracts with other governmental
22 entities to perform police functions?
23 A That's correct.
24 Q And a team at your office at BSO would
25 negotiate the contours of a contract?

1 where the Governor says your job is to prevent all
2 crime and not be able to exercise all the law
3 enforcement function in Broward County?
4 A It's an illogical statement, sir.
5 Q You understand that the Constitution of
6 the State of Florida has a position of sheriff, but
7 also authorizes municipalities to exercise law
8 enforcement function within their municipalities?
9 A I do.
10 Q Did you ever fight that or prevent
11 municipalities from exercising law enforcement
12 function because you were the conservator of the peace
13 and had to prevent every crime from occurring at least
14 according to the Governor?
15 A No.
16 Q There are also governmental agencies in
17 Broward that have governmental authority that does not
18 ordinarily reach the BSO; isn't that right?
19 A That's right.
20 Q We have an airport?
21 A Yes.
22 Q Fort Lauderdale International Airport?
23 A Yes.
24 Q And there is a seaport?
25 A Yes.

1 Q Those are governmental entities part of
2 Broward County; aren't they?

3 A Yes.

4 Q And did Broward County in your tenure,
5 before your tenure have contractual agreements with
6 those two ports, airport and seaport?

7 A Yes.

8 Q And to those contracts, were those, let's
9 say, seriously negotiated by governmental entities?

10 A Yes.

11 Q BSO and Broward County Aviation Division
12 for the airport?

13 A Well, I don't know if it would be BSO and
14 Broward County Aviation Division. It might have been
15 BSO and the County Administrator because the Aviation
16 Division reports through our County Administrator, so
17 she may have done the negotiations. I don't know
18 which group did the actual negotiations.

19 Q Okay. Well, you know that part of the
20 Israel exhibits include the actual contracts entered
21 into to perform law enforcement function for Broward
22 County entities?

23 A Yes, that's correct.

24 Q And you're aware of those?

25 A Yes.

1 Q I'm not going to ask you to go through
2 them. They're lot of legal. But fair to say those
3 were very seriously vetted and negotiated by people
4 who understand the responsibilities of government?

5 A Absolutely.

6 Q Understand the duties of government?

7 A Absolutely.

8 Q Understand the necessity of having
9 effective law enforcement for a governmental entity?

10 A Yes.

11 Q You know that in Broward County the Fort
12 Lauderdale Airport could, if it wanted to, have its
13 own police force?

14 A It could. It could expand the police
15 force. They could pay us more money and have more or
16 less Broward County Sheriff's Office.

17 Q Let me take this a step at a time.

18 A Okay.

19 Q If Fort Lauderdale Hollywood Airport, the
20 decision of the Broward County Administrator was we
21 don't want to deal with the sheriff, we want our own
22 law enforcement agency; it could do that?

23 A Of course.

24 Q Same with the seaport?

25 A Of course.

1 Q But Broward County contracted with BSO to
2 provide that law enforcement function?

3 A Correct.

4 Q Did BSO at anytime under your sheriffship,
5 under your status as sheriff breach or not fulfill
6 either of those contracts even for a minute?

7 A Not even for a minute.

8 Q Now, the Governor claims that one of the
9 reasons you were neglectful of your duty or
10 incompetent is because you decreased police personnel
11 at the Fort Lauderdale Airport at the time passenger
12 traffic was increasing. You read that?

13 A I have.

14 Q You've heard that?

15 A I have. It's untrue.

16 Q That's not true; is it?

17 A It's patently false. It's just untrue.

18 Q But the Governor has said one of the
19 reasons you're incompetent is because, citing to a
20 report, The number of personnel assigned to Fort
21 Lauderdale International Airport decreased at the time
22 passenger traffic increased. And that's just flat out
23 100% not true?

24 A It's not true.

25 Q By the way, was the Governor citing to a

1 draft, first draft not vetted after action report that
2 was never intended to be a statement of what happened
3 at Fort Lauderdale International Airport?

4 A All that report was was a first draft and
5 the Captain was instructed to just go gather
6 information, and over the course of months, if not a
7 year, we would have a series of meetings so command
8 staff people from other agencies could come together
9 to discuss -- I don't want to trivialize this. But he
10 was told to go out and get all the ingredients, but
11 our command staff and others would bake. It was never
12 our intention to release that. So criticizing that
13 report, calling even a report other than a rough
14 draft, that was released because of the law it was
15 considered public record and we released it. The
16 intention was gather facts, gather opinions, gather
17 everything and over a period of time. But certainly a
18 Captain wasn't going to dictate to an agency, to a
19 county a final report on one of the most critical
20 incidents in the history of the county. This was
21 going to be discussed and taken apart and peeled back
22 by a series of men and women over many, many months.

23 Q That's one fact that the Governor has
24 grasped onto from that first after action report draft
25 that is just flat out false?

1 A Flat out false.
 2 Q Fair to say -- and I'm not going to take
 3 you page by page through that first report, but that
 4 first report did as it's intended, gather as much
 5 information as possible so that the process could work
 6 its way of process that included vetting, yes?
 7 A Yes, sir.
 8 Q Determining accuracy?
 9 A Yes.
 10 Q Determining importance?
 11 A Yes.
 12 Q Bringing in specialized individuals who
 13 knew a particular function?
 14 A Yes. That first report had no SME,
 15 subject matter expert. Not one subject matter expert
 16 had weighed in. This was going to happen over a
 17 period of time. And had the Governor's attorney or
 18 the Governor invited me up or spoke to me, all of
 19 these things could have been explained.
 20 Q And then the assignment was it to Captain?
 21 A Cedenio?
 22 Q No, Captain Cedenio did the first report.
 23 A Diefenbacher.
 24 Q Diefenbacher. That assignment to do the
 25 next level of review, was that a fix-it job?

1 that as conservator of the peace that report was
 2 accurate and served the purpose for which it was
 3 written?
 4 A Absolutely.
 5 Q Was there any effort by you to sanitize
 6 the report or clean it up and make the BSO look great
 7 when the BSO shouldn't look so great?
 8 A No, sir.
 9 Q Was there any part of that -- strike that.
 10 The report uses a topical heading called
 11 Opportunities For Improvement.
 12 A Yes.
 13 Q Is that what's typical of reports of this
 14 type?
 15 A Very typical.
 16 Q Now, opportunities for improvement, to
 17 some that sounds like a measured criticism with some
 18 ability to motivate people going forward; is that the
 19 intention of an opportunity for improvement?
 20 A The report, the word, the term opportunity
 21 for improvement is just that. An opportunity to see
 22 things that you could have done better, improve upon
 23 them, make some changes because these are -- counsel,
 24 can I speak about the actual airport, what was going
 25 on regarding that report?

1 A No.
 2 Q Was that the normal process?
 3 A It was the second step in the process. It
 4 was just the second step.
 5 Q Now, there is testimony in the record,
 6 undersheriff -- the undersheriff was Steve Kinsey?
 7 A Yes.
 8 Q The undersheriff testified without
 9 contradiction that the final report known as the
 10 critical incident report issued and published was his
 11 final work that you signed off on?
 12 A Yes.
 13 Q And he testified that he did it after it
 14 worked its way up to him and that report is his that
 15 you had no directory involvement in telling him write
 16 this, don't write that, exclude this, include that?
 17 A That's so true.
 18 Q Is that correct?
 19 A That's incredibly accurate. My
 20 involvement with him was when it was done, he came in
 21 my office and he gave me a complete briefing and he
 22 took me through that report from A through Z in a
 23 comprehensive eloquent manner. He always does. And
 24 then I signed off on that report.
 25 Q Did you in your role as sheriff determine

1 Q Let me -- I'm going to get to that.
 2 A Okay.
 3 Q Was there any part of the final report,
 4 the critical incident report -- and by the way, just
 5 so we're referring to the right one, Special Master,
 6 it's Exhibit E. Governor DeSantis Exhibit E is the
 7 final report known as the Critical Incident Report.
 8 I can show it to you if you need to. Do
 9 you need to see it?
 10 A No, sir.
 11 Q Is there any part of that final report,
 12 the final report that was whitewashed?
 13 A None.
 14 Q Does the report offer opportunities for
 15 improvement on the part of BSO?
 16 A It certainly does.
 17 Q The process of doing an after action
 18 review getting to a critical incident report, BSO is
 19 not the only agency that was involved in the Fort
 20 Lauderdale Hollywood International Airport shooting?
 21 A No, we weren't.
 22 Q Did other agencies of which you are aware
 23 go through the same exercise?
 24 A I don't know.
 25 Q Did BSO in connection with its development

1 of an effective comprehensive report deal with other
2 agencies?

3 A Yes.

4 Q For example, BCAD, we talked about BCAD,
5 Broward County Aviation Division?

6 A We did.

7 Q That controls the airport?

8 A Yes.

9 Q Did BSO interact or intersect with BCAD
10 over the after incident evaluation?

11 A Yes.

12 Q Was that important?

13 A Very important.

14 Q How about with other parts of Broward
15 County like bus transportation; did BSO coordinate
16 with them for purposes of evaluating a critical
17 incident report?

18 A Yes.

19 Q Why?

20 A Because it was important to get from their
21 perspective what was done right, what could have been
22 done better, what was seamless, what transportation
23 issues did we have, what communications issues did we
24 have. My job as sheriff was to bring all stakeholders
25 together so they could feel comfortable that they were

1 heard and that we were listening to them and they were
2 listening to us. And together the next time God
3 forbid this were to happen, we could do better.

4 Q Did BSO also intersect with other
5 responding agencies like the FBI or Customs or
6 Homeland Security in putting its critical incident
7 report together?

8 A Yes.

9 Q Why would you do that?

10 A Same reason, just to make sure that we're
11 -- it's like watching game film. You're not going to
12 get better if you don't take a real look at what you
13 did right, what you did wrong. When you go back and
14 find out the things we did right that day, we
15 reinforce that, continue to train that way. If there
16 were things we could have done better or another
17 agency could have done better, then you want to let
18 them know about that and make changes. You don't want
19 to do the same thing over and over again. The poet
20 called that insanity. We want to improve, and the
21 only way to improve is to have heartfelt honest
22 discussions and having thick skin and listening to
23 what other people say about your agency and what you
24 say about theirs.

25 Q Is that what your experience of what a

1 critical incident report or after incident report is
2 supposed to do?

3 A Yes.

4 Q And has BSO done a lot of these?

5 A Yes.

6 Q Any of that magnitude up to this time?

7 A Not up to the time of the airport, no.

8 Q Is doing a critical incident report
9 evaluating the good and the bad part of being
10 conservator of the peace for you?

11 A Absolutely.

12 Q Since we are talking about the Broward
13 Fort Lauderdale Airport, you mentioned that you had
14 experience as a SWAT officer?

15 A Much experience.

16 Q Even a SWAT commander?

17 A Yes.

18 Q SWAT is a very specialized area of law
19 enforcement?

20 A Very specialized.

21 Q Highly trained?

22 A Highly trained.

23 Q Has there ever been, as far as you know, a
24 requirement that all deputies be trained like SWAT
25 officers?

1 A I wouldn't allow that.

2 Q Well, first answer the question.

3 A No.

4 Q Has the Governor's office ever called on,
5 as far as you know, any sheriff and said, Hey, post
6 Pulse I want you to train every law enforcement
7 officer as a SWAT officer, as far as you know?

8 A No, sir.

9 Q As conservator of the peace as elected
10 sheriff is that a good idea?

11 A No.

12 Q Why not?

13 A Because you need to put round plugs in
14 round holes. I mention sport analogies. LeBron James
15 is one of the greatest basketball players on our
16 planet, and Tom Brady is one of the greatest
17 quarterbacks. You can't switch them and expect the
18 New England Patriots and the Lakers to be just as
19 great. You've got to find out what people are good
20 at, what they have a zeal for, what they're meant for.
21 Like what we decided to do with our professions. You
22 want to give a SWAT operator an AK and carnal gear,
23 and you want to let them do their thing. You want to
24 have people who want to be with children gravitate to
25 a school resource officer. People want to

1 investigate, you put them toward homicide and robbery.
2 You want to put a round plug in a round hole, and
3 that's what leaders do.

4 As a SWAT team commander I can tell you
5 there is an equilateral triangle that we have in every
6 SWAT practice. It's a circle and it's divided in 3.
7 We have education intelligence, firearm proficiency
8 and physical fitness. And each of them to be an elite
9 SWAT operator is 33 and a 3rd percent of their makeup.
10 If they're very intelligent, hardworking people and
11 they're incredibly physically fit, but they can't
12 shoot, they can't be on the SWAT team. They have to
13 have all three. They're unique Type A personality
14 people. And SWAT operators are not necessarily going
15 to be good at -- not that they can't, but they're not
16 necessarily going to be good at other aspects in the
17 agency. And people who excel at other aspects in the
18 agency are not going to be able to say, okay, here's
19 your helmet and gear and go be a SWAT operator. It
20 just doesn't work like that.

21 Q Prior to becoming an elected sheriff, you
22 had no supervisory responsibility over SRO, school
23 resource officers; had you?

24 A No.

25 Q But when you became sheriff, did you learn

1 what an SRO was?

2 A Absolutely. Well, from Fort Lauderdale I
3 knew their job description.

4 Q Did you consider SRO to be yet another
5 specialized division within Broward Sheriff's Office?

6 A I didn't really consider it to be
7 specialized. I mean, you had to apply for it. But it
8 was you're a deputy sheriff. And any day I wanted to
9 or any of our leaders wanted to, we could have taken a
10 patrol deputy off the road and put him or her in
11 school if they had the proper training and
12 qualifications and interchange them. They were
13 certainly an important component and are an important
14 component of our cities and our county, but I didn't
15 see them as higher or lower on the scale of any
16 deputy. They were deputy sheriffs.

17 Q Did you, as you understood, the SROs go
18 through specialized training for SROs?

19 A Yes.

20 Q And did you make sure that happened under
21 your watch?

22 A Yes.

23 Q While you were sheriff was SRO status
24 designed for the dregs of the BSO?

25 A Never.

1 Q Not that BSO has any dregs, but sort of an
2 after effect?

3 A Never.

4 Q Deputies who couldn't do it were sent to
5 SRO?

6 A Never.

7 Q In fact, was your leadership mindset just
8 the opposite?

9 A Just the opposite.

10 Q SROs are important?

11 A Absolutely.

12 Q Now, BSO also has contracts with the
13 Broward School Board?

14 A We do.

15 Q And that's another governmental agency?

16 A It is.

17 Q Broward School Board could have, if it
18 chose, have its own law enforcement department?

19 A They do. A lot of people think we provide
20 all the school resource officers. I think we might
21 have 60% of the schools in Broward County, and they
22 contract with just about every other city that has
23 schools.

24 Q And Broward School Board also has its own,
25 although small, its own law enforcement division?

1 A It certainly does.

2 Q Now, school boards can have their own
3 police force?

4 A They can.

5 Q In the state of Florida?

6 A Dade County does.

7 Q Governmental agency, they can have sworn
8 certified FDLE certified law enforcement officers?

9 A They can.

10 Q And as far as you understand, law
11 enforcement officers who work for a school board are
12 required to have exactly the same training as BSO
13 deputies for requirements?

14 A Yes.

15 Q Now, you mentioned Miami-Dade County has a
16 school board that has its own police force?

17 A That's correct.

18 Q The Miami-Dade Police Department, the
19 equivalent of the County Sheriff's Office, does not
20 have law enforcement responsibilities for schools in
21 Miami-Dade?

22 A That's correct.

23 Q But you contract with Broward schools, and
24 that contract includes specifications for which
25 schools get SROs, how many SROs, right?

1 A That's correct.

2 Q Now, BSO doesn't have the unilateral

3 ability to say to Broward County schools, ah, no, no,

4 no, we want five officers in this school, seven

5 officers in that school, this school, nah, we don't

6 need one, we need two over there?

7 A We don't have that ability.

8 Q But do you negotiate -- are you aware of

9 the negotiations with Broward schools over these

10 contracts?

11 A Yes.

12 Q Do you negotiate with Broward schools over

13 what is the sheriff's view of the best and work out an

14 agreeable solution?

15 A Yes.

16 Q If Broward County schools ever wanted to

17 enter a contract with BSO under your leadership that

18 didn't satisfy you or your leadership team as to the

19 needs and requirements, would you sign the contract?

20 A Could you repeat that?

21 Q If BSO had provisions in a contract that

22 you did not think allowed you to effectively exercise

23 your law enforcement function, would you sign it?

24 A No, sir.

25 Q What would they do if they didn't have BSO

1 over a barrel making them do a law enforcement

2 function? They'd have to find other resources?

3 A They'd have to find other resources.

4 Q That's because as a governmental entity

5 they have that power?

6 A Yes.

7 Q Broward Sheriff doesn't have that power --

8 A No.

9 Q -- to make them do something?

10 A No.

11 Q Fort Lauderdale, Hollywood.

12 MR. KUEHNE: Special Master, just in terms

13 of where we are, I have some time to go.

14 Remind when we you intend to break. Assuming

15 it's a good time?

16 SPECIAL MASTER: I intend to finish today

17 and not come back tomorrow, so we'll stay for

18 as long as we need to today.

19 MR. KUEHNE: Okay. Thank you.

20 BY MR. KUEHNE:

21 Q Fort Lauderdale Hollywood Airport contract

22 for law enforcement, did BSO provide the law

23 enforcement officers required by that contract?

24 A Yes.

25 Q And on top of that didn't BSO have other

1 officers who were at the airport even though they

2 weren't part of that contract?

3 A Detail officers.

4 Q Now, one of the heroes -- well, let me ask

5 you this. Do you consider Deputy Jesse Madrigal to be

6 a hero?

7 A You bet.

8 Q He testified at deposition that he's

9 embarrassed to be called a hero.

10 A Mm-hmm.

11 Q Does that surprise you?

12 A No, it doesn't. He is a hero. That's

13 uncontested. It does not surprise me that he would

14 not consider himself a hero. Here's a man who served

15 in the military. He did three tours of duty between

16 Iraq and Afghanistan and then just came back and he

17 just treated that day as if he just did his job.

18 Q And he's an aviation detail deputy, right?

19 A Yes.

20 Q He's a pilot?

21 A He's a pilot.

22 Q Works with the airplanes?

23 A He does. Helicopters.

24 Q And he's not trained as a SWAT officer?

25 A He's not.

1 Q But you became aware of his action at the

2 time of the airport shootings?

3 A Yes.

4 Q Fair to say 70 plus seconds the shooter

5 was in custody?

6 A In custody, handcuffed.

7 Q Deputy Madrigal went straight to where the

8 perceived shooting was to eliminate, obtain, surrender

9 or arrest the perpetrator?

10 A Yes.

11 Q Is that what he was trained to do?

12 A Certainly was.

13 Q Is that what BSO trained him to do?

14 A Yes.

15 Q He was recognized as Deputy of the Year by

16 the Florida Sheriff's Association for that heroism and

17 response?

18 A Yes, and then a year later by the incoming

19 Governor, the new Governor, Governor DeSantis

20 recognized him again for his heroism.

21 Q BSO had a contract for a number of

22 deputies assigned to the Fort Lauderdale Hollywood

23 International Airport that day, January 6, 2017, if

24 you don't remember the day?

25 A I do remember.

1 Q And in addition there were other BSO
2 officers there before the shooting ever happened, such
3 as Deputy Madrigal who was on detail?
4 A Right.
5 Q And there is also a whole array of non-BSO
6 law enforcement officers housed at and working at Fort
7 Lauderdale Hollywood International Airport?
8 A That's correct.
9 Q There is also federal security
10 professionals like TSA. Not law enforcement officers,
11 but certainly have a homeland security function at the
12 airport?
13 A That's correct.
14 Q Now, the Governor's office in claiming you
15 were incompetent and neglected your duty, says that
16 BSO didn't have full scale active drill, active
17 shooter scenarios at Fort Lauderdale Airport. Do you
18 remember that the Governor's lawyer said that?
19 A Oh, I remember crystal clear.
20 Q And the Governor has written that in
21 papers?
22 A Oh, yes.
23 Q And the Governor said you neglected your
24 duty because everybody knows you have to have full
25 scale active shooter training at the Fort Lauderdale

1 Saturday we want to do a full scale active shooter
2 training in Terminal 2 because we're inviting the
3 Governor to see this training; would it happen?
4 A It would not happen.
5 Q Complicated process?
6 A Complicated process. So much approval.
7 Q Lots of governance involved?
8 A Lots.
9 Q In fact, as far as you know, given your
10 knowledge and responsibility as Broward Sheriff, could
11 anybody individually make that happen like this?
12 A No.
13 Q But BSO did it?
14 A Yes, in concert with other people who
15 worked very, very hard with us to get it done.
16 Q Credit to a lot of people?
17 A Yes.
18 Q And was that active shooter scenario at
19 the airport and seaport large scale, big impact, was
20 that required by FDLE?
21 A No, it wasn't.
22 Q Or any agency?
23 A No, it wasn't. And I participated.
24 Q Did BSO also work on a joint active
25 shooter large scale training at the Miami

1 Airport; did you?
2 A Yes.
3 Q You did?
4 A Yes, sir.
5 Q Did the Governor call you up and say,
6 Sheriff Israel, can you tell me if you ever had these
7 active shooter full scale at the airport?
8 A No, I never had a conversation with the
9 Governor.
10 Q You also had a full scale active shooter
11 real life simulation of the seaport?
12 A We did.
13 Q That involved a terrorism scenario?
14 A Yes.
15 Q That involved numerous law enforcement
16 agencies?
17 A Yes.
18 Q Involved the airport itself?
19 A Yes.
20 Q In fact, you had to get permission from
21 the airport BCAD to do this?
22 A Yes.
23 Q Is that easy to do?
24 A No.
25 Q If you were Broward Sheriff and said next

1 International Airport?
2 A We did.
3 Q How did that come about?
4 A A lot of training and a lot of practice
5 and a lot of agencies coming together to do that.
6 Q Why in the world would Broward County
7 Sheriff's Office, conservator of the peace in Broward
8 County, have any interest in going down to Miami-Dade
9 County to do an active shooter live action scale
10 training exercise at MIA?
11 A Because I wanted it done. I wanted our
12 people to train as a conservator of the peace. And
13 you get an opportunity to go to any airport, if I
14 found out the Orlando Airport was doing active shooter
15 training and they invited some of our teams there, I'd
16 send them up there. That training is so hard to come
17 by and it's invaluable and we push that.
18 Q Operation Vigilant Port is what it was
19 called?
20 A That's what it was called.
21 Q Was there any, in your view as sheriff,
22 lack of training in any of the mandatory or even
23 suggested areas for officers assigned at the airport?
24 A No.
25 Q Were officers assigned to the airport

1 because they were lackadaisical or didn't seriously
2 take their law enforcement responsibilities?

3 A Certainly not.

4 Q Another reason the Governor suspended you
5 claimed for incompetence or neglect of duty is because
6 that first after action report had an observation that
7 some of the deputies at the airport were lackadaisical
8 and were not attentive to their duties and
9 responsibilities; is that true?

10 A No.

11 Q Was there ever any finding that that was
12 the case?

13 A Never.

14 Q Was there ever any report anywhere that
15 deputies at the airport or seaport were lackadaisical,
16 didn't take their job seriously?

17 A From what the Undersheriff Kinsey told me,
18 that was one person's takeaway, his thought. It was
19 very appropriate that he put it in because it needed
20 to be looked at, it needed to be investigated and we
21 don't take things that may be tainted -- you know,
22 we're not going to cleanse the information until we're
23 able to investigate it and look into it. So it was
24 very appropriate it went in there. But when the
25 undersheriff and his staff found it to be inaccurate,

1 gunshots were coming. People were hiding under cars.
2 A woman was bit by a canine. When people saw her
3 bleeding from the parking garage, they started making
4 calls, a woman was shot, a woman was shot. So I'm
5 thinking in my mind as a leader this is the Twin
6 Tower, the South Tower, the North Tower, this is the
7 Pentagon, perhaps this is a multifaceted terrorism
8 attack. So I spoke to the airport director and said,
9 We need to clear this entire airport. We need to
10 close down the airport in the interest of safety. I'm
11 so proud of the fact that after we arrived only one
12 person was injured and not seriously. The
13 Undersheriff and I were together. In a series of
14 about two minutes three different women came up to us.
15 This is where people's mindsets were. Two woman were
16 crying and one was rather calm. One of the woman was
17 crying and said, My bandage is ripped; what do I do?
18 Another woman said, My dogs are in Broward County. If
19 I can't get out of here, how am I going to feed my
20 dogs. I'm getting goosebumps. The calm woman said, I
21 think my father was shot and killed. It was a series
22 of emotions. People were on planes. Firefighters
23 didn't know what to do. We had self-dispatching.
24 It's estimated that 4 or 500 law enforcement officials
25 from around the county, Tri-County area showed up to

1 it certainly wasn't going to be part of the final
2 product.

3 Q Now, you were not at the Fort Lauderdale
4 Airport when the shooting took place?

5 A No, shortly thereafter.

6 Q You responded?

7 A Oh, yes.

8 Q Is that part of being conservator of the
9 peace, for the sheriff to respond to an active shooter
10 scene?

11 A Yes.

12 Q Did you assist your officers, your
13 deputies and command staff in doing law enforcement
14 function at the airport?

15 A I didn't perform any law enforcement
16 functions per se, but as the leader of the agency I
17 was in the hip pocket of George Piro who's the SAC of
18 the FBI as he was in mine. And we worked together
19 seamlessly. He was handling the homicide scene. We
20 were handling the clearing of the airport.

21 Special Master, I don't get offended very
22 easily, but to hear Counsel this morning say there was
23 chaos and confusion at the airport, of course there
24 was confusion and chaos at airport. There were 20,000
25 people running haphazardly. People didn't know where

1 help because that's what cops are. They want to help.
2 And we needed to find places for them to go. And that
3 all appeared in the after action report.

4 But to say there was confusion or chaos,
5 did he think this was a bakery on a Saturday morning
6 at Publix? People were dead. People were dying.
7 People were confused. This is what happens at an
8 active killing situation.

9 Q Did there come a time when you were at the
10 Fort Lauderdale Hollywood International Airport that
11 the FBI took over as the lead on the investigation?

12 A Yes, they sure did.

13 Q Is that because terrorism might have been
14 involved?

15 A That is, sir.

16 Q You mentioned seeking to have the airport
17 closed down. Was that your decision to make?

18 A Yes. Well, it wasn't my decision to make.
19 I don't have the authority at the airport. But I told
20 the airport director we might have an active killer.
21 We need to shut down this airport in the interest of
22 public safety until we could clear. And we had to
23 arrange for -- I think there were 17 or 18 SWAT teams
24 that actually had to come up to clear the airport
25 before we could let people move about and make it safe

1 for people. The only thing I wanted to do that day is
2 make sure nobody else died.

3 Q With the concurrence of the FBI was the
4 airport shut down?

5 A Yes.

6 Q And was it your understanding that
7 shutting down the airport required FAA approval in
8 Washington, DC at the FAA Headquarters?

9 A I did not know that at the time. I know
10 that now.

11 Q You knew that after?

12 A I knew that after.

13 Q It took a lot of decision makers --

14 A Yes.

15 Q -- to make the decision to shut down a
16 center of commerce important for the United States,
17 not just Broward County?

18 A Yes.

19 Q And you understood that?

20 A I understood it.

21 Q Is there any part of the response that BSO
22 had at the Fort Lauderdale International Airport that
23 was inconsistent and did not fulfill your role as
24 conservator of the peace?

25 A No. If I could go back there, I'd have

1 five people alive. But other than those people who
2 perished, I wouldn't change a thing. As Colonel Dale
3 said here today, and I thank Counsel for agreeing with
4 him, We were so proud of our people. I never went
5 home feeling more proud to be part of an agency and
6 more proud of my patch. Law enforcement and BSO, they
7 were exemplary that day.

8 Q Was there any part of the airport incident
9 in anyway directly or indirectly that involved you
10 neglecting your duties of office?

11 A Well, like everybody else in the sports
12 bar, been called some names in my time, but in my
13 63 years on earth I've never been called incompetent
14 and I've never been called negligent. I'm a
15 hardworking studious person who cares deeply about the
16 community. And I know how incredibly serious it is.
17 These hearings are about taking my livelihood away
18 from me. But incompetent or negligent, no, sir.

19 Q The draft after action report has a
20 portion seized upon by the Governor in supposed proof
21 that you were incompetent and neglected your duty and
22 this is what it says, this is what the Governor says.

23 The initial draft report acknowledges that
24 the initial response was timely. But that there were
25 too many loose ends that allowed for confusion and a

1 deficient BSO airport district command greatly
2 contributed to unforeseen obstacles.

3 A It's just an untruthful statement.

4 Q Well, part of it is true that the initial
5 response was timely; you agree with that?

6 A Yes, I do agree with that.

7 Q The rest when prepared in that initial
8 report when that was vetted, was there any
9 confirmation of that observation?

10 A It was almost when I read that for the
11 first time it was almost like the Governor ordered the
12 word incompetent and negligent and the attorneys were
13 going to work backwards finding a place to put those
14 two words. It was the opposite of what happened.
15 It's the complete opposite.

16 SPECIAL MASTER: Counselor, I want to come
17 back and revisit the question you were asking
18 me before. How much longer is your direct
19 examination going to be this afternoon? I am
20 not trying to hurry you. I'm just asking.

21 MR. KUEHNE: Special Master, I had
22 anticipated that Sheriff Israel would testify
23 on direct for three hours. I still think
24 that's the case. But that was my anticipation,
25 that it would take him three hours to get

1 through the essentials of this. So I'm not
2 trying to belabor anything, but it's really
3 consistent with what I had expected from this
4 witness, or I am expecting from this witness.

5 SPECIAL MASTER: In view of that, I'm
6 going to reconsider what I had indicated to you
7 earlier. I'm going to conclude today fairly
8 quickly, come back tomorrow afternoon to
9 complete your direct examination and then with
10 cross-examination to follow.

11 MR. KUEHNE: That's fine.

12 SPECIAL MASTER: I know this final hearing
13 was scheduled for three days, so we have some
14 extra time. I was anticipating that we may, in
15 the interest of getting people moving back and
16 forth, to get concluded today. But I've
17 reconsider that and decided that I'd like to
18 conclude whenever you're -- in the not too
19 distant future conclude today and you come back
20 on direct tomorrow and we'll finish. That's my
21 better judgement now.

22 MR. KUEHNE: Thank you, sir. I think I
23 can close out this section quite quickly.

24 DIRECT EXAMINATION

25 BY MR. KUEHNE:

1 Q The Governor also states, again, as
2 justification -- now I'm going to read it.

3 The Governor's bench memorandum says,
4 "This deficiency was confirmed in the mindset section
5 finding that some personnel were not familiar with the
6 Fort Lauderdale Airport's environment and that the BSO
7 airport district must establish standard operating
8 procedures, SOP, to better meet and exceed emergency
9 expectations. The current standard leaves much for
10 improvement in establishing unified front for
11 combatting current active shooter and terrorist
12 trends."

13 Quoting from or excerpting from that
14 initial after action report, was that assertion made
15 part of the vetting process going from the initial
16 rough to a final report?

17 A I don't know. I don't think I've ever
18 read the initial one. I know I just -- I sat down
19 with the Undersheriff to go over the -- but the
20 statement's fictional.

21 Q You didn't have a thumb on what you wanted
22 the report to say?

23 A No, sir.

24 Q Is any of that statement accurate?

25 A No, sir.

1 "Joint agency disaster drills, threat
2 assessments, aviation tabletops, ICS exercises, and
3 annual BSO SWAT tactical airport training looks good
4 on paper, but how deep is such training rooted in the
5 initial layer of protection. Tabletop exercises, ICS
6 and disaster drills are not frequent enough and do not
7 go far beyond the placing of phone call, email, X or
8 online check to confirm readiness level and threat
9 compliance. These practices are infrequent and
10 extremely deficient in stimulating or preparing any
11 participant for what is to come." Hear that?

12 A I did. It's hurtful because, again, it's
13 untrue. Not only have we trained properly there,
14 but -- I don't want to belabor -- but because of our
15 relationship with the Navy SEALs, our SWAT team trains
16 yearly on Blackhawks in the middle of the night so
17 we're prepared to work with Homeland Security. We've
18 done everything we could to prepare for an
19 antiterrorism perspective. I'd like to talk about
20 what we did in Pompano.

21 Q We'll get to that. I'm just closing with
22 this.

23 A Okay.

24 Q As you understand it, was that initial
25 draft report vetted, examined participated in by

1 Q Was there an effort on the part of BSO
2 command to have an accurate yet complete critical
3 incident report?

4 A Yes.

5 Q Would it have been consistent with your
6 role as conservator of the peace to include portions,
7 facts in a critical incident report that were not
8 true?

9 A No.

10 Q Finally, before we break, the Governor
11 contends that among the other neglect of duty or
12 incompetence is this section of the initial draft
13 report. And I'm reading.

14 "The initial draft report continued to
15 find in an AOI under sense of urgency wherein the
16 event revealed weaknesses and unfamiliarity by many
17 involved."

18 Is that true?

19 A It's just not true. As I said, I mean,
20 you're critiquing -- they're critiquing a rough draft
21 that was one person's opinion of what happened before
22 everybody else got to examine it. It's bizarre. It's
23 not fair. It's doesn't lead to an accurate document.

24 Q And then the Governor's justification
25 includes this quote from that earlier draft report.

1 anybody who is charge of training?

2 A No.

3 Q By anybody who schedules tabletop
4 exercises?

5 A No.

6 Q By anybody who determines the appropriate
7 level of training for officers and specialized
8 sessions?

9 A No.

10 MR. KUEHNE: This is a convenient breaking
11 time, sir.

12 SPECIAL MASTER: That's fine for me.
13 Consistent with me changing my mind, we're
14 going to start tomorrow at 9 o'clock rather
15 than 8. I want to be consistent and change my
16 mind twice. So let's begin at 9:00 in the
17 morning.

18 Thank you very much. And for the record,
19 it's 5:40 on the 18th, and we're going to
20 conclude for the day.

21 (Whereupon, proceedings were continued in
22 Volume III.)

23 * * * * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, Doreen Mannino, Court Reporter, do hereby
certify that I was authorized to and did report in
stenotypy and electronically the foregoing proceedings,
and that the foregoing pages constitute a true and
correct transcription of my recording thereof.

IN WITNESS WHEREOF, I have hereunto affixed my
hand the 8th day of July 2019 at Tallahassee, Leon
County, Florida.

Doreen M. Mannino

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