

1 THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

2

3 IN RE:
SUSPENSION OF SHERIFF
4 SCOTT ISRAEL

5 _____:

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Wednesday, June 5, 2019
One East Broward Boulevard
Suite 902
Fort Lauderdale, FL 33301
4:56 p.m. - 6:24 p.m.

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14 DEPOSITION OF CAPTAIN JAMES DIEFENBACHER

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17 Taken before Carol Ann Kridos, Registered

18 Professional Reporter and Notary Public in and for

19 the State of Florida at Large, pursuant to Notice

20 of Taking Deposition filed in the above cause.

21

22

23

24

1 APPEARANCES:

2

3 On behalf of Governor Ron DeSantis via Skype:

4

5 EXECUTIVE OFFICE OF THE GOVERNOR
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9

10 On behalf of Sheriff Scott Israel:

11

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13 EXHIBITS

14 (No exhibits were marked during the deposition.)

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1 PROCEEDINGS

2 Thereupon:

3 CAPTAIN JAMES DIEFENBACHER

4 was called as a witness, and having been

5 first duly sworn and responding "I do," was

6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KUEHNE:

9 Q Please state your name and spell your

10 name.

11 A James Diefenbacher,

12 D-i-e-f-e-n-b-a-c-h-e-r.

13 Q Should I address you as captain?

14 A Sure.

15 Q Captain Diefenbacher, all right.

16 My name is Ben Kuehne. I am counsel for

17 Sheriff Israel in connection with senate review of

18 his suspension.

19 A Right.

20 Q So I'll be asking you questions about

21 that and just some background questions.

22 MR. KUEHNE: Mr. Primrose, would you

23 announce your appearance?

24 MR. PRIMROSE: Nick Primrose for

25 Governor Ron DeSantis.

5

1 BY MR. KUEHNE:

2 Q You are a sworn law enforcement officer?

3 A I am.

4 Q For how long?

5 A Since 1991. Just going on 28 years.

6 Q Well, thank you for your service.

7 What agencies have you worked with as a

8 sworn law enforcement office?

9 A Just the Broward Sheriff's Office.

10 Q So you went to the academy and became a

11 deputy sheriff in 1991?

12 A I did. Detention deputy sheriff.

13 Q You worked for detention for how long?

14 A I still do. I'm actually working as a

15 detention officer in the Department of Law

16 Enforcement.

17 Q Department of Law Enforcement?

18 A Right.

19 Q And how long have you held the rank of

20 captain?

21 A Approximately five years.

22 Q And what are your current duties and

23 responsibilities as a captain currently?

24 A I'm a captain of the policy and

25 accountability division which handles policy,

6

1 standard operational procedures, CJIS, which is

2 Criminal Justice Information Systems, compliance,

3 contracts with the state of Florida, FBI

4 compliance. Mainly anything governmental

5 compliance-related I handle.

6 Q And how long have you been in that

7 position?

8 A Approximately eight years.

9 Q Some before you became captain?

10 A Yes.

11 Q My focus for my questions are primarily

12 around the time of the Fort Lauderdale Airport

13 shooting, I'll refer to it as the "airport

14 shooting," which was in January of '17, going

15 through to the Marjory Stoneman Douglas High

16 School shooting, which was February of 2018.

17 A Right.

18 Q And I'll have some other questions

19 around that time, but that's going to be the

20 primary focus. Did you -- and I'll also ask about

21 the after-action report for the Fort Lauderdale

22 Airport shooting.

23 Did you have a role in the Fort

24 Lauderdale Airport shooting on the scene during

25 the time of the shooting and its aftermath?

7

1 A No.

2 Q Did you go to the Fort Lauderdale

3 Airport at any time during it being classified as

4 an active crime scene for the Fort Lauderdale

5 shooting?

6 A No.

7 Q Did you have a role in evaluating the

8 Fort Lauderdale shooting for purposes of an

9 after-action report?

10 A Yes.

11 Q What was your role in that regard?

12 A I am uncertain if it was Colonel John

13 Dale or if it was the Assistant General Counsel

14 approached me and said they had a public records

15 request from the Sun Sentinel newspaper asking for

16 the agency's draft AAR, which is an after-action

17 report, for the Fort Lauderdale shooting.

18 Q Okay.

19 A I was given a copy of the current draft

20 which was prepared by Major Cedeno and, using my

21 own words, they described it as emotional and

22 non-pragmatic and they wanted me to look at the
23 report to see if I could structure it more like
24 other agencies had structured their AARs.

25 Q And did you do that?

8

1 A I did.

2 Q And what was the result of your
3 fulfilling that task?

4 A The Sun Sentinel was insisting upon
5 immediate release of the draft. Our lawyers
6 negotiated ten days for me to review a box full of
7 materials. I then looked at Major Cedeno's draft
8 of the AAR and I added or changed the structure.
9 Before doing so, I researched several other AARs
10 from other airport shootings, Sandy Hook tragedy,
11 some FAA AARs. The one I settled upon was one
12 offered by the United States Army and I structured
13 mine based on their recommendations.

14 Q Did your research of those other AARs or
15 the type of document you've described come because
16 of a decision by you or were you directed to look
17 at those items in particular?

18 A That was my decision.

19 Q Okay. You researched other AARs
20 involving scenarios that you thought would be

21 helpful in guiding you in the format --

22 A Correct.

23 Q -- of an AAR?

24 A Correct. I had never written an AAR in

25 that grand a scope so I looked to others to find

9

1 examples and I selected the format that I felt

2 would work best for us.

3 Q What did you understand as you were

4 performing this task the purpose or function of an

5 AAR to be?

6 A Before or after I read the others?

7 Q In the entire process.

8 A In general? Basically you evaluate what

9 happened based on the facts, based on reports,

10 based on any evidence collected. You examine how

11 you responded to the event and you identify areas

12 of improvement or you identify areas that you did

13 well. Basically pragmatically take the facts and

14 list them in a time -- I found that listing them

15 in a time frame as they happened was the best way

16 to explain this very complex event.

17 Q Was your effort to do this job an

18 effort -- an attempt to accomplish what you

19 understood to be the purpose of an AAR?

20 A What I understood, yes. It was never

21 intended to be an AAR, it was intended to be a
22 draft so that the command could examine the facts
23 in a different format than what Major Cedeno had
24 presented.

25 Q And did you understand from your

10

1 research and review that an AAR in general is
2 reviewed by several layers of reviewers?

3 A Of course. My review would be the very
4 lowest. Mine is the collection of all of the
5 facts. I spoke with many different entities that
6 had participated in the event, including Broward's
7 emergency management agency or organization, the
8 county's ORCAT division, which is the radio
9 system, and I got their input and I included their
10 input in my draft of the AAR.

11 Q Were you told by whoever gave you this
12 assignment, I think you mentioned Colonel John
13 Dale or maybe somebody else, what your draft was
14 to include or contain?

15 A No. I did consult with them when I
16 found large issues that were not discussed in the
17 original AAR. I also discussed law enforcement
18 sensitive information, whether I should include it
19 or not, which included strategic planning to

20 respond to such events, and they provided
21 guidance.
22 Q Using the term "guidance," did you
23 consider it to be just that, guidance, or did you
24 feel that you were being directed to include
25 something or exclude something that was not your

11

1 choice?

2 A This being my first major AAR, I
3 considered it a directive. I did not have the
4 experience to render a professional opinion as to
5 whether it be included or excluded.

6 Q Were you able to finish your project
7 within the negotiated time frame of ten days or
8 so?

9 A Barely.

10 Q Okay. And what was the result of you
11 finishing that project?

12 A The Sun Sentinel published an article.
13 Basically they published the entire article with
14 very few redactions for law enforcement privilege.

15 Q Okay. And that's something that was --
16 that privilege assertion was something done by BSO
17 or BSO's counsel?

18 A Correct, it was BSO's counsel and
19 myself. We redacted any statutorily allowed

20 matters, such as plans to respond to such events.

21 Q Okay. Did you understand that at some
22 point a final version of the after-action report
23 for the Fort Lauderdale shooting was done?

24 A Oh, I expected several meetings to go on
25 after my initial. As I said, mine was the basic.

12

1 I expected there to be several groups that would
2 meet to examine the evidence more thoroughly. Ten
3 days is not an appropriate amount of time to speak
4 with people and to examine events. I expected
5 months of examination before anything should be
6 published.

7 Q And is it your understanding that's what
8 happened?

9 A Yes. I was not involved in them, but
10 that was my expectation.

11 Q Your expectation. And as it turns out,
12 you became aware that a final report did issue
13 sometime -- significant time after your
14 preparation of the early draft?

15 A Yes. I heard a report was published,
16 but I never read it.

17 Q Was your early draft intended by you to
18 be the final determination of the after-action

19 report?

20 A No.

21 Q Did you expect and anticipate that
22 others at the BSO at various levels would have a
23 role in revising, redrafting, editing a report
24 until it got to final form?

25 A Yes.

13

1 Q Do you know what the approval process
2 was used by the BSO to get that after-action
3 report into its final form?

4 A No. I was at one initial meeting where
5 they were setting up subject matter experts to
6 take my materials and to vet them.

7 Q What did you understand to be included
8 in subject matter experts?

9 A SWAT team participants, ORCAT experts.

10 Q How do you spell ORCAT?

11 A O-R-C-A-T. It's the Office of Regional
12 Communications and Technology.

13 Q Okay.

14 A They examine basically radio and
15 dispatch function.

16 Q And is that part of the BSO?

17 A No, it's part of Broward County
18 Government.

19 Q Broward County?

20 A Yes.

21 Q And you understand that the radio system

22 used by BSO is a county system?

23 A County owned, yes, and operated.

24 Q County owned and operated. And that

25 other law enforcement agencies besides BSO are

14

1 users of that system?

2 A That was in my report, yes, that it was

3 overutilized, yes.

4 Q Did you understand in preparing your

5 draft report that Broward County had been in the

6 process of upgrading and improving the radio and

7 communication system?

8 A I am very aware of it.

9 Q And that process continues to this day?

10 A It is laborious and it is very

11 difficult, yes.

12 Q Did you understand at the time of doing

13 your draft report that the Broward Sheriff's

14 Office could not on its own implement the

15 equipment and the operations to run a countywide

16 communication system?

17 A Yes. We did not have the ability or the

18 statutory -- actually, it's by county ordinance.
19 And they changed the county charter to transfer
20 those functions to the county government and away
21 from the sheriff.

22 Q Right. You understand that the county
23 charter, the Broward County Charter actually
24 requires that the county perform the function of
25 operating a countywide emergency communications

15

1 system?

2 A I do.

3 Q And that Broward County, like other law
4 enforcement agencies, is but a user of that
5 system?

6 A Yes. We are a client is what they call
7 us.

8 Q Client?

9 A Yes. As are every other municipality.
10 As is every other municipality. I've heard the
11 word "customer" also, we are a customer.

12 Q Client and customer.

13 After you prepared your draft of the
14 Fort Lauderdale Airport shooting After-Action
15 Report and had that meeting that you described as
16 including a discussion of subject matter experts,
17 did you have any other active involvement in

18 connection with the Fort Lauderdale Airport

19 shooting?

20 A No.

21 Q Let me move to the Marjory Stoneman

22 Douglas shooting on February 14th -- Marjory

23 Stoneman Douglas High School shooting February 14,

24 2018. Did you have any on-the-scene

25 participation?

16

1 A No.

2 Q Did you respond to the scene of the

3 school during the time it was considered an active

4 crime scene?

5 A No.

6 Q Did you respond to the school after it

7 was no longer an active crime scene to conduct any

8 investigative work?

9 A No.

10 Q On the day of the Marjory Stoneman

11 Douglas school shooting, were you working in your

12 law enforcement capacity?

13 A Yes.

14 Q What was your function at the time?

15 A I had heard of the active shooter call.

16 I responded to the sheriff's emergency operation

17 center and provided the center with staffing. I
18 called all available staff in my division and
19 those of the training division and had them man
20 telephones and monitor the radios.

21 Q Was that a BSO expected response to an
22 active shooter scenario such as the MSD High
23 School shooting?

24 A It is my expectation.

25 Q Your expectation?

17

1 A Yes. That's why the SEOC, the sheriff's
2 emergency operations center, that's what its
3 purpose is. So I was being a divisional head and
4 ensured that they had the proper staffing. There
5 was staff there. I just wanted to make sure they
6 had enough, so I provided additional staff.

7 Q So you augmented the existing staff?

8 A Correct.

9 Q Were the people who worked the SEOC in
10 your view capable of handling the operations at
11 that center?

12 A Certainly.

13 Q Did you oversee any of that work at the
14 SEOC?

15 A No.

16 Q Besides making certain that the SEOC was

17 appropriately staffed, did you have any other
18 function that day, the day of the MSD High School
19 shooting?

20 A No.

21 Q Did you monitor any radio traffic of law
22 enforcement agencies responding to or
23 participating in the MSD shooting?

24 A Yes.

25 Q And that was in your capacity as an

18

1 officer --

2 A Yes.

3 Q -- law enforcement officer?

4 Did you understand that numerous law
5 enforcement agencies were in some way responding
6 to or participating in the MSD shooting?

7 A I was simultaneously monitoring the
8 radios and watching the televisions in the SEOC.
9 So I knew there were other law enforcement
10 agencies there. I could not hear them on our
11 radio system.

12 Q Okay. Were you at all aware of any
13 deficiencies in the radio system that was used on
14 the day of the MSD shooting?

15 A I was.

16 Q Were those deficiencies matters that
17 were known at the time?

18 A Yes.

19 Q As the result of an antiquated
20 county-operated radio system?

21 A I can characterize it as that, yes.

22 Q Okay. Did you assist law enforcement
23 officers, including those at the SEOC, in any
24 work-arounds to accommodate deficiencies in the
25 radio towers?

19

1 A We do not have that power to do so.

2 Q Okay. Did you provide any direction to
3 any officers or emergency responders to go to the
4 scene of the MSD shooting?

5 A No. But I did hear a good staging plan
6 and I heard dispatching to staging. And the
7 on-site global command vehicle was in my opinion
8 effective in taking people off the main channel
9 and putting them on the tactical and staging
10 channels.

11 Q And you were able to learn of this
12 activity from your -- from wherever you were that
13 day?

14 A Correct. I could listen to all three
15 channels because we had all three on and I can say

16 that this is an improvement over the tapes I

17 listened to of the FLL shooting.

18 Q Meaning you had as part of your

19 after-action report draft preparation listened to

20 recordings of communications?

21 A I had.

22 Q And here for MSD, you were listening in

23 real time as they were taking place?

24 A Correct.

25 Q And you were able to identify in your

20

1 experience improvement in the means and

2 effectiveness of communications?

3 A From my comparison of the tapes of the

4 FLL shooting and the actual MSD shooting, I saw

5 improvement.

6 Q I'm going to direct your attention now

7 to the Broward County Sheriff's Office, the

8 Broward Sheriff's Office active shooter policy.

9 A Um-hmm.

10 Q And I'll be quoting for you standard

11 operating procedure 4-37 denominated active

12 shooter.

13 A It should be SPM 4.37.

14 Q Yes, SPM.

15 A Okay.

16 Q Tell me what SPM stands for.

17 A Sheriff's Policy Manual.

18 Q Sheriff's Policy Manual. And I'm going
19 to quote paragraph C of the BSO policy 4.37 for
20 you. If you need to see it, I've got a copy here,
21 but let me read it to you.

22 "If real time intelligence exists the
23 sole deputy or a team of deputies may enter the
24 area and/or structure to preserve life. A
25 supervisor's approval or on-site observation is

21

1 not required for this decision."

2 You understand that to be then-existing
3 4.37 at the time of the MSD shooting?

4 A I do.

5 Q As captain of policy and accountability,
6 do you have knowledge of and access to the BSO
7 operating procedures?

8 A Yes. I facilitate all changes,
9 amendments and publication.

10 Q And is that SOP 4.37 generally available
11 to BSO staff, including sworn law enforcement
12 officers?

13 A Yes.

14 Q Are you aware of training done by BSO on

15 the active shooter/active killer scenarios?

16 A Yes.

17 Q How are you aware of that?

18 A I witnessed it and I saw schedules.

19 Q Okay. So "witnessed" it meaning

20 participated in active shooter training?

21 A No. I actually was at a -- went to view

22 it with an assessor, a state assessor that was

23 on-site to show him an active training session.

24 Q Explain the role of a state assessor in

25 observing an active trained -- active shooter

22

1 training session as you understood.

2 A We are accredited through the Florida

3 Commission for Law Enforcement Accreditation.

4 Every three years they send a team of assessors to

5 evaluate whether an agency is compliant with all

6 of the standards of the accreditation of which the

7 agency is applying.

8 Q In your role as captain of policy and

9 accountability, do you track BSO accreditations?

10 A Yes.

11 Q That's part of your role?

12 A It's part of my job, yes.

13 Q And during the time that you've

14 described, that five-year period when you've been
15 that captain -- although I think you said eight
16 years you've been doing that; is that correct?

17 A Correct.

18 Q -- has BSO always continuously been
19 certified by the Florida law enforcement
20 accreditation organization?

21 A Yes.

22 Q And has BSO been accredited by other law
23 enforcement accrediting agencies during that time?

24 A Yes.

25 Q Is one of them known as CALEA, a

23

1 nationwide accreditation organization?

2 A Yes.

3 Q Do you understand CALEA to be known, at
4 least in the industry, law enforcement industry,
5 to represent the gold standard of law enforcement
6 certifications?

7 A That is their characterization. I see
8 them differently. CALEA is a basic blueprint that
9 a law enforcement agency should follow. They
10 provide what should be done. The agency is left
11 then to decide how to comply with the standard.

12 Q Okay. And in your experience in your
13 position, has the BSO been continuously CALEA

14 certified?

15 A Yes.

16 Q Did the BSO hold at the time, 2017 and
17 2018, other active in-place accreditations?

18 A Yes.

19 Q Do you know how many?

20 A Seventeen.

21 Q Seventeen.

22 Are you aware of the BSO being an
23 accredited training agency?

24 A Yes.

25 Q Is being an accredited training agency

24

1 something that every law enforcement agency has?

2 A No.

3 Q Do you have a sense based on your
4 experience of how many or how few accredited
5 training agencies are within the state sheriff's
6 organizations?

7 A I believe BSO's the only accredited CJST
8 facility.

9 Q Describe CJST.

10 A Criminal Justice Standards Training
11 facility.

12 Q And that's a statewide designation for a

13 training facility?

14 A Correct. Normally, it is colleges that
15 become CJST qualified. Colleges run police
16 academies and corrections academies. BSO
17 applied -- due to severe staff shortages and
18 Broward College's inability to provide enough
19 space, BSO applied to become a CJST-certified
20 school.

21 Q Does maintaining that CJST training
22 certification require comporting with certain
23 rules, requirements, regulations?

24 A I do not know.

25 Q In the time frame that you've been

25

1 captain, has BSO been continuously accredited as
2 that training facility?

3 A Yes.

4 Q Did you keep records and monitor records
5 of actual trainings done by BSO?

6 A I do not. I take samples, random
7 samples to show compliance. But the training
8 division keeps the records.

9 Q What's the purpose of sampling the
10 training?

11 A Sampling allows an assessor to actually
12 see documentation of compliance. They don't want

13 to see every certification, they just want to see

14 a sampling.

15 Q Are you aware of BSO conducting active

16 shooter training programs besides the one that you

17 attended with a state assessor?

18 A Yes.

19 Q Is that part of the training practice at

20 BSO?

21 A It has been in the last eight years that

22 I have been in my position.

23 Q Are you familiar with Mel Murphy at the

24 BSO?

25 A I am.

26

1 Q Does he have a role in BSO training?

2 A Yes, he does.

3 Q Have you conferred with him or spoken

4 with him about BSO training?

5 A No.

6 Q Have you reviewed any records kept by

7 Mel Murphy of the training division?

8 A No.

9 Q Have you reviewed or sampled other

10 active shooter policies existing in the state of

11 Florida?

12 A Yes.

13 Q How many did you review or sample?

14 A Probably the majority of sheriffs'
15 offices, twenty or 30 municipals. I went
16 nationwide to similar size agencies. I have quite
17 a library.

18 Q For record purposes, each county has a
19 sheriff's office other than Miami-Dade County,
20 which is part of the unified county government,
21 and that's called a public safety department?

22 A Correct. In 2020 every county will have
23 a sheriff again, but Miami-Dade was one of the
24 rare counties.

25 Q Right. We passed a constitutional

27

1 amendment that we go back to every county having a
2 sheriff.

3 A Right.

4 Q So you reviewed the policies for
5 essentially all -- attempted to review the active
6 shooter policies for all of the county sheriffs?

7 A Those who did have them. Some sheriffs
8 did not even have a policy on it.

9 Q Did you consider your search of
10 sheriffs' policies to be comprehensive?

11 A Oh, yes.

12 Q When you conclude that some sheriffs'
13 offices did not have an active shooter policy, is
14 it likely that you just missed an existing policy?

15 A No.

16 Q And you also identified a number of
17 municipal law enforcement agencies with active
18 shooter policies?

19 A Yes.

20 Q And you looked at policies that existed
21 outside the state of Florida for agencies of the
22 type or size of Broward County?

23 A Yes.

24 Q Did you also look for any model policies
25 or standards by any of the accreditation or law

28

1 enforcement agencies?

2 A Yes. We have a network of professional
3 law enforcement groups where model -- and I use
4 the term loosely because they never actually give
5 you a model, they just suggest certain language be
6 added to your model. One of them that I had
7 researched was PERF, which is the Police Executive
8 Research Forum. Another was the IACP, which is
9 the International Association of...

10 Q Chiefs of Police?

11 A Chiefs of Police, I'm sorry, yes. I did
12 look at CALEA's model source, but I had already
13 had those policies.

14 The NAACP published -- I forget what
15 they called it -- an opinion, I'm using my own
16 words, it was an actual white paper for the use of
17 force and for responding to certain individuals in
18 crisis.

19 Q Did you determine whether the state of
20 Florida, an accrediting agency or the Criminal
21 Justice Standards Commission or the FDLE had a
22 policy on active shooter to be implemented by law
23 enforcement officer agencies in the state of
24 Florida?

25 A I could not find one, no.

29

1 Q Is it fair to say, and I'm saying it,
2 that the policy that I read to you, 4.37, post
3 Marjory Stoneman Douglas High School shooting has
4 been significantly criticized?

5 A Yes.

6 Q Prior to the Marjory Stoneman Douglas
7 High School shooting, were you aware of any
8 accreditation agency or law enforcement agency
9 that criticized the existing BSO active shooter
10 policy?

11 A No.

12 Q If there had been criticism of the
13 active shooter policy, BSO's active shooter
14 policy, is that something of which you would be
15 aware in your professional capacity?

16 A In my -- yes. Yes, it would because I
17 attend IACP, PERF accreditation conferences, I
18 attend forums where free information of --
19 information is transferred between the agencies.

20 Q When the state of Florida assessor
21 worked to assess and observe the active shooter
22 training that you described, were the BSO policies
23 concerning active shooter or violent suspects made
24 available to the state of Florida assessor?

25 A Actually, there are no standards for

30

1 active shooter by CFA. The training I took them
2 to just happened to be an active shooter training.

3 Q When did you conduct your review of
4 Florida active shooter policies and other active
5 shooter policies?

6 A Upon the criticisms of the words "shall"
7 and "may" and "will." I went to controlling
8 opinions of the state supreme court and the United
9 States Supreme Court to first determine if there

10 was any precedent about the use of those words. I
11 collected a number of cases and presented them to
12 the command staff.

13 Q What or who are included in the command
14 staff?

15 A Major Kevin Shults, Colonel John Dale,
16 Colonel Kinsey --

17 Q Is that the undersheriff?

18 A That was the undersheriff, yes.

19 -- Colonel, I believe he was a
20 Lieutenant Colonel at the time, DiMaggio and the
21 sheriff.

22 Q Did that presentation also include a
23 member of the General Counsel's office?

24 A I believe it did, yes. Gunzburger.

25 Q Who was the -- that's Ronald Gunzburger

31

1 who was then the General Counsel for the sheriff's
2 office?

3 A Yes. I believe at this time also
4 Sheriff Gualtieri from Collier County received the
5 same information.

6 Q Okay. And Sheriff Gualtieri you also
7 understand to be the chair of the Marjory Stoneman
8 Douglas commission?

9 A I am. I am aware of that.

10 Q Did you review the active shooter policy
11 for Sheriff Gualtieri's county?

12 A I did.

13 Q What county is that?

14 A I believe it's Collier. Or, sorry,
15 Pinellas.

16 Q Pinellas County. All right.

17 A I'm sorry.

18 Q And you understand -- do you understand
19 that Sheriff Gualtieri is also a licensed lawyer
20 in the state of Florida?

21 A I am.

22 Q Based on your review and your
23 presentation, did the then existing 4.37 active
24 shooter policy, BSO policy depart from standards
25 and policies in use throughout the state of

32

1 Florida and in other locations?

2 A There was no standard policy used
3 throughout the state of Florida.

4 Q Based on your review, is it accurate
5 that some law enforcement agencies in Florida have
6 no policy written whatsoever involving active
7 shooter/active killer?

8 A Yes.

9 Q That some law enforcement agencies and
10 sheriffs' offices in Florida have active shooter
11 policies that have language consistent with "may"
12 as exists in the BS- -- as existed in the BSO
13 policy?

14 A Yes. I listed them in my report.

15 Q And some policies in existence in
16 sheriffs' offices have a mandatory directive, a
17 "shall" instead of "may"?

18 A That is why I researched the supreme
19 court. "Shall" was described in one case, I'm
20 sorry, I don't know the cite, that indicated that
21 a "shall" should be referred to as an imperative,
22 but if you place a condition -- so, for instance,
23 if I say "you shall do this" and then you put a
24 condition after it, for instance, "you will take a
25 drink of coffee if it is not hot," it's a

33

1 condition placed on the imperative which makes the
2 imperative a false imperative. So if any
3 condition comes after the word "shall" -- I'm
4 sorry, "will" or "shall," it becomes essentially a
5 "may."

6 Q Based on your research, if an active
7 shooter policy in the state of Florida says to the
8 effect an officer -- a sole officer shall

9 immediately confront the perceived shooter if
10 circumstances warrant, is that consistent with
11 your understanding it becomes a "may," it's not a
12 "mandatory"?

13 A That is my assertion. I can find only
14 three agencies in the state of Florida that had no
15 conditions after. If they -- if they used the
16 word "will" or "shall," I can only find three --
17 two or three agencies that had no conditions after
18 it.

19 Q And you prepared a report of your
20 evaluation and your findings?

21 A It was -- I would call it a spreadsheet.

22 Q Spreadsheet?

23 A What I did, I listed the agency on one
24 side, I listed if they used the word "shall" or
25 "may" or "will" and then I listed any conditions

34

1 after it, and then I just organized them by
2 "will," "shall," "may."

3 Q Okay. And did you determine that the
4 active shooter policy in effect in the sheriff's
5 office where Sheriff Gualtieri is sheriff was in
6 fact not a mandatory, not a "shall" policy?

7 A I did not attend any of his trainings,

8 so I can't give you an answer on that.

9 Q Okay. How about from your review of the
10 written policy?

11 A The written policy did have a condition,
12 a couple of conditions.

13 Q Since you mentioned that you had not
14 observed any trainings on Sheriff Gualtieri's
15 policy that had conditions, is it important to
16 understand how the training impacts written policy
17 and vice versa?

18 A Exactly. It is the most important
19 factor. Each individual understands the written
20 word a different way, so your training is what you
21 look at when you determine how you understand how
22 the policy is carried out.

23 Q Did you identify, observe or become
24 aware of the BSO training of the section 4.37
25 policy?

35

1 A I did not witness it, no.

2 Q Did you obtain any information from the
3 training department as to how that policy was
4 implemented in training?

5 A I can't remember if I did specifically
6 or not. I was more worried about what other
7 agencies were doing.

8 Q Did you understand that the BSO policy
9 4.37 was intended to, designed to direct a law
10 enforcement officer to respond to an active
11 shooter in an effort to protect lives?

12 A Could you repeat the question?

13 Q Did you understand that BSO policy 4.37
14 as implemented in training was designed to have a
15 responding law enforcement officer confront an
16 active shooter in order to save lives?

17 A Well, I didn't see the training. All I
18 can do is rely on my reading and the reading does
19 mandate that, yes.

20 Q You would defer to Mel --

21 A Either Mel or Kevin Shults.

22 Q -- or Kevin Shults for the actual how
23 that policy is implemented in training?

24 A Correct.

25 Q They would be the ones as far as you

36

1 understand from your knowledge of how the BSO
2 works to be responsible for the training and the
3 training protocols?

4 A I do.

5 Q Are you aware that in addition to --
6 strike that.

7 Are you aware that BSO requires
8 participation in active shooter training for all
9 of its officers?

10 A It's all of its sworn law enforcement
11 officers.

12 Q Sworn law enforcement officers?

13 A Yes.

14 Q BSO has multiple thousands of employees;
15 right?

16 A We have over 350 job descriptions.

17 Q Only a portion of which are, even though
18 it's large, are sworn law enforcement officers?

19 A Correct.

20 Q So BSO policy for active shooter
21 training -- active shooter policy is focused on
22 the law enforcement portion of the BSO operation?

23 A Correct.

24 Q With regard to that sworn law
25 enforcement officer training, are you aware that

37

1 part of the BSO trainings include violent and
2 counter trainings that are not identified as
3 active shooter training or active killer training?

4 A We have a use of force policy that would
5 deal with violent encounters.

6 Q And you understand that that is part

7 of -- that use of force policy standard is part of

8 BSO training?

9 A Yes. It's a state requirement also.

10 Q It's a state requirement?

11 A To maintain your certification, you must

12 take use of force training, I believe eight hours,

13 at least every four years.

14 Q Even though there's no state law

15 enforcement certification requirement to take

16 active shooter training?

17 A There's no accreditation.

18 Q No accreditation.

19 A And I believe there's also no state law

20 enforcement certification. Certification is your

21 individual law enforcement officer certification.

22 An accreditation is the agency's policies and

23 training.

24 Q So for law enforcement certification, to

25 keep your certification as a sworn law enforcement

38

1 officer, you have to go through certification on a

2 regular basis?

3 A Yes.

4 Q Is that every three years?

5 A Four.

6 Q Every four years.

7 A We exceed it because it's a

8 high-liability topic and we choose to teach use of

9 force at least once a year.

10 Q Okay. And is it your understanding that

11 all sworn law enforcement officers in BSO, let's

12 say, in 2017 through the 2018 period did meet that

13 requirement imposed by BSO to have annual use of

14 force training?

15 A I would not know. The training division

16 would know.

17 Q That's something training records would

18 show?

19 A Correct.

20 Q But you understand that to be the BSO

21 practice and protocol for once-a-year, annual use

22 of force training?

23 A I do. I've seen it on our in-service --

24 we call it in-service training, which means during

25 the year you go through phases of training. It's

39

1 usually three phases. And use of force I've seen

2 probably every year since I started keeping track

3 of accreditations.

4 Q And with regard to certification,

5 individual law enforcement officer certification,

6 what is the state of Florida requirement for
7 participating in active shooter/killer training?

8 A There is none.

9 Q When you prepared your draft of the Fort
10 Lauderdale Airport After-Action Report, did you
11 consult with or discuss any matters with
12 representatives of BCAD, B-C-A-D --

13 A No.

14 Q -- Broward County Aviation Division?

15 A No, I didn't. I did reach out to them,
16 but they never returned my phone call.

17 Q Okay.

18 A But the captain at the time, Roy
19 Liddicott, told me they had decided to hire a
20 private company to provide their AAR.

21 Q Okay. And were you given access to that
22 private company's AAR done by Broward County?

23 A No.

24 Q Have you seen that report or even know
25 if such a report has issued?

40

1 A I don't even know if one has been done.

2 MR. KUEHNE: I'm finished with my
3 questioning of you, Captain. I'm turning
4 questioning to Mr. Primrose.

6 BY MR. PRIMROSE:

7 Q Thank you, Captain, for taking the time
8 to speak with us this afternoon. I'm going to try
9 to be limited in my questions.

10 I want to first start with your review
11 of the other law enforcement agencies' active
12 shooter policies. If I understood you correctly,
13 you said that you did review Pinellas County's
14 policy from Sheriff Gualtieri; correct?

15 A Correct.

16 Q Do you recall exactly what the Pinellas
17 County Sheriff's Office policy is regarding active
18 shooters?

19 A No. I'm sorry, I was given notice of
20 this depo about 20 hours ago, so I didn't have
21 time to review it.

22 Q I understand that. And I've got a copy
23 of what I believe -- well, let me ask you this:
24 Did you -- did you create an active shooter
25 library in November of 2018?

41

1 A Yes.

2 Q So if I've got a document that's about
3 700 pages with a whole slew of examples of
4 different policies, that would be something that

5 you created?

6 A Correct.

7 Q Okay. I'm going to go to -- I'm looking
8 at that document. I don't know if Mr. Kuehne has
9 any of this for you.

10 A I believe he does.

11 MR. KUEHNE: Mr. Primrose, let me just
12 interject for just a second. I don't have --
13 I only have on computer, I don't have printed
14 out, the executive office documents that have
15 the number on them, but is this the document
16 you're referring to?

17 MR. PRIMROSE: Yes.

18 MR. KUEHNE: Okay. So it doesn't have
19 your numbers on it. It's my copy of it. Can
20 I give this to the witness in case it helps
21 him find what you're talking about?

22 MR. PRIMROSE: You can, yeah. Yeah.

23 MR. KUEHNE: Okay.

24 MR. PRIMROSE: And I don't have -- yeah,
25 I don't have numbers on what I'm looking at

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1 either.

2 MR. KUEHNE: Oh, okay. Okay. So I'm
3 going to hand it to him and maybe you can

4 help him figure out what you're talking
5 about.

6 THE WITNESS: If you have it in PDF
7 form, it's hyperlinked so you can jump right
8 to whichever one you want to go to.

9 BY MR. PRIMROSE:

10 Q And I think this might help you. So the
11 Pinellas County policy appears to be one of the
12 last 20 or so pages.

13 A Do you know if it has anything on the
14 bottom that I might be able to...

15 Q It does. It will say on the bottom
16 right corner General Order 19-8. It should be
17 pages 1 through 10.

18 A Small one then.

19 Q Yeah.

20 A I'm getting close.

21 Q And I promise I'm not going to go
22 through any other policies other than that.

23 A I appreciate it. I'm at orange, so I
24 got a few more to go. Hopefully, they're in
25 alphabetical order. This is bringing back bad

43

1 memories. I had to read all this junk.

2 What was the GO number again, sir?

3 Q I've got GO19-8 --

4 A All right.

5 Q -- with a revision date of 10/1/2018.

6 A Okay. I found it.

7 Q All right. On page 4 of that order, I

8 want to direct your attention to subheading B,

9 Deployment of Solo Deputy or Contact People.

10 A Okay.

11 Q Am I correct that this section right

12 here is the equivalent of the Broward policy --

13 the Broward County -- Broward SOP 4.37 with what a

14 deputy should do in an active shooter situation?

15 A Yes. Each agency words it very

16 similarly and they place it in different order,

17 but I would agree with you that this is very

18 similar to the BSO policy.

19 Q And the first bullet point there, if you

20 can just read that out loud for us.

21 A "The response goal in solo deputy or

22 contact team shall be to stop the threat to the

23 public by locating, isolating, capturing or

24 applying the lawful use of deadly force against

25 any persons posing such a threat."

44

1 Q Is that policy in Pinellas County the

2 same or different than what existed back in

3 February of 2018 for Broward Sheriff's Office?

4 A May I look at Broward's?

5 Q Absolutely. I don't know -- I assume

6 Mr. Kuehne has it.

7 A Because we've revised this a number of

8 times. Our new policy, actually, is very similar

9 to this. It might be in here. Hang on.

10 MR. KUEHNE: It's in there. I don't

11 have a separate version of it with me.

12 THE WITNESS: Okay. All right.

13 BY MR. PRIMROSE:

14 Q If it's easier, I can read you --

15 A Sure.

16 Q -- the standard operating procedure 4.37

17 that would have been in place at the time of

18 Marjory Stoneman. And I believe Mr. Kuehne read

19 it.

20 MR. PRIMROSE: And, Mr. Kuehne, if I'm

21 reading something different than what you

22 already have, please interject.

23 MR. KUEHNE: Of course.

24 BY MR. PRIMROSE:

25 Q This is Broward Sheriff's Office

45

1 standard operating procedure 4.37 and it says --

2 A I found it.

3 Q -- this is under response and
4 responsibilities, subheading 3, "If real time
5 intelligence exists the sole deputy or a team of
6 deputies may enter the area and/or structure to
7 preserve life. A supervisor's approval or on-site
8 observation is not required for this decision."

9 A Correct.

10 Q So in comparing the two, are they the
11 same, are they different? And if you can, explain
12 any differences in your opinion.

13 A This would be my opinion, that Pinellas
14 provided an obligation of -- having read all of
15 this and the different prose of the different
16 authors, I prefer the Pinellas way; it's clearer
17 to me. But, again, I don't know how they trained
18 on what that meant.

19 Q Absolutely. And I'm only talking about
20 the written policies.

21 A Okay.

22 Q And I saw on your -- on that document
23 that you've got in front of you, you had put a
24 briefer on "may" versus "shall." That's something
25 that you created?

1 A I think so, yes.

2 Q I think it's -- I think it's what you've
3 got in front of you, that big 700-page stack.

4 A It is.

5 Q So that "may" versus "shall" underneath
6 the "may" heading where it talks about "all our
7 active shooter policy," that's describing the
8 Broward Sheriff one?

9 A Correct. I believe I did not write
10 this. I believe this was written by Kevin Shults.

11 Q Okay. And it says there, "Our active
12 shooter policy uses "may" because entry is
13 permitted and is a possibility. There are
14 numerous variables that make an entry impossible
15 or unadvisable and no legal consequence can be
16 applied if not performed."

17 What does that mean -- I mean, I guess
18 is -- is the whole debate accurate that "may" in
19 Broward Sheriff's policy means it's a possibility
20 to enter the structure for the preservation of
21 life or is it a poorly-worded policy, it shouldn't
22 be "may," it's a "shall"?

23 A It would be an opinion, but noting the
24 number of other agencies that use the word "may,"
25 I believe it to be a condition, that there is an

1 obligation. However, if there is a danger that

2 the deputy would be killed upon entering a scene
3 he should wait for backup, or at least another
4 officer or an entry team. Not having gone through
5 our training, I'm not sure how they did train on
6 it.

7 Q And in the training I've noticed -- and
8 I haven't been through it myself, I'm just reading
9 the training material or the outline -- it talks
10 about the deputy needing to evaluate the situation
11 and determine if it's better to lose their cover
12 or wait for the cavalry to arrive. Do you have
13 any understanding of what that means?

14 A No, I haven't heard that.

15 Q Okay. It's in the -- in Broward
16 Sheriff's Office, it's a lesson plan. And I'm
17 looking at one that says Lesson Plan 01-513. It
18 talks about in a single-deputy situation that the
19 deputy should question whether or not, you know,
20 there might be other shooters in the area or if
21 leaving an area or position of cover, they are
22 comfortable leaving the situation to secure a
23 suspect and it says, and I'll quote here, quote,
24 "Remember the cavalry is on their way, so it's
25 better to hold than to expose yourself to unknown

1 threats," unquote.

2 Do you have any understanding or
3 knowledge of what that might mean?

4 A Just on my basic understanding of
5 English, a euphemism that -- again, I can't give
6 an opinion on it.

7 Q Okay. I'm just wondering if -- coming
8 from non-law enforcement, just reading the
9 training material, reading the policy, when I read
10 "based on intelligence you may enter" and then
11 seeing training where it says "there's no reason
12 to give up a good position of cover, remember
13 cavalry is on the way, it's better to hold," it
14 sounds like to me it's -- again, I don't want to
15 put words in your mouth, but if the deputy's
16 assessing the situation and determines that it
17 might not be advisable to go and confront the
18 shooter, if they've called it in like they're
19 supposed to, SWAT or some other personnel is on
20 their way, it's better to have four-on-one versus
21 one-on-one. That's just the way that I read it.
22 Didn't know if you had any opinion one way or the
23 other if that's an appropriate way to view the two
24 things together.

25 A I would opine that it's a consideration;

1 that you know the cavalry is on the way, but if
2 you have an opportunity to save lives, then you're
3 obligated.

4 Q Okay. I want to talk to you about the
5 accreditation. Mr. Kuehne asked you about the
6 different accreditations that Broward Sheriff's
7 Office has.

8 Am I correct in saying that the Florida
9 Commission on Law Enforcement has accredited the
10 Broward County Sheriff's Office for over 20 years?

11 A I believe it was '91 when we first
12 became accredited.

13 Q So the accreditation, at least from the
14 Florida Commission of Law Enforcement, that's not
15 something new that came from Sheriff Israel's
16 tenure?

17 A No, I'm sorry, it did not.

18 Q And then this CALEA accreditation,
19 that's purely a voluntary accreditation?

20 A All accreditations are voluntary unless
21 we're under consent decree.

22 Q Okay. So in the CALEA, my understanding
23 is that that's actually something that the agency
24 has to pay the organization to do an assessment
25 and give the accreditation; right?

1 A Correct. We have to pay for access to
2 the standards, we have to pay for the lodging of
3 the assessors, but CALEA compensates the assessors
4 themselves.

5 Q Okay. And CALEA is something that
6 Broward Sheriff's Office has been accredited by
7 since before Sheriff Israel; right?

8 A Way before, yes.

9 Q So these accreditations that are -- and
10 please don't take this the wrong way -- that the
11 Broward -- I mean Broward Sheriff's Office should
12 be trying to achieve the gold standard of
13 accreditation, but these aren't new things that
14 Broward Sheriff's Office has been accredited under
15 Sheriff Israel and he should take all the credit
16 for these accreditations?

17 A Correct.

18 Q Do you have any fear that moving forward
19 Broward Sheriff's Office will lose its
20 accreditation now that it's under different
21 leadership?

22 A No. The standards have changed with
23 CALEA and I advised the new sheriff that it's not
24 cost-effective and he agreed.

25 Q Okay. And I don't want to go through

1 all of the draft report that you did because that
2 would be burdensome.

3 A Thank you.

4 Q But do you -- your report is something
5 that you felt at least comfortable putting your
6 name on that what you indicated as a strength was
7 in fact a strength?

8 A (Witness nods.)

9 Q Right?

10 A Yes.

11 Q Okay. And, I'm sorry, the court
12 reporter --

13 A I'm sorry. Right.

14 Q And if you put an area of improvement
15 down in your report, it's because after you
16 reviewed everything you believed it was an area
17 that Broward Sheriff's Office or any of the other
18 agencies that were involved could improve?

19 A Yes, it was -- my intention of including
20 those was to provide them with a discussion point.

21 Q Okay. And so if -- understanding that
22 the final report was -- who would have ultimately
23 had to sign off for the final report to be issued?

24 A My involvement ended shortly after the
25 draft was submitted. I am unaware of who actually

1 prepared it.

2 Q So when I look at the final report that
3 was issued in October of 2017, the only name
4 that's on it at that point is Sheriff Israel's
5 name and his signature. Would it be out of the
6 norm that if a pol- -- if an after-action report
7 is going to be finalized by the sheriff's office
8 final approval must have been made by the sheriff
9 himself?

10 A Would it be unusual? No. Have I seen a
11 lot of them? No.

12 Q Okay. Have you reviewed the final
13 report to compare it to what you put in draft?

14 A No, I didn't.

15 Q Okay. There are a couple -- there are
16 just a couple of things that I want to make sure I
17 get your take on and it's more the difference from
18 the initial draft that Major Cedeno -- he's a
19 major? I want to make sure I get the right rank
20 for him.

21 A Yeah, he was reclassified to captain,
22 but he was a major at the time.

23 Q Okay. So there's just a -- there's a
24 few differences from Major Cedeno's first draft to
25 your second draft, so I just want to ask about why

1 there were these changes made.

2 One of the areas that was taken out of
3 your draft was an area of improvement related to
4 the Broward Sheriff's Office airport district
5 personnel. And Major Cedeno wrote that, "While
6 many of them are tenured, they should avoid
7 complacency based on their environment and
8 perceived sense of security. The deputies
9 assigned to the safety assignment have lessened
10 exposure to harm or perceived retirement when the
11 contrary is highly needed to vigilantly address
12 and deter active shooter and bombing events."

13 So Captain, A, do you remember that
14 being an area of improvement and, B, do you know
15 why that was not put into your draft version?

16 A Yes. I disagreed because the facts that
17 I had been given did not support that. There are
18 no retirement -- and I'll use the old quote, there
19 are no retirement districts. Every deputy sheriff
20 goes through the same training and can at any time
21 be transferred to any assignment within the
22 sheriff's office. So to characterize a particular
23 district as retirement, I found no evidence of
24 that.

25 Q Did you find any evidence that any of

1 the deputies at the airport district maybe did
2 have a perceived sense of security because it's an
3 airport, it's not being out on the street with,
4 you know, the general population and not knowing,
5 you know, if you do a traffic stop what the person
6 might do or do you believe that that area of
7 improvement by Major Cedeno is just not founded
8 based on the facts?

9 A I have anecdotal evidence just with
10 conversations of friends that work at the airport.
11 They say it's a very nice area to work for. But
12 an airport assignment is basically a security
13 assignment where you're not going from call to
14 call, you're basically controlling crowds. So
15 some people enjoy interacting with crowds more
16 than going to domestic violence. So in that
17 respect, anecdotally through my conversations with
18 friends, it is a good job, a more desirable job.

19 Q Okay. One of the other areas that I
20 noticed there was -- didn't transfer over to your
21 report was Major Cedeno had characterized a
22 deficiency of miscommunication and frantic
23 responses aided to a loss of control during the
24 event and basically said BSO airport district

25 wasn't ready for this type of an event at all, and

55

1 that was kind of taken out of your draft; and I'm
2 wondering what your thought is about why that
3 didn't carry over to your version?

4 A I have no answer for that. I believe
5 the -- I split it into two events. I believe the
6 airport district handled the first event
7 perfectly. The second event I probably disagree
8 with his characterization. I don't think any
9 training would have prepared us for what happened.
10 That was a strange phenomenon.

11 Q And you're talking about the second
12 event, which is the response after --

13 A I called it panic and mass hysteria.

14 Q Okay.

15 A I don't think he characterized it, I did
16 after I watched the videos and how the crowds just
17 seemed to just panic and flood to the tarmacs.

18 Q Okay. You had mentioned -- I just want
19 to make sure -- again, I'm not going to go through
20 all of your report, but it seems like you were in
21 agreement with Major Cedeno that the Broward
22 Sheriff's Office airport district was lacking in
23 active shooter training, real-life scenarios and
24 were critical that the tabletop exercises were

25 just, frankly, inadequate to prepare BSO and a

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1 recommendation was more training, more real-life
2 scenario training versus just tabletop. Is that
3 something -- I mean, am I correct in reading you
4 are critical of the training for BSO airport?

5 A I don't recall putting that in my
6 report, but I do remember mentioning tabletop
7 drills. And, I'm sorry, like I said, I didn't
8 have time to review it. I didn't know why I was
9 being called in. I wouldn't call it critical, but
10 I do believe that in specialty districts there
11 should be different training --

12 Q Okay.

13 A -- to meet that particular district.

14 Q And would it surprise you to know that
15 both Major Cedeno's -- I'll call it criticism, but
16 at least acknowledgment of a deficient training
17 which was put into your report and -- for example,
18 I'll tell you one of your areas of improvement you
19 wrote was enhanced training specific to BSO
20 airport district. You put another point of
21 improve active shooter training lessons to better
22 prepare BSO for similar future events -- that
23 those recommendations were completely cut out of

24 the final critical incident report into the Fort

25 Lauderdale Airport shooting?

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1 A As I didn't read it, I didn't -- I can't
2 comment on it. But I also have to mention, again,
3 that I am not a subject matter expert on training
4 or active shooter. It was basically an opinion
5 based on my knowledge of the many different types
6 of districts that we have.

7 Q So -- and I guess if we -- if you had it
8 your way and your report was the final one, again,
9 you'd stand by, after you reviewed everything,
10 your knowledge, if you had an area of improvement
11 that related to training it was because you
12 believed that's what BSO should take from the
13 incident and try to improve?

14 A As a layperson, yes.

15 Q Okay.

16 MR. PRIMROSE: Mr. Kuehne, I don't have
17 any other questions.

18 Captain, I thank you for talking with us
19 today.

20 THE WITNESS: Thank you.

21 MR. KUEHNE: Captain, as you know from
22 depositions, there's a read or waive. In
23 this situation, we're probably going to

24 transcribe your deposition quickly. I will
25 make sure that Terrence Lynch, the counsel

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1 for the sheriff's office, immediately gets
2 the transcript. You will have a chance to
3 make any augmentations, comments, et cetera.

4 Even if you waive it --

5 THE WITNESS: I will read.

6 MR. KUEHNE: You will read?

7 THE WITNESS: I will read.

8 MR. KUEHNE: Okay. And should I send

9 it -- should I have the reporter send it

10 to --

11 THE WITNESS: Terrence.

12 MR. KUEHNE: Terrence? Great. Okay.

13 Thank you.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 (Thereupon, at 6:24 p.m. the deposition
17 was concluded.)

18 -----

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1

2 CERTIFICATE OF OATH

3

4 STATE OF FLORIDA)
5 COUNTY OF BROWARD)

6

6 I, Carol Ann Kridos, Registered
7 Professional Reporter, Notary Public in and for
8 the State of Florida at Large, certify that the
9 witness, CAPTAIN JAMES DIEFENBACHER, personally
10 appeared before me on June 5, 2019 and was duly
11 sworn by me.

12

13 WITNESS my hand and official seal this
14 7th day of June, 2019.

15

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22

Carol Ann Kridos
Registered Professional Reporter

- 22 _____ WITNESS IS ILL
- 23 _____ WITNESS REFUSED TO SIGN
- 24 _____ OTHER _____
- 25

1	ERRATA SHEET		
2	IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL		
3	DATE: June 5, 2019		
4	PAGE	LINE	CORRECTION AND REASON
5	_____	_____	_____
6	_____	_____	_____
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(DATE)

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1 ERRATA SHEET

2 IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL

3 DATE: June 5, 2019

4 PAGE	LINE	CORRECTION AND REASON
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(DATE)
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1 REPORTER'S DEPOSITION CERTIFICATE

2 I, Carol Ann Kridos, RPR, certify that I was
3 authorized to and did stenographically report the
4 deposition of CAPTAIN JAMES DIEFENBACHER, the
5 witness herein on June 5, 2019; that a review of
6 the transcript was requested; that the foregoing
7 pages, numbered from 1 to 58, inclusive, are a
8 true and correct transcription of my stenographic
9 notes of the deposition by said witness.

10 I further certify that I am not a relative,
11 employee, attorney or counsel of any of the
12 parties, nor am I a relative or employee of any of
13 the parties' attorney or counsel connected with
14 the action, nor am I financially interested in the
15 action.

16 The foregoing certification of this
17 transcript does not apply to any reproduction of
18 the same by any means unless under the direct
19 control and/or direction of the certifying
20 reporter.

21 Dated this 7th day of June, 2019.

22

23

24 _____
Carol Ann Kridos, RPR
Notary Public - State of Florida

25

64

1 VERITEXT FLORIDA REPORTING COMPANY
2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5 June 7, 2019

6

7 Captain James Diefenbacher
c/o TERRENCE LYNCH, GENERAL COUNSEL
8 BROWARD COUNTY SHERIFF'S OFFICE
2601 West Broward Boulevard
9 Fort Lauderdale, FL 33312

10

11 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Captain James Diefenbacher
12 TAKEN: June 5, 2019
13 READ & SIGN BY: July 7, 2019

14

15 Dear Captain Diefenbacher,

16 This letter is to advise you that the
17 transcript of the deposition listed above is
18 completed and is awaiting reading and signing.

19 Please arrange to stop by our office in
20 Suite 2250, 2 South Biscayne Boulevard, Miami,
21 Florida to read and sign the transcript. Our
22 office hours are from 8:30 a.m. to 4:00 p.m.
23 Monday through Friday. Depending on the length
24 of the transcript, you should allow yourself
25 sufficient time.

26 If the reading and signing has not been
27 completed prior to the referenced date, we shall
28 conclude that you have waived the reading and
29 signing of the deposition transcript.

20

21 Sincerely,

22

23 CAROL ANN KRIDOS, RPR
24 VERITEXT/FLORIDA REPORTING CO.

25

cc: All counsel on appearance page.

25

65

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

3

4 June 7, 2019

5

6 BENEDICT P. KUEHNE, ESQ.
7 KUEHNE DAVIS LAW, P.A.
8 100 Southeast Second Street
9 Suite 3550
10 Miami, FL 33131

9

10 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
11 DEPO OF: Captain James Diefenbacher

12 TAKEN: June 5, 2019

13 READ & SIGN BY: July 7, 2019

12

13 Dear Counsel,

14

15 The original transcript of the deposition
16 listed above is enclosed for your file. The
17 witness did not waive reading and signing and has
18 been sent a letter notifying them to come and read
19 and sign their deposition transcript.

17

18 The witness will be provided a copy of their
19 deposition transcript for reading in our office
20 should they come in to review the transcript, and
21 we will forward to you any corrections made by the

witness at that time, along with an original
20 signature page which should be attached to the
original transcript which is in your possession.

21

22

Sincerely,

23

24

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

25

1 THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

2

3 IN RE:
SUSPENSION OF SHERIFF
4 SCOTT ISRAEL

5 _____:

6

7

8

9

Thursday, June 6, 2019
One East Broward Boulevard
Suite 902
Fort Lauderdale, FL 33301
1:04 p.m. - 3:09 p.m.

10

11

12

13

14 DEPOSITION OF MICHAEL DIMAGGIO

15

16

17 Taken before Carol Ann Kridos, Registered

18 Professional Reporter and Notary Public in and for

19 the State of Florida at Large, pursuant to Notice

20 of Taking Deposition filed in the above cause.

21

22

23

24

1 APPEARANCES:

2

3 On behalf of Governor Ron DeSantis via Skype:

4

5 EXECUTIVE OFFICE OF THE GOVERNOR
400 South Monroe Street
6 Suite 209
Tallahassee, FL 32399
7 BY: NICHOLAS PRIMROSE, DEPUTY GENERAL COUNSEL
(850) 717-9310
8 nicholas.primrose@eog.myflorida.com

9

10 On behalf of Sheriff Scott Israel:

11

12 KUEHNE DAVIS LAW, P.A.
100 Southeast Second Street
13 Suite 3550
Miami, FL 33131
14 BY: BENEDICT P. KUEHNE, ESQ.
(305) 789-5989
15 ben.kuehne@kuehnelaw.com

16

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14

15 EXHIBITS

16 (No exhibits were marked during the deposition.)

17

18

19

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4

1 PROCEEDINGS

2 Thereupon:

3 MICHAEL DIMAGGIO

4 was called as a witness, and having been

5 first duly sworn and responding "I do," was

6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KUEHNE:

9 Q What is your name and spell your last

10 name.

11 A Michael A. DiMaggio, D-i capital

12 M-a-g-g-i-o.

13 Q Do you go by Michael or Mr. DiMaggio or

14 do you still use your former honorific as colonel?

15 A No, you can call me Mike.

16 Q Okay.

17 A That's fine.

18 Q My name is Ben Kuehne. I am counsel for

19 Sheriff Scott Israel in connection with his senate

20 suspension review proceedings and have asked you

21 to appear for a deposition today.

22 A Yes.

23 MR. KUEHNE: Nick, would you enter an
24 appearance, please.

25 MR. PRIMROSE: This is Nick Primrose on

5

1 behalf of Governor Ron DeSantis.

2 BY MR. KUEHNE:

3 Q This deposition is being taken and

4 Mr. Primrose is appearing via Skype.

5 When did you last serve at the Broward

6 Sheriff's Office?

7 A September of last year.

8 Q September of 2018?

9 A Yes.

10 Q When did you first start serving in BSO?

11 A January of 2013.

12 Q January of 2013.

13 Describe your law enforcement career.

14 A I began as a patrol officer with the

15 City of Lake Worth. I believe it was 1989. I

16 served four and a half years there. I left there

17 to pursue a career with the city of Fort

18 Lauderdale. I retired after 20 years as a

19 lieutenant with the City of Fort Lauderdale in

20 charge of criminal investigations. Before that, I

21 had served in strategic investigations, before

22 that patrol and special operations. I was also

23 the SWAT commander in Fort Lauderdale. I left
24 there in 20-- the end of 2012 and began at BSO
25 in 2018 as a major in charge of special

6

1 operations. I had the SWAT team, K9, bomb squad,
2 various other units. I was promoted a couple of
3 years later to lieutenant colonel. I took over
4 criminal investigations division, special
5 investigations division, child protective
6 investigative service and the crime lab.

7 Q And you finished your service in January
8 of 2013 -- of 20-- September of 2018?

9 A That's correct.

10 Q And was that a voluntary separation?

11 A It was.

12 Q Are you currently employed?

13 A I am.

14 Q In what capacity?

15 A I'm the director of security in private
16 industry.

17 Q My questioning focuses largely on two
18 time frames during your tenure with BSO. One I
19 refer to as the Fort Lauderdale Airport shooting,
20 that's in January of 2017, and the other is the
21 Marjory Stoneman Douglas High School shooting,

22 February 14, 2018. And the questions deal with
23 generally that time frame, although there are some
24 questions that may require answers outside that
25 time frame.

7

1 You're familiar with both incidents in
2 your capacity as a law enforcement officer?

3 A Yes.

4 Q Did you have any involvement in the Fort
5 Lauderdale-Hollywood Airport shooting incident?

6 A Yes.

7 Q Describe generally your involvement.

8 A At that time I was in charge of the
9 criminal investigations division, the crime scene
10 unit was part of that, and the strategic
11 invest- -- special investigations unit. And so
12 when I was notified of the shooting, I immediately
13 responded down there and began coordinating both
14 of those divisions to bring about a close to that
15 incident.

16 Q You responded on the scene that day?

17 And I'll tell you the day is January 6, 2017.

18 A That's correct.

19 Q You responded that day?

20 A Yes, I did.

21 Q And the report of the shooting was in

22 the early afternoon that day at the airport. Can
23 you time when you got there in relation to the
24 report of the shooting?

25 A I probably arrived there 40 minutes or

8

1 so after the shooting had occurred.

2 Q As you arrived you understood that the
3 perpetrator, the shooter had been taken into
4 custody by Deputy -- maybe you didn't know who it
5 was, but Deputy Madrigal?

6 A Yes.

7 Q Fairly promptly?

8 A Yes.

9 Q And that the airport was on a process of
10 being secured?

11 A At that time -- upon my arrival they
12 were securing Terminal 2, which was the Delta
13 terminal, where the shooting had occurred
14 downstairs. The Delta terminal was still open for
15 business. The first thing we wanted to do was,
16 obviously, set up a crime scene, and I made sure
17 that was done, so that nobody could enter the
18 crime scene. And the second thing that we really
19 tried to do was secure the witnesses, because it
20 was a very busy time of year at the airport and we

21 had a significant number of witnesses to deal
22 with.

23 Q Primarily witnesses who were non-law
24 enforcement and nonofficial airport people?

25 A They were all civilians, yes.

9

1 Q Civilians, okay.

2 Had you been to the airport for official
3 BSO business on any prior occasion?

4 A Yes.

5 Q Were you familiar with the various
6 federal agencies and other county governments that
7 operate at the Fort Lauderdale Airport?

8 A Yes.

9 Q You're aware that the airport is
10 operated by Broward County?

11 A Yes.

12 Q And that there is a Broward County
13 governmental organization called BCAD, Broward
14 County Aviation Division, that's essentially in
15 charge of the airport?

16 A Yes.

17 Q But there were also federal agencies
18 that have some involvement in the operation,
19 including security, at the airport?

20 A Yes.

21 Q Among those do you know that
22 U.S. Homeland Security and TSA is a regular at the
23 airport?

24 A I do.

25 Q That there are Customs, U.S. Customs

10

1 facilities there?

2 A Yes.

3 Q Other law enforcement agencies such as
4 DEA frequently operate at that airport?

5 A Yeah, as part of the strategic -- or
6 special, I keep saying that, the special
7 investigations division. We operated the
8 interdiction unit down there and we were partnered
9 up with a lot of those agencies. That's one of
10 my --

11 Q The FBI has authority and federal
12 jurisdiction at the Fort Lauderdale Airport?

13 A They have jurisdiction anywhere in the
14 United States.

15 Q Okay. And you know the FBI to be a
16 presence at the airport?

17 A Yes.

18 Q On the occasion of the Fort Lauderdale
19 Airport shooting incident that we're talking

20 about, did you interact with the FBI and possibly
21 other federal agencies?

22 A I did. Upon my arrival, in addition to
23 meeting with other BSO command-level officers, at
24 my side was actually one of the ASACs from
25 Homeland Security. That's assistant special agent

11

1 in charge. Shortly thereafter one of the ASACs
2 from FBI arrived, and then shortly thereafter that
3 George Piro, the SAC of Miami FBI, arrived and
4 they were either with me or the sheriff for the
5 remainder of the event.

6 Q And did you interact with those agents
7 in charge or their subordinates throughout your
8 time at the airport that day?

9 A Yes.

10 Q Was there a central facility or central
11 location where law enforcement office -- law
12 enforcement operated the safety and security at
13 the airport when you arrived?

14 A There was a -- we set up a mobile
15 command post outside of Terminal 2. We also had
16 a -- there was a fire command post there as well.
17 And they stood up the airport emergency operations
18 center and, to the best of my recollection, the
19 airport BSO captain was there along with everybody

20 that they needed to keep that a functioning

21 facility.

22 Q Did other non-BSO law enforcement

23 officers or officials come to that command post?

24 A To our mobile command post?

25 Q Yes.

12

1 A Yes.

2 Q What agencies were at various times

3 represented at the command post?

4 A We had representatives there from BSO

5 fire, from BCAD, from the FBI, from Homeland

6 Security. I had various other commanders there

7 from other local law enforcement agencies. To my

8 recollection, Miami-Dade Police Department was

9 there. Fort Lauderdale had representatives there

10 because we worked hand in hand with them to try

11 and secure the facility at some point. There were

12 numerous, numerous law enforcement command-level

13 people there from other agencies and ours.

14 Q In addition to command-level people, did

15 you become aware that numerous law enforcement

16 officers from various agencies responded to the

17 scene of that shooting?

18 A Yes.

19 Q Have you as a BSO official had
20 experience and training in dealing with mass
21 shooting incidents?

22 A Yes.

23 Q Is that called active shooter or active
24 killer training at least in some part?

25 A That's correct.

13

1 Q And you've had experience in training in
2 that area?

3 A Yes. As a matter of fact, right after
4 Columbine High School occurred, the incident in
5 Colorado, I was one of the primary developers and
6 instructors in the Fort Lauderdale Police
7 Department rapid response active shooter program.

8 Q Did you take that experience with you to
9 BSO?

10 A Yes.

11 Q Were you familiar generally with the BSO
12 training in active shooter?

13 A Yes.

14 Q Who headed the training?

15 A The actual training division was run by
16 Major Kevin Shults and he reported to Colonel Jack
17 Dale.

18 Q Were you aware of a BSO officer named

19 Mel Murphy being involved in training?

20 A Yes, he was one of the trainers.

21 Q In your experience with active

22 shooter/killer training, did it appear to you that

23 the BSO training in that area was up to date and

24 effective?

25 A Yes. Everything that I ever experienced

14

1 with BSO's active shooter training was absolutely

2 relevant, current and it conformed with generally

3 accepted practices within the industry.

4 Q "Industry" here being law enforcement?

5 A Law enforcement, yes.

6 Q Was the process of setting up a mobile

7 command post consistent with your understanding of

8 the BSO procedure when an event like this occurs,

9 meaning an unexpected shooting or a potential for

10 mass casualties?

11 A We brought it out when there was a

12 large-scale event. It really depends on what the

13 event is. But it could be a community event where

14 there was a lot of people in attendance, it could

15 be a mass shooting, it could be an escaped

16 prisoner. It doesn't matter. If we needed it, we

17 brought it out.

18 Q When you arrived at the Fort Lauderdale
19 Airport, was it your understanding that a
20 definitive determination had already been made
21 that the -- that a single shooter was involved and
22 nobody else was involved?

23 A That's correct.

24 Q And was it important, as you understood
25 your role as a senior officer, to gather witnesses

15

1 to the crime?

2 A That's correct.

3 Q You mentioned it was a busy time at the
4 airport. Was an effort made to deal with the
5 civilians, the passengers and the people who work
6 at the airport to handle their status at the
7 airport?

8 A Yes. We had to move every witness that
9 we could find. Initially we moved them to the
10 west side of the Delta terminal on the bottom
11 floor. At that point we were calling in numerous
12 detectives to try and complete interviews with
13 those people. Upstairs, which is the outbound
14 passenger area, was packed full of people. You
15 couldn't even move up there, there were so many
16 people.

17 I made the recommendation to the airport

18 captain and the airport manager that we close the
19 Delta terminal, that was in conjunction with the
20 incident commander and the sheriff, and the
21 airport manager did not want to do that at that
22 point. And as you know, they run the airport. I
23 didn't like it, but that was our recommendation.
24 There was a fairly large crime scene that took up
25 about one third of the bottom of Terminal 2 and we

16

1 had numerous duties that we needed to take care of
2 and there were just a lot of people everywhere.

3 Q In your experience dealing with an
4 incident like this in a public place, is it
5 unusual to have discussions with the operator of
6 the public place as to what space constitutes the
7 crime scene?

8 A I'm not sure I understand your question.

9 Q Let me ask it this way: The
10 recommendation of BSO was to shut down at least
11 Terminal 2?

12 A Yes.

13 Q The operators of the airport disagreed
14 with that recommendation. Were there discussions
15 with the operators of the airport as to what part
16 of the terminal constituted the crime scene over

17 which you had primary control or could exercise
18 primary control?
19 A Yes. They were present for some of the
20 crime -- well, they could see it because they were
21 there. But we did have a discussion about the
22 size of the crime scene and basically the fact
23 that there were people still entering Terminal 2,
24 not in the crime scene area but entering the
25 terminal. And so we had to post numerous officers

17

1 both outside on the walkway and the driveway area
2 and upstairs to prevent people upstairs from
3 coming down the escalators and the elevators.

4 Q In your experience in dealing with
5 incidents in public places, is the nature of your
6 discussion that you've described with the
7 operators of that public place, BCAD, at all
8 unusual?

9 A It's a little bit unusual.

10 Q Okay. In what respect?

11 A Well, normally we have full command and
12 authority to do what needs to be done in order to
13 gather evidence and gather witnesses and then move
14 on to clear the crime scene and do what we need to
15 do. In this particular instance, we were met with
16 a lot of resistance. As a matter of fact, I think

17 they threw out a number at us, like do you know
18 how many millions of dollars that will cost to
19 close down this terminal for any period of time.

20 Q This is BCAD?

21 A Correct.

22 Q And ultimately were you able to
23 negotiate what was viewed by you and other BSO
24 officials to be an appropriate compromise to the
25 competing interests?

18

1 A Yes. Shortly there-- and I'll tell
2 you how that came about. Shortly after I arrived
3 on scene and was told that we had the shooter in
4 custody, our intelligence unit started working on
5 the identity and the background of the shooter.
6 They were able to access a social media account
7 where the shooter had put -- I don't know, he had
8 some garb from the Middle East that he was wearing
9 and looked to be making signs associated with
10 international terrorism, at which point we
11 notified the FBI and they really took over the
12 primary -- as the primary investigative body for
13 that incident. Of course, we worked hand in hand
14 with them because we had so many resources there
15 on scene already.

16 Q Did you have experience in working
17 closely with federal agencies on investigations?

18 A Yes.

19 Q Was it at all unusual in a case of
20 potential terrorism at an airport for the FBI to
21 become primary?

22 A No.

23 Q Did BSO resist and demand to be
24 considered the primary?

25 A Never. As a matter of fact, we had a

19

1 spectacularly good working relationship with
2 George Piro and the FBI and we were glad to help
3 them in any way we possibly could, and vice versa.
4 Before they even knew that it had a possible
5 terrorist tie, they were nothing but professional.
6 It goes a long way to show that we had great
7 relationships with every single one of those
8 agencies.

9 Q Did the relationship and the
10 coordination that you're describing generally
11 between BSO and the FBI or the other attending
12 federal agencies continue throughout the
13 conclusion of that incident?

14 A Yes.

15 Q How long did you stay on the scene of

16 the Fort Lauderdale Airport that day?

17 A Until about four o'clock in the morning.

18 Q Okay. So the whole day into the next

19 morning?

20 A Correct.

21 Q And is it fair to say that during the

22 time you're there the airport was essentially

23 cleared of thousands of civilians?

24 A I think the final estimate was somewhere

25 around 20,000 people that we had to clear out of

20

1 the entire airport. And that was because -- when

2 we got there -- when I got there, I can't speak

3 for everybody else, but when I got there, it was a

4 manageable-size scene. We had enough resources

5 there to secure the terminal. We had crime scene

6 there which was actively working to document the

7 scene. We had plenty of people there. It wasn't

8 until we started experiencing what I'll call the

9 follow-up incidents that it became problematic for

10 all the agencies involved.

11 Q Tell me about and describe for me the

12 follow-up incidents. What is it you're referring

13 to?

14 A Okay. So we -- the first team that I

15 had respond to kind of secure the area was the
16 Broward Sheriff's SWAT team. At that point I had
17 one of the Fort Lauderdale lieutenants or captains
18 with me who had arrived on scene and they asked me
19 if I wanted to have their SWAT team respond. I
20 said, yes, as a backup have them come, whether we
21 use them or not we'll need them -- we may need
22 them. We're not sure exactly what's happened yet,
23 but I want to make sure that we have enough
24 manpower here on scene if anything else goes
25 wrong.

21

1 There's always a thought process that --
2 for instance, from studying these incidents, like
3 what happened in Mumbai, India, there could be --
4 this could be just a preliminary attack and a much
5 larger-scale planned attack and there could be
6 other areas that break out as this happens.

7 Q Let me just interject there and I'll let
8 you continue. I don't mean to interrupt, but is
9 it fair to say that BSO, including your
10 involvement in BSO, took knowledge of other
11 incidents and the response, wherever they might
12 occur, in determining how to develop the BSO
13 response to incidents?

14 A Yes.

15 Q For example, you mentioned Mumbai. That
16 has nothing to do with BSO, but it's your
17 understanding that you and other senior members of
18 BSO would regularly evaluate those incidents to
19 determine what developing responses might be
20 needed for BSO?

21 A Oh, absolutely. We looked at numerous
22 ones. We looked at Sandy Hook, we looked at
23 Columbine, we looked at the Navy shipyard
24 shooting, numerous other incidents. We looked at
25 school shootings that happened overseas in

22

1 evaluating what our SOP, our standard operating
2 procedure and protocol would be.

3 Q Okay. I interrupted you when you were
4 explaining about the coordination with the Fort
5 Lauderdale SWAT team --

6 A Yes.

7 Q -- and having them held as potential
8 reserve.

9 A Right. So you asked me about some of
10 those follow-up incidents that were occurring.

11 Shortly after we started working the
12 scene in Terminal 2, there was reports of shots
13 fired in the parking garage which, if you've never

14 been to Fort Lauderdale Airport, it's set up in a
15 big U. In the center of that U, around -- in the
16 center of all the terminals is parking garages
17 anywhere from four to six to seven stories tall.
18 Many thousands of cars. So when we heard reports
19 of shots fired there, we obviously sent a team
20 immediately to investigate and either neutralize
21 the shooter or take them into custody or figure
22 out what was going on over there.

23 As that happened, we started getting
24 calls from other SWAT teams in the area, their
25 commanders calling to ask if we needed help. Of

23

1 course at that point, the parking structures are
2 so big I started to have -- well, I guess at that
3 point he was a major -- Major Ed Grant coordinate
4 all the SWAT activities and start bringing in
5 extra teams so that we had enough manpower to
6 effectively clear the rest of the parking garage
7 structures.

8 Q And ultimately as many as 17 SWAT teams
9 responded?

10 A Yes, that's the number that finally
11 ended up showing up. But I don't think there were
12 any left in the county, to be honest with you.

13 Q And was BSO through Major Ed Grant and

14 the FBI able to coordinate all of those responding
15 forces?

16 A Yes. So we had a SWAT command post set
17 up further to the east in the airport away from
18 the regular command post, and that was just
19 because there were so many people that we knew
20 were going to be responding, we wanted to have a
21 staging area for them that was clear and not close
22 to the crime scene but not too far away that we
23 couldn't put our hands on those particular assets.

24 To my recollection the next incident
25 that occurred started in Terminal 3, which is just

24

1 to the west of Terminal 2. And I think
2 investigation led us later to find out that that
3 was brought on by an airport employee -- one of
4 the airline employees that told his people that he
5 thought there was somebody with a gun in
6 Terminal 3. It created a mass exodus from
7 Terminal 3 and thousands of people were running
8 from Terminal 3 both out onto the tarmac and out
9 on the east side into the traffic lanes and
10 towards Terminal 2.

11 I think the next incident that occurred
12 was in Terminal 1 where somebody reported a shot

13 fired. Terminal 1 is just to the east of
14 Terminal 2. It houses Southwest Airlines and a
15 bunch of other ones. And one of the civilians who
16 was trying to get away from there ran outside of
17 Terminal 1 and tried to -- saw a BSO SUV and
18 opened the door of the SUV. Unfortunately, it was
19 a BSO K9 car and the dog did what he was trained
20 to do and he latched onto her. Shortly thereafter
21 one of the federal agents that was there saw what
22 was going on -- because nobody would help that
23 poor lady. He happened to be armed with a
24 shotgun. He put his shotgun on the ground and he
25 took the dog off of her and secured the dog. We

25

1 found out later through investigation that created
2 more panic because people saw a man running around
3 with a shotgun and the woman bleeding from her leg
4 and people assumed, incorrectly, it was another --
5 a gunshot.

6 Shortly thereafter, I think in
7 Terminal 4, which is on the south side of the
8 airport, there were also reports of shots fired.
9 That created havoc in Terminal 4 whereby people
10 self -- they decided by themselves to evacuate
11 onto both the tarmac and to the street.

12 And then going along with all of this,

13 there was a report of shots fired on the extreme
14 north side of the airport at one of the -- nearby
15 one of the private hangars by a Fort Lauderdale
16 officer who reported sounds of shots fired.

17 So we were dealing with numerous
18 different reports of shots fired, none of which
19 were ever substantiated later. But because there
20 were just so many people at the airport you had
21 that crowd mentality where if one person runs, two
22 people run, five people run, a hundred people run,
23 a thousand people run. So at the end of the day
24 we were left with people on the tarmac on an
25 active runway. We had people running across the

26

1 runways to get to the private terminals. We had
2 people on the south side on the tarmac by the
3 aircraft. We had people outside of Terminal 3 on
4 the tarmac outside by the aircraft. We had
5 people -- we had people everywhere and no place to
6 put them.

7 Q Were the joint law enforcement agencies
8 that responded able to handle the mass exodus and
9 all of the people who were going in various
10 directions?

11 A Eventually. It took us a while to get

12 everything under control, but eventually we got
13 everybody off the tarmac.
14 At that point we had to get back in
15 touch with BCAD and let them know that this was a
16 point where we needed to shut the airport down.
17 It was unsafe for everybody. It was unsafe to
18 have aircraft landing with people walking around
19 the runways. It was unsafe to have aircraft
20 sitting on the runways not being able to leave.
21 It took a while, but eventually everybody got to
22 some terminal and was being escorted by law
23 enforcement.
24 Q Did the FBI concur with the
25 recommendation this time to shut down the airport?

27

1 A Yes.
2 Q And they took an involvement in
3 informing BCAD of that determination?
4 A They were there with us every step of
5 the way.
6 Q In light of what appeared to be this
7 self-directed mass exodus and panic, citizen
8 panic, did the training that you understood the
9 BSO responders have include means to handle such a
10 mass -- potential for a mass disturbance?
11 A There had never been an incident of that

12 size. And so if you're going to ask me if our
13 training had prepared us to handle 20-plus
14 thousand people self-evacuating terminals, no.
15 And I don't think, even with the amount of people
16 that we had there at that point, that we would
17 have been able to stop what was going on. You
18 just had too many people in that airport that were
19 hell-bent on getting out, and rightly so. I mean,
20 they thought that they heard gunshots and they
21 were being told by airline employees that there
22 were people with guns. They absolutely did what I
23 think any unarmed person would do, and that's run,
24 hide, fight.

25 Q Was the BSO in connection with the other

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1 law enforcement agencies able to adapt to this
2 situation and bring it to some type of control?

3 A Yeah. Eventually what our plan was was
4 to clear the terminals, bring everybody back in
5 the terminals, have enough law enforcement
6 response in there to keep everybody calm until we
7 could evacuate them in a true fashion and get them
8 to a place where they could then get
9 transportation to a hotel or to their home or to a
10 friend or a relative, but they could not stay.

11 We had now had -- all four terminals
12 were totally not sanitized. So even on the clear
13 side of TSA security checkpoints, people jumped
14 the checkpoints, people ran -- you know, they're
15 just belts that you can unlatch and you can run
16 through and that's what they were doing. So we
17 had to sanitize that entire airport before it
18 could be reopened for travel.

19 Q Meaning to go through every place in the
20 airport and determine that there is no potential
21 problem?

22 A Correct. And that could be -- and
23 remember when people self-evacuated they didn't
24 bring their carry-ons, they didn't bring their
25 purses, they didn't bring their duffel bags.

29

1 There were thousands and thousands of bags. I saw
2 the video from Terminal 3. There were thousands
3 of bags there, just left there.

4 So, you know, part of active shooter
5 training is, you know, any bags that are left
6 could be a potential danger, so you have to sweep
7 them with EOD dogs and make sure that there's
8 nothing there, and then they all have to be
9 cataloged and tagged and put away for safekeeping.
10 So this took a long time.

11 In the evening, we were trying to get
12 the airport evacuated. The sheriff wanted to know
13 how we were going to get them out of there. And
14 we put in requests to Broward County for buses to
15 move all of the people off the airport property
16 over to the convention center at the port, at Port
17 Everglades, which is great. It's a great idea.
18 It's fantastic. In a tabletop exercise you ask
19 for, you know, a hundred buses and the Broward
20 County bus guy tells you got a hundred buses
21 coming to you, but try that in real life.

22 Q Did BSO and the other affiliated
23 agencies try that in real life?

24 A Oh, we did.

25 Q And were you able to accomplish that?

30

1 A We were able to accomplish getting
2 buses, yes.

3 Q Was it as simple as a tabletop exercise?

4 A No. We had to beg, plead, and beg and
5 plead some more because they had to pull buses --
6 there's not a hundred buses sitting around. They
7 had to pull buses off of routes, out of cities and
8 throughout the county to have them come to the
9 airport to start evacuating the people out of

10 there.

11 Q And BSO was involved in trying to
12 coordinate among now even more governments to get
13 assistance with transportation?

14 A Yes. So some of the interesting things
15 that happened there -- and, Nick, you're going to
16 like this -- bus drivers work -- you know, they're
17 hourly-wage employees. So at one point a couple
18 of bus drivers said, "I'm not working anymore,"
19 and they closed the doors and locked the doors and
20 they wouldn't let people on the buses to transport
21 them out of the office -- or out of the airport.

22 Q Buses had arrived but the driver was
23 supposedly off duty?

24 A Correct. So those were some of the
25 things that we were dealing with.

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1 Q And were you able to work through that?

2 A Yes, we were.

3 Q Did that take the combined effort of
4 BSO, other law enforcement agencies and non-law
5 enforcement governmental entities?

6 A It did. It did. As a matter of fact,
7 we had set -- we had stood up the sheriff's
8 command post at the public safety building.
9 Colonel Jim Polan was in there manning that at the

10 time and he helped us work on some of those

11 issues.

12 But eventually the airport manager came

13 and said, oh, by the way, there's -- I think it

14 was 15 aircraft that were still sitting -- many of

15 which had gone dark, which means they ran out of

16 fuel and they were sitting on the tarmac full of

17 people. So once we got the actual civilians,

18 walking people off the tarmac and got the rest of

19 them away from the areas where they had gone to,

20 the private hangars on the north side, we got them

21 all picked up, then we started with the aircraft

22 that had gone dark and we got all of those people

23 out of the airport. And then we just

24 systematically started with evacuating Terminal 1,

25 Terminal 2, Terminal 3 and Terminal 4.

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1 We were also letting everybody who had a

2 vehicle parked there go back to their vehicles

3 because the parking garage at that point had been

4 cleared, so we let them go back to their vehicles.

5 If they wanted to leave, they could.

6 But it took a long time to move, you

7 know, even with 20 buses at a time, taking them

8 from the terminals to the port and then back, you

9 can imagine how many people were there.

10 Q You mentioned some reference to a
11 limitation in tabletop exercises. Let me pose
12 this question to you: In any of the tabletop
13 exercises you've been involved in with BSO, has
14 any participant refused to do what was expected at
15 the tabletop exercise? For example, asking for
16 buses and having one of the tabletop participants
17 say "we're not giving you buses because our people
18 are not working overtime"?

19 A No. Well, the point -- I guess the
20 point of the tabletop is that you learn from --
21 you're trying to put all your past experience
22 together and meld that with your standard
23 operating procedure and then figure out what's the
24 best way to do something. So at the end of the
25 day, you know, everything that's happened always

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1 works out to be, you know, a successful conclusion
2 because you have basically unlimited resources,
3 you know, at your disposal even when they tell
4 you, you know, no, you only have this to work with
5 to begin with. Well, okay, that's probably good
6 because no incident starts out where you have 500
7 policemen and 250 firefighters on scene. You
8 always start out with the first responding unit

9 and then a backup unit. And then if you need
10 more, you get a supervisor on scene. And then
11 maybe two more units come. And then maybe five
12 more units come. But eventually there's no
13 incident that cannot be handled; right? Even 9/11
14 was eventually handled; right? I mean, they
15 called in firefighters from all over the U.S. and,
16 you know, we sent a group from Miami. But, you
17 know, eventually everything gets handled. But,
18 you know, that's -- I guess that would be a
19 limitation of a tabletop.

20 But we -- my experience has always been
21 to do more of a hands-on operational training
22 scenario. And, you know, we started with active
23 shooter scenarios when I got to BSO. In my first
24 year we did one at Pompano Beach High School and
25 we utilized SWAT medics, we utilized Pompano Beach

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1 Fire Rescue, we utilized patrol resources. And
2 from there we noticed that we had a shortfall.
3 And why did we notice that? Because SWAT medics
4 and fire department personnel would not enter the
5 hot zone. The hot zone is generally the area of
6 an incident where it's not secured yet and the
7 perpetrator, the gunman, could still be in there,

8 but you also have victims who need to be treated
9 down there. So while you have a group that's
10 advancing to clear the school and perhaps pursue
11 the gunman, you have victims still in the hot zone
12 which need to be evacuated and treated; right?

13 So we noticed from that particular
14 hands-on training that we needed to integrate our
15 medics in the hot zone. They would come in with
16 us. And that's where the rescue task force idea
17 really started. And we had talks with the fire
18 union, et cetera, about -- because they didn't
19 really want to go into the hot zone. They were
20 firefighters and they weren't armed, so they
21 didn't want to go with an armed deputy. And
22 that's one of the positives that came out of that
23 one particular training.

24 Q Is it fair to say that your
25 understanding is that the Florida law enforcement

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1 agency that accredits and certifies law
2 enforcement officers and agencies doesn't require
3 and have a standard for active shooter training?

4 A FDLE?

5 Q FDLE.

6 A No, none that I know of.

7 Q As you described the -- the learning

8 from a -- I think you said the Pompano Beach High
9 School active shooter operation, did BSO
10 incorporate its learning into future training and
11 future advising?

12 A Yes.

13 Q Was that an always ongoing situation
14 during the time you were with BSO?

15 A Yes.

16 Q You mentioned all this activity with
17 people self-evacuating, massing in various places.
18 Did BSO and the other law enforcement agencies
19 assist in keeping to a minimum citizen injuries
20 during this mass disturbance?

21 A You know, I -- that particular part of
22 it was -- I wasn't -- I was really only in
23 Terminal 2, so, you know, I was responsible for
24 making sure the investigation was being handled
25 correctly. I can't tell you what the other

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1 deputies were doing in the other terminals. You
2 know, we would -- as a command staff, we would put
3 out "this is what we want you to do." And I
4 don't -- I really don't know what happened in the
5 other terminals because I wasn't there.

6 Q Did you find at any time that the BSO

7 officers assigned to the airport who were present
8 that day were complacent or lackluster in their
9 handling of matters?

10 A I would say anything -- the ones that I
11 met with were anything but complacent. For
12 instance -- I'll give you two -- I'll give you two
13 specific incidents. When I arrived on scene, I
14 was dressed in plain clothes because that's what I
15 normally wear. I wore a shirt and tie, and my
16 badge was on my belt and my gun. And I walked up
17 to the scene to get into Terminal 2 -- it was
18 relatively still a new scene, they hadn't even put
19 up the crime scene tape yet -- and there were two
20 deputies that stopped me and said, "Who are you?
21 We see you have a badge, but we don't know who you
22 are."

23 And because it's such a big agency,
24 even -- because I was, you know, a top command I
25 had very little interaction with road patrol.

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1 Although everybody in SID and CID and crime scene
2 and crime lab knew who I was, they didn't so they
3 stopped me and they made me produce my
4 identification.

5 Q Is road patrol often the first line of
6 responders?

7 A Yes.

8 And then the second incident is we
9 had -- at one point I told you about the incident
10 which happened in Terminal 3 which sent people
11 running towards Terminal 2. We had to put
12 deputies at every door because they're all
13 automatic doors at Terminal 2. And at one point,
14 unbeknownst to me, the undersheriff who was there,
15 Steve Kinsey at the time, told these two deputies
16 "nobody is to go in these doors. Nobody is to go
17 in these doors." And the crime -- my crime scene
18 captain -- because my crime scene captain had half
19 of his people inside actively working and the
20 other half of the people outside cataloging
21 items -- was trying to go back and forth through
22 the doors and they wouldn't let him in. And he
23 said -- and they said, "I'm sorry, sir, the
24 undersheriff told us nobody goes in these doors."

25 So everybody, to my knowledge, was doing

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1 their jobs and doing them as they were supposed
2 to, as they were supposed to.

3 Q Did you have any role in preparation of
4 or review of the Fort Lauderdale shooting -- the
5 Fort Lauderdale Airport shooting After-Action

6 Report?

7 A Yes.

8 Q What role?

9 A At one point Major Cedeno, who was the
10 airport major, that was his -- that was one of his
11 areas, had put together a draft of an after-action
12 report. I guess there was some -- I don't know
13 how to term it. There was some concern that his
14 after-action report was less than professional,
15 wordy. It was not well written. It was unduly
16 harsh when it came to other agencies.

17 The sheriff called a meeting of people
18 who were involved in the incident. There was
19 numerous people at that meeting. And we
20 started -- we looked at the draft that he had come
21 up with and made recommendations to make it a more
22 professional report. Now, I can tell you that
23 some of the recommendations that were made I don't
24 think turned up in the final report.

25 Q And did you find the process of having a

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1 meeting among BSO to determine how to make that
2 initial draft more professional to be troublesome,
3 unusual, problematic?

4 A It wasn't any of those things.

5 Q Have you participated in any way in

6 after-action reports?

7 A Yes.

8 Q For something as complicated as a
9 major-scale operation like this?

10 A No, never -- I've never -- like I said
11 before, there's never been in Broward County an
12 incident of that scale.

13 Q Was it expected by you, and if you
14 conferred with other senior staff, that an
15 after-action report for something this big would
16 actually go through various stages of drafting and
17 review before finalization?

18 A Yes.

19 Q Typically are after-action reports done
20 for every incident from a simple arrest to
21 something that causes more officers to respond to
22 a scene?

23 A Not usually for a simple arrest, you
24 wouldn't do an after-action report. But for
25 anything that utilizes a lot of manpower, you

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1 know, has something that you can learn from or
2 something that you can improve upon in either your
3 training or your standard operating procedure as
4 you move forward, you would do an after-action

5 report on.

6 Q And in those situations is it typical
7 that the after-action report is reviewed by many
8 heads before it gets to final form?

9 A Yes, that's typically what happens. We
10 had reviewed many others in the past even before,
11 you know, the airport after-action from many other
12 incidents to try and get a feel for, you know,
13 what to look for, how to do it and how to do it
14 better.

15 Q Was there any effort as far as you
16 understood to whitewash an after-action report to
17 make BSO look better than the incident actually
18 unfolded?

19 A No.

20 Q None at all?

21 A To make BSO look better? No.

22 Look, we had -- that week I was fielding
23 calls from airport commanders all around the
24 United States. I talked to the airport commander
25 at LaGuardia International and I asked him, I

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1 said, "What would you have done differently?"

2 He said, "We don't even have a plan to
3 evacuate all our terminals; one, but not many."

4 And I said, "Well, we had to do all of

5 them, so I suggest that you plan that in the
6 future."

7 And this is, you know, we're talking
8 about Port Authority. So to whitewash, no. To
9 make more professional, yes. And if you -- I know
10 it's out there in the public. I know Major
11 Cedeno's first draft report has been printed since
12 that time, and if you read and you can understand
13 it, then you're better than me.

14 Q Have you learned post-Fort Lauderdale
15 incident that the combined response of BSO and
16 everybody else as reported in the after-action
17 report has actually been used as a model by other
18 law enforcement agencies around the country in how
19 to handle such an unfolding, emerging mass
20 disaster or potential for mass casualty?

21 A I am familiar with that. I know that
22 many, many people have been given presentations on
23 what happened at the airport. I did a
24 presentation on it for the regional domestic
25 security task force down here for the law

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1 enforcement group. But I know that presentations
2 have been given all over the U.S.

3 Q What is the regional domestic security

4 task force?

5 A So that's -- it's a collaborative group
6 that gets funding from various sources, mostly
7 from the federal government. We have all
8 different working -- well, "had" when I worked
9 there. We had many different groups that worked
10 together handling what, you know, should have
11 been -- well, I won't say should have been, but
12 was more prevalent towards a terrorism event. But
13 it gave you both money for equipment and money for
14 training to train all of your different
15 disciplines within emergency response. So you had
16 collaboration between law enforcement, fire,
17 public information, Department of Health,
18 hospitals. Virtually anything that you can
19 possibly imagine as a discipline that would have a
20 hand in disaster response, especially
21 terrorism-related disaster response, was part of
22 the RDSTF.

23 Q And BSO was a component of the RDSF?

24 A RDSTF. Yes.

25 Q Let me move to the second incident, the

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1 Marjory Stoneman Douglas High School shooting.

2 A Okay.

3 Q Did you have a role or participation in

4 that?

5 A Yes.

6 Q What?

7 A Again, I was in charge of investigations

8 at that point and the crime scene unit and the

9 crime lab. And I responded to MSD immediately

10 upon getting notified of it, and I think I was

11 probably on scene there about maybe 40 minutes

12 after it occurred. I responded from the public

13 safety building.

14 Q What did you do there?

15 A So I initially walked to the tactical

16 operations center, a command post of such, which

17 was located in the parking lot on the north side

18 of the 12- and 1300 building and I met with

19 Colonel Polan, Captain Jordan, Major Grant,

20 Captain Robson, who's in charge of the BSO SWAT

21 team, there were various personnel there from

22 fire, from Coral Springs Fire because it falls in

23 Coral Springs Fire jurisdiction, and BS- -- or,

24 I'm sorry, the Coral Springs SWAT commander.

25 And then from there they -- since I

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1 didn't have SWAT at that point, they had been

2 moved to Colonel Polan's command, I was

3 responsible for coordinating all of the detectives
4 and crime scene units to come in and start working
5 that incident.

6 Q You mentioned earlier the Pompano Beach
7 High School exercise?

8 A Um-hmm.

9 Q Did that include school board-affiliated
10 people?

11 A The Pompano Beach exercise? There
12 were -- there were, yes. I mean, we had to get
13 permission to utilize that property. There were
14 people there. There were people there from their
15 school board investigative unit, there were people
16 from there, from the school itself. So, yes.

17 Q Were you aware prior to the MSD shooting
18 incident that BSO had assisted Broward schools in
19 helping develop its training for security,
20 including active shooter?

21 A No, I wasn't aware.

22 Q Continuing with MSD, you got there, you
23 explained what you did.

24 Was there a command post that was set up
25 and organized?

45

1 A When I got there?

2 Q Yes.

3 A Yes.

4 Q Who had done that?

5 A I think Captain Robson had started it as

6 he was probably one of the first responders.

7 Captain Jordan to my recollection was there. She

8 was one of the first command-level responders.

9 I got there -- I was probably late to

10 the game. I think I was probably one of the last

11 ones to learn of the incident that occurred. I

12 think the sheriff got there a little bit after me

13 and my boss, Colonel Dale, got there a little bit

14 after me.

15 But we were -- as you know, as I'm sure

16 you've read, we were experiencing pretty bad radio

17 failure and we needed to be able to communicate

18 face to face and start working that incident and

19 get things done.

20 Q There is a section of the BSO operating

21 procedures called active shooter. It's policy

22 4.37. You are or were familiar with that;

23 correct?

24 A (No oral response.)

25 Q I'm going to read you a section.

1 A Okay. Go ahead.

2 Q But you know what I'm talking about?

3 A Yes, I do.

4 Q I'm going to quote a portion of the
5 policy. If you need to look at it, I can give you
6 a copy.

7 "If real time intelligence exists the
8 sole deputy or a team of deputies may enter the
9 area and/or structure to preserve life. A
10 supervisor's approval or on-site observation is
11 not required for this decision."

12 You've heard of that policy? You've
13 been trained on that policy?

14 A (Witness nods.)

15 Q Yes?

16 A Yes.

17 Q And you have certainly heard post-MSD
18 school shooting that the policy has gone through
19 significant criticism?

20 A Yes.

21 Q Because of the use of the word "may" in
22 the policy?

23 A Yes.

24 Q Did you understand that policy -- based
25 on your knowledge of it and training that the

2 respond to the scene of the shooter?

3 A No, that's not what the intent of the
4 policy was.

5 Q Is the training on that policy, as far
6 as you know, consistent with advising officers
7 that they don't have to go in and confront the
8 shooter?

9 A No. The training is that you will go
10 inside when you hear gunfire going off basically
11 because each round is a loss of life. And I take
12 this personally having been in charge of the
13 investigations at both the airport and at MSD
14 where I saw firsthand what happens when there's an
15 active shooter.

16 Q Without asking for an opinion, a
17 personal opinion as to the action of the first
18 responder on the scene at MSD -- that's former
19 Deputy Peterson, I'm not asking for your opinion
20 about his actions -- as you understand the BSO
21 policy and the training on that policy, is it
22 consistent for an officer responding to not take
23 action to attempt to confront or stop an active
24 shooter?

25 A No, it's not consistent with our

1 training.

2 Q And when you say that, is that based on
3 your participation and training and your knowledge
4 of the training process at BSO?

5 A Yes, and many other agencies as well.

6 And I can tell you from teaching around the
7 country for the National Tactical Officers
8 Association, I've had many occasions to discuss
9 tactics and SOPs with officers all over this
10 country and you will find that there are many
11 agencies that say in their policy you should
12 respond, you shall respond. There's differences
13 amongst them. And the reasoning behind that, as,
14 you know, I've come to find out through my years
15 of experience, is there may be a time where it's
16 an unwinnable situation for you to even make
17 entry.

18 For instance, there was a school that
19 was taken over by terrorists in Beslan, which
20 is -- this was some years ago, which is former
21 Russian Republic, and it was taken over by so many
22 terrorists and they had put explosive devices
23 virtually on every door. Well, in order for them
24 to make entry, they would have had to breach the
25 door and they would have been killed immediately.

1 Well, if I'm a hostage, I don't want you doing
2 that anyway; right? Or if I'm a victim, I don't
3 want you to come and meet me in heaven.

4 So that's why the difference, sometimes
5 you'll see shall respond and sometimes you see may
6 respond. But the ultimate goal is to stop the
7 shooter, right, is to stop the shooter, not to
8 stand outside and not to do nothing.

9 Q From your work, including teaching at
10 National Tactical Officers Association events, and
11 your knowledge of other agency operations and
12 procedures, is it your view that the then existing
13 4.37 active shooter policy that I read is
14 consistent with active shooter policies around the
15 country?

16 A Yes.

17 Q Is there any, as far as you know,
18 standard required by the Florida Department of Law
19 Enforcement or any Florida-required agency for
20 what's to be included in an active shooter policy?

21 A No, nothing that I know of.

22 Q Okay. And the agency BSO is accredited,
23 is an accredited law enforcement agency?

24 A Yes.

25 Q And is an accredited training center?

1 A Yes.

2 Q And is it your understanding it's the
3 only accredited sheriff's office accredited as a
4 training center?

5 A I don't know.

6 Q There's a program with the Broward
7 schools called the Real Time Crime Center, RTCC.

8 Are you familiar with that?

9 A Are you talking about the Real Time
10 Crime Information Center?

11 Q Yes.

12 A Okay. That was started under
13 Sheriff Israel's tenure, if that's the one you're
14 referring to. I'm not sure if that's the one
15 you're referring to.

16 Q Let me try to rephrase.
17 Is there a program in place, or was
18 there a program in place during your tenure with
19 BSO where BSO as a law enforcement agency gets
20 immediate access to the cameras controlled by
21 Broward schools in the schools?

22 A No.

23 Q Okay. Was there a limitation on
24 accessing the cameras at the time of the MSD
25 school shooting?

1 A They -- you're talking about BSO being
2 able to actively look at the camera systems in the
3 schools?

4 Q That's what I'm asking about.

5 A They were highly resistant to ever
6 giving us access to anything even after MSD.

7 Q At the time of MSD did you become aware
8 that the ability to monitor the cameras had some
9 time delay involved in accessing the cameras?

10 A The day of the incident --

11 Q Yes.

12 A -- there was a delay. They had gone
13 back and they were reviewing some video as the
14 first responding officers were getting on scene.
15 I remember hearing this on the radio early on when
16 I was responding, that the shooter was on the
17 second or third floor of the 1200 building. Come
18 to find out later that was a delayed video and he
19 had already left the area, but they had gone back
20 in time in the video to actually review and see
21 where he was and if they could get an
22 identification on him. That's what I believe you
23 may be referring to.

24 Q Okay. Were you -- you retired from or
25 concluded your service with BSO at the time of the

1 MSD commission report?

2 A They were still working on it.

3 Q Were you called to present any

4 information to the MSD commission?

5 A No. I went to one or two of the

6 meetings, but I was not called to present.

7 Q During the months you were with BSO

8 following the MSD incident, did BSO take active

9 measures to learn from and implement new

10 information based on what had happened at MSD High

11 School?

12 A Yes.

13 Q Was that integrated into the training

14 that occurred between February of 2018 and the

15 time you left the service in late 2018?

16 A Yes. So the training department went

17 back and reviewed all of their training protocols

18 when it came to active shooter. We looked -- from

19 the investigative standpoint, we looked at

20 bringing in new technology that would assist the

21 community and the students with not only being

22 able to send in tips and complaints about people

23 who were making threats at schools but also gave

24 parents a way to check in with their children, and

25 that was through an app that I was very happy to

1 get brought in called SaferWatch.

2 And then we further started two
3 different initiatives in investigations. One was
4 the threat response unit, which, as you know,
5 Florida created as part of the MSD law, was a
6 red-flag law where you could -- you could actually
7 have people's weapons confiscated if they had made
8 any kind of threats. And we dedicated four
9 detectives and a supervisor to a threat response
10 unit to go out and actively investigate these
11 after that law came in.

12 Now, before we even had those deputies,
13 my violent crimes unit was running day in and day
14 out after MSD because we had hundreds and hundreds
15 of people who would either say they wanted to do a
16 school shooting or said they knew of somebody who
17 was going to be doing a school shooting, we had
18 copycat calls coming in. So that was the
19 second -- one of the other things that we did was
20 put together that threat response team.

21 And then the third thing is we hired a
22 captain -- a former inspector from the NYPD,
23 brought him down here to head up our Real Time
24 Crime Center. And that was going to be a --
25 eventually it would have been a 24-hour

1 clearinghouse for information coming in, being
2 processed and being put in the hands of the right
3 officers to intervene or investigate an incident
4 where it could be an active shooter, could be a
5 terrorist event. But it would basically be able
6 to communicate between SID and CID and a patrol --

7 Q Tell us what SID and CID are.

8 A So SID is special investigations
9 division. They house the intel unit, all the
10 narcotics units, money laundering unit, Internet
11 crimes against children unit, human trafficking,
12 interdiction. So that's one -- that's one under
13 SID.

14 And then CID is your typical units that
15 you would expect to be in criminal investigations,
16 homicide, violent crimes, special victims units,
17 the fraud unit, missing persons, robbery.

18 So anyway, the Real Time Crime
19 Information Center was going to be the interface
20 between those units, between the state attorney's
21 office, between the schools to try and make it a
22 less cumbersome process and to process information
23 in a more efficient manner.

24 MR. KUEHNE: I have no further questions

25 and tender the examination to Mr. Primrose.

55

1 MR. PRIMROSE: All right. Thank you.

2 CROSS-EXAMINATION

3 BY MR. PRIMROSE:

4 Q Mr. DiMaggio, when's the last time you
5 spoke to Scott Israel?

6 A Maybe a month or so ago. He did text
7 me -- he did text me last week and asked me to
8 call Mr. Kuehne because he was looking to depose
9 me in this case.

10 Q Okay. And when you guys spoke last
11 month, what was that about?

12 A It was just about how he was doing since
13 he had been removed, if he had found any work.

14 Q Okay. And when you got a text message
15 last week to call Mr. Kuehne, I imagine you called
16 him?

17 A I did.

18 Q And what did you and Mr. Kuehne speak
19 about?

20 A That he wanted to depose me today.

21 Q Anything else?

22 A No, that's it.

23 Q Did you guys talk about what kind of
24 questions he would ask you?

25 A No.

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1 Q What about Mr. Kaplan, Mr. Israel's
2 other attorney, have you spoken to him?

3 A No.

4 Q My understanding is that you worked with
5 Scott Israel at the Fort Lauderdale Police
6 Department --

7 A I did.

8 Q -- is that right?

9 A Yes.

10 Q And it was actually Scott Israel that
11 brought you on board to Broward Sheriff's Office
12 in 2013; right?

13 A That's correct.

14 Q And Scott Israel also hired another
15 colleague of yours from Fort Lauderdale Police
16 Department, Jack Dale?

17 A That's correct.

18 Q And Jack Dale is who I believe you
19 mentioned was kind of overseeing all the training
20 for Broward Sheriff's Office?

21 A Yes.

22 Q Okay. You mentioned at the beginning
23 that you're currently the director of security in

24 private industry. Can you be more specific? Who

25 do you work for?

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1 A I'm not going to answer that question.

2 Q Can you explain why you're not going to
3 answer?

4 A Because the sheriff was removed by the
5 governor and I don't want to create any problems
6 for the company that I work for. So if you want
7 me to answer that, you're going to have to certify
8 it.

9 Q What do you mean "certify it"?

10 A You're going to have to get a judge to
11 order me to give you the answer to that question.

12 Q Okay. Just so that we've got this
13 pretty clear on the record, you are not telling me
14 who your current employer is?

15 A That's correct.

16 Q Okay. When Mr. Kuehne was asking you
17 questions about the airport district not wanting
18 to shut down the terminal, I need to understand
19 this a little bit more. Isn't the Broward
20 Sheriff's Office in charge of all law enforcement
21 and security for Fort Lauderdale Airport?

22 A Yes. Not all security, but they are in
23 charge of security, yes.

24 Q Okay. And Broward Sheriff's Office is
25 the primary supplier of law enforcement to the

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1 airport; correct?

2 A Yes.

3 Q And are there any policies in place that
4 dictate if there's a law enforcement situation
5 that command is now placed into Broward Sheriff's
6 Office instead of the head of the airport
7 district?

8 A I'm not familiar with any.

9 Q Have you ever seen any policies or do
10 you know if they even exist?

11 A I don't know if they exist that place us
12 as the people who would have the ultimate
13 authority in that case.

14 Q Generally when a law enforcement event
15 happens, the head of law enforcement or a
16 commander is who takes control of the scene;
17 correct?

18 A Yes.

19 Q Okay. Had you ever been to Fort
20 Lauderdale Airport prior to January 2017 to go
21 over how BSO might respond to an active shooter
22 situation?

23 A Not to the airport, no.

24 Q Okay. Had you ever had to train with
25 any of the BSO airport district staff on how they

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1 might handle an active shooter situation?

2 A No. I did interact with the captain at
3 the airport and their executive officer on many
4 occasions when we -- when they would ask for our
5 SWAT units to go down there for a deterrent
6 against active shooters. But that wasn't a -- it
7 wasn't a training event, that was a real-time
8 event.

9 Q Okay. Now, you said that you actually
10 reviewed the after-action report into the Fort
11 Lauderdale Airport shooting; correct?

12 A Yes.

13 Q And I believe you said that -- and these
14 were your words about Major Cedeno's first draft:
15 Less than professional, not well written, wordy
16 and unduly harsh on other agencies. Did I get
17 that correct?

18 A You did.

19 Q Okay. Is it your testimony, then, that
20 things that he put into the report were not
21 accurate?

22 A At the time -- and I haven't reviewed

23 that after-action report lately, but I can tell
24 you at the time, the first draft of reading it, I
25 would absolutely agree with my assessment of that

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1 report.

2 Q Well, that's what I'm asking you.

3 So you never said that you had a problem
4 with the accuracy of it, you just said that it was
5 less than professional, not well written, wordy
6 and unduly harsh on other agencies. So the
7 question is: You're not saying that anything in
8 it was inaccurate or false; is that fair?

9 A I would say -- I don't know if --
10 inaccurate would probably be a good term of it.
11 False? I don't think if you're -- if you're
12 trying to say that he was doing something that was
13 nefarious, I don't think that was it. I just
14 think that his interpretation was -- of the event
15 was inaccurate as to the way he wrote it.

16 Q So if -- when you sat in on this meeting
17 with the sheriff and some other individuals to go
18 over the first draft, do you remember if there was
19 ever a discussion that certain areas of
20 improvement identified by Major Cedeno were
21 inaccurate, meaning those were not, in fact, areas

22 that needed to be improved?

23 A I don't recall that, no.

24 Q So I've gone through the report a bunch

25 of times and I guess, if I've got this correct, at

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1 that time you were the head -- or you oversaw the

2 CSU, the crime scene unit; right?

3 A Yes.

4 Q So when Major Cedeno puts in a critique

5 that CSU members were not tactically prepared for

6 the escalation of events leaving them vulnerable

7 to potential injury or death, just trying to

8 remember back to that time, do you agree or

9 disagree with that assertion by Major Cedeno?

10 A To be honest with you, I don't even

11 remember him having that in there.

12 Q Okay. Well, I am reading from the

13 report, so I'm just wondering if something like

14 that sticks out in your mind as, you know,

15 Major Cedeno was 100 percent wrong on that opinion

16 of his?

17 A No. Honestly, I don't even remember

18 that verbiage being in there.

19 The crime scene unit -- I want you to

20 understand what they do. So when the -- at the

21 conclusion of an incident the crime scene unit

22 goes in and they will first photograph, using
23 different camera systems, the entire scene. Once
24 they're done with that, they'll take measurements,
25 they will document where each piece of evidence

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1 is, and then they'll start collecting the evidence
2 and cataloging it for prosecution.

3 So I'm really unsure as to why he would
4 put that they were not tactically prepared. I
5 want to make it very clear to you that that's not
6 their job, that's not their function, it's not
7 their focus. They're deputies and technicians who
8 collect evidence for prosecution, they're not a
9 tactical unit.

10 Q Okay. Do you know -- let me ask you
11 this question: Did you get a chance to read the
12 second draft of the after-action report that was
13 created by Captain Diefenbacher?

14 A No.

15 Q Okay. So any reason why there wasn't a
16 meeting called after Major -- after
17 Captain Diefenbacher's report similarly to
18 Major Cedeno's?

19 A I couldn't tell you that. If there was
20 a meeting called, I went to it and if there

21 wasn't, I didn't.

22 Q Have you ever had a chance to compare
23 Major Cedeno and Captain Diefenbacher's draft
24 reports to the final one that was released?

25 A No.

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1 Q Would it surprise you to learn that the
2 final critical incident report that was released
3 that contained a letter from Sheriff Israel
4 included really no criticisms of BSO and no areas
5 of improvement for BSO after the airport shooting?

6 A Nothing surprises me, sir.

7 Q Well, I guess the reason I ask that is,
8 you had mentioned when Mr. Kuehne asked you
9 questions that the after-action report, nothing
10 should be done to that to make BSO look better.
11 But in fact, if you compare the two draft versions
12 to the critical incident report or the final
13 report, there's zero criticisms of BSO's response
14 to the Fort Lauderdale Airport shooting or any
15 areas that they might improve.

16 A I don't -- I don't know if there's a
17 question in there, but I would tell you that, as I
18 have testified to, that I believe that there's
19 always room for improvement, but nobody had ever
20 seen an event of this magnitude.

21 Q Okay.

22 A And I think I probably had mentioned,
23 you know, the fact that acquiring resources to
24 move the people out of there in an efficient
25 manner was something that we had never had to deal

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1 with on that scale before. So, yeah, there
2 probably could have been some more interaction and
3 training on how we work with other county agencies
4 in there.

5 Q Okay. When exactly did you start at
6 BSO? You said January of 2013?

7 A Yes, sir.

8 Q So in November of 2013 was the
9 Los Angeles International Airport shooting. Are
10 you aware of that?

11 A Yes.

12 Q So after that shooting occurred did --
13 so from November of 2013 up until January 2017,
14 the Fort Lauderdale Airport shooting, had you ever
15 gone to Fort Lauderdale Airport and done a
16 large-scale, real-life training exercise at the
17 airport?

18 A No.

19 Q Now, you talked about -- Mr. Kuehne

20 asked you some questions about responding to an
21 active shooter situation and you said not
22 responding would be inconsistent with the training
23 that BSO deputies receive; correct?

24 A Yes.

25 Q Okay. Who is ultimately responsible for

65

1 making sure all Broward Sheriff's Office deputies
2 are trained?

3 A Well, that responsibility falls to the
4 training division.

5 Q Okay. But who does the training
6 division ultimately respond to?

7 A They -- are you getting to the sheriff
8 being in charge of the sheriff's office?

9 Q That's what I'm getting to.

10 A There's your answer.

11 Q Okay. So you'd agree that ultimately
12 the sheriff is in charge of making sure that all
13 of his deputies are properly trained?

14 A I would.

15 Q Now, you've obviously got thousands of
16 employees so you can delegate certain, you know,
17 tasks, but ultimately he's the leader of the
18 sheriff's office?

19 A Yes.

20 Q So he would also be ultimately
21 responsible for making sure every single deputy
22 that wears the badge of Broward Sheriff's Office
23 knows the standard operating procedures of the
24 agency?

25 A Yes.

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1 Q And the sheriff ultimately must make
2 sure that anybody that wears the badge of Broward
3 Sheriff's Office is actually going to carry out
4 the policies that he has signed off on and wants
5 in place for his agency?

6 A To the extent that he can, yes, he is
7 responsible for that.

8 Q Okay. And he's also responsible, then,
9 for making sure that anybody who has a badge in
10 Broward Sheriff's Office is actually going to
11 carry out the training that he expects them to
12 have undergone?

13 A That's correct.

14 Q It's going to sound like a silly
15 question, but it's not.

16 And Sheriff Israel, then, would have
17 been responsible for making sure that any deputy
18 that wore the badge of Broward Sheriff was

19 actually going to protect life in a real-life,

20 real-time situation; correct?

21 A I don't think that that's his personal

22 responsibility. You can never tell what's going

23 to happen when the bullets are flying. There's no

24 policy, there's no training, there's no SOP that's

25 going to dictate what a human being does when

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1 faced with a combat situation. You can refer to

2 the United States Army, the Marine Corps, the Navy

3 and the Marines [sic]. They put people through

4 boot camp and they still have people that freeze

5 in combat, which is a personal choice carried out

6 by the person. The people that ultimately wear

7 the badge and gun are the ones who are going to be

8 depended on to either respond properly or not

9 respond.

10 The deputy that took the shooter in

11 custody at the airport had the same training that

12 Scot Petersen did. As a matter of fact, I think

13 Scot Peterson, based on my recollection of the

14 case, had much more training. I think he was an

15 active shooter trainer. He had taught classes at

16 his school on active shooters. So no matter what

17 training he had, no matter what amount of skill

18 that he had, Scot Petersen froze that day and

19 chose not to make an entry.

20 Q But isn't -- but isn't it -- isn't it

21 the ultimate responsibility, though, of the

22 sheriff to ensure that, okay, we obviously can't

23 put our deputies in real-life situations as

24 training but that the deputies are trained in as

25 close to real-life situations as possible to see

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1 how they act under high-stress situations?

2 A Certainly.

3 Q And correct me if I'm wrong, but the

4 active shooter training for Broward Sheriff's

5 Office was broken up into two four-hour blocks;

6 right?

7 A I believe that's what it was, yes.

8 Q And it was two four-hour blocks that the

9 entire sheriff's office had to do between 2015 and

10 2017?

11 A That sound about right.

12 Q So it's not -- and correct me if I'm

13 wrong, but I'm not seeing anything that says on a

14 monthly or every other month they're doing

15 in-service active situations and trainings to test

16 how somebody is going to be in a high-stress

17 situation. Is that a fair understanding of the

18 training that went on?

19 A I think that's a bit different from what
20 reality is. There's a million different trainings
21 that deputies have to go through and there's only
22 a finite amount of time to get them through that
23 training. So there's active shooter trainings,
24 there's rescue task force trainings, there's CPR
25 trainings, there's trainings on how to use your

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1 computer, there's trainings on de-escalation,
2 there's trainings on defensive tactics, there's
3 trainings on interactions -- professional
4 interactions with the public, there's training on
5 traffic stops, there's training on driving,
6 there's training on -- I'm sure I'm forgetting a
7 million other things. But there is just -- you
8 have to understand, and I'm trying my best to give
9 you a real, you know, evaluation of what a deputy
10 has to go through on a, you know, monthly basis.

11 But there's so much training that needs
12 to be accomplished, some state-mandated and some
13 not, that there's just not enough time. You would
14 literally constantly be in training, and you have
15 to staff the road. So -- and you have to deal
16 with manpower issues at the same time. So if your
17 district or your division is down in deputies --

18 for each time that that person goes to training,
19 you have to have another deputy cover either the
20 case or the road or whatever it is. So you
21 couldn't possibly do all the training that you
22 wanted to do unless you had an infinite number of
23 dollars to throw at it.

24 For the amount of training that they
25 got -- and, again, I went through the same

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1 training that they did -- I believed that they
2 were properly trained to respond to an active
3 shooter.

4 And to be honest with you, when I first
5 saw the video, I think I was the first person at
6 BSO to see that video of Deputy Petersen standing
7 behind that light post, I was -- I couldn't
8 believe it, Nick. I couldn't believe it, if you
9 allow me to call you that. That guy caused the
10 death of -- not directly, but I think he could
11 have interceded and at least saved some of those
12 victims on the third floor.

13 Q Now -- and I don't want to belabor this
14 point, but I guess the decision of which trainings
15 are going to be offered -- and understanding that
16 there's some that are required training to

17 maintain credentialing, but all of those decisions
18 about prioritizing, you know, maybe prioritizing
19 active shooter in-service training, creating more
20 real-life situation training especially, as you
21 mentioned, after Columbine and Aurora and you even
22 mentioned the Middle Eastern school, the choice on
23 what type of training to prioritize and stress and
24 make sure deputies are 100 percent aware of their
25 responsibilities, what's required of them is

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1 ultimately a decision that falls on the sheriff to
2 make; right?

3 A Yes. Ultimately, yes.

4 MR. PRIMROSE: Okay. I don't have any
5 other questions, Mr. DiMaggio. I thank you
6 for taking the time to come speak with us
7 this afternoon.

8 THE WITNESS: Thank you, Nick.

9 MR. KUEHNE: I do have a few follow-up
10 questions.

11 REDIRECT EXAMINATION

12 BY MR. KUEHNE:

13 Q In your knowledge of Scot Petersen,
14 there were some questions about that, is it your
15 view as a former senior staff member that Scot
16 Petersen was properly trained to respond at MSD?

17 A Yes.

18 Q He was a school resource officer
19 assigned to MSD?

20 A Yes.

21 Q Did he, as far as you know, have
22 training for the role of a school resource
23 officer?

24 A Not only just for SRO but, as I
25 mentioned, he had -- he was an instructor in

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1 active shooter.

2 Q So you're aware that
3 then-Deputy Petersen was actually an instructor
4 for the Broward County Schools active
5 killer/active shooter course?

6 A I did not know that. I did not know
7 that he trained for the schools.

8 Q So that's new infor- -- if true, that's
9 new information? You knew he was a trainer for
10 active shooter/killer programs?

11 A Yes.

12 Q But you did not know that additionally
13 he was an instructor for the Broward Public
14 Schools active killer --

15 A No.

16 Q -- course?

17 A I did not.

18 Q You're aware that as part of his role as
19 a school resource officer he participated in
20 school resource shooting boot camp?

21 A Did not know.

22 Q Did not even know that.

23 He attended programs that included
24 active shooter in-service trainings?

25 A I knew that he had been trained for

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1 active shooter.

2 Q Now, you were asked some questions by
3 the governor's counsel. Does the governor's law
4 enforcement agency, Florida Department of Law
5 Enforcement, require any active shooter training?

6 A No.

7 Q Today the governor's been governor now
8 for February, March, April, May, June. In the
9 course of five months or so, are you aware, if you
10 followed it, whether the governor has instructed
11 the Florida Department of Law Enforcement to
12 immediately implement active shooter training as a
13 mandatory requirement?

14 A I don't know, sir.

15 Q You're aware that the governor, before

16 he became governor, was a member of Congress;

17 right? U.S. Congress.

18 A Yes.

19 Q Have you ever heard that as a member of

20 U.S. Congress the governor filed a bill or gave a

21 speech mandating that after Columbine law

22 enforcement agencies must as a requirement for

23 federal funding mandate active shooter training

24 classes?

25 A No.

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1 Q But it's your understanding as a member

2 of U.S. Congress he could, in fact, promote a bill

3 that would require that; right?

4 A I would imagine that's correct, yes.

5 Q Is law enforcement a high-stress job in

6 your opinion?

7 A Yes.

8 Q Does that include a law enforcement

9 assignment to a school resource officer?

10 A Is that a high-stress job?

11 Q Yes.

12 A I believe it is.

13 Q Okay. As far as you know, are there any

14 active law enforcement positions at BSO that are

15 not high stress?

16 A Active sworn positions?

17 Q Yes.

18 A If you wear the gun every day and you
19 wear a badge and you go out in public, it's -- it
20 carries along with it an understanding that you
21 could get into a deadly force situation and I
22 think that carries along with it stress.

23 Q If this is too personal a question, I
24 will withdraw it. But you were a senior officer
25 not doing road patrol in your time at BSO;

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1 correct?

2 A Right.

3 Q But you testified that you wore a gun
4 and a badge but you didn't wear a uniform
5 generally?

6 A Not generally, but some days I did.

7 Q Some people might look at your job and
8 say, wow, that's a cushy job, he's a boss, he
9 doesn't really have to do anything; right?

10 A I guess some people could say that.

11 Q But are you 24-7 a sworn law enforcement
12 officer?

13 A Yes.

14 Q Could you be on a moment's notice called

15 into real action, having to respond to the bad

16 guys who might have weapons?

17 A Yes. I would frequently go out with the

18 SWAT team when they were under my command on

19 operations, and I wore the same bullet-resistant

20 vests and bullet-resistant helmets that they did

21 and made entries right alongside them.

22 Q Did you commit when you became a sworn

23 law enforcement officer to an oath of duty to

24 preserve, protect and defend the public?

25 A Yes.

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1 Q Is it your understanding that

2 Deputy Peterson and all other BSO deputies took

3 that same oath of obligation?

4 A Yes.

5 Q And as a part of being certified by the

6 state of Florida as a law enforcement officer,

7 does that include a commitment to preserve,

8 protect and defend?

9 A It does.

10 Q Was there any part of your knowledge of

11 Deputy Peterson's background or any of the

12 responding officers at MSD High School that gave

13 you advance notice that any of them would freeze

14 or not follow their policies or training?

15 A I didn't know any of those deputies

16 before that day. So, no, there would be

17 nothing -- I would have expected them to respond

18 like me or any of the guys that I do know

19 personally, and that is to go in and save those

20 children's lives. And that's the reason I got out

21 of law enforcement.

22 Q Did you do everything in your capacity

23 as a senior officer with BSO both at the Fort

24 Lauderdale Airport shooting incident and at the

25 MSD High School shooting incident to preserve,

77

1 protect and defend lives of people?

2 A Yes.

3 Q And is it your understanding that the

4 deputies responding to both of those scenes had

5 the obligation to do the same?

6 A Yes.

7 Q In the process of going through

8 trainings at BSO, if training officers or

9 superiors identify a person who might have gone

10 through the training but doesn't seem to

11 understand the training, is there a corrective

12 action or some follow-up that is a part of the

13 BSO?

14 A Yes, there's remedial training.

15 Q If BSO identifies a person who is
16 emotionally or mentally unfit to serve in an
17 active law enforcement capacity, is there any
18 process at BSO to take that into consideration, to
19 accommodate that, to resolve that?

20 A Yes, there is.

21 Q Is there anything that you're aware of
22 involving Deputy Peterson that put anybody at BSO
23 in the command structure or supervisory structure
24 on notice that he would not be capable of
25 following the clear directive policy to take out

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1 the active shooter?

2 A No, there was nothing. To my knowledge
3 and everything I know about the case from being
4 directly involved, he was well respected at MSD.
5 The kids had a high degree of respect for him, the
6 parents did. I'm sure you'll find people now --
7 no one will say that, but he was pretty well liked
8 there.

9 Q The governor's lawyer asked you some
10 questions upon making observations of the Fort
11 Lauderdale Airport after-action incident report.
12 And you have not, as far as you recall, seen or

13 studied the final report?

14 A No, I haven't.

15 Q But the lawyer did preface some question
16 with the statement that there are no criticisms in
17 the final action report. Do you recall that?

18 A I recall that.

19 Q Now, if I tell you, and I can point to,
20 without showing it to you, a document that starts
21 with a Bates No. EOG00222, that's a reference to a
22 document identified by the Executive Office of
23 Governor as a potential exhibit, referencing the
24 final October 6, 2017 published Fort Lauderdale
25 After-Action Report, and that there are -- there's

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1 a section called Observations, Opportunities for
2 Improvement that goes on for many pages. If I
3 tell you there's a portion of that, do you
4 understand that topic to be a different way of
5 saying constructive criticism?

6 A Yes.

7 Q And if you were told or had a chance to
8 look at the observations for improvement and saw
9 that there were pages of portions that identify
10 strengths and opportunities for improvement, OFI,
11 would that suggest to you that the report actually
12 contains constructive criticism?

13 A Yes.

14 Q And that somebody who reads the report
15 and tells you there are no criticisms in the
16 report either doesn't understand what
17 opportunities for improvement mean or are trying
18 to mislead you as to what's in the report?

19 A Yes.

20 Q And if you were to read the report and
21 see that there are observations for improvement in
22 various topics, including active shooter response
23 and training, crime scene, CSU activity, unified
24 command and operational coordination areas,
25 emergency center operations, would that suggest to

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1 you that the final version of the after-action
2 report does in fact include constructive criticism
3 designed to publicly identify areas of
4 improvement?

5 A Yes.

6 Q You did not write the final version of
7 the after-action report?

8 A No.

9 Q But is it your understanding, you were
10 in office serving on October 6, 2017, that the
11 final version was the work of many hands?

12 A Yes.

13 Q And are those the hands that you and
14 others at BSO relied on in the course of your work
15 with BSO?

16 A Yes.

17 Q You were asked some questions about your
18 personal view of Major Cedeno's first draft. Did
19 you understand that that was, in fact, a first
20 draft, it was just an early version of
21 observations?

22 A Yes.

23 Q And you disagreed based on facts you
24 knew with some of the findings made by Major
25 Cedeno?

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1 A Yes.

2 Q Not a personal disagreement with
3 Major Cedeno, just your own view that he got some
4 of the facts wrong?

5 A I would say that reading -- to my
6 recollection, and this was a while back, I had --
7 I don't know if he got the facts wrong, but I
8 think the way he wrote, his writing style was
9 verbose, it was borderline unprofessional and it
10 didn't -- it didn't do much for pointing out
11 deficiencies in other agencies and how we

12 interacted with them which I didn't see.

13 Q Also did it make observations that in
14 your view, having been there, were just not
15 consistent with the facts and the evidence?

16 A You know, my answer's going to be I
17 really don't have a clear recollection of
18 everything he wrote in there. I would just be
19 talking in, you know, in vague, you know --

20 Q I understand. Your --

21 A -- generalizations.

22 Q Your training is to be precise, so I get
23 that.

24 You were asked by the governor's lawyer
25 about a comment, and as I wrote it down I

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1 didn't -- I'm not going to quote it, that CSU
2 members were not tactically prepared for the
3 escalation of events, an observation made by -- in
4 the first draft report. Do you remember that
5 discussion?

6 A Yes.

7 Q In your view that's not an accurate
8 observation, is it?

9 A No.

10 Q "Tactically prepared" means something in

11 law enforcement terminology, doesn't it?

12 A Yes.

13 Q And is the crime scene unit in terms of

14 doing its crime scene job designed to utilize

15 tactics in confronting an active scene?

16 A No, that doesn't fall within their --

17 that's not part of what their duties are once they

18 get to a scene. Once they're -- once the crime

19 scene unit is at a scene it's not a hot zone

20 anymore, it's a cold zone. So the perpetrator's

21 been removed, there's no immediate danger and they

22 go about their job. So generally when they

23 respond, unless they just do it as a matter of

24 habit, they're not wearing, you know, vests. They

25 always have their gun and their badge with them,

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1 but they're dressed like a detective would dress.

2 Q So even though members of the crime

3 scene unit might in fact be sworn law enforcement

4 officers, their role as a crime scene unit, when

5 they're in that role, is different from a road

6 patrol officer or a homicide officer --

7 A Yes.

8 Q -- right?

9 Now, they could still be tasked to do

10 active law enforcement because they are -- if they

11 are sworn law enforcement officers; right?

12 A Yes.

13 Q But if that happened -- hypothetically,

14 you're at the scene of the Fort Lauderdale

15 Airport. Crime scene officers come, some of whom

16 are sworn law enforcement officers. You as a

17 senior officer could direct them out of the crime

18 scene to then do, I'm going to call it, active law

19 enforcing; right?

20 A Yes.

21 Q And that essentially would be a command

22 to them to change their function?

23 A Yes.

24 Q And you as a command -- I don't know if

25 you were a command officer, but a senior officer

84

1 could have that authority to make that direction?

2 A Yes, I could.

3 Q When you were on the scene at Fort

4 Lauderdale, did you make that direction to any

5 crime scene unit officers, that stop being a crime

6 scene unit officer, we need you to do active law

7 enforcement?

8 A No.

9 Q Did you feel there was a need for that?

10 A No.

11 Q As far as you are aware, during the time
12 that you were a senior officer, did your functions
13 have adequate staffing and training? The people
14 who were within your functions, did you have
15 adequate staffing and adequate training?

16 A I believe so.

17 MR. KUEHNE: I don't have any further
18 questions, but I tender the witness for any
19 follow-up questions.

20 MR. PRIMROSE: I just have a quick
21 follow-up.

22 CROSS-EXAMINATION

23 BY MR. PRIMROSE:

24 Q You would certainly defer to the actual
25 copies of the draft after-action report, both

85

1 Major Cedeno's and Captain Diefenbacher's, for
2 what they say; correct?

3 A I would.

4 Q And similarly, with the critical
5 incident report or the final version, you would
6 defer to what that actually says versus any
7 representation by myself or Mr. Kuehne?

8 A Yes, Nick.

9 MR. PRIMROSE: Okay. I have no other

10 questions then.

11 THE WITNESS: Thank you.

12 MR. KUEHNE: Thank you.

13 Thanks, Nick.

14 Read or waive? You can just let her

15 know.

16 THE WITNESS: Read.

17 (Witness excused.)

18 (Thereupon, at 3:09 p.m. the deposition

19 was concluded.)

20 -----

21

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1

2 CERTIFICATE OF OATH

3

4 STATE OF FLORIDA)
COUNTY OF BROWARD)

5

6 I, Carol Ann Kridos, Registered

7 Professional Reporter, Notary Public in and for

8 the State of Florida at Large, certify that the

9 witness, MICHAEL DIMAGGIO, personally appeared
10 before me on June 6, 2019 and was duly sworn by
11 me.

12

13 WITNESS my hand and official seal this
14 7th day of June, 2019.

15

16

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21

Carol Ann Kridos
Registered Professional Reporter
Notary Public - State of Florida
Commission No.: FF977714
My Commission Expires: 4/27/20

22

23

24

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1

2 ACKNOWLEDGMENT OF DEPONENT

3

4 I hereby certify that I have read the

5 foregoing deposition given by me, and that the

6 statements contained therein are true and correct

7 to the best of my knowledge and belief, with the

8 exception of attached corrections, if any.

9

10

MICHAEL DIMAGGIO

11

12

13 SUBSCRIBED AND SWORN before and to me

14 this ____ day of _____, 2019.

15

16

Notary Public, State of Florida
My Commission Expires:

17

18

19 REASON FOR WITNESS'S NON-SIGNATURE:

20 ____ WITNESS FAILED TO APPEAR

21 ____ WITNESS COULD NOT BE LOCATED

22 ____ WITNESS IS ILL

23 ____ WITNESS REFUSED TO SIGN

24 ____ OTHER _____

25

1 ERRATA SHEET

2 IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL

3 DATE: June 6, 2019

4 PAGE LINE CORRECTION AND REASON

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1 ERRATA SHEET
2 IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
3 DATE: June 6, 2019
4 PAGE LINE CORRECTION AND REASON
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25 (DATE)

1 REPORTER'S DEPOSITION CERTIFICATE
2 I, Carol Ann Kridos, RPR, certify that I was
3 authorized to and did stenographically report the
4 deposition of MICHAEL DIMAGGIO, the witness herein
5 on June 6, 2019; that a review of the transcript
6 was requested; that the foregoing pages, numbered

7 from 1 to , inclusive, are a true and correct
8 transcription of my stenographic notes of the
9 deposition by said witness.

10 I further certify that I am not a relative,
11 employee, attorney or counsel of any of the
12 parties, nor am I a relative or employee of any of
13 the parties' attorney or counsel connected with
14 the action, nor am I financially interested in the
15 action.

16 The foregoing certification of this
17 transcript does not apply to any reproduction of
18 the same by any means unless under the direct
19 control and/or direction of the certifying
20 reporter.

21 Dated this 7th day of June, 2019.

22

23

24

Carol Ann Kridos, RPR
Notary Public - State of Florida

25

1 VERITEXT FLORIDA REPORTING COMPANY
2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5

June 7, 2019

6

Michael DiMaggio

6

7 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
8 DEPO OF: Michael DiMaggio
TAKEN: June 6, 2019
9 READ & SIGN BY: July 7, 2019

10
11 Dear Mr. DiMaggio,

12 This letter is to advise you that the
13 transcript of the deposition listed above is
completed and is awaiting reading and signing.

14 Please arrange to stop by our office in
Suite 2250, 2 South Biscayne Boulevard, Miami,
15 Florida to read and sign the transcript. Our
office hours are from 8:30 a.m. to 4:00 p.m.
16 Monday through Friday. Depending on the length
of the transcript, you should allow yourself
sufficient time.

17 If the reading and signing has not been
completed prior to the referenced date, we shall
conclude that you have waived the reading and
18 signing of the deposition transcript.

19
20 Sincerely,

21 CAROL ANN KRIDOS, RPR
22 VERITEXT/FLORIDA REPORTING CO.

23 cc: All counsel on appearance page.

24

25

92

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
(305) 376-8800

4 June 7, 2019

5

6 BENEDICT P. KUEHNE, ESQ.
KUEHNE DAVIS LAW, P.A.
7 100 Southeast Second Street
Suite 3550
8 Miami, FL 33131

9

10 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Michael DiMaggio
11 TAKEN: June 6, 2019
READ & SIGN BY: July 7, 2019
12

13 Dear Counsel,

14

The original transcript of the deposition
15 listed above is enclosed for your file. The
witness did not waive reading and signing and has
16 been sent a letter notifying them to come and read
and sign their deposition transcript.

17

The witness will be provided a copy of their
18 deposition transcript for reading in our office
should they come in to review the transcript, and
19 we will forward to you any corrections made by the
witness at that time, along with an original
20 signature page which should be attached to the
original transcript which is in your possession.

21

22

Sincerely,

23

24

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

25

1 THE FLORIDA SENATE
2 EXECUTIVE ORDER NO. 19-14

3 IN RE:
4 SUSPENSION OF SHERIFF
5 SCOTT ISRAEL
6 _____:

7
8
9
10 Wednesday, June 5, 2019
11 One East Broward Boulevard
12 Suite 902
13 Fort Lauderdale, FL 33301
14 12:27 p.m. - 12:58 p.m.

15
16
17 DEPOSITION OF STEVEN GELLER
18
19

20 Taken before Carol Ann Kridos, Registered
21 Professional Reporter and Notary Public in and for
22 the State of Florida at Large, pursuant to Notice
23 of Taking Deposition filed in the above cause.
24
25

1 APPEARANCES:

2

3

On behalf of Governor Ron DeSantis via Skype:

4

5

EXECUTIVE OFFICE OF THE GOVERNOR
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Suite 209
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BY: NICHOLAS PRIMROSE, DEPUTY GENERAL COUNSEL
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nicholas.primrose@eog.myflorida.com

9

10

On behalf of Sheriff Scott Israel:

11

12

KUEHNE DAVIS LAW, P.A.
100 Southeast Second Street
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Miami, FL 33131
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16

17

On behalf of Steven Geller:

18

19

OFFICE OF THE COUNTY ATTORNEY
115 South Andrews Avenue
Suite 423
Fort Lauderdale, FL 33301
BY: RENE D. HARROD, ATTORNEY AT LAW
(954) 357-7600
rharrod@broward.org

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WITNESS PAGE

STEVEN GELLER

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EXHIBITS

(No exhibits were marked during the deposition.)

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

2 Thereupon:

3 STEVEN GELLER

4 Was called as a witness, and having been
5 first duly sworn and responding "I do," was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KUEHNE:

9 Q Please state your name, spell your name?

10 A Senator Steven A. Geller, S-t-e-v-e-n,
11 A, G-e-l-l-e-r. I say senator. I'm a former
12 senator, but pursuant to House rules we still keep
13 the title; or, actually, the book *Practical*
14 *Protocol for Floridians*. I am currently a Broward
15 County Commissioner.

16 Q Commissioner Geller, my name is Ben
17 Kuehne. I represent Scott Israel, the elected
18 sheriff who's in proceedings before the Florida
19 Senate on the executive order of suspension. I
20 have asked for issuance of a subpoena. I sent a
21 subpoena to your counsel.

22 A I authorized them to accept that.

23 MR. KUEHNE: I would ask for additional
24 appearances on the record at this time.
25 Nick?

1 MR. PRIMROSE: Nick Primrose, Deputy
2 General Counsel, Governor Ron DeSantis.

3 MR. KUEHNE: Appearing via Skype.

4 MS. HARROD: Rene Harrod, Office of the
5 County Attorney, on behalf of Senator Geller.

6 BY MR. KUEHNE:

7 Q Commissioner Geller, what is your
8 current professional and political position?

9 A I am an attorney, licensed attorney in
10 the state of Florida. I have been practicing
11 since 1982. I am also an elected member of the
12 Broward County Commission. I was elected in
13 November of 2016.

14 Q Prior to your time as an elected Broward
15 County Commissioner, have you served in other
16 elective capacities?

17 A I was a member of the Florida House of
18 Representatives for approximately nine years and
19 the Florida Senate for 11 years. My service
20 commenced in 1988. I was term-limited out in
21 2008. I was the minority leader, the democratic
22 leader of the senate when I was termed out. The
23 reason I said nine and 11 is I was elected to the
24 senate in a special.

25 Q I am going to pose a number of questions

1 to you, Commissioner Geller, in your capacity as a
2 Broward County Commissioner. If any of my
3 questions cause you to need to go outside of that
4 capacity please let me know, it's probably
5 something I would ask you to just answer based on
6 your knowledge as a Broward County Commissioner.

7 A I understand. That's why we have
8 counsel here, in case you're asking anything I
9 can't answer, because there are -- as county
10 commissioners, we've received certain briefings on
11 security issues that under federal law we cannot
12 disclose.

13 Q Thank you.

14 First topic, Commissioner Geller,
15 focuses on the Broward County emergency
16 communications system. As a Broward commissioner,
17 do you have some familiarity with what I've
18 described as the Broward County emergency
19 communication system?

20 A I do, but I'm not sure what you're
21 talking about. There are two separate issues. I
22 don't know what your question is, whether your
23 question is pertaining to the 911 dispatch or
24 whether it's pertaining to the radio system that
25 law enforcement and other people use. I think

1 they both fall under the question. Could you be
2 more specific?

3 Q Thank you for the clarification. Both
4 of those systems are part of my question. So let
5 me --

6 A I'm familiar with both.

7 Q -- pose it this way: Is there a phrase
8 that you use as a commissioner to describe the
9 system that includes the dispatch emergency 911 as
10 well as the radio communication used by law
11 enforcement?

12 A I have not -- I have referred to them
13 separately when I talk about them. If I'm talking
14 about the 911 dispatch, I refer to it as the 911
15 system. If I am referring to the emergency
16 radios, the towers, et cetera, I refer to that as
17 the emergency -- emergency -- what did you call
18 it, Mr. Kuehne?

19 Q Radio communications?

20 A Yes, as emergency radio communications.

21 Q Okay. I'll try to use that phraseology.

22 A Okay. I am familiar with both of those.

23 Q The 911 system that involves making
24 calls and dispatching emergency life safety
25 services, what agency maintains and controls that,

1 if you know, in Broward County?

2 A As far -- and I could be wrong on this.
3 As far as my understanding, I can't answer
4 maintains and controls. My understanding is that
5 the county is responsible for the purchase of the
6 system, and I believe that that means -- I know
7 that, that we are responsible for the purchase. I
8 believe that we are also responsible for the
9 equipment. The operations on that is primarily
10 controlled by the Broward County Sheriff,
11 although, first of all, the county would have some
12 input on that. Secondly, there are several cities
13 that have opted out of this, and I presume that
14 they are not under the sheriff's control. And
15 finally, there are disputes between the county and
16 the sheriff in reference to something called the
17 Fitch report which I can describe to you at
18 greater length later should you wish.

19 Did I answer your question sufficiently?

20 Q Yes. Thank you.

21 A Thank you.

22 Q Identify, if you're able, the Broward
23 municipalities that are not part of the 911 system
24 that you described.

25 A I will do my best. There are two that

1 have opted out of the unified system. They are
2 Plantation and Coral Springs. I know that some of
3 the -- for example, with Coral Springs, when cell
4 phone calls from Parkland are made, they also --
5 although not landline -- they also go to Coral
6 Springs depending on where. So although there are
7 only two cities that have opted out, Plantation
8 and Coral Springs, that may or may not affect
9 other surrounding cities. The only city that I
10 have actual knowledge that it affects is Parkland.
11 There may be other cities that I simply cannot
12 comment on.

13 Q Allow me to just have you expand a
14 moment. When you said cell phone calls in
15 Parkland go to Coral Springs, did you mean cell
16 phone 911 --

17 A Yes.

18 Q -- emergency calls?

19 A Yes, depending on the location of the
20 cell tower. I've answered your question. If you
21 have others, I'll answer.

22 Q As far as you understand -- strike that.

23 Are you assigned to or have any
24 responsibility as a county commissioner with any
25 committee or suborganization of Broward County

1 that is involved with regional communications?

2 A I am not. To the best of my knowledge,
3 Broward County does not have committees of that
4 type.

5 Q Okay.

6 A Dade County has certain committees.
7 Broward doesn't.

8 Q In your capacity as a Broward
9 commissioner, is that how you have gained the
10 knowledge that you've described thus far of the
11 two systems, the 911 and the emergency radio?

12 A Yes, sir, that plus some knowledge that
13 I acquired while I was running for office where I
14 would meet with people to acquire the knowledge.
15 But all of it is either as a result of being a
16 commissioner or while I was running for
17 commission.

18 Q The equipment for the 911 county system
19 is purchased by the county, Broward County?

20 MS. HARROD: Can you clarify what
21 equipment?

22 BY MR. KUEHNE:

23 Q Equipment for radio towers, if those
24 exist.

25 A The radio towers would be in the other

1 system.

2 Q Okay. Radio towers don't deal with 911?

3 A (No oral response.)

4 Q Strike that. Let me move on.

5 A Okay. I apologize, I just don't
6 understand.

7 Q That's fine.

8 A Okay.

9 Q Are radio towers part of either of the
10 systems --

11 A Yes.

12 Q -- in Broward County?

13 A Yes.

14 Q When I use the term "radio towers" in
15 dealing with any aspects of the Broward County
16 communication system, who is responsible for
17 maintaining them, installing them, paying for
18 them?

19 A That would be the county commission. I
20 think those, again, are primarily in the emergency
21 radio, not as part of the 911 is where I think
22 some of the confusion lies.

23 Q Okay. Has Broward County studied --

24 A I apologize. I said Broward County, but
25 that's Broward County in cooperation with the

1 cities. As you may be aware, we have had battles
2 with some of the cities over the location. So if
3 you're asking about the siting, that's the county
4 in coordination with the cities who have to issue
5 us building permits.

6 Q Let me focus on that for just a moment.

7 Has the county studied the need for
8 additional radio towers or improvements to
9 existing radio towers?

10 A The best answer I can -- the county
11 hasn't. We have contracted with Motorola to do
12 that, so I don't know how to answer your question.

13 Q And is Motorola the vendor?

14 A Yes, sir.

15 Q Has the county been in ongoing
16 communications and discussions with Motorola over
17 improvements to that radio system?

18 A When the county entered into the
19 contract with Motorola, we knew there would be
20 additional towers necessary. There had been
21 multiple reports as to the approximate locations
22 of the towers. We have fought with some of the
23 cities, specifically Hollywood and Tamarac, as to
24 the specific locations of those towers.

25 Q Do the locations of the towers affect

1 the ability to have effective radio communication
2 throughout the county?

3 A Yes. But I will point out again we're
4 now no longer talking about the 911 dispatch,
5 you're now on to the other topic; correct?

6 Q Correct. Right.

7 A Yes, it does according -- again, I am
8 not an expert. I can tell you what our expert has
9 advised the county, which is that you have to have
10 the towers, they have to be of certain height,
11 they have to be in a certain location, if they
12 move the location they won't work as well as
13 they're supposed to, there can be lapses in
14 service, et cetera, which is why it's important
15 for us to get them in the right locations.

16 Q Is the Broward Sheriff's Office as a
17 governmental entity responsible for the location
18 or erecting of any of those towers?

19 A No, it is between the county and the
20 cities.

21 Q Is the Broward Sheriff's Office allowed
22 to utilize the frequencies transmitted by those
23 towers?

24 A Today the -- I'll do my best to answer.
25 Tell me if I'm answering your question correctly.

1 All emergency responders in Broward County,
2 including but not limited to the sheriff, use that
3 system. In addition to that, there have been many
4 other users of the system which has contributed to
5 some of our problems, which we're fixing, such as,
6 you know, school buses, garbage trucks, you know,
7 other users. So when you say is the sheriff
8 permitted, yes, he is, but one of many.

9 Q So as you've described it, the BSO is
10 one of many users of that system?

11 A That's correct.

12 Q And the infrastructure and repair of the
13 equipment, the towers for that system, the
14 emergency radio system, belong to the county?

15 A That's correct.

16 Q Does the emergency radio system include
17 access by the airport BCAD, Broward County
18 Aviation Division?

19 A I'm almost certain it does.

20 MS. HARROD: To the extent that you
21 know, he's asking.

22 THE WITNESS: To the extent that I know,
23 yes.

24 BY MR. KUEHNE:

25 Q Is Broward County Aviation Division,

1 BCAD, a separate governmental entity from BSO?

2 A Oh, yes. The BCAD is directly under the
3 supervision of the county. The sheriff is a
4 separately elected constitutional office.

5 MS. HARROD: I'm sorry, can you repeat
6 that last question again? I'm not sure we
7 understood it.

8 BY MR. KUEHNE:

9 Q Is BCAD a different agency from BSO?

10 MS. HARROD: Thank you. I apologize, I
11 misheard it.

12 THE WITNESS: Yes, as I just said.

13 BY MR. KUEHNE:

14 Q Is the county involved in ongoing
15 evaluation for improvements and upgrades to the
16 emergency radio system?

17 A The county is in the middle of spending
18 tens of millions of dollars in trying to improve
19 that system to eliminate issues like throttling
20 and to get other people, the nonemergency people
21 off of the system.

22 Q Is that perceived as an expensive
23 improvement or enhancement to the system?

24 A I know not to go beyond the extent of
25 your question, but I will a little just to try and

1 give you the answer.

2 Q Well, I can rephrase.

3 A No. In 2015, prior to my election to
4 the commission, we received a report -- and that's
5 the reason I have notes on dates. On November 3,
6 2015, we received a report from a county
7 consultant telling us that our E911 -- excuse me,
8 our system pertaining to the radio system, that it
9 was obsolete and needed to be replaced and we've
10 been trying and have spent tens of millions of
11 dollars to replace this since November of 2015. I
12 have a chronology of the steps we've taken.

13 Q Is that part of what is known as the
14 Fitch report?

15 A No.

16 Q What report is that?

17 A The Fitch report deals with the 911
18 calls and that's a separate issue, as I said
19 several times, from the radio tower issue.

20 Q So let me follow up on the report that
21 you just described in 2015.

22 A Okay.

23 Q Is there a name for that report?

24 A The E -- it says it's the E911
25 Assessment -- but it's not really dealing with the

1 911 phone calls, it's the interoperability --
2 Assessment Report by Mission Critical Partners. I
3 don't know when they wrote it. I can tell you it
4 was presented to the commission on November 3,
5 2015. Based on that, the county commission
6 approved a request for qualifications two-part.
7 The first part was February 9, 2016, the second
8 part was May 6, 2016. And I can continue, but
9 we've spent years approving it, going through
10 multiple protests, bid protests trying to get the
11 towers in place. As of today, which is -- today's
12 date is June 5th, we still don't have approval of
13 the final tower; we've been battling with the city
14 of Hollywood. But we've been trying to do this
15 since 2015. One of the important things we've
16 been trying to do is get other people off of the
17 system to prevent the throttling.

18 Q You mentioned getting nonemergency users
19 off that system?

20 A That's correct, which would have already
21 occurred except for a June 25, 2016 bankruptcy
22 petition for Control Communications, which was the
23 only 400 megahertz provider at the time here. So
24 it has taken longer, but I believe we have now
25 either fixed the problem or are very close to

1 having fixed that problem of the nonemergency
2 providers being on the system.

3 Q As far as you know, since you've been a
4 commissioner up through January of 2019, so since
5 you've been a commission through January of 2019,
6 has the BSO as a user of that system been part of
7 the discussions on improvements to the system?

8 A The BSO -- when we did the selection
9 committee and there were two finalists, Motorola
10 and a company called Harris Corporation, there was
11 a selection committee which chose Motorola. BSO
12 was part of that selection committee.

13 Q Let me move to the Fitch report.

14 A Yes, sir.

15 Q You say -- you describe that as being
16 focused on the 911 part of --

17 A Yes, sir.

18 Q -- our discussion?

19 A That's correct.

20 Q What is the Fitch report?

21 A The county hired Fitch -- and I don't
22 know their full name, it's just referred to as
23 "Fitch" -- to do an assessment of the regional
24 E911 consolidated communication system. That
25 agreement was signed January 5th -- or it was

1 approved by the board January 5, 2016.

2 One of the reasons there may be
3 confusion is the Fitch report and the 911
4 improvements were happening contemporaneously with
5 the radio issues and that's why they're sometimes
6 confused.

7 The Fitch report has basically been
8 telling us, based on their expertise, what they
9 regard as correct staffing levels for the 911 --
10 the 911 dispatch center and other ways of
11 improving efficiency. The sheriff has had other
12 ideas and they have argued in favor of higher
13 staffing requirements than that which Fitch has
14 said.

15 Q Is the BSO as an entity involved in the
16 process of improving the 911 system?

17 MS. HARROD: Can you rephrase the
18 question?

19 THE WITNESS: Yeah, I really don't
20 understand.

21 BY MR. KUEHNE:

22 Q Is the BSO a participant in efforts by
23 the county to improve or enhance the 911 system?

24 A I would say yes. We have met with -- I
25 as a commissioner have met with representatives of

1 BSO who have been urging us to have, again, as I
2 said, higher staffing levels and to push back
3 where they have disagreed with the Fitch report.

4 Q Is the BSO the only entity, organization
5 besides Broward County that is involved in any
6 aspects of the improvements to the 911 system as
7 recommended by the Fitch report?

8 A I am not --

9 MS. HARROD: If you know.

10 THE WITNESS: I'm sorry?

11 MS. HARROD: If you know.

12 THE WITNESS: I'm not sure. As of
13 today, I know that there was a group of 911
14 people from the cities, typically police and
15 fire chiefs. It is my understanding that
16 that board recently went out of existence and
17 was replaced with something else. But that
18 would be over the last, you know, number of
19 months. So I don't know as I sit here what
20 the new board is. So there was a board, but
21 that went out of existence a few months ago.

22 BY MR. KUEHNE:

23 Q Is it fair to say based on your
24 knowledge and experience that municipalities as
25 well as the BSO and the county are involved in

1 discussions about the implementations and
2 improvements to the 911 system?

3 A That is a fair statement on your part.

4 Q Is the process of working through those
5 improvements a lengthy one?

6 A It has been ongoing for years.

7 Q Is there any part of the lengthy process
8 to improve the 911 system that has been solely the
9 responsibility of BSO?

10 A I believe, although I don't warrant,
11 that BSO is in operational control pursuant to a
12 budget that we approve. So we may approve --

13 THE WITNESS: Stop me if I'm saying
14 something incorrect.

15 My understanding is we approve a
16 budget -- actually, the sheriff requests
17 certain money, there's a -- we approve a
18 budget. After that happens the sheriff, you
19 know, is largely in direct operational
20 day-to-day control. If you're talking about
21 the attempts at upgrading, that's been an
22 area of dispute between the city, the sheriff
23 and the county for years.

24 BY MR. KUEHNE:

25 Q You mentioned "we" set the budget. You

1 are --

2 A The county commission.

3 Q -- referring to the Broward County
4 Commission?

5 A Yes.

6 Q Does --

7 A One of the areas also that has been an
8 area of dispute has again been the two cities, two
9 holdouts.

10 Q Holdouts of Plantation and Coral
11 Springs?

12 A Yes. I represent Plantation. I've met
13 with current and former mayors urging them to join
14 the system.

15 Q Okay. With regard to the 911 system,
16 has the number of users of that system increased
17 over time, over the time you've been a
18 commissioner?

19 MS. HARROD: Can you just clarify which
20 system you're talking about?

21 MR. KUEHNE: The 911.

22 MS. HARROD: That's the dispatch system?

23 THE WITNESS: Yeah, that's the dispatch
24 system?

25

1 BY MR. KUEHNE:

2 Q The dispatch system.

3 A Okay. Thank you.

4 I have no personal knowledge. I mean, I
5 know that the population of Broward has increased,
6 so I have to assume that if there's a static
7 number of calls per 10,000 that the number of
8 calls would have increased. But as I sit here, I
9 have no direct knowledge. I can tell you the
10 population of Broward continues to increase.

11 Q Would the answer be generally the same
12 as to the other system, the emergency radio
13 system, that the use has increased in the time
14 you've been commissioner?

15 A The -- that I can't -- there's a bunch
16 of problems with the emergency radio system that
17 we have been trying, specifically since the
18 airport shooting, we have been trying to fix
19 through a lot of areas hoping to reduce the number
20 of users to avoid throttling. So if people have
21 been listening, then I'm hoping that the number of
22 users has been going down. I can't -- I don't
23 know anybody knows the actual number of people
24 using the system each day.

25 Q And is it fair to say that those

1 discussions for limiting the users to that system
2 has included participation by the BSO in those
3 discussions?

4 A Yes. Not limited to, but including.

5 Q As far as you understand, has the BSO
6 during your time as commissioner been involved
7 with the county in discussions over the
8 appropriate budget for both the 911 system and the
9 emergency radio system?

10 A As far as I am aware, the -- I know that
11 there have been discussions and disagreements
12 between the -- BSO and the sheriff over the 911
13 system [sic]. I have no knowledge of any
14 discussion on the part of the BSO pertaining to
15 the budget of the radio system other than asking
16 it be implemented as soon as possible because I
17 don't think they care about how much we spend on
18 towers.

19 Q As far as you understand, the BSO has
20 made requests to implement the emergency radio
21 communication fixes or improvements as soon as
22 possible?

23 A Yes. I can tell you I met directly with
24 Sheriff Israel shortly after the -- I don't
25 remember when, but at some point after the Fort

1 Lauderdale Airport shooting, in the next few
2 months, where he stressed that was a priority.
3 And I've also met on a regular basis with his
4 command staff that have met -- and it's not just
5 me. They met with every commissioner, I assume.

6 MR. KUEHNE: I have no further
7 questions. I pass the witness to
8 Mr. Primrose.

9 MR. PRIMROSE: I have no questions.

10 MR. KUEHNE: Commissioner Geller, we're
11 on an expedited basis with this upcoming
12 trial. Your deposition will probably be
13 transcribed. We will get that transcript on
14 an expedited basis. When a transcription
15 comes, I will immediately send it to Ms.
16 Harrod, but you have a right to read the
17 transcript --

18 THE WITNESS: I waive.

19 MR. KUEHNE: You waive. Thank you.
20 Thank you for your time.

21 (Witness excused.)

22 (Thereupon, at 12:58 p.m. the deposition
23 was concluded.)

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STIPULATION

It is hereby stipulated by and between appearing counsel for the respective parties and the witness that the reading and signing of the foregoing deposition be, and the same are, hereby waived.

AND FURTHER DEPONENT SAITH NOT

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BROWARD)

I, Carol Ann Kridos, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, STEVEN GELLER, personally appeared before me on June 5, 2019, and was duly sworn by me.

WITNESS my hand and official seal this 7th day of June, 2019.

Carol Ann Kridos
Registered Professional Reporter
Notary Public - State of Florida
Commission No.: FF977714
My Commission Expires: 4/27/20

1 REPORTER'S DEPOSITION CERTIFICATE

2 I, Carol Ann Kridos, Registered Professional
3 Reporter, do hereby certify that I was authorized
4 to and did stenographically report the deposition
5 of STEVEN GELLER; the witness herein; that a
6 review of the transcript was not requested; that
7 the foregoing pages numbered from 1 to 25,
8 inclusive, is a true and correct transcription of
9 my shorthand notes of the deposition by said
10 witness.

11 I further certify that I am not a relative,
12 employee, attorney or counsel of any of the
13 parties, nor am I a relative or employee of any of
14 the parties' attorney or counsel connected with
15 the action, nor am I financially interested in the
16 action.

17 The foregoing certification of this
18 transcript does not apply to any reproduction of
19 the same by any means unless under the direct
20 control and/or direction of the certifying
21 reporter.

22 Dated this 7th day of June, 2019.

23

24

25

Carol Ann Kridos, RPR
Notary Public - State of Florida

1 THE FLORIDA SENATE
2 EXECUTIVE ORDER NO. 19-14

3 IN RE:
4 SUSPENSION OF SHERIFF
5 SCOTT ISRAEL
6 _____:

7
8
9
10 Wednesday, June 5, 2019
11 One East Broward Boulevard
12 Suite 902
13 Fort Lauderdale, FL 33301
14 3:03 p.m. - 4:54 p.m.

15 DEPOSITION OF EDWARD GRANT
16
17

18 Taken before Carol Ann Kridos, Registered
19 Professional Reporter and Notary Public in and for
20 the State of Florida at Large, pursuant to Notice
21 of Taking Deposition filed in the above cause.
22
23
24
25

1 APPEARANCES:

2

3 On behalf of Governor Ron DeSantis via Skype:

4

5 EXECUTIVE OFFICE OF THE GOVERNOR
6 400 South Monroe Street
7 Suite 209
8 Tallahassee, FL 32399
9 BY: NICHOLAS PRIMROSE, DEPUTY GENERAL COUNSEL
10 (850) 717-9310
11 nicholas.primrose@eog.myflorida.com

9

10 On behalf of Sheriff Scott Israel:

11

12 KUEHNE DAVIS LAW, P.A.
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14 Suite 3550
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16 BY: BENEDICT P. KUEHNE, ESQ.
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18 ben.kuehne@kuehnelaw.com

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EXHIBITS

(No exhibits were marked during the deposition.)

1 PROCEEDINGS

2 Thereupon:

3 EDWARD GRANT

4 was called as a witness, and having been
5 first duly sworn and responding "Yes, I do," was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KUEHNE:

9 Q Please state your name and spell your
10 last name.

11 A It's Edward Grant, G-r-a-n-t.

12 Q Mr. Grant, my name is Ben Kuehne. We
13 met as you came into the door just a moment ago.

14 On the video Skype, he'll introduce
15 himself, is Nicholas Primrose, the governor's
16 deputy counsel.

17 I've issued -- or I've asked for
18 issuance of a subpoena for you that I'm going to
19 hand you for your deposition in the senate review
20 of the suspension of Sheriff Scott Israel.
21 There's your subpoena. Thank you for attending.

22 A Okay.

23 Q And I'll be asking some questions and
24 Mr. Primrose might be asking you some questions
25 about our upcoming trial.

1 How are you currently --

2 MR. KUEHNE: Oh, let's get
3 introductions, Mr. Primrose.

4 MR. PRIMROSE: This is Nick Primrose for
5 Governor Ron DeSantis.

6 MR. KUEHNE: Okay. Thank you.

7 BY MR. KUEHNE:

8 Q Tell me how you are currently employed.

9 A I work in private industry in a capacity
10 of a security director.

11 Q You had previously been a sworn law
12 enforcement officer?

13 A Correct.

14 Q Relate briefly your career as a law
15 enforcement officer.

16 A Twenty-eight, almost 29 years in law
17 enforcement and prior to that I was almost two
18 years as corrections deputy. So about 30 years
19 combined total law enforcement experience.

20 Q And where were you a corrections deputy?

21 A Broward County.

22 Q And your 29 years in law enforcement,
23 all in Broward County?

24 A Yes. Originally when I started my
25 corrections, I was hired by the Broward Sheriff's

1 Office as a detention deputy. I worked there for
2 almost two years, realized at that point that I
3 wanted to go and be a police officer and go to the
4 road. BSO at that time wasn't looking to move
5 people out of the jails, so I interviewed at
6 several other departments.

7 I was hired by the City of Pompano Beach
8 Police Department. I went over there, went back
9 to the police academy, went through a full academy
10 then, and then worked in the City of Pompano Beach
11 until 1999.

12 August of '99 is when the Broward
13 Sheriff's Office merged with the City of Pompano
14 Beach, took over the policing services, and it was
15 at that point I became a deputy sheriff and
16 then -- till the end of my career, till I retired.

17 Q When did your career end?

18 A I retired -- I started looking at this
19 other job in October, started doing interviews,
20 things of that nature. And then I decided to put
21 my papers in December 1st, and officially it
22 was -- January 4, 2019 was my last day employed
23 with the sheriff's office.

24 Q What was your position within the
25 Broward Sheriff's Office at the time of your

1 retirement?

2 A When I retired, I retired at the
3 position of lieutenant colonel over the department
4 of investigations.

5 Q And in your career as a law enforcement
6 officer, have you worked a number of different
7 units, offices, divisions?

8 A Yes. I mean, I had a very diverse
9 career. I experienced -- I was able to develop a
10 lot of on-the-job experience and skills throughout
11 my career. I worked primarily in narcotics, but
12 at one point I was a K9 handler. I was also a
13 member of the SWAT team for 25 years. Started as
14 an operator, became a team leader and was a team
15 leader for eight years, and then eventually became
16 the team commander for almost six years.

17 Q And when was that period?

18 A Well, I started SWAT in '93 and I stayed
19 on the SWAT team up until Jan- -- my last official
20 SWAT call that I was in charge of was, believe it
21 or not, the airport shooting at Fort Lauderdale.
22 That's when I was promoted to major. So I was the
23 captain over the SWAT team and then I was promoted
24 to major. And because of that promotion, I was
25 required to step away from the SWAT team. And my

1 last official day was actually January 6, 2017.

2 Q At the time of the Fort Lauderdale
3 Airport shooting -- and I'll variously refer to it
4 as the "Fort Lauderdale shooting" or the "Fort
5 Lauderdale Airport shooting" or the "airport
6 shooting." You were working that day?

7 A Yes.

8 Q And in what capacity?

9 A At that time I was a major in the
10 strategic investigations division and I was still
11 affiliated with SWAT. Because of the promotion,
12 we had to do a transition with my old executive
13 officer, Steve Robson. He transitioned into the
14 role of SWAT commander, but he was out of town
15 that week in Orlando doing a Disney marathon. So
16 for that reason I stayed in that position for
17 obvious reasons, to handle any type of incidents.

18 So on that date I was out at the
19 off-site office that we have for strategic
20 investigations, and I had heard that there was a
21 possible shooting at Terminal 2, the Delta
22 terminal, at the Fort Lauderdale-Hollywood
23 International Airport so I immediately responded
24 there with -- at the time it was Lieutenant Joe
25 Achillarre.

1 Q To focus you, the Fort Lauderdale
2 Airport shooting occurred on January 6, 2017?

3 A Correct.

4 Q So that's the day you're talking about
5 responding to the Fort Lauderdale Airport?

6 A Yes.

7 Q The shooting occurred in the afternoon?

8 A Yes.

9 Q You received a call that there was a
10 possible shooting?

11 A It came over our CAD page, it was on my
12 phone. I saw that there was a possible active
13 shooter at Fort Lauderdale International Airport,
14 Terminal 2. We actually were coming back from
15 lunch, so we were right at University Drive and
16 595. So I made the right turn and jumped onto the
17 expressway and was at the airport in probably less
18 than eight minutes. Seven, eight minutes.

19 Q And did you confirm that there had been
20 an active shooter situation?

21 A Yes.

22 Q And when you arrived, did you confirm
23 that the perpetrator had been taken into custody
24 shortly after the shooting?

25 A Yes.

1 Q By Deputy Madrigal?

2 A Yes, that's correct.

3 Q Had Deputy Madrigal been under your
4 supervision at any time around the time of the
5 airport shooting?

6 A No.

7 Q Okay. Did you know him?

8 A I knew him through his job as a pilot
9 with the air division. Lot of interaction with
10 SWAT in the sense that we did a lot of air assault
11 training, repelling, fast-roping, things like
12 that. So I didn't know him well, but I knew who
13 he was.

14 Q You responded on January 6, 2017
15 essentially in your capacity as having been the
16 SWAT team commander?

17 A I was still the SWAT team commander that
18 day because --

19 Q That day.

20 A -- like I said, the transition period
21 hadn't taken effect because of Steve Robson's
22 vacation, and it was just easier to leave me in
23 the capacity until we could transition it
24 smoothly.

25 Q Did you in that capacity arrange to have

1 a SWAT presence at the airport?

2 A Yes. When I first heard that there was
3 a possible shooting I started making phone calls
4 to other -- to the fugitive squad, which was at
5 the time the on-duty, full-time element of all
6 SWAT operators, I knew that they were working, and
7 it was to have them start that way. I was very
8 pleased to know that they were already in route.
9 And some of them were actually already on scene
10 because they had heard it come over the actual
11 radio channel and they were already there.

12 So at that point I didn't -- until I got
13 there to do a face-to-face -- because, again, when
14 you're not there in something like this you want
15 the boots on the ground to be making the decision
16 as things are unfolding because me from
17 three miles away in my car, it's not the right
18 place to be making any type of critical calls.

19 Q Was it consistent with how you had
20 commanded the SWAT team that SWAT members arrived
21 on the scene prior to you actually calling them
22 into duty or into effect?

23 A Sometimes that happens. If they're on
24 duty and they hear that type of call go out,
25 whether it's an active shooter or a barricaded

1 subject, anything that's going to be a high -- a
2 level of high-incident crisis, they'll
3 automatically respond. They'll start responding,
4 start gathering immediate intel, information to
5 start gathering up so we can formulate a tactical
6 plan, if necessary, or contain and control the
7 area.

8 We always had the plus-one theory in a
9 shooting situation, always anticipate that there
10 could be another shooter involved. So with that
11 plus-one theory, it's -- you know, once you're
12 there, shooter's in custody in something like that
13 incident, they still have to contain the area,
14 they have to address any wounded, they have to
15 look for people that are concealed and potentially
16 other threats.

17 Q The items that you mentioned, starting
18 with the plus-one theory in addition to assisting
19 others and eliminating threats, is that all part
20 of the process as you understood it on that day of
21 responding to an active shooter?

22 A It's the way that I was -- we've always
23 trained that way.

24 Q Okay. I'm going to move into some of
25 the training with active shooter scenarios or

1 scenarios that involve rapid response to
2 potentially dangerous firearm-related situations.

3 You have always been a sworn, certified,
4 credentialed law enforcement officer during the
5 time you described?

6 A Yes.

7 Q Kept your credentials current during the
8 time you described?

9 A Yes.

10 Q As part of your work as a BSO deputy --
11 is deputy a fair term even though you held
12 numerous other positions?

13 A Yes, that's fine.

14 Q As part of your involvement as a BSO
15 deputy, in all your positions have you received
16 active shooter training?

17 A Yes.

18 Q Have you received training if not called
19 active shooter training does involve
20 rapid-response issues?

21 A Yes.

22 Q Describe in a general sense what you
23 have experienced in training that assists you as a
24 then-BSO deputy in responding to an active shooter
25 incident.

1 A I mean, throughout my career, especially
2 after 1999, after Columbine, it seemed that the
3 focus went into high gear focusing on active
4 shooter incidences after Columbine. And that
5 continued to grow and we continued to do active
6 shooter training for years. It just was recurrent
7 training that always came up. Whether it was
8 through in-service training or we focused on it
9 during SWAT, our SWAT training days, it was always
10 something that was -- because things always
11 changed.

12 You had Columbine. And then after
13 Columbine, you know -- I'll use the Virginia Tech
14 school shooting in 2007. You had that at a large
15 college campus, so that kind of changed how the
16 responses were done. And then after that you had
17 the Batman movie theater in Aurora, Colorado.
18 That kind of then changed how things were done
19 because that was the first time anybody ever
20 assaulted a movie theater in the middle of the
21 night in the dark while the movie's playing, you
22 know, in a packed house. So that changed the
23 tactics. You had Sandy Hook and then you had
24 Pulse, and the list just goes on and on. Whether
25 it was mall shootings -- you had Salt Lake City in

1 Utah when they had an active shooter in the mall
2 there. So it's always been an evolving type of
3 training. It's continually evolved through the
4 years.

5 And I can tell you through my experience
6 that, for instance, in 2006, 2007, some of the
7 training that the agency put on the SWAT team
8 taught. We taught it. We would go to the middle
9 schools and the high schools during the summer
10 when they were closed, and deputies had to come
11 out there at night, and we put on these active
12 shooter response classes where the deputies
13 were -- you know, at that time it was your first
14 two, three, four guys that got there made what's
15 called either a diamond formation or a wedge
16 formation and then they had to go in and go after
17 the assailant. And then as time continued to go
18 on, you know, the tactics started to change
19 because the tactics on the bad guy's side started
20 to evolve as well. So then it went from, well,
21 sorry, man, the diamond formation's great if you
22 have the manpower, but now if you're the only guy
23 there, you need to get in there, attract the
24 attention, disrupt the shooter, you know, take the
25 focus off of what he's there to do, which is get a

1 body count, and put the focus on you so that he
2 concentrates more, or she, concentrates more on
3 you. You become a disruption to their plan. So
4 it evolved throughout the years.

5 And, I mean, I couldn't give you an
6 exact number of hours that I've trained in active
7 shooter, but it was quite extensive because we did
8 focus on it often.

9 Q Moving to the time -- the approximate
10 time frame of the Fort Lauderdale Airport
11 shooting, 2017, were you a participant in any of
12 the trainings that you've described, whether it be
13 active shooter trainings or SWAT trainings, in the
14 general time frame leading up to the Fort
15 Lauderdale shooting, say, 2016 through early 2017?

16 A Like I said, on SWAT we conducted active
17 shooter training only because a lot of times we're
18 responding to active, quickly evolving incidents
19 where we have to respond to gunfire. So that's a
20 constant for us in SWAT. You know, a lot of the
21 other training, you know, that we did at the port,
22 we had done exercises.

23 I can tell you that I was also the chair
24 for the Regional Domestic Security Task
25 Force - Region 7 down here. I was the law

1 enforcement chair. And every year we did training
2 in -- since 2015 or '16, I might be messing the
3 date up, but we did what's called Operation Heat
4 Shield, which was a regional training exercise.
5 And we did it with Dade County, with Broward and
6 Palm Beach counties and multiple different police
7 entities in those counties. And the majority of
8 the training focused on an active shooter
9 response. One of them was in the Government
10 Center in downtown Miami, another one at the
11 baseball stadium, there was one in a residential
12 area. So it wasn't just one overall scenario, you
13 got multiple scenarios throughout the day where
14 you had to respond to active fire.

15 Q In your involvement in such scenarios,
16 multi-agency scenarios, did you utilize what you
17 learned or how you participated when you went back
18 to BSO and worked with your other officers?

19 A I watched them that day with the SWAT
20 element. When I first got to the airport, like I
21 said, I went into Terminal 2. The shooter was
22 already in custody, that was known. But, again,
23 the guys that were on scene -- I want to say there
24 was about 14 or 15 SWAT operators that had
25 arrived -- they were holding certain areas and

1 then they were also clearing because the panic
2 that started initially after the gunfire, you had
3 people go hiding in bathrooms, you had people that
4 went through the -- you know when your luggage
5 comes through the aircraft operation side of the
6 terminal there's the little doorway that opens up
7 and your bags come through? Well, people actually
8 dove through that and went into the aircraft
9 operating area.

10 So we had to, you know, we had to
11 contain it and then we had to start retrieving
12 people. People were hiding in the bathrooms.
13 They were able to locate people hiding in certain
14 areas. And then at the same time you had the
15 victims, the deceased that were there. You had
16 wounded being transported to Broward General. And
17 then we had about a hundred witnesses that we had
18 to try to contain and not lose that were there
19 when this incident occurred.

20 So the reality of it is at that time you
21 had a homicide side, you had five -- unfortunately
22 five people that lost their lives and you had six
23 others that were injured, but they were
24 transported to Broward General for treatment, and
25 now you're trying to figure out what do you do.

1 I think the biggest problem at that
2 point, during the course of that day, was what is
3 the airport going to do. Because it's a Friday
4 afternoon, it's very busy obviously, the first of
5 the year, and your Terminal 2 no longer has a
6 baggage claim area. So you have all these inbound
7 flights, outbound flights. That was the biggest
8 problem for the airport.

9 This was a homicide scene. Shooter's in
10 custody. You know, you're getting video, you're
11 getting the evidence. And we were working on
12 getting buses to try to take these witnesses, put
13 them in an air-conditioned place. A lot of them
14 were older so, you know, you want to be able to
15 let them sit down, but at the time there was
16 nowhere to take them to temporarily hold them
17 without losing them. So that was the biggest...

18 Q I'm going to try to break down some of
19 what you said and ask some specific questions. If
20 you don't understand --

21 A Sure.

22 Q -- something, just let me know.

23 A Sure.

24 Q Prior to the day of the airport
25 shooting, based on some of the scenario trainings

1 that you've described, did you take your own
2 training and help others who may not have been
3 part of that training learn from what you learned
4 through your scenarios?

5 A The people I was working with that day,
6 they all knew what to do and understood what was
7 required to make this successful, make a horrible
8 incident, unfortunate incident be somewhat
9 successful for us, if that's the right word to
10 use.

11 Because, again, you have a big problem.
12 You have a large terminal on a Friday. There were
13 a lot of other people there that I overheard, I
14 don't know who they are, but they were adamant
15 about keeping Terminal 2 open. And I was hearing
16 my bosses argue with them that, no, you know, this
17 is not -- they wanted to keep normal operations
18 and I remember Mike DiMaggio saying, "You can't
19 because this is not normal. We've had a
20 shooting."

21 You know, it was very controlled
22 initially when you had just the homicide scene.
23 You had the shooting. Okay, you did have some
24 panic initially when people heard gunfire. You've
25 seen the videos. They ran into Terminal 2. But

1 everything else was fine.

2 Q Okay.

3 A Everything was operating normal. Well,
4 not normal in that sense. Everything on the
5 outside of Terminal 2 was operating normal,
6 meaning Terminal 1, Terminal 3, Terminal 4, the
7 garage, the rental car center. Operations were
8 normal. They didn't even know.

9 Q You understood at that time that besides
10 law enforcement there were other entities that had
11 a say in what was happening at the airport?

12 A Absolutely.

13 Q Are you familiar with an acronym known
14 as BCAD, Broward County Aviation Division?

15 A Yes.

16 Q And do you understand that to be the
17 Broward County entity that actually operates the
18 airport?

19 A Yes.

20 Q That's not a BSO subdivision?

21 A Correct.

22 Q And you knew and understood that you'd
23 have to work with people from BCAD in how to
24 handle the ongoing activity of the airport?

25 A Correct. Yes.

1 Q This was not a situation where, perhaps
2 as in other homicide cases, you could simply
3 contain the whole area and take total control from
4 a law enforcement perspective?

5 A Yes, in my opinion there were a lot of
6 outside factors. Other people -- from a law
7 enforcement perspective, it was a very simple
8 answer, shut this place -- shut Terminal 2 down.
9 This is a homicide scene. We have an active scene
10 in the sense that we have an investigation to
11 conduct. But those other sides, in my opinion
12 their decisions were based on financial reasons.

13 Q Were you also aware on the day of the
14 Fort Lauderdale shooting that other non-BSO law
15 enforcement agencies responded and were involved?

16 A Yes, I was.

17 Q Did some of those include federal
18 responders?

19 A Yes.

20 Q FBI and maybe Customs and other
21 agencies?

22 A Yes. You had FBI, HSI, Customs and
23 Border Patrol, FDLE. There was quite a few
24 federal entities on the site.

25 Q Did you understand at some point that

1 day that the FBI had taken responsibility for or
2 control of the investigation?

3 A Initially, because they were not sure if
4 it was -- had a terrorism nexus. So they were
5 heavily involved from the onset because, you know,
6 it was an international airport. An airport
7 obviously is a target for terrorism, so they were
8 treating it as such from the beginning.

9 Q As the SWAT team commander on the scene
10 that day, did you work with the other law
11 enforcement agency responders?

12 A That came later in the day. My initial
13 thing was once the downstairs area was contained,
14 we knew that there was not a second shooter, okay,
15 we know what we have. We have the sole shooter,
16 sole gunman in custody. The people that needed
17 medical attention were transported. At that point
18 it was okay. Like I said, we knew what we had
19 because we've dealt with it. That just goes with
20 being a law enforcement officer, especially if
21 you're in investigations and homicide, all right,
22 here's what we have.

23 So it was backing people out,
24 containing, trying to sterilize the crime scene,
25 getting video, evidence retrieval. Because we --

1 obviously you know that there's cameras. You
2 know, that's one of the big first things you want
3 to go after, let's get the video so we can kind of
4 get a real idea what happened, where this guy came
5 from because -- I mean, look, he wound up coming
6 from that far east -- I'm sorry, western bathroom.
7 That was critical because now we have to control
8 that, we have to seal it off for evidence
9 purposes. So for those reasons, this was an
10 investigation.

11 We were fine. It was the sheriff that
12 had to deal with -- and the colonels that were
13 dealing with the airport administration trying to
14 determine who was in charge, one, and -- you know,
15 because there was a lot of that, no, it's my
16 house; no, it's not. It was a law enforcement
17 scene. The sheriff should have been the only guy
18 calling the shots there, not anybody from BCAD,
19 but that wasn't the reality. That's not what
20 happened.

21 And long story short, it was probably an
22 hour and 30, 40 minutes later was when there was a
23 report to a fire captain on the exterior that
24 there was -- somebody had heard, and I believe it
25 was civilians had told them, "I think there might

1 have been gunshots in the parking garage." He
2 then relays that over the radio, which we have
3 shoulder mics so other people that probably
4 shouldn't have heard that transmission heard it
5 and -- I mean, it's all on the video, you know --
6 and that airport person called another airport
7 person and said there's possibly another shooter,
8 get our people out, and that's when the domino --
9 the finger pushed the domino and there was no way
10 that you were going to stop -- and I'm telling
11 you, I was there, I watched hundreds of people
12 start running out the door of Terminal 3 and I
13 couldn't understand why, because I'm standing and
14 I'm listening -- I was listening for gunfire so I
15 could track it and locate it. And I couldn't hear
16 gunfire yet I was seeing hundreds of people rushed
17 out these doors -- you can get the video on it,
18 you can watch it happen -- and I couldn't
19 understand why.

20 And then that domino effect led to
21 Terminal 4 where they started self-evacuating
22 because people started panicking. At lower and
23 upper where you drop people off and pick them up,
24 everyone starts running there. So it just was a
25 domino effect that you couldn't stop.

1 And then I started hearing on the radio
2 "shots fired in Terminal 4." Terminal 1 was
3 self-evacuating.

4 And then the parking garage where the
5 car rental center is isn't even connected to
6 anything. We started getting reports from
7 dispatch of people calling in saying there were
8 shots fired in the parking garage in the car
9 rental center.

10 So in my mind I started to believe this
11 was a coordinated -- that maybe that first
12 incident was the distraction and now this was
13 the -- it was a terrorist incident. You know, we
14 were lured in to think that it was isolated to
15 Terminal 2 and now here we have it happening -- in
16 less than five minutes -- the airport
17 self-evacuated in less than five minutes. That
18 place is massive. And you couldn't stop it.

19 Fire alarms were going off because
20 people went out the emergency exit doors. So
21 anything that was enclosed, like downstairs, lower
22 level one, you can see in the videos the flashers,
23 the strobe lights are flashing from the fire
24 alarms and a siren's going off, so you couldn't
25 hear.

1 And then we actually got reports -- and
2 there's video footage of me running up the
3 stairwell with Andrea Penoyer and another female
4 deputy because we were told there was a gunman
5 wearing black slacks -- and this came through
6 dispatch -- wearing black slacks and a white shirt
7 on the sixth floor. So I ran up to the sixth
8 floor, came through the garage. And we found
9 people in black slacks and white shirts, but they
10 were USA Parking employees. Those were calls
11 coming in from civilians. So -- and like I said,
12 it all happened quickly.

13 Q In your training and experience with
14 active shooter/active killer incidents, are you
15 given an understanding that members of the public
16 might be involved and do not have a law
17 enforce- -- a trained law enforcement response?

18 A Members of the public being involved?
19 There's always that chance people are going to get
20 involved.

21 Q And does part of your active shooter
22 training focus on how to handle non-law
23 enforcement people who happen to be involved in
24 scenes of active shooters?

25 A Usually, I mean, we're not -- if

1 anything, you might try to get that person to get
2 some information, intelligence from. You know, if
3 they saw the shooter, a description, a quick
4 description. But during an active shooter, if
5 it's active and you're hearing gunshots, you are
6 moving towards the gunfire.

7 Q You mentioned the plus-one scenario and
8 you described it as trying to make certain there's
9 not more than one person involved?

10 A Correct.

11 Q Was it consistent with your active
12 shooter training, as you understood it, with BSO
13 that it was your obligation to track down and
14 determine the verifiability of any of these other
15 reports of potential shots or shooters?

16 A Absolutely. And because of what I was
17 visually seeing with all these people running for
18 an unknown reason, and I'm talking from everywhere
19 sprinting, running, that's when it hit, made me
20 say, "Okay, this isn't rumor, it's not
21 speculation, there's something going on. These
22 people are running because they're scared.
23 There's something there." So that's what we were
24 trying to locate, and it wasn't. There wasn't any
25 shooter.

1 Q You mentioned your satisfaction with the
2 SWAT team members who responded and were there.
3 Is it fair to say that the SWAT team has a
4 particularly intense level of training in dealing
5 with active shooter scenarios?

6 A Yes.

7 Q And that under the Broward Sheriff's
8 Office policies and procedures SWAT team is
9 dispatched to active shooter scenes as quickly as
10 possible?

11 A Yes.

12 Q But other non-SWAT law enforcement
13 officers as part of the sheriff's BSO policy are
14 dispatched to active shooter scenes?

15 A Everyone is trained to go to the scene
16 and engage the shooter. Anyone that says they
17 weren't trained that way -- I mean, all you have
18 to do is read an article or a book. It's common
19 sense.

20 Q I'm going to -- I don't know if you are
21 or were familiar with BSO standard operating
22 procedure, SOP, 4.37 known as active shooter, but
23 I'm going to read you a section of it. It's
24 called part C. I'm going to quote it for you and
25 then ask you some questions.

1 "If real time intelligence exists the
2 sole deputy or a team of deputies may enter the
3 area and/or structure to preserve life. A
4 supervisor's approval or on-site observation is
5 not required for this decision."

6 You're familiar with that policy?

7 A Yes.

8 Q Is there any part of that policy as I
9 read to you, focusing on the use of the word "may"
10 in that policy, that directs or cautions or
11 suggests in any way that a law enforcement officer
12 is not to attempt to contain or incapacitate the
13 perceived perpetrator?

14 MR. PRIMROSE: Object to the form.

15 BY MR. KUEHNE:

16 Q You can answer.

17 A I will say this: I'm well aware of the
18 wording of the policy. And I will say that I was
19 aware of it because I was part of administration.
20 I will say that probably less than 25 percent of
21 the department reads their policies and
22 procedures. That's just a reality. You put them
23 out, but these guys just don't read them. I know
24 that, okay.

25 But as a police officer, when you put on

1 a badge and you take a sworn oath and you have a
2 gun and you -- everyone knows what your job is to
3 do. For years we had been training on this, from
4 Sheriff Jenne to Sheriff Lamberti to
5 Sheriff Israel. And I can tell you I only needed
6 the training one time. I could have been trained
7 back under Ken Jenne in active shooter and I have
8 enough common sense and moral compass to know what
9 the right thing to do is as a policeman in that
10 situation.

11 Q You mentioned that as a result of a
12 number of real-life incidents, and you've
13 described them, training over time has evolved and
14 changed --

15 A Correct.

16 Q -- to meet the new realities. Did the
17 Broward Sheriff's Office under the tenure of
18 Sheriff Israel continue to evolve the training as
19 needed?

20 A Yes. It was very clear, like I said,
21 from when it was the wedge to the diamond
22 formation to what the most recent one was, which
23 was, hey, if I'm the first guy that gets there and
24 I'm hearing gunfire, it's not the greatest
25 position to be in, but guess what? You go in

1 there and you engage the shooter. It was very
2 clear.

3 And, again, I think a lot of people are
4 using the "may" word as an excuse for their
5 inaction, for their own personal failures, but
6 that's on them. Because I know the vast
7 majority -- and I only wish that some SWAT guys
8 had responded there that day because I know what
9 they would have done because there was no guess
10 game to it.

11 Like I said, you take a sworn oath to --
12 what is the motto of police -- of law enforcement?
13 To protect and serve. Protect. So anyone telling
14 me that, well, I thought about the policy and it
15 gives me an option to not go in, they shouldn't be
16 a policeman, they shouldn't be in law enforcement,
17 they shouldn't have a badge.

18 Q Is the training given at BSO during the
19 time of the airport incident or -- I haven't asked
20 you questions about later the next year -- the
21 Marjory Stoneman Douglas incident, but focusing on
22 those, was the training at that time on active
23 shooter ever designed to train law enforcement
24 officers to not go to the location of the shooter,
25 an active shooter?

1 A Never. And if I had ever heard that was
2 in the training program, I don't know, I would
3 have had to rethink what I was doing there because
4 that to me, like I said -- and maybe -- and,
5 again, I get a little riled up about this because
6 I am a parent. I am, you know, a career law
7 enforcement officer and I know what the right
8 thing to do is.

9 Now, if certain individuals were
10 operating in Condition Black, which that's an
11 actual -- it's in the military, where people under
12 high volumes of stress, they shut down physically,
13 mentally. They cannot work through problems.
14 Their body won't allow them. They just can't do
15 it. It happens in the military to well-trained
16 soldiers and it happens in law enforcement,
17 unfortunately, too. That's just the reality. But
18 you should, as an experienced officer, be able to
19 work through that. But, again, everybody can sit
20 back and say what they would do when not in that
21 instance.

22 Q Continuing with Fort Lauderdale Airport,
23 how long did you stay at the scene that day?

24 A Well, because when the airport -- we
25 kind of jumped off that, but when the airport

1 self-evacuated, at that point in time with all
2 these different calls coming in about shooter
3 here, shooter there, we had to -- at that point
4 the sheriff said "the airport's closed down" and
5 closed it.

6 I then had to make a call. And we had
7 17 SWAT teams respond to the airport that day.
8 It's in the after-action. Seventeen teams came
9 that day. I set up our command post, which is
10 called the tactical operations center, on the far
11 east entrance, lower level, Terminal 1. So
12 outside -- under the overhang but outside the
13 immediate -- the depth of the airport. We had all
14 17 teams check in. We had teams come from
15 Hollywood, FBI, Fort Lauderdale, Coral Springs.
16 You name it, they showed up. Miami-Dade SWAT
17 showed up. And we were able to break it down into
18 quadrants and areas of responsibility and we were
19 able to clear that terminal -- every terminal, the
20 parking garage and the car rental center in under
21 five hours.

22 And we found people hiding in cars,
23 underneath cars. And, again, you can't explain
24 why are these people underneath cars or in their
25 cars with their hands up in the parking garage.

1 It was some of the most unexplainable stuff I'd
2 ever seen. Why did people run across an active
3 runway? I mean, they were in fear of something.
4 But nothing ever happened. It was the sheep
5 following the sheep. Once one started running
6 they all started running, and you were not going
7 to stop that.

8 So we had to clear all that entire
9 property internally, the terminals, the parking
10 garage and the car rental center. Nothing on the
11 exterior as far as private hangars or anything on
12 the outside of the airport. It was just that
13 interior island. We were able to clear that. We
14 did it in a really swift, smooth action. We did
15 it in a really amazing amount of time in my
16 opinion, under five hours to do that much area and
17 find everybody. We found people hiding in broom
18 closets. I mean, it was unbelievable. All of
19 those SWAT teams worked together. All of those
20 teams communicated.

21 We had the throttle issue, the radio
22 issue, which was a massive problem for BSO, for
23 us, but we were able to use the same thing that,
24 you know, that we had to do at the school. You
25 had to use runners, we used point-to-point radio

1 channels and we were able to work through it and
2 get it done, and that was with every other SWAT
3 team that was there. Very smooth, very fluid
4 operation. And you can depose any SWAT team
5 leader that was out there that day from the
6 assisting teams and I assure you that they will
7 agree with my assessment of it.

8 Q You became aware that Deputy Madrigal
9 apprehended the shooter in less than two minutes
10 from the first shots being fired?

11 A I didn't know who -- I didn't know it
12 was Madrigal initially. That was like the next
13 day I found out the name of who actually was
14 there. That wasn't even a concern of mine
15 initially, you know. I mean, we had a lot more
16 going on. It was a deputy was able to take him
17 into custody in 72 or so seconds. He did an
18 outstanding job. I saw the video on that.

19 You know, there's a difference between,
20 and I'll say it, Madrigal and Scot Peterson.
21 Because Jesse Madrigal, his event's been
22 downplayed, you know. Oh, the guy ran out of
23 bullets, he laid down on the floor. Well, when
24 you watch the video, you see Jesse running from
25 his checkpoint at Terminal 2 where he was working;

1 when everyone else is running in the opposite
2 direction, he's going through them down the
3 stairs. He didn't know the guy got off a plane
4 from Anchorage, Alaska and had only a limited
5 amount of -- he didn't know that. He didn't know
6 if it was someone that walked in off the streets
7 that was ready for bear. He went down there ready
8 to confront that threat. He had the training, the
9 same training; he just had a better heart and
10 better mindset. That's what it comes down to.

11 Q You mentioned a radio throttling issue.
12 Generally speaking, at the Fort Lauderdale Airport
13 was the radio throttling issue the responsibility
14 of BSO?

15 A No. It was Broward County's radio.

16 Q Did you as a SWAT team commander have a
17 way of accommodating or working around the
18 throttling issue?

19 A We went to a direct point-to-point
20 channel. It did work at times. But for me to
21 communicate with the actual command post, I wasn't
22 able -- I had to do it through cell phones or I
23 would run back and physically look at somebody
24 because I wanted to make sure that I delivered the
25 message, that it wasn't lost in translation. And

1 it was effective, it worked.

2 Q And that was a work-around that you put
3 into place?

4 A Yes.

5 Q You and others put into place?

6 A Adapt, improvise and overcome. You
7 know, you deal with the hand you got. But you
8 can't throw your hands in the air and say, well,
9 the radio doesn't -- we had a job to do and we did
10 it, and all the other SWAT teams did it.

11 Q The five hours to clear the airport,
12 were you and the law enforcement officers able to
13 at some point determine that the perpetrator or
14 shooter acted alone?

15 A Through the FBI and a couple of our
16 detectives interviewing Mr. Santiago, you know, he
17 pretty much, I guess, told them that he was -- it
18 was believed that, okay, this is going to be the
19 only guy, it's isolated. But we still had to
20 clear the entire property. It was too involved at
21 that point. There were too many calls, separate
22 calls. It wasn't like just you said, oh, I heard
23 gunfire and then everything -- there were calls
24 from multiple, multiple people on cell phones.
25 You know, there were so many things that confirmed

1 to a degree that, hey, there's something else
2 going on here.

3 Now, after the fact we know that -- it's
4 unexplainable. Why did -- it's just the first
5 domino fell because of a rumor started by some
6 airport employees who sent their people running
7 and we wound up with, you know, a problem, a
8 bigger problem than what we had, which we had a
9 homicide scene. And then it turned into, you
10 know, a chaotic scene for a little while. But we
11 were able to bring that back together, slow things
12 down. And you're talking about almost 20,000
13 people. You have to contain it, slow it down,
14 bring it back together, get those people together.

15 You know, and we also -- I didn't
16 mention that we also had to put bomb teams in with
17 the SWAT teams as they searched because you had
18 abandoned bags. And when I tell you there was a
19 million and one things they came across, some
20 hunters had gotten off a plane that had rifles, so
21 they found rifle cases. They found people with
22 gas cans in their car. I mean, anything that made
23 you think this was a terrorist event was dropping
24 into place.

25 So, you know, I applauded all the guys

1 that worked out there that day because, yeah, was
2 it chaos? Absolutely. And in my opinion, anyone
3 that's ever been to an active shooter scene or
4 something to that level, if they say there wasn't
5 a level of chaos I'm going to question if they
6 were really there.

7 Q Have you had an opportunity to review
8 the Fort Lauderdale Airport After-Action Report?

9 A I reviewed SWAT's portion of it, because
10 that's what applied to me, because I wanted to see
11 what criticisms, what positive things were taken
12 from our day.

13 Q Are you familiar with the BSO protocol
14 or practice in developing an after-action report?

15 A No.

16 Q Are you aware that the --

17 A I mean, I've written after-action
18 reports. But something to that degree, I'm not
19 sure how -- I wasn't involved in the decisions
20 that were made as to who was going to author it,
21 where it was going to come from. I wasn't part of
22 that.

23 Q Did you understand that the Fort
24 Lauderdale Airport shooting after-action report
25 was essentially a group effort a lot of people

1 participated in?

2 A Yes.

3 Q Are you aware that there were draft
4 versions before a finalized version?

5 A Yes.

6 Q Did you have an opportunity to review,
7 at least as far as the SWAT portion goes, any
8 drafts of a reporting?

9 A I reviewed, other than what I saw in the
10 Sun Sentinel, but I reviewed the final version.

11 Q Okay. Did you have input as SWAT team
12 commander or commander in place into the
13 after-action report?

14 A Yes. I was interviewed several times,
15 once at the airport by -- I couldn't give you his
16 name. I forget who it was. I mean, there were
17 several -- I think there might have been several
18 different after-actions done. I think maybe the
19 airport did one. But the SWAT part of it was
20 exactly the same across the board because it was
21 cut and dried as to what our job was.

22 Q Did you learn or understand from anybody
23 working with BSO that the after-action report that
24 was finalized was in any way cooked or written to
25 avoid criticism or in any way sanitized?

1 A No, I don't. As far as sanitizing it,
2 the questions that I answered were basically
3 pretty much what I told you here today. Here's
4 what we started with, a response to an active
5 shooter. They arrived on scene. The shooter was
6 in custody. Two of the SWAT guys actually took
7 him and secured him in a holding room,
8 Mr. Santiago is who I am referring to, and stayed
9 with him throughout the day.

10 Q That's the perpetrator, shooter?

11 A Yes. Correct.

12 And then the other guys cleared their
13 areas. They cleared and they found people hiding
14 in the lower level area of the baggage claim where
15 there was bathrooms, the people that ran out
16 through the opening, the baggage opening onto the
17 AOA. They did what they had to do. So my portion
18 of it was very clear, concise and to the point.

19 And then everything after that, where it
20 was the 17 teams that arrived on scene to initiate
21 the clearing of the parking garage and all the
22 four terminals and the car rental center, that was
23 all listed because I did an after-action report.
24 A quick sum- -- not a quick summary, but a SWAT
25 after-action is what we call it. And then I had

1 to submit that. And that's where they got the
2 bulk of the information as far as the 17 teams
3 that were on scene that day and how the airport
4 was systematically cleared via the terminals, the
5 garage and how we did it, and then once we
6 secured, how we posted SWAT guys all along.
7 Because now we had to bring people back and get
8 them on the buses and we wanted to have them there
9 to maintain order and also provide a level of
10 comfort to people because we felt they might still
11 be on edge, worried is this something -- you know,
12 because of the lack of information.

13 You could not -- there was just too many
14 people where you couldn't get all the information
15 to everybody. And I think that probably
16 frustrated a lot of people. That's where some
17 frustration came in. Because first it was fear,
18 and then it became, okay, they were good, and then
19 people started getting angry because, my bag's
20 inside. Well, you can't get your bag now. What
21 do you mean? You know, they missed their flights.
22 You know, so people started to -- you know, the
23 fear went away and now they were getting angry.
24 Life came back to reality.

25 Q I want to move to February 2018.

1 February 14, 2018 is the day of the Marjory
2 Stoneman Douglas High School mass shooting.

3 Did you respond to the scene of the high
4 school that day?

5 A Yes.

6 Q In what capacity?

7 A I was the major of strategic
8 investigations. And I was out at the office and I
9 got a phone call from Sergeant Danny Fitzpatrick.
10 And Sergeant Fitzpatrick -- one of our detectives,
11 Rich Olson, [REDACTED]
12 [REDACTED]. So Rich somehow
13 got a phone -- found out that there was a shooting
14 at the school.

15 Danny called me -- Fitzpatrick called me
16 asking if I heard about a shooting in Parkland at
17 Stoneman Douglas. I hadn't heard anything at that
18 point. I had not gotten any information. He told
19 me, well, it's on radio channel -- you know, he
20 told me the channel to go to. So I went out to my
21 truck, grabbed my radio, turned it on, immediately
22 started the car and started heading that way.

23 And where our office was was near the
24 Broward Mall. It's an undercover location so I
25 don't want to give the address, but it's in that

1 vicinity, that area. So that just gives you an
2 idea of how far I had to drive to get to the
3 school. And I got there, I think, 38 minutes
4 after the first shot. And I'm going off of the
5 FDLE commission timeline on that. I believe it
6 was 38, 39 minutes.

7 Q When you arrived, what did you do in
8 your law enforcement capacity?

9 A When I arrived there, the radio was
10 already having a lot of problems. It was doing
11 the throttling issue again. So I was trying to
12 get on the radio to find out -- now, some
13 information was -- connection's lost here. I
14 don't know if...

15 THE COURT REPORTER: We lost
16 Mr. Primrose.

17 MR. KUEHNE: Oh. Okay. Let's take a
18 moment.

19 (Brief interruption of proceedings.)

20 MR. PRIMROSE: Where were we?

21 (The last question and partial answer
22 were read by the Court Reporter as above
23 recorded.)

24 BY MR. KUEHNE:

25 Q Do you want to continue with that

1 answer?

2 A Yeah. I was trying to find out where a
3 command post was. Now, I could hear some
4 transmissions intermittently that would come
5 across so I knew that SWAT had arrived and I knew
6 that they were in the building.

7 So I -- and also while I was in route
8 there I heard a staging location where they wanted
9 people -- units coming into the area to stage,
10 which was on the south side of the Sawgrass
11 Expressway on Pine Island Road, so that's where I
12 drove to park my car, which would put you on the
13 southeast side of the school.

14 As I was running up Pine Island
15 northbound trying to get on the radio to find out
16 where's a command post -- you know, obviously, I
17 mean, there were police cars from Sunrise, there
18 were tons of BSO cars, Fort Lauderdale Police
19 cars. I mean, you name the agency, everybody was
20 coming there.

21 What I learned from the airport
22 throttling issue is when the radio channel becomes
23 so overloaded, because so many people go to that
24 channel and that's obviously -- that was apparent
25 because there were just so many cops that were

1 there.

2 So as I came out from underneath the
3 overpass of the Sawgrass going north trying to
4 figure out, okay, is there a command post, I was
5 assuming there has to be something in place
6 because it's 40 minutes later. There -- you know,
7 this is -- this has been ongoing. Somewhere
8 there's a command post, I'm just trying to locate
9 it.

10 And as I'm cutting through, that's when
11 I ran into Chief Tony Pustizzi from the Coral
12 Springs Police Department. When I saw the
13 chief -- I've known Chief Pustizzi for a long
14 time. I think he's a great man, excellent chief
15 of police, fantastic leader. He called to me,
16 actually, when I was going by. He said "Ed," so I
17 looked over. I went over and I asked him, I
18 said -- because at that point there was no -- I
19 didn't know if there were any victims. I didn't
20 know the totality of everything, how severe it
21 was. I didn't -- you know, what was this. So I
22 asked the chief. I said, "Are there any victims?
23 Do we actually have a shooting with victims?"

24 And he says, "I know of three." That's
25 what he told me.

1 And I said, "Oh."

2 So in my mind I started to think
3 Valentine's Day, is this new boyfriend-old
4 boyfriend, you know, whatever the situation is,
5 but maybe a love triangle-type thing.

6 But you could see all the fire rescue
7 units. And I asked the chief, I said, "Chief, is
8 there a command post established?"

9 And his words to me, he told me, he
10 goes, "Eddie, I don't know." He goes, "It's so
11 fucked up right now."

12 You know, it was chaotic. And I agree
13 100 percent when you had this much going on, you
14 had, you know, a ton of Coral Springs cops there,
15 BSO there, everything, you had all these cops,
16 fire assets there. Yeah, there was a lot going
17 on.

18 So I then said to him, "Well, let me see
19 if I can get Jordan on the phone." So I went to
20 my cell phone and I tried to call Jan Jordan and
21 it went right to voice mail. It didn't go
22 through.

23 My next step was I'm going to call Steve
24 Robson, who was now the SWAT commander. He was my
25 former XO. And I knew SWAT was on scene, so I

1 wanted to know where he was, because having been
2 in his shoes, you know, unfortunately, a little
3 over a year ago, I knew that, you know, he was
4 going to need some assistance. He wasn't at the
5 airport shooting, so I was trying to locate him to
6 see if he needed any help. I did get ahold of
7 Robson, he answered his phone, and he told me he
8 had a TOC, tactical operations command post, set
9 up in the northwest parking lot of the school
10 outside of Building 13. So I said, "All right.
11 I'm on my way," and I hung up on him.

12 I went to go tell the chief, Pustizzi,
13 he was over with his assistant chief talking, tell
14 him that I was heading over that way, they were
15 involved.

16 I immediately began heading north on
17 Pine Island towards the command post. As I was
18 going north there's a pedestrian gate, not a --
19 you can't go through with vehicles. It's the
20 walk-through where Nikolas Cruz entered the
21 campus. As I was passing that pedestrian gate,
22 Brandon Hayes was driving a golf cart with a
23 couple of other SWAT medics. And I'm not sure who
24 they had, but they were tending to a victim that
25 had a gunshot wound. And Brandon said, "Eddie,

1 can you get some SUVs over here? We need trucks,
2 pickups, anything." I said, "On it." So he kept
3 going in the golf cart, never stopped. He just
4 asked me to line trucks up over next to that gate.
5 So he continued towards fire rescue with the
6 patient.

7 I then looked over and there was a fire
8 captain. I don't know his name. He was with
9 Coral Springs. He was a dark-haired gentleman
10 with a dark mustache, tan skin. I don't think he
11 was that tall. I said, "Do you" -- and he had an
12 SUV. I said, "Can you get SUVs, trucks?"

13 He says, "I got an SUV right here and
14 I'll get more pickups." He goes, "I got this."

15 So I said, "All right, you got it. I'm
16 going to keep going to the" -- now, at that
17 pedestrian gate I could hear on the radio that
18 SWAT said no one come into Building 1200, don't
19 come on the school grounds unless you're SWAT, so
20 I didn't want to cut through the gate. Again,
21 they know more than me. I'm limited with what I
22 have on the radio because it was intermittent, it
23 was in and out.

24 So I proceeded down running to Holmberg
25 Road and then came up Holmberg Road west and in

1 through the northwest gate into the parking lot
2 and went to the back of his SUV where he had
3 established a command post.

4 Q A TOC?

5 A Correct.

6 Q All right.

7 A There intel -- I had intel respond.
8 They responded over there. You had intelligence
9 over there, you had all SRT over there. There
10 were -- Brad Mock from the Coral Springs Police
11 Department, he's the SWAT captain, he was over
12 there. We had our SWAT command in place. And the
13 operators and the medics and everything, they were
14 already taking care of in the interior of the
15 school. We had some other -- Fort Lauderdale SWAT
16 commanders showed up over there. You started
17 getting a lot of command presence. You had
18 Colonel DiMaggio there from BSO, Colonel Dale was
19 there from BSO, Colonel Kinsey was there from BSO,
20 Colonel Polan was there from BSO. Now, they all
21 started coming there at different times. And like
22 I said, multiple other agencies. You had Troy
23 Walker from FDLE come over there.

24 So that was where the decisions were
25 being made because we didn't have the shooter in

1 custody at that point. The victims had been
2 transported, the wounded had been transported out.
3 The deceased, you know, unfortunately the
4 deceased, they were still there in place. But you
5 still had kids in some of the classrooms.

6 And now you have a 47-acre campus that
7 you can't ignore because, again, it goes back to
8 the plus-one theory. Is this one shooter? We
9 didn't -- is it one? Is it two? It was unknown
10 at that time. Obviously with the confusion with
11 the video from the school being 20 minutes
12 delayed, or whatever it is, giving out that
13 information saying, oh, he's in the building when
14 he was long gone. But, you know, you got guys
15 holding these hallways and, you know, information
16 comes in now, oh, he's in the stairwell. No, he's
17 not. These guys are like, I'm in the stairwell.
18 That did not help things.

19 But at that command post is where you
20 had decisions being made like, okay, we're going
21 to clear Building 1300, then we're going to go to
22 Building 6, 3, 4, 5, and so on, clear the
23 cafeteria, clear the theater. You had to clear
24 all these areas because kids were hiding. Just
25 like at the airport they were -- you found them

1 hiding in closets, you found them hiding in places
2 that you -- well, jeez, you know, on the other
3 side of campus where they probably didn't hear
4 anything but, you know, they were terrified.

5 Q As you were on the scene as you've
6 described it, did it appear to you that the
7 officers with whom you interacted functioned in
8 response to active shooter training education?

9 A Absolutely.

10 Q Did you have an understanding at the
11 time you arrived and during what you've described
12 that any of the officers with whom you interacted
13 had no clue what to do in responding to that
14 situation, a potential active shooter situation?

15 A By the time that I had gotten there,
16 everybody that I had seen -- it appeared to me
17 everything was working the way it was supposed to
18 work. Now, obviously I wasn't aware of the
19 initial response. But everything that was in
20 place from when I was there that I personally
21 observed was working the way that we had been
22 trained to do. Again, it went back to, from a
23 SWAT perspective, that school was cleared
24 systematically. The building, unfortunately,
25 where the shooting occurred, those guys that

1 cleared that area, they did what they were
2 supposed to do systematically whether they were
3 Coral Springs guys, BSO guys or anyone else that
4 went in that building. To my knowledge, those are
5 the only ones that went in the 1200 building. But
6 the other buildings on campus that were cleared by
7 the multiple other teams, again, the FBI came out,
8 was a very well-coordinated, smooth process. They
9 did what they needed to do. They were able to get
10 those kids out.

11 And one of the other things was -- and
12 it wasn't just a simple "all right, let's escort
13 them out this way." One of the other things we
14 took into consideration is these are kids. They
15 just went through a very traumatic experience
16 regardless of whether they were in the 1200
17 building or not. Because I watched these kids
18 walk out and they were crying and they were
19 rattled, and they were from across campus.

20 We had two victims outside. You had
21 Coach Feis [REDACTED]. And he was a
22 very recognizable person. He was a large man,
23 shaved head. You know, you would be able to know
24 who he was if you knew him from across the
25 [REDACTED]. You had Jaime Guttenberg [REDACTED]

1 ██████████. So now -- and it was graphic. So now
2 you have to get these kids, hundreds of kids -- I
3 think it's thousands because of the population of
4 the school -- out. The only way we could take
5 them to where we could contain them, because we
6 didn't want to lose them into the Sawgrass or any
7 other ways, we created -- we got as many police
8 officers as we could to create a barrier wall, a
9 police shield, and kept those kids walking, to
10 keep their heads down, you know, look down, keep
11 walking to distract them so they didn't see what
12 was laying in the courtyard. You know, that was
13 part of it as well. It wasn't --

14 Q Is that response part of your training
15 that you've gotten over the course of --

16 A No.

17 Q -- time as an officer?

18 A No. That was just the right thing to do
19 knowing the situation. It was a school. These
20 are children. This is the most horrific thing
21 that you could ever possibly think of. We all
22 went to school. And I can tell you when I went to
23 school, I never ever thought about something like
24 that happening.

25 And we as people -- and that's what

1 impressed me with all these other -- they weren't
2 people that I knew. Some of them were cops I had
3 never met, but they knew that we wanted to build
4 that shield to try to prevent those kids from
5 seeing what we couldn't hide because that was the
6 only way we could get them out of the buildings
7 they were in and off the property, you know.

8 Q Did you participate in any after-action
9 report for the Marjory Stoneman Douglas shooting
10 incident?

11 A I didn't participate in an actual
12 after-action report but obviously was involved in
13 the commission.

14 Q Okay. The Marjory Stoneman Douglas
15 Commission?

16 A Correct.

17 Q Okay. And what was your involvement?

18 A Just that -- I wound up --

19 Q You provided information?

20 A I had provided the information basically
21 that I just had mentioned to you about when I
22 arrived.

23 We lost him again. It says, "Connection
24 lost." I don't know when.

25

1 (A recess was taken at 4:10 p.m. after
2 which the following proceedings were had at
3 4:22 p.m.):

4 MR. KUEHNE: Okay. We are back on the
5 record. I apologize for the technical
6 glitch, but our Veritext people came to the
7 rescue.

8 BY MR. KUEHNE:

9 Q Okay. So I was asking about --

10 MR. KUEHNE: Actually, could you refresh
11 me.

12 (The previous question and answer were
13 read by the Court Reporter as above
14 recorded.)

15 MR. KUEHNE: Okay. I have no further
16 questions and tender the witness to
17 Mr. Primrose.

18 MR. PRIMROSE: Okay. Thank you.

19 CROSS-EXAMINATION

20 BY MR. PRIMROSE:

21 Q I don't have many for you. I've got a
22 couple of questions, though.

23 When you had mentioned arriving at the
24 scene of the airport, you had mentioned that there
25 were some people making decisions that weren't

1 similar to the decisions of Mr. DiMaggio.

2 A Right. No, what it was was the airport,
3 the BCAD, for lack of a better term, I guess
4 command, the Broward County Aviation Division
5 department heads, it seemed that they were more
6 interested -- I mean, obviously they recognized
7 what it was and that it was a horrific scene and
8 it was terrible. They weren't discounting the
9 victims as to what happened, but obviously I think
10 that their primary focus wasn't law enforcement's
11 primary focus. Their objective was to try to get
12 the airport -- and this is my opinion from what I
13 saw and what I heard. Their ultimate objective
14 and goal was to get the airport back to normalcy
15 as soon as possible to not impact revenue. So
16 there seemed to be some discord there.

17 Q Now, the BCAD is not the law enforcement
18 entity that protects and secures the airport;
19 correct?

20 A Correct. But I'll give you just a quick
21 example. During the SWAT portion of it -- I mean,
22 they -- it is their little island let's just say.
23 So they have the -- they hold all the controls
24 there. I asked them for the -- for a blueprint of
25 the airport property just so we could coordinate

1 from the SWAT talk, you know, areas of
2 responsibility. And the person that was detached
3 to me -- and, again, I don't remember his name,
4 but it's all documented -- he turned around and he
5 said, "I don't think I can get you that."

6 And I said, "Well, I need it. You know,
7 this is critical to the operation here. We need
8 the blueprints to know what we have."

9 And about 15 minutes later he came
10 back -- now, we didn't stop. We continued to move
11 forward. I mean, we're not going to wait. But it
12 would have been a nice -- it would have helped us
13 move along a little bit swifter. In the end he
14 came back, he goes, "No, I'm not allowed to give
15 you those." I didn't even get into -- it wasn't
16 going to turn into an argument there. I didn't
17 have time for that. I just pretty much dismissed
18 him at that point as useless to me and we
19 continued doing what we were already doing. It
20 would have just been nice to have.

21 But that's just an example that I
22 personally can give you where this is a law
23 enforcement operation but yet we're forced to work
24 with an outside entity such as BCAD who holds some
25 of the valuable information that they wouldn't

1 share. Whether it was wouldn't or couldn't,
2 didn't have it, it was just he came back and told
3 me, "I can't give it to you."

4 Q So was that the first time that SWAT had
5 been out to the airport to discuss these types of
6 issues was in an actual situation of a response?

7 A No. We had trained there before. As
8 part of the SWAT training program, every year we
9 did aircraft training. We did aircraft assaults
10 and we also trained how would we enter a jet
11 bridge, a jetway going -- leading to a jet if
12 there was a barricade there, how would we
13 handle -- we actually did do an active shooter
14 training drill a couple of years earlier after
15 hours when the airport was, you know, limited
16 operations, there wasn't a lot of flights, closed
17 terminal area and we did active shooter response
18 there. So we had done some training in the past,
19 and we're heavily involved with airport security
20 operations.

21 Q I guess my question is: The issue of
22 receiving of blueprints, that was never -- to your
23 knowledge that was never discussed as, If we're in
24 an active shooter situation BSO is going to become
25 command of the entire airport, not this aviation

1 department"?

2 A Right. I think what it came down to is
3 because there had never been an incident it's one
4 of those things, unfortunately, I think -- and
5 this would be for every department in my own
6 opinion across the country -- that until they find
7 themselves in a situation or there's a lesson to
8 be learned from somebody else's experience, you
9 know, you think that you're going to be able to go
10 there.

11 I'll be honest with you. I assumed,
12 which was my fault, that if you ask for the
13 blueprints from the aviation division of Broward
14 County in this type of circumstance, you request
15 something like that, it's going to be provided.

16 You know, I mean, we deal with private
17 entities when we go -- if this building here was
18 part of a barricade or a target and we asked
19 building management can we get a copy of the
20 building -- I mean, I can tell you that the SWAT
21 team does not have, unless they've received them
22 since my departure, we don't have blueprints of
23 most of the county buildings in Broward. You
24 know, it's just one of those things. There's so
25 many of them that you would just assume -- now, I

1 can tell you this: Still don't have blueprints to
2 the airport because it's not as easy as you think.
3 BCAD, it's very territorial I suppose would be the
4 right answer. It's always what if you lose them
5 and then they fall into the hands of -- which, you
6 know, is insane to even bring that up. But that
7 always seems to be the argument.

8 Q Okay. So I guess another question,
9 though, would be: Wouldn't there be a protocol in
10 place specifically for the airport that in an
11 active shooter situation all decision-making is to
12 be transferred to the incident commander versus
13 anybody else who might need it?

14 A Well, I can answer this question now
15 that I'm no longer in Broward County -- under
16 Broward County employment. You are -- I agree
17 with you, and that theory is great, but the
18 reality, it's far from it because of the politics
19 that come into play.

20 I can tell you that day at the airport
21 you had the mayor of Broward County claiming to be
22 the one running the show, you had the BCAD airport
23 director wanting to be the one running the show
24 and, you know, then you had the sheriff trying to
25 deal with both of them.

1 I agree with you that there should be a
2 state-mandated protocol that in these type of
3 instances where it's a police matter, which it was
4 clearly, that that -- whether it's a chief of
5 police or a sheriff, they have the ultimate say as
6 to what's going to happen at the airport.

7 But I'm telling you a Friday afternoon,
8 two o'clock in the afternoon, the first of the
9 year, you better believe that none of those
10 people, other than the sheriff who was looking at
11 it from a law enforcement perspective, was
12 thinking about that. They were clearly focused on
13 getting things operating normally as soon as
14 possible.

15 Q Okay. Who was incident command during
16 the Fort Lauderdale Airport shooting?

17 A There was -- Colonel Jack Dale was there
18 and Colonel Mike -- well, he was Lieutenant
19 Colonel Mike DiMaggio because it was an
20 investigation, a homicide investigation. Again,
21 the active portion of it was well over. Shooter's
22 in custody. Again, like I had mentioned earlier,
23 you know, the scene was secure. People were
24 corralled that we needed to interview. So from an
25 investigative, it was Mike DiMaggio and Jack Dale

1 that were making, for me, all of the decisions
2 that I recognized. And it was efficient. It
3 was -- there were no issues at that point.
4 Everything was -- what needed to be in place was
5 in place. It was secure. It wasn't until the
6 panic ensued an hour and a half later.

7 Q Okay. I know you said that SWAT as its
8 own entity or unit did training at the airport
9 prior to this event happening.

10 Are you aware of any other training that
11 occurred for law enforcement at the airport? Any
12 other units or the BSO airport district that's
13 actually out there?

14 A Well, I can tell you that -- and
15 training would have the actual dates and records.
16 The night that we did the active shooter training
17 operation there in the terminal, that was in
18 conjunction with road patrol, because obviously
19 they would be the first -- the tip of the spear.
20 They would be the first ones there and then we
21 would have to come in and try to mitigate and
22 operate through them and get whatever intelligence
23 we could and transition into taking over as the
24 primary.

25 Q Was there in your -- based on what you

1 know, was there ever a full-scale exercise done at
2 Fort Lauderdale Airport to kind of be prepared for
3 a situation like what happened?

4 A We had done a full-scale exercise I want
5 to say two years, maybe three years ago. It was
6 called Operation -- it was part -- what it was
7 done through, it was a grant, a federal grant.

8 And because the airport and the seaport
9 down here -- I don't know if you're familiar with
10 the geography of this area, but they're about a
11 mile apart is all that separates them. And
12 they -- God, I wish I could remember the name of
13 the operation right now. But it was Chief Greg
14 Holness, Greg Holness with Broward County Fire, he
15 was the chief of the port at the time and he was
16 the one that set this exercise up. He could get
17 you the exact dates and everything.

18 And what it was was they had an active
19 shooter in a cruise ship terminal. I want to say
20 this was 2015, 2016. They had -- Operation
21 Vigilant Port. That's what it was, Operation
22 Vigilant Port. And what they had to do is they
23 had an active shooter in the cruise ship terminal
24 over there. Road patrol responds and then SWAT
25 responds after the initial response of patrol.

1 And then once we came in, it had turned into -- it
2 moved from the terminal area. The bad guys got
3 onto a -- they had a freighter at the back of it.
4 And then at that freighter we had to assault the
5 ship and find these guys. But then -- you know,
6 they scripted it like something out of 24, where
7 it transitioned because of location, being so
8 close, that the coordinated effort then went and
9 they hit the airport and they took over a plane.

10 So BCAD actually has an old FedEx cargo
11 plane that they use that we were able to get for
12 fire training and law enforcement training. So it
13 transitioned over to that location where it was on
14 an aircraft and it was a part of the runway where
15 they drove a car through the fence line along the
16 north side of the airport.

17 And actually, you know who came in for
18 it? It was in the -- she was in the Obama
19 administration. So this exercise took place
20 before the election. She went -- Fong or Wong.
21 She was the Homeland Security -- not director.
22 She's now the chief of San Francisco PD. I'm
23 sorry if I'm confusing you. I'm just trying to
24 give you all the information.

25 So, yes, there was a large-scale

1 exercise between fire, police, active shooter to a
2 terminal and then it moved over. And this was
3 before the airport shooting in 2017, so it was
4 definitely 2015.

5 Q Okay. And the reason I ask that is, in
6 one of the after-action report versions they don't
7 mention any full-size exercise -- full-scale
8 exercise occurring at the Fort Lauderdale Airport
9 in the years before, but they do reference a
10 February 2016 exercise called Operation Heat
11 Shield which was down in Miami-Dade County.

12 A Yes. Heat Shield, that was part of the
13 Regional Domestic Security Task Force. Are you
14 familiar with RDSTF? You're up in Region 1.

15 Q Yeah.

16 A All those -- so every year now -- and it
17 started in 2016. Every year February, March, they
18 just did the last one a couple of weeks ago, we do
19 these full-scale exercises as a region for
20 regional response with multiple different
21 locations in the tri-county area. We did Palm
22 Beach last year, and then the year before was
23 Miami-Dade, and this year was in Broward,
24 Miami-Dade and Palm Beach. And the airport was
25 not -- in the Heat Shield that you're talking

1 about there was an airport portion of it, but,
2 again, it was an aircraft assault, and that was at
3 MIA.

4 Q Okay. And then my -- I just want to
5 make sure that I've got this right.

6 Other than the exercise that you
7 described before with the seaport and the airport
8 in this 2016 -- the regional one, that the only
9 other training, not for SWAT but for the BSO
10 airport district law enforcement, is a yearly
11 tabletop exercise versus a real-life scenario, you
12 know, exercise. Do you agree with that or do you
13 disagree?

14 A I don't know of -- other than what I
15 told you earlier, and I'm not sure of when the --
16 the terminal exercise that I had mentioned, where
17 it was an active shooter specifically addressing
18 the terminal, and we did it in Terminal 3 that
19 year, but I'm just not sure of the year, whether
20 it was 2012, it could have been 2013 or -- that
21 you'd have to check with training, but it was done
22 at the airport.

23 Q Okay. What's your -- in the
24 after-action report, the authors of that put in
25 there that there was some -- a failure of --

1 there's a deficient BSO airport district command
2 that led to some failures in the response to the
3 shooting after the shooter was apprehended, the
4 aftermath. Would you agree with that statement?

5 A From my position, no. Because, again, I
6 was still dealing with Colonel DiMaggio, who was
7 my direct boss. He was who I recognized and, as
8 far as I was concerned, was the incident commander
9 because he was making the critical decisions that
10 affected me.

11 Now, I think that what that stems
12 from -- because to tell you there was not
13 confusion, that would not be the truth because
14 there was. But I can tell you that what played a
15 big part of that problem and that confusion or
16 maybe what people perceived as a lack of command
17 was the radio. If you can't communicate over a
18 radio -- if I can't tell you when you're on the
19 other side, you know, a mile away from me, half a
20 mile away from me, hey, I need you to do this,
21 it's ineffective. And now you're standing a half
22 a mile away from me going what are they doing,
23 who's in charge here? Because you couldn't get on
24 the radio. You couldn't transmit.

25 And, you know, I'm going to tell you

1 right now that when I -- I assumed, again, I
2 thought that Broward County had fixed the radio
3 problem after the airport. I thought that that
4 was a critical failure that contributed to some of
5 the problems that day. And now I know that it was
6 another critical problem with the aftermath of
7 MSD. It presented a great problem because --
8 again, it wouldn't have been a big deal, you know,
9 if we went and it was a house, one structure or
10 one isolated area, but you're talking about
11 47-acre school property. And then looking at the
12 airport, another -- I don't even know how many
13 acres that that eats up. But these are large
14 properties. And to not be able to have an
15 efficient, effective radio system to communicate
16 with, it makes it very -- you're restricted. It
17 just limits you.

18 Q Okay. I want to talk -- you mentioned
19 the knowledge about the active shooter policy
20 having been ingrained in the officers from the
21 moment they kind of take their oath to protect and
22 serve, but you also -- I mean, you also recognize
23 that the policy wasn't followed, at least to your
24 understanding, in the Marjory Stoneman Douglas
25 shooting; correct?

1 would be -- it's like when you open up a newspaper
2 and you read an article where a guy in Oklahoma
3 sitting in a McDonald's shoots a guy and all he
4 has is a concealed weapons permit, but he stops a
5 robber from robbing the store and maybe killing
6 people there. Well, he has no training, but he
7 knew what to do and he had the mindset. And
8 that's what I think it comes down to.

9 And it's frustrating for me because, you
10 know, I live in Parkland. I moved there. My wife
11 and I moved there two years ago, because we have a
12 little daughter, for the schools. I'm four blocks
13 from Stoneman Douglas. I drive by it every day I
14 leave my house to go to work. And when I go
15 running, I gotta run by it. So I have a constant
16 reminder. And it just bothers me when people,
17 certain individuals are trying to hang their hat
18 on a word to excuse their inaction. It drives me
19 nuts.

20 Q And I don't know if we covered -- if
21 when Mr. Kuehne was asking you questions he
22 covered this, but how often are you getting
23 trained on what the active shooter policy demands
24 of you as an officer and that you will follow the
25 policy, you know, when you're -- when you've got

1 the badge on and you're working as an officer?

2 A I can tell you in every training class
3 outside of SWAT that I ever went to -- because
4 SWAT we, you know, obviously those guys know
5 exactly what to do. I can tell you that Mel
6 Murphy and the guys that were in that training
7 division that taught tactics, they were very
8 direct. John Kelly had it before that and he was
9 in charge, Sergeant Kelly, he was very direct.
10 These guys knew what to do.

11 And I just -- as a policeman, I know
12 what to do. As a civilian, as a guy who is
13 licensed -- I got my concealed weapons permit now.
14 I know what I would do if I heard gunfire in this
15 office right now. It's just for the average
16 person 100 percent it shouldn't, you know, it
17 doesn't come into play. But for a policeman that
18 goes to that training -- and like I said, I only
19 needed to go to that training one time. And it
20 all really ramped up after Columbine in '99. And,
21 again, the tactics varied and they changed subtly
22 over the years because, you know, initially it was
23 go with the wedge formation, a diamond, you know,
24 two-man entry. And then as time went on and you
25 started to see more and more victims people

1 realized, no, first guy there with a gun's got to
2 get in there and stop it.

3 It is a known -- it is a -- I assure you
4 if you polled police departments across the
5 country and said "answer this question," they're
6 all going to answer it they know that you go after
7 the shooter. That's your job. You're supposed to
8 distract him, take the attention away from the
9 victims and put it on you. It's terrible. It
10 sucks. But that's what -- you know, I don't like
11 using the term "that's what you signed up for,"
12 but yeah. You know, you go to violent domestics,
13 you go to robberies in progress. I mean, that's
14 part of it.

15 Q Well, isn't it -- is it factually
16 accurate that the active shooter training is
17 something -- it was broken up into two four-hour
18 courses that were completed sometime between 2015
19 and 2017? That would have been like the
20 retraining or the in-service training that was
21 received?

22 A From my understanding, the reason why it
23 was broken up into four-hour increments was a lot
24 of people complained about the eight-hour training
25 day. They didn't feel that it was effective

1 enough. You lost people's attention whether
2 because it was hot or this or that. And then the
3 other thing was also staffing. From what I was
4 told, because it was so many people that were
5 required to go through training it put the
6 district at a disadvantage from a staffing
7 perspective. So that's why -- and, again, you'd
8 have to get that accurate, actual answer from the
9 training cadre, but that was what I was of the
10 understanding.

11 Q Well, but I guess -- so you're agreeing,
12 though, it was -- it's two four-hour blocks of
13 training on active shooter, and that was something
14 that -- my understanding, and correct me if I'm
15 wrong, is that all of the deputies under BSO had
16 to complete this between 2015 and 2017?

17 A Yes. And I can tell -- I remember the
18 scenarios that they had set up, because obviously
19 they have to have the logistics to facilitate the
20 training. And they did it out at Markham Park in
21 the shoot house. And the way that they did it is
22 they had two men -- you know, you pulled up in a
23 police car. It was more of a response to a
24 domestic or a suspicious incident. And then when
25 you got there, shots started ringing out. And

1 then you had to get into the shoot -- you know,
2 the shoot house there and maneuver through and
3 engage the target. But you also had to be
4 cognizant of your surroundings because they didn't
5 want you to drop your guard because they had
6 someone come out and ambush you if you weren't
7 paying attention from the wood line.

8 So, I mean, they did have the training
9 in place. And, again, like I said, I needed to
10 only hear that training one time.

11 And most cops -- before Stoneman
12 Douglas, I guarantee you if you had asked any of
13 those guys what would you do in an active shooter,
14 their answer would have been, oh, I'm going to get
15 in there and engage. I guarantee it. But there's
16 a difference between saying it and doing it. When
17 there's actual gunfire -- I mean, everybody wants
18 to be the hero and say what they would do, but
19 when it's time to put the rubber to the road,
20 sometimes people just can't.

21 Q Right. And I guess -- so was there --
22 that 2015 to 2017 block where they had to complete
23 the two four-hour courses, was there a yearly
24 training for all deputies or was it you do your
25 training, you do your two four-hour blocks and

1 then you're good for two, three, four, five years,
2 something like that, until you do it again?

3 A It seemed like it wasn't -- for me there
4 wasn't that much of a separation between the
5 active shooter stuff. It seemed like every year
6 they were always trying to incorporate some type
7 of violent encounter training, where you were
8 going to be confronted and maybe have to take
9 lethal force or something in that sense. But it
10 seemed like we were constantly at training because
11 of all the FDLE requirements and the mandates that
12 are required by the state on top of what as an
13 agency you want to get across to the troops on the
14 ground.

15 So I thought that our training division,
16 I thought they did a good job. I thought the
17 instructors were passionate and I thought they
18 covered the material very well. They were direct.
19 Mel Murphy, I'm sure you've heard his name a ton
20 of times if you've been talking to people, he's
21 one of the best trainers in the country, forget
22 about just the state. I mean, Mel Murphy knows
23 his stuff. He takes this stuff very serious.

24 And, you know, granted there were the
25 types of courses -- the de-escalation and things

1 like that, but it's what was the -- you know, what
2 was the requirements at the time. You were coming
3 out of Ferguson, you know. You were coming out of
4 that era hands up, don't shoot, where the
5 police -- you know, you had all that going on with
6 de-escalation and talking things out. That was
7 the forefront. You know, that's -- the president
8 of the United States was pushing that agenda and,
9 you know, law enforcement was too aggressive. If
10 you remember, you know, we need to demilitarize
11 law enforcement and take away, you know, the
12 armored vehicles and stuff.

13 So there was a lot of other requirements
14 I think that went in, but I certainly don't think
15 the agency was deficient in its tactical training.
16 Because I know those instructors, and the last
17 thing they want to do is attend a police officer's
18 funeral because they failed to train them to be
19 tactically proficient.

20 Q Right. You had mentioned that the "may"
21 versus "shall," you thought people are using that
22 as an excuse for not doing their job. I'm
23 wondering, then, if you're aware of
24 Sheriff Israel's testimony to the Marjory Stoneman
25 Douglas Commission where he defended the "may" in

1 giving discretion to the deputies because he,
2 quote, "Didn't want them engaging in suicide
3 missions."

4 So how do you take that comment of,
5 well, the "may" is in there to give discretion
6 about entering into a situation where you might
7 interact with a shooter versus no, everybody knows
8 that you go and engage the shooter, that's
9 objective number one?

10 A The only thing I can think of from an
11 administrative point -- because a lot of times
12 when they're writing these policies they're
13 thinking of it from an administrative stance. The
14 only thing I can think is that you're giving a
15 deputy the option to, well, let me see, I have to
16 get in there but do I have to go through that
17 door, am I mandated because this is where I know
18 it's coming from or can I seek another route, you
19 know. Well, you know, a guy gets shot in the leg
20 because he did this, he sues the agency and he
21 says, well, you said I had to go through that door
22 when -- it's just language. It's language.

23 Common sense has to be the biggest key
24 in any -- and should be probably the biggest thing
25 that a police officer should have as a trait is

1 common sense because, okay, I know I need to get
2 in there. But if I know he's behind that door
3 there and I'm going to just get shot, I'm
4 ineffective. I'm going to come through a window
5 or I'm going to come through another door, but I'm
6 going to get in there. Or I'm going to cause a
7 distraction outside, whether it's shooting into
8 the ground, into the wall, something to make him
9 think I'm coming through. Who knows.

10 I mean, it's just -- you know, the
11 "shall" or "may," like I said, those guys that
12 responded there, if you went to a shooting call
13 and you want to tell me after the fact that you
14 pondered the policy, I would say you need to
15 rethink your career because you shouldn't be
16 thinking about shall, may, what do I do. You
17 should be thinking about how do I get there, how
18 do I stop this guy, how do I get in there. That's
19 the bottom line. And that's why -- I'm sorry to
20 keep -- this poor woman's typing so fast. But I'm
21 very passionate about this because, you know, my
22 daughter's going to go to that school one day, you
23 know, so. It's just to me, sir, that wording of
24 it, you know, to me it's inconsequential in a
25 sense because none of those guys that were there

1 that day considered the policy. And if they did,
2 shame on them.

3 MR. PRIMROSE: Okay. Mr. Kuehne, I
4 don't have any other questions.

5 I appreciate you coming here today.

6 THE WITNESS: Yeah. No, I appreciate
7 it. Go Noles.

8 MR. KUEHNE: There is, as you know, a
9 read or waive with depositions. This
10 deposition will probably be transcribed. I
11 will assure you that as soon as it's
12 transcribed, I'll send you a copy.

13 THE WITNESS: Okay.

14 MR. KUEHNE: You can waive reading. It
15 doesn't affect your ability to say, no, I
16 didn't say that, and you can make changes,
17 but at least it allows us to expedite getting
18 a transcript.

19 THE WITNESS: I mean, normally I would
20 always read because other things could pop up
21 in my mind and I just -- if something does
22 come up that refreshes my memory to
23 something, because it has been a while
24 between the two incidents, I just want to
25 have the ability to reach out to the two of

1 you.

2 MR. KUEHNE: You will get the transcript
3 immediately the same time the lawyers get it.
4 We will send it to you and you can do
5 whatever you would normally do by updating,
6 errata, supplemental --

7 THE WITNESS: Okay.

8 MR. KUEHNE: -- calling us, you name it.

9 THE WITNESS: Fine. Fine.

10 MR. KUEHNE: Okay. Thank you.

11 THE WITNESS: That works.

12 MR. KUEHNE: And we have your e-mail
13 address. I have your e-mail address.

14 THE WITNESS: Yes. If either one of you
15 need anything else, just please call me.

16 MR. KUEHNE: Thanks so much. Appreciate
17 you being here.

18 (Witness excused.)

19 (Thereupon, at 4:54 p.m. the deposition
20 was concluded.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BROWARD)

I, Carol Ann Kridos, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, EDWARD GRANT, personally appeared before me on June 5, 2019 and was duly sworn by me.

WITNESS my hand and official seal this 7th day of June, 2019.

Carol Ann Kridos
Registered Professional Reporter
Notary Public - State of Florida
Commission No.: FF977714
My Commission Expires: 4/27/20

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ACKNOWLEDGMENT OF DEPONENT

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.

EDWARD GRANT

SUBSCRIBED AND SWORN before and to me this ____ day of _____, 2019.

Notary Public, State of Florida
My Commission Expires:

REASON FOR WITNESS'S NON-SIGNATURE:

_____ WITNESS FAILED TO APPEAR

_____ WITNESS COULD NOT BE LOCATED

_____ WITNESS IS ILL

_____ WITNESS REFUSED TO SIGN

_____ OTHER _____

1 REPORTER'S DEPOSITION CERTIFICATE

2 I, Carol Ann Kridos, RPR, certify that I was
3 authorized to and did stenographically report the
4 deposition of EDWARD GRANT, the witness herein on
5 June 5, 2019; that a review of the transcript was
6 requested; that the foregoing pages, numbered from
7 1 to 82, inclusive, are a true and correct
8 transcription of my stenographic notes of the
9 deposition by said witness.

10 I further certify that I am not a relative,
11 employee, attorney or counsel of any of the
12 parties, nor am I a relative or employee of any of
13 the parties' attorney or counsel connected with
14 the action, nor am I financially interested in the
15 action.

16 The foregoing certification of this
17 transcript does not apply to any reproduction of
18 the same by any means unless under the direct
19 control and/or direction of the certifying
20 reporter.

21 Dated this 7th day of June, 2019.

22

23

24

Carol Ann Kridos, RPR
Notary Public - State of Florida

25

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5 June 7, 2019

6 Edward Grant
7 c/o BENEDICT P. KUEHNE, ESQ.
8 KUEHNE DAVIS LAW, P.A.
9 100 Southeast Second Street
10 Suite 3550
11 Miami, FL 33131

12 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
13 DEPO OF: Edward Grant
14 TAKEN: June 5, 2019
15 READ & SIGN BY: July 7, 2019

16 Dear Mr. Grant,

17 This letter is to advise you that the
18 transcript of the deposition listed above is
19 completed and is awaiting reading and signing.

20 Please arrange to stop by our office in
21 Suite 2250, 2 South Biscayne Boulevard, Miami,
22 Florida to read and sign the transcript. Our
23 office hours are from 8:30 a.m. to 4:00 p.m.
24 Monday through Friday. Depending on the length
25 of the transcript, you should allow yourself
sufficient time.

If the reading and signing has not been
completed prior to the referenced date, we shall
conclude that you have waived the reading and
signing of the deposition transcript.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

cc: All counsel on appearance page.

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5
6 June 7, 2019

7 BENEDICT P. KUEHNE, ESQ.
8 KUEHNE DAVIS LAW, P.A.
9 100 Southeast Second Street
10 Suite 3550
11 Miami, FL 33131

12 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
13 DEPO OF: Edward Grant
14 TAKEN: June 5, 2019
15 READ & SIGN BY: July 7, 2019

16 Dear Counsel,

17 The original transcript of the deposition
18 listed above is enclosed for your file. The
19 witness did not waive reading and signing and has
20 been sent a letter notifying them to come and read
21 and sign their deposition transcript.

22 The witness will be provided a copy of their
23 deposition transcript for reading in our office
24 should they come in to review the transcript, and
25 we will forward to you any corrections made by the
witness at that time, along with an original
signature page which should be attached to the
original transcript which is in your possession.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

1 THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

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IN RE:

SUSPENSION OF SHERIFF
SCOTT ISRAEL

_____ /

One East Broward Boulevard
Fort Lauderdale, Florida
June 7, 2019
11:16 a.m. - 1:06 p.m.

DEPOSITION OF STEVE KINSEY

Taken before Lilly Villaverde, Florida

Professional Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of Taking
Deposition filed in the above-mentioned cause.

1 APPEARANCES:

2

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Executive Office of The Governor

9 The Capitol

PL-05

10 Tallahassee, FL 32399

on behalf of Governor Ron DeSantis

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7 EXHIBITS

8 NUMBER	DESCRIPTION	PAGE
	No exhibits were marked.	

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1 THEREUPON:

2 STEVE KINSEY

3 called as a herein, having been first duly sworn, was
4 examined and testified as follows:

5 THE WITNESS: Yes.

6 DIRECT EXAMINATION

7 BY MR. KUEHNE:

8 Q. What is your name and spell your name, please.

9 A. Stephen Kinsey, S-T-E-P-H-E-N, K-I-N-S-E-Y.

10 Q. Mr. Kinsey, you are a retired law enforcement
11 officer?

12 A. That's correct.

13 Q. Is it all right if I call you Mr. Kinsey or
14 Steve during the course of this deposition, without
15 meaning any disrespect for --

16 A. Either is fine.

17 Q. -- your service.

18 My name is Ben Kuehne. We met for the first
19 time just as I was arriving late for this deposition,
20 and for that, I do apologize. I am counsel for Sheriff
21 Scott Israel in connection with Senate review of his
22 suspension and I've caused a subpoena to be issued to
23 you for your appearance today at a deposition in this
24 case.

25 MR. KUEHNE: Mr. Primrose, would you announce

5

1 your appearance.

2 MR. PRIMROSE: Nicholas Primrose for Governor

3 Ron DeSantis.

4 BY MR. KUEHNE:

5 Q. Okay. I will be asking you questions about
6 information that is related to the suspension review,
7 but primarily about two specific events. One known as
8 the Fort Lauderdale-Hollywood Airport shooting incident.
9 I'll refer to as the airport shooting incident in
10 January of 2017.

11 You're generally familiar with that incident?

12 A. Yes, I am.

13 Q. The other major event that I will be asking you
14 about is known as the Marjory Stoneman Douglas High
15 School shooting. That was February 14, 2018.

16 You're familiar generally with that matter?

17 A. Yes, I am.

18 Q. I'll also be asking you some questions about
19 BSO training issues and matters that I suspect you have
20 some knowledge.

21 Let me ask you first to provide a narration of
22 your law enforcement experience.

23 A. I started the police academy in January of
24 1992. I was actually hired in 1991 by the City of Fort

25 Lauderdale Police Department. I worked road patrol. I

6

1 was a narcotics detective.

2 1999, I was promoted to sergeant, went back to
3 road patrol and then went back to narcotics.

4 2002, I was promoted to the rank of captain.

5 At the time, Fort Lauderdale did not have lieutenants,
6 which is why we went from sergeant to captain, back to
7 road patrol and then eventually back to narcotics for
8 the third time as the captain for the special
9 investigations division.

10 In 2008, I was promoted out of that division to
11 assistant chief, jumping the rank of major, and was
12 assistant chief from 2008 till 2013 when I retired after
13 21 years.

14 I retired as an assistant chief of operations,
15 which is all of road patrol, specialty units, such as
16 canine, motors, marine patrol, the SWAT team, all of
17 those type of non-administrative duties.

18 Following that, in January of 2013, I joined
19 the Broward Sheriff's Office as a colonel. I was the
20 colonel in charge of the investigations division, which
21 comprised of the special investigations division, the
22 criminal investigations division and what we call CPIS,
23 which is the Child Protective Unit.

24 On March of 2013, I was promoted to the

25 position of undersheriff and I maintained that position

7

1 until I left the agency in January of 2019, after six
2 years.

3 Q. Describe the position of undersheriff at BSO.

4 A. Undersheriff is pretty much responsible for
5 most of the agency. It's easier to tell you what wasn't
6 under my command than what was, but you have 5,500
7 employees.

8 The Office of General Counsel did not answer to
9 me. At the time it was led by Ron Gunzburger. They
10 answer directly to the sheriff. The sheriff's chief of
11 staff answered directly to him and Colonel Dale, who was
12 overseeing professional standards and internal affairs,
13 answered directly to sheriff on most matters.

14 I had everything else, which includes the
15 Department of Law Enforcement, which is your road
16 patrol, your SWAT team, that type of thing. I had
17 investigations most of the time. Jack Dale had it for a
18 few -- a small period of time. I had all of the jails,
19 which comprised of five jails, the Department of
20 Detention.

21 I had the entire communications division, which
22 was about 447 people handling regional communications.
23 I had the community outreach folks, community services,
24 which is pretrial and post-trial services provided to

25 people that have been arrested or are going to be

8

1 arrested.

2 I had department of administration, which is
3 basically your budgeting and financing.

4 I think that covers it.

5 Q. Okay. In respect to all of those areas, were
6 you largely the senior person subject to the sheriff's
7 oversight?

8 A. Senior, as far as rank was concerned?

9 Q. Authority.

10 A. Yes, sir.

11 Q. So when you say that you were in charge of
12 those divisions, you were subject to any sheriff review,
13 the decisionmaker in those units?

14 A. Yes.

15 Q. Where did training fall?

16 A. Training falls under Colonel Dale. That wasn't
17 one of the things that I was responsible for. Again, in
18 part, there's two types of training. You have your
19 training division and then you have training that goes
20 on every day on the road patrol in each individual
21 district.

22 I mean, every day there's some type of roll
23 call training, briefing training or some type of
24 training at the district. That, I would have been

25 responsible for, because that was the Department of Law

9

1 Enforcement or Detention, but if it was a training
2 class, so to speak, or some type of centralized
3 training, that was under the command of Major Kevin
4 Schults and Kevin Schults answered directly to Colonel
5 Dale.

6 Q. And with regard to training, you mentioned that
7 that was under the control of Colonel Dale. Did you
8 have, in your position, knowledge of training protocols
9 at the BSO?

10 A. Yes.

11 Q. Were you aware of training on topics that
12 involve active shooter?

13 A. Yes.

14 Q. At the time that you were in this position as
15 undersheriff, did you know whether the Florida
16 Department of Law Enforcement or any State of Florida
17 credentialing or accreditation agency required specific
18 agency training on active shooter?

19 A. I'm not sure that it was specific to active
20 shooter. BSO had several different accreditations,
21 including CALEA at the time, but as far as actually
22 saying specifically there was active shooter training, I
23 don't believe that there was.

24 Q. Did -- let me just make that clear. You don't

25 believe there was a requirement for specific active

10

1 shooter training?

2 A. Correct.

3 Q. But were you aware that BSO did, in fact,

4 include active shooter training in its training

5 protocol?

6 A. Absolutely.

7 Q. And that sworn law enforcement officers were

8 required, over a period of time, to attend and complete

9 active shooter training?

10 A. Yes.

11 Q. Who was in charge of training, not Colonel Dale

12 the overall in charge, but in charge of the training

13 division during, let's say, the 2016 to 2019 time frame?

14 A. Major Kevin Schults.

15 Q. Did you have experience with Major Schultz's

16 command of training?

17 A. I did.

18 Q. Did you find him to be knowledgeable and

19 competent, in your experience, as undersheriff in the

20 training area?

21 A. Absolutely.

22 Q. Were you aware of any of the specific people

23 who were involved in training, such as a Deputy Mel

24 Murphy?

25 A. Yes, I know Mel Murphy.

11

1 Q. And you know Deputy Murphy was a trainer in the
2 training department?

3 A. Yes.

4 Q. Did you consider Deputy Murphy to be
5 knowledgeable and skilled in training?

6 A. Absolutely.

7 Q. Did you attend training yourself?

8 A. I did.

9 Q. And during the time frame that you've
10 mentioned, as a law enforcement officer, were you
11 continuously certified in good standing as a law
12 enforcement officer?

13 A. Yes, I was.

14 The screen just went out.

15 Q. That happens.

16 MR. KUEHNE: Nick, you're still there, but not
17 on video. So let me just see if I can do it easily
18 without having to contact them.

19 (Off the record.)

20 BY MR. KUEHNE:

21 Q. So I was asking you about Deputy Murphy and his
22 -- his knowledge of training.

23 Did you find him to be knowledgeable and
24 competent?

25 A. Absolutely.

12

1 Q. You have been a continuously certified law
2 enforcement officer up to the time of your retirement?

3 A. Yes, sir, from '92, when I got my certification
4 when I left the police academy, all the way through
5 2019.

6 Q. Okay. And you met all of the required
7 trainings protocols to keep that certification?

8 A. I did.

9 Q. Did BSO, during the time you were undersheriff,
10 make certain that all of its sworn law enforcement
11 officers met the required training standards and kept
12 certification current?

13 A. Yes.

14 Q. Was that part of the maintenance process of
15 BSO?

16 A. Absolutely.

17 Q. At any time during your tenure as undersheriff,
18 was the BSO identified as being non-compliant by any
19 accreditation agency or certification agency in any
20 aspects of training?

21 A. No.

22 Q. Were you familiar with training done by other
23 non-BSO law enforcement agencies during the time that
24 you were undersheriff?

25 A. As far as?

13

1 Q. Communication with other agencies,
2 participation in seminars, joint conferences, joint task
3 forces, et cetera?

4 A. Absolutely. We were very involved in all kinds
5 of task forces, state and federal. Some of them we just
6 had members of the agency join another task force. Some
7 of them we actually hosted ourselves, as one of the lead
8 agencies.

9 All kinds of conferences were attended at my
10 level all the way down to deputies and we would have
11 several exercises in conjunction with, not only agencies
12 in the county, such as Fort Lauderdale or Hollywood, but
13 also in the region. We trained with the Miami-Dade
14 Police Department. We trained with the Palm Beach
15 Sheriff's Office on mass casualty types of events.

16 Q. Did you also -- strike that.

17 Were you also aware of any training exercises
18 with federal agencies?

19 A. Yes. The FBI was involved and some other
20 federal agencies as well. They are part of the -- a lot
21 of task forces we are a part of, whether it's
22 interdiction at the airport or joint terrorism task
23 force, things such as that.

24 Q. Did the BSO, during your tenure, receive any

25 federal government funding in law enforcement matters?

14

1 A. Yes.

2 Q. And is that something that was within your
3 assignment, overseeing federal funding?

4 A. At times, when I had the administration
5 department, I would say, yes, but I couldn't speak to
6 the ins and outs of each and every grant that we
7 received, because we had so many at the state and
8 federal level.

9 Q. Was there ever a time, during your tenure as
10 undersheriff, that BSO was deemed insufficient or
11 non-compliant with any terms of a federal grant?

12 A. Not to my knowledge, no.

13 Q. Were you aware whether the federal government
14 had a requirement or a protocol to review grant
15 compliance for BSO as a recipient of grant money?

16 A. I'm sure they did, yes.

17 Q. And did BSO at any time, as far as you know,
18 identify any deficiencies in its requirements of
19 fulfilling the grant?

20 A. No.

21 Q. I -- you mentioned BSO had about 5,500
22 employees, many of whom were under your supervision and
23 oversight as undersheriff.

24 That 5,500 includes non-sworn law enforcement

25 officers, in addition to sworn law enforcement officers?

15

1 A. That is correct.

2 Q. Does BSO have policies and protocols,
3 particularly for compliance, by sworn law enforcement
4 officers?

5 A. Yes.

6 Q. Is that through the Department of Law
7 Enforcement largely?

8 A. Well, for all the sworn members of law
9 enforcement, yes.

10 Q. I'm going to ask you generally about policy --
11 Standard Operating Procedure Policy 4.37, known as the
12 active shooter policy. I can give you a copy, if you
13 want it. My questions may not require you to look at
14 it.

15 You're generally familiar with that policy,
16 active shooter policy?

17 A. I am.

18 Q. It fair to say has undergone significant
19 criticism since the Marjory Stoneman Douglas shooting,
20 hasn't it?

21 A. Yes.

22 Q. Prior to either of the two events that I
23 mentioned, were you aware of BSO having an active
24 shooter policy?

25 A. Yes.

16

1 Q. Prior to those incidents, did BSO train its
2 sworn law enforcement officers on active shooter?

3 A. Yes.

4 Q. At the time of your arrival at the BSO in 2013,
5 was BSO training deputies in active shooter, active
6 killer scenarios?

7 A. Yes.

8 Q. Did that continue?

9 A. Yes, and was expanded.

10 Q. It was expanded?

11 A. Yes.

12 Q. You are aware of that expansion?

13 A. Yes.

14 Q. And was that expansion a result of realities of
15 active shooter incidents that occurred, maybe not in
16 Broward County, but all over the world?

17 A. Yes. I mean, we would have many conversations
18 that the region was too big for us to avoid some type of
19 tragedy like that and we had to be prepared for the day
20 that it may come.

21 Q. Were some of those conversations made during
22 joint task force or joint operational discussions with
23 other law enforcement agencies?

24 A. Absolutely.

25 Q. Including federal government law enforcement

17

1 agencies?

2 A. Yes.

3 Q. Is it fair to say that the attention to active
4 shooter training was something that BSO and other
5 agencies shared during the, say, 2013 to 2018 period?

6 A. Yes.

7 Q. In your view, as an undersheriff or a colonel
8 in BSO, before you became undersheriff, was BSO
9 deficient in its attention to active shooter, active
10 killer training?

11 A. Not at all.

12 Q. In your knowledge, if you have, of other
13 agencies, law enforcement agencies with which you
14 interacted, is it your view that BSO's active shooter,
15 active killer training was at least consistent with what
16 was done in the law enforcement area in South Florida?

17 A. Yes, it was.

18 Q. How about in larger areas? Did you ever have
19 experience, through conferences or other interaction,
20 with areas beyond South Florida?

21 A. I have, yes.

22 Q. And in your view as undersheriff or a colonel,
23 was the BSO training on active shooter at least
24 compatible with prevailing standards?

25 A. It was very, very similar and compatible. Post

18

1 Columbine, the dynamics changed in those type of active
2 shooter instances, and every police agency that I've
3 ever been in contact with, whether it's at a training
4 exercise or a conference, knew that taking up a
5 perimeter point, calling for SWAT was no longer an
6 option.

7 Q. And Columbine, from a law enforcement
8 perspective, had significance in terms of preparation
9 and realities of what could happen involving mass
10 shootings, terrorists activities and the like?

11 A. Yes. I think Columbine probably changed the
12 way police departments operate and sheriff's office more
13 than anything I can remember in my career.

14 Q. January 2017 was the day of the airport
15 shooting.

16 A. Yes.

17 Q. Did you have any participation in the airport
18 shooting?

19 A. I did.

20 Q. What generally?

21 A. Generally, I arrived on scene probably within
22 an hour of the shooting, very busy scene, as one can
23 imagine.

24 At that point, the suspect was already in

25 custody. We had 11 people shot, five were deceased, and

19

1 we had about 12,000 people at the airport some of which
2 knew about the shooting, some of which didn't, at that
3 point, because it happened in the lower level of
4 terminal two, at that point terminals one, three and
5 four were pretty much operating as, what we would call,
6 normal days. Obviously terminal two was a little bit
7 different, because that was the crime scene.

8 For those first 90 minutes, it was basically
9 that, it was a homicide scene. There was no information
10 that there were any other active shooters and we
11 treated -- although a large crime scene and very tragic
12 crime scene, it was basically a homicide scene. That's
13 how we treated it.

14 A command post was set up outside. The areas
15 were roped off. We were working very closely with the
16 FBI. At that point, we were the lead agency. We were
17 interviewing the suspect, Esteban Santiago and at some
18 point the FBI SAC George Piro made a decision there was
19 possibly a terrorism nexus and that the FBI was going to
20 take the lead. So we basically just reversed roles. We
21 became the support role and the FBI was going to be the
22 lead agency.

23 Q. Let me just stop you there and I will have you
24 continue, if you don't mind. I'm not trying to

1 When that reversal of roles occurred, did the
2 BSO fight, oppose the FBI becoming lead?
3 A. Absolutely not. The relationship that we had
4 with George Piro and the FBI Miami field office and
5 Sheriff Israel, it was seamless. It was basically you
6 are now the lead interviewer and we will shadow you and
7 we will provide you -- because it was such a large crime
8 scene, even the FBI needed our assistance preserving
9 that crime scene and collecting the evidence.

10 It was a seamless transition to the FBI taking
11 the lead.

12 Q. And also to follow-up, was it your
13 understanding that the FBI took the lead because some
14 investigative information suggested the perpetrator, the
15 shooter, might have had some terror-related contacts?

16 A. Yes. I wasn't in the interview room, but I was
17 told that they had developed what they thought was a
18 nexus to domestic terrorism and that the FBI, because of
19 that nexus, was now going to take the lead that. It
20 wasn't just a horrific -- I don't want to use the word
21 normal or regular, but a horrific homicide scene that
22 the BSO would handle that the FBI made that decision.
23 They are allowed to make that decision and we supported
24 that decision, and, again, I say that.

25 But there was no pushback. There was no

21

1 butting heads. It was a seamless transition between the
2 sheriff and George Piro. He said, Hey, we're going to
3 take the lead now and.

4 We said, Okay. How can we help you out?

5 Q. From a timing point of your view, you said you
6 got there about an hour after the report of the
7 shooting?

8 A. Correct.

9 Q. Was it soon after that that the FBI developed
10 whatever that information was and became the lead?

11 A. I think it was within the first couple of
12 hours, yeah. The importance of the 90-minute window was
13 at the 90-minute mark, it became not a normal homicide
14 scene, because that's when the calls started coming in
15 via 911, fire radio and police radio of shots fired in
16 other areas of the airport.

17 And what you saw for about the next four hours
18 was the sheriff's office deputies, other agencies,
19 federal, state, local, running towards these active
20 shooters, these active shooter calls. There was never
21 one that was ever identified as being real, but there
22 was I think there was over a hundred 911 calls and
23 numerous radio transmissions and some, to this day,
24 swear that they did. Fire captains, you had JetBlue

25 employees going over their internal radio saying, hey,

22

1 clear out. So at some point it became -- TSA lost
2 control of the secure areas. The TSA took off running,
3 which was -- may have been their policy. They are not
4 armed. And we lost, at some point, complete security of
5 the entire airport.

6 We had people running across runways while
7 planes were still landing and taking off. They were
8 jumping off jet bridges. You basically had 12,000
9 people self-evacuating, because you had deputies running
10 all over, you had other agencies running over, you had
11 TSA running, and, again, it was probably almost 2,500
12 law enforcement officers at that scene.

13 Q. Of many agencies, including federal agencies?

14 A. Oh, you know, I tell everybody, any agency with
15 an initial was there, whether it was ATF, Homeland
16 Security, which is HSI, the FBI, FDLE.

17 Not to mention, I mean, the second call I got I
18 think was from the Miami-Dade director Juan Perez,
19 saying, Hey, Steve, what do you need? I will send you
20 two SWAT teams right now.

21 We ended up coordinating 18 SWAT teams.

22 Q. The expansion of the airport incident to these
23 other matters from one crime scene to having to
24 potentially track down other potential shooters, as well

25 as self-evacuations, that occurred during the time that

23

1 the FBI was involved in this incident?

2 A. Yeah, they were involved pretty much from the
3 beginning, like I said. It was just sometime, in my
4 recollection, in the first couple of hours it was
5 basically that we just -- they became the lead agency
6 and we became the -- but, again, we were still the
7 uniforms. You know, they are not always in uniform.
8 They have their SWAT team, of course, and they have FBI
9 jackets, but we became the lead agency.

10 We coordinated those 18 SWAT teams from a
11 tactical command post, because we -- at some point, the
12 airport had to be shut down and we had to clear the
13 entire airport, which consisted of four terminals, three
14 parking garages, there's areas under construction and we
15 had to look in every car, every storage. We found
16 hundreds and hundreds of people hiding hours and hours
17 and hours later.

18 Q. These were civilians?

19 A. Civilians and people that work there. You got
20 to remember people vacated all of the stores and
21 restaurants in the airport, over 22,000 personal
22 articles were left behind. And, again, you had, you
23 know, in excess of 2,000 law enforcement officers
24 self-dispatching coming to the scene maybe with their

25 radios on, maybe not. I mean, Miami-Dade doesn't even

24

1 use the same code signals on the radio as we do in

2 Broward.

3 So it became --

4 Q. And was an effort made with you and the FBI and

5 the other agencies to coordinate all the different law

6 enforcement officers?

7 A. Yeah. There's always an effort to create a

8 staging area and to handle those things that when you

9 are sitting in a sterile environment, in a tabletop

10 exercise, you know, it works perfectly in there, but

11 when you have over 2,000 law enforcement officers

12 self-dispatching to the scene, no matter how many times

13 you say, hey, don't do they. You can't help us unless

14 we know who you are and where you are, it happens.

15 And it's not just in Broward County, it happens

16 across the country, probably across the world. There's

17 never been any type of mass incident, to my knowledge,

18 where everybody staged, nobody self-dispatched, it was

19 orderly.

20 What was very, very orderly, however, and

21 because they trained so often together was the

22 coordination of the SWAT teams. Those 18 SWAT teams.

23 Major Grant was the SWAT commander at the time. He

24 asked each SWAT team to send one representative to the

25 tactical command post. And from there, they basically

25

1 used the side of a white truck and said, okay, you take
2 the 7th floor of this parking garage and don't go
3 anywhere else, because, obviously, we are trying to
4 eliminate any type of blue-on-blue, blue-on-green
5 shooting.

6 So they sector'd out the entire airport and
7 used those 18 SWAT teams to clear an entire airport
8 while 12,000 people are running.

9 Q. Did -- strike that.

10 Was the BSO's participation in prior tabletop
11 exercises, active exercises, joint exercises of an
12 assistance to you and the other responding officers in
13 performing their functions that day?

14 A. Yes, absolutely.

15 Q. The coordination, was that done through a
16 command post or a command operation center?

17 A. Yes.

18 Q. Was that set up by the BSO with the
19 consultation of other agencies?

20 A. The command post was set up outside terminal
21 two and it was there before I even got there. It was --
22 our mobile command vehicle was there and there was
23 already command post in there, a unified command. The
24 fire department was involved, of course, other agencies,

25 the FBI, when they arrived.

26

1 But the challenges were, for us, one, was the
2 radio system continually failing.

3 Two, the cell phone coverage wasn't working,
4 because you had not only 12,000 people trying to call
5 their friends and relatives, you had all these law
6 enforcement officers.

7 And then just the actual infrastructure of an
8 airport with a lot of concrete and steel, our mobile
9 command vehicle was parked underneath the overhang of
10 the airport, which is concrete, and the reason for that
11 is because, again, at the time that vehicle was placed
12 there, it was a homicide scene. So there wouldn't have
13 been so much radio traffic or need for consistent cell
14 phone usage, at that point.

15 It was at that 90-minute mark when things
16 started going a little -- things became a little
17 chaotic, that's when maybe that wasn't -- you know, it
18 was tough to get on the radio. I couldn't get on the
19 radio at all, so...

20 Q. The radio system that was used by BSO in that
21 area, that's a county system, isn't it?

22 A. It's completely operated by the county. It's
23 owned by county. BSO only provides the personnel. So
24 basically, if it breathes, it was a BSO employee, for

25 the most part.

27

1 The county does have several people that run
2 the system, the technology on their side, but the system
3 itself was turned over to the county but Sheriff
4 Lamberti before Sheriff Israel ever got there and it is
5 a county-wide, taxpayer-funded system. They contracted
6 with BSO for the dispatchers and the call takers.

7 Q. Is it your understanding that BSO is a customer
8 or a user of that communication system?

9 A. They love to call us a vendor.

10 Q. A vendor?

11 A. But, yes, a customer, a vendor, party to a
12 contract. The system, BSO owned no part of that system.

13 Q. And as a user, many other law enforcement
14 agencies and non-law enforcement agencies are users of
15 that system?

16 A. All of them in the county, except two; the City
17 of Plantation and the City of Coral Springs, but you
18 also have school -- hundreds of school, maybe thousands
19 of school bus drivers on the same system, public works,
20 yeah, and it's a 25-year-old system.

21 Q. Is it your understanding at the time of the
22 Fort Lauderdale shooting, that among the demands on the
23 system by users, included many governmental functions
24 that were not law enforcement or emergency related?

25 A. Absolutely.

28

1 Q. You mentioned bus drivers, their communication
2 includes communication going through that same system?

3 A. Yes.

4 Q. And that was not a decision by BSO to authorize
5 non-emergency law enforcement agencies to utilize that
6 system?

7 A. BSO has no say in how the county operates their
8 system. There is a governance board that can suggest
9 changes. BSO, as big as we are and as the biggest user,
10 still only has one vote. So the sheriff would have --
11 or his designee would have one vote, the same as a
12 really small city like Lighthouse Point, that doesn't
13 have any schools, they each get one vote.

14 And that was just a recommendation to the
15 county to make changes. The county can ultimately say
16 yea or nay.

17 Q. Was it your understand, during your time as
18 undersheriff, the BSO was promoting expedited
19 improvements, upgrades, changes, alterations,
20 enhancements to that system?

21 A. It was almost a daily conversation internally
22 and with the county members that operate the system,
23 they are called ORCAT, the Office of Regional,
24 something, and Computer Technology. I sat -- I was one

25 of the three people nominated by the Broward chief to

29

1 sit on a committee called the operational review team
2 that met monthly, before and after, to talk about the
3 things -- the deficiencies of the system and we're still
4 sitting here today and I think I read yesterday it's
5 being pushed back to 2021.

6 Q. In your role, as you mentioned, with that
7 operational organization, is it your understanding that
8 the county was actively evaluating, investigating and
9 trying to implement corrections to the system, it was
10 just a massive project?

11 A. I think that's accurate, yeah. I think they
12 were trying, but I -- we knew before the airport
13 shooting that the system failed, because it fails on a
14 day when there's not 2,500 people getting on the channel
15 and overloading it. It would fail on a daily basis,
16 what we call routine operation. Not always, but there
17 were times that that happened where it would go down for
18 hours. It just happened, I believe, in May.

19 But especially after the airport shooting and
20 the difficulty that we had of just not being able to
21 transmit, they had 13 months between the airport
22 shooting and Marjory Stoneman Douglas to do something,
23 and Marjory Stoneman Douglas happened and the radio
24 system did the same thing.

1 13 months, but they didn't fix it, because it failed

2 again.

3 Q. During that interim time frame, as well as
4 during other time frames where you mentioned the system
5 got overloaded, did BSO have its own way of doing
6 workarounds, requiring use of cell phones, going to
7 other means of communications?

8 A. I mean, we have policies in place for officer
9 safety. So, of course, almost everybody, probably most
10 of the people carry a cell phone. A lot of times what
11 we do, even going back to my Fort Lauderdale days, if
12 the radio goes down, we basically go to a central
13 location, whether it's a substation, a fire station,
14 somewhere safe, a hospital, and the dispatcher would
15 call the sergeant and the sergeant would say, All right,
16 you two guys go to emergency call and come immediately
17 back, because we can't talk to them to, or we might send
18 four people, because if a situation goes bad, we would
19 not respond to any non-emergency calls.

20 Q. And at the same time of -- I call it
21 workaround, that may not be the right word, existed,
22 during your tenure at BSO, to deal with the realities
23 that the communication system that you had to use may
24 not be capable in a major crisis?

25 A. Yeah. We always had plans in place, because we

31

1 were used to the system not working, even to the point
2 of there's three main PSAPs, public safety answering
3 points, south, central and north, where all the calls in
4 the county are received and dispatched out of, again,
5 with the exception of Plantation and Coral Springs, and
6 we've even had instances where those entire centers have
7 had to be shut down and we've had to move people to a
8 different center and operate with two, because one
9 entire center went down.

10 Q. I'm going to quote a section of Standard
11 Operating Procedures Policy 4.37 Active Shooter that has
12 Subsection C and I'm going to quote it.

13 If realtime intelligence exists, the sole
14 deputy or a team of deputies may enter the area and/or
15 structure to preserve life. A supervisor's approval or
16 on-site observation is not required for this decision,
17 end quote.

18 You understand that to have been the 4.37
19 policy during at least some of your undersheriff years?

20 A. Yes.

21 Q. I'm going to represent to you that the section
22 that I quoted is the policy that was in existence in
23 January of 2017 for the Fort Lauderdale Airport shooting
24 and in existence in February of 2018. Take that as a

1 A. Okay.

2 Q. -- for my questions. And if you are not sure,
3 I can give you documents for you to look at.

4 Was there any part of that policy that you are
5 aware of through training informed law enforcement
6 officers that they were not to go to the vicinity of an
7 active shooter?

8 A. Absolutely not.

9 Q. Was there any part of the training on that
10 policy that inhibited officers or gave officers a reason
11 to not proceed in a manner to confront or disrupt the
12 shooter?

13 A. No.

14 Q. And is that based on your knowledge and
15 experience with the training in BSO?

16 A. Yeah. That's based on my knowledge and
17 experience and training at two separate agencies, at
18 Fort Lauderdale and at the Broward Sheriff's Office.

19 Q. The SOP language that I read to you includes
20 the word "may," Deputies may enter the area. You are
21 aware that that may language has, post-MSD, been subject
22 to significant discussion and criticism?

23 A. Yes, I am aware.

24 Q. Is there any part of that policy or the

25 training on that policy that was designed to give a law

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1 enforcement deputy a reason to not attempt to actively
2 prevent a shooter from continuing and, in the process,
3 to save lives?

4 A. Yes. I think the use of the word "may" was we
5 weren't going to ask a deputy to go on a suicide
6 mission. We weren't going to ask a deputy to go into a
7 single point of entry into a structure, whether it be a
8 school, a bank or hospital, that we had realtime
9 information that was booby trapped or we had realtime
10 information that there was a person on the other side of
11 that with an AR15 pointed at the door. That's what the
12 may was intended to be.

13 The training was very, very clear that single
14 officer, single deputy entry was something that you were
15 required to do in a situation where you had realtime
16 intelligence that shoots were being fired and there was
17 an active shooter situation and that you were to enter
18 that structure and one of three things needed to happen;
19 the shooter barricade himself, the shooter surrendered
20 or the shooter kill himself or got killed or injured by
21 law enforcement. Those are the three options there and
22 that's consistent with the training across the country.

23 And I would add that ever since Columbine, I
24 don't know any officer or deputy, and I don't know them

25 all, of course, but that was standard procedure after

34

1 Columbine that, again, there was no surround and wait.

2 It was go in and confront.

3 Q. In your knowledge of the training on the BSO

4 policy and your general knowledge of active shooter

5 training, is there some benefit to an active shooter

6 situation for an officer to walk through a known or

7 likely booby-trapped door and get blown up?

8 A. No. That doesn't benefit anyone, because --

9 especially if he is the first responder on scene, now

10 you still don't have anybody that can mitigate that

11 incident and now you have a dead officer or a dead

12 deputy, or severely injured.

13 Q. With regard to the Fort Lauderdale Airport

14 incident, is it your understanding that an officer,

15 Jesse Madrigal, Deputy Madrigal followed that policy and

16 confronted an active shooter and was able to?

17 A. He absolutely did. Within 85 seconds Esteban

18 Santiago was in custody. And there's video of Jesse

19 Madrigal running towards the sound of bullets.

20 And not only Jesse, but post the 90-minute

21 homicide scene, when everything else started going on,

22 there's hundreds or thousands of airport videos showing

23 time and time again BSO deputies running towards what

24 they thought were active shooters, over and over and

25 over again.

35

1 Q. And not just BSO deputies, other law
2 enforcement officers, including federal agencies?

3 A. Yes, sir, state, federal and local, time and
4 time again of an active shooter call in the parking
5 garage, terminal four, terminal three and all the
6 deputies and other agencies running towards those active
7 shooters.

8 Q. With the other events unfolding at Fort
9 Lauderdale Airport, is it your view that the combined
10 response of law enforcement helped protect lives and
11 prevent injuries?

12 A. At the airport, I think it helped, but, again,
13 it creates an issue, at times, when you don't know where
14 everybody is or what their doing. Like I said, that's
15 why the coordination of the SWAT teams were so
16 important, that's why we pulled back all the regular
17 officers and deputies that come to assist and we gave
18 them other assignments.

19 For instance, traffic control was being handled
20 by Florida Highway Patrol, Fort Lauderdale handled some
21 of the hangars on the north side of the airport for us,
22 because a lot of people had run across the tarmac and
23 were hiding in there. So they handled that for us.

24 So we delegated some of those responsibilities.

25 We had officers guarding -- the FBI had over 200 people

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1 that either saw something or heard something. They
2 wanted to interview each one of them. We had to keep
3 them segregated. So we took the officers and deputies.

4 So, yeah, they did assist in that area so that
5 we could actually coordinate with the SWAT teams that we
6 trained with to clear the airport and make sure there
7 wasn't a second active shooter.

8 Q. Was the BSO a contracting agency with the
9 county to provide law enforcement function at the Fort
10 Lauderdale Airport?

11 A. That's correct.

12 Q. You understand a county agency called BCAD,
13 Broward County Aviation Division actually controls the
14 airport?

15 A. Very aware.

16 Q. And then there's a similar agency that controls
17 the seaport, they are next to each other?

18 A. Yes, sir.

19 Q. And did BSO have a contractual relationship
20 with the county to provide law enforcement for both of
21 those ports?

22 A. Yes.

23 Q. There has been some criticism that BSO did not
24 immediately shut down the entire airport as soon as the

25 shooting occurred. You've heard that criticism?

37

1 A. Yes, I have.

2 Q. In your view, was the process of shutting down
3 the entire airport over time something that was
4 discussed with numerous agencies, including the FBI?

5 A. It was discussed with the FBI, with the FAA and
6 also with BCAD, because originally, there was no reason,
7 in any opinion, to shut down the entire airport, because
8 the first questions that were being asked of Esteban
9 Santiago were, did you act alone, you know, is there a
10 vehicle that has a bomb in it, and he was telling them.

11 Now, that doesn't mean he was being truthful,
12 necessarily, but the information they were getting from
13 him, in the original minutes of the interview, where he
14 acted alone. He wouldn't tell them why. He wouldn't
15 tell them why he picked Fort Lauderdale. I don't know
16 if he ever has, but he said he didn't have a car, he
17 didn't have a bomb. Again, terminals one, three and
18 four were operating at normal level.

19 The problem came when we started getting these
20 other calls and now we're telling the FAA or BCAD
21 through the FAA, or whichever way, you need to shut this
22 airport down, because there's a public safety issue
23 here. And they were getting all these reports of active
24 shooters. And, again, that went on for a number of

25 hours that we were chasing down these active shooter

38

1 calls, over and over again. Some of them were federal
2 agents running through the airport with a gun out, in a
3 white T-shirt, with no markings at all. That's what we
4 were trying to prevent. Somebody like that getting
5 shoot and turns out they were a law enforcement that
6 just didn't have the right insignia on.

7 Q. And others reporting that there was a shooter
8 loose in some place who didn't seem to be wearing a
9 police uniform?

10 A. We got several calls on a white male running
11 through the airport in a white T-shirt with a handgun
12 and it turned out to be a federal agent.

13 We confronted two or three gentlemen in a
14 parking garage with rifles, and turned out they were
15 hunters. They were either going to a hunting trip or
16 coming back from one.

17 It was almost a comedy of errors that you
18 couldn't think. These aren't the things that happen in
19 a tabletop. To run into people with rifles during an
20 active shooter incident, to have these people, these
21 agents undercover in plain clothes running throughout
22 airport with a gun, with no markings, no badge.

23 Q. Was BSO able to control what was identified as
24 being the crime scene from the actual shooting?

25 A. Yes, very quickly the scene was established.

39

1 The scene was roped off with the crime scene tape. We
2 had armed guards there. The FBI had armed guards there.
3 I mean, I didn't walk through the crime scene. There
4 was no reason for people. Nobody was allowed in there.
5 It was treated, again, as a tragic, multi-victim
6 homicide scene.

7 Q. Was it your view, as an undersheriff, when you
8 arrived there that BSO and the other agencies that had
9 responded had control over the necessary part of the
10 airport that was the crime scene?

11 A. Absolutely. For the first 90 minutes, that
12 situation was completely under control. Again, I hate
13 using the word routine, but it was a homicide scene. A
14 very tragic homicide scene with multiple victims, but it
15 was completely under control. It was roped. It was
16 being guarded. The witnesses were being identified.
17 They were segregated so they can be interviewed.
18 Everything was operating according to normal protocol
19 for a homicide scene, whether it's at the airport or the
20 middle of a neighborhood.

21 Q. When the event unfolded so that other incidents
22 or reports came to be the subject of this investigation,
23 were there ongoing discussions about shutting down
24 larger aspects of the airport?

25 A. Absolutely.

40

1 Q. And were those discussions ultimately resulting
2 in the airport shutting down?

3 A. Yes.

4 Q. Did BCAD and other agencies cooperate in the
5 discussion coming to the conclusion that shutting down
6 the airport was necessary?

7 A. They cooperated, yes. It wasn't something that
8 happened right away. There was definitely some
9 discussions there. I mean, someone mentioned that every
10 hour the airport shut down cost them a million dollars.
11 I don't know if that's an accurate figure.

12 So as with anything, you know, we were on the
13 side of public safety. We wanted to make sure nobody
14 else got hurt. There was other people that might have
15 had different opinions, but at the end the day, yes, we
16 came together and the airport was shut down and I think
17 we had 22 or 23 full planes on the tarmac at the time it
18 was shut down.

19 Q. Did you have any involvement in the preparation
20 or review of the Fort Lauderdale Airport after action
21 report or critical incident report?

22 A. I didn't have any involvement in the initial
23 draft, but I did have a lot of involvement in what
24 became the final report.

25 Q. There has been some -- there has been some

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1 criticism that the final report differed from earlier
2 drafts by not containing the same level of criticism
3 found in earlier drafts. Have you heard that?

4 A. I've heard that, yes.

5 Q. Have you worked on or participated in or
6 reviewed after action reports for large scale events?

7 A. Many of them, yes.

8 Q. Is the final report the -- called the critical
9 incident report, the final report, consistent with your
10 view of what an after action report final version should
11 include?

12 A. Yes.

13 Q. Were there constructive criticisms, in your
14 view, in the final report?

15 A. Yes.

16 Q. Were there identification of areas that BSO and
17 other responding entities could improve?

18 A. Yeah. There was definitely opportunities for
19 improvement. There's going to be in any incident,
20 nobody is perfect. And that's why you do after action
21 reports. It's not about editorializing or pointing
22 fingers. It's about how do we get better or how do we
23 not make the same mistakes we made, if we made mistakes,
24 the next time something like this comes.

25 Q. As the after action report moved from drafts to

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1 final, were there meetings among specialized units,
2 command staff, other superiors to review the unfolding
3 work product?

4 A. I actually hosted the meeting. After the
5 initial draft report, I hosted a meeting of what we call
6 the subject matter expert, the SMEs, from training, from
7 the airport itself, from all different MTs. We had a
8 full room in the auditorium at BSO. It was an
9 eight-hour, day long meeting. I think we brought lunch
10 in and we went through that draft report line by line
11 and made sure that the information was accurate, that we
12 weren't unnecessarily pointing fingers at other agencies
13 or other entities, and that we were making sure that if
14 we had opportunities for improvement, that those were in
15 there and we could address those.

16 And we also wanted to highlight the things that
17 we did well, because we did do quite a few things very
18 well at the airport, and those were in there as well.

19 What didn't need to be in there were some
20 inaccuracies, some editorializing. That's why it's a
21 draft.

22 Q. In your understanding of that meeting with
23 subject matter experts, was there a view that portions
24 of the initial draft were just factually inaccurate?

1 Q. Was the review that portions of the initial
2 draft were conclusory or opinionated, not in the form
3 that after action reports generally take?

4 A. Yes, and that's why they undergo a command
5 review before a final report is issued.

6 Q. Was there any effort at that meeting with the
7 subject matter experts to present a white washed report
8 or to cover up mistakes?

9 A. Absolutely not. There's no point in doing
10 that. The point of the after action is to identify
11 those opportunities, those areas for improvement and
12 identify the things that we did do right so we know,
13 hey, we don't need to change this.

14 Again, like the tactical operation center and
15 the 18 SWAT teams and the coordination there, that was
16 highlighted in there because this was something that was
17 done very well.

18 But, you know, there were other things we
19 wanted to talk about, where it was communication or
20 other areas. We identified, I believe, that the BCAD
21 had their own command post that we didn't even know
22 about, because they didn't tell us. So that was an
23 issue where we said, Hey, if you are going to have your
24 own command post with the airline representatives,

1 that table, because if you are making decision on what's
2 going on at the airport, we need to know.

3 And what happened was a JetBlue supervisor
4 overheard a police or fire radio at some point and
5 called his people and said, Hey, get out of here,
6 they're shooting in terminal three now.

7 And they weren't, but if we would have been in
8 the room, we could have said, Hey, no, that's not
9 accurate. And that started some of the chaos in
10 terminal three.

11 Q. Did the sheriff respond to the scene of the
12 Fort Lauderdale incident?

13 A. Absolutely.

14 Q. And stayed?

15 A. We were all there. I think I left around 1:00
16 or 2:00 in the morning. I'm pretty sure I wasn't always
17 side by side with him. I was with him quite often, but
18 at times I was going to handle other things for him or
19 things that needed to be done.

20 I mean, at some point, at 1:00 in the morning I
21 found myself loading elderly people on about buses to
22 get them to the port so we can get them social services,
23 so.

24 Q. Have you learned, since the Fort Lauderdale

1 the joint response of all the law enforcement officers
2 has been used as a model for training and evaluation of
3 other potential large scale mass incidents?

4 A. Yeah. I don't know who received that report.
5 I've given that report out myself to other agencies that
6 have requested it. I am assuming they are asking for
7 it. Especially right away, we got a lot of requests
8 from actual cities that patrol airports, whether it's
9 Charlotte or any other to say, hey, let us see this.
10 Tell us about this.

11 I've even flown around the country and taught
12 classes about the airport, not only -- I mean, I happen
13 to know the NYPD commissioner. I taught at an NYPD
14 terrorism school, but I also taught in Charlotte for
15 NASCAR to all their security people for their track
16 security.

17 So it's been used as a model for, again, what
18 went wrong and what areas -- you know, what areas could
19 we improve and also the things that we did well.

20 Q. You are not the only one at BSO who has
21 similarly gone around the country to train, provide
22 seminars and educate people about the Fort Lauderdale
23 Airport incident?

24 A. No. There's been others and depending on the

25 discipline. Colonel Polan has done several, I believe.

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1 I think the public information officer has done one or
2 two to, say, a PIO conference. I think the Fire Chief
3 has presented positive a fire conference.

4 So if it fell underneath what I considered my
5 realm, I was the lead, I was the coordinator. If not, I
6 can farm that out and say, hey, this is a PIO, Mira, why
7 don't you handle this. Hey, this is a fire conference,
8 Joe, why don't you handle this.

9 There were some that we turned down just
10 because it was -- it wasn't something that needed to be
11 done.

12 And then Jimmy, Jimmy Polan went to some as
13 well.

14 Q. I want to move to a later time, the
15 February 2018 Marjory Stoneman Douglas High School
16 shooting. Are you familiar with that?

17 A. I am.

18 Q. Did you have any involvement in that incident?

19 A. I did.

20 Q. What is that?

21 A. I was still in my position as the undersheriff.
22 Once again, I think I was there within 45 minutes or an
23 hour. I know for a fact that I was on scene at the
24 tactical command post prior to Nikolas Cruz being taken

25 into custody, and I think that was about an hour after

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1 the shooting, 45 minutes, an hour after the shooting,

2 maybe 90 minutes, somewhere in that time frame.

3 Q. What did you do generally at the scene?

4 A. When I got to the scene, Colonel Polan was

5 there already. He was meeting with, at the time,

6 Captain Robson, who is now our new SWAT commander. I

7 believe Lieutenant Colonel DiMaggio was there. He was

8 investigative -- investigative unit.

9 And the first thing we were trying to do was

10 two prong. One is we were trying to identify and take

11 into custody Nikolas Cruz. And number two, as always,

12 we were trying to assure that there wasn't a secondary

13 shooter, and that's always a concern in any type of

14 incident. You are taught that since the days of the

15 police academy. If you find one shooter, look for the

16 second one. If you search somebody and you find a gun,

17 look for the second gun.

18 So those are the two things at the time, the

19 immediate things. And, again, I can see victim -- I can

20 see Coach Feis from my advantage point. So we knew,

21 also, that we had to get rescue task forces in there as

22 quickly as possible and get these people transported to

23 the hospital.

24 Q. Was a command post set up?

25 A. There was a tactical command post that I

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1 responded to immediately. At some point there was also
2 a BSO command post and a Coral Springs command post at a
3 different location. They were east of the school. The
4 tactical command post was on the north side. I spent
5 most of my early hours at that command post, because
6 that's where the decision -- again, that's where the
7 SWAT teams are and those are the people you are using to
8 go into these buildings and make sure that the buildings
9 are safe, that they are clear and that they can get the
10 paramedics in there or SWAT medics to get these kids or
11 teachers that had been shoot immediate medical care and
12 get them transferred to a hospital.

13 Q. Was there a similar kind of coordination at MSD
14 high school shooting incident with other agencies,
15 responding agencies as at the airport?

16 A. There was. There wasn't the sheer volume of
17 people that came to respond at MSD, but, you know, every
18 agency -- once again, every chief that I know. The same
19 Miami-Dade director called me said, What do you need?
20 What do you want me to send you?

21 So, yeah, they were sending people. Some
22 people we said, you know, we didn't need their help at
23 that point. I remember seeing the Fort Lauderdale SWAT
24 team and the Davie SWAT team, obviously Coral Springs

25 had a very large presence there, because their police

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1 department is two or three miles away from the actual
2 school. So anytime -- I mean, Fort Lauderdale is right
3 down the road, any time you have an incident close to
4 the police department. The bigger issue was Coral
5 Springs was operating on a different communication
6 system with a completely different set of facts than
7 what we had and that information wasn't being relayed to
8 us.

9 Q. You mentioned that it was your understanding
10 that Coral Springs did not participate in the uniform
11 county communication system?

12 A. They do not, no. Coral Springs and Plantation
13 are the only two cities have their own separate systems,
14 and their systems aren't together either. Plantation
15 has a system, Coral Springs has a system and everybody
16 else in the county is on the regional system.

17 Q. In your experience, did BSO set up an adequate
18 command center for that incident?

19 A. I think -- yeah. I think, again, the tactical
20 command post was the most important thing at that time
21 and that's what was set up and that's -- they were up
22 and running when I got there.

23 The command post doesn't have to be a physical
24 mobile command vehicle. A command post can be a desk.

25 It can be drying on the hood of a car. It's not a

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1 physical structure. It's do you have the decisionmakers
2 there and are you forming a plan, and that's exactly
3 what was happening at the tactical command post, which
4 is why I was there, the sheriff was there. I mean, at
5 that some point there was the actual mobile command
6 vehicle that was set up and -- but at that point, I was
7 at the tactical command post.

8 Q. Did BSO work with the other responding agencies
9 at that incident?

10 A. We did, but, again, we were operating under a
11 completely different set of facts then Coral Springs,
12 because they were receiving calls from inside the
13 building, victims being shoot. They knew the shooters
14 description and name before we did. They had all this
15 -- what we would call realtime information and I'm
16 talking via phone calls and we did not. Our information
17 was being given to us by Scott Peterson.

18 Q. Was the same active shooter policy and the
19 training thereon in effect at the time of the MSD
20 shooting?

21 A. Yes.

22 Q. And in your experience, had the training on
23 that active shooter policy been consistent with
24 responding officers going to the scene of the shooter in

25 attempt to accomplish the three goals that you

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1 mentioned, surrender, barricaded or incapacitated?

2 A. Yes.

3 Q. You've since learned that there was a very
4 serious deficiency in that regard?

5 A. Yes.

6 Q. And just recently, I think within the last
7 couple of days, the school resource officer, Peterson,
8 has been charged with criminal activity as a result of
9 his conduct at the school --

10 A. That's correct.

11 Q. -- or lack of conduct at the school?

12 A. That's correct.

13 Q. Up to the time of the MSD incident, was there
14 anything known to you, in your command staff position,
15 that led you or any command staff to believe that School
16 Resource Officer Peterson was unfit for duty or
17 incapable of responding to life or death situations in
18 an appropriate law enforcement manner?

19 A. Absolutely not. I mean, he was a former SRO of
20 the year. He not only went through the active killer
21 training, same one that Jesse Madrigal went through from
22 the airport, he taught active killer training to staff
23 at the school. So there was no indication that he was
24 wasn't going to do what we would expect of him in that

25 type of situation until that day.

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1 Q. In your view, were the officers who responded
2 to the MSD shooting incident appropriately trained in
3 active shooter incidents?

4 A. Yes.

5 Q. Did that include Peterson?

6 A. Yes.

7 Q. If you have an understanding, were the assigned
8 school resource officers appropriately trained for
9 handling law enforcement situations at schools?

10 A. Yes. They're still deputies. I mean, they
11 have all the police powers that any other deputy out in
12 the county have and they have the ability to take that
13 action. It's a different relationship with the school
14 board, but at the end of the day, they have weapons,
15 they have training, they have equipment, they have
16 resources and they were given proper direction to take
17 action if something like this happened.

18 Q. Do you have an understanding whether BSO had
19 some relationship with the Broward Schools that led to
20 BSO having deputies assigned to various schools?

21 A. Yes.

22 Q. Is that something that was in the nature of a
23 contractual relationship?

24 A. It absolutely is, and it's not just with BSO,

25 it's across the county where Fort Lauderdale, Davie,

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1 they enter into a contract with the school board, the
2 school board pays a portion of the salary and the
3 agencies pick up the rest and that contract list the
4 duties of the school resource officer, in the schools
5 that have them.

6 Q. Does Broward County schools have its own law
7 enforcement unit or division where sworn law enforcement
8 officers work for the school system?

9 A. They do. It's not a police department, per se.
10 It's called -- it was called a special investigations
11 unit. I don't know what they call it now. I think it
12 was pretty small, about 18. It's not at all like what
13 they have in Dade County or Palm Beach, and I think most
14 of what they were tasked with doing would be more
15 handling internal investigations, like a teacher --
16 misconduct from a teacher or staff member. It wasn't
17 doing any type of school resource activity at all.

18 Q. Is it your understanding that among that small
19 group in the Broward County schools, there are sworn law
20 enforcement officers, credentialed law enforcement
21 officers?

22 A. Yes.

23 Q. But the relationship between the Broward
24 Schools and the BSO for school resource officers

25 deputies, sworn deputies assigned is a contractual one?

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1 A. Yes.

2 Q. Were you aware, prior to the MSD shooting
3 incident tragedy, that there was any complaint or
4 criticism that BSO was not properly staffing the
5 required school resource officer function?

6 A. No.

7 Q. Or that Broward Schools wanted more of a
8 Broward Sheriff's Office presence at the schools, but
9 the administration at BSO refused to provide that?

10 A. That never happened that I -- to my knowledge.

11 Q. The combined efforts of law enforcement
12 agencies responding to the Marjory Stoneman Douglas
13 school incident, had there been a reliance on prior
14 trainings and exercises to coordinate with other law
15 enforcement agencies?

16 A. Yes.

17 Q. Is that something, this coordination with
18 outside agencies, something that is a regular part of
19 the Broward Sheriff's Office training?

20 A. Yes.

21 Q. Had the Broward Sheriff's Office done any
22 active training, not just classroom trainings, active
23 training at schools, as far as you know?

24 A. As far as -- I'm not sure if they did it at a

25 school, but I know they have conducted that type of

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1 training. Sometimes they do it in different locations.

2 I know they've done some type of training out at BB&T

3 where the hockey arena is with multiple jurisdiction.

4 Whether it's active shooter or any type of field force

5 training or, you know, quick task force training.

6 So, yes, if they did it at an actual school, I

7 am not aware of that, but it may have happened.

8 Q. Are you at all familiar with the Pompano Beach

9 High School active shooter training program coordinated

10 by the BSO?

11 A. I am aware of it, yes.

12 Q. But you did not personally participate in that?

13 A. That's correct.

14 Q. And is it your awareness that the Broward

15 Schools, BSO and numerous other agencies participated in

16 that on-site active shooter training?

17 A. Yes.

18 Q. Is on-site active shooter training the only

19 way, as you understand it, to do active shooter

20 training?

21 A. I wouldn't say it's the only way, but I would

22 say it's probably the best way, because when you are

23 actually in a school -- or, again, I did my active

24 shooter training, which was an eight-hour course, at the

25 port, which we know, you know, on a busy Saturday,

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1 Sunday they are moving 70,000 people in and off cruise
2 ships. So, again, it can be anywhere, as we've seen, an
3 airport, school.

4 So I think it's very important to do that
5 on-site training with Simunitions and with role players,
6 because that's as close as you can get to mimicking what
7 might happen in the real world. That's why, as
8 important as tabletop exercises are, again, you are in a
9 sterile environment, you have your bottled water and cup
10 you have coffee and you are talking about scenarios that
11 might happened and who is responsible for what, that
12 translates only so far to the real world.

13 Q. In your experience, training and your
14 leadership with BSO, did the BSO have adequate active
15 shooter training scenarios at the time of the MSD
16 shooting?

17 A. Yes.

18 Q. Are you aware of any pre-MSD shooting incident
19 criticism of BSO that BSO was not doing enough active
20 shooter training or BSO should be having more real life
21 scenarios?

22 A. No, I've never heard that.

23 Q. And since -- you retired in -- this time
24 around, did you retire from BSO --

25 A. No, I resigned. I didn't have enough years to

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1 retire. Yeah, resigned.

2 Q. So you resigned in January of 2019?

3 A. Yes.

4 Q. Coincident with the suspension of the sheriff?

5 A. It was just prior to his suspension, yes.

6 Q. Just prior to the suspension.

7 Between MSD shooting, February of 2018, and the
8 time you resigned with BSO, had FDLE implemented any
9 mandatory active shooter training requirement?

10 A. Not to my knowledge, no.

11 Q. Had any agency of the State of Florida
12 implemented active shooter training requirements for law
13 enforcement officers in that interim?

14 A. Not to my knowledge. I mean, I wasn't
15 necessarily up to speed on everything that goes on with
16 FDLE, but not to my knowledge.

17 Q. Following the MSD shooting tragedy, did BSO
18 implement any changes, improvements or advances, based
19 on what happened at and what was learned from the
20 shooting tragedy?

21 A. Yes. We even -- we ramped up the training to
22 try to get it expedited so we can get more people
23 trained in it in a faster period of time, all the way up
24 to my level. Like I said, I went through that training

25 as the undersheriff. It's just a little bit more

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1 challenging with an agency that size. If I have a
2 ten-man department, yeah, I can train my guys every
3 week. When I have 1,300 sworn deputies and 20
4 instructors, you can do the math. It's a little more
5 challenging.

6 So, but we implemented a schedule that we can
7 get everybody retrained again, I think, within a
8 12-month period and with very few exceptions, that goal
9 was met.

10 Q. Was there an effort to develop more access to
11 information from the school system following MSD
12 shooting?

13 A. There absolutely was. I was involved in that
14 as well. We started what we call real crime -- a
15 realtime crime center, modeled after the NYPD model,
16 which I had visited two or three times. We brought down
17 a retired NYPD deputy inspector to run this and the
18 number one thing that was important to us was getting
19 access to the school board camera, because the school
20 board traditionally has been very reluctant to let the
21 deputies or officers to have access to student files,
22 and there is some protections there, in the law, where
23 they can't, but there was no reason why we wouldn't have
24 access to cameras, and if we would have realtime access

25 to the cameras at Stoneman Douglas, possibly we could

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1 have seen the stairwell when Nikolas Cruz first walked
2 in with his weapon and told the another kid, Get out of
3 here, something bad is going to happen, or we could have
4 known exactly where he was at. We didn't have that
5 ability.

6 Q. And that access to information was improved
7 following the lessons learned at MSD?

8 A. After months and months and months, yes, I
9 think it was improved finally.

10 Q. And was that a high level of negotiation and
11 discussions with Broward Schools?

12 A. Yes, it was at the highest levels, with
13 Mr. Runcie, school board.

14 Q. School board superintendent?

15 A. Yes.

16 Q. And how about at the sheriff's office, was
17 Sheriff Israel involved with that?

18 A. He was involved with it. I was intimately
19 involved with that project.

20 Q. As undersheriff?

21 A. Again, yes, because it's great to have a
22 realtime crime center and have traffic cameras and
23 cameras at Sawgrass Mills Mall, but the most important
24 place we need these cameras is in the schools, so.

25 Q. Did BSO implement an -- I will call it an app,

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1 computer-based safety program?

2 A. We did. We -- early on we got -- we had a
3 initial meetings with a company called Saferwatch, I
4 think they are out of Boca Raton. We had several
5 meetings with them. I don't like to use the word "pilot
6 project," but they asked for us to take on this app, use
7 it, help them out, as they're trying to grow. They had
8 maybe a couple of other accounts in Massachusetts or
9 something and so we did.

10 We partnered with Saferwatch. We set a goal
11 that that app would be up and run by August of 2018, the
12 start of the new school year. We met that goal. We
13 publicized that. We educated people. I have it on my
14 phone. My girls go to public school, they have it on
15 their phone, and basically it's an app that allows to
16 send video, send tips, send information on anything
17 related to school shootings or mall shootings or
18 anything like that.

19 Q. Was this program, this Saferwatch app promoted
20 with the school system?

21 A. It was promoted with the school system, with
22 the sheriff's office and subsequent to that the FDLE
23 came up with another app, which was also promoted.
24 There was no, that we saw, any type of competition. The

25 more apps that are out there, the more people that want

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1 to share information the better.

2 Q. Prior to the MSD tragedy, were there any
3 requirements by FDLE that sheriffs' offices needed to
4 implement such a communication app like Saferwatch app
5 or any program like that?

6 A. No.

7 Q. Prior to BSO implementing Saferwatch app, were
8 you aware of FDLE beating you to that, so to speak?

9 A. We didn't even know FDLE was working on
10 something like that. We wanted to get something for
11 Broward County and we wanted it by the start of the
12 school year in August. So we worked very closely with
13 this company to work out the kinks. We took them to the
14 Broward chiefs. We tried to sell this to the Broward
15 chiefs and tell them, hey, this is important. And, you
16 know, I have a great relationship with all the chief
17 necessary this county, so it was a combined effort.

18 It wasn't going to just help us to have it at
19 BSO schools. We needed it in every school in the
20 county, private and public.

21 Q. And in that interim, while BSO was working on
22 this Saferwatch partnering, nobody from FDLE reached out
23 to the command at BSO to say, hey, we have this great
24 idea, we would like to work with you in developing this

1 A. Not to my knowledge, no.

2 Q. I have nothing further. I tender the witness
3 to Mr. Primrose.

4 MR. PRIMROSE: Thank you, Mr. Kuehne. I just
5 want to put on the record that this morning, when
6 Mr. Kuehne submitted his exhibit list, he included
7 this new app as an exhibit and it has not been
8 provided to me. So I just want to put on the record
9 that this is the first time I'm hearing about it or
10 it was disclosed.

11 MR. KUEHNE: Yes. And let me just -- I'm not
12 objecting. Let me just respond that I did get your
13 e-mail. I'm trying to figure out what form I can
14 give that to you. If I just have to print out a
15 sheet, I will do that, but it's not the same kind of
16 exhibit as paper exhibits.

17 So I respect your request and I was trying to
18 figure how to do that and I will get it to you as
19 soon as I can, but I do know that I have not given
20 you anything about Saferwatch app, and for that I
21 apologize.

22 MR. PRIMROSE: No, I understand. I just want
23 to pointed that that was a newly disclosed exhibit
24 today that wasn't included on the original exhibit

25 list, but regardless of that --

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1 THE REPORTER: One second, can we adjust the
2 sound on the speaker?

3 MR. KUEHNE: Yes, one second.

4 Okay. Nick, would you speak again, see if we
5 can hear you better.

6 MR. PRIMROSE: Madam court reporter, is this
7 better?

8 THE REPORTER: Yes, much better.

9 CROSS-EXAMINATION

10 BY MR. PRIMROSE:

11 Q. What I was just saying is, Mr. Kinsey, thank
12 you for coming this afternoon. I want to start off
13 just, do I have this correct that you were brought over
14 to BSO after Scott Israel was elected as the sheriff in
15 2013?

16 A. That's correct.

17 Q. And you worked with him at the Fort Lauderdale
18 Police Department, right?

19 A. I did.

20 Q. And you resigned from BSO, what was it, a day
21 before or two days before he was suspended?

22 A. It might have been the same day. I resigned on
23 January 11th.

24 Q. Is that because you have an allegiance to Scott

25 Israel, you didn't want to work under the new sheriff or

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1 what was the reasoning?

2 A. I didn't know the new sheriff. I have never
3 met the new sheriff. I know Scott Israel and I came
4 over to work for him and to do a job and as the
5 undersheriff, I didn't want to sit back and possibly be
6 terminated from somebody that didn't even know me or my
7 work product, and I had the ability to resign, based on,
8 you know, I had a lot of years in law enforcement, 27,
9 and I felt that was the best decision for me and my
10 family.

11 Q. Okay. And what are you currently doing for
12 employment?

13 A. I'm retired and I'm terrible golfer.

14 Q. So you don't have any source of income right
15 now?

16 A. Only my pension from Fort Lauderdale.

17 Q. Okay. Now, you were asked some questions about
18 the 4.37 policy on active shooter. And I want to make
19 sure that I understood this correctly.

20 You said part of the policy is you're not going
21 to ask deputies to go in to an area, if it's single
22 point or otherwise if it's trapped, did I get that
23 right?

24 A. Single point, if that only point of entry is

25 possibly -- they have some type of knowledge that it's

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1 booby trapped or maybe there's somebody on the other
2 side with an assault rifle was what I meant to say.

3 Q. Okay. Doesn't that require the deputy then to
4 at least seek out other points of entry to a structure
5 where there might be an active shooter?

6 A. I would think, absolutely, a deputy should try
7 to find out if they have knowledge that an entry is
8 booby trapped or that what's on the other side is,
9 they're not going to be effective in making entry, that
10 they should absolutely try and search for another way
11 in.

12 Q. So doesn't the -- well, let me first start this
13 way, first, the policy doesn't provide the exceptions
14 that you just listed, if it's booby-trapped or it's a --
15 we will just call it a suicide mission, because that's
16 what Scott Israel called it, it doesn't provide that
17 exception in the written policy, does it?

18 A. Not that I know, no.

19 Q. Okay. And you would at least hope that, based
20 on the training and the policies, that a deputy would
21 continue to seek out ways to engage the shooter, either
22 being another door or some other way to engage the
23 shooter, correct?

24 A. Based on the training, yes.

25 Q. So if a deputy goes to a building, doesn't

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1 think that the first door is a good idea, they shouldn't
2 just step back and look at the door and not do anything
3 else, right?

4 A. That's correct.

5 Q. They should go look for at least another point
6 of entry or somehow to engage the shooter?

7 A. Yes.

8 Q. Okay. I'm not going to go through everything
9 that happened at Fort Lauderdale, because we've gone
10 through it with a lot of witnesses, but I want to know
11 about the after action report.

12 You said that it was you that hosted a meeting
13 after Major Cedeno's first draft was released, right?

14 A. Yes.

15 Q. Was it your decision to do that or was it the
16 sheriff's decision?

17 A. It was my decision.

18 Q. Okay. Who all was in the room for that
19 eight-hour or so meeting?

20 A. You know, I'm going to go off of memory, but I
21 know for sure that Major Cedeno was in there, I believe
22 Colonel Polan was in there, Major Schults from training,
23 the airport command, which was Captain Liddicot at the
24 time and Lieutenant Furman. PIO might have been in

25 there. I can't remember anybody else offhand.

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1 It was a pretty big group and I couldn't even
2 tell you if there was a sign-in sheet or not, but that's
3 who I remember offhand.

4 Q. Okay. Do you remember offhand you had -- I
5 wrote down here that you guys wanted to make sure it was
6 accurate and you weren't pointing fingers at other
7 agencies.

8 So let's start with -- well, let me do this, I
9 can agree with you that the first draft did involve a
10 lot of discussion about non-BSO agencies, but as to the
11 first part, wanting to make sure it was accurate, do you
12 have any recollection what was inaccurate in Major
13 Cedeno's first draft?

14 A. You know, I would have to have the report in
15 front of me, because I could tell you that as we went
16 through that report, we went line by line, page by page
17 and that's why that turned into an all day meeting.

18 So I don't have that marked up copy in front of
19 me. I can try to access it, if they would allow me to
20 get to my old e-mails and try to find out, you know, or
21 if somebody has it, but just off the top of my head, no,
22 but I know as we went down the list, there were things
23 that even the airport command said, no, that's not how
24 it happened or that's not how it was done, and those are

25 things we tried to fix.

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1 Q. Okay. Was it -- whose decision was it to then
2 give Captain Diefenbacher a chance to do an amended or a
3 second draft of that report?

4 A. I don't know whose decision that was. He is
5 our, you know, works with accreditation out of the
6 training unit and so I don't know whose decision that
7 was, but at the end of the day, the final report was
8 authored by me, so.

9 Q. Okay. But did -- so I guess you would have
10 reviewed Captain Diefenbacher's report?

11 A. Any changes he made, yeah, I would have sat
12 down with the original information gathering, draft
13 report, I would have sat down with any markups or any
14 changes that Captain Diefenbacher made and then I was
15 the final author on what became the final critical
16 incident report.

17 Q. Okay. So after you got Major Cedeno's report,
18 Captain Diefenbacher second draft of the report, it was
19 you who compiled the final critical incident report?

20 A. That's correct.

21 Q. Who was involved in the process of editing the
22 two draft versions that you had in making a final
23 report?

24 A. The editing process came about in that meeting.

25 The majority of the editing process came about at that

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1 meeting where we, as a group, decided, hey, this was
2 inaccurate or this was -- this is unnecessary, as far as
3 pointing fingers, and the final editing was mine.

4 Q. Well, so let me get this straight, did you have
5 Captain Diefenbacher's second draft when you had that
6 eight-hour meeting?

7 A. I don't remember him having a second draft or
8 if he just -- there was a markup of the first one. I
9 guess it's kind of splitting hairs. I don't know if I
10 had a second draft from him or it's just I had his
11 comments on the first one, if that makes sense, and I
12 used that information to compile mine.

13 Q. Okay. I can submit to you at least that the
14 May 3rd version, which is Major Cedeno's and the May 2nd
15 which was Captain Diefenbacher, there were already
16 significant deletions and edits made.

17 A. Okay.

18 Q. So I'm just wondering if you had had the second
19 draft when you created your critical incident report?

20 A. If that's -- if what you are saying is
21 accurate, and I have no reason to believe it's not
22 accurate, then I probably would have had both of those
23 drafts, if that's what you want to call them, in my
24 possession as I authored the final report, yes.

1 the time of the meeting, I don't remember that being
2 done at the time of the meeting.

3 Q. Okay. But --

4 MR. KUEHNE: Nick, excuse me one second, I am
5 not trying to interrupt, but can I give him, just to
6 look at, your exhibit list so he can see that there
7 are in front three reports with dates on them. I
8 won't do that, but I thought it might help refresh
9 him, based on your questions.

10 MR. PRIMROSE: Yeah, of course.

11 MR. KUEHNE: You can just look at here. Just
12 to let you know, this is the exhibit list, but C, D
13 and E are three different dated versions of what
14 Mr. Primrose is asking you about.

15 THE WITNESS: So Mr. Primrose, just looking at
16 this, I would make the -- I would say that the
17 May 3rd version was Major Cedeno's, the June 2nd
18 version is Captain Diefenbacher's, and the
19 October 6th version is mine.

20 BY MR. PRIMROSE:

21 Q. Okay. So I'm not going to go -- I don't need
22 to belabor this, but I guess let's me first start out by
23 asking if -- and I've got the documents and so does
24 Mr. Kuehne. You would at least defer to what each of

25 those individual documents say, as far as what's in the

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1 reports, right?

2 A. Yes. I use those original documents, plus my
3 personal knowledge of the actual incident, because I was
4 there for however long, yeah, to finalize the final
5 version, yes.

6 Q. So in the first and second drafts, there was an
7 observation about active shooter response and training
8 and in the two draft versions, under areas of
9 improvement, it was to improve the current active
10 shooter training lesson plan to better prepare BSO
11 personnel for similar future incidents, and I will
12 submit to you that that area of improvement, whether you
13 want to characterize it as an area of improvement or an
14 opportunity for improvement, is missing from your final
15 version.

16 A. Okay.

17 Q. Do you have any reason to remember why you
18 struck out the suggestion that the active shooter
19 training plan could be improved?

20 A. I think that's because that was an opinion of
21 the initial writers and in my opinion, as the author of
22 the final report and the undersheriff, I felt that the
23 training was adequate, that it met the standards that we
24 were trying to achieve at the sheriff's office and that

25 that wasn't an issue that we needed to immediately

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1 change up in a large scale manner.

2 I mean, those type of reports -- training and
3 policies are fluid, as you know. So there's always a
4 chance to do something different or tweak something, but
5 I didn't feel that a wholesale change in our active
6 shooter training was necessary at the time.

7 Q. Okay. So just so that I understand that
8 properly then, Major Cedeno and Captain Diefenbacher
9 believed there was a need for improvement of the active
10 shooter training, that was their opinion. Yours was we
11 don't need improvement, and so you made the decision to
12 take that out of the report?

13 A. Well, just -- the decision was mine, yes. To
14 clarify though, there's always some room for improvement
15 in any entity, but I can go off the memory and tell you
16 that I absolutely would have had that conversation with
17 Major Schults, either in that initial meeting or on a
18 sidebar, because he was the person that was the major in
19 charge of the training.

20 So I'm absolutely certain, I can't tell you
21 verbatim what the conversation would have, but it would
22 have been Kevin, Major, do we need to do something here
23 with our training? Is it adequate? Is it inadequate?
24 Do we need to tweak it? Do we need to scrap the whole

25 thing and start over? I can promise you that

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1 conversation happened at some point.

2 Q. Did the conversation happen between you and
3 Scott Israel as to, hey, two individuals that looked
4 into the shooting made this comment about improving the
5 active shooter training lesson, I disagree, you know,
6 should we cut it out of the report?

7 A. No, we never had that conversation.

8 Q. Okay. Maybe not even the whole conversation of
9 cutting out of the report, was it ever discussed between
10 you and Scott Israel that that was an area of
11 improvement identified by Major Cedeno and Captain
12 Diefenbacher?

13 A. No.

14 Q. Okay. Underneath that same observation of
15 active shooter responsive training, both Major Cedeno
16 and Captain Diefenbacher wrote that there needs to be
17 enhanced training specific to the BSO airport district
18 applicable to immediate response, establishment and
19 implementation of critical protocols.

20 That was not included as an area of improvement
21 or an opportunity for improvement in your final report.
22 Any -- do you remember any reason why you cut that out?

23 A. No. Again, once again, if that was removed
24 from the final report by me, it was because I thought

25 that the training was adequate at the airport, but once

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1 again, those conversations are always ongoing, as far as
2 can we enhance some type of training, do we need to do
3 something different, but it's impossible to put every
4 aspect of our law enforcement training into a report.

5 Q. Okay. Same observation, and you had mentioned
6 earlier in a question that Mr. Kuehne asked you about
7 the training at Pompano Beach and you had said on site
8 is the best way, you know, tabletop exercises don't
9 translate well for the real word. Did I understand that
10 correct?

11 A. Yes, you did.

12 Q. And Major Cedeno and Captain Diefenbacher's
13 draft reports, they are critical of not having on-site,
14 real life training at the airport and they specifically
15 put that, similar to you testified, tabletop exercises
16 are very limited in how they translate.

17 That was not something that you identified in
18 your report and so same question, just wondering why
19 there wasn't an acknowledgment that there needs to be
20 on-site, real life training versus just the yearly
21 tabletop that occurred at Fort Lauderdale Airport?

22 A. Well, I could tell you that the training at the
23 airport that we tried to do in the past had to be
24 coordinated through BCAD, which means we weren't allowed

25 any part of the airport to train unilaterally without

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1 their approval.

2 So that possibly was part of the areas of the
3 report that I didn't need to get involved in pointing
4 fingers at BCAD when I can handle that later down the
5 line with a phone call to Mark Gale or his number two
6 and try to establish that on-site training, but just
7 because it wasn't listed in the report or because I took
8 it out doesn't mean it wasn't going to be something we
9 tried to address down the road.

10 Q. Okay. And I want to -- so in the cohesive
11 interaction and I unified command part of your report,
12 you do list an opportunity for improvement of, BSO and
13 BCAD must ensure incident command procedures are
14 utilized and that in a law enforcement incident, such as
15 this one, BSO is clearly designated the lead agency
16 based on the primacy of the incident, okay.

17 So -- that was a direct quote from your report?

18 A. Okay.

19 Q. You had mentioned earlier that BSO didn't even
20 know that BCAD had set up their own command post at the
21 airport, right?

22 A. Yes.

23 Q. Was there a lack of communication between BSO
24 and BCAD prior to the Fort Lauderdale Airport shooting?

25 A. I don't know if there was a lack of

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1 communication, but for the guys that worked the airport
2 command, which would have been, at the time, Captain
3 Liddicot and Lieutenant Furman, I think they had more of
4 a day-to-day operational communication, but when we were
5 on scene and we found out, after the fact, that they had
6 their own EOC set up, or emergency unified command,
7 emergency operating center, whatever term you like to
8 use, that was news to us, that was news to me, that was
9 news to Colonel Polan, that was news to Sheriff Israel.
10 I don't think anybody at BSO had knowledge of that. If
11 they did, that would be news to me today.

12 But it was one of those situations where you
13 don't know what you don't know and it actually did
14 prove, as I mentioned earlier, it proved critical in the
15 secondary, we call it the secondary response, after the
16 first 90 minutes, because again a JetBlue supervisor
17 just overheard something and released that information
18 out to all his team members and his personnel without
19 verifying it with us.

20 Q. Okay. Now, am I correct in understanding that
21 part of your role -- by the way, the video cut out on my
22 end, but I will keep asking questions.

23 A. Yes, you're frozen on my end too.

24 Q. We'll keep going.

25 A. Okay.

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1 Q. My understanding is that in your role, you also
2 are -- do you oversee the internal affairs investigation
3 or did you?

4 A. No, I never oversaw any of the internal affairs
5 investigation. That would be Colonel Dale.

6 Q. Okay. I reviewed some document that you signed
7 off on transfers of personnel. So -- would that have
8 been your sole, kind of, oversight over personnel
9 decisions?

10 A. Yeah. And I might have reviewed some internal
11 affairs documentation and there may be some that I
12 signed, if Jack Dale was on vacation or if he was away
13 from the office, but any transfers that involved any
14 part of the entities that were under my command, yeah, I
15 would have signed those at some point.

16 Q. Okay. And so are you at least familiar with
17 the most recent internal affairs that had to do with the
18 Marjory Stoneman Douglas shooting?

19 A. With regard to Deputy Peterson?

20 Q. Well, Deputy Peterson, Deputy Eson and, I'm
21 going to completely butcher his last name, Deputy
22 Treyhas?

23 A. I don't -- I haven't seen that investigation,
24 if that's what you're asking. I haven't seen any part

25 of that investigation.

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1 Q. Okay. So you wouldn't know, you know, why they
2 were actually found to have violated the standard
3 operating procedures or anything like that?

4 A. No. I mean, at this point, I have been out for
5 over five months. So any information I get is usually
6 from a newspaper.

7 Q. Well, they would have been suspended -- they
8 would have been disciplined while you were at BSO.

9 A. Are you talking about the guys that were
10 involved pre-incident with the calls --

11 Q. Yes, sir.

12 A. Oh, yeah.

13 Q. Yes, sir.

14 A. Again, I wasn't involved in that investigation,
15 but, yeah, I am aware of that.

16 Q. Okay.

17 A. I think we had two guys suspended.

18 Q. Well, I don't want to waste your time asking
19 questions, if you weren't involved in why they were
20 disciplined.

21 A. No, I had almost no involvement in that at all.

22 Q. Okay.

23 MR. KUEHNE: Are you still there, Nick?

24 MR. PRIMROSE: Yeah, I'm still there. I am

25 just reviewing my notes.

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1 MR. KUEHNE: I'm still working the Internet,
2 seems to be done now. I should have tried an
3 Ethernet connection, but I'm still trying.

4 MR. PRIMROSE: Okay.

5 BY MR. PRIMROSE:

6 Q. Mr. Kinsey, I want to go back to the kind of
7 chain of command here, and just so that I can understand
8 how this all works properly. Who is in charge of making
9 sure that all BSO deputies know the written policies and
10 procedures of the agency?

11 A. So those policy and procedures come out of the
12 training division or the policy and accreditation
13 division, but it's the responsibility -- well, first
14 off, it's always the responsibility of the deputy, but
15 it's also the responsibility of the district commands to
16 make sure that information gets given to them, whether
17 that's via electronically or if that's a handout at roll
18 call, that any policies, and policies are fluid, like I
19 said, and they are evolving, as they should be at times,
20 so it's kind of a two-part answer to your questions.

21 Q. Okay.

22 A. Training and policy puts those out and it's the
23 responsibility of command to get those to their
24 personnel and, ultimately, like I said, each deputy

25 himself is responsible to know the policies and

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1 procedures of the agency.

2 Q. And ultimately who do the deputies in command
3 have to be accountable to?

4 A. As in a paramilitary organization, up the chain
5 of command. So, you know, the deputy is going to report
6 to the sergeant, the sergeant will report to lieutenant,
7 the lieutenant reports to the captain, captain reports
8 to the major, major to lieutenant colonel, lieutenant
9 colonel to colonel, most of the colonels were to me, as
10 the undersheriff, and then the sheriff.

11 Q. Okay. So to cut all that out, though,
12 ultimately the sheriff is the CEO and the top boss of
13 the entire agency?

14 A. That's correct.

15 Q. So the sheriff is responsible for making sure
16 all of the deputies know or are properly trained?

17 A. They are his subordinates, yes.

18 Q. Okay. Similarly, the sheriff is responsible
19 for making sure that his deputies will actually carry
20 out the written policies that are put in place?

21 A. Yes. That's -- I mean, he is responsible for
22 the agency and the members of the agency.

23 Q. Okay. And the sheriff is also ultimately
24 responsible for making sure his deputies will actually

25 carry out the training that he wanted to ensure all of

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1 his deputy undergo?

2 A. Well, he is responsible for making sure they
3 get the training, but as we saw at MSD, sometimes the
4 situation dictates otherwise.

5 Q. But isn't that still the responsibility of the
6 sheriff, to make sure that his deputies would actually
7 perform what the policies have been engrained in a
8 person to do? I mean, put the deputy into situations
9 and test whether or not they will act under high levels
10 of stress or -- sorry about that.

11 So my question, it's ultimately the sheriff's
12 responsibility, though, to make sure that if he's
13 putting deputies in the field, that they are going to
14 act in a way that is consistent with the policies and
15 consistent with the training that they have received?

16 A. I would say, to answer that question, is the
17 sheriff is responsible for the people in the agency, but
18 he's responsible for giving them training, giving them
19 resources, giving them direction, but I don't see how
20 you can ever predict how someone is going to act in a
21 critical incident until that actual time happens. You
22 can do training exercises.

23 We do the most realistic training that we can
24 get without firing real bullets at people, in my

25 opinion, but I don't know if there's any sheriff or

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1 chief in the country that can tell you exactly Deputy A
2 is going to carry out what we want him to do, based on
3 his training and resources. I don't know how you would
4 know that.

5 Q. Well, let me ask you this, because you had
6 mentioned that if you could have it your way, you know,
7 you would do weekly trainings with the deputies, but
8 just the sheer size of BSO, it was impossible to do
9 that, right?

10 A. Well, I said -- I was using the example of I
11 don't know if anybody could ever do weekly training on
12 something as active shooter, as being an eight-hour
13 course. What I was saying was if you had to train ten
14 members of a small department or even a department the
15 size of Coral Springs, it's going to be easier to
16 facilitate that training, then it is in a larger,
17 1,300-man department, just based on the sheer number of
18 trainers and venues and time you have in the day, that's
19 what I meant by that.

20 Q. Okay. Is this correct that prior to the
21 Marjory Stoneman Douglas shooting, the deputies, all of
22 the BSO deputies, had to complete two four-hour courses
23 related to active shooter training over a two-year span
24 of time?

25 A. I believe that was the requirements, yes, sir.

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1 Q. Okay. And of those two four-hour courses, how
2 much of that was actual tactical exercises?

3 A. I couldn't answer that for you. I mean, that
4 would have to be -- I would have to look at the lesson
5 plans or speak to the training command.

6 Q. If the lesson plan indicated a course agenda,
7 would it be the heading "practical exercises" that would
8 be the time that you were actually doing real life
9 training?

10 A. That would be the term that would be familiar
11 to me, yes.

12 Q. Okay. So I'm looking at -- and this is for the
13 court reporter and Mr. Kuehne -- it's course lesson plan
14 01-513 and the Bates number is 4139. That course agenda
15 says, For this four-hour course, 90 minutes will be
16 spent on practical exercises and scenarios. Does that
17 sound about right to you?

18 A. I mean, based on -- that's a tough question for
19 me to answer. I guess at the time, if that was the
20 requirement, that was the standards that were being met
21 then, yes. But, again, like I said, training and policy
22 is fluid. More training is always good, I guess.

23 Q. Okay. And this training wouldn't have been
24 solely on a solo deputy in an active shooter situation,

25 right, I mean, it encompasses the entire gambit of

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1 active shooter?

2 A. I can only speak from my experience. When I
3 went through the training class, it was the entire
4 gambit. We went from what we would call maybe a 15-man
5 entry to a two-man entry, and then I did a single deputy
6 entry, all with what we call, you know, Simunitions
7 training, where you have bad guys, role players. They
8 were shooting out, again, paint balls, they still hurt,
9 and you are shooting back at them and you are trying to
10 eliminate the threat or get them to surrender. So, yes.

11 Q. So let me just make sure I understand this 100
12 percent, because I don't want there to be any ambiguity
13 here. Once a deputy did their training in active
14 shooter during that 2015 to 2017 period, when would they
15 again have to go through active shooter training?

16 A. I won't be able to answer that question,
17 because I don't know what the training schedules were.
18 I know there was some challenges there, like I said,
19 with instructors and time and venues, but I couldn't
20 tell you what the actual schedule was for them to go
21 back to training.

22 I do know that there's so many other mandatory
23 trainings that they must go through, whether it's OSHA
24 or that type of thing, but I would have to look at the

25 training schedule to answer that question for you.

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1 Q. Are there any -- so I understand that there
2 being some mandated trainings that might be in place
3 because of law, but are there trainings that BSO
4 required its deputies to do that were, let's call them
5 discretionary, meaning BSO decided we want our deputies
6 to do this training because we feel it's an important
7 subject area or lesson for them to learn?

8 A. I think there was probably three areas of
9 training. There was training mandated by statute,
10 there's training that was required as part of our
11 accreditations, and then there was probably training
12 that was discretionary or specific maybe to what the BSO
13 wanted to train its deputies.

14 Q. Okay. So there was at least some discretion
15 that the sheriff could put training lesson plans in
16 place, if he felt there was a certain subject matter
17 area that I wanted to make sure my deputies had
18 engrained in their brains and would carry out, if the
19 duty called?

20 A. I mean, he had the ability to do that. Again,
21 based on instructor's time and venue, I would say, yes.

22 Q. Okay. Just a few other questions. When is the
23 last time you spoke to Mr. Israel either in person, over
24 the telephone or via a text message communication?

25 A. I had dinner with him last Wednesday, not this

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1 week, but the week before.

2 Q. Okay. And did you talk at all about your
3 involvement as a witness in this proceeding?

4 A. Not one word.

5 Q. Okay. What about Mr. Kuehne? I know he said
6 that earlier he had just met you this morning before the
7 deposition. Have you spoken to Mr. Kuehne before him
8 seeing you this morning outside the court reporter's
9 office?

10 A. I met Mr. Kuehne only on one occasion prior to
11 this and we did not discuss this deposition at all.

12 Q. What was the circumstances of meeting him
13 previously?

14 A. I went to the -- I believe it was the initial
15 hearing in the Broward County courtroom for Sheriff
16 Israel. I think you called in on the phone.

17 Q. Okay.

18 A. And I was -- I was in the audience for that one
19 and I think I met Mr. Kuehne outside either before or
20 after and just shook hands, but there was no
21 conversation about this.

22 Q. Okay. Did Mr. Israel ask you to come to that
23 hearing for him back in, I believe, it was in maybe
24 April or so?

25 A. No. I knew that the hearing was upcoming and I

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1 wanted to go there and be a witness to the hearing.

2 Q. Okay. And you obviously were there in support
3 of Mr. Israel, correct?

4 A. I was.

5 Q. Okay.

6 MR. PRIMROSE: Mr. Kuehne, I don't have any
7 further questions.

8 Mr. Kinsey, I do thank you for speaking with us
9 this afternoon.

10 THE WITNESS: Thank you for your time, sir.

11 MR. KUEHNE: You are familiar with reading and
12 waiving. You are going to have your transcript
13 transcribed. You will get a copy of it. You can
14 make whatever changes. If you agree to waive, it
15 just facilitates us getting a transcript faster, but
16 at the same time, we get, I will send a copy to you
17 and you can make any corrections, adjustment, if you
18 think Lilly got it wrong or need to make
19 augmentation.

20 THE WITNESS: Okay.

21 MR. KUEHNE: And I will send it to your e-mail
22 address?

23 THE WITNESS: Yes.

24 MR. KUEHNE: You will give me your e-mail

25 address.

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1 THE WITNESS: Yes.

2 MR. KUEHNE: Okay. Thank you.

3 (The deposition was concluded at approximately

4 1:06 p.m. Signature and formalities were waived.)

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1 C E R T I F I C A T E

2

3 STATE OF FLORIDA :

4 COUNTY OF MIAMI-DADE :

5 I, the undersigned authority, certify that

6 STEVE KINSEY personally appeared before me on

7 June 7, 2019, and was duly sworn.

8 WITNESS my hand and official seal this 9th day

9 of June, 2019.

10

11

12 Lilly Villaverde

13 My Commission GG010818

14 Expires July 23, 2020

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1 C E R T I F I C A T E

2

3 STATE OF FLORIDA :

4 COUNTY OF MIAMI-DADE :

5 I, Lilly Villaverde, Florida Professional

6 Reporter, a Notary Public in and for the State of

7 Florida at Large, hereby certify that I reported the

8 deposition of STEVE KINSEY; and that the foregoing pages

9 constitute a true and correct transcription of my

10 shorthand report of the deposition by said witness on

11 this date.

12 I further certify that I am not an attorney or

13 counsel of any of the parties, nor a relative or

14 employee of any attorney or counsel connected with the

15 action nor financially interested in the action.

16 WITNESS my hand and official seal in the State

17 of Florida, this 9th day of June, 2019.

18

19

20

21 Lilly Villaverde
22 Florida Professional Reporter
23 My Commission GG010818
24 Expires July 23, 2020

24

1 THE FLORIDA SENATE
2 EXECUTIVE ORDER NO. 19-14

3 IN RE:
4 SUSPENSION OF SHERIFF
5 SCOTT ISRAEL
6 _____:

7
8
9
10 Wednesday, June 5, 2019
11 One East Broward Boulevard
12 Suite 902
13 Fort Lauderdale, FL 33301
14 10:58 a.m. - 12:13 p.m.

15
16
17 DEPOSITION OF DEPUTY JESUS MADRIGAL

18 Taken before Carol Ann Kridos, Registered
19 Professional Reporter and Notary Public in and for
20 the State of Florida at Large, pursuant to Notice
21 of Taking Deposition filed in the above cause.
22
23
24
25

1 APPEARANCES:

2

3 On behalf of Governor Ron DeSantis via Skype:

4

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EXHIBITS

(No exhibits were marked during the deposition.)

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

2 Thereupon:

3 DEPUTY JESUS MADRIGAL

4 Was called as a witness, and having been
5 first duly sworn and responding "I do," was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KUEHNE:

9 Q State your name and spell your name.

10 A Jesus Madrigal, J-e-s-u-s, first name.
11 Last name M-a-d-r-i-g-a-l.

12 Q Deputy Madrigal, my name is Ben Kuehne.
13 We met just a little while ago here. I have
14 obtained a subpoena from the Florida Senate for
15 you as a witness in an executive suspension
16 proceeding involving now suspended Sheriff Israel.
17 You understand that?

18 A Yes.

19 Q And I do apologize for reasons that I
20 can only take blame. I had your first name
21 incorrect on the subpoena.

22 A That's okay. That's my nickname.

23 Q Right. I know it's your nickname as
24 opposed to your full name --

25 A Right.

1 Q -- and I do apologize.

2 MR. KUEHNE: Nick, do you want to make
3 an appearance?

4 MR. PRIMROSE: This is Nick Primrose
5 from Governor Ron DeSantis' office. It's
6 nice to meet you, Deputy.

7 THE WITNESS: Nice meeting you, too,
8 sir.

9 BY MR. KUEHNE:

10 Q To start, please tell me your current
11 occupational professional capacity and the length
12 of time.

13 A I'm currently a deputy pilot with the
14 Broward Sheriff's Office. I've been employed with
15 the sheriff's office for approximately 15 years.
16 I got hired on August 2, 2004. I'm currently the
17 BSO aviation unit OIC until I get promoted to a
18 sergeant.

19 Q Tell me what OIC means.

20 A Officer in charge.

21 Q And how long have you been aviation unit
22 OIC?

23 A Currently 24 months.

24 Q Were you assigned to work -- strike
25 that.

1 Where is your current duty assignment?

2 Do you have a headquarters office?

3 A That's correct. I work at Fort

4 Lauderdale Executive Airport at 5223

5 Northwest 20th Terrace. Telephone number

6 (954) 938-0650. That's my work location.

7 Q Okay. And on January 6, 2017 you were a
8 BSO deputy?

9 A (Witness nods.)

10 Q Were you still -- yes?

11 A (Witness nods.)

12 Q Please answer yes.

13 A Yes. Yes.

14 Q Were you working at the Fort
15 Lauderdale-Hollywood International Airport?

16 A Yes, I was.

17 Q What was your assignment at that time,
18 around January 6, 2017?

19 A At that time I was considered a detail
20 deputy for the TSA checkpoint, Delta checkpoint
21 Terminal 2, I believe the address is 100 Terminal
22 Drive, at the Fort Lauderdale International
23 Airport. And I was assigned there from 05:00
24 hours, 5 a.m., till 6 p.m. that evening of that
25 day.

1 Q You mentioned, I believe, that you are a
2 licensed pilot?

3 A Yes.

4 Q Provide a brief summary of your training
5 and experience as a licensed pilot.

6 A I was trained by the United States Army
7 back in 1994. I went through flight school with
8 them for a year and a half, then I was assigned
9 with Black Hawks. I did that for ten years. And
10 the training encompasses me utilizing turbine
11 aircraft into VFR conditions, instrument
12 conditions, IMC conditions and how to utilize day,
13 night and night vision goggles in the evening.

14 Q When you -- how long did you have as a
15 military service?

16 A Currently right now I've completed my 20
17 years, 11 years active duty, nine years reserve.
18 During my time of reserve, I joined -- I was an
19 airline pilot for two years prior to joining the
20 Broward Sheriff's Office back in 2004.

21 Q What airline company?

22 A I was a -- Pinnacle Airlines as a first
23 officer, which at that time back in 2003 was a
24 subsidiary of Northwest Airlines which no longer
25 is in service.

1 Q Do you still maintain flight
2 certification, certification as a licensed pilot?

3 A I still do, but only in helicopters.

4 Q Okay.

5 A I'm current in helicopters. I'm not
6 current in airplanes, no.

7 Q Okay. How long were you assigned to the
8 Fort Lauderdale-Hollywood International Airport as
9 a BSO deputy?

10 A I think -- I believe, and I can't go by
11 the actual dates, when I was given the SIDA badge
12 and the assignment of the Delta checkpoint, I want
13 to say it started back in 2016, maybe April. I
14 have to go back where the original time frame was.

15 Q Okay. But you were -- between the time
16 you first got assigned there and January 6, 2017,
17 you had been at the Fort Lauderdale Airport
18 assignment for at least some period of time?

19 A Yes, as a detail deputy.

20 Q As a detail deputy.

21 A Holding a SIDA badge.

22 Q And tell us what a SIDA badge is?

23 A It's the badge given to all employees
24 that work on the secure portion of the airport.
25 And in order to work that detail, you must be able

1 to get those credentials from the airport.

2 Q Okay. And how do you spell SIDA? Do
3 you know?

4 A S-I-D-A.

5 Q S-I-D-A. And that stands for something?

6 A I should remember that. I don't
7 remember exactly.

8 Q And is that a badge that's issued by
9 some federal agency?

10 A That is correct. It is issued by the
11 airport, but it's with federal oversight, you
12 know, federal aviation oversight of it.

13 Q When you began working at the Fort
14 Lauderdale Airport, did you receive any
15 specialized training for that position?

16 A Other than the criteria associated with
17 obtaining a SIDA badge, we are given also an SOP
18 for the airport, for the detail position. And the
19 training is just involved with what your -- what
20 your duties entail for the TSA checkpoint as it
21 is.

22 Q Okay. As an assigned deputy with your
23 SIDA badge at the Fort Lauderdale Airport, do you
24 work with other government agencies? And if so,
25 which ones?

1 A Absolutely. You work with TSA. At
2 times you have to clear other law enforcements
3 through the -- depending what part of the airport
4 you work, clear them through FBI, DEA,
5 U.S. Marshals. Any law enforcement personnel
6 associated with the federal government is allowed
7 to get through and pilots that are -- have the
8 qualifications of the FFD, which is Flight
9 Officer -- Flight Officer Deck [sic]. That's a
10 qualification pilots get to carry a weapon on
11 board in the cockpit.

12 Q Okay. Do you know what governmental
13 organization, by virtue of your assignment at the
14 airport, actually oversees the Fort
15 Lauderdale-Hollywood International Airport?

16 A My understanding is Broward County
17 Aviation Department, BCAD.

18 Q BCAD, Broward County Aviation
19 Department. And do you understand that to be a
20 part of the Broward County government?

21 A That is correct, yes.

22 Q Is it your understanding that BCAD,
23 Broward County Aviation Department, is not a part
24 of BSO, Broward Sheriff's Office?

25 A That is correct, it is not.

1 Q Okay. Do you understand how it is that
2 the Broward Sheriff's Office is involved in
3 security or law enforcement at the Fort Lauderdale
4 International Airport?

5 A I don't know the interims of how they're
6 associated. I know they're assigned -- you know,
7 they're given the -- I guess the assignment of
8 covering the security for the Fort Lauderdale
9 International Airport, but I don't know what the
10 relationship is between BCAD and -- I don't know
11 the specifics.

12 Q During your tenure as a BSO deputy,
13 you've been certified as a law enforcement
14 officer?

15 A That's correct.

16 Q And you keep that certification as
17 required?

18 A That's correct.

19 Q Have you also received various trainings
20 in connection with your duties and
21 responsibilities as a BSO deputy?

22 A Yes, every year.

23 Q Every year?

24 A Every year.

25 Q And are you required to maintain a log

1 or some record of your trainings?

2 A Yes. Our training department maintains
3 that log.

4 Q Do you have any recollection of having
5 attended training that covers the general topic of
6 active shooter or active killer?

7 A Yes.

8 Q Can you describe generally what the
9 training, the BSO training involving active killer
10 or active shooter involves?

11 A Well, it involves that once we get a --
12 they put up a scenario where we are placed in a
13 position, a scenario the whole entire time
14 utilizing our equipment that we have on hand and
15 issued to us to go ahead and stop the threat,
16 whatever that threat is, enter whatever building
17 or facility to try to -- the intent is to minimize
18 life [sic] and to engage or be -- or stop the
19 threat any possible ways or means utilizing the
20 tools that are given to you and you're trained on,
21 whether it's a gun or hands or so forth.

22 Q Had you received active shooter or
23 active killer training prior to January 6, 2017?

24 A I have.

25 Q I'm going to focus your attention now on

1 the circumstances on January 6, 2017.

2 A Okay.

3 Q There was an incident which I'm
4 referring to as the Fort Lauderdale-Hollywood
5 International Airport shooting incident. You're
6 familiar with that; right?

7 A Yes, I am.

8 Q You were assigned at the airport that
9 day --

10 A That's correct.

11 Q -- at the Delta checkpoint 2?

12 A That is correct.

13 Q Did you become aware of an active
14 shooter incident?

15 A Yes.

16 Q Did you respond to the active shooter
17 incident?

18 A Yes, I did.

19 Q Did you utilize your law enforcement
20 training as a BSO deputy in fashioning your
21 response to the active shooter incident?

22 A Yes, I did, to include also based on my
23 military experience, so. Not that I had specific
24 active shooter, but the military training did, you
25 know, did coincide with BSO training, absolutely.

1 Q Fair to say that the entirety of your
2 training helped you respond to that active shooter
3 incident?

4 A Yes.

5 Q That was not a scenario, it was a
6 real-life, real life-threatening matter?

7 A Yes, sir.

8 Q Based on your involvement in that active
9 shooting incident, did your training assist you in
10 fashioning your response?

11 A Yes, it did.

12 Q Tell me what you did based on your
13 training, BSO training and any other training
14 you've had, in responding to what came to be known
15 to you as an active shooter incident.

16 A I basically at that point in time -- at
17 the initial few seconds, you realize the enormity
18 or the -- how huge the incident was occurring.
19 They tell us in training, and when it happens in
20 reality, you always revert back to your training.
21 So training just took over at that point in time.
22 So I was not thinking about any policies or
23 procedures, I was basically going -- reacting
24 towards my -- what I was trained on what to do.
25 So I went towards the shooting, or where the

1 incident would occur, which at that time I did not
2 realize where the exact location was, but I knew I
3 had to get there quickly.

4 Q And is it, based on your training,
5 unusual or atypical that a responding officer or
6 officers would not immediately know where the
7 scene of the shooting is?

8 A That's correct. We don't know unless
9 someone has given that information either
10 personally while you're there or through a radio
11 dispatcher advising you on the radio that there's
12 a specific location.

13 Q Had you or any law enforcement officer
14 of which you are aware been on notice that a
15 shooting was going to happen at the airport?

16 A No.

17 Q When you first learned of the shooting,
18 was that contemporaneous with the shooting taking
19 place?

20 A Yes.

21 Q Were you able to confront the
22 perpetrator, the --

23 A Yes.

24 Q -- person identified as the shooter?

25 A Yes.

1 Q Were you able to take that person into
2 custody?

3 A Yes.

4 Q Do you have any appreciation for the
5 amount of time that elapsed from when you were
6 first aware of the active shooter to the time you
7 took the active shooter into custody?

8 A I was not aware at the time. I believe
9 in the training scope of things they always say
10 that everything appears to go in slow motion, so
11 time seems like it's taking forever when it could
12 only probably take a few seconds, and that's the
13 way I felt that day when I apprehended that
14 shooter.

15 Q In the course of apprehending the
16 shooter, did you make any communications through
17 law enforcement radio or law enforcement channels
18 to others about what was happening?

19 A I believe I made two that I remember,
20 and one of them was to acknowledge that there is
21 shots being fired and the second one was that I
22 needed -- if I'm not mistaken, I think I needed
23 backup and that the shots were being fired from
24 the baggage claim area.

25 Q Okay. And you made that determination

1 about the location?

2 A Based upon what was given to me on the
3 second floor, like someone had yelled at me from a
4 distance telling me it was coming from there.

5 Q So you gathered information using visual
6 and auditory?

7 A That's correct. That's right.

8 Q You conveyed information to other law
9 enforcement officers by communication on a radio
10 channel?

11 A Just the two radio calls I made
12 immediately and that was it.

13 Q Okay. And you understand that those
14 radio communications are through a county
15 emergency communication system?

16 A Yes, sir.

17 Q And did you -- strike that.

18 Were you were able to successfully
19 apprehend the individual?

20 A Yes.

21 Q You've been recognized, in my personal
22 view, appropriately, for your heroism that day as
23 Deputy of the Year; is that correct?

24 A That's correct.

25 Q And you received a citation from the

1 Florida Sheriffs Association for your performance
2 in the line of duty that day?

3 A Yes, sir.

4 Q Do you recall that the citation
5 described the time frame of the apprehension as
6 being less than a minute and a half?

7 A Yes. Yes. I don't -- I don't know
8 exact. I've never watched the video. I know
9 people have watched it. Somehow they've timed it.
10 I've heard, you know, it might have been, you
11 know, like 70 seconds to 80 seconds. I've heard
12 different ways. I've never seen the video, so I
13 don't know.

14 Q As the deputy on the scene at that time
15 doing what you've described, was there any part of
16 your training that made you hesitate to not follow
17 your training as you learned it?

18 A Absolutely not. I never hesitated.

19 Q Did you feel at the time that your
20 training was adequate to respond to this real-life
21 active shooter?

22 A Yes.

23 Q Had you been in a position, Deputy, as a
24 BSO deputy to be the first responder to a prior
25 active shooter incident?

1 A Prior to --

2 Q Prior to this.

3 A No. No, I was not.

4 Q How many other law enforcement officers
5 are you aware were on the premises of the
6 Fort Lauderdale-Hollywood International Airport on
7 January 6, 2017?

8 A That I'm aware of at the time that I
9 took the podium, or my security location, I
10 believe there had to be at least a couple from my
11 terminal. At least one terminal deputy, you knew
12 the sergeant was involved somewhere in the airport
13 and you knew you had other detail deputies on the
14 other terminals, to include what they call a
15 deputy -- terminal deputies.

16 Q Terminal deputies?

17 A That's correct. So I'm assuming between
18 my terminal and the other two next to me that's
19 closest to the incident, it had to be at least --
20 two, four, six -- maybe six of them --

21 Q Okay.

22 A -- within the vicinity. I can't
23 pinpoint exactly where they were or what they were
24 doing, but at least I know through radio traffic
25 there had to be at least those deputies. And

1 that's not including the rest of the airport. I
2 just had no...

3 Q So you mentioned deputies?

4 A Yes.

5 Q That would be BSO deputies?

6 A That's correct, BSO deputies.

7 Q Were you aware of other federal agents
8 at or assigned to the airport that day?

9 A The only ones I know for sure that would
10 be there, but I don't think they were in the
11 location, was Customs.

12 Q Okay. Customs?

13 A Customs agents. I'm pretty sure there
14 had to be at least, if they're doing undercover
15 work, probably DEA or maybe FBI.

16 Q On your assignment at the airport, do
17 you have any supervisory authority over federal
18 officers or officials?

19 A No, I do not.

20 Q When the shooting occurred and you
21 apprehended the perpetrator, how much time
22 afterwards did you spend at the airport that day?

23 A I was there until 20:00 hours, till
24 8 p.m.

25 Q Till 8 p.m.?

1 A Yeah.

2 Q So this occurred early afternoon?

3 A Yes.

4 Q And you were at the airport for many
5 hours thereafter?

6 A Yes. Yes, sir.

7 Q What type of work did you do at the
8 airport for the hours after you apprehended the
9 perpetrator?

10 A We secured him in the district office,
11 that's one of the things my duty was. So once
12 we -- I had him apprehended, we had to pat him
13 down, secure him, make sure there's no other
14 weapons around him, secure the scene, but I was
15 controlling the perpetrator, take him to the
16 district office, make sure he was properly taken
17 care of. Someone else took my position of
18 watching the -- at that point the prisoner and
19 then we -- I went back to my location and then I
20 started to assist -- I mean, you can't imagine the
21 chaos that occurred in that terminal. I started
22 assisting taking family members and kids from
23 storage facilities. I mean, they were hiding in
24 locations you could never think of. You know,
25 women and children were hiding in men's bathrooms,

1 stalls, so forth. So I had to clear that whole
2 area to include all the eatery locations. They
3 were hiding under the counters of the eateries,
4 back in the kitchens of the eateries, behind the
5 bar. So I kind of cleared for those people to
6 come out and let them know it was safe in the
7 terminal at that point in time. I could not
8 account for all the people that departed the
9 jetways out to the ramp. I had no way.

10 And then I had to turn off all the
11 kitchen burners because food was burning, and the
12 next thing I needed not to happen is a fire in the
13 kitchen. So I had to make sure -- because
14 everything was left as, you know, as -- everything
15 was left. It was a really eerie feeling. I mean,
16 credit cards, cash was left on the counter,
17 purses, iPads, stuff that people would never leave
18 behind. That was the scene. Had to clear that
19 second whole terminal. Now, Terminal 2, if you're
20 not familiar with it, it's a very small terminal,
21 so it was easier -- it's easy to clear all those
22 locations of people just letting them know it's
23 okay, you can come out.

24 Q You mentioned clearing people. Is it
25 fair to say that the clearing involved citizens or

1 non-law enforcement personnel who needed to be
2 cleared from the terminal?

3 A That's correct. I wasn't clearing each
4 individual from the terminal, I was just making
5 sure they were getting out from the areas,
6 correct, to another safer location and make them
7 feel that whatever danger they felt or whatever
8 they thought, it's over, it was over.

9 Q Is that aspect of clearing a space where
10 an active shooter incident had occurred part of
11 the training that you've received?

12 A Yes. Yeah, you have to clear just to
13 make sure there's not another additional threat in
14 the area.

15 Q When you apprehended the perpetrator,
16 were you aware that there were no other
17 perpetrators or co-perpetrators involved?

18 A At the moment that I apprehended him, I
19 waited for my backup to arrive in order to make
20 sure, or at least to assure me, he's the only one
21 that was the threat. At that point in time I had
22 no idea if there was a second or third. Just
23 based on what's been going on worldwide at that
24 point in time, I know based on training and
25 listening to the TV reports and so forth that

1 there could be a second or third perpetrator. So
2 before I apprehended him, I made sure I waited for
3 my backup before putting any handcuffs on him.

4 Q Okay. As part of your training, are you
5 instructed to work with other officers in
6 identifying whether other threats exist or are
7 likely to exist?

8 A Yes. Yes.

9 Q Did you coordinate, once you apprehended
10 the perpetrator, with other law enforcement
11 officers?

12 A I did, yes.

13 Q Is that consistent with your training in
14 active shooter incidents?

15 A Yes.

16 Q Were among the other law enforcement
17 officers with whom you communicated and
18 coordinated people assigned to non-BSO law
19 enforcement agencies?

20 A No, they were all BSO deputies.

21 Q Okay. Did you become aware that other
22 law enforcement agencies responded to the airport?

23 A Yes, and that's only after the
24 perpetrator was in custody and I had come back to
25 work the terminal those additional hours until I

1 went home, yes.

2 Q Okay. So you took the perpetrator into
3 custody, secured him and did processing consistent
4 with an arrest?

5 A That is correct, yeah.

6 Q To whom did you put the perpetrator into
7 custody? Whose custody did you bring him to?

8 A I left him with -- I don't remember his
9 name. George McCord was there helping me out,
10 Deputy George McCord, and then I had Danny -- I
11 forgot his last name. But Danny was there, too.
12 And then the SWAT member, I believe Jason Rotella,
13 showed up and we passed that -- the deputy, I
14 mean, he was there to secure the prisoner, so we
15 passed that on.

16 So those are the three members that I
17 left the prisoner with because I had to go back.
18 I told them, look, I need to go back to my post
19 and clear that up, because there was nobody there.
20 Everybody was really targeting the -- or securing
21 the crime scene down at the baggage claim.

22 Q Okay. Did you become aware after the
23 prisoner was secured that other agency law
24 enforcement officers responded to the airport?

25 A Yes.

1 Q What agencies did you become aware of?

2 A I saw FBI, I saw Customs, law
3 enforcement agents from Customs, U.S. Customs,
4 postal police. There was a couple more, I just
5 couldn't -- I couldn't tell what their emblems
6 were.

7 Q Were you aware of U.S. Homeland Security
8 responding?

9 A I was not aware.

10 Q Okay. In the process of clearing
11 Terminal 2, did you work with other BSO officers
12 in working on clearing?

13 A Not at that time. Not at the beginning,
14 no, I did not.

15 Q Were you attendant to life safety issues
16 when you were clearing the terminal?

17 A Yes. If people needed to see
18 paramedics, absolutely, I was willing to bring the
19 paramedics to them --

20 Q Okay.

21 A -- yes, absolutely.

22 Q Did you make any communications on your
23 law enforcement radio about any aspects of
24 clearing the terminal?

25 A In the beginning of the incident, I

1 would say within the next half hour or 45 minutes,
2 I did make a couple and that was in relation to
3 the burners and making sure I was getting people
4 out, that I was attempting to clear the second --
5 the terminal area. Then after that I did not make
6 any more, no.

7 Q Okay. As the hours progressed till
8 eight o'clock when you concluded, did you see more
9 law enforcement officers and emergency responders
10 come to the airport area?

11 A Yes. Yeah.

12 Q Were you aware of others like yourself,
13 other deputies or law enforcement officers,
14 working on clearing other terminals in other parts
15 of the airport?

16 A Yes, but through the radio.

17 Q Okay.

18 A I didn't know any other way. You know,
19 I didn't see them personally. I just knew that
20 through the radio.

21 Q As part of your training, was it
22 understood that the airport itself would need to
23 be cleared and checked?

24 A Yes.

25 Q That was not unusual as far as you

1 understood?

2 A Correct, that's not unusual.

3 Q Did you participate in any effort to
4 move people off the airport grounds?

5 A No, I did not participate in that.

6 Q Are you aware of law enforcement
7 officers engaging in efforts to move people off
8 the airport grounds?

9 A Yes.

10 Q Did you understand that to be consistent
11 with the training to such incidents that you've
12 been through?

13 A Yes.

14 Q What was, as far as you understood it
15 from your training, the importance of clearing not
16 just the terminal but other terminals and the
17 airport grounds following an active shooter
18 incident?

19 A We were -- you know, based on our
20 training, just to make sure that those facilities
21 where people congregate for flights and so forth,
22 that they had to be secured. Because once the
23 active shooter was there, some of that security
24 was compromised. Those security areas were
25 compromised just based on how the people reacted

1 towards this active shooter. So once the secured
2 areas are compromised, to my knowledge, to my
3 training, we have to re- -- we have to go and scan
4 and clear those rooms, make sure there is no other
5 security threats or features that were compromised
6 and just to put back -- everything back to the way
7 it was prior to the shooting, you know, maintain
8 those facilities and areas secured.

9 Q You mentioned that in the immediate
10 aftermath of the shooting there was what you
11 described as chaos?

12 A Yes.

13 Q Do you recall that?

14 A Yes.

15 Q Is that type of response consistent with
16 your training in handling active shooter
17 incidents?

18 A Yes. They told us that when an incident
19 like this occurs to the non-training --
20 non-trained personnel it would be chaos.

21 Q And by "non-trained personnel," the
22 public, the general public?

23 A Correct. The general public that's not
24 associated with anything with law enforcement,
25 yes, it'll be chaos.

1 Q So your training recognizes the likely
2 reaction of regular people?

3 A Absolutely.

4 Q And did your training assist you in
5 responding to that reaction of regular people in a
6 way to protect their health and safety?

7 A Absolutely. Yeah. Yes, they did.

8 Q Did you understand as part of your
9 training that one of your principal objectives was
10 to incapacitate the perpetrator or the perceived
11 perpetrator?

12 A Absolutely, yes.

13 Q And did you do that?

14 A I did.

15 Q You would probably say that the response
16 to the Fort Lauderdale Airport shooting was a team
17 effort, but with regard to your work, did you seek
18 out the recognition you received as Deputy of the
19 Year?

20 A Oh, absolutely not. I didn't want to be
21 recognized for something that I believe should be
22 ingrained in every law enforcement officer that
23 wears our uniform. The actions I took that day I
24 believe are the actions that should -- you know,
25 every member of BSO should take immediately, yes.

1 Q Following the Fort Lauderdale Airport
2 shooting incident, did you participate in any way
3 in a postmortem or an after-action evaluation?

4 A No, I did not. I did not participate,
5 no.

6 Q You were interviewed?

7 A Oh, yes. Yes, I was interviewed. I
8 did -- it was the FBI's case. They took
9 statements the day of and I believe it was like a
10 couple of weeks later when I had to give a
11 statement for them on the actions or what occurred
12 that day.

13 Q You became aware as a result of the type
14 of active shooter incident involved at the airport
15 that the FBI was either taking control of or
16 taking involvement in the shooting?

17 A That's correct, yes.

18 Q And did you cooperate with the FBI in
19 their investigative efforts?

20 A Yes. I gave them all the statements
21 they needed and, you know, attended anything else
22 they needed from me, absolutely.

23 Q Following that January 6, 2017 incident
24 and your departure from the scene later that
25 night, did you continue to work at the Fort

1 Lauderdale Airport?

2 A Yes. The next week I was there already
3 working my shift --

4 Q Okay.

5 A -- on that detail.

6 Q And did you and the colleagues of yours
7 who had similar shifts do anything different based
8 on the incident that had occurred on January 6,
9 2017?

10 A Different in what way? I mean, they are
11 still doing the policing in the airport, the
12 terminal like we were before.

13 Q As a result of your having lived through
14 and your heroism on the January 6, 2017 day, did
15 you as a law enforcement officer believe that you
16 and people similarly situated needed to have
17 different kind of training or other instructions
18 on how to respond to such an incident?

19 A No. I believe the training covered how
20 I responded and reacted to that threat. I mean,
21 there's -- I mean, there's no other -- I mean, how
22 much more training? Maybe more scenarios
23 possibly, but I don't foresee us needing more
24 additional training or any different training,
25 just do it consistently and that's it. If we are

1 allowed to do it every year, we're fine. I mean,
2 that's my opinion of it, yes.

3 Q There is another incident that forms the
4 basis in part of the suspension of Sheriff Israel
5 and that's generally called the Marjory Stoneman
6 Douglas High School shooting. You're familiar
7 with the incident?

8 A Yes.

9 Q Were you a responder to that incident?

10 A I was, but in a different capacity.

11 Q In what capacity?

12 A I actually -- being the OIC at this
13 point in time of the unit, I launched --

14 Q The aviation unit?

15 A The aviation unit, that is. So I
16 launched one aircraft, and that was for the air
17 ambulance portion of operations, and then I
18 launched a second aircraft that I piloted to
19 search for the perpetrator at that point in time.

20 Q Was that activation consistent with your
21 law enforcement training and experience based on
22 what you understood to be an active shooter
23 incident?

24 A Yes. Yes.

25 Q And did you understand it to be an

1 active shooter incident?

2 A You're talking about -- specifically
3 about --

4 Q When you launched the two planes.

5 A Yes. Yes, I did.

6 Q Okay. Did you receive instructions or
7 information about what was happening at Marjory
8 Stoneman Douglas?

9 A We did through the radio, through
10 dispatching, yeah.

11 Q And is that the same dispatching
12 communication system that you used at the airport?

13 A That is correct.

14 Q Okay. Do you know who controls that
15 dispatching radio communication system?

16 A The Broward County. Broward County.

17 Q Broward County?

18 A Broward County.

19 Q Not Broward Sheriff's Office?

20 A Not BSO, no.

21 Q Are you aware that other law enforcement
22 agencies utilize that communications system?

23 A Yes, I believe so.

24 Q Such as local police officers?

25 A Local police, yes, sir.

1 that policy. You've been trained on that policy?

2 A Yes.

3 Q That was part of your active shooter
4 training?

5 A Yes.

6 Q Did any part of that policy and your
7 training on that policy inhibit you from
8 responding as you've described your response to
9 be?

10 A No.

11 MR. KUEHNE: I have no further
12 questions. I pass the questioning to
13 Mr. Primrose.

14 CROSS-EXAMINATION

15 BY MR. PRIMROSE:

16 Q Thank you, Deputy, for taking the time
17 to speak with us this morning. First, I do want
18 to commend you on your quick response to the Fort
19 Lauderdale shooter.

20 I want to start with a question that
21 Mr. Kuehne just asked you about the deputies that
22 were working underneath your command during the
23 Marjory Stoneman Douglas shooting. He had asked
24 you if those officers acted in a way that was
25 consistent with the training that they received.

1 I just want to make sure that I
2 understand this correctly. You and the officers
3 that were under your direction during the Marjory
4 Stoneman Douglas shooting were not actually boots
5 on the ground at the school itself?

6 A That is correct. That is correct. I
7 had a pilot on one aircraft and I had -- my
8 tactical fly officer, which is also a pilot, he
9 was flying with me in that aircraft. That is
10 correct, sir.

11 Q So when the question of everybody acted,
12 at least in your unit, according to policy, that
13 has nothing to do with the policy about responding
14 to an active shooter; right?

15 A Well, I mean, we did react to an active
16 shooter, it's just we -- not in the capacity of
17 what you define as boots on the ground. We
18 reacted by placing a platform or resource above to
19 overwatch and to seek and find the actual
20 perpetrator.

21 Q I completely understand.

22 But I guess the policy that Mr. Kuehne
23 just read you, the 4.37, that was not a policy
24 that was necessarily utilized by your unit in
25 responding to the Marjory Stoneman Douglas

1 shooting?

2 A I mean, we -- I mean, we're deputies,
3 you know, and we all gotta follow procedures and
4 policies. So if there is an active shooter, just
5 depends how you get there.

6 Q I guess let me ask it this way.

7 A Sure.

8 Q You, nor the deputies that were in your
9 unit, were specifically utilizing the policy about
10 if intelligence exists you may enter the
11 structure?

12 A I see what you're saying. No, they
13 didn't use it in that sense. I see what you're
14 saying.

15 Q Okay.

16 A Okay.

17 Q You also mentioned that you were
18 interviewed by the FBI in the aftermath of the
19 Fort Lauderdale Airport shooting; is that correct?

20 A Yes, they took statements --

21 Q Okay.

22 A -- from me. And then after that they
23 subpoenaed me and brought me in to do some more
24 statements.

25 Q Okay. Were you ever interviewed by any

1 of the BSO deputies for an investigation after the
2 Fort Lauderdale Airport shooting?

3 A No.

4 Q So you never spoke with -- and let me
5 just get to the cover page here real quick.

6 Okay. So did you ever speak with
7 Major Cedeno about the Fort Lauderdale Airport
8 shooting?

9 A If I did, I don't know if it was --
10 you're asking if I got interviewed is what
11 you're...

12 Q Well, okay, did you provide any --

13 A Statement?

14 Q -- statement --

15 A A written report? Yes, I had to on the
16 BSO side because it was required based on OSSI,
17 based on our reporting system. Even though the
18 FBI took over as far as the case goes, my
19 understanding, I still had to provide some -- a
20 statement of what occurred that day, yes.

21 Q Okay. Did you have a chance to review
22 any of the two drafts or the final report that was
23 issued by the Broward Sheriff's Office into the
24 Fort Lauderdale Airport shooting?

25 A No, I did not. And like I said, maybe

1 we weren't on camera, I have not -- I believe I
2 said earlier I never even seen the video either.

3 Q Okay.

4 A I know people keep telling me, hey, have
5 you seen the video? I haven't seen no video.

6 Q Okay. So I want to read you some
7 statements from the three different versions of
8 the report and just get you to tell me your
9 opinion of the statement that's in there.

10 One of the statements is that "there was
11 no reason for those assigned, involved or
12 potentially designated to responding to incidents
13 not being formally acclimated with the operational
14 demands, layout and key operational components of
15 the Broward Sheriff's Office airport district."

16 Do you agree with that statement?

17 A That's pretty broad because -- I guess
18 I'm assuming it depends on where that deputy is,
19 how much they know about the layout of the airport
20 itself.

21 Q Okay. When Mr. Kuehne was asking you
22 about training specifically when you were at the
23 airport, I believe you had mentioned you didn't
24 get any specialized training under BSO for the
25 airport other than what was required as part of

1 your duties with the TSA checkpoint. Is that
2 correct?

3 A That's correct.

4 Q So there wasn't a specific training
5 related to how to respond in an active shooter
6 situation that was Fort Lauderdale
7 Airport-specific, was there?

8 A No.

9 Q Were there any specialized policies that
10 governed the airport district deputies and how
11 they were supposed to act or respond to situations
12 within the airport?

13 A Sir, I wouldn't know that because I'm
14 not assigned to the airport as a district deputy.
15 I was just there as a detail deputy, which is
16 completely different.

17 Q Okay. But I guess -- I guess what I'm
18 getting at, though, is when you were assigned to
19 the airport, there wasn't a whole other course of
20 training that you were required to go through
21 because you would now be in a different setting
22 than if you might be on the streets or at a school
23 or any other type of location?

24 A Right. Right. Yes.

25 Q Okay. Another statement that was made

1 in one of the reports is that the individuals that
2 were assigned to the airport district maybe were
3 lulled into a false sense of security since it's
4 not as dangerous as being out on the streets.

5 Would you agree with that statement?

6 A You know, you're asking for an opinion,
7 I think, and I'm just going based on my experience
8 working there. You always learn something new
9 because you've never seen it before and you go
10 like, wow, I couldn't see that coming. With
11 people -- so many thousands and millions of people
12 going through that checkpoint, I can't, you know,
13 I can't agree on that because things will be
14 different, I mean. And I understand what you're
15 getting at. On the street, yeah, I can see where
16 it's a little more dangerous, at least it appears
17 that way, but the airport could be just the same.
18 It has definitely changed my mindset or outlook on
19 that.

20 Q Okay. Let me read you one of the areas
21 of improvement --

22 A Okay.

23 Q -- that was listed in a draft of the
24 After-Action Report, and this is what it says:
25 "BSO district personnel, though many are tenured,

1 most avoid complacency based on their environment
2 and a perceived sense of security. BSO deputies
3 assigned to the BSO airport district can mistake
4 the assignment as a lessened exposure to harm or
5 perceived retirement when the contrary is highly
6 needed to vigilantly address and deter active
7 shooter and bombing events. Historically, it has
8 been an accepted process, but times have changed
9 immensely requiring a global view to assigned
10 personnel."

11 Okay. I want to start with the first
12 area of improvement that was suggested. And this
13 is going back to 2017.

14 A Okay.

15 Q So certainly you were -- you've gone
16 through the situation, now you have a different
17 understanding and appreciation for the
18 complexities of the airport.

19 But the first statement that the "BSO
20 district personnel, though many are tenured, must
21 avoid complacency based on their environment and a
22 perceived sense of security," do you agree with
23 that area of improvement statement?

24 A (No oral response.)

25 Q Maybe prior to the airport shooting?

1 A Could be prior maybe, yes.

2 Q Okay. What about the statement that
3 deputies assigned to the airport district can
4 mistake the assignment as lessened exposure to
5 harm or perceived retirement?

6 A It's just hard coming from me because
7 I'm not assigned there --

8 Q Right.

9 A -- you know, and I don't take my work as
10 a retirement location. So, I mean, it's hard for
11 me to put -- you know, agree or disagree on
12 something that's just not my belief. It's just a
13 statement, so.

14 Q Well, let me ask you this. I mean,
15 taking yourself out of it, because I do want to --
16 I do, you know, commend your response. And I
17 think -- as you stated earlier, I think your
18 military experience is probably something that
19 puts you on a different level than some that don't
20 have military training and experience.

21 If you were to step out of your position
22 and look at what was going on in the airport
23 district back then, would that statement that
24 those assigned mistake the assignment for lessened
25 exposure be an accurate statement?

1 A I mean, you're look- -- I'll be looking
2 at really a little piece of the pie. The
3 airport's huge and there's a lot of facets of it
4 that I am not even -- I can't even begin to fathom
5 what they have to deal with in that district. So
6 I can only give you like a piece of the pie. Now,
7 I didn't feel that way, at least not -- at least
8 in my position. And also understand that when I
9 did take over some of those position checkpoints I
10 might be the only deputy there, so I would not,
11 like, be exposed to a lot of the dealings that
12 goes on in the district per se. I was
13 concentrating on just the TSA checkpoint.

14 Q Okay.

15 A You can hear the calls on the radio
16 going out and terminal deputies handling those
17 calls. So there wasn't a lot of like, you know,
18 per se, you know, sitting around talking to a
19 couple of guys, you know. You would back them up
20 when they needed assistance and stuff like that,
21 but I don't know, you know, the realm or the
22 facet. You speak in my area, I can tell you
23 exactly all the stuff that goes on in aviation.

24 Q Yeah.

25 A But I'm kind of, like, out -- you know,

1 I'm looking -- I'm putting myself, like you're
2 saying, outside looking in, but it's just a small
3 slice of the pie of a big --

4 Q Okay. So you wouldn't necessarily, if
5 I'm understanding you correctly -- and I don't
6 want to put words in your mouth, but you would
7 say -- that opinion -- you can't necessarily
8 answer that opinion because you don't have the
9 full scope of everybody that was there at the
10 airport --

11 A Correct.

12 Q -- around that time and --

13 A Correct. And if you -- I believe I was
14 only there maybe a couple months prior to the
15 incident. I just got my badge, I just got the
16 assignment, so I didn't know as many people at the
17 airport, to include command, in reference to now.
18 I mean, now people, unfortunately, I don't like
19 it, but they come to me because they think, you
20 know, what I -- what happened that day. That's
21 how I got to know more people, otherwise --

22 Q Okay.

23 A -- I'd be just another guy going in.

24 Q So I guess one of the other things in
25 the report, and I'm just going to kind of

1 summarize it, is that there were some failures
2 that the report authors attributed to a deficient
3 airport district command. Do you have any
4 thoughts on that conclusion or opinion by the
5 report authors, that there was a deficient airport
6 district command at the time?

7 A The only thing I can say, and that's my
8 opinion, if someone saw a deficiency, then
9 apparently someone had to have evidence of it.
10 That's the only way I can think of.

11 Q Okay. Another area of concern
12 identified in the draft versions of the report was
13 a lack of tactical preparedness. And, again, I
14 don't think that applies to you because you
15 certainly acted quickly and apprehended the
16 shooter, but from an overall perspective, what are
17 your thoughts on that area of improvement
18 recommendation by the report authors?

19 A Maybe I can compare it with other
20 airports that I've been to.

21 Q Okay.

22 A And that's just my opinion. You know,
23 you see armed security or armed police at the
24 airport more vigilant and maybe you didn't see
25 that at Fort Lauderdale. But I don't know if

1 that -- again, that goes back to is that something
2 that's in policy or that's something that, what we
3 mentioned earlier, BCAD had control over. You
4 know, I believe there should be more tactical
5 stuff. I definitely agree, but I'm definitely not
6 in any position to make those kind of policies or
7 procedures, you know, at all.

8 Q Right. And that would partially be -- I
9 mean, you could probably suggest some changes, but
10 ultimately there's a chain of command of who can
11 approve going to a more tactical response or
12 presence; right?

13 A Correct. And as large as our agency is,
14 you know, I'm really probably not even in a
15 position to even suggest based on my rank and so
16 forth.

17 Q Okay. Who is the top person in the
18 agency of Broward Sheriff's Office who can
19 ultimately make the decision of whether or not to
20 go to a more tactical presence and response?

21 A I work for the Division of Law
22 Enforcement. I'm assuming it has to do either
23 with the colonel of law enforcement in conjunction
24 with the undersheriff and the sheriff itself. I'm
25 assuming that would be the people that would get

1 involved in that.

2 Q And this is going to sound like a real
3 obvious question, but who's the ultimate
4 decision-maker for Broward Sheriff's Office?

5 A The sheriff himself, sir.

6 Q Okay. I want to go back to the report.
7 One of the reports said that there was a need for
8 more than just tabletop exercises and threat
9 assessments back in 2017. Do you agree with that
10 area of improvement, that there needed to be more
11 than just tabletop exercises and threat
12 assessments?

13 A Yes; but then I just won't go just with
14 Fort Lauderdale, I have to go through, you know,
15 schools and every other area, government centers
16 and so forth that you probably do need to build up
17 some scenarios and practice, not just table talk.
18 I agree.

19 Q So is that something that you still
20 believe, that there needs to be more than just --
21 I mean, I guess it would be what, like real-life
22 scenario training more frequently? Is that what
23 you're talking about?

24 A Yes.

25 Q Okay. My understanding is prior to the

1 Fort Lauderdale Airport shooting in January of
2 2017 there was a tabletop exercise that occurred
3 within the airport district. Were you a part of
4 that?

5 A No, I was not.

6 Q Okay. Can you tell me what -- when you
7 were at the airport specifically, and I know you
8 said you were only there for a couple of months --
9 well, I guess it would have been -- what's
10 that? -- almost a year?

11 A Almost, yes.

12 Q So what kind of specific training did
13 you do within the airport itself during that time
14 from when you got there to January of '17?

15 A Well, like you mentioned before, I mean,
16 we don't have specialized training for someone
17 that takes a security position at the airport.

18 Q Did you take part in the -- well, I
19 guess this would have been before you got there,
20 but my understanding is there was also a
21 full-scale exercise conducted with some other
22 agencies in Miami-Dade in the winter of 2016,
23 about February of 2016. Did you take part in
24 that?

25 A I did not, sir, no.

1 Q Okay. So if I understand correctly,
2 from the time you got to the Fort Lauderdale
3 Airport through the shooting in January, you never
4 took part in a full-scale exercise or tabletop
5 exercise related to the airport specifically?

6 A Correct.

7 Q What about after the shooting? Did you
8 take part in any full-scale exercises specifically
9 related to the airport?

10 A No, I did not.

11 Q Okay. Were you -- how much were you
12 involved in the response after the shooter was
13 apprehended at the airport?

14 A Well, I stayed in my terminal and, like
15 I discussed earlier, I cleared the top. And then,
16 of course, I stayed in the -- then I stayed at the
17 front end because the TSA manager, there's gates
18 on there, on the area, too, and he ended up
19 locking them up to not allow, you know, just
20 stragglers to come and go from the checkpoint once
21 it was cleared. So I positioned myself towards
22 the, you know, where the ticket counter is, the
23 unsecured area of the terminal. And then --

24 Q Okay.

25 A -- posted there and then assisted on the

1 crime scene when they needed more assistance down
2 there as far as security goes.

3 Q So would you have any independent
4 knowledge of the response that was going on in the
5 other terminals after you apprehended the shooter?

6 A Other than the fact there was
7 possibly -- I know there was radio calls about
8 another shooter, so forth, and I think -- I
9 definitely assisted on the people panicking,
10 trying to intervene in the crime scene, yes.

11 Q Okay. Was there any -- prior to the
12 shooting was there training about how the team
13 would communicate as a whole in a situation like
14 this, a large airport, a call of an active
15 shooter, you know, what would be appropriate
16 things to say on the radio, how to check to make
17 sure you're not giving misinformation and causing
18 more chaos? Was there anything like that that
19 happened before the shooting?

20 A Not specific to the airport, no. No.

21 Q Okay. I guess in general, though, was
22 there training on communication between the team
23 members?

24 A Just when we did our active shooter
25 training, that was the training we got based on

1 the scenarios there.

2 Q Okay. Do you have an opinion one way or
3 the other as to whether or not what you heard over
4 the radio on the day of the shooting at the
5 airport was in compliance with what you learned in
6 your training about making sure not to send
7 misinformation over the radio or speak too quickly
8 before confirming?

9 A Yes. But, again, being that the airport
10 is such a large facility and so many people spread
11 out, I can understand how that radio system got
12 way under -- I mean got overstressed, I should
13 say, so much transmissions just making sure that
14 there possibly wasn't a second or third threat.
15 So --

16 Q And I'm not necessarily talking about
17 the throttling back of communication because,
18 actually, the governor's office hasn't made the
19 radio system or the deficiencies of it an issue.
20 I'm talking more about just the deputies using the
21 radio in compliance with what they were trained.

22 And I guess my question is more along
23 the lines of: Did it seem to you or do you have
24 an opinion if deputies were using the radio and
25 sending intel in an appropriate manner, you know,

1 checking to make sure that what they were saying
2 over the radio was actually accurate versus
3 knee-jerk statements that might have caused
4 unwarranted chaos?

5 A Well, the thing is that after the
6 shooting you can only imagine how the deputies
7 were as far as pins and needles and the amount of
8 people that were involved in that airport at that
9 point in time. So the real intel was actually
10 deputies providing that through the radio system.
11 There was no other way to -- you know, even though
12 we have cameras at the airport, there was no way
13 anyone looking at those cameras, transferring that
14 information through the radio system to law
15 enforcement.

16 And then the multiple agencies that were
17 not utilizing the same frequency or channels and
18 we were not able to communicate, I'm pretty sure
19 it added more to the confusion or to the proper,
20 you know, communication process, trying to get
21 information through the radio system itself.

22 And I understand what you're saying. I
23 think what I heard in my opinion was intel, was
24 real information. The problem was it was such a
25 huge facility and the amount of people that were

1 there, you know, you can only gather so much of
2 it.

3 Q Are you familiar with the events that
4 happened at the Los Angeles airport a couple of
5 years prior to the Fort Lauderdale Airport?

6 A Yeah, I don't know the full -- the full,
7 but I have heard some remnants of it.

8 Q Okay. So at least -- well, I guess let
9 me just ask it this way: One of the ways that
10 could potentially have minimized the confusion and
11 chaos, do you believe it would be a real-life
12 training exercise at the Fort Lauderdale Airport
13 shooting [sic] to really put deputies and other
14 responding agencies in a position where they can
15 see the sheer mass of people and response that
16 might happen?

17 A I mean, if you want my opinion, I'm
18 going to be biased, you know, because of my
19 military training. We did everything that --
20 before we went to a mission, we had to know
21 everything, everything that was involved in what
22 we were getting into, what's the survey of the
23 land, the building, so forth. Would we like to do
24 that as law enforcement? Absolutely. I think we
25 can. I just don't know if the resources are

1 there, available to conduct such a thing.

2 Q Okay.

3 A I know every time, at least in aviation,
4 I try to do something, I know it comes down to the
5 resources, do we have the resources available to
6 conduct that kind of training. And then, again,
7 you also got to think about, okay, what's the
8 benefit/risk on the financial spending of that
9 resource or what you're going to get out of it, I
10 mean.

11 MR. PRIMROSE: Okay. Mr. Kuehne, I
12 don't have any other questions.

13 Deputy, I do appreciate you taking the
14 time off to come speak with us today.

15 THE WITNESS: All right. Thank you.

16 MR. KUEHNE: Thank you. I do have a
17 couple follow-ups.

18 REDIRECT EXAMINATION

19 BY MR. KUEHNE:

20 Q Deputy, were you at any time on
21 January 6, 2017 in your capacity as the detail
22 deputy at the Fort Lauderdale Airport complacent?

23 A No.

24 Q Were you thinking of your eventual
25 retirement as a result of being assigned to the

1 airport?

2 A No. No.

3 Q Are you aware of any other deputies that
4 you knew at the time who were assigned to the
5 airport who were thinking about what a cushy job
6 this was, I'm getting ready to retire?

7 A The guys personally that I knew at that
8 point in time?

9 Q Right.

10 A None of them. No, they still had many
11 years to go before retirement.

12 Q At the time --

13 A Right.

14 Q -- were you aware of any deputies
15 assigned to the airport who were complacent in
16 their duties and -- in fulfilling their duties and
17 responsibilities?

18 A Not the guys that I knew at least, no.

19 Q You mentioned briefly in response to one
20 of the questions something about at your level.
21 Let me focus on that.

22 Do you believe as a deputy either in
23 January of 2017 or today if you make any
24 recommendations or suggestions up the chain of
25 command that they are well received and

1 considered?

2 A Yes, I believe so. Yes.

3 Q You recognize your authority to make
4 decisions?

5 A Yes.

6 Q What you're allowed to do?

7 A Yes.

8 Q As OIC --

9 A Yes.

10 Q -- of the aviation unit, you have some
11 decision-making responsibility?

12 A Oh, absolutely. I do. I do.

13 Q When something's not at your
14 decision-making responsibility, have you at the
15 airport assignment or your current assignment made
16 recommendations to the staff above you to look at
17 things a different way or to think of other things
18 to do?

19 A Yes, I have.

20 Q And let me stop you at the time that
21 Sheriff Israel was the sheriff, the active sheriff
22 of Broward County. So not the time when the
23 appointment, Sheriff --

24 A Okay.

25 Q -- Tony, is there.

1 A Okay.

2 Q But up to the time of Sheriff Israel
3 being active sheriff, did you find that the chain
4 of command was receptive to any suggestions and
5 recommendations that you made?

6 A I believe so at that time, yes.

7 Q And let me just close on another item
8 you were asked about and that was the later radio
9 traffic at the airport.

10 At any time in the training and
11 experience you've received with active shooter
12 incidents, have deputies been told to tone down
13 their radio communications and not report
14 intelligence that may be helpful to those on the
15 scene?

16 A No. No.

17 Q In your experience that day, going to
18 the eight o'clock time, did you find the radio
19 communication to be helpful to you as an assigned
20 deputy in doing your job?

21 A At that time, yes. Yes.

22 MR. KUEHNE: I have nothing further.

23 Anything more?

24 MR. PRIMROSE: No other questions.

25 MR. KUEHNE: The deposition is

1 probably -- so we're finished with the
2 deposition. The deposition is probably going
3 to be transcribed.

4 THE WITNESS: Okay.

5 MR. KUEHNE: You have a right to look at
6 the transcript. Certainly when it gets
7 transcribed I'll send it to Terrence Lynch;
8 he's the chief legal counsel.

9 THE WITNESS: Okay.

10 MR. KUEHNE: But you also have a right
11 to read it before it gets finalized.

12 THE WITNESS: Okay.

13 MR. KUEHNE: But you need to let me know
14 what you need to do. And we'll probably be
15 asking to do transcripts fairly quickly.

16 THE WITNESS: Okay.

17 MR. KUEHNE: So do you need to read it
18 first or are you okay with transcribing and
19 us just sending it to Terrence Lynch? You
20 can always look at it and make any
21 corrections.

22 THE WITNESS: I'm okay with it, yes.

23 MR. KUEHNE: Okay. So I'll just send it
24 to Terrence Lynch directly if it's
25 transcribed, but I think it will be.

1 THE WITNESS: Okay.

2 MR. KUEHNE: Thank you very much,
3 Deputy. We appreciate you being here.

4 THE WITNESS: Thank you.

5 Thank you, sir.

6 MR. KUEHNE: Oh, by the way, I forgot to
7 hand the deputy his subpoena. He got it
8 already from Terrence Lynch, but I'm just
9 handing him the subpoena --

10 MR. PRIMROSE: Okay. Thank you, Deputy.

11 MR. KUEHNE: -- so it's clear that he's
12 under subpoena.

13 THE WITNESS: All right. Thank you.

14 (Witness excused.)

15 (Thereupon, at 12:13 p.m. the deposition
16 was concluded.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BROWARD)

I, Carol Ann Kridos, Registered
Professional Reporter, Notary Public in and for
the State of Florida at Large, certify that the
witness, DEPUTY JESUS MADRIGAL, personally
appeared before me on June 5, 2019 and was duly
sworn by me.

WITNESS my hand and official seal this
7th day of June, 2019.

Carol Ann Kridos
Registered Professional Reporter
Notary Public - State of Florida
Commission No.: FF977714
My Commission Expires: 4/27/20

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ACKNOWLEDGMENT OF DEPONENT

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.

DEPUTY JESUS MADRIGAL

SUBSCRIBED AND SWORN before and to me this ____ day of _____, 2019.

Notary Public, State of Florida
My Commission Expires:

REASON FOR WITNESS'S NON-SIGNATURE:

_____ WITNESS FAILED TO APPEAR

_____ WITNESS COULD NOT BE LOCATED

_____ WITNESS IS ILL

_____ WITNESS REFUSED TO SIGN

_____ OTHER _____

1 REPORTER'S DEPOSITION CERTIFICATE

2 I, Carol Ann Kridos, RPR, certify that I was
3 authorized to and did stenographically report the
4 deposition of DEPUTY JESUS MADRIGAL, the witness
5 herein, on June 5, 2019; that a review of the
6 transcript was requested; that the foregoing
7 pages, numbered from 1 to 61, inclusive, are a
8 true and correct transcription of my stenographic
9 notes of the deposition by said witness.

10 I further certify that I am not a relative,
11 employee, attorney or counsel of any of the
12 parties, nor am I a relative or employee of any of
13 the parties' attorney or counsel connected with
14 the action, nor am I financially interested in the
15 action.

16 The foregoing certification of this
17 transcript does not apply to any reproduction of
18 the same by any means unless under the direct
19 control and/or direction of the certifying
20 reporter.

21 Dated this 7th day of June, 2019.

22

23

24

Carol Ann Kridos, RPR
Notary Public - State of Florida

25

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5 June 7, 2019

6 Deputy Jesus Madrigal
7 c/o TERRENCE LYNCH, GENERAL COUNSEL
8 BROWARD COUNTY SHERIFF'S OFFICE
9 2601 West Broward Boulevard
10 Fort Lauderdale, FL 33312

11 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
12 DEPO OF: Deputy Jesus Madrigal
13 TAKEN: June 5, 2019
14 READ & SIGN BY: July 7, 2019

15 Dear Deputy Madrigal,

16 This letter is to advise you that the
17 transcript of the deposition listed above is
18 completed and is awaiting reading and signing.

19 Please arrange to stop by our office in
20 Suite 2250, 2 South Biscayne Boulevard, Miami,
21 Florida to read and sign the transcript. Our
22 office hours are from 8:30 a.m. to 4:00 p.m.
23 Monday through Friday. Depending on the length
24 of the transcript, you should allow yourself
25 sufficient time.

If the reading and signing has not been
completed prior to the referenced date, we shall
conclude that you have waived the reading and
signing of the deposition transcript.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

cc: All counsel on appearance page.

1 VERITEXT FLORIDA REPORTING COMPANY
2 2 South Biscayne Boulevard, Suite 2250
3 Miami, FL 33131
4 (305) 376-8800

5
6 June 7, 2019

7 BENEDICT P. KUEHNE, ESQ.
8 KUEHNE DAVIS LAW, P.A.
9 100 Southeast Second Street
10 Suite 3550
11 Miami, FL 33131

12 RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
13 DEPO OF: Deputy Jesus Madrigal
14 TAKEN: June 5, 2019
15 READ & SIGN BY: July 7, 2019

16 Dear Counsel,

17 The original transcript of the deposition
18 listed above is enclosed for your file. The
19 witness did not waive reading and signing and has
20 been sent a letter notifying them to come and read
21 and sign their deposition transcript.

22 The witness will be provided a copy of their
23 deposition transcript for reading in our office
24 should they come in to review the transcript, and
25 we will forward to you any corrections made by the
witness at that time, along with an original
signature page which should be attached to the
original transcript which is in your possession.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

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THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL

-----/

One East Broward Boulevard
Fort Lauderdale, Florida
June 7, 2019
3:12 p.m. - 4:44 p.m.

DEPOSITION OF JAMES POLAN

Taken before Lilly Villaverde, Florida
Professional Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of Taking
Deposition filed in the above-mentioned cause.

1 APPEARANCES:

2

3 BENEDICT P. KUEHNE, ESQUIRE
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5 Kuehne Davis Law, P.A.
6 100 S.E. 2nd Street
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8 Miami, FL 33131
9 on behalf of Sheriff Scott Israel

6

7

8 NICHOLAS A. PRIMROSE, ESQUIRE
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10 Executive Office of The Governor
11 The Capitol
12 PL-05
13 Tallahassee, FL 32399
14 on behalf of Governor Ron DeSantis

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I N D E X

E X A M I N A T I O N S

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E X H I B I T S

NUMBER	DESCRIPTION	PAGE
	No exhibits were marked.	

1 THEREUPON:

2 JAMES POLAN

3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:

5 THE WITNESS: I do.

6 DIRECT EXAMINATION

7 BY MR. KUEHNE:

8 Q. What is your name and spell your last name.

9 A. James David Polan, P-O-L-A-N.

10 Q. And what title do I use for you? You are a law
11 enforcement officer, what --

12 A. My title is assistant chief.

13 Q. Assistant chief. So I can call you chief?

14 A. You can call me Jim.

15 Q. Jim, I want to be appropriately respectful.

16 A. No. Jim is fine.

17 Q. My name is Ben Kuehne. We just met, as I was
18 walking you in. I am counsel or lawyer for Scott Israel
19 in proceedings involving review of his suspension.

20 I've asked you to appear for a deposition and I
21 sent you, but I have, I'm handing you the subpoena for
22 your appearance. So you are a subpoenaed witness in
23 these proceedings. And we'll get an introduction on the
24 record of the governor's counsel.

25 MR. PRIMROSE: This is Nicholas Primrose for

1 Governor Ron DeSantis.

2 BY MR. KUEHNE:

3 Q. I am going to be asking you questions largely
4 about two incidents that occurred. One in January of
5 2017, known as the Fort Lauderdale Airport incident.
6 The other February of 2018, the Marjory Stoneman Douglas
7 High School shooting and policies and procedures at the
8 Broward Sheriff's Office during that general time frame.

9 A. Okay.

10 Q. You worked, at one time, for the Broward
11 Sheriff's Office?

12 A. Yes, I did.

13 Q. In what capacity?

14 A. I was hired as captain in November of 2005,
15 under Sheriff Ken Jenne as a SWAT commander and I
16 retired January 11th of 2019 as a colonel.

17 Q. Is that -- up to 2019, is that the entirety of
18 your law enforcement career?

19 A. No, sir.

20 Q. Okay. Why don't you give me a brief
21 description.

22 A. Sure. I went to the police academy in 1981 in
23 the State of Michigan. I worked for the Cambridge
24 Township Police Department from '81 to '83.

25 I then accepted a position with the Fort

1 Lauderdale Police Department where I worked until
2 November of 2005. I retired as a captain and then
3 transferred over to the Broward Sheriff's Office.

4 Q. And you came in at what position?

5 A. To the Broward Sheriff's Office?

6 Q. Yes.

7 A. Captain for the position of SWAT commander.

8 Q. Okay. How long did you serve in that capacity?

9 A. As a captain, I was in that position from
10 November of 2005 until January of 2009.

11 Q. And then what did you do after that?

12 A. And then new sheriff in town, Sheriff Al
13 Lamberti came in. I was terminated, because of a
14 relationship with Sheriff Scott Israel. I then accepted
15 a position with the Seminole Police Department as a
16 lieutenant, to run their training division and I retired
17 -- I didn't retire from there. I left there in May of
18 2012 as a major and I took a job with Harley Davidson
19 Motor Company, because my background in motorcycles.

20 I moved to Milwaukee because I had to work out
21 of their world headquarters. Lasted one year because my
22 wife is a Florida girl and she wanted nothing to do with
23 snow and I came back to Florida.

24 Q. And certainly Wisconsin gets its share?

25 A. Yes, sir, it does.

1 Q. So you came back to Florida and did what?

2 A. And in June of 2013, I went back to the
3 sheriff's office and I remained there until I actually
4 retired from the Florida retirement system in
5 January 11th of this year. So a total of 38 years in
6 law enforcement.

7 Q. But you're currently working as a law
8 enforcement officer?

9 A. I'm currently an assistant chief with the
10 Seminole Police Department. I have operations and
11 training.

12 Q. Are you a sworn law enforcement officer?

13 A. Yes, sir, I am.

14 Q. Have you kept your law enforcement
15 certification intact largely over those 38 years?

16 A. The entire time, since I was first certified in
17 1981.

18 Q. So even when you worked for Harley Davidson
19 Motorcycle, you still had a valid certification?

20 A. Yes, I did.

21 Q. The Fort Lauderdale Airport shooting took place
22 on January 6, 2017. You're familiar with it?

23 A. Yes, sir.

24 Q. Did you have any active involvement in that?

25 A. I was assigned -- when that occurred, I was in

1 my office at the public safety complex, 261 West
2 Broward, when it occurred. It was over in 85 seconds.
3 We never even left the building, because it was over and
4 completed and turned into a crime scene, therefore, we
5 continued on with our meeting, didn't even drive down.
6 The airport was not under my command at that time.

7 And then approximately, what, an hour and 30,
8 40 minutes later is when, I call human behavior took
9 over and then I ended up being the deputy incident
10 commander in the Broward Sheriff's Office EOC, which we
11 activated for the event.

12 Q. Tell me what an EOC is.

13 A. Emergency operation center. It is basically
14 the -- not your on-site command post, but it is the
15 hierarchy of the command post. So you are staffing it
16 with individuals that are going to make sure that
17 everyone stays at a level playing field, communication
18 past on, orders are given, resources are requested.

19 Q. The hour and a half later that you described as
20 calling you to the scene, was that the result of
21 reporting of potential terrorists activities or shooting
22 activities at the airport?

23 A. Yeah. As a matter of fact, my biggest concern
24 was when I heard -- I don't know how many exactly there
25 were, 12, 13, 14 calls for service for shots fired by

1 different law enforcement, just going from memory, so my
2 concern was we were being attacked by a well-trained
3 team, much as we have seen across this world.

4 Q. As you've developed a perspective on the Fort
5 Lauderdale Airport that was not just a view that you
6 had, that was shared by lots of the law enforcement?

7 A. Yes, sir.

8 Q. Not just BSO?

9 A. No, sir. That's correct.

10 Q. Fair to say that the response to the airport
11 shooting involved a massive amount of law enforcement
12 presence?

13 A. It was actually almost an overwhelming
14 response. I believe the ballpark figure, no one could
15 actually have the exact number, was 2,000 law
16 enforcement officers had responded to that area, many of
17 them from a problem that impacts public safety
18 nationwide called self-dispatching.

19 Q. And that includes law enforcement of virtually
20 every agency, state, local, federal?

21 A. From the tri-county area, yes, sir.

22 Q. And you, as incident commander at the EOC, did
23 you have a responsibility to work and coordinate with
24 the various responding officers and agencies?

25 A. That was done at the on-site command post. So

1 no, sir, I did not.

2 Q. Okay. Did you have any work in any activity in
3 coordinating with any of the federal agency responses?

4 A. No, sir.

5 Q. Okay. Do you know that the FBI was present at
6 the scene?

7 A. That's correct.

8 Q. And actually took charge of the incident?

9 A. Yes, sir.

10 Q. Sometime after the shooter was apprehended?

11 A. That's correct.

12 Q. And was that based on the developing belief
13 that this might be a terrorist-related shooting?

14 A. I'm going from memory, but I believe it had
15 more to do with the firearm being transported from -- in
16 an airplane from state to state, crossing state lines
17 and also the concern for domestic terrorism.

18 Q. Okay. You were at the time a colonel?

19 A. In 2017, I was a -- I believe I was a
20 lieutenant colonel.

21 Q. Lieutenant colonel?

22 A. I'm going from memory.

23 Q. But certainly command staff?

24 A. Yes, sir.

25 Q. And had you worked with federal agencies before

1 in any capacity, not working for them, but working on
2 matters with them?

3 A. Yes, sir.

4 Q. Did that include joint training exercises?

5 A. We had more than one joint training exercises
6 with our feds. Many years ago, we developed a Broward
7 County SWAT Commander Association where all of our SWAT
8 commanders would get together, we would share ideas,
9 equipment, concepts, theories, review after actions for
10 lessons learned on things that we all participated in,
11 and we also had one to two joint training sessions per
12 year and the FBI local team, for their SWAT team was
13 always involved.

14 Q. Fair to say that you have significant SWAT team
15 experience?

16 A. Yes, sir.

17 Q. In the law enforcement world, including BSO,
18 are SWAT team members more specially trained than road
19 officers?

20 A. Yes, sir.

21 Q. Is there a reason for that?

22 A. The type of -- we use a phrase that when the
23 community needs help, they call 911. When police need
24 help, they call SWAT. There's that certain area that
25 there's only so many things we can prepare law

1 enforcement officers to do on the street, because it's a
2 job, unfortunately, where anything can happen, so how do
3 you prepare for everything?

4 So the SWAT team itself, they go through --
5 depending on the agency, I can tell you Broward
6 Sheriff's Office specifically, it's a three-week
7 training period that they have to go through. It's
8 about a 50 percent or higher failure rate.

9 Q. And these are already trained law enforcement
10 officers?

11 A. That's correct.

12 Q. Who then want to develop SWAT experience?

13 A. Yes. And then they have training every
14 Thursday from that point forward.

15 Q. As a command officer, and given your abundant
16 experience in law enforcement, is it possible in an
17 organization the size of Broward Sheriff's Office to
18 equally train every deputy as though they were SWAT
19 officers?

20 A. No.

21 MR. PRIMROSE: Object to form.

22 BY MR. KUEHNE:

23 Q. You can answer.

24 A. No, it's not.

25 Q. Do you see any benefit to law enforcement or

1 the community if every law enforcement officer, road
2 patrol officer were trained as a SWAT member?

3 A. I don't believe it's relevant, only because
4 there's not enough -- there's not enough time.
5 Unfortunately, I hate to use this word, there's not
6 enough money, because training cost money and if you
7 wanted to train everyone to that level of a SWAT team
8 member, there would never be anyone on the road to serve
9 the community, which is really our number one person to
10 serve, the community. No one would be out there. With
11 the number of staffing that the Broward sheriff's -- if
12 you go with the number of sworn, no one would ever be at
13 work.

14 Part two of that, not everyone has the ability,
15 the skill and the knowledge to truly be a SWAT team
16 member, or have the desire to remain physically fit,
17 that they are required to do, and go through testing
18 every year.

19 Q. So you mentioned training, and you sound like
20 you have a significant amount of experience in training
21 at BSO and elsewhere?

22 A. Really started my training career in Fort
23 Lauderdale.

24 Q. Fort Lauderdale.

25 A. And then it continued on to Broward Sheriff's

1 Office and with the Seminole Police Department, that's
2 what I was hired for specifically in 2009.

3 Q. Okay. You are aware of state required
4 training?

5 A. Mandatory training through FDLE?

6 Q. Yes.

7 A. Yes, sir.

8 Q. That mandatory training, during any of the time
9 that you were a law enforcement officer in Broward, did
10 not include active shooter training, did it?

11 A. That's correct, did not.

12 Q. And how about today?

13 A. It does not.

14 Q. You are an assistant chief with a law
15 enforcement agency?

16 A. Yes.

17 Q. And by the way, the Seminole tribe, that's a
18 Native American tribe, are there standards that govern
19 policing in the Seminole tribe?

20 A. I will answer that two ways. Number one, the
21 Department of Interior Bureau of Indian Affairs is the
22 federal accreditation for all tribal community police
23 officers. So it's kind of CALEA.

24 Q. CALEA?

25 A. The Commission Accreditation For Law

1 Enforcement Agencies.

2 Q. Okay.

3 A. Broward Sheriff's Office is a member of that.
4 But the Seminole Police Department, not only do we
5 follow BIA, but we follow the State of Florida law. So
6 we do not work off tribal law. We follow State of
7 Florida law. We serve -- there's seven different
8 reservations throughout Florida, so we deal with five
9 different counties and two different court systems.

10 Q. Okay. And to your knowledge, today, post Fort
11 Lauderdale Airport, post Pulse, an Orlando mass tragedy,
12 mass shooting, post MSD, has FDLE made mandatory active
13 shooter active killer training?

14 A. No.

15 Q. Did, during your tenure with BSO, did BSO make
16 mandatory active shooter training?

17 A. Yes. And I will answer that a couple of
18 different ways. I'm going to back up. Right after
19 Columbine in 1999, when I was with Fort Lauderdale, I
20 actually started the active shooter program with the
21 City of Fort Lauderdale Police Department training Fort
22 Lauderdale police in the active response. I worked with
23 Mike DiMaggio, who is a friend of mine that worked in
24 the police department with me and we spearheaded that
25 training and trained the entire police department for

1 active shooter.

2 When I came to BSO in 2005, I'm going to say it
3 was late 2006, early 2007, I also initiated active
4 shooter at the Broward Sheriff's Office using the SWAT
5 team members. As a matter of fact, the gentleman I just
6 passed in the hallway, who was here prior to me, Steve
7 Robson, he was a deputy on SWAT at the time. He was one
8 of the original cadre members that helped me teach that
9 active shooter training back then.

10 Q. And that was with Sheriff Jenne?

11 A. That was with Sheriff Jenne.

12 Q. And when you came -- when you rejoined BSO, did
13 that active shooter requirement by BSO continue?

14 A. I believe it increased.

15 Q. Increased.

16 A. I believe so. Not only the active shooter
17 training, but during that -- my -- the period of time
18 with Sheriff Israel, we implemented a few different
19 courses that would be on record and filed at the Broward
20 Sheriff's Office. One was supervisory leadership
21 training where every FTO, sergeant, lieutenant were
22 required to go through the training. I taught the
23 class.

24 Q. Tell me --

25 A. It was an eight-hour class.

1 Q. Tell me what FTO means.

2 A. I'm sorry, field training officer. Basically,
3 they are a full-time supervisor because they are
4 training the new cadets that are coming on. They are
5 grooming them for the future.

6 Q. Okay.

7 A. And this supervisor leadership training was a
8 an eight-hour course classroom setting, but it focused
9 on tactical decisionmaking, command post initiation, the
10 requirements they have to do when they are at the
11 command post staging areas and it was multiple tabletop
12 exercises as well. So that was implemented under
13 Israel.

14 We also did critical incident response
15 training, which was, I want to say, I'm going to
16 ballpark figure 2012, '13, but BSO would have the
17 accurate records. All supervisors were required to
18 attend that as well. That was held in Port Everglades.
19 There they also focused on command post training,
20 leadership and decisionmaking for a tactical situation
21 and they went through practical applications with
22 scenarios. So hands-on training for what they learned.

23 Q. And when you say "Port Everglades," that's the
24 seaport?

25 A. Yes, sir.

1 Q. That adjoins the airport?

2 A. Yes, sir. We did all the training there.

3 The third course that was put into play, and
4 again, it will be on file and record at the sheriff's
5 office, crowd management civil disturbance training.
6 And even though it has nothing to do with active
7 shooter, it actually does because it's focused, again,
8 on command post initiation, tactical decisionmaking and
9 directing your troops.

10 Q. You mentioned that civil disturbance training
11 doesn't have -- or crowd management doesn't necessarily
12 involve active shooter training, but isn't -- hasn't
13 experience demonstrated that crowd management is a
14 consequence of active shooter scenarios?

15 A. It very well may be, absolutely.

16 Q. And there is training done at BSO to help
17 respond to that?

18 A. Well, prior to -- again, it would be on file
19 with SO. 2017, the Broward Sheriff's Office did not
20 train their deputies in crowd management control. They
21 did not. They had a special team called field force,
22 mobile field force. There was approximately 150 guys
23 and gals that were trained in crowd management. It's
24 not efficient.

25 Under Sheriff Israel's direction, we then began

1 to train the entire agency in crowd management control,
2 and that went on for -- we were training on Saturdays in
3 Tamarac, eight-hour class, classroom and practical
4 application to complete everyone in the agency for that
5 concept.

6 Q. You mentioned at Fort Lauderdale Airport the
7 shooter was apprehended quickly, but as the situation
8 unfolded, potential for other shooters or other acts of
9 violence. You were at the EOC?

10 A. Yes, sir.

11 Q. And essentially kept track of what was going on
12 on site?

13 A. Yes, sir.

14 Q. There was some radio communications problems?

15 A. Yes, sir.

16 Q. Not unusual?

17 A. Correct.

18 Q. You understood, as did Broward County, that the
19 system, radio system was antiquated overcapacity. Did
20 BSO have a workaround to workaround a deficient radio
21 system?

22 A. No, sir.

23 Q. Did you have to use a lot of people going back
24 and forth actually running or going to locations?

25 A. It was basically back to fundamental

1 communication trying to speak, you know, going from one
2 corner to another to actually speak to someone to get
3 the message across.

4 Q. Okay. And was BSO able to coordinate with the
5 federal agency, FBI, that took command of the airport
6 and all the affiliated responders?

7 A. They were. After the shooting occurred and the
8 shooting was over and the bad guy was in custody, at
9 that point we -- lower level terminal two becomes a
10 crime scene. You know, law enforcement deals with crime
11 scenes every day. So your command bus pulls up and it's
12 basically in front of the crime scene, terminal two, and
13 that basically becomes the communication hub for the
14 entire operation.

15 Again, a ballpark figure, hour and a half hour,
16 and 45 minutes is when the additional problems occurred.
17 Human behavior took over, but the command post had
18 already established. So the working parts were already
19 there for the people to see each other and talk back and
20 forth. So that did help with that unified command
21 presence.

22 Q. Did you have any involvement in the
23 post-airport development of after action reports or the
24 critical incident report?

25 A. I did. The airport shooting occurred on a

1 Friday, the 7th, January 7th, I believe, and the
2 following week, the airport was then placed under my
3 command.

4 Q. Okay.

5 A. So I was involved with the draft, you know,
6 collecting as much as we possibly could of the after
7 action.

8 Q. The development of the after action report
9 leading to the publication of the critical incident
10 report went through several drafts?

11 A. Yeah, there were several drafts.

12 Q. Is that unusual, in the event of the magnitude
13 at Fort Lauderdale Airport, that something would go
14 through multiple drafts?

15 A. I think anything we do in life, we do multiple
16 drafts of. If you are drafting something for a court
17 proceeding, you are not going -- your first hearing,
18 your first draft or memo that you give to a judge, you
19 will never give me your first copy. You are probably
20 going to rewrite that thing three or four times and make
21 sure that's going to be done. I imagine anyone in your
22 profession would do that.

23 Our profession is the same way. You know, we
24 grab everything we can, we throw it against the wall,
25 now we need to look at everything, we need to vet it,

1 make sure it's accurate, make sure it's truthful, make
2 sure it's factual before we put it down on paper for
3 that first go around, and then we have to go through our
4 command process.

5 So, you know, I wasn't the final decisionmaker
6 for that. It would go to my boss, at the time, and at
7 that point it would end up going to the sheriff for the
8 final approval or signature.

9 Q. Okay. And Major Cedeno was first tasked to do
10 the initial fact gathering?

11 A. He was. Major Cedeno was one of my direct
12 reports.

13 Q. Okay. And he put together an early draft?

14 A. Yes.

15 Q. Did he do that in a fairly quick time frame?

16 A. I would say yes. Even when we look at the
17 airport shooting or even more so with MSD, which I know
18 you are going to speak about, you know, it took Sandy
19 Hook almost five years to finish and publish their after
20 action report.

21 Q. Wow.

22 A. So Stoneman Douglas was put out in less than a
23 year. I don't know seven, eight months, and the airport
24 shooting, you know, we were -- I don't remember the
25 exact time line, but it was not even close to five

1 years, like Sandy Hook or Columbine.

2 Q. Well, the critical incident report, and there's
3 a piece of evidence that has it, but the date published,
4 the final report, was October 6, 2017. So essentially
5 nine months after the incident.

6 A. Yeah.

7 Q. Is that speedy by law enforcement standards?

8 A. I believe so, yeah.

9 Q. Was it expected in the BSO system that Major
10 Cedeno's initial draft would then be reviewed, vetted
11 and worked into yet another draft?

12 A. Absolutely.

13 Q. Captain Diefenbacher was assigned to do the
14 next review?

15 A. He was -- I don't remember the next review or
16 not, but obviously Dief was in the -- in that review
17 line. He was going to be the -- probably the final
18 reviewer for structure and grammar, not for content,
19 because he wasn't there, that's not -- not content, but
20 for structure, grammar and how it was going to be
21 formed, and then that would be passed off to, at the
22 time, Undersheriff Steve Kinsey, who was going to be,
23 okay, this looks good enough for me to now give it to
24 the sheriff.

25 Q. And Kinsey was the undersheriff, the number

1 two?

2 A. Yes, sir.

3 Q. Was there a process used to get to a final
4 report after incident report?

5 A. You know, I almost believe that the process
6 ended up being skewed, only because of being sued by the
7 Sun-Sentinel to release that draft. I think that
8 created some issues, some concerns within the sheriff's
9 office, because now we have all this information that's
10 now out in the public and whether it's true, accurate or
11 not, once the accurate report is released, no one cares
12 about the truth at that point, because now all the
13 nonsense that may not be actually truthful is already
14 out into the public.

15 Q. Was BSO, as an institution, focused on getting
16 it right, getting it accurate?

17 A. Of course.

18 Q. And was it expected, within the BSO process,
19 that the early drafts would need a lot of work?

20 A. Yes.

21 Q. Is that -- does that sort of go with the
22 territory with police work?

23 A. You know, we do what's called a debrief or hot
24 wash almost after everything that we do. Even if
25 there's a car chase, there will be a short -- everybody

1 involved will get together, almost like a huddle on a
2 football field, and you will do a debrief. You talk
3 about what did we do well, what do we have to do to
4 improve, so there's almost like an informal after
5 action, like we did for the airport.

6 On Monday, I will be holding an after action
7 review, debrief, for -- we just buried one of our
8 lieutenants who was killed in the line of duty. So we
9 had a very large funeral we had to take care of this
10 week. We will be doing a debrief, did we do well, what
11 do we have to improve upon, even though we pray we never
12 have to do it again, there may be a next time.

13 So there is a structure a format that law
14 enforcement goes through. Learned from the U.S. Army,
15 they wrote the book on after action reviews. That's
16 where we got it from and it's been around for a long
17 time. So without a doubt, you want to get it right and
18 it's going to take time.

19 Q. So there are actually some standards, not just
20 BSO inclination as to what an after action report or
21 review should involve?

22 A. Yes, sir, the Army wrote the book on it.

23 Q. And the purpose for an after action report --

24 A. Yes, sir.

25 Q. -- based on your position and your knowledge of

1 what unfolded at Fort Lauderdale Airport, was there any
2 significant problem with the active shooter training up
3 to the time of that incident?

4 A. Well, you know the airport, obviously it's a
5 unique place. We can't close down the airport to go in
6 and actually train there, even though several years ago
7 we did, but we were training during the midnight hours,
8 you know, they were out there like 2:00, 3:00, 4:00 in
9 the morning to train in the actual concourse.

10 Q. So BSO has done actual training at the airport?

11 A. Yes, yes. It's documented. There's pictures
12 on it with people in there. I was one of the guys doing
13 the training, so I know for a fact it occurred.

14 Q. Nature of rapid response or active shooter
15 scenarios?

16 A. Yes, sir.

17 Q. And also at the seaport?

18 A. At the seaport we did it as well.

19 Q. Okay.

20 A. And I -- there's a video. I'm really quite
21 surprised it hasn't been released in the public with all
22 this stuff going on.

23 In September of 2016, the news came out and
24 actually videotaped the sheriff's office conducting,
25 what I call, realistic, force-on-force active shooter

1 training with simulated gunfire, with using what we call
2 FX marking cartridges shooting at each other with
3 plastic bullets, with role players. It's all on film.
4 It's documented. They interviewed the lead instructor,
5 whose name is Sergeant Morris McCool, they interviewed
6 him, and it shows you exactly the type of training that
7 BSO was providing, but I have yet to see that on the
8 news anywhere.

9 Q. Back to the active shooter training that was in
10 place up to the time of the Fort Lauderdale shooting.

11 Did BSO identify any deficiencies in its active
12 shooter training up to that point?

13 A. Not to my knowledge, no.

14 Q. Did BSO learn from the airport incident and
15 evolve its active shooter training?

16 A. I think the one thing we learned from that, the
17 most is really the command post, the staging areas, you
18 know. The airport itself, there were cars left
19 literally everywhere. Police cars, the roads were
20 clogged, which is common, across the country, if you
21 look at critical incidents, that occurs.

22 Those are a couple key things that we learned,
23 but as far as learning to change things, no, the deputy
24 who responded at the airport, Deputy --

25 Q. Madrigal?

1 A. -- Madrigal, he was working overtime. He is
2 one of our helicopter pilots and I don't know if you've
3 seen the video or not, but there's a video of -- if you
4 visualize the airport concourse and you have everybody
5 running one direction and all you see is this guy coming
6 upstream, coming upstream, he is running towards the
7 gunfire. It's a tremendous video. He is running
8 towards the gunfire. He had the same training as
9 everybody else. He had the same training as the guy at
10 MSD on that day.

11 Q. And he was able to confront and apprehend the
12 shooter within less than 80 seconds?

13 A. Yes, that is absolutely correct.

14 Q. And that was what the -- you understand the
15 training to be focused on, to apprehend the shooter?

16 A. Correct.

17 Q. Or shooters?

18 A. Yes. You know, active shooter training first
19 began back in 2000. It was built off what's called a
20 quad-diamond or T-formation, which means it's multiple
21 officers going in. There was a minimum of four that was
22 going in. That was their whole purpose to do that.

23 It's changed over the years and now we are to
24 the point, and it's taken several years to get there,
25 it's one guy or one gal, you are going in.

1 Q. So that's the evolution based on real life
2 scenarios?

3 A. It has. It has. And with that evolution,
4 they've seen it change where now statistically that
5 obviously officers are getting shot or killed more
6 often, because they are going in alone, but that's their
7 job. They go in. So it's changed now to that solo
8 officer response.

9 Q. At the time of Fort Lauderdale Airport
10 shooting, continuing until through the MSD shooting BSO
11 had an active shooter policy in section 4.37 of the
12 standard operating procedures. I got it, but I'm going
13 to read a section to you.

14 Subpart C, quote, If realtime intelligence
15 exists, the sole deputy or a team of deputies may enter
16 the area and/or structure to preserve life. A
17 supervisor's approval or on-site observation is not
18 required for this decision, end quote.

19 What was the nature of the training, the actual
20 training on that policy?

21 A. Realtime intelligence is defined as, you know,
22 you get your call over the radio, there's a white male,
23 blue shirt, blue pants on the 9th floor of 1 East
24 Broward Boulevard actively shooting people, realtime
25 intelligence begins, I'm responding there.

1 As I pull up, I see people running from the
2 building, screaming, that's more realtime intelligence
3 telling me there's a problem here.

4 Now I hear gunfire, that's more information,
5 realtime intelligence guiding me towards that.

6 So that's how we would start our scenario
7 training, feeding them realtime intelligence. You have
8 people running out, "He's got a gun. He's got a gun.
9 He's inside."

10 So trying to feed them to make them understand
11 you got to go, and your only job is to go stop that
12 shooter, period. You are not there to rescue anyone.
13 You are not there to provide medical care. You are not
14 there, even if an officer goes down, to help him or her.
15 You have to go stop that guy.

16 Q. So the first focus is subdue the shooter in
17 some way?

18 A. And it's been that way since I started teaching
19 in 2000. Again, Fort Lauderdale Police Department,
20 Broward Sheriff's Office and at the Seminole Police
21 Department, that training hasn't changed, and it's not
22 my concept or idea, it's across the nation.

23 Q. You mentioned that FDLE has no requirement for
24 active shooter training at all, up to today.

25 Does FDLE have a mandatory policy that law

1 enforcement agencies are required to implement on active
2 shooter?

3 A. I don't believe FDLE even has a policy. You
4 know, when I checked recently, FDLE has two groups. You
5 have your investigators, they are out in the field all
6 over, and they have the uniformed officers up at the
7 capital. There was a policy for them up at the capital,
8 but there's no policy in place, unless it's changed over
9 the last few months for FDLE agent working here in
10 Broward County, that's something I would follow-up on
11 myself, but I know when I checked on it before, it
12 wasn't there.

13 Q. You know that post MSD, the Broward active
14 shooter/killer policy was subject to significant
15 criticism, right?

16 A. I do.

17 Q. Over -- is it primarily over the use of the
18 word "may" in that policy --

19 A. Yes.

20 Q. -- versus, the criticism, "shall"?

21 In terms of the training on the policy that
22 then existed, the may, was there any difference in
23 training between a may versus shall?

24 A. No.

25 Q. The policy post MSD was changed to remove may

1 and put in shall. Did the training, in any way, change?

2 A. No.

3 Q. Was there any need for a change in training?

4 A. No, not at all. Training was on point.

5 Q. There's no doubt that, at least as events have
6 unfolded, moving now to MSD, that the initial responding
7 officers response was not as trained law enforcement
8 officers would want or expect, fair?

9 A. Agree.

10 Q. Was there any part of that officer's training,
11 if you know, that did not focus him on phase one, job
12 one, get the shooter, apprehend the shooter, subdue the
13 shooter?

14 A. Talking about the SRO specifically?

15 Q. Yes.

16 A. You know, to me, his standards, his mindset
17 should be at a higher level than mine, not only --
18 because we were all trained the same, Jesse Madrigal,
19 Jim Polan or Scott Peterson, we are all trained the
20 same. You go in and you stop that bad guy, that is your
21 job, period.

22 He was working in a school most of his career
23 and that's something he should, in his own mind, he
24 knows that's going to happen one day, what am I going to
25 do with it.

1 Q. So a school resource officer, based on that
2 function, is aware that that's actually a heightened
3 environment?

4 A. Absolutely. And Peterson was also a member --
5 in 2015, we started a program at the Broward Sheriff's
6 Office, again under Israel, we went out with a cadre
7 from all across law enforcement in Broward County and we
8 trained the teachers and the administrative staff in the
9 schools, not all the schools, because it's the sixth
10 largest school district in the country, but every
11 teacher's workday we were training teachers on run, hide
12 and fight, how they were going to survive from the first
13 gunfire till we arrive. Peterson was one of the
14 instructors on that group.

15 Q. So Peterson was a trainer for active killer for
16 the actual school personnel?

17 A. That's correct.

18 Q. And did that -- strike that.

19 In his involvement as a trainer, was that a
20 selected position he was selected by experienced
21 training people to do that training?

22 A. First of all, it starts with someone who is
23 willing to volunteer and has the passion to do it.

24 Q. Okay.

25 A. So he was one of those individuals.

1 Q. All right. And that was as recent -- that was
2 relatively recent, in relation to the MSD shooting?

3 A. That is correct. We were only allowed to do
4 the training on teacher workdays and there are like four
5 or five a year, that was it, when the school was closed,
6 teachers were off. We would do anywhere from seven to
7 ten schools per day. So where we would have 80 to 100
8 instructors out at these different schools teaching and
9 Peterson was part of that cadre.

10 Q. And you had to coordinate with Broward County
11 Schools?

12 A. We did. At the time, Kevin Schults was the
13 major in training. He was our point of contact with the
14 agency. He coordinated and facilitated the scheduling
15 with the Broward County School Board.

16 Q. So moving to Marjory Stoneman Douglas,
17 February 14, 2018. Did you have a role in that?

18 A. I did.

19 Q. What was that?

20 A. I got my -- the first call -- I actually took
21 that day off. It was Valentine's Day, try to do the
22 right thing, took the day off. My wife and I were just
23 getting ready to go into the movies and I got a phone
24 call from Major Naiaska that there was a shooting going
25 on at Stoneman Douglas.

1 Get my wife, we head home. I drop her off. I
2 get in uniform. The entire time, I am trying to talk on
3 my radio and I can't get my radio to work. I'm trying
4 to get ahold of the captain, cannot get my radio to
5 work. It's in and out, in and out.

6 Q. Do the deficiencies in the Broward County
7 operating communication system --

8 A. Absolutely, overwhelmed. Absolutely.

9 Q. Okay.

10 A. I finally did arrive on scene, 3:10, 3:15,
11 somewhere, just ballpark. I don't remember exactly. I
12 did finally get on the air to make the statement that I
13 was the incident commander. I mean, that's one of the
14 biggest problems we have, failure to identify who
15 actually is the IC. So I felt it was extremely
16 important I got that out.

17 And I arrived on the northwest corner of
18 building 1200 and my first point of contact was Steve
19 Robson, who was the SWAT commander.

20 Q. Steve Robson had been wearing two hats, one
21 SWAT commander and one incident commander?

22 A. Correct. And you really shouldn't wear two
23 hats like that, but it was just -- you are dealing with
24 one of those, what we call, a high risk, low frequency
25 situation. So it's very difficult to do that.

1 Q. So you took over the responsibilities to be
2 incident commander?

3 A. Correct.

4 Q. And he focused on the tactical side, the SWAT
5 aspects?

6 A. Correct.

7 Q. Did BSO work with other agencies, other law
8 enforcement responders at MSD?

9 A. Yes.

10 Q. Not the same number of responders as at the
11 airport, but nonetheless, a significant amount of
12 responders?

13 A. Yes.

14 Q. Local officers, municipal officers?

15 A. Yes.

16 Q. Officers from other communities?

17 A. Yes, sir.

18 Q. And was there effective coordination?

19 A. Well, I can answer that in two ways. One, we
20 were at -- where Steve and I were at, we call that the
21 TOC, tactical operations center, that's where we at.
22 SWAT teams from all jurisdictions were there at that
23 TOC.

24 I knew, at the time, there was a command post
25 set up at Pine Island over just north of the Sawgrass,

1 the command post is where, obviously, the incident
2 commander and others go there to facilitate the process
3 to make sure your perimeters are set up, your staging
4 areas are set up, your media has a place to go to.

5 I sent Captain Jan Jordan and Major Dave Holmes
6 together over there to make sure that we have the
7 perimeter, the coordination, staging area set up because
8 we were still looking for the bad guy. He hadn't been
9 captured yet and we had, at that time, the video was
10 played back, which we weren't aware of, we thought we
11 were still hearing this guy in the second floor.

12 Q. Meaning there was a time delay?

13 A. Yes, that's correct.

14 Q. And the video was made available to you by the
15 Broward Schools?

16 A. That's correct.

17 Q. Okay.

18 A. Yes.

19 Q. That access has since changed, post MSD, right?

20 A. It has.

21 Q. Now, you are aware that BSO has an agreement
22 with Broward County Schools to get immediate realtime
23 access when an incident occurs?

24 A. Yes, sir.

25 Q. But did BSO have any control, the ability to

1 take over the Broward School Systems communications and
2 television?

3 A. Absolutely not. In fact, it took us
4 probably -- wow, I bet it took a year or longer to get
5 that signed agreement you just mentioned with the school
6 board to make it happen today.

7 Q. BSO contracts with -- at the time contracted
8 with Broward Schools, right, to perform the school
9 resource officer function?

10 A. Actually, the way it's set up, the actual
11 cities would. So the City of Parkland contracts the
12 Broward Sheriff's Office for police services. Then the
13 city decides who and how many SROs they want to put in
14 the schools, because that's extra staffing they have to
15 pay for. It's kind of like looking at a menu, say, they
16 need ten officers to run the City of Parkland, but they
17 need five more, if they want to put them in the schools.
18 They have to agree to increase their contract allotment
19 to the sheriff's office knowing that, what's called a
20 cop kit costs about \$150,000 a year for a new deputy,
21 that's all the bells and whistles, but if they put that
22 deputy into a school, the school board is only returning
23 on their dollar, at the time, 52,000, and it went up to
24 57,000 after MSD. So the city is now putting a deputy
25 in the school at full cost. So unless the cities agree

1 to actually pay the sheriff for those additional
2 deputies in the schools, it doesn't happen.

3 Q. So as you understand the laws and the policy,
4 the school system is responsible for security at their
5 schools?

6 A. Well, it's changed since MSD, but prior to MSD,
7 there was no requirement to put deputies or officers in
8 any school, none.

9 Q. And BSO was able to assign officers to schools
10 based on its contractual agreement with municipalities?

11 A. That is correct.

12 Q. And did BSO negotiate, if you are aware, with
13 municipalities over suggested, preferred staffing?

14 A. Yes.

15 Q. So BSO couldn't make the decision, you've got
16 to have X number of officers?

17 A. No.

18 Q. That's a negotiation with the city?

19 A. Correct.

20 Q. And if the negotiations were unsatisfactory to
21 BSO, BSO could simply not contract with the city?

22 A. Correct, but also that's, you know, if BSO
23 decided to walk away without an agreement, you are
24 leaving the city without law enforcement coverage, which
25 is difficult.

1 Q. So that's another public policy issue --

2 A. Yeah, that's an issue.

3 Q. -- the sheriff and the BSO has to deal with?

4 A. Yes.

5 Q. So the staffing of a school resource officer at
6 Marjory Stoneman Douglas was not the decision of BSO,
7 whether one person should be there or 15 people should
8 be there?

9 A. No. In fact, Parkland, they have, I believe,
10 five schools. You have Marjory Stoneman Douglas, you
11 have West Glade Middle and there are three others. So
12 Scott Peterson was the only SRO at Douglas with a
13 student population over 3,000 and probably 300 staff
14 members. He was it, the only guy there.

15 West Glades had a deputy assigned there and
16 Pine Trails Elementary, you know, they had deputies, and
17 they are all paid for by the City of Parkland, not paid
18 for by the sheriff. It's part of their contract.

19 After Douglas, they upped all of their
20 positions. They signed a contract addendum with the
21 sheriff's office to add deputies to all those schools.
22 I believe, memory, MSD went up to three deputies and all
23 the other schools went up to two. So they significantly
24 increased their staff, which is their, you know, their
25 cost and, you know, the sheriff's contract with them,

1 it's revenue neutral. You know, the sheriff is not
2 making any money off them. It's revenue neutral,
3 whatsoever. So they paid and they decided to increase
4 and put the deputies there. It's not the sheriff's
5 decision.

6 Q. And does the sheriff and the sheriff's office
7 have input into making recommendations with that amount
8 of kids, you really should think about having another
9 officer or something along those lines?

10 A. We do. Unfortunately, it does come back --
11 prior to MSD, before the recommendation of one deputy
12 for every thousand kids, which came out in the MSD
13 report, you know, the city manager could look and say,
14 Sheriff, great idea, but I don't have an extra \$300,000
15 for two more deputies. So, you know, it is what it is.

16 Q. At the time of MSD, did the State of Florida
17 have any suggestion how many school resource officers
18 per student?

19 A. No.

20 Q. There was nothing?

21 A. No. The Miami-Dade Police Department, they do
22 not run the school's resource officers. The school
23 board in Miami-Dade has their own police department.
24 Same thing with Palm Beach County Sheriff, they have
25 their own police department for the school board.

1 Broward County, they have an investigative
2 unit, period. So they put back on to the cities within
3 the county.

4 Q. And then the cities contract with the sheriff's
5 office for a law enforcement and fire rescue services in
6 some capacities, if they decide?

7 A. Yes, sir.

8 Q. And with regard to Broward, there are some
9 cities that do their own law enforcement and other
10 cities utilize the services of BSO?

11 A. Correct.

12 Q. So you respond to MSD, there's still some
13 concern about apprehending the shooter and developing a
14 sense of what's really going on in realtime. And did
15 you, as the incident commander, have any idea at the
16 time that Scott Peterson, the SRO in charge, had not
17 followed the training of 4.37 active shooter?

18 A. None whatsoever.

19 Q. Was it reported to you that he made the
20 decision not to go in?

21 A. No. We actually -- we moved our talk from
22 outside into building 13, which is right next to
23 building one, to get all the SWAT guys out of there, to
24 use the boards to map out --

25 Q. And building 12 is where the --

1 A. Where the attack was.

2 Q. -- where the killings had occurred?

3 A. Yes, sir.

4 Q. Where the attack occurred?

5 A. Yes. Then we sought out Scott Peterson, where
6 is the SRO. No one knows the school better than he
7 does. Find him, bring him in here, and he did, but we
8 had no indication of him not going into that building.

9 Q. And as a command officer, was there any
10 indication from training, experience, him being a
11 trainer, active shooter trainer at the schools, that he
12 was not up to the task?

13 A. No, none whatsoever.

14 Q. At the time of MSD, were trainers instructed to
15 evaluate the quality of their trainees, of the people
16 going through the training?

17 A. They are. Obviously every training class has a
18 lesson plan. You are required to have a lesson plan.
19 In that lesson plan, it's going to tell you what the
20 scope of training is and it's going to have anywhere
21 from two to maybe 12 objectives, and those objectives
22 will say, you know, upon completion of this class, this
23 student will demonstrate the ability to, and each
24 objective has a certain thing that must be required.

25 If there's a deputy that's in there -- Jim

1 Polan is in there and I am struggling, I'm a safety
2 concern or I'm hesitant on doing mine, then that is a
3 trainer's responsibility to pull them out.

4 There are six Rs to a training program and one
5 of those Rs is a review and that's very important for a
6 registrar to do, you pull them out and you give him a
7 review, give them an opportunity to improve themselves.

8 Q. And is that part of BSO process that trainers
9 are and do identify such need for improvement or
10 deficiencies?

11 A. Absolutely. Even all my years as a trainer,
12 state certified trainer, and being on the SWAT team, you
13 know, I will still go out and do qualifications with all
14 the other deputies and I will have a red shirt come up
15 to me and, hey, think about taking more slack off the
16 trigger, even with all my time doing it.

17 Q. And when you say "red shirt," what do you mean
18 by that?

19 A. An instructor, I'm sorry.

20 So that is their role, yeah.

21 Q. BSO also has an accreditation as a training
22 facility by the State of Florida, doesn't it?

23 A. At one time they ran a full academy for the
24 Department of Detention, ran their own academy there,
25 and they are an FDLE training site, which means they can

1 train and certify deputies for the mandatory
2 requirements per FDLE.

3 Q. That's unusual for sheriff's offices to have
4 that accreditation?

5 A. I don't think it's -- not for a sheriff's
6 office, but for a small agency it may be, but for a
7 sheriff's office, it would be normal, because it's cost
8 effective, providing you have the talent in your
9 instructor cadre that can fulfill that, and BSO has that
10 talent.

11 Q. At any time prior to MSD, had the BSO active
12 shooter policy 4.37 been criticized or deemed to be
13 inaccurate or inconsistent?

14 A. No. You know why, because that policy doesn't
15 mean anything. That policy doesn't mean a thing. There
16 could be no policy or that policy could have said this,
17 you don't go through that door, you are going to give up
18 your firstborn child. Either you are going in or you
19 are not. The one thing -- you could have the best
20 instructor in the world, the one thing that that
21 instructor can't teach is courage.

22 Q. Was there any indication in the SRO's
23 background, history, involvement that when the time
24 came, he would not have the courage to do what he was
25 expected to do?

1 A. None. I believe the year before or within the
2 last couple of years he was actually awarded SRO of the
3 year for Florida. I don't remember exactly what year,
4 but it's familiar to me.

5 Q. There was some discussion earlier, let me ask
6 you about this, that being SRO of the year really
7 doesn't mean somebody is a good, trained, competent law
8 enforcement officer. It just means, well, they get
9 along well with the kids. Is that your view?

10 A. You know, the one unique thing about this
11 profession is that there's so many different
12 opportunities you can do. You can be on the SWAT team.
13 You can ride a motorcycle. You can ride a horse. You
14 can fly a helicopter. You can go into a school.

15 Each one of those positions bring a different,
16 what I call, pedigree. They all have different things.
17 Like me personally, my pedigree, I could never work in a
18 school. So it does bring certain people to the table.

19 It takes a certain individual to be an
20 attorney. I couldn't be an attorney. It brings
21 something to the table.

22 Does it mean that SRO is not a good officer or
23 competent officer, absolutely not. A great example I
24 provide to you, a deputy by the name of Quigley was in
25 our burglary apprehension team. It's a plainclothes

1 unit that basically goes out and they find the worst of
2 the worst of the people that break into our homes when
3 we are sleeping. It is a very sought after position at
4 the sheriff's office. Big man, Quigley is probably
5 6'2", 6'3", good size man. He requested to leave that
6 to go be an SRO, and he is in Parkland.

7 So I don't believe you could say that the
8 standards are lower or the individual may act different
9 than another officer.

10 Q. Okay. Following the apprehension of the
11 shooter at MSD, did BSO identify deficiencies in the
12 operations to do the follow-up work?

13 A. Well, when you say after the apprehension, you
14 mean at the time, on the scene?

15 Q. On the scene.

16 A. Well, when he was apprehended, unfortunately,
17 we still have a school loaded with thousands of children
18 and in police work, this is taught to me back when I
19 first started, it's still taught today, you always think
20 plus one. We have one bad guy, but there's a second bad
21 guy here. We have to find him.

22 So now every building on that campus, every
23 classroom, every closet, every doorway has to be
24 cleared, has to be secured. All those children have to
25 come out and make sure that they are safe and we have to

1 make sure there are no bad guys behind.

2 So even though he was captured, it was a
3 relief, but we couldn't lower our guard, because there
4 was still another one out there and there was still
5 thousands of children hiding in that school and we had
6 to go take care of them.

7 Q. And was BSO, along with the other responding
8 officers, able to do that?

9 A. Tremendous team work. Inside building 13,
10 Lieutenant Chris McCoy was the choreographer of that and
11 he was assigning teams to go out, Fort Lauderdale --
12 making this up, Fort Lauderdale you have building 1400,
13 Coral Springs you have building 1500, that's your
14 building, go take care of that building. Take care of
15 those kids, search it and make sure there's not a plus
16 one bad guy.

17 And I don't believe we called that campus safe,
18 ballpark, probably until like 5:30, maybe 6:00 at night.

19 Q. Was the sheriff on the scene at MSD?

20 A. He was.

21 Q. And how about at Hollywood -- at Fort
22 Lauderdale Airport?

23 A. I wasn't on scene at the airport. I was at the
24 EOC. I know eventually he was down there. I don't know
25 what time he arrived at the airport, but I know for a

1 fact MSD he was, because I spoke to him.

2 Q. Was BSO able to, consistent with its policies,
3 handle the clearing and the inspection of the schools?

4 A. Absolutely. The -- you talk about the airport
5 and MSD, at the airport it was really a flawless
6 operation with the airport, with the tactical teams
7 doing the searches of the parking garages and then of
8 all of the terminals. You know, it's a first time in
9 history that an airport was completely self-evacuated,
10 never happened before, and I don't know if it will ever
11 happen again, but in three minutes and 40 seconds, it
12 was complete self-evacuation and the SWAT teams were all
13 over. Did a tremendous job, tremendous job working
14 together.

15 At Stoneman Douglas, the SWAT teams did a
16 tremendous job working together.

17 Q. Broward Sheriff's Office has something called
18 the Todd Fata policy. Are you familiar with that?

19 A. Yeah. Todd Fata was killed on August of 2004
20 on a search warrant that went bad and I know there is a
21 protocol written for him in reference to if that door
22 that is to be breached or broken into, then the SWAT
23 team would be the team that does that, does that breach
24 for safety reasons.

25 Q. And is it your understanding that one of the

1 reasons that led to the implementation of the 4.37
2 active shooter policy was to make certain that the Todd
3 Fata policy didn't prevent officers from being able to
4 go into the scene of an active shooter without having to
5 first get SWAT permission?

6 A. No. No. It's two different things.

7 Q. Okay.

8 A. The active shooter policy, you don't need
9 permission for anyone to go inside. If you have
10 realtime intelligence, then you got to go and that's how
11 you are trained, you go, and that's a standard in our
12 industry across this country. For an officer not to
13 know that, I have a difficult time.

14 The Todd Fata would be if you are going to a
15 search warrant for narcotics or a search warrant for an
16 arrest, then there's a protocol that your operational
17 plan must be approved by SWAT. If it meets a certain
18 threshold and door is going to be breached, broken into,
19 then SWAT must do it.

20 Q. So there's a significant difference in law
21 enforcement action when an event is being planned?

22 A. Two different things.

23 Q. Like executing a search warrant or making a
24 known arrest than an active shooter incident, which
25 hopefully is not a planned for event?

1 A. Correct. We use a basic fundamental thing for
2 planned event. We are going to contain, isolate,
3 communicate. We contain the problem. We isolate so
4 nobody can go in and out. We try to communicate with
5 that person to solve the problem without using any use
6 of force. That's for traditional law enforcement
7 response, barricaded gunman, for example.

8 For active shooter there's no contain, isolate
9 and communicate. You follow realtime intelligence and
10 you go through that door and you find them.

11 Q. Fort Lauderdale Airport is a county facility?

12 A. Yes, sir.

13 Q. Is there a contract between BSO and the county
14 for BSO to provide law enforcement to the airport?

15 A. The contract is actually through the Broward
16 County Aviation Division, through BCAD and then BCAD,
17 the airport director, obviously, goes to the county
18 administrator for final approval, but it's called --
19 it's a -- there's a certain word for that contract,
20 because they doesn't use any tax dollars -- enterprise
21 fund. That's what it's called, enterprise fund, because
22 the entire law enforcement -- I should say public
23 safety, because Broward Sheriff is there and fire rescue
24 as well, the entire contract is funded by BCAD. So
25 there's no county tax dollars going to it whatsoever,

1 enterprise fund.

2 Q. And that contractual relationship includes
3 negotiations between the sheriff's office and BCAD over
4 staffing levels at the airport and the seaport?

5 A. That's correct.

6 Q. Now, the seaport has federal facilities there
7 as well?

8 A. Yes, sir.

9 Q. And the airport does as well?

10 A. Yes.

11 Q. But when it comes to things like the budget
12 allotment for the law enforcement and fire and rescue at
13 the airport, that's the subject of a contract with BCAD?

14 A. That is correct.

15 Q. It's not a unilateral decision on the part of
16 the sheriff's office?

17 A. No, sir. And if you look at those contracts,
18 the contract hasn't been renewed, and ballpark figure,
19 probably since about 2005, which is recurring that
20 airport over the last decade has just all it's done is
21 grown, and we all know that, just grown larger and
22 larger. However, the staffing numbers have gone down.
23 That was a contention, I don't want to say an argument,
24 it was a spirited discussion since the airport shooting
25 over the next year or longer trying to increase our

1 staffing there.

2 Q. And even before the airport shooting, didn't
3 BSO and its people at the table press BCAD for more
4 funding, for more law enforcement and fire rescue there
5 at the airport?

6 A. I sat at that table, yes, sir.

7 Q. And those are not easy negotiations, are they?

8 A. No, sir. No.

9 Q. You are dealing with governments, you realize
10 that various governments have different statutory
11 mandates and statutory controls?

12 A. Correct.

13 Q. Did BSO ever lay down in those negotiations and
14 not press for what BSO believed was a robust presence at
15 the airport?

16 A. No. In fact, I know there's obviously
17 documentation of -- whether it's correspondence or
18 e-mails or files left behind, reference to that airport,
19 requesting additional staffing, not only deputies, but
20 supervisors.

21 We did a comparison with Miami-Dade Police
22 Department, their airport staffing, their airport is
23 larger, not that much larger, but their staffing was
24 almost double, and that was the comparison we used.

25 So we sat at the table more than once with BCAD

1 Director Mark Gale.

2 Q. And part of those discussions, Fort Lauderdale
3 BCAD would always reference that Miami-Dade County is
4 completely different, it's a different organization, the
5 mayor is in charge of the airport, as well as public
6 safety, and the mayor makes those decisions, right?

7 A. That's correct.

8 Q. You constantly hear that?

9 A. Yes, sir.

10 Q. Did, at any time, Broward Sheriff's Office
11 understaff the law enforcement presence at the airport?

12 A. Deliberately, no, never. No, no.

13 Q. The governor's office takes the position, and
14 I'm going to quote you a section, and I want to ask you
15 about it, the governor's office takes the position, and
16 I'm quoting the initial draft report, indicates that
17 between 2008 and 2013, staffing levels at the airport
18 district drastically reduced and that reduction in staff
19 coincided with the growth of FLL, including more
20 passenger capacity and the addition of terminal four,
21 end quote.

22 And the governor's office is referring to one
23 of the earlier draft reports of the Fort Lauderdale
24 after action report. If the initial draft, the Cedeno
25 draft made that observation that I just quoted to you,

1 that the governor's office quoted, is it accurate that
2 BSO had any involvement in the drastic reduction, if
3 there was such a thing, of staff?

4 A. No.

5 Q. Was that any ability BSO had to do anything?

6 A. No.

7 Q. Was that a matter that was a decision of public
8 policy, decision by BCAD as to the funding and staffing
9 for that function?

10 A. Yes. The, you know, like I said, the one thing
11 -- the only thing that increased at the airport was the
12 size of the airport, the number of passengers, the
13 number of customers coming in and out, but the law
14 enforcement staffing did not increase, but it was not on
15 any part of BSO reducing or deliberately not staffing
16 the airport.

17 Q. In your experience as a command officer,
18 sitting at the table with BCAD and negotiating for
19 increased staffing, increased budget to do that
20 function, besides pressing for that, what authority does
21 BSO have to make BCAD do anything?

22 A. None.

23 Q. Could you have used a tactic like imposed
24 tariffs if BCAD didn't give you more funding?

25 A. No, not to my knowledge.

1 Q. If the original initial draft report of the
2 Fort Lauderdale after action report included that
3 reference that I just made to you, in your experience,
4 would that be an appropriate part of a BSO after action
5 report?

6 A. In reference to not having sufficient staffing?

7 Q. Correct.

8 A. For law enforcement safety, yes.

9 Q. Did BCAD do a similar version of an after
10 action report?

11 A. They did.

12 Q. And did you ever -- were you ever consulted by
13 BCAD about what should be included, from a law
14 enforcement perspective?

15 A. Not that I remember, no.

16 Q. When the final report for the Hollywood -- the
17 Fort Lauderdale Airport was done, was it your view that
18 it met the standards and practices for after action
19 reports?

20 A. Yes.

21 Q. Was there any part of the review and vetting
22 process that had, as an intention or actual fact, to
23 cherry-pick or white wash the report?

24 A. Absolutely not.

25 Q. Did the sheriff ever direct or actually red

1 line out sections of draft reports that were viewed as
2 unfavorable to BSO?

3 A. No.

4 Q. Does the final version of the action report, if
5 you recall, include constructive criticisms of BSO
6 identified as opportunities for improvement?

7 A. Absolutely.

8 Q. Is that what an after action report is supposed
9 to do?

10 A. It is, and if you look across this country,
11 across the world with these attacks that we have, again
12 high risk, low frequency, there are no perfect
13 operations. There are none. There are always going to
14 be issues, there are going to be problems, things are
15 going to occur, it's just at what level can we mitigate
16 those problems. Are we going to have complete chaos or
17 are we going to have controlled chaos. That's the
18 difference and that's what we all learn from these
19 reports and we learn, whether it's in California, in
20 Michigan or Florida, we read those and learn from them.

21 Q. I have no further questions.

22 MR. KUEHNE: I tender the questioning to
23 Mr. Primrose.

24 MR. PRIMROSE: Thank you, Mr. Kuehne for that.
25

1 CROSS-EXAMINATION

2 BY MR. PRIMROSE:

3 Q. I am going to jump around a little bit, so
4 please bear with me.5 You had mentioned that not everyone has the
6 fitness, skill or ability to be a SWAT team member, but
7 wouldn't you agree with me that SRO officers are placed
8 into an environment where there is a heightened level of
9 target or protection required due to the increase of
10 school shooting events happening across the country?11 A. I agree 100 percent. However, that comes down
12 the individual himself, what's their mindset.13 Q. Completely understand. But you would agree
14 then that if schools are a target of heightened focus,
15 that the individual selected to be at the school should
16 be of a certain fit, skill and fitness ability to
17 adequately protect the students and teachers, right?18 A. Should, in theory, yes. Unfortunately, there
19 is no a physical fitness program for them that they have
20 to abide by.21 Q. Well, so there is a physical fitness program
22 that SWAT team members have to abide by?

23 A. Yes, there is.

24 Q. And who develops that fitness program?

25 A. The SWAT cadre, they go through it twice a

1 year.

2 Q. But is that within Broward Sheriff's Office?

3 A. It is and I -- if you did a toll across the
4 country, you are going to see just about any SWAT team
5 in the country has physical fitness standards that are
6 job related. I had them when I was in the City of Fort
7 Lauderdale as well.

8 Q. Okay. But just so I understand the fitness
9 standards that are imposed on SWAT members within the
10 Broward Sheriff's Office, those are standards that the
11 sheriff's office imposes on to their SWAT?

12 A. Yes, sir.

13 Q. Right. So there's no national, if you are
14 SWAT, you have to have a separate certification by FDLE.
15 That doesn't exist, right?

16 A. There's no national rule. However, there's a
17 national guideline for SWAT operations, fitness and
18 equipment and training, and that's authored by the
19 National Tactical Officer Association, and that is a
20 national industry standard recommendation.

21 Q. Okay. So if Broward Sheriff's Office wanted
22 their school resource officers to have the same physical
23 fitness skills and abilities as SWAT team members,
24 that's something that the sheriff could unilaterally
25 impose?

1 A. He could. However, I will share this with you,
2 we tried to do a physical fitness program with -- over
3 the last few years for the agency and we had continuous
4 objections and grievances filed by the union. So I
5 don't -- if they can make it happen, that would be
6 great, I just don't see it happening.

7 SWAT team members, again, different pedigree.
8 They would never file a grievance or an issue because
9 they are required to complete physical fitness.

10 Q. Who has the ultimate decision over which
11 officer gets which placement within the agency?

12 A. It's kind of like what will -- I will stick
13 with SWAT, there's a -- the posting will go out and the
14 posting is going to have a list of requirements for the
15 posting and what the objectives of that job are and
16 there will be a due date. You have to be off probation,
17 usually three years on the job. You have to have, you
18 know, outstanding evaluations, no sick time, et cetera,
19 ballpark figure, and there will be a closing date. You
20 must submit paperwork for this position.

21 Once that position is closed, dependent on the
22 job, you give an opportunity -- let just say, SWAT, you
23 get selected and you are going to go to the SWAT school
24 and the SWAT school is pass or fail, depending on if you
25 get that position.

1 If you want to be a motorcycle officer, you are
2 going to go through a three-week motorcycle training
3 program in which many say is harder than SWAT school and
4 if you don't pass it, you don't go on a motorcycle and
5 then both those positions, you are required to, SWAT, go
6 back to training. Every single Thursday you go back to
7 training. And motors, you go back to training every
8 single month.

9 Q. Okay. On that note right there, so SWAT and
10 motorcycle require weekly training; is what I heard?

11 A. SWAT weekly, motors monthly. SROs same process
12 for filling SROs. There's a posting that goes out,
13 talks about the scope of the position, talks about the
14 requirements, has a closing date where you are required
15 to submit, you know, like past evaluations, maybe a
16 resume, et cetera, and then for the SROs, there would be
17 an interview process.

18 After the interview process, you would go on to
19 a list and on that list, they would select -- so they
20 say call Jim Polan. We have an opening at Parkland for
21 SRO. Do you want to go there?

22 No. I would really rather stay in Weston.

23 They pass me go to the next guy. And then they
24 are required to go to training every summer when they
25 have to do their training.

1 Q. Okay. So SROs have an annual, specialized
2 training for them?

3 A. And that is something that we put into play
4 prior to Israel and myself and others leaving the
5 sheriff's office, because in the past, they would go to
6 training with everybody else. So they would leave the
7 school, which they are allowed to by the contract, to go
8 to in-service training, but now with the new law, they
9 are not allowed to leave the school. So now they have
10 to wait until school is out in the summer and now they
11 all go to training together.

12 Q. Okay. But, again, just to answer my question
13 though, SRO has an annual, once-a-year training,
14 whereas, I believe you said SWAT is weekly and
15 motorcycle is monthly?

16 A. Yeah, in the training -- yeah, that's correct.

17 Q. Okay.

18 A. The training the SROs get is the same training
19 as every other deputy, nothing above and beyond.

20 Q. Okay. And then to go back to the
21 decisionmaking of who gets put in as an SRO, ultimately
22 the decision is up to the sheriff to decide what
23 qualifications he or she wants in an SRO and who should
24 get the position, based on who applies, right?

25 A. The sheriff is responsible for it, yes.

1 Q. So, you know, you mentioned that well -- it was
2 attempted before, the police union didn't like it, but
3 ultimately, if the job posting says, I want the similar
4 skills and fitness of a SWAT member in my school, that's
5 the decision of the sheriff to make?

6 A. It is, in providing you get people who actually
7 apply. When I was there before, we were having a very
8 difficult time getting deputies wanting to be an SRO.

9 Q. Okay. You said with regards to SRO Peterson,
10 that he volunteered and then was ultimately selected to
11 be a trainer in 2016 for the active shooter training,
12 correct?

13 A. For the school board, yes, sir.

14 Q. So he was just training members of the school
15 district?

16 A. That is correct, on the "run, hide, fight"
17 concept.

18 Q. Okay. So if there's a suggestion that Deputy
19 Peterson was training other BSO deputies in active
20 shooter training, that would be a misstatement of what
21 his actual involvement was?

22 A. Yeah. I couldn't comment on that. If he was,
23 I am not aware of it, but I do know he was part of the
24 Broward County team for the school board.

25 Q. Okay. And then who ultimately picked him to do

1 that training for the school?

2 A. You know, I believe, again, the facilitator for
3 that program was Kevin Schults, who is the major over
4 training. So he put all that together and dependent on
5 the day of the week -- or excuse me, the teacher's
6 workday, we would have seven to ten schools. We would
7 need 75 to 100 instructors, so he was one of those
8 selected to go to those different schools.

9 Q. Okay. And I -- I don't have written down that
10 you told us exactly what that training was, but can you
11 just briefly describe for us what Deputy Peterson would
12 have been training the school members on.

13 A. Yeah, I would be happy to. So they come in
14 large -- just visualize either the library in a larger
15 school in the auditorium, cafeteria, gymnasium. We do a
16 one-hour presentation on the effects of active killer.
17 We discuss about all the objectives we want to
18 accomplish for the day. We even sneak in the back and
19 we fire a gun with the blank and we see how they react
20 and when they do that, we run a clock and see how long
21 it takes for anybody to do -- just to simulate them, a
22 little bit of stress inoculation.

23 We ask some questions and answers and then at
24 that time we break into groups and we take groups of 20
25 to 25 to different to classrooms. We take them in the

1 classrooms and we give them ideas on how they can secure
2 their classrooms that's going to benefit everyone
3 involved. We talk about the blind corners, getting out
4 of your windows, what you can cover your window and door
5 with, where your desk should be, where your cabinets
6 should be, how are you going to block that door. What
7 can you arm yourself with and your children if someone
8 comes in, and if you hear gunfire, you secure that door,
9 you turn off the lights, you mute your cell phones, you
10 close your blinds and you arm yourself and you wait to
11 see what's going to happen.

12 We have them do that two or three times with a
13 lot of suggestion and we actually have them physically
14 move their desk and tables to the door. And without
15 them knowing, we begin again what I call realism
16 training where we start shooting shotgun blanks in the
17 hallway, extremely loud. We have people starting
18 banging on the door screaming and yelling to get in
19 shooting shotgun blanks. And we make them now, under
20 panic, and they panic, and unfortunately we've seen
21 many, many cry out of the fear in a sterile training
22 environment to get them to react to that situation.

23 We will do that two or three times. We have a
24 debrief in a room with them. We regroup back in the
25 cafeteria. We have a final Q and A session and it's

1 usually over in about four hours.

2 Q. Okay. So if I understand that correctly then,
3 that training that Deputy Peterson would have been doing
4 is not the training on Broward Sheriff's Office 4.37 on,
5 what a deputy should do in an active shooter situation;
6 is that fair?

7 A. Yes, that's -- correct, it's two different
8 things.

9 Q. Okay. Now, on the after action report that you
10 were asked about for the Fort Lauderdale Airport
11 shooting, you stated that part of the reason to review
12 it afterwards was to make sure it was truthful,
13 accurate. Did you -- well, let me ask you this, did you
14 review anything in Major Cedeno's first draft that you
15 believed was factually inaccurate?

16 A. I think there -- I did -- to answer your first
17 part of the question, I did receive and review Cedeno's
18 first draft, because he was my direct report. I had
19 numerous concerns, because it hadn't been vetted yet. I
20 didn't know, and I'm going from memory, I don't have it
21 in front of me, if he was talking about a specific
22 agency is that -- did that really happen.

23 So we have it in pencil, but before we put it
24 in pen, we got to make sure it's true and we just never
25 had that opportunity, because the lawsuit from the

1 Sun-Sentinel.

2 Q. Okay. And then let me ask you this, if Major
3 Cedeno wrote down his own opinion as to items he
4 reviewed or areas of concern that he believed existed,
5 that wouldn't necessarily mean that his opinion was
6 wrong, right?

7 A. Well, that's true. I mean, obviously an
8 opinion is the perception that you see, whether it's
9 truthful or not is a different issue, but with a
10 debrief, he would have reached out to, you know, all of
11 the different stakeholders and say, you know, provide me
12 with a list of what you saw as well. So if it was any
13 of his opinion, it was just not his ideas or thoughts
14 that went into that after action.

15 Q. Okay. And then we know that Captain
16 Diefenbacher was given a second bite at the apple to
17 review Major Cedeno's first draft, right?

18 A. Correct, but, again, like I mentioned earlier,
19 you know, he's really looking at structure, grammar,
20 format. Content wouldn't exist because, you know,
21 Diefenbacher works administration, was never even close
22 to the airport.

23 Q. Okay. So which review then -- because now I've
24 heard some conflicting testimony. Which review would
25 have been given the most scrutiny, Diefenbacher's or

1 Cedeno's draft?

2 A. Diefenbacher's.

3 Q. Okay. So Captain Diefenbacher's draft had some
4 edits made to Major Cedeno that was deleted sections or
5 areas of concern or opinion, and then his version would
6 have been the basis for final edits before Sheriff
7 Israel put his signature on it and stamped it for final
8 publish?

9 A. Correct.

10 Q. Okay. My understanding is from Major Cedeno
11 and Captain Diefenbacher's draft to the final version
12 any mention of a need for enhanced training or improved
13 training with active shooter was eliminated from the
14 final report.

15 Do you have any knowledge about that?

16 A. I don't, you know, and I don't have that report
17 with me to review.

18 Q. That's okay. You would agree with me that the
19 reports speak for themselves and that includes the two
20 draft versions and the final version?

21 A. Yes.

22 Q. Okay. You were asked a question by Mr. Kuehne
23 about did Scott Israel ever instruct you to remove
24 things or redact any portions of that and you said no,
25 right?

1 A. That's correct.

2 Q. Who would Sheriff Israel have gone to to review
3 the final draft version and give his final sign off and
4 approval?

5 A. That would have been Undersheriff Steve
6 Kinsey --

7 Q. Okay.

8 A. -- who was my boss.

9 Q. Okay. Do you have any knowledge of the
10 discussion between Mr. Israel and Mr. Kinsey as to the
11 final version before it was signed off on?

12 A. No, sir, I don't.

13 Q. Okay. And just so that I kind of know --
14 understand this time line right. You retired from
15 Broward Sheriff's Office, was it the day after Scott
16 Israel was suspended or before?

17 A. The day of.

18 Q. The day of, okay. And what was the reason for
19 you retiring on the same day?

20 A. Well, there's more than one reason. I wasn't
21 going to be involved in the political nonsense show. I
22 was going to walk away with my head up high and have
23 character and leave that agency.

24 Q. Okay.

25 A. Because Scott Israel never should have been

1 taken out of office, period.

2 Q. Okay. So your opinion, as we sit here today,
3 and I guess all the way back to when it happened, is
4 that Mr. Israel should not have been suspended from
5 office?

6 A. 100 percent accurate.

7 Q. Okay. When is the last time you spoke with,
8 texted or met with Mr. Israel in person?

9 A. Well, he's been a friend for probably 30-some
10 years, probably within the last week talking about the
11 Bruins.

12 Q. Okay. Did you see him in person or did you
13 just like talk to him over the phone or via text
14 message?

15 A. Yeah, text.

16 Q. Okay. And at any point, did you tell
17 Mr. Israel that you would be willing to testifying on
18 his behalf during this process?

19 A. No. I got the subpoena from Mr. Kuehne here.

20 Q. Okay. So your testimony then, under oath, is
21 that you have not discussed with Mr. Israel the Senate
22 removal process or willingness to be involved in it?

23 A. Correct.

24 Q. And when did you first speak with Mr. Kuehne?

25 A. Actually, we've spoken on e-mail a few times.

1 I got the final notification for the subpoena, I guess,
2 it was this week.

3 Q. Okay. And so your communications with
4 Mr. Kuehne over e-mail have been about your -- was it
5 about your willingness to testify on behalf of
6 Mr. Israel?

7 A. Correct.

8 Q. Okay. I do not have any other questions.
9 Mr. Polan, I do appreciate you taking the time to speak
10 with us this afternoon.

11 A. My pleasure. Thank you.

12 MR. KUEHNE: You understand the read versus
13 waive. We are on a tight time limit here and we are
14 going to be having your transcript -- deposition
15 transcribed. I will get you the transcript as soon
16 as we get it, Mr. Primrose and I get it. If you have
17 the need to make any edits, suggestions, changes, you
18 have the ability to do that, but if you waive
19 reading, it lets us use it rather than waiting for
20 you to make your edit, just because we are on a
21 really tight time frame, but you will still get it.
22 You will still be able to make whatever alterations
23 you think are necessary, if there are any deposition
24 edits, but you need to let me know -- and then
25 ultimately any alterations you make become the actual

1 transcript, but it allows us to start using the
2 transcript as soon as we get it.

3 THE WITNESS: But I would always read, but if I
4 would waive today because of that time, and plus I'm
5 going out of town for a week, so I won't be around --
6 I leave the 16th.

7 MR. KUEHNE: So you will probably get it this
8 weekend or Monday.

9 THE WITNESS: You know what, I'm going to read.

10 MR. KUEHNE: Okay. Thank you. And you will
11 need to give the court reporter your contact info so
12 she can get it to you by e-mail, right.

13 THE WITNESS: Yes, sure.

14 MR. KUEHNE: Nick, anything else I have to do
15 with the witness?

16 MR. PRIMROSE: No, I am okay.

17 MR. KUEHNE: Okay.

18 (The deposition was concluded at approximately
19 4:44 p.m. Signature and formalities were not
20 waived.)
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C E R T I F I C A T E

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STATE OF FLORIDA :
COUNTY OF MIAMI-DADE :

I, the undersigned authority, certify that
JAMES POLAN personally appeared before me on
June 7, 2019, and was duly sworn.

WITNESS my hand and official seal this 9th day
of June, 2019.

Lilly Villaverde
My Commission GG010818
Expires July 23, 2020

C E R T I F I C A T E

STATE OF FLORIDA :

COUNTY OF MIAMI-DADE :

I, Lilly Villaverde, Florida Professional Reporter, a Notary Public in and for the State of Florida at Large, hereby certify that I reported the deposition of JAMES POLAN; and that the foregoing pages constitute a true and correct transcription of my shorthand report of the deposition by said witness on this date.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action nor financially interested in the action.

WITNESS my hand and official seal in the State of Florida, this 9th day of June, 2019.

Lilly Villaverde
Florida Professional Reporter
My Commission GG010818
Expires July 23, 2020

1 VERITEXT LEGAL SOLUTIONS
2 One Biscayne Tower, Suite 2250
3 2 South Biscayne Boulevard
4 Miami, Florida 33131
5 (305) 376-8800

4 June 9th, 2019
5 JAMES POLAN
6 Jpolan7@aol.com

6 RE: In re:
7 SUSPENSION OF SHERIFF SCOTT
8 ISRAEL
9 DEPO OF: JAMES POLAN
10 TAKEN: June 7, 2019

10 Dear JAMES POLAN:

11 This letter is to advise you that the transcript of
12 your deposition is available for reading and signing.

13 PLEASE CALL THE ABOVE NUMBER TO MAKE AN APPOINTMENT
14 to come to the Veritext office closest to you to read
15 and sign the transcript. Our office hours are 8:30 a.m.
16 to 5:30 p.m., Monday through Friday.

17 In the event other arrangements are made, please
18 send us a notarized list of any and all corrections
19 and/or changes, noting page and line numbers, and the
20 reason for such changes, so that we can furnish
21 respective counsel with a copy.

22 If the reading and signing has not been completed
23 prior to the above-referenced date, we shall conclude
24 that you have waived the reading and signing of the
25 deposition transcript.

Your prompt attention to this matter is appreciated.

Sincerely,

Production Department
Veritext Florida

1 THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

2

3

IN RE:

4 SUSPENSION OF SHERIFF

SCOTT ISRAEL

5 _____/

6

7

8

9

10 One East Broward Boulevard
Fort Lauderdale, Florida
11 June 7, 2019
1:38 p.m. - 3:08 p.m.

12

13

14 DEPOSITION OF STEVE ROBSON

15 Taken before Lilly Villaverde, Florida

16 Professional Reporter and Notary Public in and for the

17 State of Florida at Large, pursuant to Notice of Taking

18 Deposition filed in the above-mentioned cause.

19

20

21

22

23

24

1 APPEARANCES:

2

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4 100 S.E. 2nd Street

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5 Miami, FL 33131

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6

7

NICHOLAS A. PRIMROSE, ESQUIRE

8 Nicholas.Primrose@eog.myflorida.com

Executive Office of The Governor

9 The Capitol

PL-05

10 Tallahassee, FL 32399

on behalf of Governor Ron DeSantis

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EXHIBITS

8 NUMBER	DESCRIPTION	PAGE
9	No exhibits were marked.	

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1 THEREUPON:

2 STEVE ROBSON

3 called as a herein, having been first duly sworn, was
4 examined and testified as follows:

5 THE WITNESS: I do.

6 DIRECT EXAMINATION

7 BY MR. KUEHNE:

8 Q. Please state your name and spell your last
9 name.

10 A. Steve Robson, R-O-B-S-O-N.

11 Q. And you are a major?

12 A. I am, sir.

13 Q. With the BSO?

14 A. Correct.

15 Q. Major Robson, my name is Ben Kuehne. We met, I
16 think, for the first time when you came into the room a
17 couple of minutes ago.

18 A. Correct.

19 Q. And I am represent Sheriff Scott Israel in the
20 legal proceedings involving a review by the Florida
21 Senate of his suspension.

22 I asked for a subpoenaed to be issued to you.

23 It was issued. I had sent one to the general counsel,

24 but that's a copy for you of your subpoena. So you are

25 appearing as a subpoenaed witness and I will be asking

5

1 you some questions that are related to our litigation.

2 MR. KUEHNE: Mr. Primrose, do you want to make
3 an appearance?

4 MR. PRIMROSE: This is Nicholas Primrose for
5 Governor Ron DeSantis.

6 BY MR. KUEHNE:

7 Q. My questions are primarily about two incidents
8 with which I believe you have some familiarity known --
9 the first one known as the Fort Lauderdale Airport
10 incident in 2017, and then the Marjory Stoneman Douglas
11 shooting incident in February of 2018.

12 A. Correct.

13 Q. I'll be asking you some questions about some
14 policies and procedures.

15 A. Okay.

16 Q. First, provide your professional background,
17 please.

18 A. Okay. I'm currently the major over the
19 training division. So I'm the executive director for
20 training for BSO.

21 Immediately prior to that -- this took effect
22 in January of 2019. Immediately prior to that, for
23 two years I was the special operations captain for BSO,
24 which was also the SWAT commander for BSO. That was

25 from 2017 to the end of 2019. So that was two years.

6

1 In that capacity, I ran the fugitive task
2 force, our viper unit, which is our street crimes unit,
3 our burglary apprehension task force and regional
4 control over our district crime suppression teams, as
5 well as a SWAT commander.

6 Q. Okay.

7 A. Prior to that, I was a lieutenant for two
8 years. My capacity there, I was a shift commander in
9 Pompano Beach for part of that. I was also a lieutenant
10 in regional services for the back half of that two
11 years.

12 In regional services, I supervise our crime
13 stoppers, our reserve unit, our honored guard, as well
14 as the burglary apprehension task force, regional crime
15 suppression teams and -- what else did I have at that
16 time? Oh, and special events and PSB security, and I
17 was also the executive officer on the SWAT team.

18 You want me to go prior to that?

19 Q. I want a summary of your law enforcement
20 career.

21 A. No problem. So going backwards again, I was a
22 sergeant for BSO. I started off in Pompano Beach. I
23 was a shift sergeant there for about a year and a half
24 and then he ran the money laundering task force for

25 strategic investigations division, I did that for about

7

1 a year and a half. And also I was -- at that time
2 frame, I was a team leader on our SWAT team for that
3 duration.

4 So backing up prior to sergeant, I was a
5 full-time instructor for firearms for five years. I
6 taught in-service classes and firearms for five years.

7 I also worked on our -- I was a major narcotics
8 detective in strategic investigation. I was there for
9 approximately five years.

10 Before that, I was a crime suppression
11 detective in Deerfield Beach district for about four
12 years.

13 Before that was road patrol. I also was a SWAT
14 operator and team leader for a large part of that time
15 frame, as well as a deputy.

16 Q. When did you first become a sworn law
17 enforcement officer?

18 A. I started the academy in January of '97. I
19 graduated the academy in June of '97 and started patrol
20 in Deerfield Beach that summer.

21 Q. With BSO?

22 A. Yes, sir, all BSO.

23 Q. Your law enforcement career has been the BSO?

24 A. Yes, sir.

25 Q. And a number of sheriffs?

8

1 A. Yeah, a number of sheriffs. I started with Ron
2 Cochran and then Ken Jenne and Al Lambert and Scott
3 Israel, and now Sheriff Tony.

4 Q. Thank you for your service. And I want to
5 start with I think it's your transition to becoming
6 special ops captain, that was around the time of the
7 Fort Lauderdale-Hollywood Airport shooting that occurred
8 January 6, 2017.

9 A. Yes, sir.

10 Q. And you had been named SWAT captain, but your
11 transition was taking a couple of days in relation to
12 the Fort Lauderdale-Hollywood Airport incident?

13 A. No. It just happened to fall, on that
14 particular time frame, I had vacation that was already
15 planned. So it just -- the role was already assumed,
16 but the SWAT commander position just was delayed a week,
17 because I had already planned vacation. So previous --
18 former SWAT Commander Eddie Grant, he was still the SWAT
19 commander for an extra week until I got back to assume
20 the actual SWAT command role.

21 Q. For the Fort Lauderdale-Hollywood Airport
22 shooting, were you present at that shooting?

23 A. No, sir.

24 Q. You were on your --

25 A. Leave.

9

1 Q. -- annual leave?

2 A. Yes, sir.

3 Q. Okay. And you didn't return until that
4 incident was over?

5 A. Correct.

6 Q. When you did return, did you have any work that
7 you consider assigned to any of the follow-up aspects of
8 the Fort Lauderdale-Hollywood Airport shooting?

9 A. As far as like the debriefing?

10 Q. Debriefings, reviewing things, preparing
11 reports, anything of that?

12 A. I didn't prepare a report because I was not
13 there. We did debrief the team, as far as what the
14 roles were and how the incident was handled from a
15 supervisor level, for the -- we call it ICS, incident
16 command system.

17 Q. Incident command system?

18 A. Yes, sir. On how we utilize that to organize
19 the SWAT response, because we had I believe it was 17
20 teams came that day to the airport to help out BSO, to
21 help us clear the airport and clear all the terminals,
22 the parking garages, et cetera.

23 Q. For yourself personally, as a BSO deputy at
24 that time, had you gone through active shooter training?

25 A. Yes, sir.

10

1 Q. In what -- what manner was that training?

2 A. So I received it as a deputy, but I was -- at
3 the time, I was in the training division. So I received
4 it as a deputy, but I also, my position on SWAT, gave me
5 a lot of additional training for active killer response.
6 So we had trained not just through regular formal
7 training, but we also had full scale scenarios that SWAT
8 was part of. So I feel I got a little bit additional
9 training for active killer response.

10 Q. As you think about it, now that you are in
11 charge of training, SWAT gets a lot of additional active
12 killer type training?

13 A. Yes, sir.

14 Q. Including actual scenarios, not just classroom
15 training?

16 A. Correct. Well, most of the -- for the majority
17 of BSO, for Department of Law Enforcement I'm speaking
18 of, the active killer training is handled through
19 in-service training.

20 The SWAT team, they have our own training
21 curriculum above in-service training that everybody goes
22 to, that's inclusive of SWAT, but obviously our SWAT
23 trains once a week. Where everybody for in-service
24 training gets historically between three and four blocks

25 of training in a year, SWAT trains every week. Not

11

1 necessarily for active killer, but obviously there's a
2 whole gambit and curriculum of disciplines that they
3 train on, but they to get a lot of extra training.

4 Q. Generally with SWAT, are officers assigned to a
5 team or a unit where they work with certain individuals
6 routinely, regularly?

7 A. The SWAT team is comprised of three teams, but
8 they're not all full-time teams. So there's about --
9 now, and starting in 2019, about half are assigned to
10 either the fugitive unit or what we created, the
11 tactical training unit in the training division. So
12 that's about half.

13 The other half is divided up between other
14 responsibilities and assignments throughout the agency,
15 with SWAT being a collateral responsibility.

16 Q. And when the SWAT is a collateral
17 responsibility, do these deputies, those officers then
18 get a call and they respond to a SWAT call?

19 A. Correct. So the format that I implemented when
20 I became SWAT commander was it would rotate on a
21 three-week basis, because we have three teams. We have
22 an Alpha team, a Bravo team and a Charlie team. So one
23 team will be primarily on call for one week a time and
24 then it rotates. So every third week, that team, those

25 operators would know they would be primary for a

12

1 response, whether it would be for call out, whether they
2 would be on duty or not, but the majority of incidents
3 that would be deemed to be a call out, obviously other
4 operators from other teams would have to come and
5 assist, obviously, because we don't have these kind of
6 numbers to facilitate a call out with just one of those
7 three teams. Does that make sense?

8 Q. Yes. When somebody works on SWAT in the
9 collateral position --

10 A. Okay.

11 Q. -- so not full-time SWAT, do they also
12 participate in the once a week training?

13 A. Yes, sir.

14 Q. So everybody, whether you are full-time SWAT or
15 -- is it called collateral?

16 A. Collateral responsibility.

17 Q. Collateral responsibility, one time a week?

18 A. Yes, sir.

19 Q. And that's different from the other functions
20 of deputies in terms of the intensity of that training?

21 A. Yes, intensity is a good word, but that's also
22 -- so there's regular in-service training that we have
23 certain FDLE mandates that we have to give everybody,
24 requirements for FDLE, firearms training, defensive

25 tactics training, and then there's other skill sets we

13

1 put in the in service.

2 So we build an in service schedule on a
3 year-to-year basis on the different things we want to
4 cover and that covers everybody in the Department of Law
5 Enforcement. SWAT is within that umbrella, so whether
6 it be use of force training, defensive tactics training,
7 firearms qualifications, things of that nature, SWAT,
8 although they train once a week, they also come to
9 in-service training to get that training. That's the
10 one everybody goes to.

11 So I'm trying to make sure the lines don't get
12 blurred on what SWAT training is versus what in-service
13 training is.

14 Q. So I will ask you to separate a little bit of
15 those out, but let me first start with, as you
16 mentioned, FDLE required training.

17 A. Yes, sir.

18 Q. Are there certain trainings that are mandatory,
19 obligatory by FDLE for a law enforcement officer?

20 A. Yes. So there's certain amount of hours of
21 training you have to receive for your certification for
22 FDLE. So there's firearms qualifications, there's
23 defensive tactics, there's use of force training.

24 Q. Okay. And BSO makes certain that all of its

25 sworn law enforcement officers are always certified as

14

1 sworn law enforcement officers?

2 A. Correct.

3 Q. And somebody at BSO, may be you or before you,
4 tracks to make sure all of the deputies have the
5 required, mandatory trainings?

6 A. Correct. We track that internally. So we have
7 a running list of when people -- when they are due, like
8 if they miss a training block for whatever the reasons,
9 we make sure that they don't go too far down without
10 having the jeopardy of their certificate getting in
11 trouble.

12 Q. Then you mentioned BSO has its own requirements
13 for certain trainings?

14 A. Correct. So not everything for in-service
15 training is an FDLE requirement. So there's other
16 things that BSO decides is best practice that they have
17 -- we've done for in-service training.

18 Q. In the time that you've been with SWAT and then
19 moving to your more recent responsibility as in charge
20 of training, what are some of the topic areas that BSO
21 includes in their in-service training that are not
22 statute -- or statewide mandatory?

23 A. So what we've done when I came in in January,
24 we implemented a critical incident management in-service

25 block and that was to give, primarily, supervisors an

15

1 understanding of how to manage a critical incident from
2 the field level. You know, we think of ICS through --
3 ICS is an incident command system that was developed by
4 FEMA and it's a primarily designed for big disasters,
5 natural disasters or large scale events, we're
6 simplifying that down for line personnel, line
7 supervisors to -- obviously going through the airport
8 shooting, going through Stoneman Douglas, how important
9 it is, when you come across a critical incident, that
10 the line supervisor initiates some kind of command and
11 control and what the priorities are within that command
12 and control, because that just sets us up for success in
13 managing that incident, whether it turns out to be
14 something not as big as it potentially could have been
15 or something that turns out to be much larger than we
16 initially thought it was. If those ICS protocols are
17 put in place and implemented initially by the
18 supervisor, it is much easier for additional resources
19 and response to manage that situation.

20 Q. Okay. Prior to your becoming major in charge
21 of training, so let's say 2008 -- I'm sorry, 2018, 2017,
22 so the time frame with Fort Lauderdale Airport and
23 Marjory Stoneman Douglas massacre.

24 Do you know any of the in-service training

25 topics included by BSO that were not part of the

16

1 statewide mandatory requirements?

2 A. I do. I have them in my notes. Would you mind
3 if I look at them?

4 Q. Go right ahead.

5 A. I will show them to you. If you want to look,
6 I will show them to you first, so you can see. I
7 highlighted them by year. You can see the topics that
8 were covered for in-service.

9 Q. Okay. Why don't you tell us.

10 A. So you want me -- I will cover 2017 and then I
11 will talk about 2018; is that okay?

12 Q. That's good.

13 A. So in 2017, BSO was focusing on what we call
14 the PAT, which is a physical agility test. We were
15 trying to increase the overall fitness, health of all of
16 our deputies. So that was one in-service.

17 We had CPR, which was one of the mandates.

18 Fire and qualification, one of the mandates.

19 Defensive tactics and use of force, which was a
20 mandate.

21 We did driving, which was another mandate.

22 And then we did tactical handgun.

23 And then we did verbal defense and influence,

24 the VDI training, that was one the ones that was

25 suggested. I believe it came from PERF.

17

1 Q. Tell us what PERF is.

2 A. It's the -- you're going to ask me what the
3 acronym stands for.

4 Q. It's a law enforcement --

5 A. It's a law enforcement organization that
6 regulates training and things for law enforcement.

7 Q. Okay.

8 A. I don't know the exact acronym. I can't think
9 of what it stands for.

10 Q. Okay. That's fine. Anything else in 2017?

11 A. No, sir.

12 Q. Okay. And then 2018?

13 A. So 2018 we did defensive tactic and use of
14 force again.

15 We did the fair and impartial policing, which
16 was another PERF suggestion.

17 And then tactical handgun, tactical traffic
18 stops.

19 We did firearms qualifications, which was one
20 of the mandates.

21 And then we did an eight-hour active killer
22 block at the end of -- summer into the late 2018, they
23 did an eight-hour active killer training for all the
24 Department of Law Enforcement.

25 Q. Okay. And does your list have 2016 as well?

18

1 A. Yes, sir.

2 Q. What's in 2016?

3 A. So for 2016 they did building tactics. They
4 did patrol tactics. They have it listed as handgun, use
5 of force with scenario based, firearms qualifications
6 and then they did rescue task force/active shooter.

7 Q. Fair to say that the FDLE requirements,
8 mandatory requirements in '16, 2016, '17, '18, did not
9 then include active killer training?

10 A. Correct.

11 Q. How about today?

12 A. FDLE just came out with a single officer
13 response active shooter. I don't think it's -- I don't
14 think they've levied that to be a mandatory class for
15 this year. It's just the train the trainers are just
16 coming out right now.

17 Q. What's that called, train the trainers?

18 A. Train the trainer, yes, sir. That's when their
19 FDLE trainers come down to give training to the actual
20 other instructors to other departments so then those
21 trainers can train the personnel.

22 Q. And when did that come about?

23 A. That's this year.

24 Q. This year --

25 A. Yes, sir, that came out.

19

1 Q. So during the time that you've been the major
2 in charge of training?

3 A. Correct. That's just come out and the train
4 the trainer hasn't even been delivered yet. It's
5 scheduled to come out, I think, within a month.

6 Q. Does that mean somebody from FDLE comes down
7 works with you --

8 A. Our trainers.

9 Q. -- to implement a training program for the
10 trainers?

11 A. Right. We would take their lesson plan that
12 they've developed for the training, they would train our
13 trainers on it. We would adopt the lesson plan and then
14 facilitate that training that as deemed appropriate for
15 BSO.

16 Q. And are the trainers that you use people who
17 are within your training division?

18 A. Yes, sir.

19 Q. Is Mel Murphy still doing training?

20 A. Yes, sir.

21 Q. He's been doing that a while?

22 A. Yes, sir.

23 Q. So at the time of the airport -- let me go on
24 to something else.

1 trainings that you have identified as the prioritized,
2 the SWAT team, as an example, has even more specialized
3 trainings that they do throughout the course of the
4 year?

5 A. Correct.

6 Q. And is it fair to say there are many more
7 topics or the topics just repeated over and over again?

8 A. No. There's a pretty diverse set of
9 disciplines that the SWAT team covers throughout the
10 year.

11 Q. And the SWAT team is generally viewed as a
12 response type team, they get dispatched to a critical
13 incident?

14 A. Correct. So when any incident that evolves
15 where it expands past the capabilities of patrol, they
16 make the request for a SWAT.

17 We have certain protocols in place, when it
18 comes to preplanned events, and then obviously certain
19 incidents would automatically trigger a SWAT response,
20 active killer being one of them. We have the top five
21 protocol in place when it comes to serving arrest
22 warrants or search warrants that are deemed to be high
23 risk, that the SWAT team must be utilized to serve
24 those. Any time like a physical breach on a door has to

25 be done to serve a warrant, SWAT has to be notified to

21

1 serve that warrant and things like that.

2 Q. All right. So you've worked in your career
3 from road patrol up to SWAT and various command
4 positions?

5 A. Yes, sir.

6 Q. In your experience as a train -- as the
7 training major now, is it possible, within the structure
8 of BSO, to have weekly trainings for every BSO deputy?

9 A. We have training that goes on every week in one
10 form or another. Right now -- and I'll speaking for the
11 Department of Law Enforcement, that's primarily what we
12 are talking about.

13 For the Department of Law Enforcement, for me
14 to facilitate one phase of in-service, because of the
15 size of BSO, it takes me in anywhere between 60 to 70
16 different classes, depending on the number of students
17 we can facilitate per class, and depending on the
18 discipline that we are facilitating, that's how many it
19 takes just to do one phase. So you break that down to
20 how many -- you know, on a block, that's why we can only
21 do three and four phases in a year. It just takes that
22 long to get it done.

23 Q. That sounds a little like math. There's only
24 so many hours in the day --

25 A. Only so many hours and so many weeks in a year.

22

1 Q. So many weeks, so many deputies in the law
2 enforcement division. So you have to work with the
3 resources to figure out how do I get the right amount of
4 people through a training, to get through all the
5 necessary trainings, including BSO in-service trainings,
6 in the course of a year?

7 A. Correct.

8 Q. And in the process, monitor, I guess, by
9 computer the mandatory requirements so that everybody
10 meets the certification every -- is it three years or
11 four years?

12 A. Well, certain ones it's every four years and
13 other ones at a minimum every other year.

14 Q. So there's a computer program that keeps track
15 of everybody's --

16 A. Yes, sir, our training records keep track of
17 all that.

18 Q. Okay. When an officer, when a deputy goes
19 through any of these trainings, including active killer
20 training, some record is kept of that?

21 A. Their -- yes. Well, previously, prior to me
22 getting there, their attendance was kept. So when they
23 show up for the training, they sign in. So there's a
24 sign-in sheet that's recorded they showed up there.

25 There's usually an enrollment ahead of time on the

23

1 computer base for them to enroll in class, but that's
2 sometimes accurate, sometimes not, because sometimes
3 people do show up or other people don't show up, but the
4 sign-in sheets what's -- that's the physical, you were
5 physically there.

6 There's a training completion report, we call
7 it TCR, that's completed for every class that's
8 facilitated. So if I do active killer train and I did
9 it five days this week, there's going to be five
10 different TCRs that are generated, so for each class,
11 that's done. And the TCR captures, obviously, who was
12 there, if anybody left early, they don't get full credit
13 for the number of contact hours that was there, any
14 issues that came about that need to get noted for the
15 class, what lesson plans were utilized to facilitate
16 that class, because sometimes we will put on a class
17 that might utilize different lessons plans. So all the
18 lesson plans that were done and what instructors were
19 there that day.

20 Q. It sounds, the way you've described it, Major,
21 that there is some assurance that the attendees actually
22 attend these classes?

23 A. Correct.

24 Q. It's not like, perhaps, going to a college

25 class, not that any of us would have done it, where

24

1 there's a big auditorium, you show up for the start, you
2 sign in and then you walk out five minutes later and
3 nobody knows whether you attended the class?

4 A. Correct.

5 Q. That's not likely to happen in the trainings
6 that you've described at BSO?

7 A. Correct, right. Even before, one of the things
8 that I changed when I came in is now every student gets
9 an individual evaluation based on the objectives. So
10 it's a little more taxing for the instructors, but they
11 actually fill out what they objectives are, based on the
12 lesson plan, for what the training is and that student
13 has to demonstrate the proficiencies for what we wanted
14 to accomplish for that training block. So each student
15 now, starting in 2019, gets an individual evaluation.

16 Q. Before you instituted that individual
17 evaluation --

18 A. Correct, it was just a sign-in sheet.

19 Q. Sign-in sheet.

20 In your knowledge and experience, is it likely
21 that a deputy could attend one of these trainings that
22 you've discussed, sign in, attend and sleep during the
23 whole training?

24 A. Excuse me, water.

1 Q. Okay. Did BSO -- before you implemented the
2 changes you've discussed, did BSO, in the training
3 function, have a way of trying to assess whether
4 deputies got it, whether they understood and benefitted
5 from training?

6 A. Well, at the end of each class, each student
7 fills out an evaluation, that's historically been done,
8 that's continuing. They are anonymous, just on what was
9 the most useful aspects, anything you would like to
10 change, any instructor comments, any general comments,
11 they have an opportunity to critique the class. They
12 are anonymous.

13 Other than instructor observations, if somebody
14 was just clearly deficient to where they were not
15 meeting the standard, it was just up to that individual
16 training cadre that day to identify that person and then
17 document that in the TCR, that that person needed
18 remedial training.

19 Q. And are instructors encouraged to make those
20 kind of observations, if they identify a deputy who may
21 need additional training or may not seem to have gotten
22 whatever the focus of the lesson was?

23 A. I could speak for my -- the five years I did in
24 training, as a deputy, yes. I can't speak past that. I

25 can tell you from when I came back in this year, that

26

1 absolutely that is encouraged, as well as me

2 implementing the individual evaluations.

3 Q. You mentioned that BSO has instructors and

4 there's train the trainer programs. How are instructors

5 or trainers identified in BSO? And I'm really looking

6 more for not what you have implemented, but the system

7 that you understood existed when you were doing

8 trainings and through the time -- up to the time you

9 became major in charge of training.

10 A. Okay. Well, there's -- the primary -- prior to

11 me getting there, Sheriff Tony has greatly increased the

12 size of training division. So prior -- right now we are

13 at about 25 instructors. Prior to me getting there,

14 immediately when I got there, the instructor cadre for

15 Department of Law Enforcement was 12, that included the

16 two sergeants.

17 So those were selected and that process stayed

18 the same even from when I was there. There would be a

19 posting, people would have to apply for it, for the job.

20 They would have to come in and get an interview and then

21 they were selected to come into the training division

22 based on their -- whether it be their skill sets they

23 already had or however the training staff at the time

24 wanted to bring them in for whatever specialty or

25 whatever the idea was, whether it was general instructor

27

1 or firearms or defensive tactics. So they were selected
2 on the needs of training division, as well as what that
3 individual brought to the division. That's how they
4 were selected.

5 Q. So there's some individual selection process
6 that goes to identify and select the trainers?

7 A. Correct. So there was -- like I said, there
8 was a posting and then there was an interview process
9 and then an eligibility list.

10 Q. Is being selected as a trainer considered to be
11 a cushy job, a retirement job, an easy job that doesn't
12 require you to do much of anything?

13 A. No. It's actually a very hard job. It's very
14 demanding. It requires a lot of -- unfortunately, being
15 outside. Our gun range is at Marcum Park. Our shoot
16 house that we utilize we for tactical training and
17 things is outside. Obviously defensive tactics training
18 is very physical. Active killer training is very
19 physical. So it's not an easy job at all.

20 Q. There's a unit or a section within BSO that has
21 deputies assigned to schools, I think they're called
22 school resource officers?

23 A. Yes, sir.

24 Q. Is that a unit or a division in the law

1 A. I believe they're either Department of Law
2 Enforcement or Department of Administration, but they
3 are sworn officers, yes.

4 Q. Okay. But as you understood it in -- if you
5 had any understanding, in 2016, '17 and '18, were those
6 officers who were assigned to that function, as opposed
7 to a SWAT function where it's an additional function to
8 your main function?

9 A. No. School resource was a full-time position.

10 Q. Okay. And is there training that is in-service
11 training specially for school resource officers?

12 A. Now there is. Now there is.

13 Q. Meaning now, when you use the word now --

14 A. 2019.

15 Q. -- you're saying Major Robson training -- head
16 of training?

17 A. Correct.

18 Q. Okay. So you've implemented more specialized
19 training for SRO, school resource officers?

20 A. Correct.

21 Q. Prior to you taking command of that --

22 A. I'm unsure if there was individual training for
23 them. I know they came to the in-service classes,
24 because that's from the time I was in training. So I

25 know that division came through in-service, along with

29

1 all the other divisions. So I know they came through.

2 I don't know if there was individual special
3 training that they got aside from regular in-service.

4 Q. Okay. But at a minimum, those deputies, you
5 know, would be obligated to do the mandatory FDLE
6 requirements and the BSO implemented in-service
7 requirements?

8 A. Yes, sir.

9 Q. They are not basically told this is a
10 retirement job for you, have fun?

11 A. Correct.

12 Q. For an officer to become a trainer or an
13 instructor for active shooter, active killer, prior to
14 the time you took over, would that require the same kind
15 of selection system that you have described?

16 A. No. So once you are in the training division,
17 it's a pool of instructors, everybody has to wear
18 multiple hats. You have guys that would be the lead
19 instructors for certain disciplines. So you have guys
20 that would be lead instructors for firearms, lead
21 instructors for defensive tactics, lead instructors for
22 combat medicine, lead instructors for like an active
23 killer program, but a lot of times, like the 2018 active
24 killer program that we did, the training division

25 partnered with SWAT and there were SWAT operators and

30

1 SWAT training cadre that were there every day for the
2 eight-hour active killer to help facilitate that. So
3 that was a partnership to bring the best instructors
4 within the agency to facilitate that training for
5 everybody.

6 Q. And without trying to elevate somebody over
7 another, fair to say in that kind of specialized area,
8 the SWAT team members probably have much more experience
9 in active killer situation than a regular road patrol
10 deputy would?

11 A. Yes.

12 Q. And do you call upon -- say, in the 2018
13 program, did you call upon the SWAT members to be more
14 involved in that active killer training than in other
15 kinds of trainings?

16 A. Yes, sir.

17 Q. After the Fort Lauderdale Airport shooting, did
18 you participate in any of the after action reports?
19 There were a couple of drafts that led to the final
20 critical incident report, did you participate in the
21 preparation of those?

22 A. No, sir.

23 Q. Okay. Did you review any of the summaries or
24 drafts?

1 Q. Okay. What was your role in doing that, or
2 maybe alternatively, what was the purpose in you doing
3 any reviews?

4 A. It was more just to determine the accuracy, as
5 far as the report went, for what SWAT's response was to
6 the airport shooting, obviously a SWAT after action was
7 generated for that incident. And just to make sure what
8 was relayed in our internal after action report was
9 accurate.

10 Q. How did you go about trying to assess the
11 accuracy of that area, since SWAT was your command at
12 that time?

13 A. So just, again, speaking to everybody that was
14 there. Obviously we did a big team debrief. We
15 generated our after action report, any supplements that
16 had to get done. The supplement reports were done by
17 the individual operators and just collectively having an
18 understanding of what SWAT did, how we did it and,
19 again, going against the after action reported we
20 generated and then what is was transcribed into the
21 agencies after action report.

22 Q. For SWAT purposes, would you be considered
23 within BSO a subject matter expert in the time frame
24 after the Fort Lauderdale Airport shooting?

25 A. I have to self-declare myself?

32

1 Q. Yes.

2 A. Sure.

3 Q. And is it common, in developing after action

4 reports that involve an incident with a large scale

5 response, not a traffic stop, but a large scale

6 response, to have portions of the report evaluated by

7 subject matter experts?

8 A. Yes.

9 Q. What do you understand the purpose of that to

10 be?

11 A. Well, we want to make sure to evaluate

12 ourselves. We want to evaluate that our actions and

13 what we did was appropriate, that it was efficient.

14 Self-improvement, you know, what happened, what was ours

15 response, how did we handle it, did we do it correctly,

16 could we do it better next time, always learn from your

17 mistakes and just for overall agency efficiency.

18 Q. Have you had occasion, up to the time you're

19 being deposed, to compare and review the various

20 versions of the Fort Lauderdale Airport after action

21 reports that led to the final critical incident report?

22 A. No. I only reviewed, I think, it was the final

23 draft is what I reviewed.

24 Q. Okay. Had you reviewed or looked at any after

25 action reports involving significant events prior to the

33

1 Fort Lauderdale one?

2 A. To what scale?

3 Q. I don't --

4 A. Because we --

5 Q. I don't have that ability to do so --

6 A. With SWAT, every what we call mission for SWAT,

7 whether it's just a search warrant, an arrest warrant

8 service or a response to a call out, a barricaded

9 subject, hostage situation, any mission that SWAT goes

10 to, we generate after action reports. So I have

11 reviewed, I have authored many of them --

12 Q. So many?

13 A. -- approved.

14 Yes, sir.

15 Q. And I will ask you to help me with a gauge, but

16 are there some incidents that SWAT gets involved in that

17 have a much larger scale response than others?

18 A. Yes.

19 Q. In thinking about incidents that have a larger

20 scale response, have you participated in the SWAT after

21 action report preparation?

22 A. Yes.

23 Q. Have any of these incidents with a larger

24 response involved other agencies participating with BSO,

25 other municipal law enforcement?

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1 A. In a SWAT capacity or just in general?

2 Q. In general.

3 A. Yes.

4 Q. It's not uncommon, in your experience, to
5 respond to incidents where other agencies are involved,
6 other law enforcement agencies?

7 A. Not uncommon, no.

8 Q. Federal, as well as municipalities?

9 A. Federal, it's usually a preplanned operation,
10 but I've done that, yes, sir.

11 Q. You know that the federal -- various federal
12 law enforcement agencies were extensively involved in
13 the Fort Lauderdale Airport incident?

14 A. Yes.

15 Q. I want to move to the Marjory Stoneman Douglas
16 school shooting.

17 A. Okay.

18 Q. February 14th of 2018. Were you involved in
19 that in any way?

20 A. Yes.

21 Q. In what way?

22 A. I was a -- I was the SWAT commander and I was
23 the incident commander, until I was relieved by Colonel
24 Polan.

25 Q. Okay. And what -- if you can narrate,

35

1 generally, your duties in those capacities.

2 A. As the SWAT commander?

3 Q. Yes.

4 A. I was in charge of coordinating the tactical
5 response. I was obviously trying to mitigate any
6 threats, trying to mitigate as many of the wounded as we
7 could, while preserving any I evidence that we came
8 across, and also coordinating the other SWAT teams that
9 were also responding to the incident, trying to
10 coordinate a response.

11 Q. How long after the initial report of shooting
12 did you arrive on scene?

13 A. I believe it was approximately 20 minutes.

14 Q. 20 minutes. Had other SWAT members gotten
15 there before you did?

16 A. Yes, sir.

17 Q. About how long after, if know?

18 A. Probably ten, it's an approximate ten.

19 Q. Approximately ten minutes. So the initial
20 response getting to the site was -- sounds quick, to me,
21 but it was within ten minutes or so?

22 A. I believe so, yes, sir.

23 Q. That scene had numerous law enforcement
24 officers, over time, congregate to do work?

25 A. Yes, sir.

36

1 Q. Not just BSO officers, but other agencies?

2 A. Yes, sir.

3 Q. Local municipalities, even not so local
4 municipalities, right?

5 A. Right.

6 Q. And did you work on coordinating with other law
7 enforcement agencies in your SWAT commander capacity?

8 A. I did.

9 Q. Were there SWAT teams from other law
10 enforcement agencies that responded?

11 A. Yes, sir.

12 Q. And were you or your SWAT function the primary
13 for that?

14 A. Yes. So I was -- as I said, I was the SWAT
15 commander. So I also had my executive officer, who at
16 the time was Lieutenant McCoy. When I was wearing both
17 hats, I was the incident commander and I was trying to
18 be the SWAT commander at the same time. So I was doing
19 both things simultaneously, until Colonel Polan came and
20 we separated the command post, command response,
21 incident command from what we call TOC, which is a
22 tactical operation center. So you have your tactical
23 command post and you have your overall command post. So
24 the tactical command post is a branch of the actual

25 command post. Does that make sense?

37

1 Q. Yes.

2 A. Okay.

3 Q. So you first arrive in about 20 minutes and you
4 have described you wear two hats, SWAT commander and
5 incident commander?

6 A. Right. I was both initially because when I was
7 driving to the scene, listening to the radio traffic --
8 I could tell the radios were already having problems,
9 but I could not identify any single person that was in
10 charge. So when I got there, assuming nobody else was
11 in charge, I took charge.

12 Q. Okay. So you took charge and that's something
13 that you developed, based on your experience, but your
14 training as well?

15 A. Yes, sir.

16 Q. And you were in a position to take charge and
17 knowledgeable in how to take charge in an unfolding
18 incident that seemed to be --

19 A. Very chaotic.

20 Q. -- a tragedy?

21 A. Very chaotic.

22 Yes, sir.

23 Q. Chaos kind of goes with the territory when you
24 have mass incidents?

25 A. Yes, sir.

38

1 Q. And are you trained as a deputy, going through
2 the ranks as you have, to deal with that?

3 A. You are just trained what the responsibilities
4 are and what the priorities are. Chaos is a given, it's
5 going to happen. So you try your best to mitigate that.

6 Q. And try not to have it interfere with the
7 things you have to do to attend to an event?

8 A. Right. It's about prioritizing.

9 Q. And you mentioned that you have gone through,
10 participated in active shooter trainings, including real
11 life, on-the-scene type scenarios?

12 A. Full scale scenarios, yes, sir.

13 Q. Full scale scenarios. Is it fair to say, as a
14 deputy, experienced SWAT commander, that no matter what
15 full scale scenario you've been through, the actual
16 event is always going to have some new and unexpected
17 situations?

18 A. Absolutely.

19 Q. And is part of the training to prepare for the
20 unexpected?

21 A. Yes. The different scenarios, you know, we --
22 they give a diversity of different problems. Not every
23 active shooter is the same. Not every venue is the
24 same. Every venue is going to come with its own set of

25 issues. So, yes.

39

1 Q. You arrive, you are wearing the two hats, how
2 long does it take for Colonel Polan to come in and then
3 take over the command -- incident commander
4 responsibilities?

5 A. Can I review my notes? Do you mind?

6 Q. Of course.

7 A. I don't have the time written down. I'm sorry.

8 Q. It wasn't a long time afterwards --

9 A. Not a terrible long time.

10 Q. Not hours?

11 A. Not hours. I would say within approximately
12 30, 40 minutes, probably somewhere within that time
13 frame.

14 Q. The tactical operations is the part that you
15 continued to control as the SWAT commander?

16 A. Yes, sir.

17 Q. Did you have a place or a facility where you
18 coordinated your activity?

19 A. So initially when I arrived, I found our
20 BearCat, which is our armored vehicle.

21 Q. It's called a BearCat?

22 A. BearCat, yes, sir, that's our armored vehicle.

23 I -- when I got -- before I -- I got on the radio,
24 because they were establishing a staging area and trying

25 -- and so I advised all SWAT personnel that was

40

1 responding to go to the student parking lot, because I
2 didn't want them to go to the staging area.

3 So when I arrived at the student parking lot, I
4 saw the BearCat. So I parked about 50 feet away from
5 the BearCat and established a command post at the rear
6 of my vehicle, right there, and made contact with my
7 team leader that was standing at the BearCat.

8 Q. How did you know there was a student parking
9 lot at Marjory Stoneman Douglas High School? Did you
10 just anticipate that there would be one?

11 A. Yes, sir.

12 Q. And so you directed people to that area?

13 A. Correct.

14 Q. And that's where you met up with the people, as
15 you've described?

16 A. Right.

17 Q. How did a BearCat get to the school before you
18 did?

19 A. The team was training. It was our training
20 day, so they were at Marcum Park, so the team was
21 together. I had a small team element that was working
22 fugitive work that was already separate from training.
23 They were in the north end of the county, so they got
24 their really, really quickly. The rest of the team

25 traversed from Marcum Park to there. I was not there.

41

1 I was actually -- [REDACTED], in Boca
2 [REDACTED], so I came from a different location.

3 Q. Oh, what a day. So the system in place that
4 day had SWAT teams that were training somewhere
5 immediately respond to Marjory Stoneman Douglas High
6 School?

7 A. Our SWAT team, BSO SWAT team.

8 Q. Right. That's what I'm asking about, BSO.

9 And that included bringing this BearCat, which
10 is like a tank type vehicle?

11 A. It's just a -- I could show you a picture of
12 it, if you want, but it's just a -- picture an armored
13 truck for a bank.

14 Q. Okay.

15 A. That style, but it's armored for law
16 enforcement.

17 Q. All right. So that there and you set up your
18 command post in a staging area?

19 A. Correct.

20 Q. And you mention that there was some radio
21 communications problems?

22 A. Yes.

23 Q. Not unusual and not unexpected, given the
24 problem BSO has had with the radio system?

25 A. Knowing what happened at the airport with the

42

1 radio systems, when it started happening at Stoneman
2 Douglas, I identified what it was. I knew it was
3 throttling.

4 Q. And were you able to develop an effective
5 workaround?

6 A. Yes, between cell phones, between direct
7 channels, which bypasses the network, and for the most
8 of it, I actually incorporated runners. So I was
9 actually having SWAT operators from the command post run
10 back to the 1200 building, because where I parked my
11 building, there was the 1200 building. The 1300
12 building is here, the BearCat was almost at the edge of
13 the 1300 building facing the 1200 building, and my car
14 was parked about 50 feet to the north of the BearCat
15 here in the student parking lot.

16 Q. Did you know the school resource officer who
17 was assigned to Marjory Stoneman Douglas prior to
18 getting there?

19 A. No.

20 Q. You know who he was now, Scott Peterson?

21 A. Yes, sir.

22 Q. Did you have any idea that Scott Peterson would
23 not respond in the way that you would expect one of your
24 deputies under your command to respond?

25 A. No, sir.

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1 MR. PRIMROSE: Form.

2 BY MR. KUEHNE:

3 Q. Do you have -- did you, that day, have an
4 expectation, given your role and your experience as a
5 BSO officer, as to how a deputy should respond to such
6 an active shooter?

7 A. Yes.

8 Q. The BSO had then, I know it's been changed, but
9 had then an active shooter policy in Section 4.37?

10 A. Yes, sir.

11 Q. I'm not going to ask you to memorize it,
12 although you probably do, but I'm going to read a
13 section of it to you.

14 4.37 is the active shooter policy procedure for
15 BSO, law enforcement division, right?

16 A. Uh-huh.

17 Q. And I'm going to read section C.

18 A. Okay.

19 Q. Quote, If realtime intelligence exists, the
20 sole deputy or a team of deputies may enter the area
21 and/or structure to preserve life. A supervisor's
22 approval or on-site observation is not required for this
23 decision, end quote.

24 A. Yes.

25 Q. So that's what it said then, in effect at Fort

44

1 Lauderdale Airport and Marjory Stoneman Douglas.

2 You are aware that that post Marjory Stoneman
3 Douglas massacre that provision has been criticized,
4 subject to criticism?

5 A. Yes.

6 Q. That provision had been in place during times
7 when you took training or you were doing trainings?

8 A. Yes, sir.

9 Q. The "may" word is -- seems to be -- this is my
10 asking you the question, seems to be the subject of lots
11 of after the fact criticism. So I want to focus you on
12 that.

13 In the training done prior to you becoming
14 training major, the trainings you've done, participated
15 in, the training where you were in the training
16 division, was there any focus on limiting law
17 enforcement action by use of the "may" in that policy?

18 A. No, sir.

19 Q. How did BSO train on that active shooter policy
20 when you either did training or attended training?

21 A. So the primary objectives, when we conducted
22 active killer training for the law enforcement officers
23 that were responding were to either kill the offender,
24 force a barricade or force a surrender. Those were the

25 three primary objectives that were given. The scenarios

45

1 were based around those objectives to give the deputies
2 in the training the stimulus to accomplish those three
3 main objectives.

4 So the training was obviously stimulated by
5 stimulating gunfire, forcing the deputies to respond
6 into the active killer incident that we had set up for
7 training and either they directly confronted the shooter
8 and shot the shooter with using Simunitions -- you know
9 what Simunitions are?

10 Q. Are those simulated --

11 A. It's like a simulated bullet. Yeah, it's like
12 a paint ball. It uses Simunition weapons. It acts like
13 a real weapon. The weapon cycles like a real weapon.
14 It's a projectile being led, it's actually plastic with
15 paint in it or it's actually soap, but it's colored so
16 you can see it hits. It leaves a mark. It's a marking
17 cartridge.

18 Q. But it actual functions like a real weapon
19 would?

20 A. A real firearm.

21 Q. A real firearm?

22 A. Yes, sir.

23 Q. Okay.

24 A. So they go in and either directly confront the

25 shooter or we'll have the shooter barricade himself, at

46

1 which point they hold the barricade, so long as they are
2 contained and there's no immediate threat to other life
3 where the subject is barricaded or the subject
4 surrenders.

5 Now we -- that was kind of the three main
6 outcomes and that was based on reviewing the active
7 killer cases historically in the United States, those
8 were the three primary incidents that the officer would
9 face upon arriving on an active killer.

10 Q. As far as you knew up to time, including
11 becoming the major of training, did FDLE have a form
12 policy to be used for active killer?

13 A. Like an FDLE's lesson plan? What do you mean
14 by "form policy"?

15 Q. Let me ask it this way, did FDLE have any
16 mandatory policy that law enforcement agencies had to
17 implement for active shooter?

18 A. I do not know.

19 Q. How about today?

20 A. Other than the single officer response that's
21 coming out, the training, I don't know of any actual
22 policy from FDLE. I am not aware of that.

23 Q. So as far as today, you are not aware that FDLE
24 has on their computer to punch a button when a law

25 enforcement agency says, We want to implement an active

47

1 shooter policy, and FDLE says, This is what we

2 recommend?

3 A. I do not know.

4 Q. Had you, prior to becoming training major,

5 reviewed active shooter policies in effect for sheriffs'

6 offices around the state?

7 A. No, sir.

8 Q. Municipal law enforcement offices around the

9 state?

10 A. No, sir.

11 Q. Prior to you becoming -- strike that.

12 Prior to Marjory Stoneman Douglas massacre,

13 were you aware of any criticisms to the BSO active

14 shooter policy?

15 A. No.

16 Q. This question is not intended to put you or

17 anybody on the spot, but have you been in any

18 situations, as a SWAT commander or SWAT member, where a

19 colleague froze or seemed to be incapacitated in

20 responding because of a heightened environment?

21 A. For SWAT, no, sir.

22 Q. Okay. Certainly freezing under stress is not

23 what you would want a trained officer to do?

24 A. Absolutely not.

25 Q. In your experience as a trainer, experienced

48

1 SWAT officer, how do you identify whether an officer
2 will freeze or collapse under some heightened pressure?

3 A. There's no way to know.

4 Q. Does BSO keep track of problem officers, by
5 "problem officers," officers who are known to shirk
6 their duties or to not respond in ways that they are
7 supposed to do?

8 A. If there's an incident that is prompting a
9 review, whether it's a pursuit, a use of force, a
10 shooting, things like that, yes, there's different
11 things in place.

12 We have shooting review boards that review all
13 officer involved shootings. We have use of force all
14 get reviewed by different layers of command prior to
15 going for records. Any kind of vehicle pursuit that's
16 reviewed, we have a pursuit review board. Any crashes,
17 there's crash review boards.

18 So there are records in place, any time there's
19 an incident deemed to be a pattern of problems with an
20 individual officer, yes, they do get identified.

21 Q. In your experience, again, prior to becoming
22 your current senior position, command position, did the
23 BSO system and process of trying to identify and correct
24 officers who don't act appropriately seem to work?

25 A. If it's -- it's a complicated question only

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1 because it would depend. If it's multiple -- if it's a
2 critical incident the officer involved in and something
3 happened, if it's documented, there would be remedial
4 training, but for me not to have independent knowledge
5 of different things with different officers, I really
6 can't answer the question.

7 I know if there's too many uses of forces by a
8 certain officer, if there's certain characteristics that
9 are metastasizing that an officer might have a personal
10 problem or things like that, certainly there's things in
11 place for that.

12 But actual tracking lagging performance, that's
13 not captured in any of other mechanisms that we have in
14 place, prior to me, no. Which is why, another reason
15 why I implemented that individual evaluation sheet every
16 time somebody comes through training. So not only
17 did -- yes, you went through training. Yes, you went
18 through the scenarios, but did you actually demonstrate
19 the abilities to meet the objectives. That's one of the
20 reasons why I changed that.

21 Q. So now the system is designed to more
22 discretely capture the individual officer attendee at
23 all of these trainings?

24 A. Correct. And if the instructors that are

25 facilitating that day, somebody can -- essentially they

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1 can fail in-service, where before me, they really
2 couldn't. Now it's documented. So if somebody needs
3 remedial training, they are going to get that remedial
4 training. If they didn't meet all the objective, if
5 they problems handling their firearm or they just
6 couldn't grasp the concepts for whatever the objectives
7 were for the training evolution, it's documented and
8 they are given the follow-up training.

9 Q. And prior to you implementing this
10 documentation process, this individualized critique, I
11 will call it --

12 A. Okay.

13 Q. -- was it the practice of instructors at BSO
14 to, if they have identified a problem attendee or an
15 area where additional work is needed, to try to
16 facilitate that?

17 A. If it was an individual problem they saw with a
18 person, yes, they could either that day pull that person
19 aside and give them remedial training or they could work
20 with that person on the side, but I don't think there's
21 a formal process in place that captured that data.

22 Q. I respect your use of the word "could." I'm
23 going to focus the question a little bit differently.

24 A. Okay.

25 Q. Based on your experience, was it part of BSO

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1 training and evaluation system that if an instructor
2 identified deficiencies on the part of an individual
3 officer, that the instructor would likely try to
4 implement some corrective action or remedial training or
5 talk to the person or do something --

6 A. Yes.

7 Q. -- as opposed to just blowing it off and saying
8 well, that's --

9 A. Of course not. Of course not. Their job is to
10 instruct their job is to train everybody to make sure
11 the person keep meet the objectives of the training
12 evolution. When they left that training, the goal of
13 the instructor is to have that proficiency demonstrated
14 to them and if it wasn't, the expectation would be that
15 they would do corrective action.

16 Q. And is it your understanding from the
17 instructor system, up to the time you took over
18 training, that instructors accepted that responsibility
19 as instructors?

20 A. Yes.

21 Q. Did you have any involvement in the writing of
22 the 4.37 that became the active shooter policy that I
23 just read to you with the may language?

24 A. The earlier policy, no.

25 Q. Did you have any involvement in the post

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1 Marjory Stoneman Douglas shooting revision of this
2 policy?

3 A. Yes.

4 Q. And was there a process that was developed to
5 do that?

6 A. It was a group meeting with different command
7 staff that went over the policy and we collectively
8 drafted the policy, or revised the policy, I should say.

9 Q. Right. Who were -- do you recall some of the
10 people who were involved in that?

11 A. Colonel Dale, there was the general counsel.
12 It was Captain Diefenbacher, Major Schults, and I don't
13 recall anybody directly offhand.

14 Q. Do you know if somebody in that group was
15 responsible for surveying active shooter policies in
16 other law enforcement agencies as part of that review?

17 A. Yes, sir.

18 Q. Who did that?

19 A. Captain Diefenbacher.

20 Q. Diefenbacher. And you know that you prepared a
21 fairly comprehensive report that got a number of
22 different policies from sheriffs' offices, municipal law
23 enforcement offices and tried to analyze them in various
24 forms?

25 A. Yes, sir.

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1 Q. And was that the subject of some general
2 discussion?

3 A. Yes, sir.

4 Q. It wasn't -- is it Captain Diefenbacher?

5 A. Yes, sir.

6 Q. It wasn't Captain Diefenbacher just telling you
7 this is the way it is?

8 A. No. There was multiple agencies' policies from
9 around the state that we reviewed. Primarily agencies
10 that were comparable to our size and we reviewed
11 different aspects of their policies and comparison to
12 what ours was, a lot of it was in alignment, and we made
13 adjustments to ours based on that.

14 Q. I have no further questions of you.

15 MR. KUEHNE: I tender questioning to

16 Mr. Primrose.

17 THE WITNESS: Okay.

18 MR. PRIMROSE: All right.

19 CROSS-EXAMINATION

20 BY MR. PRIMROSE:

21 Q. Thank you, Major. I just want to -- I want to
22 go back to the new policy that you put in place to
23 require an individual assessment of each deputy who
24 takes training.

25 A. Yes, sir.

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1 Q. That is something that you said did not exist
2 prior to your promotion to being -- overseeing the
3 training, correct?

4 A. Not that I am aware of, no, sir.

5 Q. And that was something that was done under the
6 current sheriff, Sheriff Tony?

7 A. Yes, sir.

8 Q. Is part of the reason to do that a direct
9 response to what happened at Marjory Stoneman Douglas?

10 A. Yes. The decision to do that was mine, to do
11 the individual assessment, and partially it was for that
12 because what we -- what we found was although people
13 attended training, holistically, not exclusive to Scott
14 Peterson, holistically somebody attended training, but
15 when it came to identifying did they actually perform
16 the objectives, the training completion report was a
17 little bit vague and didn't really allow an individual
18 aspect of identification for the objectives were met by
19 that individual.

20 Q. And prior to January 2019, how often would a
21 deputy have to undergo active shooter training?

22 A. I had the list here. I can get it back out for
23 you. I will tell you what the objectives were. I went
24 back to 2016 for our train -- in-service trainings.

25 So the mandatory ones for 2016 they had, it was

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1 a hybrid class between introducing a rescue task force
2 and active killer training. So that was a joint
3 training with fire rescue.

4 Are you familiar with rescue task force is,
5 sir?

6 Q. No. What is that?

7 A. So rescue task force is when fire rescue shows
8 up and depending on the size and scope of the incident
9 and how many victims are there and where the victims are
10 located, it would actually bring fire rescue personnel
11 into what we call the warm zone. So, you know, you have
12 a hot zone, warm zone and cold zone, when you're looking
13 at an overall incident.

14 So they would bring fire rescue actually to the
15 patients in a warm zone under escort of law enforcement
16 to get better treatment to those victim faster than
17 waiting for the incident to be over to establish a cold
18 zone and then fire rescue comes in.

19 So that's what that training was about and so
20 then that was intricate upon active killer, because it
21 was focused on rescue task force, but it was intricate
22 with active killer, because the scenario was an active
23 killer situation that resulted in needing the rescue
24 task force, if that make sense.

25 So that was in 2016. I don't have the records

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1 as -- did we get 100 percent compliance on attendance
2 for that, I didn't bring that with me, but I know that
3 class was part of in-service and then they didn't get
4 active killer again until the end of 2018, when it was
5 an eight-hour mandatory training.

6 Q. And does this sound accurate, my understanding
7 is that the entire sheriff's office had to do two
8 four-hour training blocks sometime between 2015 and '17
9 on active killer training?

10 A. I would have to pull -- I don't have those
11 records here. I don't see that. In 2016, there was the
12 active shooter rescue task force there. There was
13 nothing in 2017 for that and I didn't bring 2015.

14 Q. Okay. But I guess do you have any independent
15 knowledge -- I mean, the active shooter training is not
16 something prior to Marjory Stoneman Douglas that was
17 required on an annual basis, was it?

18 A. No, sir.

19 Q. And I know you said in December of '18 it was
20 now required that everybody do it. Moving forward, how
21 often do the deputies now need to undergo like an active
22 shooter training?

23 A. They got, like I said, eight hours in the 2018.
24 I am continuing that and as long as I am the training

25 director at BSO, active killer training will be

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1 annually.

2 Q. Okay. And it sounds like since Sheriff Tony
3 has been put in place, that training has become a
4 priority of the sheriff?

5 A. Yes, sir.

6 Q. Are you -- I know Mr. Kuehne asked you
7 questions about the after accident report that was done
8 after the Fort Lauderdale shooting. Did you review any
9 of the draft versions of that report?

10 A. No, sir.

11 Q. Okay. So you weren't aware that at least two
12 different individuals mentioned that an area of concern
13 was active shooter training after the Fort Lauderdale
14 Airport shooting?

15 A. No, sir, I am not aware of that.

16 Q. Okay. And I know that -- I don't want you to
17 try to guess here, but would it surprise you if I told
18 you that the critical incident report or the final
19 version of the Fort Lauderdale Airport shooting made no
20 mention of a need to focus on or increase active shooter
21 training?

22 A. You said -- the question was would that
23 surprise me?

24 Q. Yes, that it was completely absent from the

1 A. Yes, that would surprise me. I mean, that was
2 something that was identified as a need.

3 Q. Okay. Now, I know -- I know you've mentioned
4 there's really no way to tell in training whether a
5 deputy is going to freeze under a real life situation.
6 What are some of the ways, though, based on your
7 experience, that you can get close to figuring out if
8 the deputy is actually up for the task in a real life
9 situation?

10 A. So the way we do that is to give them as much
11 realistic stimulus as we can when we provide the
12 training, especially when we do scenarios surrounding
13 active killer training. We're using sound. We're using
14 loud music. We're using fog machines. We're using
15 screaming, role players. We are using blanks from long
16 guns rifles, shotguns, handguns. We're using moulage on
17 some of the victims to make it look as realistic as
18 possible for their injuries. And we are giving them --
19 so we're trying to give them a sensory overload when
20 they go into these scenarios and trying to get them to
21 stick to the objectives of what they are doing based on
22 the stimulus that we are giving them.

23 Q. Okay. Given the current state of the
24 unfortunate frequency of mass shooting events, has that

25 created an increased sense of needing to make sure that

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1 the people who are putting on the badge are up to the
2 task of stopping an active shooter situation, are at
3 least mitigating the amount of damage one could do?

4 A. Yes, I would agree with that. With just
5 today's law enforcement environment, it's a duty for the
6 respective command staff to ensure they provide that
7 training to their officers to make sure their officers
8 are capable of stopping that threat.

9 Q. And, I guess, in the law enforcement community,
10 are there certain targets or duties that would be even
11 higher than the normal road patrol exposure to an active
12 shooter situation?

13 A. Are you referring to, as far as like an SRO or
14 a school resource officer or any kind of, I guess, what
15 I would determine a critical infrastructure area,
16 something that would be a good target for an active
17 shooter to go to?

18 Q. Yes.

19 A. Right.

20 Q. So if there's that understanding that there are
21 high, and you articulated it better than I did, but
22 structures or targets that would be more commonly
23 targeted by the shooter, is it generally the idea, from
24 a sheriff's perspective, let's get more training on how

25 to respond to those situations and scenarios?

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1 A. Yes.

2 Q. I know that you were not -- you were on
3 vacation during the Fort Lauderdale Airport shooting.
4 Since that incident happened in January of 2017, has
5 there been a large scale, real life exercise done at the
6 airport to put the BSO airport district staff in that
7 situation for if it were to happen again?

8 A. Yes, there was.

9 Q. Okay. What about at schools, I'm talking prior
10 to Marjory Stoneman Douglas, were there any large scale,
11 for all the SROs, to go through how they might react in
12 a situation if a school was attacked?

13 A. I'm unaware of any training directly for the
14 SROs. I know they went through active killer training
15 through in-service with everybody else, that part I do
16 know. I just don't know if there was any specific
17 training directly for the SROs related to the school. I
18 don't know that.

19 Q. Okay. And this might be an unfair question, I
20 hate to ask you -- put you in this position, but one of
21 the original drafts of the Fort Lauderdale Airport
22 shooting after action report made a comment that BSO
23 deputies assigned to the airport maybe were complacent,
24 because it seems like it wasn't as high risk as being

25 out on the road and that the deputies may have been

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1 either complacent or not as vigilant.

2 Is that kind of the general understanding, that
3 somebody gets shipped off to the airport or, say, a
4 school, not as dangerous as being out on the road?

5 A. No. I mean, those assignments are an
6 individual decision based on the officers. That's not
7 really, that I am aware of, a command decision to put
8 somebody who's not -- skills sets aren't as good as
9 somebody else to put them in a place like that. I am
10 not aware of that.

11 As far as I know, assignments to the
12 courthouse, airport, seaport or a school, it's an
13 individual request to go to those locations.

14 Q. Okay. Are there any -- well, I guess let me
15 ask this question, because I know it's been mentioned
16 that Deputy Peterson was named the SRO of the year at
17 some point.

18 Does that -- do you know if that honor has
19 anything to do with his caliber as a deputy in the
20 aspect of protecting and saving lives?

21 A. I don't know what the categories was that
22 summarized him getting that award. I know the roles and
23 responsibilities of an SRO are more gauge, you know,
24 interaction with the kids and what are they doing for

25 the community, for the school and things like that.

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1 So I guess a fair answer would be probably not,
2 as far as what his tactical abilities, you know, was
3 that a part of that award, I would say probably not,
4 but, you know, I don't have that firsthand knowledge.

5 Q. Okay. I'm going to go silent for just a second
6 as I review my notes, so just bear with me.

7 A. Okay. Sure.

8 Q. I do want to ask you, after Marjory Stoneman
9 Douglas, there were some discussion that the active
10 shooter policy for Broward was changed, and my
11 understanding it was the "may" was changed to "shall";
12 is that right?

13 A. Yes, sir.

14 Q. What was the catalyst for making just that one
15 change of may to shall?

16 A. I know that was one of the major points that
17 came out of the MSD commission, from some of the other
18 sheriffs that are involved in that commission, that was
19 one the main criticisms that our policy got and we
20 changed it.

21 Q. Okay. Is that -- and if you don't know the
22 answer to this question, that's okay.

23 Is that because "may," in combination with
24 Scott Israel's assessment that he doesn't want a deputy

25 going into, quote, suicide mission, that may was a

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1 discretionary choice for the deputy?

2 A. I don't think that was a -- that was an
3 intended action for the deputy to take that as well, you
4 know, I'm not obligated to, because of the policy. I
5 don't think that -- I don't think that was the purpose
6 of it. I think deputies may have looked at that
7 afterwards of trying to justify their actions by looking
8 at the policy and thinking -- trying to interpret it
9 differently after the fact. Does that make sense?

10 Q. Okay. Mr. Kuehne asked you some questions
11 about a detailed review of other municipals and county
12 law enforcement policies regarding active shooter, and I
13 believe you said you were familiar with that kind of
14 summary that was done?

15 A. Yes, sir.

16 Q. And in that particular summary, it makes -- it
17 makes an -- I don't know who wrote this, but an opinion
18 that the "may" in the Broward policy is there to provide
19 some discretion on the deputy and so that there's no
20 liability on the deputy, if they determine that they are
21 not going to engage the shooter.

22 Are you familiar with that?

23 A. I am vaguely familiar with that. I believe it
24 was the intent on the "may" was to not make the deputy

25 feel they had to go into what, essentially, would be a

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1 suicidal situation. If they know, you know, going
2 through that door, I'm immediately going to get shot or
3 if there's some kind of explosive device to a door, that
4 they have to open that door even if they know they're
5 going to suffer an explosive. That was kind of the
6 explanation that I heard with it, but I wasn't part of
7 the original decision process for when that policy was
8 implemented or created.

9 Q. And I want to just really quickly touch on
10 that, the suicidal aspect of engaging the shooter. In
11 order to make that determination, as to whether or not
12 entering the structure is going to be immediately result
13 in either a loss of life to the sheriff or some serious
14 injury to the sheriff, they've got -- or the deputy,
15 excuse me, they've got to do some sort of due diligence
16 to see if that's even a real possibility of danger to
17 them, right?

18 A. Absolutely.

19 Q. So that would -- I mean, that would include
20 checking to see if there are other points of entry into
21 the structure itself, right?

22 A. Correct.

23 Q. And seeing if anybody knows of any booby trap
24 or explosive that might be on the door that would create

25 a dangerous situation?

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1 A. Correct.

2 Q. Okay. The last just round of questions I've
3 got, kind of, are just broad, but in the structure of
4 Broward Sheriff's Office, who is ultimately responsible
5 for all the deputies?

6 A. The sheriff.

7 Q. Okay. And is the sheriff the one that is
8 ultimately responsible for making sure anybody wearing
9 the badge of a deputy sheriff is actually going to carry
10 out the policies and the training that the sheriff has
11 in place?

12 A. Sure, yes. He's the sheriff. It would be the
13 chief of police, the sheriff, ultimately they are the
14 ones that are responsible.

15 Q. Okay. So at least within Broward Sheriff's
16 Office, the one ultimately responsible for making sure
17 that his or her deputies are going to protect and save
18 lives when they are out in the field is the sheriff,
19 right?

20 A. Yes, sir.

21 Q. Okay. Major, I don't have any other questions.
22 I do thank you for taking the time to speak with us this
23 afternoon.

24 A. You're welcome.

1 REDIRECT EXAMINATION

2 BY MR. KUEHNE:

3 Q. Major, I have a couple of follow-ups.

4 A. Sure.

5 Q. In your experience, with regard to the last
6 question asked, that the sheriff has responsibility for
7 making sure the deputies are going to protect and safe
8 lives. How does a command staff or a sheriff do that?

9 A. It's through the training, through the
10 experience, through the training and putting those
11 people in the simulations that best mimic a real life
12 situation, but when the situation is real and is not a
13 training, there's no way to 100 percent know, even
14 though -- I am a major. Ultimately, I am responsible to
15 make sure my people are trained, to the best of my
16 knowledge they are going to perform the duties, but when
17 the day comes and they actually have to do it, how do I
18 actually know you are actually going to do that? That's
19 a question I don't know. I'm responsible for the end
20 action, your end action, but there's no way for me to
21 know you are actually going to do it when it's real.

22 Q. But you do the best you can, as a supervisor,
23 to see that you can identify weaknesses, if you can find
24 them?

25 A. I've prepared you the absolutely best that I

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1 can.

2 Q. You were also asked, sort of to the end,
3 about -- I think it was introduced as the suicidal
4 aspect of engaging the shooter.

5 A. Correct.

6 Q. Remember the question about that, this is the
7 may/shall discussion?

8 A. Yes, sir.

9 Q. And you agreed that some sort of due diligence
10 is needed to assess the situation?

11 A. Yes, sir.

12 Q. Is there any part of the training at BSO, under
13 4.37 or any other part of the training, that doesn't
14 focus on law enforcement doing everything they can to
15 incapacitate the shooter or accomplish those three
16 objectives that you mentioned?

17 A. That's the training.

18 Q. That's the training?

19 A. Right.

20 Q. The training is 100 percent focused on those
21 three objectives?

22 A. That's what it's geared around. It's geared
23 around the outcome. Obviously it's stopping the killing
24 and then stopping the dying, that's where we are. So

25 you're stopping the killing by one of those three

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1 objectives, either when you get there, if there are
2 shots being fired, either I have to stop the shooting by
3 directly contacting with the shooter, forcing a
4 barricade or surrender, that's part of it.

5 The second part of it is once that's stopped,
6 then you shift gears into now I have to stop the dying.
7 Now once the killing has stopped, now my focus are the
8 victims, now I have to try to stop them from dying.

9 Q. So the first focus.

10 A. Yes, sir.

11 Q. Active shooter, killing is possible?

12 A. Absolutely.

13 Q. So that first part. Is part of training
14 designed to focus the responding deputy or deputies to
15 quickly and competently assess the situation?

16 A. Yes.

17 Q. Assess whether there's one shooter or multiple
18 shooters?

19 A. The stimulus that we give them in trainings
20 just there's gunshots, whether there's one or several,
21 your response is the same. That's your job.

22 Q. But also to figure that out, whether --

23 A. If you can, yes.

24 Q. -- there's one or several?

25 A. If you can, yes.

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1 Q. Whether there's a sniper on the roof, in

2 addition to a shooter in the building?

3 A. Yes. Part of the training is communication.

4 So we want the deputies to communicate what are they

5 seeing, and that's also part what we're going to now

6 with the critical incident management part with the ICS

7 integration into that is for the supervisor to try to

8 get that information from the people that are inside.

9 We're calling it a CAN report. It's a means analysis

10 report, basically. It's part of ICS.

11 So if you are inside, you are the first guy in

12 there, I am the supervisor outside, I can't see what's

13 going on inside. I am trying to train that supervisor

14 to get that information to them so they can make better

15 decisions outside for management, what's going on

16 inside, do I need to give you more resources or do I

17 need fire rescue. What do I need inside right now.

18 Q. And that ICS type system that you are working

19 on pushing down to --

20 A. Line personnel, line supervisors.

21 Q. -- the line personnel?

22 A. Yes, sir.

23 Q. That's a development from -- is it called NIMS,

24 N-I-M-S?

25 A. Yes, NIMS is part of ICS, yes, sir.

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1 Q. And NIMS is a standard or a policy that
2 actually has been implemented so that all personnel go
3 through some form of NIMS training?

4 A. Yes, sir.

5 Q. That includes more than just sworn law
6 enforcement personnel?

7 A. Yes, sir, because under NIMS, with ICS, if it's
8 a big event, even civilian personnel, the goal of it is
9 to make everybody to speak the same language. So
10 whether you come in an another state and you are coming
11 down here to help me recover from hurricane, we are
12 speaking the same language, or whether it's internal in
13 the agency, a lot of it is civilian staff that have help
14 out with things like finance, things like procurement.
15 So a lot of civilian staff that get involved with
16 appropriating things through a proper response. So
17 that's where -- that's ICS and that's NIMS and that's
18 all speaking that same language.

19 Q. And you have identified working on that focus
20 to keep pushing down -- I don't mean it in a bad way --

21 A. I know you what mean.

22 Q. -- but pushing down that incident command
23 structure to the line staff --

24 A. Correct.

25 Q. -- so everybody is speaking the same language?

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1 A. Correct. So when, if a problem starts small or
2 if you take an MSD or an airport shooting, that first
3 supervisor that's there, if they are setting up that
4 command structure, as it continues to expand out, if you
5 are using the proper procedures, it is much more
6 efficiently, much more controlled and eliminates a lot
7 of response chaos.

8 Q. And these are realities from the way situations
9 evolve and what you learn from each situation?

10 A. Correct.

11 Q. And there's no doubt that at BSO, BSO as an
12 entity learned from Fort Lauderdale Airport shooting?

13 A. Yes, sir.

14 Q. And implemented practices that were a result of
15 having learned from that tragedy?

16 A. I can speak from the SWAT response what we
17 learned and figured out at the airport shooting, carry
18 it over to how we ran the tactical operation center at
19 Marjory Stoneman Douglas.

20 Q. And similarly, although, we wish no tragedy
21 would ever occur, BSO, as an organization, learned from
22 the MSD to implement, including through your
23 implementation, new systems, procedures, practices
24 today?

25 A. Yes, sir.

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1 Q. But they -- that implementation didn't start
2 with you taking over as major of training?

3 A. No, sir.

4 Q. It was an ongoing process with Sheriff Israel,
5 Sheriff Tony's continued that?

6 A. Yes, sir.

7 Q. I have nothing further. I don't know if
8 Mr. Primrose has any follow-up.

9 MR. PRIMROSE: I do not.

10 MR. KUEHNE: Okay. Thank you. You know about
11 reading and waiving.

12 THE WITNESS: Yes, sir.

13 MR. KUEHNE: Your transcript is going to be
14 prepared on a fairly expedited basis. You will get a
15 copy of it. I will immediately send it to Mr. Lynch,
16 the general counsel, so that you can get access
17 immediately.

18 If you waive reading, it will give us a chance
19 to get it and have the lawyers have it at the same
20 time you have it, because it's probably going to be
21 transcribed over the weekend. But you need to let us
22 know whether you waive reading, but the lawyer will
23 still get it. You will be able to make whatever
24 suggestions, changes, et cetera, or whether you want

25 to read, which limits our distribution until you read

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1 it.

2 THE WITNESS: Waiving is fine.

3 MR. KUEHNE: Okay. And I will make certain

4 Mr. Lynch gets it immediately.

5 THE WITNESS: Yes, sir.

6 MR. KUEHNE: Okay. Thank you.

7 (The deposition was concluded at approximately

8 3:08 p.m. Signature and formalities were waived.)

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1 CERTIFICATE OF OATH

2

3 STATE OF FLORIDA

4 COUNTY OF MIAMI-DADE

5

6 I, the undersigned authority, certify that
7 STEVE ROBSON personally appeared before me on
8 June 7, 2019 and was duly sworn by me.

9

10 WITNESS my hand and official seal this 9th day
11 of June, 2019.

12

13 _____

14 LILLY VILLAVERDE

15

16

17 My Commission #GG010818

18 Expires July 23, 2020

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1 REPORTER'S DEPOSITION CERTIFICATE

2

3 STATE OF FLORIDA

4 COUNTY OF MIAMI-DADE

5 I, LILLY VILLAVERDE, Florida Professional

6 Reporter, certify that I was authorized to and did

7 stenographically report the foregoing deposition of

8 STEVE ROBSON; and that a review of the transcript was

9 not requested; and that the transcript is a true and

10 complete record of my stenographic notes.

11

12 I further certify that I am not a relative,

13 employee, attorney, or counsel of any of the parties,

14 nor am I a relative or employee of any of the parties'

15 attorney or counsel connected with the action, nor am I

16 financially interested in the action.

17 Dated this 9th day of June, 2019.

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LILLY VILLAVERDE
FLORIDA PROFESSIONAL REPORTER

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THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF SCOTT ISRAEL.

_____ /

Veritext
1400 Centrepark Boulevard
Suite 605
West Palm Beach, Florida 33401
Tuesday, June 11, 2019
9:02 A.M. - 10:31 A.M.

DEPOSITION OF KEVIN SHULTS

Taken before Robyn Maxwell, RPR, FPR,
RSA, and Notary Public in and for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed in
the above-mentioned cause.

1 APPEARANCES:

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NO EXHIBITS MARKED

1 Thereupon,
2 the following proceedings began at 9:02 A.M.:

3 THE COURT REPORTER: Raise your right hand,
4 please.

5 Do you solemnly swear or affirm the
6 testimony you are about to give in this matter
7 will be the truth, the whole truth and nothing but
8 the truth?

9 THE WITNESS: I do.

10 Thereupon,

11 KEVIN SHULTS,
12 having been first duly sworn or affirmed, was examined
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. KUEHNE:

16 Q. We're at Veritext. Robyn -- Robyn Maxwell
17 is our court reporter at Veritext. Witness has been
18 sworn.

19 Good morning. My name is --

20 MR. KUEHNE: Whoops. Nick, we lost you.

21 MR. PRIMROSE: I can still see him.

22 MR. KUEHNE: You can see him? Okay. We
23 can't see you for some reason, but you can see him
24 so that's fine.

25

1 BY MR. KUEHNE:

2 Q. So good morning. My name is Ben Kuehne. I
3 am counsel for Sheriff Scott Israel in connection with
4 proceedings involving the Senate review of his suspension
5 by the governor.

6 I have asked you to appear pursuant to a
7 subpoena that was issued by the Florida Senate. Here's a
8 copy of the subpoena for your attendance.

9 Mr. Primrose, would you enter an
10 appearance, please?

11 MR. PRIMROSE: This is Nick Primrose for
12 Governor Ron DeSantis.

13 BY MR. KUEHNE:

14 Q. Please state your name and spell your last
15 name.

16 A. Kevin Shults, S-H-U-L-T-S.

17 Q. Mr. Shults, you have been a law enforcement
18 officer. Are you a currently a law enforcement officer?

19 A. I am not.

20 Q. Please state and describe for me your law
21 enforcement history in a narrative fashion.

22 A. I have a total of 34 years of law
23 enforcement experience. One year with the City of Wilton
24 Manors. Twenty-seven years City of Fort Lauderdale where
25 I retired. Six years of Broward Sheriff's Office.

1 I have been involved in special operations
2 command and training since 1990. I possess numerous
3 instructional certificates. I have been a part of
4 various high liability trainings throughout the majority
5 of my career.

6 Q. What -- is it appropriate for me to call
7 you "Mr. Shults" in the course of this deposition?

8 A. It is.

9 Q. Okay. I don't mean any disrespect for your
10 long-term of law enforcement service.

11 During the 34 years as a law enforcement
12 officer, have you been continuously certified as a law
13 enforcement officer by the State of Florida?

14 A. Yes, I have.

15 Q. When did you conclude your law enforcement
16 career?

17 A. January of 2019.

18 Q. 1/2019. Was that a voluntary separation?

19 A. It was.

20 Q. Okay. Was that coincident with the
21 decision of the governor to suspend Sheriff Israel?

22 A. It was.

23 Q. What position did you hold at the time of
24 your separation from BSO?

25 A. Major.

1 Q. Major. And did you have any duties and
2 responsibilities as major?

3 A. Director of training and the director of
4 policy and accountability.

5 Q. Training, policy and accountability.
6 How long?

7 A. Six years.

8 Q. When you came -- when you joined BSO after
9 your retirement from Fort Lauderdale Police Department,
10 did you enter as a major?

11 A. No, sir.

12 Q. What did you enter as, with?

13 A. Captain.

14 Q. Captain. And you were promoted to major?

15 A. Yes.

16 Q. What were your duties and responsibilities
17 when you joined as captain?

18 A. The same.

19 Q. Training and?

20 A. Policy and accountability.

21 Q. Were you the senior officer at BSO in
22 charge of training?

23 A. Yes.

24 Q. Did you have a unit or a staff dedicated to
25 training?

1 A. Yes.

2 Q. And did that unit or staff at various times
3 include others who assisted in training?

4 A. Yes.

5 Q. Did training involve both in BSO training
6 as well as training exercises with other agencies?

7 A. Yes.

8 Q. Did some of those agencies include other
9 local municipal agencies as well as federal agencies?

10 A. Yes.

11 Q. How about other sheriffs or the equivalent,
12 such as the equivalent in Miami-Dade County?

13 A. There were training operations that were
14 multi-jurisdictional that would have fallen within the
15 commands, say, of special operations, which would be
16 SWAT. Those entities -- those training were conducted
17 between SWAT operations and Miami-Dade SWAT operations.

18 Same thing occurred with maritime
19 operations. They were usually unit to unit.

20 Aviation, unit to unit. They didn't
21 necessarily involve training command approval or review.

22 Q. Okay. You mentioned you have significant
23 experience in special operations?

24 A. Correct.

25 Q. What did that involve?

1 A. I was a member of SWAT for 17 years.
2 Served as executive officer for seven years, City of Fort
3 Lauderdale.

4 Q. So 17 years with SWAT and 7 years as
5 executive officer?

6 A. Correct.

7 Q. What does "executive officer" mean?

8 A. Second in command.

9 Q. At BSO as a major, were you considered
10 command staff?

11 A. Yes.

12 Q. My principal focus during the -- your
13 deposition is on two discreet incidents and the time
14 frame around those incidents.

15 One is known as the Fort Lauderdale airport
16 shooting in January of 2017. Are you familiar with that
17 incident?

18 A. I am.

19 Q. The second is a February 14, 2018 tragedy
20 known as the Marjorie Stoneman Douglas High School
21 shooting. Are you familiar with that?

22 A. I am.

23 Q. Are you also familiar with the policies and
24 procedures applicable to BSO involving active shooter?

25 A. I am.

1 Q. Are you familiar with the training at BSO
2 on the active shooter policy?

3 A. I am.

4 Q. Moving to the Fort Lauderdale airport
5 incident, January 2017, did you have a role in that?

6 A. No.

7 Q. Were you aware of the incident as it
8 unfolded?

9 A. Yes.

10 Q. How did that come to your attention?

11 A. Command staff receives a text message
12 regarding incidents that are occurring, and then I
13 listened on my radio to the incident.

14 Q. And where were you at the time?

15 A. At the public safety building.

16 Q. Is that the BSO headquarters?

17 A. That's the main headquarters, yes, sir.

18 Q. And did you stay there during the entirety
19 of the airport shooting and its aftermath?

20 A. Yes.

21 Q. Did you have any involvement in the
22 activity of the BSO response to the airport shooting?

23 A. Not in the BSO response, no.

24 Q. Okay. What response at all?

25 A. My position at BSO also assigns me as the

1 liaison to the Broward County Emergency Operations
2 Center, so the director at the time was on the phone with
3 me communicating information back to Broward County
4 management.

5 Q. What is the purpose of that communication
6 and liaison function in an emergency situation?

7 A. So that Broward County can properly respond
8 to assist a, develop any large capacity incident that
9 affects Broward County.

10 Q. Did you exercise your liaison duties and
11 responsibilities that day in connection with the Fort
12 Lauderdale airport incident?

13 A. Yes.

14 Q. Was, in your experience, coordination with
15 the Broward emergency management system a needed
16 component of the response to the Fort Lauderdale airport
17 shooting?

18 A. It was vital that Broward County management
19 be kept appraised of the overall picture of the event,
20 its impact to the county, as well as any additional
21 resources that may have been needed. County management
22 tends to want to have information and, as we know,
23 information is -- is time sensitive, so what comes in
24 now, 30 seconds from now, can be absolutely incorrect and
25 it is difficult for them because they want constant

1 information. So my role as liaison is to help provide
2 them with what information we know so that operations can
3 continue uninterrupted.

4 Q. As part of your liaison work, were you in
5 regular communication with BSO responders at the Fort
6 Lauderdale airport?

7 A. Through the BSO emergency management center
8 that was on site, I was.

9 Q. Okay. The emergency management center on
10 site, what do you mean by that?

11 A. The command center.

12 Q. The command center?

13 A. Yes, sir.

14 Q. And that was being operated by a BSO
15 person?

16 A. Yes, sir.

17 Q. Were you able to assist Broward County in
18 directing responsive facilities or additional assistance
19 as requested by BSO to the scene?

20 A. The original time frame, within the first
21 few hours, there was no immediate need for any resources
22 from the county. The majority of the resources that were
23 needed from the county were when things became calm and
24 then we realize -- they realized there were going to be
25 movement needs of personnel, civilians that were at the

1 airport as they had been shut down for flight operations.
2 So that actually transitioned from my role to a direct
3 contact at the airport.

4 Q. Did that include making transportation
5 facilities available?

6 A. Yes.

7 Q. Buses and moving equipment?

8 A. Location also within the Port Everglades
9 terminals for those individuals who had missed flights.

10 Q. And is that coordination that BSO works to
11 develop in such a large scale emergency?

12 A. It would be BSO responsibility to make sure
13 that the other entities know that would be their
14 responsibility, so we work in coordination with other
15 members of the county. Broward County Transportation.
16 Broward County BCT. But that's really, there are people
17 within the EOC command that that is their function.

18 Q. EOC again is?

19 A. Emergency operations center.

20 Q. Did you in your liaison capacity become
21 aware of numerous other law enforcement agencies
22 responding to the scene of the Fort Lauderdale airport?

23 A. Yes.

24 Q. Did that include the Federal Bureau of
25 Investigation and other federal agencies?

1 A. Yes.

2 Q. Did you understand that at a soon time
3 after the shooting and the shooter was taken into custody
4 the FBI took primary responsibility for the
5 investigation?

6 A. Yes.

7 Q. And is that because there were concerns
8 raised by the FBI and others about a possible terrorism
9 connection?

10 A. I am not directly aware of the rationale
11 behind that decision. I wasn't privileged to that.

12 Q. When the transition occurred to the FBI
13 being the primary, did you as the BSO liaison, as you
14 described it, to Broward continue to maintain your
15 position?

16 A. I did for a couple of hours, until we, BSO,
17 sent it down to a centralized command and we designated
18 an individual at the command post for any further Broward
19 County needs, as it had transitioned to mainly a
20 transportation and movement operation.

21 It wasn't really law enforcement critical
22 at that point. So transportation needs were set up with
23 Broward County aviation management, since they control
24 the airport. So you had Broward County Aviation
25 communicating with Broward County EOC. We kind of were

1 eliminated because we weren't needed at that point in the
2 flow.

3 Q. Was it your understanding at the time that
4 the airport itself is operated by a county agency called
5 BCAD, Broward County Aviation Division?

6 A. Correct.

7 Q. And BSO provides the law enforcement
8 function to BCAD by contract with the county?

9 A. That is correct.

10 Q. Up to this time, 2017, in your liaison
11 capacity had you actively worked with Broward County
12 officials in connection with emergency responses?

13 A. Yes.

14 Q. Was that a normal part of the BSO operation
15 and development?

16 A. It is a part of Broward County emergency
17 management's yearly training criteria. They are required
18 to set up a training exercise every year. They establish
19 it. Sometimes it has been law enforcement critical.
20 Sometimes it has been natural disaster. Sometimes it's
21 been hurricane related, in addition to actual operations
22 that occur within the year.

23 Q. A wide range of scenarios that might impact
24 Broward County?

25 A. Correct.

1 Q. And implicate both Broward emergency
2 response and law enforcement response?

3 A. Correct.

4 Q. As part of your role in the training
5 function, did you help develop trainings to respond to
6 all sorts of problems and issues that might arise in
7 Broward County?

8 A. It they fell through Broward County EOC,
9 they actually have a training division and they're
10 responsible. There are certain criteria that Broward
11 County EOC has to answer for state mandate.

12 All of the EOCs within the State of Florida
13 have a designated trainer. They establish their yearly
14 training events. I'm not sure how they do them.

15 The only responsibility that BSO would have
16 is once we learn what the overall exercises will entail,
17 my role would be to establish the contact within that
18 jurisdiction.

19 So we had one that was a -- a mass
20 migration of individuals who landed at various locations
21 within the county. So as those cities that were involved
22 were contract cities with BSO, my role is to establish
23 the point of contact in the liaison for those cities and
24 the training and the management of those operations so
25 that they can apply realistic response operations on the

1 training day.

2 Q. Is the aspect of coordination with other
3 agencies, including Broward County, considered an
4 essential part of the BSO response to emergency
5 situations?

6 A. Absolutely.

7 Q. Okay. BSO can't do it alone in many
8 respects?

9 A. We cannot.

10 Q. There's a section of the BSO Department of
11 Law Enforcement Standard Operating Procedures involving
12 active shooter. Are you generally aware of that?

13 A. Yes.

14 Q. Does --

15 A. I'm aware of what was in effect as of
16 January of 2019.

17 Q. Okay. I'll ask you about that.

18 There's a section called 4.37 and I'm going
19 to show it to you, but I'm going to read a section. It's
20 part of the exhibits that have been identified in this
21 case.

22 But the active shooter policy I'm going to
23 show you and read was that which was effective
24 March 2016. And it existed, I'll ask you if that existed
25 through late 2018 when the policy -- there's evidence the

1 policy was changed. Okay. So that's the focus.

2 So active shooter policy 4.37, I'm going to
3 read you subsection C. And it says, and I quote: "If
4 Real Time Intelligence exists the sole deputy or a team
5 of deputies may enter the area and/or structure to
6 preserve life. A supervisor's approval or onsite
7 observation is not required for this decision." End
8 quote.

9 So I quoted you the operative section. I'm
10 handing you the policy that I referenced. It's on page 2
11 is the section I read.

12 You're familiar with that section?

13 A. I am.

14 Q. Okay. You're aware that post-Marjorie
15 Stoneman Douglas shooting tragedy that active shooter
16 provision has been subject to significant review and
17 criticism?

18 A. I have.

19 Q. I'd like you to focus on the inclusion of
20 the word "may" in that policy.

21 You're aware that the policy as
22 then-existed included the word "may"?

23 A. I am.

24 Q. Describe -- strike that.

25 Did you as the person in charge of training

1 oversee training on the active shooter policy then in
2 existence at BSO?

3 A. The policy would be inclusive in the
4 training for knowledge base.

5 Q. So does that mean that the pol -- the
6 training includes active shooter, a portion of which is
7 training on the policy?

8 A. Correct.

9 Q. What is the form -- strike that.
10 What is the focus of training on the active
11 shooter policy?

12 A. The purpose of training is to provide
13 enhanced skills and knowledge relevant to the task at
14 hand.

15 Q. And is there an objective utilized by
16 training for compliance with the active shooter policy?

17 A. There is a desired outcome on metric that
18 is observed within the scenario. The training goes
19 through knowledge. Goes through application. It goes
20 through sort of what we call a walk-crawl-run phase and
21 then we usually end with a scenario where we're looking
22 for a desired outcome of performance.

23 Q. What is or are the desired outcomes when
24 dealing with an active shooter situation per the training
25 at BSO?

1 A. One of three outcomes: Eliminate the
2 threat, barricade the threat or arrest the threat.

3 Q. Okay. And is that the outcome objective
4 taught in the training scenarios?

5 A. Yes.

6 Q. Does the use of the word "may" in the
7 training -- in the active shooter policy impact the
8 response -- the training response of an officer to an
9 active shooter scenario?

10 A. The use of the word "may" being a modal
11 verb is placed in there because it authorizes and gives
12 permission to. When the Department of Law Enforcement --
13 this is a standard operating procedure which the ultimate
14 sign-off on this is the Department of Law Enforcement
15 command.

16 There was consideration between the word
17 "may" and "shall." The problem with "shall" is it
18 applies a false imperative, that you must do it.

19 And from a special operations perspective,
20 my opinion was that there are a multitude of reasons and
21 rationale that immediate entry would not be feasible,
22 possible or advisable. The training that occurs for us
23 allows that instruction to tell them that, hey, look, you
24 may come to a scenario where it is inadvisable for you to
25 run in that door. However, your job is defined somewhere

1 to go, to get in, understanding that time is the critical
2 element.

3 So "shall" was -- the comparison "shall"
4 and "may" were the two comparisons.

5 We give the instruction. They know that
6 time is the element. They know what the three objectives
7 are. They know their job is to think, understand what
8 their responsibility is and make a correct decision to
9 get to that. Eliminate that problem.

10 So the word "may" stays in policy; however,
11 the instruction is very clear on what the expectation --
12 the expected performance is.

13 Q. Is there any part of the training on that
14 policy that allows law enforcement officers responding to
15 an active shooter situation to not attempt to implement
16 one of the three outcomes that you described?

17 A. The training is very descriptive on what's
18 expected. However, because there's a human element in
19 here, having been involved in real-life operations, it is
20 very difficult to predict performance on the game field
21 when you're comparing the performance to the practice
22 field.

23 So there is an enormous gap between real
24 life and training. To be honest with you, in 34 years
25 everybody trains well. I will also tell you that in

1 34 years not everybody plays well. But that's the human
2 element that is the unpredictable factor.

3 Q. Did training as you oversaw it, attempt to
4 minimize the problems that might be experienced in any
5 actual situation from the training scenarios?

6 A. To an extent.

7 Q. How did you go about doing that?

8 A. Training needs to have three things. It
9 needs to be realistic. It needs to be relevant. And it
10 needs to be repetitive.

11 The problem is, is that in 34 years
12 training only rises to a certain level. We can't shoot
13 at officers with real bullets. We don't punch each other
14 in the face as hard as we can to see how you recover.

15 So there is a -- there's what is called
16 training scars. In other words, people rise to the level
17 of the training.

18 But I can't, and trainers know, that we can
19 never fully prepare you because you're not facing
20 something that your body interprets to be real. And the
21 human body has an instinctual desire to survive. And
22 when those overwhelming factors that are both
23 physiological and psychological impact an individual,
24 people make decisions that are less than desirable, but
25 that's the human element. The job of training is to push

1 them as high and far as we can, at the same time knowing
2 that we really never take them to the level that they
3 need to be.

4 Q. At the time of your involvement in the
5 training operation, did the training function include
6 guidance to trainers to make a best effort to evaluate
7 the understanding of trainees during training?

8 A. I was blessed to have a group of
9 trainers -- to get a group of trainers that understood
10 the realities that in order to make active shooter
11 training realistic, it needs to be personal. In other
12 words, we need to push the element.

13 The deputies understand that that
14 individual in there could be their daughter, their
15 sister, their husband because then there's an
16 understanding of commitment. In other words, I will do
17 things for a family member and risk things much greater
18 than I ever would for someone that I don't know.

19 Q. Is that unique to law enforcement in your
20 experience?

21 A. It is a unique function in law enforcement
22 because everything that law enforcement does is for
23 somebody that they don't know, by and large. And to
24 ignore that element is not a human characteristic and it
25 needs to be understood; that law enforcement officers do

1 everything they do every day for a complete stranger.

2 Q. Did BSO training work with that reality to
3 encourage responders to use all appropriate responses
4 necessary even though the individuals they may be working
5 to assist are strangers?

6 A. We, as a division, the Broward Sheriff's
7 Office training division wants to personalize everything.
8 Treat people the way you would want to be treated.

9 So it is inclusive in everything to make it
10 personal, to make your actions accountable, to make your
11 actions relevant, to make your actions realistic. And it
12 requires trainers who understand that so that people
13 don't think they're just going through the motions in
14 training.

15 It has to matter. It has to mean something
16 when they leave here. The best training you will ever
17 have is something that you feel, not something that you
18 do.

19 Q. Did you get involved in any way in the
20 post-Fort Lauderdale shooting evaluation or review?

21 A. The division of policy and accountability
22 was tasked with being -- Captain James Diefenbacher,
23 D-I-E-F-E-N-B-A-C-H-E-R, was responsible for the final
24 preparation of the after-action report from that
25 division -- from my division.

1 Q. Did you make any assessment whether the
2 first responding officer, Deputy Madrigal -- do you know
3 that name?

4 A. I do.

5 Q. -- at Fort Lauderdale actively and
6 appropriately implemented the Section 4.37 active shooter
7 policy?

8 A. He, as an individual, would have assessed
9 the situation based on the information or as it applies
10 in policy and real time intelligence. He responded
11 within, I think, a minute and a half. Went directly to
12 the threat, located the shooter and placed him in custody
13 based on the same training that others have had, same
14 information. But he is an individual to interpret that
15 information, and no two individuals are the same.

16 So it is a misnomer for individuals to
17 think that 25 people went to training; therefore, the
18 outcomes will be the same of 25.

19 Q. The Fort Lauderdale incident as you
20 understood it, even though you're not on the scene,
21 involved an actual active shooter, correct?

22 A. Yes.

23 Q. And the potential for mass loss of lives?

24 A. Well, I believe there was mass loss of life
25 to start with. Why that individual chose not to

1 continue, there's only one person that can answer that.

2 But I don't think the response would have
3 changed. And Deputy Madrigal's response was exactly what
4 we would have expected.

5 He processed the information. He made a
6 decision, and the outcome was favorable.

7 Q. Did the training department utilize the
8 information gleaned from the Fort Lauderdale airport
9 shooting and the active shooter response in evaluating
10 and considering further training on the active shooter
11 policy?

12 A. When we -- yes.

13 Q. Is that normal for the BSO training
14 department to evaluate situations and determine whether
15 training can be augmented, advanced, changed based on the
16 actual occurrences?

17 A. Actual occurrences are the only time you
18 can evaluate what's on paper versus what's performed.

19 Q. You mention that you were part of -- and if
20 I misstate this, please correct me -- part of a group of
21 command officers who reviewed and determined the
22 appropriate language in the active shooter policy that
23 we've described.

24 A. Yes.

25 Q. And is that fair to say?

1 A. Yes.

2 Q. That it was not a sole decision of one
3 person to mandate a policy?

4 A. It was a group of individuals with their
5 input, and it goes up the chain for final
6 decision-making.

7 Q. And ultimately approval by the sheriff?

8 A. Correct.

9 Q. Was that also approval by the sheriff's
10 general counsel, if you know?

11 A. The sheriff's general counsel would have
12 been a part for his input.

13 Q. Okay. And you had some input?

14 A. Yes.

15 Q. With extensive special operations and SWAT
16 training?

17 A. Yes.

18 Q. Were you aware at the time that the State
19 of Florida credentialing organizations did not have any
20 requirement for active shooter policy or active shooter
21 training?

22 A. Correct.

23 Q. Yet, BSO had an active shooter policy and
24 an active shooter training system?

25 A. Yes.

1 Q. In your view, was the BSO active shooter
2 policy consistent with standards or use of policies by
3 other agencies within and without Florida?

4 A. Yes.

5 Q. Were there, in fact, any standards for
6 active shooter policies required by the State of Florida?

7 A. None.

8 Q. By the Florida Department of Law
9 Enforcement?

10 A. None.

11 Q. Were you familiar with then-Deputy Scott
12 Peterson prior to the Marjorie Stoneman Douglas tragedy?

13 A. No.

14 Q. You know that there is a duty function at
15 BSO called "school resource officer"?

16 A. Yes.

17 Q. Are they, SROs, school resource officers,
18 subject to training as would be Broward deputies?

19 A. All Broward deputies are subject to the
20 same training protocols.

21 Q. And is there a protocol in the BSO that the
22 SROs have training together with the other SROs?

23 A. Prior to 2018, the SROs at Broward
24 Sheriff's Office were assigned to districts. And because
25 they were assigned to districts, there was -- there was

1 not a unified program for what SROs have.

2 In other words, Pompano can send their SROs
3 to one thing. Tamarac may decide to send them to others.

4 That occurred before the current
5 administration, Sheriff Israel's administration, arrived.
6 I don't know why that occurred.

7 My understanding was is that, prior to this
8 decision, they were a singular command to keep them
9 unified and keep them concurrent, so to speak.

10 I know that in late 2018 that was returned
11 to a singular command. But that wouldn't have been
12 underneath my responsibility, so I wouldn't have the
13 information to tell you whether or not they did train or
14 did not train with other SROs.

15 Q. Okay. Is there any part of the SRO
16 assignment that is not a law enforcement function?

17 A. Yes.

18 Q. What is that?

19 A. The SRO, although their sole responsibility
20 is the safety and security of individuals on a campus,
21 they have a multitude of roles. They are -- they are
22 peers. They are counselors. They are -- they are --
23 they do a multitude of functions that are in relation to
24 what you would expect of someone who deals with children.
25 And they possess a unique skillset to do that.

1 Q. In your experience, as a BSO major command
2 staff and in charge of the training function, are BSO
3 deputies who are assigned as SROs evaluated for fitness
4 as an SRO?

5 A. No.

6 Q. Is the SRO considered in the BSO structure,
7 if you know, to be a cushy job? A retirement job? A job
8 that is less law-enforcement focused?

9 A. I would say no. It is a job with a unique
10 set of skills, unlike any multitude of jobs that have a
11 unique skillset, that certain people are more prone to
12 fill. You certainly couldn't take an individual who has
13 a skillset, training and mindset of SWAT. And I wouldn't
14 want him in a school.

15 It just doesn't go. It's just not a place
16 for that mentality. It's that place for the day
17 something goes wrong.

18 But the other 99.9 percent of the days, it
19 would be confrontational and it would not fill the skill
20 sets of an SRO.

21 Q. Okay. Given the nature of different
22 functions within BSO, you mentioned SWAT, SWAT special
23 operations, SRO.

24 In addition to being a sworn law
25 enforcement officer, are there different skill sets that

1 you view as appropriate for different kinds of
2 assignments?

3 A. Most definitely.

4 Q. Okay. Does BSO, at the time you were
5 there, try to determine whether officers assigned to
6 particular areas have the needed skill sets?

7 A. Yes.

8 Q. Moving to the Marjorie Stoneman Douglas
9 tragedy, February 14, 2018, did you have any involvement
10 in that?

11 A. No direct involvement. Again, my only
12 involvement was in coordination with the Broward County
13 emergency operations.

14 Q. And when did you become aware of the
15 Marjorie Stoneman Douglas active shooter situation?

16 A. I believe about seven minutes into the
17 incident.

18 Q. And how did you become aware of that?

19 A. I don't remember. I want to say somebody
20 in the office knew it was going on, and I turned on,
21 again, my radio.

22 Q. Okay. That's your law enforcement
23 communication radio?

24 A. Correct.

25 Q. And is that over a communications channel

1 that is -- that is operated by and the responsibility of
2 Broward County?

3 A. Yes.

4 Q. What did you do in response to hearing
5 about the shooting?

6 A. Well, there was a multitude of both command
7 staff as well as operational staff responding to the
8 incident. So the only thing that I did was listen. I
9 wasn't -- there was more than enough cooks in the
10 kitchen, so to speak.

11 Q. Okay. Did you implement the coordination
12 and communication with the Broward emergency operations
13 that you described in the Fort Lauderdale airport
14 shooting?

15 A. I had two phone calls, if I recall
16 correctly, with the Broward County EOC director. But
17 because this was a uniquely law enforcement-centric
18 operation, it did not involve county facilities other
19 than the school board.

20 There wasn't really -- there was no
21 identified need for additional resources or coordination
22 other than informational purposes for the needs of the
23 Broward County EOC.

24 Q. Did you use your efforts to further any
25 communication with the Broward school board?

1 A. No. That was done through Broward County
2 EOC, if I recall correctly. The main desire of Broward
3 County EOC was for information, which it usually is.

4 And once a PIO was identified for Broward
5 BSO, they were put in direct communication to eliminate
6 me from the communications flow.

7 Q. Did you go to the scene of the Marjorie
8 Stoneman Douglas at any time while the incident unfolded
9 or its aftermath?

10 A. No.

11 Q. Did you post Marjorie Stoneman Douglas,
12 utilize any of the information learned to assist in or
13 redevelop opportunities for training?

14 A. Yes.

15 Q. Any examples?

16 A. The policy -- the training curriculum was
17 modified. What we learned in the Marjorie Stoneman
18 Douglas incident is that even though we had a rescue task
19 force concept, there was -- it was glaringly apparent
20 there was an enormous amount of false information. The
21 false information led to inaction. And while there was
22 inaction, time was going by.

23 Traditionally, law enforcement's role has
24 been primarily locate and accomplish one of the three
25 objectives: Either to eliminate, force a surrender or

1 arrest the subject. And that is the primary function.

2 What became apparent in the post-evaluation
3 of MSD is that an enormous amount of time was spent
4 focusing on that singular task with false information
5 continuing to drive.

6 So what we did is we decided -- we didn't
7 decide it. What we ended up fabricating or
8 fabricating/formulating is that one of three objectives
9 will always be occurring in active shooter. If real time
10 intelligence exists that the shooter is on scene, then
11 you will find and eliminate the threat.

12 If you can't find it, then you will
13 immediately start extraction teams of victims and move
14 towards with the rescue task force, which is a
15 combination of law enforcement and fire rescue paramedics
16 for triage and treatment of victims on scene.

17 So those three tasks used to be tiered. It
18 used to be that the first task was to find, and you don't
19 move to tier 2 until you find and ensure that that person
20 is gone.

21 Because the information was so glaringly
22 false and it created such a delay, we should have moved
23 to tier 2. We should have started extracting victims
24 immediately or setting up rescue task force.

25 So on the policy or -- excuse me, the

1 protocols that exist now are those three tiers, one is
2 being done all the time. So even though you may still be
3 looking, you immediately start setting up, because
4 personnel are moving.

5 You have the resources coming there. It
6 just requires coordination of extraction teams to get
7 victims out or to establish rescue task force teams that
8 combine law enforcement and fire rescue personnel to get
9 into the war zone and start treating victims.

10 That was what was learned from an incident,
11 and it was only learned because of an incident.

12 Q. Is the development of training in response
13 to incidents something that is expected in the law
14 enforcement structure?

15 A. I would like to think it is, but I can't
16 answer. I know that for my history of Fort Lauderdale,
17 every operation that we ever did you had an opportunity
18 to review.

19 There's always improvement. Nothing is
20 perfect. Nothing ever goes to plan. There's a human
21 element, and there's an opponent in every single
22 incident.

23 So it's -- it's not computer driven. There
24 has to be what we call a "hot wash" and an after-action
25 review of everything.

1 Q. And explain what that means.

2 A. A hot wash is something that you do
3 immediately after an incident. "Hey, what was wrong
4 right now that we can fix should this occur tomorrow?"
5 Those are the glaringly apparent causal factors.

6 And your after-action review is where you
7 really dig down to find out what can you change. Was
8 something not followed? Was information not processed
9 correctly? Was there confusion? What led to the
10 decisions that were made? Because nobody wants to show
11 up and fail, but we're fallible creatures.

12 Q. In your experience, during your time with
13 BSO, did BSO attempt to utilize that process of studying
14 events and then determining how to implement effective
15 learning from those events?

16 A. As far as it comes to the training aspects,
17 which would be under my requirement, that was absolutely
18 tasked to my personnel. I have extremely smart personnel
19 who understood outcomes sometimes are not the best. But
20 the question is what causes that and what can we do to
21 change?

22 Q. Is there -- strike that.

23 During the time that you were in charge of
24 training, was BSO ever identified as having been
25 deficient in any aspect of training?

1 A. None.

2 Q. Was there any aspect of training that you
3 determined involved trainers who were not competent to
4 handle the training?

5 A. There were trainers throughout my tenure
6 who were reassigned, yes.

7 (Phone interruption.)

8 MR. KUEHNE: One moment, please.

9 BY MR. KUEHNE:

10 Q. During the time of your activity as a -- as
11 the training major, were there any instances when an
12 officer who went through the training was determined to
13 not have learned properly from the training, yet no
14 follow-up was done?

15 A. My answer would be no. But BSO has 2500
16 deputies. And because they're all human, they all have
17 different levels of competence.

18 It would be incorrect to say that everyone
19 performs perfectly. There are levels of
20 performance-desired outcomes. The trainers individually
21 identify individuals whose performance is so egregious
22 that they need remedial training, and efforts are done
23 within the process to remediate them. Bring them back
24 in, put them through, do a needs assessment of the
25 individual, find out where the gap is, and appropriately

1 apply.

2 But the reality is, is that there's a
3 logistical issue that exists in every large agency across
4 the country; that you're moving personnel through on a
5 limited time. And we're only given a limited time to
6 have those individuals. That's the reality of the job.

7 So we trainers know that there are
8 personnel who need more training. That's a desire. The
9 reality of that desire is, is that there's also districts
10 that need those personnel. There are also jails that
11 must have deputies working all the time. So there's a
12 competing interest.

13 Too many times we compare law enforcement
14 and we say it's a military-style operation. It's not.

15 In the military, you do months of "train
16 to" training. I don't have them for months. I've always
17 felt that there's no bad time to train for anything, but
18 the reality is, is that sometimes there's no time for the
19 training.

20 So the overall answer is absolutely. Do we
21 remediate? Yes.

22 Do we have a realistic ability to remediate
23 everyone to the level that we desire? No.

24 Q. As far as you know, had there been any
25 indication during your time with BSO that former Deputy

1 Scott Peterson was in need of remedial training and did
2 not receive it?

3 A. None that I'm aware.

4 MR. KUEHNE: I have nothing further. I
5 tender the witness to Mr. Primrose.

6 CROSS-EXAMINATION

7 BY MR. PRIMROSE:

8 Q. All right. Thank you.

9 I want to go back to your time -- your
10 career in law enforcement.

11 If I've got my math right, you worked with
12 Scott Israel at the Fort Lauderdale Police Department,
13 correct?

14 A. At various times in my career, correct.

15 Q. Were you ever a direct report to Scott
16 Israel when you were at Fort Lauderdale Police
17 Department?

18 A. Yes.

19 Q. And when was the last time that you would
20 have been a direct report to him at the Fort Lauderdale
21 Police Department?

22 A. Between 2004 and 2006.

23 Q. Okay. And you went over to Broward
24 Sheriff's Office after Scott Israel became the elected
25 sheriff, correct?

1 A. Yes.

2 Q. Did he ask you to join him at the Broward
3 Sheriff's Office?

4 A. I was actually recruited by John Dale. And
5 once I agreed, then-Sheriff Israel did make a phone call
6 to me.

7 Q. And Mr. Dale, he also worked with you at
8 Fort Lauderdale Police Department, correct?

9 A. At various times in his career, correct.

10 Q. And he also would have worked with Scott
11 Israel at Fort Lauderdale Police Department?

12 A. I -- I can't -- I believe he did, yes.

13 Q. And do you know whether Mr. Dale was
14 recruited to go to Broward Sheriff's Office once Scott
15 Israel became the elected sheriff?

16 A. I can make that assumption. I don't have
17 information of whether -- how that occurred, no.

18 Q. Okay. And if I remember correctly, you
19 testified that the reason you left Broward Sheriff's
20 Office was because of Scott Israel's suspension?

21 A. Correct.

22 Q. Because you -- you don't believe that Scott
23 Israel should have been suspended from office. Is that a
24 fair conclusion to make?

25 A. Correct.

1 Q. Okay. You had discussed the "shall" versus
2 "may" in the active shooter policy. And your testimony
3 was that the "shall" creates a false directive; is that
4 correct?

5 A. False imperative.

6 Q. False imperative. Meaning if it's "shall,"
7 you've got to -- you've got to breach the building even
8 if there might be a booby trap or the shooter is on the
9 other side of the door, right?

10 A. That is one of a couple scenarios that I
11 can probably come up with. But I'm sure, as you're
12 aware, there's a multitude of realities.

13 Q. Correct. And, in fact, Scott Israel
14 essentially backed up the "may" by saying, "didn't want
15 my deputies to engage in suicide missions"?

16 A. I believe that was one of his quotes, yes.

17 Q. Wasn't the policy changed from "may" to
18 "shall" after Marjorie Stoneman Douglas shooting
19 happened?

20 A. Yes.

21 Q. And why was that done?

22 A. I don't have knowledge of the exact reason
23 why, but I'm sure the pressure and the overall optic had
24 something to do with it maybe.

25 BSO was not the only agency, both statewide

1 and nationally, that has "may." I venture to say that
2 there's a multitude of places that have changed it.

3 Q. Right. Were you involved in the decision
4 to change it from "may" to "shall"?

5 A. No.

6 Q. Even though you are overseeing training,
7 you were not included in that discussion?

8 A. No.

9 Q. Are you aware at all of a discussion that
10 the Broward Sheriff's Office active shooter policy uses
11 "may" because entry is permitted and a possibility, but
12 that no legal consequence could be applied to the deputy
13 for not performing?

14 A. I am aware of that.

15 Q. Okay. Is that something that was included
16 in the training to the deputies when going over the
17 active shooter policy?

18 A. No. That was -- that would be a part, if I
19 recall correctly, during the conversation of "may" versus
20 "shall" when the policy was changed back in 2015 -- '14 --
21 excuse me, '15 or '14.

22 Q. Okay. I noticed that in the training
23 document that I believe you were shown there's no
24 discussion about if it's inadvisable to breach a
25 structure you should go look for other points of entry.

1 Is that anywhere in the training documents
2 that you were given?

3 A. No. That would be in part of the training
4 instruction.

5 Q. Okay. So -- so we're to assume that even
6 though it's not written down in the training outline,
7 that was something that would be verbally told to the
8 deputy?

9 A. Yes.

10 Q. At a bare minimum what you're saying is
11 that all the deputies were trained that if they don't
12 believe that they should go through Entry Point A, they
13 should do their best to find Entry Point B or C or D,
14 correct?

15 A. Yes.

16 Q. But they should not -- if I'm understanding
17 you correctly, the policy did not indicate if you've got
18 a position of cover, you should stay in cover versus
19 trying to engage the shooter?

20 A. As I previously stated, the three
21 objectives are to eliminate, force a surrender or an
22 arrest. Those are priorities.

23 Q. Okay. But, again, would it ever have been
24 trained to the deputy that if they've got a position of
25 cover they should stay until backup or SWAT could arrive?

1 A. There are a lot of variables in that. It
2 functions on what we call real time intelligence. That's
3 information that should lead you to act: Gunshots,
4 screaming, people running. So there are other variables
5 that would cause you to act.

6 So just because a deputy is behind a
7 position of cover, I can't -- there's not enough
8 information you're providing to tell me what a desirable
9 position would be. If there's no shooting, no nothing,
10 then I can't explain why a deputy would stay where he's
11 at or leave. That deputy would have to explain that.

12 Q. Okay. But I guess from a training
13 perspective, is that something that the deputies are
14 taken through? If real time intelligence exists that
15 there may be an active shooter and you are in a position
16 of cover that you, as a single deputy response, should
17 wait until backup or SWAT can arrive before exposing
18 yourself to further danger?

19 A. No. We should not wait.

20 If real time intelligence exists in the
21 scenarios that we develop, and I believe some of the
22 scenarios that are listed clearly indicate that gunshots,
23 something will be used as a stimulus to make that deputy
24 consider and move.

25 And at the same time there would also be

1 instructors there reaffirming what the expectation is
2 based on what they should be hearing.

3 Q. Okay. Prior to the Marjorie Stoneman
4 Douglas shooting, how often would a deputy have to
5 undergo the active shooter training?

6 A. It was on a three-year time line.

7 Q. Okay. And that means that they go through
8 the program once every three years?

9 A. Correct.

10 Q. Okay. And if I understand the exhibits
11 that have been provided, the training for active shooter
12 consisted of two 4-hour courses; is that correct?

13 A. What year are you referring to? '15/'16?

14 Q. Prior to the Marjorie Stoneman Douglas.

15 A. I believe --

16 Q. So --

17 A. -- correct.

18 Q. Okay. Of that, of the two 4-hour courses,
19 how much of that time was spent doing actual, practical,
20 simulated active shooter response?

21 A. It is difficult to put an actual time line
22 on that. Every class has different individuals. You may
23 have deputies who have been on the agency for a year. So
24 their knowledge and understanding level would be lower,
25 which would mean they would require more instructional

1 component before we move to scenarios.

2 So it's difficult for me to sit here and
3 give you an overall perspective on the exact amount of
4 time line that would be dedicated to scenarios.

5 Q. Okay. I don't know if this is available to
6 you in a paper copy, but I'm going to submit to you that
7 there -- discovery has been provided to Mr. Kuehne for a
8 2016 lesson plan related with a course titled "Response
9 to Active Shooter."

10 And in the course agenda it says -- and I
11 just -- this is just from my knowledge. It gives five
12 bullet points and an amount of time related to each
13 bullet point.

14 Are you familiar at least generally with
15 that format?

16 A. I am.

17 Q. Okay. The third bullet point says, "Two to
18 four-man bounding overwatch practice, 40 minutes."

19 What is that?

20 A. That's a movement drill based on real time
21 intelligence that trains the deputies to move to what
22 they hear. It's a tactic for movement.

23 Q. Okay. And I think we've heard some other
24 testimony about a diamond or different formation. Is
25 that the same thing?

1 A. Well, you're going back in time and
2 evolution when the very first active shooter teams were
3 waiting on individuals to create some formation. So
4 there's a diamond formation. There's a "T" formation.

5 All of those have kind of gone to the
6 wayside now where we're looking for single-officer
7 response based on real time intelligence.

8 Q. Okay. But a two to four-man bounding
9 overwatch is -- is multiple people in a tactical movement
10 together to get to the threat, right?

11 A. Yeah. It provides an opportunity for cover
12 while an individual moves.

13 Q. Okay. And then the fourth bullet point
14 says, "Practical exercises scenarios, 90 minutes."

15 Is that what we would be talking about was
16 the actual, real-life exercise where the deputies are
17 playing out what they have been trained?

18 A. We would. But as I previously stated, that
19 90 minutes is listed by the instructor when they're
20 formulating the lesson plan. Every class would be
21 different.

22 So you may have a class where it's
23 technically 220 minutes of scenarios based on how much
24 information, how far, what the understanding of that
25 class is. So again, there are variables.

1 Those are just time lines that are prepared
2 during the creation of the lesson plan, but they're not
3 applicable and accurate for every single class.

4 Q. Okay. When you -- so if I understand what
5 you have just said, there is the possibility that a
6 trainer could do an entire four-hour course on practical
7 exercises related to active shooter response?

8 A. Well, it would -- no. He couldn't do a
9 four-hour class because there's, obviously, an overall --
10 he's going to go over the expectations, put that
11 information out.

12 But there are classes that come in that
13 have a much greater understanding, a much greater
14 experience level and vice versa. There are classes that
15 come in where it's a brand new group where you only have
16 2 tenured deputies and you have 14 relatively brand new
17 deputies.

18 So again, the lesson plan is applicable for
19 the information. But because the trainers have the
20 ability to interpret the level of understanding,
21 operation of the class, that's their -- that's their
22 freedom.

23 Q. Just so that I understand then, in the
24 four-hour -- the two 4-hour blocks that would have been
25 in place in between 2015 and '17 that we talked about,

1 does that -- would that ever go more than the two 4-hour
2 blocks about response to active shooter?

3 A. When you say more than two 4-hour blocks,
4 I'm not following your question.

5 Q. So the lesson plan that I'm looking at,
6 which is dated 2016 with the course title "Response to
7 Active Shooter," it says, "Course Duration: Four hours."

8 And I think you testified that the
9 three-hour or this -- the three-year window of training
10 on active shooter would have included two 4-hour blocks
11 of training.

12 A. Correct.

13 Q. So my question is: This sheet of paper for
14 response to active shooter, says, "Course Duration: Four
15 hours," would it ever go beyond four hours on practical
16 exercises?

17 Or are you saying there are other trainings
18 that could be more in depth and solely related to
19 practical exercises?

20 A. The practical exercises that were
21 applicable for Response to Active Shooter, that portion
22 is listed as 90 minutes. It could have been longer than
23 that. It may have been shorter than that, depending on
24 the class.

25 The overall time frame for the class is

1 four hours. It would not exceed four hours based on the
2 assignment of those individuals to training.

3 Q. Okay. And if a deputy completed their
4 training in Response to Active Shooter in 2015, they
5 would not have to go through the training again until
6 after 2017 and that three-year cycle was up, correct?

7 A. Correct. That would be the next time the
8 training division would have active shooter training on
9 their calendar for that calendar year.

10 Q. Okay. For school resource officers, was
11 there a separate training for them on how they would
12 respond to an active shooter in a school setting?

13 A. No.

14 Q. Okay. My understanding is that Deputy
15 Peterson was a trainer of Active Shooter; is that
16 correct?

17 A. Deputy Peterson was a trainer in a program
18 called "Active Killer" that was done for the Broward
19 County School Board, not for the Broward County Sheriff's
20 Office.

21 Q. And we have some testimony on this from
22 another witness, but I want to make sure that since you
23 were the one overseeing all of the training we have a
24 full understanding.

25 Is it correct that the training he would

1 have -- Deputy Peterson would have provided to Broward
2 County schools was related to how a teacher or an
3 administrator might act in response to an active killer
4 in a school setting?

5 A. Correct.

6 Q. And that was mostly designed to lock the
7 door, hard corner, soft corner, protect the students,
8 code red, that kind of thing?

9 A. The training encompasses two functions:
10 Target hardening and threat mitigation.

11 Q. Okay. That training that Deputy Peterson
12 would have been responsible for doing for the Broward
13 County schools would be separate and apart from the
14 Response to Active Shooter training that he and all the
15 other Broward Sheriff's deputies would have received,
16 right?

17 A. Yes.

18 Q. Does the training for the Broward County
19 schools have any discussion about what you listed as the
20 three objectives: Eliminate, surrender, or eliminate?

21 A. Yes.

22 Q. Okay. Was there ever a -- prior to
23 Marjorie Stoneman Douglas, was there ever a full-scale
24 exercise at a school within Broward County to train
25 deputies on how they might respond to a school shooter?

1 A. Not in my tenure.

2 Q. Okay.

3 A. A location of a school, no.

4 Q. Okay. Just looking over my notes real
5 quick. I apologize.

6 A. No problem.

7 Q. Going back to the Fort Lauderdale airport
8 event, do you have any opinion as to when Deputy Madrigal
9 approached the shooter whether or not the shooter was
10 already out of ammunition and had stopped firing?

11 A. I have no knowledge.

12 Q. Okay. Do you have any opinion as to
13 whether or not Deputy Madrigal had to enter into a
14 separate structure to engage the Fort Lauderdale airport
15 shooter?

16 A. He entered into the terminal. So if you
17 mean by "separate structure," I think the answer is yes.

18 Q. Okay. But did he have to go through a
19 separate door similar to what has been alleged to have
20 occurred at -- with Deputy Peterson?

21 A. He did have to go through a door.

22 Q. Okay. Are you aware of any training that
23 would have occurred inside of the Fort Lauderdale airport
24 prior to January 2017 with regard to active shooters?

25 A. I am not directly aware. Airport has their

1 own command. I believe the airport did conduct -- has
2 conducted separate trainings relative to their needs
3 within the airport command, but I am not directly aware.

4 Q. When you say "airport command," are you
5 talking about the Broward County airport district or the
6 Broward County Sheriff's Office airport district?

7 A. There are two functions. There is BCAD,
8 who Broward County Aviation Division who runs the overall
9 airport. They contract with BSO.

10 I do know that there have been operations
11 set up together for various scenarios historically at the
12 airport. They did not involve the direct communication
13 with the training division because they were done
14 between, like I said, BCAD and BSO's airport command.

15 Q. So if I understand correctly, I just want
16 to make sure that the Broward Sheriff's Office deputies
17 who would have been assigned to the airport district
18 would have received -- you believe they would have
19 received separate training by the aviation division as to
20 active shooter within the airport?

21 A. I don't know that it was who was the
22 controller of the training itself, but I know that there
23 was scenario development in response to various scenarios
24 within the airport. Port Everglades has done the same
25 thing.

1 Q. Okay. Did you as the major overseeing
2 training ever conduct active shooter exercises inside
3 Fort Lauderdale airport prior to January 2017?

4 A. No.

5 Q. And you had talked about the trainers can
6 identify individuals who need remedial training.

7 How often are deputies being identified as
8 needing remedial training?

9 A. I don't know how often that's occurring.

10 Q. During your six years at BSO, if you had to
11 put a percentage on how many deputies required remedial
12 training, can you give me a ballpark? Was it -- I
13 imagine it was less than 50 percent of deputies needed
14 remedial training.

15 A. I would say it's way less than 50 percent
16 need remedial training. I would say maybe 5 percent.
17 But, again, this is occurring on the trainer-to-deputy
18 level, and there's an immediate sergeant who is
19 responsible for those trainers.

20 So that's an -- that's a responsibility
21 that's delegated to the bottom. They identify them, they
22 see the need, they create the opportunity to remediate
23 the need.

24 Q. Okay. And in those trainers, they would
25 have to be ultimately responsible to you as the director

1 of training as far as making sure every deputy that runs
2 through the training course is fully understanding what
3 is department policy and asked of them, right?

4 A. Correct.

5 Q. And then you were ultimately responsible
6 and held accountable by Scott Israel to make sure all the
7 deputies understood what was required and were trained?

8 A. Correct.

9 Q. And so if there was a failure to follow
10 department policy, that would ultimately fall on the
11 shoulders of the sheriff, would it not?

12 A. A failure to follow policy would ultimately
13 fall on the -- I -- I think that's a -- that question is
14 a little -- how would I put it? That's a very long
15 responsibility. Policies are not followed all the time.

16 Q. I guess -- well, let me ask it this way.
17 The head of BSO is the sheriff, right?

18 A. Correct.

19 Q. And so the sheriff is the one with the
20 ultimate statutory authority to run their department and
21 agency.

22 A. Understood.

23 Q. What would you -- do you agree with that?

24 A. Yes.

25 Q. Okay. And so the sheriff delegates certain

1 responsibilities to someone like you, someone like Jack
2 Dale to do certain aspects of what he is ultimately
3 responsible for providing to Broward County, right?

4 A. Correct.

5 Q. And like we said, the trainers they're --
6 they are basically delegated stuff by you. You delegate
7 to the trainers certain tasks and responsibility that you
8 are going to hold them accountable for meeting?

9 A. Yes.

10 Q. And then the trainers go out, make sure
11 that the deputies understand what the policies and
12 procedures are and that they'll actually carry out what
13 they're trained to do.

14 A. You're making a leap right there. Their
15 responsibility is to make sure that we provide both the
16 knowledge and the skills relative to policy for the task
17 of which they're being trained. Whether or not they
18 perform it, would be the deputy, the individual's
19 responsibility.

20 Q. Okay. So if I understand, then, your --
21 your belief then is if a deputy fails to follow
22 department policy or the training that they have been
23 provided it is solely on them, not anybody that trained
24 them or the person that oversees the training or
25 ultimately the sheriff who is charged with making sure

1 everybody underneath him knows and understands and will
2 carry out the training.

3 A. The responsibility of the command would be
4 to make sure that we are providing the information.
5 Whether or not the individual performs could be a
6 multitude of reasons.

7 It could be a gap analysis. There could be
8 a needs assessment that needs to be done. Maybe the
9 person didn't understand the policy. Maybe the person
10 didn't follow the policy for a multitude of reasons.
11 They didn't interpret information. But there's a big
12 difference between following your training of policies
13 when it comes to performance.

14 Q. Okay. On a yearly basis, what -- I'm
15 looking at something that says, "BSO School Resource
16 Shooting Boot Camp."

17 Do you know what that is?

18 A. I do not.

19 Q. Would BSO's school resource officers go
20 through a separate training apart from, you know, like, a
21 road cop or a detective within BSO?

22 A. There are courses within the SRO structure
23 that they are required to take. And I do believe when
24 the SRO command was brought back to a singular entity, we
25 were training -- was tasked with creating a two-week

1 course -- I think it was a one-week course.

2 Each class was two weeks long for different
3 groups over the summer. And I think that occurred in '17
4 or '18. I'm not sure.

5 But there was a separate class that was
6 conducted for the SROs. Part of it was when they
7 returned with their carbines. They were issued
8 carbines -- C-A-R-B-I-N-E.

9 Q. So you're not aware, though, of what the --
10 what the actual course lesson plan or practical exercises
11 might have been specific to the SROs?

12 A. If it was for their summertime -- and I
13 don't remember it being called a "boot camp," so that's
14 why it doesn't ring any bells with me. But the training
15 division did conduct a week-long course for SROs.

16 Prior to that individual course, whatever
17 SROs were given or required would have been under the
18 command of SRO. Their decision.

19 Q. Okay. Do you know if that annual summer
20 SRO training includes responding to an active shooter in
21 a school situation?

22 A. It did have a -- that was part of the
23 curriculum for what was conducted underneath my
24 responsibility, but I believe that was in, like I said,
25 '17, maybe '18.

1 Q. Okay. Do you believe it happened after or
2 before the Marjorie Stoneman Douglas shooting?

3 A. After.

4 Q. Okay.

5 MR. PRIMROSE: Mr. Shults, I don't have any
6 further questions for you. Thank you for coming
7 this morning.

8 THE WITNESS: Thank you.

9 REDIRECT EXAMINATION

10 BY MR. KUEHNE:

11 Q. Let me do a little follow-up.

12 You mentioned an SRO command?

13 A. Yes.

14 Q. Who heads that or who headed that?

15 A. I don't know who heads it now. It was my
16 understanding prior -- like I said, prior to Sheriff
17 Israel's administration, there was a consolidated SRO
18 command. It was disbanded and the SROs were distributed
19 throughout BSO and then --

20 Q. Through the districts?

21 A. Through the districts. And they answered
22 to each district.

23 Q. Okay.

24 A. How they conducted their training, how they
25 made sure everyone was on the same page, I couldn't

1 answer for you. That would be Department of Law
2 Enforcement operations.

3 And then post-MSD, that was another thing
4 that was identified as a lack of consistency. So they
5 were brought back in. And last I knew, he's been
6 promoted, but Oscar Lorena was in charge when I left the
7 SROs. I assume that's been changed because I think he as
8 promoted.

9 Q. You were asked some questions that were in
10 the context of the "may" versus "shall" active shooter
11 policy. I'm going to ask you a couple questions based on
12 my notes. If I get it wrong, please clarify.

13 I believe you were asked if deputies were
14 informed or instructed or understood that there was no
15 legal consequence to them under the active shooter policy
16 if they didn't confront, eliminate or arrest the active
17 shooter. Did I understand that correctly?

18 A. Well, I think the way I interpreted the
19 question was that the "may" versus "shall," which was in
20 the discussion of the policy development, that's where
21 the legal consequence for deputy -- I am not aware of any
22 law enforcement officer in my history who went to an
23 incident and said, you know what, I was scared to death.
24 I froze. I couldn't move.

25 I don't understand how -- I'm not aware of

1 any precedent that's been set where that becomes a basis
2 for a legal matter. So that was in the discussion of
3 "may" versus "shall."

4 But when the instruction is to the
5 deputies, the focus of that instruction on deputies is
6 those three objectives. However, like I spoke about it,
7 it is now move towards. It's more than three objectives.

8 The three objectives encompass Tier
9 Number 1. Tier Number 2 is victim management. Tier 3 is
10 the creation of rescue task force. It's all three of
11 those are being done now.

12 So it may be quiet, and I believe as
13 Mr. Primrose spoke, I may be in a position of cover while
14 it's only quiet. But there are also two other functions
15 that I should be looking to do right now: Victim
16 management, victim location, rescue task force.

17 Q. During the section -- or during the
18 training on the Section 4.37 that includes the now --
19 that includes the "may," was there ever instruction or
20 suggestion that confronting the active shooter was
21 optional?

22 A. Never. And I believe the lesson plans
23 clearly designate that it talks about every time you hear
24 a shot, that's another shooter. You have to get to the
25 problem.

1 I think that's all in some of the lesson
2 plans. I think I do remember reading some of that
3 verbiage.

4 Q. Was there any training on that policy that
5 gave an officer responding to an active shooter scenario
6 an opportunity to do nothing?

7 A. There's never a decision to do nothing.
8 It's the worst decision you'll ever make.

9 Q. Is there any training that encourages a
10 decision to do nothing?

11 A. No.

12 Q. In your experience, did SROs have a unique
13 knowledge of the campus or the institution to which they
14 were assigned?

15 A. I would assume that would be an absolute
16 expectation.

17 Q. Do you have any idea how long former Deputy
18 Peterson had been assigned as the Marjorie Stoneman
19 Douglas SRO?

20 A. I know it was somewhere around ten years.

21 Q. And was it your understanding as a command
22 staff officer that an assignment as an SRO is essentially
23 a full-time assignment?

24 A. It is.

25 Q. That's where that deputy responds to work

1 on a daily basis?

2 A. Yes.

3 MR. KUEHNE: I have no further questions.

4 The -- do you have any follow-up,

5 Mr. Primrose?

6 MR. PRIMROSE: Yeah, I do. Just real

7 quick.

8 RE-CROSS-EXAMINATION

9 BY MR. PRIMROSE:

10 Q. On this notion that an SRO is a full-time
11 position, the SRO's responsibility or placement is no
12 different than any other BSO deputy who might be put on
13 as a road cop or a detective or anything like that,
14 right?

15 A. Well, it would be different. There's an
16 application process. There's a review process before
17 there is an assignment.

18 So it is not -- it's not done random. It
19 is absolutely a review -- an application and a review.

20 Q. Right. So the SROs have to actively seek
21 out that post and, ultimately, it's -- I mean, I guess
22 ultimately up to the sheriff on whether to approve
23 transferring someone to the SRO posts?

24 A. It would come after review and then, of
25 course, recommendation up to the sheriff for his

1 approval, yes.

2 Q. Okay. But similar to a road cop, an SRO
3 has time where they are not going to be at their post,
4 right?

5 A. I -- I can only assume that, but I don't
6 know that directly.

7 Q. Well, I guess -- if there's a suggestion
8 that somehow SROs cannot be trained in a consistent or
9 regular camp -- you know, cycle, because of their
10 position, that wouldn't necessarily be a true statement,
11 would it?

12 A. Well, that wouldn't be my -- within my
13 control. What I'm telling you is, is that when they were
14 assigned to different to districts, and each school is
15 out, those districts decided what they were going to do
16 with them.

17 So you may have one district that decides,
18 you know what? We need them on the roads, so the three
19 SROs that they have are on the road.

20 You could have another district that
21 decides, hey, it's a day for them to receive some
22 training. Let's see what they have.

23 It eliminates the ability of consistency
24 when they were assigned to the districts. I didn't have
25 any -- again, that -- that decision came prior to Sheriff

1 Israel's administration and they carried on with it.

2 Q. Okay. So just so that I completely
3 understand what you're saying, prior to Marjorie Stoneman
4 Douglas, there was no unified command overall of the SROs
5 within Broward Sheriff's Office?

6 A. There was a command, Sergeant Carol -- God,
7 I can't think of her last name. She was sort of, like --
8 and I apologize. I can't remember Carol's last name now.

9 But she was, like, the overall
10 administrator for SRO command. But how it functioned,
11 how it was set up, I can't answer to that so I wouldn't
12 be able to tell you that there was no overall.

13 There definitely was an overall view, but
14 they were assigned to districts. But how they
15 functioned, how they communicated, I -- I can't tell you.

16 Q. Well, I guess -- let me ask this question.

17 If Scott Israel wanted to have all of the
18 SROs undergo a real live training exercise within a
19 school on responding to an active shooter, he would have
20 had the authority to make that call, correct?

21 A. He would have had the authority to request
22 that occur. However, there's a lot of entities that are
23 involved in getting that to occur.

24 Q. What other -- what -- are there entities
25 outside of the Broward Sheriff's Office that would have

1 had that call?

2 A. Of course. The location --

3 Q. Who?

4 A. -- the location is under the authority of
5 the Broward County school board.

6 Q. Okay. So we've got the school district
7 could have decided whether or not to allow one of their
8 schools to be used.

9 Are there any other entities that would
10 have had input as to if Scott Israel wanted to do active
11 shooter training with all of the SROs in a school, are
12 there any other entities that would have had input in
13 that?

14 A. Not that I'm aware of.

15 Q. Okay. And so this whole -- the notion that
16 there is these different commands over SROs, ultimately,
17 given the occurrence of school shootings, if he wanted --
18 if Scott Israel wanted training to be done to protect a
19 school in active shooter training, it was ultimately him
20 who could make that call?

21 A. He would could make that request, yes.

22 MR. PRIMROSE: Okay. I don't have any
23 other questions, Mr. Kuehne.

24 MR. KUEHNE: Let me just follow up on that
25 last point.

REDIRECT EXAMINATION

1
2 BY MR. KUEHNE:

3 Q. Are you aware of any situation where the
4 only officers involved in an active shooter training are
5 those limited to a task like SROs?

6 A. No.

7 Q. You know that SWAT goes through active
8 shooter training on a regular basis?

9 A. Yes.

10 Q. And is SWAT normally a department within
11 the agency that is immediately dispatched to a report of
12 an active shooter?

13 A. Everyone is responsible to respond to the
14 report of an active shooter who is not assigned to a
15 task.

16 Q. Okay. You're aware that there was a highly
17 publicized and model training at Pompano Beach High
18 School for active shooter done in conjunction with BSO
19 and numerous other agencies?

20 A. What year was that?

21 Q. 2013.

22 A. Yes.

23 Q. And that was a joint exercise with numerous
24 other law enforcement agencies and the Broward schools?

25 A. Correct.

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MR. KUEHNE: Nothing further.

Anything else, Mr. Primrose?

MR. PRIMROSE: Nothing for me.

MR. KUEHNE: This deposition is going to be transcribed probably promptly. You know that you have a right to read or waive.

If you waive, you're still going to get a copy of the deposition transcript as soon as it's released on the lawyers. And if you have a need to make any errata corrections, if you send it to me or send it to the court reporter, that will become part of the final. But you need to let the court reporter know about reading or waiving and we will be seeking expedited transcription for reasons associated with this case.

THE WITNESS: With the information that I will receive a copy, I will waive.

(Thereupon, the proceedings adjourned at 10:31 a.m. Signature and formalities were waived.)

1 REPORTER'S DEPOSITION CERTIFICATE

2
3 THE STATE OF FLORIDA)
4 COUNTY OF PALM BEACH)
5

6 I, Robyn Maxwell, Florida Professional
7 Reporter, certify that I was authorized to and did
8 stenographically report the deposition of KEVIN SHULTS,
9 the witness herein on June 11, 2019; that a review of the
10 transcript was requested; that the foregoing pages
11 numbered pages 1 through 70; and that the transcript is a
12 true and complete record of my stenographic notes.

13 I further certify that I am not a
14 relative, employee, attorney, or counsel of any of the
15 parties, nor am I a relative or employee of any of the
16 parties' attorney or counsel connected with the action,
17 nor am I financially interested in the action.
18

19 DATED this 11th day of June, 2019.
20

21 

22 _____
23 Robyn Maxwell, RPR, FPR, CLR
24 Realtime Systems Administrator
25

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

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2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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