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THE FLORIDA SENATE

IN RE: EXECUTIVE ORDER OF SUSPENSION, NUMBER 19-14,
Suspension of Mr. Scott Israel, Sheriff
Broward County, Florida

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VOLUME I
(Pages 1 through 150)

TRANSCRIPT OF PROCEEDINGS

HEARING FOR REVIEW OF
EXECUTIVE ORDER OF SUSPENSION

DATE: June 18, 2019
TIME: 9:00 a.m. - 1:00 p.m.
LOCATION: Room 110, Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399
BEFORE: Dudley Goodlette, Special Master

COPY

Reported by:

JESSICA RENCHEN, Court Reporter
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INDEX OF WITNESSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS PAGE

JOHN D. DALE
Direct Examination by Mr. Kuehne 78

REPORTER'S PAGE 150

P R O C E E D I N G S

1
2 SPECIAL MASTER: Good morning. It's 9:00
3 a.m. on Tuesday, June the 18th, and this is the
4 final hearing with regard to Executive Order of
5 Suspension, 19-14, Suspension of Scott Israel,
6 Sheriff of Broward County.

7 I'm Dudley Goodlette appointed by the Senate
8 president as the Special Master of these
9 proceedings. And pursuant to Senate Rule 12, my
10 role is to provide an opportunity for the parties
11 to be present and to present their cases, and
12 ultimately it's my responsibility to provide a
13 report which is advisory in nature only to the
14 president.

15 Counsel, at this time, I would please ask
16 that you introduce yourselves for the record.

17 MR. PRIMROSE: Nick Primrose on behalf of
18 Governor Ron DeSantis.

19 MR. MACIVER: John MacIver also on behalf of
20 the Governor.

21 MR. KUEHNE: Good morning, Special Master.
22 It's an honor to be able to participate in these
23 proceedings.

24 Ben Kuehne, counsel of record for Sheriff
25 Scott Israel.

1 MR. KAPLAN: Good morning, Special
2 Magistrate. And I echo the sentiments of Mr.
3 Kuehne.

4 Stuart Kaplan on behalf of Sheriff Scott
5 Israel. Good morning, sir.

6 MR. KUEHNE: Sheriff Scott Israel is also in
7 attendance.

8 SPECIAL MASTER: Thank you.

9 Just some general matters to begin with.
10 This is a public open proceeding and it is being
11 broadcast, it's being audio recorded and of course
12 we have a court reporter present. The public is
13 welcome to attend and observe the proceeding.
14 There is not an opportunity for public testimony
15 at this stage of the hearing process. Those
16 attending are asked to silence any cellphones and
17 other electronic devices and to take any
18 conversation outside so as to not disrupt these
19 proceedings.

20 Just a little bit about the breaks in the
21 process. For everyone's planning purposes, it
22 would be my intention to take breaks at
23 approximately 10:45 for about 10 minutes and then
24 break for lunch at about 12:15 for approximately
25 45 minutes and then another break midafternoon

1 around 2:45-ish, but we'll play that by ear
2 depending upon the proceedings. And just --
3 that's just for your information for planning
4 purposes.

5 With respect to witnesses, at this time, I
6 would like to note that I have opted to sequester
7 all witnesses; however, this does not apply to the
8 suspended official. Witnesses should not be
9 present in the hearing or otherwise listen in on
10 these proceedings. They should not discuss their
11 testimony among themselves prior to testifying and
12 they should not use intermediaries to communicate
13 testimony to one another.

14 If there are any witnesses in the room,
15 please make your way to the back of the room and a
16 member of the sergeants' team will show you to a
17 room where you can wait until you're called to
18 testify and thank you for your cooperation in that
19 regard. Any witnesses, please proceed to the
20 back.

21 There are a couple of pending requests and
22 before we get into the opening statements, we have
23 a couple of matters that I would like to address.
24 First, regarding the request to keep the record
25 open: Mr. Kuehne, on behalf of Mr. Israel, has

1 raised the possibility that information relating
2 to the arrest of Mr. Scot Peterson could be
3 relevant to the matter before the Senate. Mr.
4 Kuehne seeks to keep the record -- the proceedings
5 opened for a period of time before final arguments
6 are made and my recommendation is provided. I
7 understand what Mr. Kuehne suggests; however,
8 there are a number of uncertainties, including the
9 uncertainty as to when Mr. Kuehne may receive
10 additional information, the content of that and
11 whether that he would desire to utilize what might
12 be received.

13 The parties will have an adequate amount of
14 time after the hearing to submit written proposed
15 findings of fact and conclusions of law which will
16 serve as closing statements. Mr. Kuehne, if you
17 receive information that you believe to be new and
18 relevant prior to the deadline for submitting
19 closing arguments, I would ask that you submit it
20 to me without delay. Mr. Primrose, if additional
21 information is received from Mr. Kuehne, you
22 should also submit any new information you might
23 receive in response. Both parties should
24 incorporate the new information into their closing
25 arguments if received with enough time to do so.

1 If information is received in a time frame that
2 allows me to incorporate it into the report, I
3 will. However, if it is not received in time for
4 incorporation, please note that the special master
5 proceedings is only the first hearing and
6 opportunity to be heard with regard to the process
7 Mr. Israel will receive before the Senate.

8 Additionally, my report is only advisory in
9 nature as mentioned before, and it is my
10 understanding that the Senate president intends to
11 refer my report to the rules committee for its
12 consideration and its report. Although the rules
13 committee meeting will not be an evidentiary
14 hearing, the senators will have access to all
15 exhibits and submissions provided by the parties
16 and counsel will be able to address the committee.
17 This part of the process provides Mr. Israel with
18 further opportunity to be heard before
19 consideration by the chamber.

20 There is 1 final matter regarding Mr.
21 Israel's Exhibit Number 28. Mr. Primrose has
22 objected to Mr. Israel's listing of Exhibit 28
23 because it has not been produced. I have
24 exhibited --

25 MR. KUEHNE: Special Master, that exhibit is

1 withdrawn because it was not produced.

2 SPECIAL MASTER: Fine. That revolves that
3 matter. Thank you, Mr. Kuehne. I appreciate
4 that.

5 Let's begin the hearing and --

6 MR. KUEHNE: Special Master?

7 SPECIAL MASTER: -- we'll do so with the
8 governor's opening statement.

9 MR. KUEHNE: Excuse me. I'm being told it
10 wasn't recorded on the record. That Exhibit 28 is
11 withdrawn by Sheriff Israel.

12 SPECIAL MASTER: Thank you, again, Mr.
13 Kuehne.

14 Governor's opening statement, Mr. Primrose.

15 MR. KAPLAN: Special Magistrate?

16 SPECIAL MASTER: I'm sorry. Mr. Kaplan, did
17 you have something to ask?

18 MR. KAPLAN: Can you give us one moment,
19 please?

20 Special Magistrate, may I address your ruling
21 on the -- well, not allowing us in advance with
22 respect to the Scot Peterson issue. I'd like to
23 just make a record, Your Honor.

24 SPECIAL MASTER: If you want to make it for
25 the record, (inaudible), yes.

1 MR. KAPLAN: Special Magistrate, what's
2 interesting is I think when we think about the
3 Founding Fathers of our civilization with respect
4 to how important due process is, due process is
5 not only actual due process but it's also the
6 appearance of due process. And with respect to
7 when you go back to February 28th of 2018, then
8 Governor Scott actually designated and directed
9 the FDLE, Florida Department of Law Enforcement,
10 to go out and conduct a complete investigation
11 into the response to the Parkland shooting. We
12 now know subsequent to that appointment, that
13 designation, Governor Elect at the time, Governor
14 DeSantis, had made a promise that if he was
15 elected he was going to remove Scott Israel. At
16 that particular time he had no information, no
17 factual information whatsoever. Notwithstanding
18 when he was elected in early January, he followed
19 through with his campaign promise and he removed
20 Scott Israel who was the elected sheriff of
21 Broward County.

22 Now, what's interesting to note, Special
23 Magistrate, is that it's only within the last two
24 weeks that FDLE concluded their investigation into
25 the response of the Parkland shooting. It would

1 seem to me that in fairness, not only in actual
2 fairness but in the appearance of fairness, that
3 how could these proceedings go forward without
4 having the benefit of those factual findings. We
5 know that there were over 180 witnesses that were
6 interviewed. We know that they prepared over 200
7 investigative reports, none of which have been
8 provided to us, none of which are we entitled to
9 at this point. The only document that we have
10 been able to get as a matter of public record is
11 the very affidavit that supported the arrest
12 warrant to go out and arrest Scot Peterson.

13 Within that 40 page affidavit, it highlights
14 the fact that the training at the time of the high
15 school shooting was appropriate, it was in place
16 and that this very deputy had that necessary
17 training. It went on and it capsulated a lot of
18 important information; however, it's only a
19 probable cause affidavit. We don't have the
20 backup. We don't have the investigative reports.
21 We don't have any of the recordings. Obviously
22 witnesses were sworn in; they were put under oath.
23 And it would seem to me that I don't see any
24 prejudice to the governor with respect to putting
25 these proceedings in abates until such time as we

1 can get this information to then properly be able
2 to thoroughly present our case, which you have
3 asked us to do is essentially put the cart before
4 the horse, and I think it flies in the face of due
5 process, fundamental fairness.

6 It would seem to me -- with all due respect,
7 Special Magistrate -- that you being the person
8 who is going to gather all of this information,
9 you are required to make a recommendation to the
10 Senate -- you said it yourself, "it's only a
11 recommendation" -- that you yourself would be
12 concerned to make sure you get it right because if
13 you don't get it right, there is absolutely no
14 remedy to correct any of the errors or omissions
15 because of our inability to get those documents.
16 And I would ask you that I think it is important
17 for this body for you sitting where you sit to
18 please explain to us what the prejudice is in
19 putting these proceedings off and calling a time
20 out until such time as we have the opportunity to
21 get this information. I mean, after all, Governor
22 Scott who was the elected governor at the time, he
23 called for an investigation, he tasked his lead
24 law enforcement agency in the State of Florida,
25 the Florida Department of Law Enforcement, for the

1 very purpose to either end up where we are today
2 or maybe figure out that Sheriff Israel was not
3 neglectful, he was not incompetent. Everything
4 that he was supposed to do as the elected sheriff
5 was done exactly in accordance as to the way it
6 was. And the only reason why unfortunately people
7 lost their life on February 14, 2018 is because of
8 Nikolas Cruz's actions and also the inactions of
9 Scot Peterson. But without having the benefit of
10 that information, how is it possible and why is it
11 necessary to move forward at this juncture?

12 It would seem to me that under the Fourteenth
13 Amendment under the Florida Constitution that due
14 process requires to give us an opportunity to get
15 this information so if we end up back here, we can
16 at least have the benefit of all this information
17 because it may necessitate calling additional
18 witnesses, et cetera, et cetera. So I would ask
19 Your Honor with all do respect to reconsider your
20 denial. I understand you're willing to leave it
21 open for a certain period of time. I don't think
22 that cures the possible -- the possibility, no
23 matter how much time you decide -- whether it's 30
24 days after today, 45 days after today, 60 days
25 after today -- I can tell you there are probably

1 witnesses out there that were interviewed by the
2 FDLE that we would like to talk to. I certainly
3 would like to talk to the lead case agent, Mr.
4 Riddick, because after all he signed a probable
5 cause affidavit certifying the fact that Scot
6 Peterson had committed various crimes that are
7 relevant with respect to the Parkland shooting.
8 We would like to subpoena him. We would like to
9 put him under oath. We'd like to know how he got
10 from A to Z and what caused him to end up making
11 those conclusions.

12 And certainly with respect to -- and I would
13 call Your Honor's attention to the very essence of
14 the bench memorandum that was submitted by the
15 governor to Your Honor basically laying out
16 framework of their case today. It calls
17 immediately in the first paragraph that the
18 training at the time of the Parkland shooting was
19 inadequate or wasn't in place. That flies in the
20 face of the FDLE's probable cause affidavit.
21 Right there in the first paragraph, the governor's
22 suggesting the training wasn't appropriate and
23 wasn't in place, notwithstanding in the probable
24 cause affidavit that's a matter of public record,
25 it says the training was appropriate and Scot

1 Peterson did have the training.

2 So I would ask Your Honor to reconsider your
3 ruling and actually consider holding these
4 proceedings in advance. Thank you.

5 SPECIAL MASTER: Mr. Kaplan, let me just say
6 that I'm not foreclosing opportunities to submit
7 additional information. Additional information
8 may come in forever frankly. I'm not precluding
9 that. You're welcome to submit any information,
10 but I'm not going to at this moment in time
11 continue these proceedings into the indefinite
12 future. And that's my -- that's my determination.

13 Please proceed, Mr. Primrose.

14 MR. PRIMROSE: Special Master, the events and
15 blatant failures giving rise to Governor Ron
16 DeSantis suspending Scott Israel are so obvious
17 that it is a shame Scott Israel is fighting.

18 The facts in the evidence will show that
19 Scott Israel failed in his paramount statutory
20 duty to protect the peace in Broward County.
21 During his tenure as the sheriff, Scott Israel
22 failed to properly train and prepare his deputies
23 for real life active shooter situations which
24 ultimately resulted in a failure to protect lives.
25 That is why on January 11, 2019, Governor Ron

1 DeSantis issued Executive Order 19-14 suspending
2 Scott Israel for neglect of duty and incompetence.

3 The chaos that occurred during the aftermath
4 of the Fort Lauderdale/Hollywood Airport shooting
5 on January 6, 2017 were due to a failure on Scott
6 Israel to adequately prepare his deputies for an
7 active shooter situation in one of the fastest
8 growing airports in the United States. Confusion,
9 unclear command orders and a lack of training
10 resulted in unnecessary chaos and injuries to more
11 individuals which can only be described as an
12 abysmal response. And 17 lives of students and
13 faculty that were lost on February 14, 2018 at
14 Marjory Stoneman Douglas High School in Parkland
15 were due to a failure of Scott Israel to
16 prioritize school safety, a failure to properly
17 recruit, train and prepare the deputies he
18 assigned to the schools and a failure to
19 proactively combat threats of violence.

20 And as we sit here today, almost a year and a
21 half after the Marjory Stoneman Douglas High
22 School shooting, the Florida Senate can finally
23 bring some accountability to Broward County by
24 upholding Governor DeSantis's suspension and
25 removing Scott Israel permanently from office for

1 neglect of duty and incompetence.

2 Now, throughout this final hearing, including
3 the deposition testimony that has been previously
4 presented to you and the exhibits entered into the
5 record, it will be abundantly clear that Scott
6 Israel neglected his duties and was incompetent in
7 the discharge of those duties. Now, when weighing
8 all the facts in the evidence, we will have proven
9 by a preponderance of the evidence, a mere tipping
10 of the scales, that Scott Israel neglected his
11 duties and was incompetent. He has contravened
12 his oath of office under Article 2 Section 5 of
13 the Florida Constitution because he has failed to
14 faithfully perform the duties of his office which
15 demands the Florida Senate remove him.

16 Now, as a cursory matter, Scott Israel has
17 challenged the legal sufficiency of Executive
18 Order 19-14 claiming among other things that
19 there's no allegations of constitutional or
20 statutory duties that were incumbent on a sheriff,
21 but that issue has been decided. The Florida
22 Supreme Court, considering arguments from both
23 parties, ultimately upheld the decision by a
24 circuit court finding that Executive Order 19-14
25 was legally sufficient. That means that contrary

1 to any position Scott Israel might take throughout
2 this proceeding, the duties of sheriff that were
3 alleged are sufficiently related to the grounds of
4 suspension, and any argument by Scott Israel
5 should be given zero consideration.

6 What we will hear today is that Scott Israel
7 was bound by constitutional and statutory duties
8 as well as duties that are implicit in the office
9 of sheriff. The sheriff and only the sheriff is
10 created by the Florida Constitution. Florida
11 Statute 13.15 alleged in the executive order
12 outlines the powers, duties and obligations
13 incumbent on a sheriff. And of those duties,
14 which are relevant to these proceedings today, is
15 Subsection (1)(e) which creates the duty for the
16 sheriff to be the conservator of the peace in the
17 county. In courts throughout Florida and the
18 nation have defined this duty as a duty to protect
19 people, a duty to protect against crime before it
20 happens.

21 And another nuance but very prominent issue
22 that we must address is unlike municipal police
23 chiefs or municipal police officers who are given
24 their authority by city charters or contractual
25 agreements, sheriffs have a separate legal

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framework. Sheriffs are granted and retain their authority via the constitution. And because of that explicit grant of authority to the sheriff and the sheriff alone, the legislature has authorized sheriffs to appoint deputies. Florida Statute 30.07 says that sheriffs can appoint deputies who will act under and with the authority of the sheriff. But there's an important point to note there: Explicit in the statutory grant of authority is that the sheriff will be responsible for the neglect or default of the deputies he entrusts; thus any agreement by Scott Israel that he is not responsible for the neglect or failures of the deputies he appointed to act under his constitutional and statutory powers is patently false and contrary to the law.

This is a clear textbook case of the head of an agency being wholly responsible for the failures of his agents. Scott Israel is responsible for the deputies he employed and therefore he can and must be held accountable for their acts, omissions and negligence. But we must not forget the other duties that are implied in the office of sheriff: Hiring, firing, promoting, demoting and deputy assignments. While not

1 written in statute, they are in fact duties and
2 responsibilities that are incumbent upon the
3 sheriff. He also retains the duty and
4 responsibilities to develop policies and
5 procedures for his office, including governing
6 external operations and conducting investigations.
7 The sheriff also maintains the duty and
8 responsibility to develop training plans, training
9 schedules and prioritizing certain areas of
10 training.

11 The Florida Senate should be persuaded by
12 Justice Muniz's concurring opinion in the case of
13 Israel verse Governor DeSantis where he wrote, "a
14 sheriff's day-to-day functions and
15 responsibilities, including the development of
16 policies and the training and supervision of
17 employees are the essential means of carrying out
18 a sheriff's statutory obligations." These are all
19 duties that we will show have been neglected or
20 incompetently discharged by Scott Israel during
21 his tenure.

22 Now, the failures go back to 2017 in the
23 aftermath of the Fort Lauderdale/Hollywood
24 International Airport shooting on January 6, 2017.
25 Unfortunately on that day five individuals were

1 killed and six more were injured at the hands of a
 2 shooter. And we will hear that the shooter ran
 3 out of ammunition and dropped to the ground where
 4 he was quickly apprehended by a responding deputy.
 5 And that initial incident lasted no more than 2
 6 minutes. However, it's the chaos that occurred
 7 after the shooting where we will see convincing
 8 evidence that Scott Israel failed as a sheriff.

9 Now, Scott Israel will claim throughout this
 10 final hearing that his office's response that day
 11 was textbook and while the deputy who responded to
 12 the shooter should be commended for running
 13 towards the sounds of gunfire. As a whole,
 14 Broward Sheriff's Office response was anything but
 15 textbook. We will hear that while the sheriff's
 16 office provides law enforcement and security for
 17 the airport, they never did a large-scale training
 18 at Fort Lauderdale Airport prior to the shooting
 19 even though Scott Israel was on notice that
 20 airports were a target of terrorist activities,
 21 especially given the active shooter situation at
 22 the LAX Airport just a few years prior.

23 The failure to plan for an active shooter
 24 situation at Fort Lauderdale Airport led to the
 25 failures in setting up an effective command. It

1 led to confusion. It led to a power struggle
2 between Scott Israel and the aviation department.
3 And prior testimony from former deputies has
4 already established that there were no policies
5 that existed at the time to determine which entity
6 would take over an active crime scene at the
7 airport, which entity would issue orders,
8 directives, secure terminals, shut down the
9 airport and what was the result.

10 We will hear that chaos ensued when radio
11 communications of shots fired in other terminals,
12 including from two Broward Sheriff deputies. It's
13 unfortunate that another event that occurred is a
14 Broward Sheriff deputy left his K-9 vehicle
15 unlocked and a passenger ran into the vehicle and
16 was attacked by the K-9, and somebody seen that
17 passenger and issued another radio transmission of
18 victim and possible shooter at another terminal.
19 To be sure, a review of the aftermath of the Fort
20 Lauderdale Airport shooting confirms that there
21 were many failures that could have been prevented
22 if Scott Israel prioritized trainings and policies
23 specific to the airport.

24 We will hear that after the shooting, Major
25 Cedeno from Broward Sheriff's Office was tasked

1 with writing an after-action report. He was
2 assisted by two other Broward Sheriff employees.
3 Now, Major Cedeno's report was completed some time
4 in May of 2017, approximately five months after
5 the shooting. This is a detailed report,
6 approximately 119 pages long with extensive
7 details about the events of that day, strengths,
8 weaknesses and areas of improvement.

9 Now, the initial report made startling
10 observations specific to Broward Sheriff's Office,
11 including recommendations for a need to enhance
12 active shooter training lesson plans and enhanced
13 training specific to the airport deputies. The
14 report also critiques the Broward Sheriff's
15 personnel saying that the airport assignment might
16 mistakenly lead the deputies to believe the
17 assignment is lessened exposure to harm or for an
18 imminent retirement when actually the contrary is
19 true. The deputies at the airport must be
20 vigilant and they must be actively looking to
21 deter any shooters or terrorist events.

22 The report also recommends that Broward
23 Sheriff's Office identified personnel agency-wide
24 that might be up to the task and strenuous
25 obligations unique to protecting a major soft

1 target like an airport. It's also critical of a
2 lack of training, a lack of tabletop exercises,
3 disaster drills. It found that the training was
4 infrequent and extremely deficient in preparing
5 the deputies assigned to the airport for the
6 events that might occur.

7 And if I had to summarize what Major Cedeno's
8 initial findings were, it would be these two
9 quotes from his report: "Questionable readiness
10 levels were discovered and mistakes were made."
11 Now, we know that Scott Israel either directly or
12 through his handpicked senior staff did not like
13 Major Cedeno's initial report or criticism and so
14 they employed another Broward Sheriff's deputy to
15 edit the initial report. Captain James
16 Diefenbacher has already testified and you're in
17 possession of his testimony. And he testified
18 that he was told to look into the report and
19 describe the reason why as the report was
20 emotional or nonpragmatic and why is that
21 important. Well, first when you compare the
22 initial draft of Major Cedeno to the edited
23 version by Captain Diefenbacher, you see that
24 certain criticisms of the sheriff's office had
25 been completely removed, criticisms about the

1 personnel being complacent and similar
2 deficiencies.

3 But another important reason to look at the
4 second report is you see that Captain Diefenbacher
5 actually kept some of the criticism related to
6 needing enhanced training specific to the airport
7 district and the failure of Broward Sheriff's
8 Office to have clearly defined policies and
9 procedures with who takes command and control of
10 an active shooter situation. Now, four months
11 after Captain Diefenbacher issues a second report
12 and turns over his edits, Scott Israel finally
13 signs off on a critical incident report on October
14 6, 2017. The final report is only 29 pages long.

15 Now, you may hear from Scott Israel or the
16 longtime allies that he has brought here today
17 that the final report it wasn't edited or
18 whitewashed to make Sheriff Israel look better;
19 however, all you have to do is compare the two
20 draft reversions of the report to the final
21 reversion. If you look at the final reversion --
22 version that Sheriff Israel signed off on, Broward
23 Sheriff's Office had little to improve on from
24 that day. For example, nowhere in the final
25 report is there an acknowledgment that there's a

1 need to have enhanced active shooter training or
2 specialized training specific to the airport. But
3 I would submit to you that if the Florida Senate
4 doesn't limit it's review to just the final report
5 but compares it to the two draft reports, you will
6 see that the deputy charged with talking to
7 people, investigating the response, reviewing
8 documents and coming up with areas of improvement
9 shows that Scott Israel did not prepare his agency
10 for an event that occurred at the airport and it
11 resulted in unnecessary chaos and confusion.

12 Fast forward one year after, February 14,
13 2018 at Marjory Stoneman Douglas High School, the
14 next major event in the saga of failed leadership
15 of Scott Israel. A lot of attention already this
16 morning and throughout this proceeding has focused
17 on the school resource officer that day; however,
18 it's important to highlight that there were other
19 deputies under Scott Israel's control who also
20 failed prior to that day. We know that Broward
21 Sheriff's Office had credible information on
22 multiple occasions that events like that day could
23 happen. And at least during two of those events,
24 the failures of Scott Israel's deputies -- Eason
25 and Treijs -- led to subsequent internal affairs

1 investigations, findings of violations of Broward
2 Sheriff's Office policy and ultimately
3 disciplinary action.

4 And what were those two events: The first
5 occurred in February 2016 when a report was made
6 that the shooter posted an imagine on social media
7 with a gun and a caption somewhat similar to I'm
8 going to get this gun when I turn 18 and shoot up
9 the school. Deputy Eason, responding to that
10 call, never created an incident report. Instead
11 wrote in the computer aided dispatch, "no threats
12 noted." And to make it worse for Scott Israel,
13 this was not the first time Deputy Eason had
14 failed to follow policies regarding creating
15 incident reports and following up on credible
16 information. The second incident occurred just
17 two months before Marjory Stoneman Douglas in
18 November of 2017. Deputy Treijs investigated a
19 report that the shooter had weapons, wanted to
20 kill people and might be the next Columbine
21 shooter. What did Deputy Treijs do with that
22 information: He did not complete an incident
23 report as required by policy. He noted that the
24 shooter might be autistic and then since the
25 caller didn't know where the shooter was, Deputy

1 Treijs just referred the caller to another police
2 department and never followed up.

3 If either of these deputies took the
4 information seriously and acted with a sense of
5 urgency, who knows if we would even be having this
6 final hearing today, and the families that may be
7 watching at home may have never been impacted the
8 way that they have been. And I'll remind you that
9 the definition of conservator of the peace
10 includes acting and preventing crime before it
11 happens. And those deputies, they were acting
12 under Scott Israel's control and authority and
13 they failed to carry out that duty entrusted upon
14 them.

15 Now, it's undisputed that Scott Israel
16 entered into a written agreement to provide school
17 resource officers to Broward County schools. And
18 the agreements are very clear: Scott Israel would
19 assign his deputies to certain schools. He would
20 establish criteria for the individuals that he
21 wanted at those schools. Scott Israel could
22 determine the physical fitness level of the
23 deputies he assigned, the type of individual he
24 was looking at, that the individual was
25 comfortable in high-stress situations or that they

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would act with vigilance when faced with a threat.

In contrary to any assertion by Scott Israel, school resource officers, they're more than just security guards. They're more than just looking out for students skipping school or talking back to teachers. Rather the agreement Scott Israel signed with Broward County schools indicated that his deputies would provide law enforcement functions within the school; that they would exercise the entire authority granted to them under law, including being the conservator of peace, protecting lives and preventing crime. And the agreement also explicitly directs that the school resource officers would protect and secure the school and its occupants.

And we will hear that Scott Israel was on notice that schools are considered soft targets and a venue for active shooter situations, but he did not prioritize protecting schools. Scott Israel did not require the school resource officers to undergo additional training specific to addressing threats in a school setting. In fact, we will hear that school resource officers only attended an annual training offered during the summer specific to their duties as a school

1 resource officer. But unlike SWAT officers who
2 are supposed to engage in active shooter
3 situations and undergo training multiple times a
4 month, Scott Israel's deputies assigned to schools
5 were not keeping their skills sharp on a monthly,
6 bimonthly, quarterly or even semiannual basis.

7 We will hear that Scott Israel did not
8 require active shooter training within the school
9 setting. We will hear that the deputies assigned
10 to schools, they were trained like any other
11 deputy. And the problem with that is that they
12 were trained on a three-year cycle and at best,
13 they did not know of the threat or rise of active
14 shooter situations.

15 Now, first, during the relevant time that
16 we're discussing, Scott Israel only required his
17 deputies to receive two four-hour trainings
18 related to active shooter situations. And we will
19 show that in the entire eight-hour block of
20 training only 90 minutes was allotted for actual
21 practical exercises related to engaging an active
22 shooter. And even that was limited to showing
23 that the deputy could physically carry out the
24 response required.

25 Second, as I mentioned, the deputy would only

1 have to do this training once every three years.
2 And why is the lack of more frequent training
3 important: Deputy Scot Peterson did his mandatory
4 active shooter training on April 19, 2016, one
5 year and nine months between his last training and
6 the events that occurred at Marjory Stoneman
7 Douglas High School. This was a neglectful and
8 incompetent decision by Scott Israel to spread out
9 active shooter training on a three-year basis. A
10 training that didn't keep policies, procedures and
11 practical skills sharp in the minds of the
12 deputies he assigned to protect students and
13 teachers. And to be sure, as will be introduced
14 into evidence, the Marjory Stoneman Douglas Public
15 Safety Commission highlighted the problems with an
16 infrequent training schedule finding, quote, "Some
17 deputies could not remember the last time they
18 attended active shooter training. Some deputies
19 could not even recall the type of training they
20 received and that BSO's training was inconsistent
21 at best."

22 I'm not going to belabor the failures of
23 Deputy Peterson because it is undisputed and well
24 known that he failed. The evidence from the
25 Marjory Stoneman Douglas Public Safety Commission

1 suggests at a bare minimum Deputy Peterson's
2 decision not to enter Building 12 upon hearing
3 gunshots led to at least eight more fatalities and
4 dozens of more injuries. But any failure of
5 Deputy Peterson is also a failure of Scott Israel.
6 Scott Israel's directions and policy decisions
7 related to school resource officers -- decisions
8 not to mandate frequent exercises, tactical
9 trainings, deputy assignments to schools -- can
10 only be attributed to Scott Israel. And it's
11 baffling that Scott Israel accepts zero
12 responsibility for the omissions and neglect of
13 the deputies he appoints.

14 Now, evidence will show that while gunfire is
15 still being heard, other Broward Sheriff deputies
16 responded to the school but lacked a sense of
17 urgency in responding. Described in the Public
18 Safety Commissions Report, quote, "Several
19 uniformed deputies were either seen on camera or
20 described taking the time to retrieve and put on
21 their ballistic vests, sometimes in excess of 1
22 minute and in response to hearing gunshots." And
23 the Commission found that these acts were, quote,
24 "Unacceptability and contrary to accepted
25 protocol."

1 Now, another focal point of the presentation
2 today I presume will be on Scott Israel's decision
3 on an active shooter policy for his deputies,
4 Standard Operating Procedure 4.37. It is
5 undisputed that the policy initially stated
6 "Deputies will enter the area or structure if
7 realtime intelligence exists of an active shooter
8 to preserve life." It's also undisputed that
9 Scott Israel changed the "will enter" to "may
10 enter" in 2013. And after the shooting at Marjory
11 Stoneman Douglas, Scott Israel defended this
12 decision saying, "May gives discretion to not
13 enter a structure so as deputies do not go on
14 suicide missions." Prior testimony presented to
15 you by former and current Broward Sheriff deputies
16 explain the "may" might be so that the deputy
17 doesn't feel they need to open a door if they know
18 it's boobytrapped or that the shooter is on the
19 other side of the door waiting to shoot. And even
20 though this has been a parotid line by all of the
21 witnesses presented by Scott Israel, nowhere in
22 Broward Sheriff's Office policy or the training
23 materials does it ever mention an exception for
24 entering is due to boobytrapped or shooter being
25 on the other side of the door.

1 What we will hear is that after the Marjory
2 Stoneman Douglas shooting, the Broward Sheriff's
3 Office conducted an extensive analysis of active
4 shooter policies across Florida Law Enforcement
5 Agencies, including a comparison of "may" versus
6 "shall" or "must." We will hear that there is no
7 law in Florida that requires a specific language
8 to this policy. And while that is factually true,
9 a document from Scott Israel's own agency under
10 his direction explains that why you use the word
11 "may" is so that entry -- so the deputies know
12 that entry is permitted and a possibility but not
13 a requirement. It does give discretion. And
14 there are numerous variables that might make entry
15 impossible, and that the deputy should know that
16 there is no consequence that will be applied if
17 they do not perform their responsibility to engage
18 the shooter.

19 And while the legal debate between "shall"
20 and "may" will continue much past this final
21 hearing, it is undisputed that Deputy Peterson
22 believed that agency policy gave him discretion to
23 not enter. Furthermore, as I mentioned, some
24 deputies did not even know what their policy was.
25 And at an absolute bare minimum, Scott Israel is

1 responsible for the neglect of his duties
2 regardless of "shall" versus "may" because he is
3 the conservator of the peace and it is his
4 absolute duty to prevent crime and save lives.
5 The governor's office can only hope that when
6 Scott Israel takes the stand today he finally
7 accepts responsibility and acknowledges the
8 failures of his agency. Contrary to his opinion,
9 he did not give amazing leadership to Broward
10 Sheriff's Office, and he must be held accountable
11 for every act and omission of his agency and his
12 deputies.

13 Now, at the end of the day, the facts in the
14 evidence presented will confirm that he neglected
15 his duties and incompetently discharged them. His
16 failures resulted in chaotic situations that could
17 have been avoided and the deaths of numerous
18 victims that should have been saved. That's why
19 at the end of this final hearing and through our
20 closing arguments and once you've reviewed all the
21 exhibits and testimony, it will be clear that
22 there's only one recommendation that you can make
23 to the full senate and that's that the governor's
24 suspension should be upheld and the Florida Senate
25 should remove Scott Israel from office.

1 SPECIAL MASTER: Thank you, Mr. Primrose.

2 Opening statements from either Mr. Kaplan or
3 Mr. Kuehne.

4 Before you start, Mr. Kuehne, why don't you
5 just make sure that the instructions that I had
6 with respect to witnesses being sequestered, has
7 that been -- is there anyone currently in the room
8 who is not aware of that sequestration policy?

9 MR. KUEHNE: No, Special Master. I have
10 informed all the witnesses of the sequestration
11 rule in advance of this hearing. I do not notice
12 any of them in the proceeding chambers.

13 SPECIAL MASTER: Thank you. Please proceed
14 with your opening statement.

15 MR. KUEHNE: Good morning, Special Master.

16 Sheriff Israel finally has an opportunity to
17 demonstrate that the governor's suspension of him
18 was not for any legal matter, was not because of
19 any constitutional reason but was a brutal
20 political ploy designed to obtain his election and
21 fulfill his promise to the National Rifle
22 Association.

23 The constitution provides a very limited
24 opportunity for the governor to suspend an elected
25 official. That limited opportunity is bound in

1 law and fact. Here, the governor sought, not even
 2 by cherry-picking fact but by manipulating opinion
 3 and presenting false reasons, to assert that
 4 Sheriff Israel neglected his duties and was
 5 incompetent. And attempts in this proceeding,
 6 knowing that the governor's suspension can only be
 7 established by a preponderance of the evidence,
 8 resorts to inflammatory rhetoric in place of
 9 actual fact and, in addition, presents made-up
 10 definitions of the law that are not found in any
 11 aspect of the record before these proceedings.

12 Sheriff Israel, as a responsible elected
 13 sheriff, in fact has and always will accept full
 14 responsibility for the actions of his office, the
 15 Broward Sheriff's Office, has always done that and
 16 will always do that. Because as the elected
 17 sheriff, as a lifetime trained law enforcement
 18 officer, his personal duty -- the evidence will
 19 show -- and his public duty is to preserve and
 20 protect, something he has been trained to do,
 21 instilled in him from the very first day he became
 22 a sworn law enforcement officer to this very day
 23 and something that he has instilled in the very
 24 agency to which the people of Broward County have
 25 elected him twice. An agency that stands for the

1 people of Broward County, not as a false model of
2 superiority attempting to falsely assure the
3 public that nothing can ever happen, not using the
4 mantra of the governor in the suspension that the
5 job of Sheriff Israel is to prevent all crime from
6 happening but instead to instill in the people of
7 Broward County, not just the voters, but all the
8 people of Broward County and every law enforcement
9 officer, not just those who work for the Broward
10 Sheriff's Office as law enforcement officers or
11 any of the 5,000 employees who serve the people of
12 Broward County in all aspects of the Broward
13 Sheriff's Office activity but also encouraging
14 other municipalities, other governments through a
15 type of leadership that is known as cooperative
16 leadership so that the entire county undertakes
17 the collective responsibility that helping make
18 the county a safe place.

19 Now, the evidence is going to show that
20 Sheriff Israel comes before this senate proceeding
21 having never been given, despite numerous
22 requests, an opportunity to share with the
23 governor or the governor's senior staff his
24 position prior to the (inaudible) political
25 suspension. The evidence will show that the

1 Sheriff had made a due request for a presentation
 2 to the then governor post Marjory Stoneman Douglas
 3 shooting. When it became evident that the
 4 criticism of the Broward Sheriff's Office was
 5 played out across the national news media,
 6 criticism that the evidence will show was
 7 sponsored and promoted by and caused by the
 8 Sheriff's interaction with a spokesperson for the
 9 National Rifle Association soon after the Marjory
 10 Stoneman Douglas High School shooting when Sheriff
 11 Israel, as part of his community leadership and
 12 community response, participated in a presentation
 13 at which she made very clear that the sheriff's
 14 office policy was inimical to much of the policy
 15 nay requirements of the NRA. And that begat the
 16 NRA's effort to unseat Sheriff Israel.

17 Yes, politics, but the Governor Scott
 18 administration informed Sheriff Israel that an
 19 adequate opportunity would be given to him to
 20 offer his view if the governor believed that that
 21 was an imperative, if the governor were going to
 22 take action. But the governor initiated a Florida
 23 Department of Law Enforcement investigation, an
 24 independent -- independent of the BSO
 25 investigation to do a complete review of the

1 Marjory Stoneman Douglas High School shooting. A
 2 tragedy -- a tragedy for every Floridian, every
 3 American, especially for every law enforcement
 4 officer. A tragedy that is unacceptable much like
 5 the Pulse shooting nightclub tragedy that took
 6 away the lives of more than 50 innocent
 7 individuals. Not withstanding the tragedy at Fort
 8 Lauderdale Airport, but for the heroic effort of
 9 BSO Deputy Jessie Madrigal who apprehended a
 10 shooter with military sniper experience in 72
 11 seconds after the first report of a shot but yet
 12 five innocent victims. Those are tragedies;
 13 tragedies that the Broward Sheriff's Office has
 14 made certain to implement and learn from just as
 15 every law enforcement agency -- responsible law
 16 enforcement agency and one would say responsible
 17 executive leadership has attempted to do.

18 So the governor -- the then governor
 19 directed, as he is allowed to as the senior
 20 official in charge of the Florida Department of
 21 Law Enforcement, a commissioner who is responsive
 22 to the governor to do a soup to nuts
 23 investigation, and the governor made clear that
 24 that would be an operative aspect of trying to
 25 determine how do we come to grips with this

1 tragedy. And in addition, the governor compiled a
 2 statewide commission, known as the Marjory
 3 Stoneman Douglas High School Commission, that
 4 eventually issued a report. A report, we note
 5 that despite exhaustive investigation, found no
 6 neglect of duty or incompetence on the part of
 7 Sheriff Israel and made no recommendation that
 8 Sheriff Israel should be removed from office
 9 despite a gubernatorial assurance that the process
 10 would work it's way through and decisions would be
 11 made when the facts were known. Then Governor
 12 DeSantis -- and this is sad. This is sad to have
 13 politicized the lives of children and adults who
 14 are lost to a terrorist at Marjory Stoneman
 15 Douglas. But nonetheless, before any facts were
 16 laid bare began the mantra of Sheriff Israel must
 17 go. Almost a political mantra because the
 18 evidence will show that was what spurred much of
 19 the then candidates' effort to rest votes from
 20 democratic rich Broward County. Yes, it sounds
 21 unbelievable, but that is the truth and the
 22 evidence.

23 Then literally within moments of being
 24 installed as the Governor of the State of Florida,
 25 the governor issued executive order that suspended

1 Sheriff Israel for neglect of duty and
2 incompetence, never having allowed Sheriff Israel
3 during the campaign, post election, post
4 installation and inauguration as governor an
5 opportunity to offer his view. He, the elected
6 sheriff elected by the people of Broward County,
7 was given no opportunity, not even to a senior
8 staff member, to offer his view of the discharge
9 of his constitutional and common law
10 responsibilities to the people of Broward County.

11 A denial of due process undoubtedly but a
12 denial of fairness when the sheriff was given a
13 commitment that the highest office in the State of
14 Florida would impanel an FDLE investigation before
15 any decisions were made. The governor, we now
16 know when that FDLE decision was made well after
17 the suspension, the evidence will show, was
18 briefed by the FDLE. What information the
19 governor was given prior to that briefing at the
20 time of the former Deputy Scot Peterson arrest
21 we'll never know, but we've asked the Special
22 Master as one of our recents to keep that record
23 open so we have an opportunity to learn what
24 information did the governor have and when did the
25 governor have it when the governor claimed that

1 Sheriff Israel, as the elected sheriff of Broward
2 County, inadequately trained or caused the
3 inadequate training of Deputy Scot Peterson and
4 numerous other deputies when in fact the
5 governor's own law enforcement agency made a
6 determination -- and let me note, we do respect
7 Sheriff Israel, a prominent law enforcement
8 officer -- we do respect and abide by the
9 presumption of innocence, and no part of Sheriff
10 Israel's case is in any way intended to obstruct
11 that presumption of innocence.

12 But we do know that the Florida Department of
13 Law Enforcement, the governor's law enforcement
14 agency, issued a probable cause affidavit. That
15 is Exhibit 37 of Sheriff Israel's exhibits. And
16 that exhibit says in part that the deputy who was
17 charged with numerous felonies as a result of the
18 probable cause determination by the FDLE received
19 not just the required training but more training
20 than required and training specifically in the
21 area of active shooter training and school
22 resource officer training. All training, the
23 evidence will show, directed in equipping him in
24 doing the law enforcement function at a high
25 school. And the probable cause affidavit also

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concludes that Scot Peterson -- former Deputy Scot Peterson did not follow his training, did not follow his experience, did not do what he should have done as a law enforcement officer and thereby committed crimes against the people of the State of Florida.

Now, the evidence will show that human failures are often unacceptable and they can lead to tragedies but when a sheriff is elected by the people subject to the constitutional responsibilities and the statutory responsibilities as sheriff, the sheriff has an obligation to provide, not just the appropriate means of serving the interests -- the law enforcement interests of the people, but to implement that and to implement that same kind of effort not just with law enforcement. It would be nice if, as the governor has asserted in this proceeding, for us all to have a crystal ball and magically prevent crime from taking place. But whereas the governor asserts to this Special Master that the job of a Broward Sheriff is to prevent crime from occurring, that is a made up definition. That is not what sheriffs are obliged to do. Sheriffs are obligated to do their best to

1 preserve and protect through training, through
2 community involvement, through getting the entire
3 community attentive to law enforcement issues.

4 And the evidence is going to show that was
5 the mark of Sheriff Israel and why Sheriff Israel
6 was so resoundingly elected and reelected and why
7 it is for the people of Broward County to decide
8 if the policies and the procedures in conduct of
9 the sheriff's office are appropriate for Broward
10 County, whereas the governor says neglect of duty.
11 There will be no evidence that in any way
12 establishes that Sheriff Israel fell below any
13 standard applicable to sheriffs or law enforcement
14 officers; yet neglect of duty requires just that,
15 to fall below the standard applicable to your
16 particular function, not just that the sheriff
17 didn't do things the way the governor supposedly
18 would have wanted them to be done, but fell below
19 a standard.

20 And what the evidence is going to show is
21 that throughout the history of Broward Sheriff's
22 Office under Sheriff Israel -- and by the way,
23 Sheriff Israel inherited what we maintain was a
24 very good, large county sheriff's office. Sheriff
25 Israel implemented standards, procedures and

1 protocols that far exceeded any model standard
2 requirement. The evidence is going to show that
3 the standard operating procedure on active shooter
4 interestingly post Marjory Stoneman Douglas, post
5 Las Vegas, active shooter has been changed to
6 active killer. The concept is to emphasize that
7 shooters are killers, but Broward County before it
8 became a national suggestion, before any state
9 requirements initiated as a requirement active
10 shooter training for every Broward Sheriff's
11 Office deputy, every one from command down to the
12 beginning, before it was a standard, before it was
13 a requirement.

14 And the evidence is going to show that to
15 this day, to June 18, 2019, active shooter
16 training is not a requirement for any law
17 enforcement officer or law enforcement agency in
18 the State of Florida. It is a requirement at the
19 BSO under Sheriff Israel. And note, the head
20 executive agency that sets the requirements -- not
21 the standards, the requirements for what is needed
22 for every law enforcement officer -- whether a
23 municipal officer, a deputy sheriff -- is the
24 Florida Department of Law Enforcement and
25 executive agency headed by the governor, the

1 governor's commissioner and the Florida Standards
2 Commission of which the governor has appointees to
3 the law enforcement commission that sets the
4 standards in the State of Florida. And to this
5 day, the tragedy of finger-pointing and absolving
6 all problems because of finger pointing through
7 executive order.

8 The evidence is going to show is that to this
9 day not a single directive has emanated from the
10 executive office to require active shooter
11 training, not a single imperative, not a single
12 request to the Florida Department of Law
13 Enforcement, which today still does not -- did not
14 follow Broward Sheriff's Office lead and the lead
15 of many of the progressive models of law
16 enforcement in the State of Florida to include
17 active shooter training, still to this day. So
18 the governor says, well, neglected duty because
19 active shooter training is something that you need
20 to do and you didn't do it good enough. Despite
21 the fact that after claiming that, his neglect of
22 duty, no law enforcement officer or agency in the
23 State of Florida is required to implement that.
24 No law enforcement agency or law enforcement
25 officer is suggested to go through that.

1 But in Broward County, not only does Broward
2 County have, the evidence is going to show, an
3 active shooter policy 4.37 and it's part of the
4 exhibits, the exhibits: Israel Exhibit 1, 2, 3
5 and 4 are variance of the active shooter policy.
6 A policy that was put in place, no requirement by
7 the Florida Department of Law Enforcement,
8 consistent with national standards. Not a policy
9 that is easy. Not a policy that is too difficult.
10 A policy that is practical, and that policy
11 includes a directive under the Broward Sheriff's
12 Office that every law enforcement officer, no
13 matter the responsibility at Broward Sheriff's
14 Office, must undergo active shooter training. And
15 in that training the evidence shows -- and the
16 evidence shows in abundant depositions that have
17 already been made part of this record and that the
18 Special Master has and will continue to review --
19 that the training -- the training is a model for
20 the nation consistent with the International
21 Association of Chiefs of Police, the standard and
22 the training. And every deputy, including, by the
23 way, former Deputy Scot Peterson, was trained --
24 relentlessly trained on eliminate, surrender,
25 arrest. The consequence of an active shooter is

1 to eliminate, surrender and arrest. And contrary
 2 to -- and I say this with the most respect for the
 3 governor's counsel: Contrary to the flat-out
 4 false statement, the evidence has already shown
 5 that Broward County Sheriff's Office has had an
 6 implemented effective real-time active shooter
 7 training at public schools.

8 Exhibit -- Israel Exhibit 29 -- Israel
 9 Exhibit 29 makes clear that in 2013, Broward
 10 Sheriff's Office conducted an active shooter
 11 training program at Pompano Beach High School. A
 12 training program that was multi-agency, involved
 13 the Broward school system, had the -- had
 14 commandeered an entire high school to conduct
 15 realistic active shooter simulation. And as the
 16 exhibit reflects, that's become a model --

17 MR. PRIMROSE: If I can just step in. This
 18 is the exhibit that we raised that they were going
 19 to withdraw.

20 MR. KUEHNE: Not at all. Exhibit 29 is an
 21 exhibit in evidence.

22 MR. PRIMROSE: Exhibit 29 is an article by
 23 the template. The Pompano Beach is the -- that he
 24 just mentioned is the exhibit that we raised that
 25 there's no -- there's not Bates Stamp number for

1 -- I just want to be clear, I mean, he's talking
2 about something that he said is going to be
3 withdrawn, anything about Pompano Beach, the
4 actual training itself. I'm just making it for
5 the record.

6 SPECIAL MASTER: Let me just take a pause for
7 a couple seconds. I want to check my own files on
8 those exhibits.

9 MR. KUEHNE: I have a copy of Exhibit 29 that
10 I specifically referred to if you would like me to
11 hand it to you.

12 SPECIAL MASTER: I'm looking now. I've got
13 Exhibit 29 as Police 1 Article, *Active Shooters in*
14 *Schools, a Template for Police Trainers*. That's
15 in one list submitted June the 1st, but there's a
16 different list -- okay. Pardon me. Mr. Primrose,
17 I've got Article 28 as being the *Active Duty*
18 *Shooter Training*. 29 is an article regarding
19 active shooter training but is not the exhibit
20 that Mr. Kuehne previously indicated had been
21 withdrawn.

22 MR. PRIMROSE: Okay.

23 SPECIAL MASTER: Thank you. Please proceed.

24 MR. KUEHNE: It's Israel Exhibit 29. The
25 governor's office has had that and it's Bates

1 Stamped Israel 2139, and I specifically referred
2 to that.

3 SPECIAL MASTER: Thank you. That's
4 consistent with what I have in front of me. Thank
5 you, Mr. Kuehne.

6 MR. KUEHNE: So the evidence shows that
7 contrary, by the way, to the bill of particulars,
8 contrary to the governor's bench memorandum that I
9 understand is just argument, Broward Sheriff's
10 Office conducted a large-scale training exercise
11 at a Broward County high school with the offices
12 of the Broward County schools and numerous
13 affected agencies that included teachers.

14 But that's not all. And yes, it is accurate
15 and the evidence has reflected that the SWAT teams
16 at Broward County Sheriff's Office train on
17 SWAT-related issues once every week. As a
18 specialized response team, the SWAT officers -- in
19 addition to the training every deputy receives, in
20 addition to the specialized training that SWAT
21 officers receive -- SWAT officers trained as a
22 team every week. The evidence is also clear that
23 other specialized units train as a team
24 periodically. And note that no standard by the
25 Florida Department of Law Enforcement or any

1 national standard requires SWAT teams to train
2 weekly or monthly. BSO does that because it's in
3 their DNA, preserve and protect. But what Broward
4 Sheriff's Office does is for school resource
5 officers -- school resource officers who are
6 selected who want to -- the evidence has already
7 shown in the exhibits -- who want to become school
8 resource officers, who are interviewed, who are
9 evaluated, tend to be experienced deputies,
10 trained deputies functioning as police officers
11 under contract with the Broward County Schools
12 that specifically contracted to have a school
13 resource officer, one, at Marjory Stoneman
14 Douglas. Broward Sheriff's Office -- and that's
15 an exhibit. Broward Sheriff's Office fulfilled
16 that contract.

17 But not just a school resource officer, but
18 Broward Sheriff's Office Requires every school
19 resource officer, as school resource officers, to
20 engage and undergo annually the type of
21 specialized training, a 40-hour course. All
22 school resource officers required as a unit to
23 undergo a 40-hour special course in addition to
24 their required trainings for school resource, and
25 that includes -- the evidence has shown tactics,

1 schools as targets. The governor calls them soft
2 targets. Soft targets, hard targets; peoples'
3 lives are at issue any time an active shooter
4 takes place.

5 And Scot Peterson -- the school resource
6 officer at Marjory Stoneman Douglas who failed to
7 discharge his responsibilities on that day, failed
8 to implement the well-trained and ingrained
9 policies -- was not just a school resource officer
10 but he was a senior school resource officer with
11 nothing in his personnel file -- and his personnel
12 file is an exhibit before the Special Master --
13 nothing in his personnel file suggested the
14 slightest inability to not only perform the duties
15 of sworn deputy but the duties and
16 responsibilities -- the additional duties and
17 responsibilities of a school resource officer.

18 And the evidence is also going to show that
19 -- weighed against the preponderance of the
20 evidence, which is the standard here, the evidence
21 is going to show that Sheriff Israel did not
22 neglect his duties, was not negligent or failed to
23 perform a duty of office or required by law but in
24 fact on a daily basis, on a weekly basis, on a
25 month basis, on an annual basis and approved by

1 the voters went above and beyond.

2 Now, the governor seeks to prove neglect of
3 duty by saying essentially if any law enforcement
4 officer doesn't perform perfectly, I, as Governor,
5 can decide whim or whimsy that the head of that
6 agency, the sheriff, has neglected duty. And the
7 governor does this in two ways: One points to the
8 Fort Lauderdale Airport shooting in 2017 --
9 January 6, 2017. An airport shooting involving a
10 former military trained soldier who opened fire at
11 the Fort Lauderdale Airport, taking property that
12 included a gun and ammunition from his checked
13 back that had been transported with him from
14 Alaska and within 72 seconds, Deputy of the Year
15 Jesse Madrigal confronted and apprehended that
16 killer.

17 The evidence shows that reports of shooting,
18 Deputy Madrigal who is trained as an aviation
19 officer -- he's a pilot -- trained as an aviation
20 officer doing a duty at the airport, trained as
21 every deputy is trained -- his specialized
22 training in the aviation, his training in active
23 shooter -- and as soon as the shots are reported,
24 he runs immediately to the scene of the shooter as
25 passengers are wildly going away -- passengers and

1 everybody else, including Homeland Security
2 employees who are trained with security running in
3 the other direction. And he, like a salmon
4 swimming upstream with a purpose, makes a B line
5 to another place in that airport, confronts and
6 apprehends the shooter. He was given a
7 recognition of sheriff deputy of the year by the
8 Florida Sheriff's Association.

9 And not just that. The evidence shows that
10 the entire response -- the entire law enforcement
11 response to the Fort Lauderdale shooting became a
12 model -- a model, not just Sheriff Israel saying
13 that -- a model -- a model for the United States
14 Law Enforcement response to airport shootings.
15 The response -- the coordinated response was
16 taught at numerous law enforcement training
17 seminars around the country. The Broward
18 Sheriff's Office and the FBI were asked to make
19 presentations because the entirety of the handling
20 of the Fort Lauderdale shooting, the shooting and
21 its aftermath, became a model of training for how
22 law enforcement can and should respond to the
23 scene of a public conveyance shooting.

24 The evidence is also going to reflect that
25 Sheriff Israel was a former SWAT officer and

1 commander. And after Los Angeles, LAX, the entire
2 BSO put together training protocols for just this
3 type of public accommodation exercise. And
4 contrary to what you have been told, the evidence
5 is that the BSO in conjunction with every
6 coordinating agency affecting Broward County had a
7 large-scale training at the Fort Lauderdale
8 Airport and Seaport known as a full-scale active
9 shooter/active terror response drill at the
10 airport and seaport -- full scale -- cooperated by
11 BCAD, Broward County Aviation Division, that
12 controls the property, a government agency, the
13 seaport authority, the FBI, Homeland Security and
14 all the effected agencies and municipalities. A
15 real-life exercise where an entire terminal of the
16 Fort Lauderdale airport was taken over by this law
17 enforcement exercise that began with an emergency
18 report. The evidence reflects and will reflect --
19 it actually is in evidence already -- report of
20 terrorists at the port -- the seaport.

21 And the evidence also shows that in Fort
22 Lauderdale, the airport and the seaport adjoin
23 each other. Law enforcement officers respond to
24 the seaport believing in real-life large-scale
25 training that terrorists have taken over the

1 seaport in a ship. And as if that's not real
2 scale enough, that, by the way, involved SWAT team
3 members, non-SWAT team members, emergency
4 response, Broward County officials, administrative
5 people, FBI municipal officers. Then the training
6 exercise -- and, okay, governor, let's suggest the
7 evidence doesn't say Sheriff Israel made that
8 decision how to develop that training realistic
9 simulation, but his people in charge of training
10 in coordination with the agencies did, command
11 decision. Then the exercise was that one of the
12 terrorists fled to the airport, and this was not
13 just a shooter. This exercise was evidence of
14 terrorism. And then the exercise continued to fan
15 out at the Fort Lauderdale Airport conducted by
16 BSO training large scale at the airport.

17 And the evidence reflects how difficult it is
18 for a law enforcement agency to take over an
19 institution that is not a law enforcement
20 institution. An institution that has to be shut
21 down, where otherwise it's a stream of commerce.
22 It's people come and go. And that BSO learned and
23 helped instill coordination in that active
24 training exercise under the offices of Sheriff
25 Israel.

1 And the evidence is also going to show that
2 there are and have been failures on the part of
3 deputies who when determined to have fallen below
4 standards are subject to appropriate
5 employment-based assessment. Using the word
6 "discipline" is not the correct terminology of the
7 Broward Sheriff's Office because the BSO has a
8 procedure. And the evidence is already in the
9 record -- and we'll have more of it -- that
10 deputies, if deemed deficient -- whether they are
11 found to have not followed a rule or just in
12 training or practice -- deemed efficient go
13 through what we would call "remedial training."
14 They don't call it that because it sounds harsh
15 and the philosophy at the Broward Sheriff's Office
16 is to encourage each deputy to be the best they
17 can.

18 So yes, Deputy Eason and Deputy Treijs did
19 not follow the rules in matters that now loom as
20 significant the evidence reflects. But when
21 identified, those deputies were given the
22 appropriate type of sanction that was a
23 rehabilitative sanction to encourage the following
24 of the rules. And let's just reflect on what the
25 evidence is with regard to those two incidents.

1 Both involved a shooter at Marjory Stoneman
2 Douglas High School and both involved a
3 recordkeeping deficiency. None of them involved
4 any issue of an active shooter activity
5 information.

6 But the evidence is also going to reflect
7 that well before the State of Florida, post
8 Marjory Stoneman Douglas, implemented a Red Flag
9 law. Red Flag law, the evidence is going to show,
10 empowers law enforcement, empowers the community
11 to take action where somebody is potentially
12 troubled. They have not committed a crime or
13 maybe they have, but before any accusation, arrest
14 or crime, law enforcement can appropriately within
15 standards, standards only later set by the Florida
16 Legislature, can take away guns from somebody;
17 somebody who has a lawful right under the Second
18 Amendment that we all respect to own and possess
19 guns. Under certain circumstances, before they're
20 charged with a crime, before they're declared
21 mentally ill, law enforcement can get a Red Flag
22 order to take those guns from that person and
23 property. Long before it became an issue at
24 Marjory Stoneman Douglas, Broward Sheriff's Office
25 -- but the Sheriff's Association in Florida was

1 arguing to use that limited -- to give law
2 enforcement that limited power. Sheriff Israel
3 was one of them. It wasn't until the Marjory
4 Stoneman Douglas tragedy and reviewing the history
5 of that killer who now stands charged with capital
6 felonies that there might have been ways for law
7 enforcement to have separated him from weapons
8 that he was lawfully allowed to have at the time
9 of that shooting, and that is a tragedy itself
10 that they did not have that power.

11 But the evidence is also going to reflect
12 that these failures on the part of the two
13 deputies in those two instances were not
14 incompetence. They were not neglect of duty.
15 They were recordkeeping reports errors. And what
16 the evidence is also going to reflect -- because
17 the governor holds Sheriff Israel responsible
18 saying -- and I'm paraphrasing: If those deputies
19 had done their job, it's likely Marjory Stoneman
20 Douglas would not have happened. That is a slap
21 in the face to every law enforcement officer,
22 every elected official, every person interested in
23 public safety to have a look-back finger-pointing
24 that one action would have prevented this; as
25 though, the governor, who, by the way, has not

1 implemented active shooter training standards and
2 he's been governor now for six months.

3 The evidence reflects that the FBI was put on
4 notice of some -- I'll call it trouble with the
5 Marjory Stoneman Douglas killer. Whatever the FBI
6 did or didn't do did not rain in this killer. Not
7 that anybody should be rewarded. And the evidence
8 will not suggest that there is any reward for
9 failing to do a job, but there is a distinct
10 difference between neglect of duty, obligations
11 required by law and those set by the position of
12 office and whim or fancy on the part of a
13 politician who becomes the chief executive
14 officer.

15 And the evidence is going to show -- and I'm
16 going to briefly summarize some of what you have
17 as evidence -- Captain James Diefenbacher was
18 deposed. You have his transcript. Captain -- BSO
19 Captain, not some lackey that the governor has the
20 ability to call law enforcement officers, command
21 officers who served their entire careers as
22 honorable, responsible law enforcement officers.
23 Just because they were command staff for Sheriff
24 Israel, the governor refers to them as lackeys; as
25 though Undersheriff Steven Kinsey, a career law

1 enforcement officer, is a lackey for anybody.

2 And you're going to hear from some of these
3 -- the governor's denomination lackeys. Colonel
4 Jack Dale -- law enforcement pedigree that is a
5 model -- no lackey for anybody. And certainly
6 Captain James Diefenbacher -- currently a BSO
7 captain -- he drafted the second version of the
8 after-action report. Remember that 100-something
9 page initial draft of the after-action report that
10 the governor says, gee, I can't find anything in
11 the real report so let me go back to that first
12 draft and pick -- cherry pick portions of that
13 very first draft. A draft that has never been an
14 official report, never subject to any testing,
15 simply an effort -- a hurried effort on the part
16 of one officer assigned to gather as much
17 information as possible. And you know what
18 Captain Diefenbacher said -- who's job was to
19 review that very preliminary report that didn't
20 meet any of the accepted standards of after-action
21 reports and to vet it. Not instructions from the
22 sheriff. Instructions from the command because
23 that's what's done in major after-action reports.

24 And the evidence reflects that after-action
25 report s in major events -- Fort Lauderdale

1 Airport shooting is a major event -- often take
2 upwards of a year to finally work their way into a
3 comprehensive, presentable after-action report
4 with drafts in the process. Captain Diefenbacher
5 went through that after-action report and found
6 serious factual mistakes, errors, information that
7 was just not confirmed and not accurate. And he
8 next testified that that after-action report was
9 intended to be preliminary because it had not been
10 reviewed by any or consulted with the -- and this
11 is a police term of art -- subject matter experts
12 -- the SWAT team members, the specialized members,
13 the fire and rescue -- was just a compilation of
14 as much information as that initial reporting
15 officer could do.

16 And he also concluded, the method of
17 presenting this information just does not comport
18 or square with the model of after-action reports.
19 Not the model, the testimony is, that the sheriff
20 has directed but the national model of what
21 after-action reports are to be. And Captain
22 Diefenbacher says, "My review was still a vetting
23 and going out and trying to confirm some
24 information but it was never going to be a final
25 report. It was then going to be moved up the

1 chain." And then we have Undersheriff Kinsey who
2 says, "I authored the final report called the
3 'Critical Incident Report.'" And it's an exhibit.
4 "I authored it, although the Sheriff signed off on
5 it. The Sheriff had no role in it. And I
6 determined what was appropriate after this report
7 had been vetted and gone through numerous
8 revisions what was appropriate." And I included
9 significant criticisms of the sheriff's office
10 only contrary to the governor's accusation, not
11 fact, Undersheriff Kinsey doesn't call them
12 criticisms. He calls them -- and we may say it's
13 a euphemism, but it certainly fits the role of the
14 model for after-action reports -- "opportunities
15 for improvement." To encourage the agency and all
16 those who work with the agency, not to call them
17 on the carpet, not to place blame but offer
18 opportunities for improvement in every significant
19 area the evidence shows.

20 The evidence also shows that Lieutenant
21 Colonel Michael DiMaggio, retired, responded to
22 both the Fort Lauderdale Airport and the Marjory
23 Stoneman Douglas massacres. And he participated
24 in the Regional Domestic Security Task Force, a
25 multi-agency organization of all law enforcement

1 agencies in South Florida, that regularly did
2 joint exercises and exercise, by the way, at Miami
3 International Airport. The governor says, again,
4 I said inaccurately, "no large-scale training at
5 Fort Lauderdale Airport." We know there was
6 Operation Vigilant Port, but Broward Sheriff's
7 Office also participated in Joint Regional
8 Domestic Security Task Force at MIA, additional
9 training in real-life large-scale scenarios for
10 what are known as public accommodation terrorist
11 activity, terrorist shooter activity, things that
12 have the potential for involving large amounts of
13 people.

14 Lieutenant Colonel Edward Grant, retired, he
15 was the SWAT commander at the Fort Lauderdale
16 Airport. He talked about the effectiveness of the
17 active shooter training all through the BSO and
18 the specialized training that SWAT team members --
19 he would call them -- although he was very
20 respectful -- the highest challenge for law
21 enforcement, but let's just say a significant
22 challenge for law enforcement and how they are
23 drilled to work with responding deputies because
24 the road patrol officers -- deputies who are the
25 real police who tend to respond to everything

1 first before the specialized unit is called in --
2 he talks about Operation Vigilant Port and how the
3 specialized team works with the road patrol
4 officers. But what he says is at the airport --
5 at the Fort Lauderdale Airport, BSO was the lead
6 law enforcement agency for about an hour. The
7 response comes in, the evidence shows 72 seconds
8 later the shooter's apprehended, effort is made to
9 then begin the process of interviewing him -- the
10 shooter. FBI immediately called to the scene
11 along with Homeland Security. Effort is made to
12 fan out the location of the crime scene is the
13 terminal baggage claim area. BSO fully secures
14 that. The evidence shows brings in a command post
15 -- mobile command post. And as BSO had
16 anticipated, because of the nature of that
17 shooting, not just were other law enforcement
18 agencies dispatched -- FBI, Homeland Security,
19 Customs. There were even DEA agents there, which
20 the evidence is going to show caused yet another
21 issue where a federal agent reported hearing a
22 shot being fired -- even though it was never able
23 to be confirmed -- and law enforcement including
24 BSO had to -- had to -- not ignore it --
25 investigate that and numerous other reports of

1 potential activity.

2 About an hour after the Fort Lauderdale
3 shooter was apprehended, the FBI took over as lead
4 law enforcement agent for the Fort Lauderdale
5 Airport. BSO became secondary. No less important
6 but secondary. Yet the evidence reflects and has
7 already reflected that BSO work closely with every
8 reporting agency with the command post. But why
9 did BSO become the secondary law enforcement
10 agency? Because the FBI determined that that
11 airport shooting might -- might be terrorism. The
12 governor says Broward Sheriff's Office had to
13 fight with the agencies. The evidence reflects
14 far from it. That's a fantasy. BSO, FBI and
15 every agency and every governmental agency worked
16 hand in glove.

17 Once it became a federal primary
18 investigation -- and, by the way, just to be
19 clear, the evidence is going to show no terrorism
20 was ever connected to this -- this Fort Lauderdale
21 shooting thankfully. But the FBI wasn't going to
22 simply say, oh, single shooter, no terrorism.
23 They took over and the BSO became secondary.
24 Still did huge work. And as a result, while the
25 FBI was in charge of that investigation, some of

1 these later reports -- a federal agent saying,
2 "heard a shot," never been confirmed, it gets
3 reported. Somebody's seeing two men in white
4 shirts running through a parking garage -- not the
5 Terminal 2 parking garage, another parking garage
6 -- and a report: "Men with guns." We know --
7 much like the governor's after-the-fact knowledge,
8 we know now those were two federal agents with
9 guns drawn running to a potentially suspicious
10 scene. People with cell phones didn't know that.
11 They saw two men in white shirts with guns. That
12 became a law enforcement response that BSO, FBI
13 and everybody else had to respond to.

14 And interestingly, the governor finds fault
15 with the fact that civilians started responding.
16 Gun shooting, running away, hearing reports of
17 guns, a United Airline agent misreports that
18 somebody in another terminal heard a shot and all
19 of the sudden the terminals clear out. The
20 governor holds -- calls that chaos when in fact
21 the evidence reflects that in public accommodation
22 active shooter situations, civilian response is
23 unexpected, but law enforcement is trained to deal
24 with civilian response. And yes, the evidence is
25 going to reflect that when you tell a civilian to

1 stop after somebody's been shot in the terminal,
2 the likelihood of a civilian stopping because a
3 police officer says so is zero. So law
4 enforcement -- BSO is trained in these active
5 exercises to deal with that, quote, "unknown,"
6 which is often what's involved.

7 And here's what BSO did in conjunction with
8 the other law enforcement agencies that responded
9 and self-responded. By the way, the evidence
10 reflects that self-responding means an agency or
11 police officer hears of something that may be of
12 monumental significance. And what do they do?
13 They get permission to go to the scene to see if
14 they can provide help. Massive amount of response
15 coordinated by the BSO command center -- the
16 mobile command center and the responsibility of
17 FBI, BSO and BCAD, Broward County Aviation
18 Division, and interestingly, besides one passenger
19 -- one civilian who was bitten by a K-9 officer --
20 the dog itself, the K-9 officer -- that K-9
21 officer, following exactly what that K-9 training
22 was -- besides that one person who was bitten, not
23 a single additional casualty despite BSO, FBI,
24 Homeland Security and every other agency moving
25 nearly 20,000 civilians off that airport property,

1 getting buses to respond.

2 And the governor finds fault that it took six
3 and a half hours after the shooting for buses to
4 move away from the Fort Lauderdale Airport. I
5 haven't seen -- and I presume since they haven't
6 shown it to me, there's no evidence that there's a
7 standard after a mass shooting, buses have to go
8 in three hours or four hours. But I'm not going
9 to make light of rush hour traffic in South
10 Florida, but a six and a half hour response to get
11 the buses off the property measures favorably with
12 cooperation by every agency, not neglect of duty
13 or incompetence, the fact that nobody else was
14 injured.

15 And, by the way, it is true that a Broward
16 sheriff's officer left his truck with the K-9 dog
17 in it at the airport while the officer went to
18 perform his law enforcement duty, precisely
19 consistent with standards and training with the
20 K-9 officer -- dog in the car. And some woman who
21 was running away goes to the police car, the
22 evidence reflects, for protection. And what
23 happens? The K-9 dog bites her exactly as the K-9
24 dog is trained to do. And she gets medical
25 assistance. She's bleeding. She's fine. That's

1 the one incident. And the governor in his opening
 2 statement faults Sheriff Israel for a law
 3 enforcement officer, consistent with standards, to
 4 leave his car with a K-9 dog inside it to run to
 5 or walk to or however he got to the scene of where
 6 his presence was needed is incompetent, is exactly
 7 the type of standardless whim or fancy that the
 8 constitution does not allow.

9 Marjory Stoneman Douglas is perhaps the most
 10 tragic incident of significant magnitude that has
 11 befallen the people of Broward County. Sheriff
 12 Israel has expressed his deepest concern for and
 13 condolences to every person, the families of those
 14 murdered children and adults for that horrific
 15 situation. We can't take it back even though we
 16 know we wish we could. We can't point fingers for
 17 a particular cause because every report has shown
 18 that there probably is no single cause but many.

19 But the Broward County response -- the
 20 Broward Sheriff's Office response to the incident
 21 was consistent with the best standards. The
 22 deficiency and failure of the officer on the scene
 23 to follow the clear training and policy to go
 24 towards the shooter, we may never know what caused
 25 that deficiency. We know that the FDLE believes

1 that that was criminal activity on the part of
2 that deputy, but we may never know. But the one
3 thing we do know is that that deputy, in an
4 interview after the shooting, made clear that he
5 did not fail to respond for any reason that he
6 wasn't properly trained, didn't know the policy,
7 his active shooter training was so far in the back
8 of his head, none of that. None of the things
9 that the governor presupposes were neglect on the
10 sheriff's part are evidence in this case.

11 But the evidence does show that the SROs had
12 significant training; that that particular deputy
13 also was a trainer of teachers. Not training in
14 the active shooter going after the shooter, but
15 training the teachers in what to do in an active
16 shooter situation; that he was not just a
17 competent deputy. And let me note that the
18 original report at Fort Lauderdale that suggested
19 some lack of attentiveness by Broward sheriff's
20 officers for which no factual evidence has ever
21 been or will be found needs to be underscored
22 because SROs are not undertrained. They are in
23 fact among the most experienced of law enforcement
24 officers in responding to situations, because the
25 situation of our schools are considered so

1 critical. Not just to the Broward Sheriff's
2 Office but all throughout our nation.

3 So the evidence reflects that the
4 organization, the multi-agency response had a
5 command staff and a command post. Yes, there were
6 problems with the radio communication. The
7 governor has made very clear this case does not
8 involve in any way the radio communication mishap
9 because it is clear and undisputed that Broward
10 County controls the radio system and they've been
11 working for several years at the prodding of the
12 sheriff and every other user of that radio to
13 upgrade the system. A massive upgrade that will
14 cost -- not just tens of millions of dollars --
15 maybe in the hundred million dollars that Broward
16 County is responsible for. But the sheriff's
17 office had trained for an adequate work-around
18 where the massive use of the radio could result in
19 communication not being as effective. Their work
20 around: Hand signals, cell phones and what's
21 called site to site, sending deputies back and
22 forth. That was implemented. Perfectly? No.
23 Opportunity to learn? Yes. Coordination with the
24 other agencies work pretty well except that one of
25 the agencies responding had a completely different

1 radio system, couldn't communicate with Broward
2 Sheriff's Office, so they did a work-around with
3 that the evidence reflects.

4 And after the Marjory Stoneman Douglas
5 tragedy, Sheriff Israel did his best to emphasize
6 to the community at a time of really low morale.
7 The evidence is going to reflect that the Broward
8 Sheriff's Office was being beaten and beaten and
9 beaten by the national press for this tragedy.
10 Sheriff Israel , the evidence reflects, because he
11 is a leader of the community by election -- that's
12 part of his job is community responsibility -- try
13 to instill confidence in the people of Broward
14 County and those deputies that serve and protect,
15 instill the mantra and model for BSO that the
16 community should feel comfortable with law
17 enforcement and that deputies in the Broward
18 Sheriff's Office who are not going to be held
19 responsible without facts being developed.

20 But Broward Sheriff's Office, the evidence is
21 going to reflect -- and the sheriff didn't neglect
22 his duty in demonstrating competence but took
23 immediately lessons understood from the Marjory
24 Stoneman Douglas tragedy and immediately began
25 implementing those in reorienting training, in

1 focusing on responses, in developing
2 communications with Broward schools to increase
3 SROs under contract by schools, to implement
4 Exhibit 25 -- 24 is the memorandum to give Broward
5 Sheriff's Office immediate access to the schools'
6 cameras. Something that the Broward County
7 schools for lots of reasons was unwilling to do
8 previous to that, to give the Broward Sheriff's
9 Office immediate access to their cameras,
10 basically for reasons of privacy. But a new
11 memorandum was reached because this was important
12 in times of response. We need immediate real-time
13 access to your cameras. Something that they were
14 not allowed to have by that other governmental
15 agency because they were concerned appropriately
16 -- Broward schools -- with their right of student
17 privacy.

18 And also Exhibit 25, Broward Sheriff's Office
19 implemented an app called a SaferWatch app so that
20 people could immediately respond, especially --
21 and it was promoted in the schools. Parents,
22 teachers, children, an app on their phone so one
23 click and they can immediately get a report of
24 activity. Things, by the way -- and the evidence
25 reflect that this gets rolled out. And months

1 after it gets rolled out, FDLE tells law
2 enforcement, "Oh, by the way, we've come up with
3 an app." And Broward Sheriff's Office says,
4 "We've been working on an app and have one rolled
5 out already. Why didn't you tell us you were
6 working on that?" FDLE hadn't told any law
7 enforcement agency that they were working on an
8 app post Marjory Stoneman Douglas. BSO and others
9 implemented the app on their own. That's the kind
10 of attention to duty and competence that the
11 people elected Sheriff Israel for.

12 When all is said and done in this trial, when
13 the Special Master has an opportunity to put it
14 all together to identify fact and standards, the
15 Special Master will have abundant evidence far
16 beyond a preponderance of the evidence that at all
17 relevant times when the people elected Sheriff
18 Israel to be their sheriff, they expected a
19 standard of competence and attention and he
20 fulfilled that standard of competence and
21 attention, he exercised his duties and it is for
22 the people of Broward County to decide who is
23 their elected sheriff. It is not for the governor
24 to, for reasons not based on fact, try to
25 implement a narrow constitutional provision to

1 take over the job of the electors in Broward
2 County. Thank you.

3 SPECIAL MASTER: Thank you, Mr. Kuehne.

4 What we're going to do is take a 10-minute
5 break and reconvene at 11:15.

6 Take about a 10-minute break. Thank you.

7 (Brief recess.)

8 SPECIAL MASTER: Let's reconvene. It is now
9 time for the case-in-chief of the governor's
10 office. Mr. Primrose.

11 MR. PRIMROSE: Special Master, just for
12 record purposes, all of our exhibits are entered
13 into the record, and at this point, we rest our
14 case.

15 SPECIAL MASTER: Thank you.

16 Now, the case-in-chief by the suspended
17 official, Mr. Kuehne or Mr. Kaplan.

18 MR. KUEHNE: Thank you, Special Master. To
19 the extent that there is an opportunity for any
20 equivalent to legal argument following the close
21 of the governor's case, I want an opportunity to
22 make that legal argument, but I would ask the
23 Special Master, to the extent you would allow
24 legal argument, to allow me to reserve, not waive,
25 any argument to the deficiency of the governor's

1 evidentiary presentation, but continue with mine.

2 SPECIAL MASTER: I'll allow you to do that in
3 your closing statement at the end of the
4 proceeding today or in the findings of fact and
5 conclusions of law that you offer up -- as we
6 proceed.

7 MR. KUEHNE: Yes, sir. To the extent that I
8 was a bit obtuse, in the event that this is going
9 to be considered by the Special Master in the
10 nature of an administrative hearing, the normal
11 requisites that come after the -- after the
12 prosecuting party finishes, I would make those
13 arguments in my closing and final argument.

14 SPECIAL MASTER: Okay, sir.

15 MR. KUEHNE: Sheriff Israel calls as his
16 first witness Jack Dale.

17 SPECIAL MASTER: Please remain standing for a
18 second. Please raise your right hand.

19 Do you swear or affirm the testimony you're
20 about to give will be the truth, the whole truth,
21 and nothing but the truth?

22 THE WITNESS: I do.

23 SPECIAL MASTER: Thank you.

24 DIRECT EXAMINATION

25 BY MR. KUEHNE:

1 Q. Please state your name.

2 A. John D. Dale, D-A-L-E.

3 Q. Do you go by the name Jack Dale?

4 A. I do.

5 Q. Okay. Even though I misidentified you as
6 Jack Dale, your full name is John Dale?

7 A. Yes.

8 Q. And I can call you --

9 MR. KUEHNE: Special Master, do you prefer
10 that I use surnames or first name or it doesn't
11 matter when I address the witness?

12 SPECIAL MASTER: Surnames, please.

13 BY MR. KUEHNE:

14 Q. Mr. Dale, please tell us your professional
15 background.

16 A. I started law enforcement in 1989. I spent
17 22 years at the Fort Lauderdale Police Department at
18 the ranks of patrolman, detective, sergeant, captain,
19 and spent time that I was in charge of investigations,
20 I was the commander of internal affairs, I was a SWAT
21 team leader, trainer, narcotics detective, I worked
22 accreditation, worked internal affairs.

23 Q. How long did you work in -- in that capacity?

24 A. I worked for Fort Lauderdale Police for 22
25 years and two months.

1 Q. Okay. And what was your status at the end of
2 that 22 years?

3 A. Retired.

4 Q. So that is a law enforcement retirement with
5 full law enforcement and retirement benefits?

6 A. Yes.

7 Q. Following that retirement, did you maintain
8 your law enforcement credentials?

9 A. I did.

10 Q. In the 20 plus years you've mentioned, have
11 you always been a Florida certified law enforcement
12 officer?

13 A. I started a brief stint of a year with the
14 New Jersey Department of Corrections prior to Fort
15 Lauderdale PD.

16 Q. And did you in New Jersey comport with their
17 standards for credentialing as a sworn law enforcement
18 officer?

19 A. Yes.

20 Q. Then you moved to Florida. By the way, when
21 you made that move, was it automatic or did you have
22 to go through some process to be accredited as a
23 Florida sworn law enforcement officer?

24 A. I took the -- I went through a police academy
25 here in Florida.

1 Q. Okay. From then through your retirement --
2 "from then" meaning starting as a Florida law
3 enforcement officer through your retirement with Fort
4 Lauderdale, did you maintain all required training,
5 certifications, needed to be a law enforcement officer
6 in good standing?

7 A. I do. I still maintain the certification.

8 Q. Still to this day?

9 A. Yes.

10 Q. Tell us how your life moved after you retired
11 from the Fort Lauderdale Police Department.

12 A. I was retired, I believe, for a day or two,
13 and then I started with the Broward Sheriff's Office.

14 Q. Under which sheriff?

15 A. Under Sheriff Israel .

16 Q. So Sheriff Israel was sheriff, and you then
17 moved to obtain an appointment to the Broward
18 Sheriff's Office?

19 A. Correct.

20 Q. In what capacity?

21 A. I was brought on as a colonel of professional
22 standards, initially started in charge of internal
23 affairs, public corruption, internal audit, and the
24 training division, and then my role expanded as I
25 continued.

1 Q. So you started as a colonel in those areas,
2 and to the best of your knowledge, did you have the
3 knowledge, skill, and experience to execute those
4 responsibilities?

5 A. Yes.

6 Q. You knew Sheriff Israel prior to this
7 appointment as colonel?

8 A. Yes.

9 Q. In what capacity?

10 A. Professionally, going back to a time when I
11 was a detective, he was a sergeant, I was a street
12 narcotics detective, he was my sergeant, I was a SWAT
13 team leader, he was the commander of the SWAT team at
14 the time. So at different junctures of my career, I
15 worked for Sheriff Israel .

16 Q. Okay. Alongside him?

17 A. Never alongside, and usually it was a case
18 that he was a rank or two above me and I worked for
19 him.

20 Q. At the time of your retirement from Fort
21 Lauderdale Police Department, was Sheriff Israel in
22 any sort of command of you?

23 A. From the -- until I was employed by BSO, no,
24 he was a chief with the North Bay Village.

25 Q. Okay. So when you retired to Fort Lauderdale

1 Police Department, Sheriff Israel was not with Fort
2 Lauderdale Police Department?

3 A. He was not.

4 Q. For how long a period of time before you
5 became BSO lieutenant -- sorry, BSO colonel -- did you
6 and Sheriff Israel not work together?

7 A. From the time that he retired from Fort
8 Lauderdale PD, went to North Bay Village, and then ran
9 for sheriff for the first time, and then four years
10 later successfully won in his second attempt.

11 Q. So quite a few years?

12 A. Yes.

13 Q. You got hired as colonel and you have those
14 responsibilities. Did you serve in that capacity as a
15 sworn law enforcement officer?

16 A. Yes.

17 Q. You could make arrests?

18 A. Correct.

19 Q. Conduct investigations?

20 A. Yes.

21 Q. Wear a gun?

22 A. Yes.

23 Q. Did you go through BSO trainings?

24 A. Yes.

25 Q. You mentioned that one of the agency --

1 strike that -- one of the units was training when you
2 started as colonel?

3 A. Yes.

4 Q. Describe for us what the training hierarchy
5 was at BSO when you first started.

6 A. The training division does more than just
7 training. It's the training not just for law
8 enforcement, but for all the civilian personnel,
9 detention, CPS investigators, civilian employees,
10 pretty much everybody except for the firefighters
11 and --

12 Q. And what year is this that you're starting as
13 colonel?

14 A. 2013.

15 Q. 2013, okay.

16 A. Training also encompasses accreditations,
17 staff inspections, and policy.

18 Q. Okay. And over time, did you come to be
19 aware of the accreditations held by the Broward
20 Sheriff's Office?

21 A. I did.

22 Q. Were they numerous?

23 A. At one point, there were 18 of them.

24 Q. Eighteen.

25 Now, were any of these accreditations of

1 which you were aware required by BSO to hold?

2 A. No, they're all -- well, there are some
3 accreditations that -- say in the instance of the
4 crime lab, in order to get grants, you may need to be
5 accredited in a certain way to receive the money. I
6 don't know of any state requirements that require you
7 to be certified or accredited -- I should say
8 accredited in any of those 18.

9 Q. Okay. And did BSO -- actually, let me go
10 back, Mr. Dale -- or Colonel Dale, and ask you to tell
11 us when you -- when you concluded your service with
12 BSO.

13 A. In -- earlier this year. I guess it was --

14 Q. January of 2019?

15 A. Correct.

16 Q. And was that coincident with the governor's
17 suspension of Sheriff Israel ?

18 A. It coincided with it, yes.

19 Q. Was there a reason you -- strike that.

20 Was your termination from BSO voluntary?

21 A. Yes. My separation, yes.

22 Q. Your separation. Your separation was
23 voluntary.

24 Is there a reason you separated from BSO?

25 A. I came in with Sheriff Israel under his

1 administration and I was like one of his cabinet, and
2 it's traditional that when there's a changing of the
3 guard, that the top advisers normally go with him to
4 leave -- make room for the next administration to put
5 in place whoever they feel they want to fill those
6 roles.

7 Q. So you resigned with a sense of duty to the
8 agency and organization to allow the new leader to put
9 his team together or her team together?

10 A. Yes. I mean, if you choose to stay, then in
11 all likelihood, you're going to be asked to leave or
12 be removed, terminated. I feel like it was just
13 better to spare everyone that -- that exercise.

14 Q. Okay. So that's 2013 to 2019 that you served
15 in the BSO. You mentioned training. That included
16 certification. Did BSO in your tenure -- and your
17 tenure is coincident with Sheriff Israel's tenure as
18 sheriff, right?

19 A. Correct.

20 Q. Did BSO hold any accreditation from an agency
21 or organization known as CALEA, C-A-L-E-A?

22 A. We held several, yes.

23 Q. And what is CALEA?

24 A. CALEA, the commission -- or law enforcement
25 accrediting agency, I believe, something --

1 Q. That's a national organization?

2 A. Yes. It's a national law enforcement
3 accreditation. They also hold accreditations for
4 communications and for detention, and we held those as
5 well.

6 Q. Okay. So CALEA, if I tell you it means
7 Commission on Accreditation for Law Enforcement
8 Agencies, C-A-L-E-A, does that sound right?

9 A. Yes.

10 Q. So BSO held CALEA certification, several. Is
11 that known as the gold standard of certifications?

12 A. It's been referred to that. We had -- by
13 having all three certifications, they would call it
14 like a triple crown. We had that accreditation or the
15 history of it for so long, that they gave us other
16 statuses like excelsior status, and then we would
17 always pick the most difficult of the accreditations
18 with the highest number of standards to conform to.
19 So in that regard, we were like a flagship agency for
20 CALEA.

21 Q. And did BSO also hold an accreditation as a
22 training facility?

23 A. Yes, through FDLE.

24 Q. An FDLE certification as a training facility?

25 A. Yes. There's, I think, forty something

1 training facilities throughout the state of Florida
2 that have the certification, and it enables them to
3 teach law enforcement curriculum through the Criminal
4 Justice Standards Training Commission. We're one of
5 the few agencies that had that certification.

6 Q. I'm going to hand you two exhibits -- they're
7 already part of the record -- Exhibit 11 and Exhibit
8 12. Those are Bates Nos. Israel 377 and then Israel
9 378, and I'm representing to you that they're packets
10 of information that deal with BSO's accreditation, but
11 I want you to take a look at them.

12 MR. KUEHNE: May I hand them to the witness?

13 SPECIAL MASTER: Certainly may.

14 BY MR. KUEHNE:

15 Q. Colonel Dale, take a look at Israel Exhibit
16 11. It's a one-page sheet. Down at the bottom it's
17 got what's called a Bates number, Israel 377. Does
18 that appear to be a list of accreditations held by the
19 Broward Sheriff's Office?

20 A. Yes.

21 Q. And is CALEA the only accreditation on that
22 list?

23 A. No.

24 Q. What are some of the other accreditations?
25 You don't have to read them all, but give us an idea.

1 A. In the area of law enforcement, it's CALEA
2 and CFA, which is a state accrediting body.

3 Q. Okay.

4 A. In detention, ACA, which is American
5 Correctional Association; FCAC, Florida Correctional
6 Accreditation. There's a National Commission on
7 Correctional Health. Some of the other notable ones
8 in the crime lab were ASCLD (inaudible) lab. And
9 training, we have the Florida training standards and
10 training commission certification. Communications, we
11 have several. CALEA is another one for
12 communications, and fire holds several of them as
13 well.

14 Q. Was it a matter of BSO practice and policy
15 under Sheriff Israel to maintain and enhance those
16 certifications?

17 A. Yes. I mean, not only would we stay --
18 remain credited, but we looked to improve the
19 processes, complete staff inspections to make sure
20 that people were actually following the policy, and
21 look to reinforce policy wherever we could.

22 Q. Okay. You mentioned that among the
23 accreditations is detention or corrections. Did I
24 hear you correctly?

25 A. Yes.

1 Q. And what role does the Broward sheriff have
2 in corrections and detention?

3 A. Detention, we pretty much hold all
4 individuals that have been arrested throughout the
5 county and hold them while they await trial.

6 Q. That's running the jails?

7 A. Yes.

8 Q. And is that part of the law enforcement
9 function at BSO?

10 A. It's separate from it.

11 Q. Different division?

12 A. Yes.

13 Q. And is the sheriff responsible for that
14 division, the detention or corrections division?

15 A. Yes.

16 Q. You mentioned a couple other areas that you
17 were involved in when you first came in as colonel
18 before they expanded, and was one of them in the
19 policy area?

20 A. Policy kind of goes hand in hand with
21 accreditation. So I was involved with the -- I would
22 say the process for policy and policy review.

23 Q. Okay. Are you aware of BSO's active shooter
24 policy?

25 A. Yes.

1 Q. We'll call it for reference Section 4.37 of
2 the standard operating procedures.

3 Is an active shooter policy required by the
4 FDLE for sheriffs' offices during the time you were
5 with the sheriff's office?

6 A. Not to my knowledge.

7 Q. Exhibit 12 is before you. It's Bates-stamped
8 Israel 378 and a bunch of pages after that. If you
9 flip through it, is that a compendium of various
10 Commission on Florida Law Enforcement Accreditation
11 called CFLEA, C-F-L-E-A, accreditations?

12 A. Exhibit 12, I have it as -- the first page is
13 a CALEA page.

14 Q. Okay. What else?

15 A. And a reaccreditation report from 2011.

16 Q. All right. Does it appear that that entire
17 exhibit deals with BSO certifications from both the
18 national organization and the Florida organization?

19 A. I see the CALEA, but I don't know if I see
20 CFA in here.

21 Q. Let me give you Exhibit 13.

22 MR. KUEHNE: May I hand the witness Exhibit
23 13, which starts at Israel 471?

24 SPECIAL MASTER: Yes. Please continue to
25 offer those to the witnesses without asking.

1 MR. KUEHNE: Yes, sir.

2 BY MR. KUEHNE:

3 Q. Is Exhibit -- what exhibit is that?
4 Thirteen?

5 A. Correct.

6 Q. Is Exhibit 13 a compilation of CFLEA,
7 Commission on Florida Law Enforcement Accreditation,
8 accreditations?

9 A. Yes.

10 Q. And those were all current during the time of
11 your tenure with the BSO?

12 A. Yes.

13 Q. You've mentioned your law enforcement status
14 and history, including your continued certification as
15 a law enforcement officer. For yourself, have you
16 gone through any trainings or training programs
17 outside of BSO?

18 A. Many, yes.

19 Q. Any on the national level?

20 A. Yes.

21 Q. Such as?

22 A. I'm a graduate of the FBI National Academy, a
23 graduate of the FBI National Executive Institute, a
24 graduate of the Police Executive Research Forum Senior
25 Management Institute for Policing.

1 Q. Are these graduations and being graduates of
2 various institutes required as a condition of being a
3 sworn law enforcement officer?

4 A. No.

5 Q. Are they required as a condition of being a
6 colonel in the BSO?

7 A. No.

8 Q. Did you use your participation in these
9 national trainings, some of which you've mentioned,
10 and work that information into the trainings and the
11 standards at BSO?

12 A. Yeah, by attending these trainings,
13 conferences, you're doing your best to stay abreast of
14 changes in law enforcement, make sure that you're
15 doing what is the industry standard, and it puts on
16 the horizon things that are relevant to today's
17 policing, and you're looking to try and stay abreast
18 of those changes so that they're implemented in your
19 agency.

20 Q. Okay. And while you were with BSO, did you
21 make every attempt to have the agency achieve that
22 level of not just meeting professional standards, but
23 exceeding them?

24 A. Yes, absolutely.

25 Q. You mentioned that over time, your duties

1 expanded. Can you explain that?

2 A. Eventually, I also was the -- I also took on
3 multiple departments at one time. I had the
4 Department of Administration, which includes budget,
5 finance, fleet, IT, grants, purchasing. And then I
6 also took on Department of Investigations, which is
7 criminal investigations, special investigations, CPS,
8 and crime lab.

9 Q. So in those capacities, you dealt with more
10 than just the sworn law enforcement officers?

11 A. Yes. I basically split the operation with
12 Colonel Kinsey.

13 Q. Okay. In your time with BSO, how many staff
14 members or employees were under the auspices of
15 Sheriff Israel ?

16 A. We were budgeted for 5,600.

17 Q. 5,600 people?

18 A. Correct.

19 Q. Fair to say that that agency had a number of
20 divisions, some related to law enforcement, some not?

21 A. Very diverse with number of contracts, seven
22 different collective bargaining agreements. So we
23 dealt with different unions, many different positions.
24 I know in just one union, there were 85 job positions
25 in just the one union. So I can't tell you the number

1 of different job classifications we had. Well over a
2 hundred. So there's a lot of different diversity and
3 services that are delivered at the agency.

4 Q. Were the sworn deputies at BSO part of any
5 organized labor union?

6 A. Yes.

7 Q. And was there a collective bargaining
8 agreement with that labor union?

9 A. More than one, yes.

10 Q. More than one. So multiple labor unions for
11 different sworn law enforcement officers?

12 A. Yes.

13 Q. And did you participate in any of the
14 negotiations for those collective bargaining
15 agreements?

16 A. Intermittently. I just sat in as -- I had --
17 HR was one of my divisions, so --

18 Q. And did those collective bargaining
19 agreements include in some measure dealing with sworn
20 law enforcement officers for disciplinary purposes?

21 A. I was the final decision-maker for all
22 discipline at Broward Sheriff's Office. So I would --
23 I had internal affairs and I would -- my personnel
24 would manage the processes to make sure everyone was
25 given their due process, and I would make the final

1 decision and be the agency witness for arbitrations.

2 Q. Fair to say under the BSO practice and as you
3 understood the law applicable to the BSO, the sheriff
4 could not on a whim just fire somebody who was a sworn
5 law enforcement officer?

6 A. No -- well, we have a police officer bill of
7 rights in the State of Florida, so there's statutory
8 protections for officers, plus the contract and case
9 law. So there's a --

10 Q. So the statutory protection, a statute passed
11 by the legislature, signed by the governor, and
12 becoming the law in the State of Florida provided
13 sworn law enforcement officers with certain rights
14 regarding their employment status?

15 A. Yeah. It's actually called the law
16 enforcement bill of rights.

17 Q. Bill of rights.

18 And was it your understanding that that
19 statute impacted the power of the elected sheriff to
20 just get rid of somebody if for some reason he wanted
21 to?

22 A. No, you have to -- you would have to follow
23 -- if you don't, there's actually provisions for
24 penalties for not following it, so you're bound --

25 Q. Did, as far as you know, the BSO do its best

1 to comport with the police officers' bill of rights in
2 all respects?

3 A. Yes.

4 Q. I want to ask you about the development of
5 Section 4.37, the active shooter policy at the BSO.
6 You mentioned you're involved in the development of
7 policies at BSO?

8 A. I would say when you're in charge of
9 accreditation in the policy division, you're really
10 the mechanism that brings about the review of it. It
11 then becomes the individual divisions that are
12 responsible for those areas to feed the content, and
13 we just provide the framework to make sure that it's
14 reviewed and put out.

15 Q. At the BSO, when significant policy changes
16 were made, did the office have involvement by the
17 general counsel at the agency?

18 A. Yes.

19 Q. Who was the general counsel at BSO during the
20 time that you served?

21 A. Ron Gunzburger.

22 Q. Ron Gunzburger. Licensed lawyer?

23 A. Yes.

24 Q. And he served as the general counsel to the
25 Broward Sheriff's Office?

1 A. Yes.

2 Q. And did that include, as far as your
3 involvement goes, participating in significant reviews
4 of policy and standards changes?

5 A. Yes.

6 Q. Section 4.37, the active shooter policy, went
7 through a number of changes and modifications while
8 you were with BSO, correct?

9 A. I believe so, yes.

10 Q. And in all those steps, was general counsel
11 involved?

12 A. In every policy that goes out, it first goes
13 out to all the subject matter experts. They weigh in
14 through their chains of command. We take input from
15 all the stakeholders in policy, and then we
16 incorporate it and bring it forth in a group meeting,
17 and in that meeting we basically come to a consensus,
18 and included in that meeting is general counsel.

19 Q. Okay.

20 A. They've also already weighed in from a legal
21 standpoint to make sure that policy doesn't conflict
22 with law or a collective bargaining agreement,
23 something to that effect.

24 Q. Is it your understanding that when BSO
25 reviews or changes or implements a policy, that the

1 protocol is to review what's out there nationally, as
2 well as in the State of Florida?

3 A. Typically, if there's a policy that requires
4 a substantial change or some emerging trend, we will
5 pull policy. Through the accrediting bodies, we would
6 request policy from other agencies, and we typically
7 get a sizable response. It would be the
8 accreditation's job to kind of go through and see
9 where the commonalities lie, and we would try and pick
10 the best parts of every policy and implement them with
11 us.

12 Q. When a policy is implemented in the law
13 enforcement category, so a law enforcement department
14 policy, is training made on that policy?

15 A. Training's involved in it, yes.

16 Q. Okay. And when a policy change is made, is
17 there some involvement at your level to make certain
18 the training is consistent with that policy?

19 A. It would be the job of the person in charge
20 of training to make sure that the lesson plans or the
21 people who are dispensed in training are doing so in a
22 manner that's consistent with the policy.

23 Q. Did the State of Florida have any requirement
24 for a sheriff's office to implement an active shooter
25 policy at any time you were with BSO?

1 A. It's not an FDLE mandate, no.

2 Q. Did the State of Florida have any requirement
3 that deputies, law enforcement officers, be trained in
4 active shooter policy or practice?

5 A. It's not required to maintain a law
6 enforcement certification, no.

7 Q. Did BSO have a requirement for active shooter
8 training for all law enforcement officers?

9 A. We had an active shooter program, yes, that
10 deputies would go through, and it was active shooter
11 and also the components of active shooter, like rescue
12 task force. And then even in regular firearms
13 classes, rifle refreshers, aspects of active shooter
14 were incorporated into those classes as well.

15 Q. Let me follow up with that a little bit. Did
16 BSO have an educational training called active
17 shooter?

18 A. We had a lesson plan for active shooter.

19 Q. Lesson plan, okay. So that's the word,
20 "lesson plan."

21 And is it your testimony that principles of
22 active shooter are also imbued in other lesson plans
23 and other trainings?

24 A. Absolutely, yes.

25 Q. Such as?

1 A. One, if you're responding to an active
2 shooter and they're shooting inside of a building, you
3 would have to know how to clear a building. So
4 there's a building-clearing class, so someone who can
5 tactically move through a structure and rooms,
6 stairwells, and that would be one part of it.

7 Rescue task force involves the usage of
8 hemostatic bandages, tourniquets, to treat wounded,
9 to -- and move as a team, to extricate wounded, set up
10 casualty collection points. That's another facet.
11 It's just -- it's not all put into one encompassing
12 active shooter class. It's parsed out into smaller
13 segments and we do what we call chunking. They put it
14 in smaller segments so that it's easier to digest, and
15 it's not just one, long, boring class, it's smaller
16 classes given more frequently to try and aid in
17 retention.

18 Q. Did BSO mandate training in addition to the
19 required FDLE minimum trainings?

20 A. Yes, we -- much more training than is
21 required by FDLE.

22 Q. How many sworn law enforcement officers are
23 in BSO?

24 A. I believe in Department of Law Enforcement,
25 there's approximately somewhere around 1,500, and in

1 detention, there was somewhere around 1,300.

2 Q. So 1,500 and 1,300, twenty -- about 28,000 --
3 slightly less than 2,800 -- slightly less than 3,000
4 in the law enforcement function?

5 A. Yes, both maintaining -- now, the 1,500 and
6 the 1,300 have -- in detention, law enforcement, while
7 they're certified, they have different FDLE mandates.
8 So there's two separate tracks that happen to -- and
9 some of them are cross-trained, so they would have to
10 actually fulfill law enforcement as well.

11 Q. With the sworn and credentialed law
12 enforcement officers, so the deputies -- about 1,500
13 you said?

14 A. Yes.

15 Q. How does that compare to municipalities in
16 Broward County?

17 A. It's much larger. The second-largest agency
18 would be Fort Lauderdale with just over 500.

19 Q. And how does that number compare to sheriffs'
20 offices in the state of Florida?

21 A. We're one of the largest.

22 Q. Miami-Dade County is larger, but,
23 technically, it's not a sheriff's office?

24 A. Correct.

25 Q. So as far as sheriff's office goes, BSO is at

1 least one of the larger ones in the state of Florida?

2 A. We're one of the largest in the nation.

3 We're part of --

4 Q. Largest in the nation?

5 A. Yes.

6 Q. And is -- during your tenure, is BSO looked
7 at by other agencies around the country and national
8 organizations around the country as models for some
9 law enforcement policies?

10 A. We're frequently contacted to provide subject
11 matter experts for FDLE certifications, for training
12 curriculum. Our policies are requested, and we -- a
13 number of BSO individuals serve on boards. I served
14 on one for IACP, International Association of Chiefs
15 of Police. There are other people who did the same in
16 different capacities. So, yes, we shared a lot of
17 what we had at BSO with others throughout the country.

18 Q. And BSO received some international
19 recognition by the International Association of Chiefs
20 of Police while you were with BSO?

21 A. Yes.

22 Q. That's IACP?

23 A. Correct.

24 Q. That's an international law enforcement
25 organization?

1 A. Yes.

2 Q. So you mentioned that some components of
3 active shooter training are worked into different
4 trainings even if they're not called, quote, active
5 shooter, or, quote, active killer training?

6 A. Absolutely. If you're -- you know, to
7 respond to an active shooter, you have to be
8 proficient in your firearms, so firearms training
9 encompasses those skills that are necessary to respond
10 to an active shooter, and then the tactics, as you
11 respond, everything from the moment that you get there
12 to the moment you contact someone and put handcuffs on
13 them, they all are hard skills that have to be taught
14 to a deputy from handcuffing to shooting to weapon
15 retention, building clearing, use of flashlights, it
16 doesn't matter what it is, radio communications,
17 incident command, I mean, there are a lot of skills
18 that go into -- it's a complicated response and it's
19 not just simply one class that imparts all those
20 skills.

21 Q. And is it your understanding that the series
22 of trainings and the way BSO does it is over and above
23 the requirements by the State of Florida?

24 A. Yes, absolutely.

25 Q. Is every sworn law enforcement officer at

1 BSO, no matter what their job description or function
2 or title or rank, required to maintain the standards
3 of a law enforcement officer?

4 A. Every one of them has to be certified in the
5 State of Florida. They have to maintain that
6 certification. Otherwise, they -- if they -- if it
7 lapses in any way, they'll be taken off the road.
8 They need it to perform the job.

9 Q. So you are a colonel. Fair to say in many
10 respects, you handled administrative things?

11 A. Absolutely, yes.

12 Q. And is a road patrol deputy sort of the first
13 line of interaction with law enforcement, people who
14 drive the cars and go around --

15 A. The boots on the ground, yes.

16 Q. Boots on the ground.

17 So you're required to have the same Florida
18 training requirements as a road patrol deputy --

19 A. Yes.

20 Q. -- if you want to keep your credential?

21 A. Correct.

22 Q. Is there any part of the BSO where somebody
23 is a credentialed law enforcement officer where
24 they're not held responsible for law enforcement?

25 A. Not that I'm aware of.

1 Q. For example, an SRO, school resource officer.

2 That's a sworn law enforcement officer?

3 A. Yes.

4 Q. Same state requirements --

5 A. Yes.

6 Q. -- as you are required to maintain?

7 A. Yes.

8 Q. Ability to carry a gun, drive around in a
9 police car if that's their assignment?

10 A. Yes.

11 Q. Are SROs made available for movement to other
12 assignments if the need arises?

13 A. They're interchangeable. An SRO can be taken
14 out of a school and work a shift. He has the same
15 certification to do so.

16 Q. Does the BSO -- strike that.

17 In your position as colonel, were you aware
18 of the SRO, school resource officer?

19 A. I'm aware of the program. It didn't fall
20 under me, but I was aware of it.

21 Q. There's actually a coordinator for SROs in
22 the -- in Broward Sheriff's Office?

23 A. Yes.

24 Q. And SROs are assigned to schools, right?

25 A. Correct.

1 Q. And is that usually by contract, there's a
2 contract with the school board or a municipality that
3 runs a charter school to handle SRO responsibilities?

4 A. I would only know it from the administration
5 side and the fact that we received some funding, not
6 for the full amount of the position, but the actual
7 operational side of it wasn't under my supervision.

8 Q. Was any SRO at any time you were there not
9 trained for and capable of serving as a road patrol
10 deputy?

11 A. They would all have the same certification.

12 Q. I'm going to hand you Israel Exhibit 1. It
13 starts off with the Bates No. Israel 1. It's the 4.37
14 policy on active shooter effective March 28, 2016, and
15 it's the policy in effect at the time of the Fort
16 Lauderdale airport shooting and the Marjory Stoneman
17 Douglas massacre.

18 A. Okay.

19 SPECIAL MASTER: Mr. Kuehne, that's Exhibit
20 1?

21 MR. KUEHNE: Exhibit 1, Yes, Israel Exhibit
22 1.

23 BY MR. KUEHNE:

24 Q. So take -- you're familiar with that policy?

25 A. Somewhat, yes.

1 Q. Actually post Marjorie Stoneman Douglas,
2 you've looked at that policy more times than you can
3 count?

4 A. Yeah. I don't know it by heart, but, yeah,
5 I've read it a couple more times since then, yes.

6 Q. Okay. Go to the -- you can look at any part
7 of it, but go to the next page, Section C. It's right
8 at the top, Section C. Read that. That's the -- I'm
9 going to preface it by saying that's the "may"
10 language that has been featured in the governor's
11 suspension. So read that for us.

12 A. "If real-time intelligence exists, the sole
13 deputy or team of deputies may enter the area or
14 structure to preserve life. A supervisor's approval
15 or on-site observation is not required for this
16 decision."

17 Q. Were deputies at BSO trained on that policy?

18 A. When policy is distributed, it's -- everyone
19 is supposed to sign for the policy, meaning that they
20 looked at it, read it, and reviewed it.

21 Q. So BSO kept records of every deputy who
22 attended training on that active shooter policy?

23 A. Yes.

24 Q. And were the trainers for the active shooter
25 training given instructions on how to develop lesson

1 plans to implement that policy?

2 A. I'd have to assume so. It would be at a much
3 lower level than at my rank, but they would make sure
4 that the policy is consistent -- the training is
5 consistent with policy and that they don't conflict in
6 any way.

7 Q. I want you to think to the time when you went
8 through active shooter training at BSO, okay? There
9 was a time when that happened, right?

10 A. Yes.

11 Q. And was any part of your training focused on
12 the three goals of active shooter, to eliminate,
13 surrender, or arrest as the goal of the active shooter
14 policy?

15 A. Yes.

16 Q. That was the policy?

17 A. That was what was in training, yes.

18 Q. Okay. Was there any part of the training
19 that told officers you really don't have to go in and
20 arrest, eliminate, or obtain the surrender?

21 A. Absolutely not.

22 Q. I want to move to January of 2017, January
23 6th of 2017, the Fort Lauderdale airport shooting.
24 You're familiar with that?

25 A. Yes.

1 Q. Did you have a role in that?

2 A. I was in charge of investigations during that
3 time period.

4 Q. Did you have any on-the-scene involvement
5 with the Fort Lauderdale airport shooting?

6 A. Yes. I arrived on scene within the first
7 hour, probably somewhere maybe after 30 minutes, and
8 responded to the actual crime scene and looked to make
9 sure that everything was being covered from an
10 investigative standpoint.

11 Q. Okay. The crime scene you understood to be a
12 portion of Terminal 2 baggage area where the shooter
13 murdered people?

14 A. Yes.

15 Q. And was apprehended by Deputy Madrigal?

16 A. Yes.

17 Q. And you understood the apprehension was in 72
18 seconds?

19 A. Yeah, I've heard different numbers on the
20 seconds, but, yeah, around 80 seconds-ish, somewhere
21 in there.

22 Q. Did there come a time when you were there
23 that BSO became the secondary investigating agency and
24 the FBI took over as primary?

25 A. Yes. We were investigating it as a homicide

1 scene, and at some point there became -- there wasn't
2 a lot of information, but a concern that it could be
3 terrorist related, and if that were the case, then the
4 better option was to let FBI be the lead in case it
5 went into that direction. So we took a support role
6 at that point.

7 Q. In that support role, was there any conflict
8 or difficulty in working with the FBI?

9 A. No. We work very well with the FBI.

10 Q. On the scene at the Fort Lauderdale airport
11 that day, were other law enforcement agencies involved
12 as well?

13 A. Well, a number of law enforcement agencies
14 descended on the airport. Some -- some just showed
15 up. Some were already there for other duties within
16 the airport and were there to assist. Other local
17 agencies showed up as well. So, yes, there was a mass
18 number of law enforcement agencies there. Some had
19 formal responsibility. Some were just there to try
20 and assist in some way.

21 Q. Is the terminology in law enforcement circles
22 "self reporting" or "self assignment" when a law
23 enforcement officer comes to offer assistance to a
24 scene?

25 A. Yes. You get a number of people who just

1 respond thinking, okay, I'll get there and I'll help
2 in some way.

3 Q. Sort of in the nature of being a law
4 enforcement officer --

5 A. I think so.

6 Q. -- and preserve and protect?

7 A. Yes.

8 Q. Was there a command center or tactical
9 operation center set up at the airport?

10 A. There was a command center that assembled
11 right outside the crime scene in baggage claim area is
12 where I responded and met with members of the FBI and
13 other command members of BSO where we handled the
14 crime scene itself.

15 Q. All right. And was there a place set up that
16 was able to coordinate the law enforcement command or
17 leadership that responded to the scene?

18 A. Yeah, as the -- as an event evolves and it
19 grows, a mobile command was brought in so that we had
20 another position to operate from. The airport set up
21 their EOC, we set up an EOC, and the sheriff's
22 office --

23 Q. Let's explain some of these initials. EOC?

24 A. An emergency operations center.

25 Q. So the airport sets up an EOC, an emergency

1 operations center? Yes?

2 A. They had their own, yes.

3 Q. They had their own.

4 You're aware that the airport is part of the
5 Broward County as a governmental entity, right?

6 A. It's a -- I guess a subdivision. BCAD is how
7 I hear it termed.

8 Q. B-C-A-D, Broward County Aviation Division?

9 A. Correct.

10 Q. And that's the government agency in charge of
11 the airport, as you understood it?

12 A. Yes. They contract us to provide police
13 services.

14 Q. So Broward sheriff is contracted with the
15 BCAD to be the law enforcement agency on site?

16 A. Correct.

17 Q. And do you participate in those negotiations
18 between the Broward County and the BSO?

19 A. I did not, no.

20 Q. But you're aware there was a contract?

21 A. Yes.

22 Q. So if I -- if I pointed out the contract in
23 the exhibits and showed it to you, you would not have
24 any familiarity with the specifics?

25 A. I just know the general mechanisms that we

1 meet with a contractor, whether it be a city or BCAD,
2 and it's between BCAD and the operational side of the
3 house that determines staffing levels and the details
4 of how the contract to be carried out and the pricing.

5 Q. I'm moving a little bit ahead, but since you
6 mentioned that, you're aware that after the Fort
7 Lauderdale shooting was fully resolved, that BSO
8 initiated an after-action report process?

9 A. Yes, I'm aware.

10 Q. Are you aware of the process of developing
11 after-action reports for large-scale incidents?

12 A. An incident like that was kind of historic.
13 So I wouldn't say that there was a template for
14 conducting that type an event, not just the shooting,
15 but all what occurred after the shooting, which was in
16 a lot of ways not directly connected. We place
17 someone in charge of doing that and they started to
18 assemble a draft.

19 Q. Okay. Was the development of an after-action
20 report under BSO practice intended to be a fairly
21 complicated and comprehensive affair?

22 A. It was intended to be one that brought in all
23 the stakeholders, all the people who responded, and
24 make sure that it was -- it was fully vetted and
25 encompassed all the operations of BSO.

1 Q. And it's your understanding that the staffing
2 levels -- the BSO staffing levels at the airport are
3 set by BCAD in its contractual relationship with
4 Broward?

5 A. Yeah, in all contracts, there's -- our budget
6 is kept separate. There's a contract side of it and
7 there's a regional side of it. The regional are the
8 things that a sheriff must do, and they're provided
9 for by the taxpayers. The contracts are separate, and
10 we painstakingly attempt to make sure that no taxpayer
11 money is used to supplement a contract. So --

12 Q. So the BCAD contract with BSO sets the number
13 of personnel who are contractually obligated to be at
14 the airport?

15 A. Correct.

16 Q. It's not a decision by the sheriff one day to
17 say "Let me cut the staff in half"?

18 A. It's entirely contingent upon the funding
19 that's provided by the contractor.

20 Q. And that's with Broward County, a county
21 constitutional governmental agency?

22 A. Yes.

23 Q. You were mentioning that you're at the
24 airport, investigations, a mobile command center is
25 set up, there's an executive emergency operations

1 center set up by BCAD. Was there any inability of BSO
2 to work with BCAD that day?

3 A. There was -- there were some communication
4 issues that -- with them having their separate EOC
5 from ours, but once we established or we placed
6 someone from BCAD or the decision-making authority
7 into our command structure, we were able to resolve
8 all those issues.

9 Q. Now, prior to -- prior to the Fort Lauderdale
10 airport shooting, there was a -- a joint real-time
11 exercise called Operation Vigilant Port at both the
12 airport and the seaport?

13 A. It wouldn't have involved me.

14 Q. So you're there, BSO is the lead, then FBI
15 takes over as lead and you're cooperating with the
16 FBI?

17 A. Yes.

18 Q. Did there come a time when a decision was
19 made to shut down the entire airport, all terminals,
20 all everything?

21 A. Yes.

22 Q. Did the FBI have a role in that?

23 A. I would say that they had input, but I don't
24 know who exactly gave the order. I mean, I guess
25 everyone thinks that at some point they simultaneously

1 had the same idea and they gave the order, but when we
2 started getting reports of other -- of shots fired
3 throughout the airport, the concern immediately became
4 is this potentially a concerted attack on the airport.
5 And unknown to us, BCAD still had the rest of the
6 airport fully operational. So as far as I know,
7 they're the only ones that can actually shut it down.
8 So we requested that of them, and they assisted by
9 doing so.

10 Q. And you're not an aviation specialist, are
11 you?

12 A. No.

13 Q. But you know that the federal government has
14 some involvement in the operation of airports?

15 A. I assume so, yes.

16 Q. You just assume that, okay.

17 But at some point, a decision was made, shut
18 down the entire airport?

19 A. Yeah, for the -- just for the practicality of
20 public safety. We had people evacuating onto the
21 runways and the taxiway areas, so it was not an
22 environment conducive for landing airplanes.

23 Q. Now, in your experience and based on your
24 knowledge of active shooter incidents and training and
25 large-scale public accommodation situations -- let me

1 ask it this way. Is there a recognition in national
2 models that active shooter situations in public
3 accommodation locations tend to have additional issues
4 and concerns?

5 A. I only know by reading other active shooter
6 events. You learn something in each one of them. One
7 common theme is that there are all these phantom
8 issues that appear. It's happened in other airport
9 events, some even without shots being fired, mass
10 evacuations. So it takes very little, I think, to
11 start the stampede.

12 Q. And does BSO in its training and
13 implementation attempt to work with that, as you call
14 it, stampede, the other effects of an active shooter
15 situation?

16 A. You do your best to adapt to whatever is
17 being thrown at you, and there are just some things
18 that you could never anticipate occurring that occur.

19 Q. And did BSO actively and aggressively work to
20 manage the mass of people who were at the airport?

21 A. Absolutely. We were presented with a very
22 challenging situation. You have -- I think it's the
23 23rd largest airport in the United States, it's
24 packed, and you have a shooting event, and then you
25 have all these splinter -- call them phantom events

1 that are occurring throughout the airport, and it
2 required that we shut the entire airport down,
3 evacuate it, and then clear it with tactical teams.
4 So the clearing of the airport structures alone took
5 several hours, and it took the coordination of 18 SWAT
6 teams to accomplish that.

7 Q. Not just BSO SWAT teams?

8 A. No. Eighteen total SWAT teams were used to
9 coordinate -- coordinated the tactical operations
10 center, were used to clear all -- not just all the
11 parking structures, but then each terminal
12 systematically until we had cleared the entire
13 airport.

14 Q. And BSO assisted in that process?

15 A. BSO ran and managed the process using all the
16 responding agencies.

17 Q. And were you able to move tens of thousands
18 of people off the airport proper?

19 A. Yeah, there were -- we were not aware of any
20 plan by the airport to evacuate that number of people,
21 and a plan was devised to bring buses in and we
22 secured a location at the port to -- basically as a
23 holding site to bring passengers to, and they were all
24 bused from the airport to the port and held there
25 until they could be reunited with family members or

1 make other accommodations.

2 Q. And as far as you know, during that effort to
3 evacuate all those civilians, were there any deaths
4 that resulted?

5 A. No.

6 Q. Were there any serious emergency 911
7 hospitalizations that resulted?

8 A. Not that I'm aware of.

9 Q. 20,000 people were able to be moved off the
10 airport safely and without injury?

11 A. Not just the airport. I think at one point I
12 was told that we had 24 airplanes still loaded on
13 taxiways and different parts of the property, so they
14 had to be brought in and unloaded and evacuated as
15 well.

16 Q. And BSO assisted in the evacuation of people
17 actually on planes?

18 A. Yes.

19 Q. Since the Fort Lauderdale incident -- I'll
20 get back to it in a minute, but since then, have you
21 had occasion to make presentations to other law
22 enforcement organizations about the response?

23 A. I gave a presentation, National Sheriffs'
24 Association, on the airport shooting.

25 Q. The National Sheriffs' Association. That

1 sounds like a big group.

2 A. Yes. Well, it's -- the Major County
3 Sheriffs' Association was the presentation. It's for
4 the -- I think the 29 largest sheriffs' offices in the
5 country.

6 Q. And were you, the BSO, asked to assist in
7 making this presentation?

8 A. Yes.

9 Q. Was it because BSO was deemed incompetent or
10 neglected its duties in any aspect of the airport
11 shooting?

12 A. No. The purpose was -- is that it's an event
13 that can affect other major sheriffs and the
14 circumstances of event are not something that one
15 would predict and everyone's eager to learn about it
16 so that they can try and prepare in some way for a
17 similar event in their jurisdiction and learn from it.

18 Q. Is it your understanding from that
19 presentation and other knowledge you've gathered, that
20 the BSO coordinated response with the FBI and all
21 these other agencies is viewed by law enforcement
22 around the country as a model for how you deal with
23 something like this in a mass public accommodation
24 situation?

25 A. I've received -- you know, my contacts with

1 the other sheriffs that -- just at the major county
2 sheriffs, some who I know personally and who have
3 handled their own situations, were very -- not just
4 impressed, but were astounded by the number of things
5 that were thrown at first responders during that
6 event.

7 Q. "First responders" meaning law enforcement
8 officers --

9 A. Yes.

10 Q. -- and fire rescue people?

11 A. Yeah, the whole gamut.

12 Q. Now, to preface this area of questioning, the
13 governor has commented that I think in 2016 there was
14 the Los Angeles airport shooting. Are you familiar
15 with that event --

16 A. A little bit, yes.

17 Q. -- the Los Angeles airport?

18 As a BSO command rank officer, did BSO
19 attempt to learn from incidents and responses not
20 involving BSO?

21 A. Certainly, yes.

22 Q. So, for example, Los Angeles airport
23 shooting, is that something that was known to and
24 reviewed by the BSO personnel?

25 A. I don't know what year that it happened. I

1 believe it may have been before my time though --

2 Q. Okay.

3 A. -- at BSO.

4 Q. How about -- how about the Las Vegas hotel
5 shooting?

6 A. Yes, extensively Las Vegas.

7 Q. How about the Pulse shooting just up -- down
8 the street -- up the street from Fort Lauderdale in
9 Orlando?

10 A. Yes.

11 Q. Is that something that BSO looked at,
12 reviewed, and tried to make certain it learned from
13 that tragedy?

14 A. Looked at not just everything that came out,
15 but we've -- I mean, a large number of us have
16 attended presentations by people who were actually
17 involved in the events to try and learn more.

18 Q. When you say "attend presentations," you
19 attend or give this national sheriffs' presentation.
20 Does anything that you do or you learn at those
21 presentations get pushed down by you into the Broward
22 Sheriff's Office?

23 A. Yes.

24 Q. You don't just retain it in your own head and
25 keep it secret knowledge?

1 A. No, no, we -- you look at where you may be
2 vulnerable, and you try and improve upon those areas.

3 Q. And is that process of reviewing and
4 improvement a constant, in your opinion, at BSO?

5 A. It's never ending. I mean, the profession
6 constantly evolves. You are constantly dealing with
7 new, emerging threats, and you have to try and find
8 ways to effectively deal with them.

9 Q. In many circles, 9/11 is considered the most
10 impactful terrorist tragedy of all. Fair to say?

11 A. Yes.

12 Q. Since 9/11, has BSO, as far as you know, and
13 other law enforcement officers studied ways to improve
14 responses to terrorist attacks?

15 A. Yes.

16 Q. The massive panic of civilians?

17 A. I'm sure to some degree.

18 Q. And are you aware up to today, besides the
19 governor claiming that the response to the Fort
20 Lauderdale shooting evinced negligence and
21 incompetence on the part of the sheriff, are you aware
22 of anybody in an agency, in an organization, in a law
23 enforcement circle, that have characterized the police
24 response to the Fort Lauderdale shooting in any way
25 other than positive?

1 A. Yeah, to the exact contrary. The response
2 has been overwhelming that that many officers could
3 respond to a location and involve that many civilians
4 in that large of an area and in roughly 12 to 13 hours
5 clear an entire airport, all of its parking
6 facilities, evacuate fifteen to twenty thousand
7 people, and have it up and running the next day. So I
8 left -- I was there, I know he wasn't there, but I was
9 there, and I was proud of everybody that day.

10 Q. Now, following that shooting and the
11 aftermath, you mentioned that after-action report gets
12 done and ultimately it results in a final report, a
13 critical action report?

14 A. Yes.

15 Q. Is it your understanding that the process of
16 getting to a final report was complicated, involved
17 numerous hands, and lots of people responsible for it?

18 A. There's so many different facets to the
19 response that it's -- no one person can be that
20 knowledgeable to know everything about how to properly
21 handle an event like that. But someone has to put it
22 together, and I guess you eat the elephant one bite at
23 a time. You start putting it together and you
24 start -- keep reviewing it to see if the claims or the
25 opinions of people that have written parts of that

1 report, if they're valid or not.

2 Q. Is it your understanding that Undersheriff
3 Kinsey was the final author and sign-off on that
4 critical incident report, the final report?

5 A. I believe so. I know I wasn't the final
6 signer, so it would either be Kinsey or the sheriff.

7 Q. You're command staff at the time of the Fort
8 Lauderdale airport shooting? You're considered
9 command staff?

10 A. Yes.

11 Q. Undersheriff is command staff, that's the No.
12 2 sort of?

13 A. One of the No. 2s, yes.

14 Q. One of the No. 2s.

15 Who else generally is considered command
16 staff?

17 A. I mean, in the broad sense, you know, all the
18 way down to a captain, they would be considered
19 command staff.

20 Q. Okay. Is there any part of the development
21 of the Fort Lauderdale after-action report into the
22 critical incident report, the final, that to your
23 knowledge involved Sheriff Israel putting his finger
24 on the thumb, demanding that certain things be
25 included or excluded, or in any way fashioning that

1 report?

2 A. I don't remember him giving any input into
3 the report at all.

4 Q. How about direction to the writers to make
5 sure they made the sheriff's office look good?

6 A. No, absolutely not.

7 Q. In the final report, the critical incident
8 report, are there criticisms of the Broward Sheriff's
9 Office in that report?

10 A. It's a lessons learned. It's by design meant
11 to try and pick out things that could be done
12 differently and improved upon in the future, so yes.

13 Q. Is that what you understand in BSO parlance
14 to be an opportunity for improvement, OFI?

15 A. Yeah, it's -- the purpose of an after-action
16 is to try and find those opportunities. It's not
17 to -- it's not to cast blame. It's to try and make
18 the response better for the next time.

19 Q. Post Fort Lauderdale airport shooting, did
20 BSO incorporate lessons learned into its training and
21 practice?

22 A. You have to talk to the actual -- the
23 training division to get the details of that --

24 Q. Okay.

25 A. -- yes.

1 Q. I want to move now to the second incident
2 that I mentioned, the Marjory Stoneman Douglas High
3 School shooting, February 14, 2018. You know the
4 incident?

5 A. Yes.

6 Q. Did you have any involvement in law
7 enforcement of the incident?

8 A. Again, I responded and assumed control of the
9 investigative side of the response.

10 Q. And Marjory Stoneman Douglas had an SRO
11 assigned to that school --

12 A. Correct.

13 Q. -- right?

14 That is former Deputy Peterson?

15 A. Yes.

16 Q. Did you know former Deputy Peterson before
17 his name became infamous?

18 A. Not personally. I had seen him at the school
19 before, but we had never had a conversation before
20 that day.

21 Q. You had understood he was a long-serving law
22 enforcement officer?

23 A. I knew he had been there for a long time,
24 yes.

25 Q. Is there any part of what you knew about him

1 or having seen him at the school that caused you to
2 think that he was unfit to be a law enforcement
3 officer?

4 A. No.

5 Q. Did he look grossly overweight and out of
6 shape and you wonder how could this guy be a cop?

7 A. No.

8 Q. Did you understand that he as an SRO had to
9 go through all the trainings that any law enforcement
10 officer had to do to maintain standards?

11 A. He was able to perform all the essential
12 functions of the job. He was certified. There was no
13 concern with him discharging his duties.

14 Q. And were you also aware that SROs went
15 through specialized 40-hour training each year on the
16 various functions that SROs are going to have to
17 handle?

18 A. Yeah, I'm not as familiar with the training
19 that occurred before the event. After the event, I
20 know that we provided even more training than before.

21 Q. And did you have occasion to review Deputy
22 Peterson's personnel file?

23 A. No.

24 Q. His training file?

25 A. I've looked at parts of his training file. I

1 don't recall the details of it, but I have looked at
2 it.

3 Q. And based on your general review of his
4 training file, is it your view that he went through
5 not just the required training, but lots of additional
6 trainings?

7 A. He went through training, both active
8 shooter, I believe he was rifle qualified, so I know
9 that he attended those courses as well, and other
10 forms of training that as we've talked about have
11 skills that would also incorporate -- be incorporated
12 in an active shooter response.

13 Q. Rifle qualified is not a mandatory
14 requirement for law enforcement officers?

15 A. No, it's not. We encouraged all SROS to be
16 rifle qualified as well.

17 Q. Is that additional training and -- is it
18 testing?

19 A. Both. Actually is an annual training course
20 that has to be taken every year to carry a rifle, and
21 then you have a qualification course, which is to test
22 your proficiency.

23 Q. Meaning to actually shoot on a range or some
24 simulation?

25 A. You actually shoot in both of them, in the

1 training class and the qualification, but, yes, one is
2 a refresher of all the skills that are necessary, and
3 then the other one is just a test to make sure that
4 you can perform the skills to a satisfactory level.

5 Q. I know that the radio communications run by
6 the county at the time of Marjory Stoneman Douglas
7 were not up to par, but that's not the focus of my
8 question.

9 Was BSO in responding to the Marjory Stoneman
10 Douglas shooting able to coordinate with other
11 responding agencies?

12 A. At some point in time, as more users came
13 onto the system is when they started to experience the
14 throttling problems.

15 Q. I'm not talking about the use of the radio.
16 Let me try it differently.

17 Did other law enforcement agencies respond to
18 the Marjory Stoneman Douglas scene?

19 A. Yes.

20 Q. And did that include municipal agencies?

21 A. Yes.

22 Q. Did that include other law enforcement
23 agencies?

24 A. Yes.

25 Q. Was BSO able to coordinate with them and

1 communicate with them for a joint approach to MSD?

2 A. It was -- it was hampered by communications.
3 It was accomplished, but because of some of those
4 problems, a fragmented 911 system, I'd say not as
5 efficiently as it could have been.

6 Q. And did BSO have an ability to do
7 work-arounds like running people back and forth for
8 eye-to-eye communication?

9 A. Yeah, I mean, term "work-around," not
10 optimal. Just something that would work. Doesn't
11 mean it was efficient. It may have hampered the
12 response in some ways, but you do what you can do in a
13 situation like that.

14 Q. At the time that you responded to the
15 scene -- you say about 30 minutes later from the first
16 reporting of the shooting; is that about right?

17 A. I'd say maybe because of traffic in -- it
18 was -- airport was maybe 30 minutes, maybe this event
19 was maybe 45.

20 Q. Okay. When you got to the scene, did you
21 know at the time that Scot Peterson did not follow the
22 active shooter policy and training?

23 A. I wasn't aware of any of Peterson's
24 involvement at all once I responded, not until
25 sometime after.

1 Q. The reality came later?

2 A. Yes.

3 Q. With regard to your involvement in the
4 response at your higher level, was the response
5 coordinated?

6 A. Yes. When I responded, it was right outside
7 of Building 12, and it was at a -- it was kind of an
8 ad hoc tactical operations center, and we were
9 assembling investigative personnel and awaiting the
10 final clearance of the 1200 building so that we could
11 start to assess what had occurred and process the
12 scene.

13 Q. Now, when you responded, there were other law
14 enforcement officers, not just BSO, but other agencies
15 there?

16 A. Yes.

17 Q. I want to ask you about wearing ballistic
18 vests, like armor, body armor.

19 A. Yes.

20 Q. BSO doesn't have a policy of every deputy has
21 to wear body armor at all times that they're on duty,
22 do they?

23 A. They do now. At the time, we attempted to
24 implement it and it was objected to by the union.

25 Q. Okay. So "at the time," meaning at the time

1 of MSD shooting, the Broward Sheriff's Office
2 administrative had tried to implement that policy?

3 A. It was our feeling that everyone should wear
4 a vest. That was what command attempted to implement.
5 But with any policy that we change, if it has any
6 effect on working conditions of a deputy, they're
7 given an opportunity when a policy is implemented to
8 object to it within 10 days of implementation, and
9 they objected to it and that would call then for a
10 process called impact bargaining.

11 Q. So some type of negotiation with the actual
12 representatives of the sworn law enforcement officers
13 was put in place?

14 A. Yes.

15 Q. But BSO, as a matter of top down, had worked
16 to implement mandatory body armor?

17 A. Yes.

18 Q. At the time of MSD, was there any directive,
19 any standard, any requirement, by the Florida
20 Department of Law Enforcement for mandatory body
21 armor?

22 A. No.

23 Q. How about the Florida Accrediting Credentials
24 Committee?

25 A. There's no mandate anywhere for body armor.

1 It's an agency decision and it is to whether they want
2 to mandate it -- other personnel or not.

3 Q. At the time that the sheriff's office -- by
4 the way, was the sheriff, Scott Israel, if you know,
5 in favor of implementation of the mandatory body armor
6 policy?

7 A. Yes.

8 Q. At the time that process was going on, was
9 there any national standard that said mandatory body
10 armor by law enforcement officer is essential?

11 A. No.

12 Q. Was BSO, as far as you understood, ahead of
13 the curve in law enforcement development?

14 A. I'd say we're -- in law enforcement
15 development, absolutely. I mean, there's 17,000
16 agencies in the country. Most of them are under 100
17 people, very limited resources. We have sufficient
18 resources and facilities and we have a lot of
19 experienced personnel, and that gives us a lot of
20 people that can serve as trainers and events that we
21 can learn from. A lot of agencies don't have those
22 benefits.

23 Q. How about on the issue of mandatory body
24 armor? Was BSO behind, ahead, or just staying
25 current?

1 A. The -- the actual equipment that's issued is
2 first-rate equipment. It's -- the issue of making
3 people wear them is really more of a labor issue that
4 prior sheriffs were unwilling to tackle, and in this
5 administration we thought it was something that was
6 important just not for the safety of officers, but
7 safety of public, and it was something that we
8 insisted on moving forward.

9 Q. As far as you understand the BSO protocol and
10 training to respond to an active shooter situation,
11 are deputies encouraged to put on their ballistic vest
12 if they are coming to the scene of an active shooter?

13 A. We've always encouraged them to wear their
14 ballistic vest, no matter what they were doing. You
15 don't know when something's going to occur. You --
16 it's been a long-standing practice to push the wear of
17 body armor by all deputies. And a majority of
18 deputies do wear the body armor, but there are some
19 that choose not to.

20 Q. Is there any part of the training that you
21 understand on active shooter that encourages,
22 suggests, or allows deputies to take their good
23 old-fashioned time in putting on their body armor so
24 that they don't quickly respond to the incident?

25 A. No, absolutely not. It's very clear in

1 training that -- that a rapid response is paramount,
2 that any time that's wasted can result in the deaths
3 of more individuals, and that your job is to as
4 quickly as possible respond and follow the training
5 curriculum, which is the -- trying to get the culprit
6 to either barricade themselves, give up, or in some
7 cases commit suicide, whatever it is the option, just
8 as long you can prevent the further loss of life.

9 Q. That's the three-fold goal, eliminate,
10 surrender, or arrest?

11 A. Yeah, or flee. Anything -- any action that
12 results in them ceasing the active killing of other
13 individuals.

14 Q. Is the goal?

15 A. Yes.

16 Q. And that's the training?

17 A. That's incorporated in the training, yes.

18 Q. Are you aware prior to MSD of any reported
19 incident that officers responding to the scene of an
20 active shooter just took their good 'ole time in
21 putting on body armor and then going to confront the
22 active shooter?

23 A. You're talking about Columbine was probably
24 the closest thing you could say to that, but I don't
25 want to say that people took their good 'ole time,

1 they just were following the protocols that they had
2 in place, which was to wait -- secure the scene and
3 wait for SWAT.

4 Q. Okay. Following the Marjory Stoneman Douglas
5 shooting, facts became available over time about what
6 happened there, right?

7 A. Yes.

8 Q. Was there, as far as you're concerned from a
9 leadership point of view, initial and continuous
10 criticism of the BSO response nationally?

11 A. I can't speak nationally. I mean, there was
12 criticism of the response.

13 Q. From your perspective as a command staff, did
14 you do your best to keep morale at BSO high,
15 notwithstanding this voluble criticism?

16 A. Yeah, I -- you're always trying to do things
17 that improve morale or don't detract from morale.
18 It's not what drives you at work, though. At the end
19 of the day, I'm in charge of investigations, we have
20 an investigation to complete, and that's where my
21 focus is is to -- two-fold, the investigative side,
22 3,000 potential witnesses at the scene that we have to
23 interview, we have a three-story crime scene, and we
24 have someone in custody that needs to be prosecuted.
25 So those things are paramount. But we have a lot of

1 other issues like the -- I mean, just the welfare of
2 deputies and -- and -- that responded and are part of
3 that scene, making sure that they get help if they
4 need it. And then there's the part of trying to
5 analyze your own actions to determine if something was
6 done improper or something that needs to be -- that's
7 not in accordance with policy or the policy needs to
8 be changed. There's a whole host of issues that
9 you're trying to do simultaneously.

10 Q. Post Marjory Stoneman Douglas, did BSO
11 attempt to implement lessons learned -- let me
12 rephrase the question.

13 After MSD, did BSO attempt to implement
14 and -- corrections, changes, improvements to what it
15 learned from that incident?

16 A. Yes. The things that were in our control
17 like low-hanging fruit, there are definitely things
18 that we looked to implement, and then there were
19 things that are even out of our control that we still
20 in the aftermath tried to get more cooperation from
21 others to assist us in resolving it, like radios and
22 911 communications.

23 Q. Had BSO been working on that well before MSD
24 and FLL?

25 A. In some cases, there are areas that --

1 frankly, they don't report to us, and we can ask, but
2 some of these things require money, and if they're not
3 willing to do it, there's little that we can do to
4 make them do it.

5 Q. "They're" meaning the county or the school
6 board or some other agency?

7 A. Yeah, or any person that contracts us. It's
8 difficult for us to -- in case of Parkland, to demand
9 how Parkland routes their 911 calls. They choose to
10 route to another city. There's very little that we
11 can -- we can voice objection to it, which was done,
12 but we can't make them change it.

13 Q. Did BSO work to correct a delayed access to
14 the actual school's cameras?

15 A. Yeah, we -- we worked with the school board
16 to obtain access to their video systems post MSD.

17 Q. So you learned that not only did BSO not have
18 access to the school camera system at the time of MSD,
19 but that what information they did get was time
20 delayed?

21 A. Yes, that was learned later.

22 Q. Okay. And did BSO change that?

23 A. No, BSO didn't change that. BSO asked the
24 school board to give us access to the cameras, which
25 is entirely their prerogative, and through some

1 negotiations there were a lot of concerns whether we
2 were permitted to have access to those records under
3 some federal laws protecting privacy of students, and
4 eventually we were able to obtain access. How -- what
5 their legal analysis was, I don't know, but they
6 finally agreed and granted us access to the cameras.

7 Q. And that was actually the subject of now a
8 contract that was entered into to have access?

9 A. Access, and we were working toward a system
10 that on any calls that related to like a shots fired
11 call in the school, that those cameras would
12 automatically come up into a real-time crime center
13 and we could respond in a more concerted effort.

14 Q. Okay. Are you familiar with an app called
15 Smart Watch?

16 A. SaferWatch, yeah.

17 Q. SaferWatch, I'm sorry. SaferWatch?

18 A. Yes.

19 Q. You're familiar with that?

20 Is that another post MSD improvement that BSO
21 attempted to implement?

22 A. It became evident that there were a lot of
23 people who had information involving the suspect
24 pre-shooting, and that when you put them all together,
25 they mean something, but when they're -- when no one

1 reports them or they're -- they're not in a place
2 where they can be collected, then they can be easily
3 overlooked. So we helped develop -- worked with a
4 vendor, developed the app, and encourage students to
5 like place tips and kind of the see something/say
6 something motto.

7 Q. Did BSO actively publicize this availability
8 to the community?

9 A. Yes.

10 Q. Go to schools and encourage principals and
11 leadership to get their kids and parents to implement
12 this app?

13 A. Yes.

14 Q. Take a look at Exhibit 25, Israel Exhibit 25.
15 That's Bates page Israel 2931. Although this is a
16 recent printout, June 2019, is this a presentation --
17 online presentation of the BSO's SaferWatch program?

18 A. Yes.

19 Q. And it's a smart phone app?

20 A. Yes.

21 Q. And that was implemented under Sheriff
22 Israel?

23 A. Correct.

24 Q. And was that part of the after tragedy,
25 events learning process?

1 A. Yes. What we wanted to do is since we -- we
2 were also given some laws that allowed us to be more
3 proactive post MSD like the Red Flag laws --

4 Q. I'll get to that, but I wanted to just ask --
5 stay on SaferWatch for right now.

6 A. Yeah, so this was a mechanism to where we
7 could start to get information on people who might be
8 a threat to the community.

9 Q. You mentioned laws getting changed, and I
10 think you were starting to refer to Red Flag laws?

11 A. Yes.

12 Q. Tell us what that is.

13 A. Well, you have -- with a risk protection
14 order, you have now an actual mechanism that you can
15 take guns away from people who have legally purchased
16 them and using their mental status or that they
17 display some threat to the community. Prior to that,
18 we were not able to. If we -- in a case of a Baker
19 Act where someone was involuntarily taken for a
20 psychological evaluation, once they were cleared of
21 the Baker Act, we were obligated to give them back
22 their firearms, which was not something any of us
23 wanted to do and --

24 Q. That's your understanding of what the law
25 required at the time?

1 A. Well, it -- we would take the firearms
2 anyway, and eventually case law was established that
3 if we did not return them and forced a court order,
4 even that we were impeding on the right to bear arms
5 and that we could actually be subject to liability and
6 court action. So --

7 Q. Had prior to the MSD tragedy BSO, either
8 individually or in concert with other law enforcement
9 agencies, attempted to get Red Flag laws or something
10 equivalent implemented?

11 A. I don't know if they did or not. I wasn't
12 part of it.

13 Q. Okay. But --

14 SPECIAL MASTER: Counsel, if I may, I'm sorry
15 to interrupt, but I'm sensitive to -- indicating
16 earlier that I'd like to take certain breaks. How
17 much longer do you think you're going to be on
18 direct?

19 MR. KUEHNE: Within five minutes, I'll be
20 finished.

21 SPECIAL MASTER: Thank you. Please proceed.

22 Thank you.

23 BY MR. KUEHNE:

24 Q. But post MSD, the Florida Legislature passed
25 and the governor signed a Red Flag law or risk

1 protection law?

2 A. Yes.

3 Q. And did BSO then do anything internally to
4 implement enforcement of that?

5 A. We did a lot of things. I mean, we beefed up
6 our civil process, beefed up investigators who could
7 follow up on possible threats so that these orders
8 would be filed on, and then we implemented a threat
9 assessment unit where we budgeted and brought in an
10 individual who ran a terrorism center for NYPD as a
11 means of collecting intelligence and --

12 Q. So what did you do?

13 A. We created a threat assessment unit.

14 Q. Okay. And what did that do?

15 A. For an incidence much like what we had here
16 is we have reports coming in on individuals that by
17 themselves are not sufficient to take any action, but
18 when you look at them in their totality, they are
19 someone who may be in need of some service, and we
20 would look to try and work with others, work with
21 family members, to get them -- sometimes if they maybe
22 had a history of mental health issues and look to try
23 and get them services, look to try and get family
24 involved, and once they've stabilized, to continue to
25 be on the lookout if they start to exhibit signs that

1 look like maybe they had relapsed.

2 Q. Are you aware that there has been post MSD an
3 examination of all the law enforcement or potential
4 law enforcement contacts that happened or could --
5 should have happened involving the shooter before the
6 shooting?

7 A. Yeah, I'm aware of the prior contacts.

8 Q. And you're aware that there were some
9 deficiencies in the handling of those contacts?

10 A. They were -- they were deficient in that -- I
11 don't know if they were properly documented, I believe
12 is the -- in both the cases that we're -- you're
13 probably referencing. But the -- it still hasn't been
14 shown that even if properly documented, that any
15 action could have been taken that would have been
16 legal to take their firearms or make any physical
17 arrest.

18 Q. I understand that it's easy to do
19 Monday-morning quarterbacking. I'm not trying to do
20 that with you. But as you understand the various law
21 enforcement interactions with the shooter pre-MSD, are
22 you aware of any of them that would have resulted in
23 his arrest and taking into custody?

24 A. No. The closest event to an arrest was
25 someone reported warning that he shot a chicken with

1 an Airsoft gun and then did not wish to prosecute, and
2 I really don't know the likelihood of a prosecution,
3 that he denied the claims, there's no evidence to
4 support the claim. That's the closest thing to a
5 criminal violation that we would have had.

6 Q. Are you aware of other non-BSO agencies
7 perhaps overlooking or misresponding to any reports
8 involving that shooter?

9 A. Just like we had reports, I know the FBI had
10 reports, I know that Palm Beach had actually responded
11 to domestic violence calls involving Cruz' firearms
12 that were arrestable offenses, and to my knowledge, no
13 arrest was made.

14 Q. From a BSO perspective, you understand after
15 the fact that two deputies were sanctioned in some way
16 for deficiencies regarding reports involving the
17 shooter?

18 A. Yes, the -- I believe one case was a
19 reprimand, and the other case, the officer or deputy
20 received a couple days off, but it was a second
21 offense, so his penalty was more.

22 Q. When such action is taken against or
23 involving a deputy, is there some due process protocol
24 for the process of determining whether there's a
25 violation, No. 1, and No. 2, what the sanction is?

1 A. Yes.

2 Q. Is that something that by law, as you
3 understand it, or by collecting bargaining agreement,
4 the sheriff can snap his fingers and say "This guy's
5 gone"?

6 A. No, I -- no different than a criminal case.
7 You just can't throw somebody in jail without having a
8 trial. In the case of a labor case, they have a right
9 to their due process, and there's a full
10 investigation, a finding, and when discipline's
11 imposed, there's even then a right to arbitration in
12 many cases.

13 Q. With regard to investigations of personnel
14 involved in the MSD shooting, was it your
15 understanding that BSO was asked to wait until the
16 Florida Department of Law Enforcement was able to
17 complete its investigation?

18 A. We were asked not to take compelled
19 statements of our personnel or other personnel because
20 they were actively conducting a criminal investigation
21 involving some of the same witnesses and they did not
22 want any what we call Garrity protection extended to
23 those witnesses. So they asked that we refrain from
24 interviewing any of them until after they had done so.

25 Q. And you're aware that that FDLE investigation

1 was initiated, directed by the governor of the State
2 of Florida?

3 A. Correct.

4 MR. KUEHNE: Nothing further, Special Master.

5 SPECIAL MASTER: Thank you. We'll take a
6 break now. Let's reconvene at 1:45 for cross
7 examination and then redirect examination of this
8 witness. And, Counselors, if you would just
9 remind the witness of the sequestration
10 provisions. We'll reconvene at 1:45. Thank you.

11 (Lunch Recess.)

12 (Proceedings continued in Volume II.)

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CERTIFICATE OF REPORTER

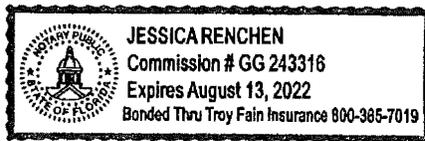
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I, JESSICA RENCHEN, Registered Professional Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 18th day of June, 2019.



JESSICA RENCHEN, Court Reporter



CONDENSED
TRANSCRIPT

1 THE FLORIDA SENATE 1
2
3 IN RE: EXECUTIVE ORDER OF SUSPENSION, NUMBER 19-14,
4 Suspension of Mr. Scott Israel, Sheriff
5 Broward County, Florida
6
7
8 VOLUME I
9 (Pages 1 through 150)
10 TRANSCRIPT OF PROCEEDINGS
11 HEARING FOR REVIEW OF
12 EXECUTIVE ORDER OF SUSPENSION
13
14 DATE: June 18, 2019
15 TIME: 9:00 a.m. - 1:00 p.m.
16 LOCATION: Room 110, Senate Office Building
17 404 South Monroe Street
18 Tallahassee, Florida 32399
19 BEFORE: Dudley Goodlette, Special Master
20
21
22 Reported by:
23 JESSICA BENCHEN, Court Reporter
24 For the Record Reporting, Inc.
25 1500 Mahan Drive, Suite 140
Tallahassee, Florida, 32308

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1 INDEX OF WITNESSES 3
2
3 WITNESS PAGE
4 JOHN D. DALE 78
5 Direct Examination by Mr. Kuehne
6 *****
7 REPORTER'S PAGE 150
8 *****
9
10
11
12
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FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 P R O C E E D I N G S 4
2 SPECIAL MASTER: Good morning. It's 9:00
3 a.m. on Tuesday, June the 18th, and this is the
4 final hearing with regard to Executive Order of
5 Suspension, 19-14, Suspension of Scott Israel,
6 Sheriff of Broward County.
7 I'm Dudley Goodlette appointed by the Senate
8 president as the Special Master of these
9 proceedings. And pursuant to Senate Rule 12, my
10 role is to provide an opportunity for the parties
11 to be present and to present their cases, and
12 ultimately it's my responsibility to provide a
13 report which is advisory in nature only to the
14 president.
15 Counsel, at this time, I would please ask
16 that you introduce yourselves for the record.
17 MR. PRIMROSE: Nick Primrose on behalf of
18 Governor Ron DeSantis.
19 MR. MACIVER: John Maciver also on behalf of
20 the Governor.
21 MR. KUEHNE: Good morning, Special Master.
22 It's an honor to be able to participate in these
23 proceedings.
24 Ben Kuehne, counsel of record for Sheriff
25 Scott Israel.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 MR. KAPLAN: Good morning, Special
 2 Magistrate. And I echo the sentiments of Mr.
 3 Kuehne.
 4 Stuart Kaplan on behalf of Sheriff Scott
 5 Israel. Good morning, sir.
 6 MR. KUEHNE: Sheriff Scott Israel is also in
 7 attendance.
 8 SPECIAL MASTER: Thank you.
 9 Just some general matters to begin with.
 10 This is a public open proceeding and it is being
 11 broadcast, it's being audio recorded and of course
 12 we have a court reporter present. The public is
 13 welcome to attend and observe the proceeding.
 14 There is not an opportunity for public testimony
 15 at this stage of the hearing process. Those
 16 attending are asked to silence any cellphones and
 17 other electronic devices and to take any
 18 conversation outside so as to not disrupt these
 19 proceedings.
 20 Just a little bit about the breaks in the
 21 process. For everyone's planning purposes, it
 22 would be my intention to take breaks at
 23 approximately 10:45 for about 10 minutes and then
 24 break for lunch at about 12:15 for approximately
 25 45 minutes and then another break midafternoon

1 around 2:45-ish, but we'll play that by ear
 2 depending upon the proceedings. And just --
 3 that's just for your information for planning
 4 purposes.
 5 With respect to witnesses, at this time, I
 6 would like to note that I have opted to sequester
 7 all witnesses; however, this does not apply to the
 8 suspended official. Witnesses should not be
 9 present in the hearing or otherwise listen in on
 10 these proceedings. They should not discuss their
 11 testimony among themselves prior to testifying and
 12 they should not use intermediaries to communicate
 13 testimony to one another.
 14 If there are any witnesses in the room,
 15 please make your way to the back of the room and a
 16 member of the sergeants' team will show you to a
 17 room where you can wait until you're called to
 18 testify and thank you for your cooperation in that
 19 regard. Any witnesses, please proceed to the
 20 back.
 21 There are a couple of pending requests and
 22 before we get into the opening statements, we have
 23 a couple of matters that I would like to address.
 24 First, regarding the request to keep the record
 25 open: Mr. Kuehne, on behalf of Mr. Israel, has

1 raised the possibility that information relating
 2 to the arrest of Mr. Scot Peterson could be
 3 relevant to the matter before the Senate. Mr.
 4 Kuehne seeks to keep the record -- the proceedings
 5 opened for a period of time before final arguments
 6 are made and my recommendation is provided. I
 7 understand what Mr. Kuehne suggests; however,
 8 there are a number of uncertainties, including the
 9 uncertainty as to when Mr. Kuehne may receive
 10 additional information, the content of that and
 11 whether that he would desire to utilize what might
 12 be received.
 13 The parties will have an adequate amount of
 14 time after the hearing to submit written proposed
 15 findings of fact and conclusions of law which will
 16 serve as closing statements. Mr. Kuehne, if you
 17 receive information that you believe to be new and
 18 relevant prior to the deadline for submitting
 19 closing arguments, I would ask that you submit it
 20 to me without delay. Mr. Primrose, if additional
 21 information is received from Mr. Kuehne, you
 22 should also submit any new information you might
 23 receive in response. Both parties should
 24 incorporate the new information into their closing
 25 arguments if received with enough time to do so.

1 If information is received in a time frame that
 2 allows me to incorporate it into the report, I
 3 will. However, if it is not received in time for
 4 incorporation, please note that the special master
 5 proceedings is only the first hearing and
 6 opportunity to be heard with regard to the process
 7 Mr. Israel will receive before the Senate.
 8 Additionally, my report is only advisory in
 9 nature as mentioned before, and it is my
 10 understanding that the Senate president intends to
 11 refer my report to the rules committee for its
 12 consideration and its report. Although the rules
 13 committee meeting will not be an evidentiary
 14 hearing, the senators will have access to all
 15 exhibits and submissions provided by the parties
 16 and counsel will be able to address the committee.
 17 This part of the process provides Mr. Israel with
 18 further opportunity to be heard before
 19 consideration by the chamber.
 20 There is 1 final matter regarding Mr.
 21 Israel's Exhibit Number 28. Mr. Primrose has
 22 objected to Mr. Israel's listing of Exhibit 28
 23 because it has not been produced. I have
 24 exhibited --
 25 MR. KUEHNE: Special Master, that exhibit is

1 withdrawn because it was not produced. 9
2 SPECIAL MASTER: Fine. That revolves that
3 matter. Thank you, Mr. Kuehne. I appreciate
4 that.
5 Let's begin the hearing and --
6 MR. KUEHNE: Special Master?
7 SPECIAL MASTER: -- we'll do so with the
8 governor's opening statement.
9 MR. KUEHNE: Excuse me. I'm being told it
10 wasn't recorded on the record. That Exhibit 28 is
11 withdrawn by Sheriff Israel.
12 SPECIAL MASTER: Thank you, again, Mr.
13 Kuehne.
14 Governor's opening statement, Mr. Primrose.
15 MR. KAPLAN: Special Magistrate?
16 SPECIAL MASTER: I'm sorry. Mr. Kaplan, did
17 you have something to ask?
18 MR. KAPLAN: Can you give us one moment,
19 please?
20 Special Magistrate, may I address your ruling
21 on the -- well, not allowing us in advance with
22 respect to the Scot Peterson issue. I'd like to
23 just make a record, Your Honor.
24 SPECIAL MASTER: If you want to make it for
25 the record, (inaudible), yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 seem to me that in fairness, not only in actual 11
2 fairness but in the appearance of fairness, that
3 how could these proceedings go forward without
4 having the benefit of those factual findings. We
5 know that there were over 180 witnesses that were
6 interviewed. We know that they prepared over 200
7 investigative reports, none of which have been
8 provided to us, none of which are we entitled to
9 at this point. The only document that we have
10 been able to get as a matter of public record is
11 the very affidavit that supported the arrest
12 warrant to go out and arrest Scot Peterson.
13 Within that 40 page affidavit, it highlights
14 the fact that the training at the time of the high
15 school shooting was appropriate, it was in place
16 and that this very deputy had that necessary
17 training. It went on and it capsulated a lot of
18 important information; however, it's only a
19 probable cause affidavit. We don't have the
20 backup. We don't have the investigative reports.
21 We don't have any of the recordings. Obviously
22 witnesses were sworn in; they were put under oath.
23 And it would seem to me that I don't see any
24 prejudice to the governor with respect to putting
25 these proceedings in abates until such time as we

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 MR. KAPLAN: Special Magistrate, what's 10
2 interesting is I think when we think about the
3 Founding Fathers of our civilization with respect
4 to how important due process is, due process is
5 not only actual due process but it's also the
6 appearance of due process. And with respect to
7 when you go back to February 28th of 2018, then
8 Governor Scott actually designated and directed
9 the FDLE, Florida Department of Law Enforcement,
10 to go out and conduct a complete investigation
11 into the response to the Parkland shooting. We
12 now know subsequent to that appointment, that
13 designation, Governor Elect at the time, Governor
14 DeSantis, had made a promise that if he was
15 elected he was going to remove Scott Israel. At
16 that particular time he had no information, no
17 factual information whatsoever. Not withstanding
18 when he was elected in early January, he followed
19 through with his campaign promise and he removed
20 Scott Israel who was the elected sheriff of
21 Broward County.
22 Now, what's interesting to note, Special
23 Magistrate, is that it's only within the last two
24 weeks that FDLE concluded their investigation into
25 the response of the Parkland shooting. It would

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 can get this information to then properly be able 12
2 to thoroughly present our case, which you have
3 asked us to do is essentially put the cart before
4 the horse, and I think it flies in the face of due
5 process, fundamental fairness.
6 It would seem to me -- with all due respect,
7 Special Magistrate -- that you being the person
8 who is going to gather all of this information,
9 you are required to make a recommendation to the
10 Senate -- you said it yourself, "it's only a
11 recommendation" -- that you yourself would be
12 concerned to make sure you get it right because if
13 you don't get it right, there is absolutely no
14 remedy to correct any of the errors or omissions
15 because of our inability to get those documents.
16 And I would ask you that I think it is important
17 for this body for you sitting where you sit to
18 please explain to us what the prejudice is in
19 putting these proceedings off and calling a time
20 out until such time as we have the opportunity to
21 get this information. I mean, after all, Governor
22 Scott who was the elected governor at the time, he
23 called for an investigation, he tasked his lead
24 law enforcement agency in the State of Florida,
25 the Florida Department of Law Enforcement, for the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 very purpose to either end up where we are today 13
2 or maybe figure out that Sheriff Israel was not
3 neglectful, he was not incompetent. Everything
4 that he was supposed to do as the elected sheriff
5 was done exactly in accordance as to the way it
6 was. And the only reason why unfortunately people
7 lost their life on February 14, 2018 is because of
8 Nikolas Cruz's actions and also the inactions of
9 Scot Peterson. But without having the benefit of
10 that information, how is it possible and why is it
11 necessary to move forward at this juncture?

12 It would seem to me that under the Fourteenth
13 Amendment under the Florida Constitution that due
14 process requires to give us an opportunity to get
15 this information so if we end up back here, we can
16 at least have the benefit of all this information
17 because it may necessitate calling additional
18 witnesses, et cetera, et cetera. So I would ask
19 Your Honor with all do respect to reconsider your
20 denial. I understand you're willing to leave it
21 open for a certain period of time. I don't think
22 that cures the possible -- the possibility, no
23 matter how much time you decide -- whether it's 30
24 days after today, 45 days after today, 60 days
25 after today -- I can tell you there are probably

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 witnesses out there that were interviewed by the 14
2 FDLE that we would like to talk to. I certainly
3 would like to talk to the lead case agent, Mr.
4 Riddick, because after all he signed a probable
5 cause affidavit certifying the fact that Scot
6 Peterson had committed various crimes that are
7 relevant with respect to the Parkland shooting.
8 We would like to subpoena him. We would like to
9 put him under oath. We'd like to know how he got
10 from A to Z and what caused him to end up making
11 those conclusions.

12 And certainly with respect to -- and I would
13 call Your Honor's attention to the very essence of
14 the bench memorandum that was submitted by the
15 governor to Your Honor basically laying out
16 framework of their case today. It calls
17 immediately in the first paragraph that the
18 training at the time of the Parkland shooting was
19 inadequate or wasn't in place. That flies in the
20 face of the FDLE's probable cause affidavit.
21 Right there in the first paragraph, the governor's
22 suggesting the training wasn't appropriate and
23 wasn't in place, not withstanding in the probable
24 cause affidavit that's a matter of public record,
25 it says the training was appropriate and Scot

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Peterson did have the training. 15
2 So I would ask Your Honor to reconsider your
3 ruling and actually consider holding these
4 proceedings in advance. Thank you.

5 SPECIAL MASTER: Mr. Kaplan, let me just say
6 that I'm not foreclosing opportunities to submit
7 additional information. Additional information
8 may come in forever frankly. I'm not precluding
9 that. You're welcome to submit any information,
10 but I'm not going to at this moment in time
11 continue these proceedings into the indefinite
12 future. And that's my -- that's my determination.

13 Please proceed, Mr. Primrose.

14 MR. PRIMROSE: Special Master, the events and
15 blatant failures giving rise to Governor Ron
16 DeSantis suspending Scott Israel are so obvious
17 that it is a shame Scott Israel is fighting.

18 The facts in the evidence will show that
19 Scott Israel failed in his paramount statutory
20 duty to protect the peace in Broward County.
21 During his tenure as the sheriff, Scott Israel
22 failed to properly train and prepare his deputies
23 for real life active shooter situations which
24 ultimately resulted in a failure to protect lives.
25 That is why on January 11, 2019, Governor Ron

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 DeSantis issued Executive Order 19-14 suspending 16
2 Scott Israel for neglect of duty and incompetence.

3 The chaos that occurred during the aftermath
4 of the Fort Lauderdale/Hollywood Airport shooting
5 on January 6, 2017 were due to a failure on Scott
6 Israel to adequately prepare his deputies for an
7 active shooter situation in one of the fastest
8 growing airports in the United States. Confusion,
9 unclear command orders and a lack of training
10 resulted in unnecessary chaos and injuries to more
11 individuals which can only be described as an
12 abysmal response. And 17 lives of students and
13 faculty that were lost on February 14, 2018 at
14 Marjory Stoneman Douglas High School in Parkland
15 were due to a failure of Scott Israel to
16 prioritize school safety, a failure to properly
17 recruit, train and prepare the deputies he
18 assigned to the schools and a failure to
19 proactively combat threats of violence.

20 And as we sit here today, almost a year and a
21 half after the Marjory Stoneman Douglas High
22 School shooting, the Florida Senate can finally
23 bring some accountability to Broward County by
24 upholding Governor DeSantis's suspension and
25 removing Scott Israel permanently from office for

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 neglect of duty and incompetence. 17

2 Now, throughout this final hearing, including
3 the deposition testimony that has been previously
4 presented to you and the exhibits entered into the
5 record, it will be abundantly clear that Scott
6 Israel neglected his duties and was incompetent in
7 the discharge of those duties. Now, when weighing
8 all the facts in the evidence, we will have proven
9 by a preponderance of the evidence, a meek tipping
10 of the scales, that Scott Israel neglected his
11 duties and was incompetent. He has contravened
12 his oath of office under Article 2 Section 5 of
13 the Florida Constitution because he has failed to
14 faithfully perform the duties of his office which
15 demands the Florida Senate remove him.

16 Now, as a cursory matter, Scott Israel has
17 challenged the legal sufficiency of Executive
18 Order 19-14 claiming among other things that
19 there's no allegations of constitutional or
20 statutory duties that were incumbent on a sheriff,
21 but that issue has been decided. The Florida
22 Supreme Court, considering arguments from both
23 parties, ultimately upheld the decision by a
24 circuit court finding that Executive Order 19-14
25 was legally sufficient. That means that contrary

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 framework. Sheriffs are granted and retain their 19
2 authority via the constitution. And because of
3 that explicit grant of authority to the sheriff
4 and the sheriff alone, the legislature has
5 authorized sheriffs to appoint deputies. Florida
6 Statute 30.07 says that sheriffs can appoint
7 deputies who will act under and with the authority
8 of the sheriff. But there's an important point to
9 note there: Explicit in the statutory grant of
10 authority is that the sheriff will be responsible
11 for the neglect or default of the deputies he
12 entrusts; thus any agreement by Scott Israel that
13 he is not responsible for the neglect or failures
14 of the deputies he appointed to act under his
15 constitutional and statutory powers is patently
16 false and contrary to the law.

17 This is a clear textbook case of the head of
18 an agency being wholly responsible for the
19 failures of his agents. Scott Israel is
20 responsible for the deputies he employed and
21 therefore he can and must be held accountable for
22 their acts, omissions and negligence. But we must
23 not forget the other duties that are implied in
24 the office of sheriff: Hiring, firing, promoting,
25 demoting and deputy assignments. While not

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 to any position Scott Israel might take throughout 18
2 this proceeding, the duties of sheriff that were
3 alleged are sufficiently related to the grounds of
4 suspension, and any argument by Scott Israel
5 should be given zero consideration.

6 What we will hear today is that Scott Israel
7 was bound by constitutional and statutory duties
8 as well as duties that are implicit in the office
9 of sheriff. The sheriff and only the sheriff is
10 created by the Florida Constitution. Florida
11 Statute 13.15 alleged in the executive order
12 outlines the powers, duties and obligations
13 incumbent on a sheriff. And of those duties,
14 which are relevant to these proceedings today, is
15 Subsection (1)(e) which creates the duty for the
16 sheriff to be the conservator of the peace in the
17 county. In courts throughout Florida and the
18 nation have defined this duty as a duty to protect
19 people, a duty to protect against crime before it
20 happens.

21 And another nuance but very prominent issue
22 that we must address is unlike municipal police
23 chiefs or municipal police officers who are given
24 their authority by city charters or contractual
25 agreements, sheriffs have a separate legal

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 written in statute, they are in fact duties and 20
2 responsibilities that are incumbent upon the
3 sheriff. He also retains the duty and
4 responsibilities to develop policies and
5 procedures for his office, including governing
6 external operations and conducting investigations.
7 The sheriff also maintains the duty and
8 responsibility to develop training plans, training
9 schedules and prioritizing certain areas of
10 training.

11 The Florida Senate should be persuaded by
12 Justice Muniz's concurring opinion in the case of
13 Israel verse Governor DeSantis where he wrote, "a
14 sheriff's day-to-day functions and
15 responsibilities, including the development of
16 policies and the training and supervision of
17 employees are the essential means of carrying out
18 a sheriff's statutory obligations." These are all
19 duties that we will show have been neglected or
20 incompetently discharged by Scott Israel during
21 his tenure.

22 Now, the failures go back to 2017 in the
23 aftermath of the Fort Lauderdale/Hollywood
24 International Airport shooting on January 6, 2017.
25 Unfortunately on that day five individuals were

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 killed and six more were injured at the hands of a²¹
2 shooter. And we will hear that the shooter ran
3 out of ammunition and dropped to the ground where
4 he was quickly apprehended by a responding deputy.
5 And that initial incident lasted no more than 2
6 minutes. However, it's the chaos that occurred
7 after the shooting where we will see convincing
8 evidence that Scott Israel failed as a sheriff.

9 Now, Scott Israel will claim throughout this
10 final hearing that his office's response that day
11 was textbook and while the deputy who responded to
12 the shooter should be commended for running
13 towards the sounds of gunfire. As a whole,
14 Broward Sheriff's Office response was anything but
15 textbook. We will hear that while the sheriff's
16 office provides law enforcement and security for
17 the airport, they never did a large-scale training
18 at Fort Lauderdale Airport prior to the shooting
19 even though Scott Israel was on notice that
20 airports were a target of terrorist activities,
21 especially given the active shooter situation at
22 the LAX Airport just a few years prior.

23 The failure to plan for an active shooter
24 situation at Fort Lauderdale Airport led to the
25 failures in setting up an effective command. It

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 with writing an after-action report. He was²³
2 assisted by two other Broward Sheriff employees.
3 Now, Major Cedeno's report was completed some time
4 in May of 2017, approximately five months after
5 the shooting. This is a detailed report,
6 approximately 119 pages long with extensive
7 details about the events of that day, strengths,
8 weaknesses and areas of improvement.

9 Now, the initial report made startling
10 observations specific to Broward Sheriff's Office,
11 including recommendations for a need to enhance
12 active shooter training lesson plans and enhanced
13 training specific to the airport deputies. The
14 report also critiques the Broward Sheriff's
15 personnel saying that the airport assignment might
16 mistakenly lead the deputies to believe the
17 assignment is lessened exposure to harm or for an
18 imminent retirement when actually the contrary is
19 true. The deputies at the airport must be
20 vigilant and they must be actively looking to
21 deter any shooters or terrorist events.

22 The report also recommends that Broward
23 Sheriff's Office identified personnel agency-wide
24 that might be up to the task and strenuous
25 obligations unique to protecting a major soft

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 led to confusion. It led to a power struggle²²
2 between Scott Israel and the aviation department.
3 And prior testimony from former deputies has
4 already established that there were no policies
5 that existed at the time to determine which entity
6 would take over an active crime scene at the
7 airport, which entity would issue orders,
8 directives, secure terminals, shut down the
9 airport and what was the result.

10 We will hear that chaos ensued when radio
11 communications of shots fired in other terminals,
12 including from two Broward Sheriff deputies. It's
13 unfortunate that another event that occurred is a
14 Broward Sheriff deputy left his K-9 vehicle
15 unlocked and a passenger ran into the vehicle and
16 was attacked by the K-9, and somebody seen that
17 passenger and issued another radio transmission of
18 victim and possible shooter at another terminal.
19 To be sure, a review of the aftermath of the Fort
20 Lauderdale Airport shooting confirms that there
21 were many failures that could have been prevented
22 if Scott Israel prioritized trainings and policies
23 specific to the airport.

24 We will hear that after the shooting, Major
25 Cedeno from Broward Sheriff's Office was tasked

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 target like an airport. It's also critical of a²⁴
2 lack of training, a lack of tabletop exercises,
3 disaster drills. It found that the training was
4 infrequent and extremely deficient in preparing
5 the deputies assigned to the airport for the
6 events that might occur.

7 And if I had to summarize what Major Cedeno's
8 initial findings were, it would be these two
9 quotes from his report: "Questionable readiness
10 levels were discovered and mistakes were made."
11 Now, we know that Scott Israel either directly or
12 through his handpicked senior staff did not like
13 Major Cedeno's initial report or criticism and so
14 they employed another Broward Sheriff's deputy to
15 edit the initial report. Captain James
16 Diefenbacher has already testified and you're in
17 possession of his testimony. And he testified
18 that he was told to look into the report and
19 describe the reason why as the report was
20 emotional or nonpragmatic and why is that
21 important. Well, first when you compare the
22 initial draft of Major Cedeno to the edited
23 version by Captain Diefenbacher, you see that
24 certain criticisms of the sheriff's office had
25 been completely removed, criticisms about the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 personnel being complacent and similar
2 deficiencies.

3 But another important reason to look at the
4 second report is you see that Captain Diefenbacher
5 actually kept some of the criticism related to
6 needing enhanced training specific to the airport
7 district and the failure of Broward Sheriff's
8 Office to have clearly defined policies and
9 procedures with who takes command and control of
10 an active shooter situation. Now, four months
11 after Captain Diefenbacher issues a second report
12 and turns over his edits, Scott Israel finally
13 signs off on a critical incident report on October
14 6, 2017. The final report is only 29 pages long.

15 Now, you may hear from Scott Israel or the
16 longtime allies that he has brought here today
17 that the final report it wasn't edited or
18 whitewashed to make Sheriff Israel look better;
19 however, all you have to do is compare the two
20 draft revisions of the report to the final
21 reversion. If you look at the final reversion --
22 version that Sheriff Israel signed off on, Broward
23 Sheriff's Office had little to improve on from
24 that day. For example, nowhere in the final
25 report is there an acknowledgment that there's a

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 investigations, findings of violations of Broward
2 Sheriff's Office policy and ultimately
3 disciplinary action.

4 And what were those two events: The first
5 occurred in February 2016 when a report was made
6 that the shooter posted an imagine on social media
7 with a gun and a caption somewhat similar to I'm
8 going to get this gun when I turn 18 and shoot up
9 the school. Deputy Eason, responding to that
10 call, never created an incident report. Instead
11 wrote in the computer aided dispatch, "no threats
12 noted." And to make it worse for Scott Israel,
13 this was not the first time Deputy Eason had
14 failed to follow policies regarding creating
15 incident reports and following up on credible
16 information. The second incident occurred just
17 two months before Marjory Stoneman Douglas in
18 November of 2017. Deputy Treijs investigated a
19 report that the shooter had weapons, wanted to
20 kill people and might be the next Columbine
21 shooter. What did Deputy Treijs do with that
22 information: He did not complete an incident
23 report as required by policy. He noted that the
24 shooter might be autistic and then since the
25 caller didn't know where the shooter was, Deputy

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 need to have enhanced active shooter training or
2 specialized training specific to the airport. But
3 I would submit to you that if the Florida Senate
4 doesn't limit it's review to just the final report
5 but compares it to the two draft reports, you will
6 see that the deputy charged with talking to
7 people, investigating the response, reviewing
8 documents and coming up with areas of improvement
9 shows that Scott Israel did not prepare his agency
10 for an event that occurred at the airport and it
11 resulted in unnecessary chaos and confusion.

12 Fast forward one year after, February 14,
13 2018 at Marjory Stoneman Douglas High School, the
14 next major event in the saga of failed leadership
15 of Scott Israel. A lot of attention already this
16 morning and throughout this proceeding has focused
17 on the school resource officer that day; however,
18 it's important to highlight that there were other
19 deputies under Scott Israel's control who also
20 failed prior to that day. We know that Broward
21 Sheriff's Office had credible information on
22 multiple occasions that events like that day could
23 happen. And at least during two of those events,
24 the failures of Scott Israel's deputies -- Eason
25 and Treijs -- led to subsequent internal affairs

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Treijs just referred the caller to another police
2 department and never followed up.

3 If either of these deputies took the
4 information seriously and acted with a sense of
5 urgency, who knows if we would even be having this
6 final hearing today, and the families that may be
7 watching at home may have never been impacted the
8 way that they have been. And I'll remind you that
9 the definition of conservator of the peace
10 includes acting and preventing crime before it
11 happens. And those deputies, they were acting
12 under Scott Israel's control and authority and
13 they failed to carry out that duty entrusted upon
14 them.

15 Now, it's undisputed that Scott Israel
16 entered into a written agreement to provide school
17 resource officers to Broward County schools. And
18 the agreements are very clear: Scott Israel would
19 assign his deputies to certain schools. He would
20 establish criteria for the individuals that he
21 wanted at those schools. Scott Israel could
22 determine the physical fitness level of the
23 deputies he assigned, the type of individual he
24 was looking at, that the individual was
25 comfortable in high-stress situations or that they

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 would act with vigilance when faced with a threat.²⁹

2 In contrary to any assertion by Scott Israel,
3 school resource officers, they're more than just
4 security guards. They're more than just looking
5 out for students skipping school or talking back
6 to teachers. Rather the agreement Scott Israel
7 signed with Broward County schools indicated that
8 his deputies would provide law enforcement
9 functions within the school; that they would
10 exercise the entire authority granted to them
11 under law, including being the conservator of
12 peace, protecting lives and preventing crime. And
13 the agreement also explicitly directs that the
14 school resource officers would protect and secure
15 the school and its occupants.

16 And we will hear that Scott Israel was on
17 notice that schools are considered soft targets
18 and a venue for active shooter situations, but he
19 did not prioritize protecting schools. Scott
20 Israel did not require the school resource
21 officers to undergo additional training specific
22 to addressing threats in a school setting. In
23 fact, we will hear that school resource officers
24 only attended an annual training offered during
25 the summer specific to their duties as a school

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 have to do this training once every three years.³¹
2 And why is the lack of more frequent training
3 important: Deputy Scot Peterson did his mandatory
4 active shooter training on April 19, 2016, one
5 year and nine months between his last training and
6 the events that occurred at Marjory Stoneman
7 Douglas High School. This was a neglectful and
8 incompetent decision by Scott Israel to spread out
9 active shooter training on a three-year basis. A
10 training that didn't keep policies, procedures and
11 practical skills sharp in the minds of the
12 deputies he assigned to protect students and
13 teachers. And to be sure, as will be introduced
14 into evidence, the Marjory Stoneman Douglas Public
15 Safety Commission highlighted the problems with an
16 infrequent training schedule finding, quote, "Some
17 deputies could not remember the last time they
18 attended active shooter training. Some deputies
19 could not even recall the type of training they
20 received and that BSO's training was inconsistent
21 at best."

22 I'm not going to belabor the failures of
23 Deputy Peterson because it is undisputed and well
24 known that he failed. The evidence from the
25 Marjory Stoneman Douglas Public Safety Commission

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 resource officer. But unlike SWAT officers who³⁰
2 are supposed to engage in active shooter
3 situations and undergo training multiple times a
4 month, Scott Israel's deputies assigned to schools
5 were not keeping their skills sharp on a monthly,
6 bimonthly, quarterly or even semiannual basis.

7 We will hear that Scott Israel did not
8 require active shooter training within the school
9 setting. We will hear that the deputies assigned
10 to schools, they were trained like any other
11 deputy. And the problem with that is that they
12 were trained on a three-year cycle and at best,
13 they did not know of the threat or rise of active
14 shooter situations.

15 Now, first, during the relevant time that
16 we're discussing, Scott Israel only required his
17 deputies to receive two four-hour trainings
18 related to active shooter situations. And we will
19 show that in the entire eight-hour block of
20 training only 90 minutes was allotted for actual
21 practical exercises related to engaging an active
22 shooter. And even that was limited to showing
23 that the deputy could physically carry out the
24 response required.

25 Second, as I mentioned, the deputy would only

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 suggests at a bare minimum Deputy Peterson's³²
2 decision not to enter Building 12 upon hearing
3 gunshots led to at least eight more fatalities and
4 dozens of more injuries. But any failure of
5 Deputy Peterson is also a failure of Scott Israel.
6 Scott Israel's directions and policy decisions
7 related to school resource officers -- decisions
8 not to mandate frequent exercises, tactical
9 trainings, deputy assignments to schools -- can
10 only be attributed to Scott Israel. And it's
11 baffling that Scott Israel accepts zero
12 responsibility for the omissions and neglect of
13 the deputies he appoints.

14 Now, evidence will show that while gunfire is
15 still being heard, other Broward Sheriff deputies
16 responded to the school but lacked a sense of
17 urgency in responding. Described in the Public
18 Safety Commissions Report, quote, "Several
19 uniformed deputies were either seen on camera or
20 described taking the time to retrieve and put on
21 their ballistic vests, sometimes in excess of 1
22 minute and in response to hearing gunshots." And
23 the Commission found that these acts were, quote,
24 "Unacceptability and contrary to accepted
25 protocol."

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Now, another focal point of the presentation ³³
2 today I presume will be on Scott Israel's decision
3 on an active shooter policy for his deputies,
4 Standard Operating Procedure 4.37. It is
5 undisputed that the policy initially stated
6 "Deputies will enter the area or structure if
7 realtime intelligence exists of an active shooter
8 to preserve life." It's also undisputed that
9 Scott Israel changed the "will enter" to "may
10 enter" in 2013. And after the shooting at Marjory
11 Stoneman Douglas, Scott Israel defended this
12 decision saying, "May gives discretion to not
13 enter a structure so as deputies do not go on
14 suicide missions." Prior testimony presented to
15 you by former and current Broward Sheriff deputies
16 explain the "may" might be so that the deputy
17 doesn't feel they need to open a door if they know
18 it's boobytrapped or that the shooter is on the
19 other side of the door waiting to shoot. And even
20 though this has been a parotid line by all of the
21 witnesses presented by Scott Israel, nowhere in
22 Broward Sheriff's Office policy or the training
23 materials does it ever mention an exception for
24 entering is due to boobytrapped or shooter being
25 on the other side of the door.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 responsible for the neglect of his duties ³⁵
2 regardless of "shall" versus "may" because he is
3 the conservator of the peace and it is his
4 absolute duty to prevent crime and save lives.
5 The governor's office can only hope that when
6 Scott Israel takes the stand today he finally
7 accepts responsibility and acknowledges the
8 failures of his agency. Contrary to his opinion,
9 he did not give amazing leadership to Broward
10 Sheriff's Office, and he must be held accountable
11 for every act and omission of his agency and his
12 deputies.
13 Now, at the end of the day, the facts in the
14 evidence presented will confirm that he neglected
15 his duties and incompetently discharged them. His
16 failures resulted in chaotic situations that could
17 have been avoided and the deaths of numerous
18 victims that should have been saved. That's why
19 at the end of this final hearing and through our
20 closing arguments and once you've reviewed all the
21 exhibits and testimony, it will be clear that
22 there's only one recommendation that you can make
23 to the full senate and that's that the governor's
24 suspension should be upheld and the Florida Senate
25 should remove Scott Israel from office.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 What we will hear is that after the Marjory ³⁴
2 Stoneman Douglas shooting, the Broward Sheriff's
3 Office conducted an extensive analysis of active
4 shooter policies across Florida Law Enforcement
5 Agencies, including a comparison of "may" versus
6 "shall" or "must." We will hear that there is no
7 law in Florida that requires a specific language
8 to this policy. And while that is factually true,
9 a document from Scott Israel's own agency under
10 his direction explains that why you use the word
11 "may" is so that entry -- so the deputies know
12 that entry is permitted and a possibility but not
13 a requirement. It does give discretion. And
14 there are numerous variables that might make entry
15 impossible, and that the deputy should know that
16 there is no consequence that will be applied if
17 they do not perform their responsibility to engage
18 the shooter.
19 And while the legal debate between "shall"
20 and "may" will continue much past this final
21 hearing, it is undisputed that Deputy Peterson
22 believed that agency policy gave him discretion to
23 not enter. Furthermore, as I mentioned, some
24 deputies did not even know what their policy was.
25 And at an absolute bare minimum, Scott Israel is

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 SPECIAL MASTER: Thank you, Mr. Primrose. ³⁶
2 Opening statements from either Mr. Kaplan or
3 Mr. Kuehne.
4 Before you start, Mr. Kuehne, why don't you
5 just make sure that the instructions that I had
6 with respect to witnesses being sequestered, has
7 that been -- is there anyone currently in the room
8 who is not aware of that sequestration policy?
9 MR. KUEHNE: No, Special Master. I have
10 informed all the witnesses of the sequestration
11 rule in advance of this hearing. I do not notice
12 any of them in the proceeding chambers.
13 SPECIAL MASTER: Thank you. Please proceed
14 with your opening statement.
15 MR. KUEHNE: Good morning, Special Master.
16 Sheriff Israel finally has an opportunity to
17 demonstrate that the governor's suspension of him
18 was not for any legal matter, was not because of
19 any constitutional reason but was a brutal
20 political ploy designed to obtain his election and
21 fulfill his promise to the National Rifle
22 Association.
23 The constitution provides a very limited
24 opportunity for the governor to suspend an elected
25 official. That limited opportunity is bound in

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 law and fact. Here, the governor sought, not even³⁷
2 by cherry-picking fact but by manipulating opinion
3 and presenting false reasons, to assert that
4 Sheriff Israel neglected his duties and was
5 incompetent. And attempts in this proceeding,
6 knowing that the governor's suspension can only be
7 established by a preponderance of the evidence,
8 resorts to inflammatory rhetoric in place of
9 actual fact and, in addition, presents made-up
10 definitions of the law that are not found in any
11 aspect of the record before these proceedings.

12 Sheriff Israel, as a responsible elected
13 sheriff, in fact has and always will accept full
14 responsibility for the actions of his office, the
15 Broward Sheriff's Office, has always done that and
16 will always do that. Because as the elected
17 sheriff, as a lifetime trained law enforcement
18 officer, his personal duty -- the evidence will
19 show -- and his public duty is to preserve and
20 protect, something he has been trained to do,
21 instilled in him from the very first day he became
22 a sworn law enforcement officer to this very day
23 and something that he has instilled in the very
24 agency to which the people of Broward County have
25 elected him twice. An agency that stands for the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Sheriff had made a due request for a presentation³⁹
2 to the then governor post Marjory Stoneman Douglas
3 shooting. When it became evident that the
4 criticism of the Broward Sheriff's Office was
5 played out across the national news media,
6 criticism that the evidence will show was
7 sponsored and promoted by and caused by the
8 Sheriff's interaction with a spokesperson for the
9 National Rifle Association soon after the Marjory
10 Stoneman Douglas High School shooting when Sheriff
11 Israel, as part of his community leadership and
12 community response, participated in a presentation
13 at which she made very clear that the sheriff's
14 office policy was inimical to much of the policy
15 nay requirements of the NRA. And that begat the
16 NRA's effort to unseat Sheriff Israel.

17 Yes, politics, but the Governor Scott
18 administration informed Sheriff Israel that an
19 adequate opportunity would be given to him to
20 offer his view if the governor believed that that
21 was an imperative, if the governor were going to
22 take action. But the governor initiated a Florida
23 Department of Law Enforcement investigation, an
24 independent -- independent of the BSO
25 investigation to do a complete review of the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 people of Broward County, not as a false model of³⁸
2 superiority attempting to falsely assure the
3 public that nothing can ever happen, not using the
4 mantra of the governor in the suspension that the
5 job of Sheriff Israel is to prevent all crime from
6 happening but instead to instill in the people of
7 Broward County, not just the voters, but all the
8 people of Broward County and every law enforcement
9 officer, not just those who work for the Broward
10 Sheriff's Office as law enforcement officers or
11 any of the 5,000 employees who serve the people of
12 Broward County in all aspects of the Broward
13 Sheriff's Office activity but also encouraging
14 other municipalities, other governments through a
15 type of leadership that is known as cooperative
16 leadership so that the entire county undertakes
17 the collective responsibility that helping make
18 the county a safe place.

19 Now, the evidence is going to show that
20 Sheriff Israel comes before this senate proceeding
21 having never been given, despite numerous
22 requests, an opportunity to share with the
23 governor or the governor's senior staff his
24 position prior to the (inaudible) political
25 suspension. The evidence will show that the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Marjory Stoneman Douglas High School shooting. A⁴⁰
2 tragedy -- a tragedy for every Floridian, every
3 American, especially for every law enforcement
4 officer. A tragedy that is unacceptable much like
5 the Pulse shooting nightclub tragedy that took
6 away the lives of more than 50 innocent
7 individuals. Notwithstanding the tragedy at Fort
8 Lauderdale Airport, but for the heroic effort of
9 BSO Deputy Jessie Madrigal who apprehended a
10 shooter with military sniper experience in 72
11 seconds after the first report of a shot but yet
12 five innocent victims. Those are tragedies;
13 tragedies that the Broward Sheriff's Office has
14 made certain to implement and learn from just as
15 every law enforcement agency -- responsible law
16 enforcement agency and one would say responsible
17 executive leadership has attempted to do.

18 So the governor -- the then governor
19 directed, as he is allowed to as the senior
20 official in charge of the Florida Department of
21 Law Enforcement, a commissioner who is responsive
22 to the governor to do a soup to nuts
23 investigation, and the governor made clear that
24 that would be an operative aspect of trying to
25 determine how do we come to grips with this

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 tragedy. And in addition, the governor compiled a⁴¹
2 statewide commission, known as the Marjory
3 Stoneman Douglas High School Commission, that
4 eventually issued a report. A report, we note
5 that despite exhaustive investigation, found no
6 neglect of duty or incompetence on the part of
7 Sheriff Israel and made no recommendation that
8 Sheriff Israel should be removed from office
9 despite a gubernatorial assurance that the process
10 would work it's way through and decisions would be
11 made when the facts were known. Then Governor
12 DeSantis -- and this is sad. This is sad to have
13 politicized the lives of children and adults who
14 are lost to a terrorist at Marjory Stoneman
15 Douglas. But nonetheless, before any facts were
16 laid bare began the mantra of Sheriff Israel must
17 go. Almost a political mantra because the
18 evidence will show that was what spurred much of
19 the then candidates' effort to rest votes from
20 democratic rich Broward County. Yes, it sounds
21 unbelievable, but that is the truth and the
22 evidence.

23 Then literally within moments of being
24 installed as the Governor of the State of Florida,
25 the governor issued executive order that suspended

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Sheriff Israel, as the elected sheriff of Broward⁴³
2 County, inadequately trained or caused the
3 inadequate training of Deputy Scot Peterson and
4 numerous other deputies when in fact the
5 governor's own law enforcement agency made a
6 determination -- and let me note, we do respect
7 Sheriff Israel, a prominent law enforcement
8 officer -- we do respect and abide by the
9 presumption of innocence, and no part of Sheriff
10 Israel's case is in any way intended to obstruct
11 that presumption of innocence.

12 But we do know that the Florida Department of
13 Law Enforcement, the governor's law enforcement
14 agency, issued a probable cause affidavit. That
15 is Exhibit 37 of Sheriff Israel's exhibits. And
16 that exhibit says in part that the deputy who was
17 charged with numerous felonies as a result of the
18 probable cause determination by the FDLE received
19 not just the required training but more training
20 than required and training specifically in the
21 area of active shooter training and school
22 resource officer training. All training, the
23 evidence will show, directed in equipping him in
24 doing the law enforcement function at a high
25 school. And the probable cause affidavit also

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Sheriff Israel for neglect of duty and⁴²
2 incompetence, never having allowed Sheriff Israel
3 during the campaign, post election, post
4 installation and inauguration as governor an
5 opportunity to offer his view. He, the elected
6 sheriff elected by the people of Broward County,
7 was given no opportunity, not even to a senior
8 staff member, to offer his view of the discharge
9 of his constitutional and common law
10 responsibilities to the people of Broward County.

11 A denial of due process undoubtedly but a
12 denial of fairness when the sheriff was given a
13 commitment that the highest office in the State of
14 Florida would impanel an FDLE investigation before
15 any decisions were made. The governor, we now
16 know when that FDLE decision was made well after
17 the suspension, the evidence will show, was
18 briefed by the FDLE. What information the
19 governor was given prior to that briefing at the
20 time of the former Deputy Scot Peterson arrest
21 we'll never know, but we've asked the Special
22 Master as one of our recents to keep that record
23 open so we have an opportunity to learn what
24 information did the governor have and when did the
25 governor have it when the governor claimed that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 concludes that Scot Peterson -- former Deputy Scot⁴⁴
2 Peterson did not follow his training, did not
3 follow his experience, did not do what he should
4 have done as a law enforcement officer and thereby
5 committed crimes against the people of the State
6 of Florida.

7 Now, the evidence will show that human
8 failures are often unacceptable and they can lead
9 to tragedies but when a sheriff is elected by the
10 people subject to the constitutional
11 responsibilities and the statutory
12 responsibilities as sheriff, the sheriff has an
13 obligation to provide, not just the appropriate
14 means of serving the interests -- the law
15 enforcement interests of the people, but to
16 implement that and to implement that same kind of
17 effort not just with law enforcement. It would be
18 nice if, as the governor has asserted in this
19 proceeding, for us all to have a crystal ball and
20 magically prevent crime from taking place. But
21 whereas the governor asserts to this Special
22 Master that the job of a Broward Sheriff is to
23 prevent crime from occurring, that is a made up
24 definition. That is not what sheriffs are obliged
25 to do. Sheriffs are obligated to do their best to

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 preserve and protect through training, through ⁴⁵
2 community involvement, through getting the entire
3 community attentive to law enforcement issues.

4 And the evidence is going to show that was
5 the mark of Sheriff Israel and why Sheriff Israel
6 was so resoundingly elected and reelected and why
7 it is for the people of Broward County to decide
8 if the policies and the procedures in conduct of
9 the sheriff's office are appropriate for Broward
10 County, whereas the governor says neglect of duty.
11 There will be no evidence that in any way
12 establishes that Sheriff Israel fell below any
13 standard applicable to sheriffs or law enforcement
14 officers; yet neglect of duty requires just that,
15 to fall below the standard applicable to your
16 particular function, not just that the sheriff
17 didn't do things the way the governor supposedly
18 would have wanted them to be done, but fell below
19 a standard.

20 And what the evidence is going to show is
21 that throughout the history of Broward Sheriff's
22 Office under Sheriff Israel -- and by the way,
23 Sheriff Israel inherited what we maintain was a
24 very good, large county sheriff's office. Sheriff
25 Israel implemented standards, procedures and

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 governor's commissioner and the Florida Standards ⁴⁷
2 Commission of which the governor has appointees to
3 the law enforcement commission that sets the
4 standards in the State of Florida. And to this
5 day, the tragedy of finger-pointing and absolving
6 all problems because of finger pointing through
7 executive order.

8 The evidence is going to show is that to this
9 day not a single directive has emanated from the
10 executive office to require active shooter
11 training, not a single imperative, not a single
12 request to the Florida Department of Law
13 Enforcement, which today still does not -- did not
14 follow Broward Sheriff's Office lead and the lead
15 of many of the progressive models of law
16 enforcement in the State of Florida to include
17 active shooter training, still to this day. So
18 the governor says, well, neglected duty because
19 active shooter training is something that you need
20 to do and you didn't do it good enough. Despite
21 the fact that after claiming that, his neglect of
22 duty, no law enforcement officer or agency in the
23 State of Florida is required to implement that.
24 No law enforcement agency or law enforcement
25 officer is suggested to go through that.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 protocols that far exceeded any model standard ⁴⁶
2 requirement. The evidence is going to show that
3 the standard operating procedure on active shooter
4 interestingly post Marjory Stoneman Douglas, post
5 Las Vegas, active shooter has been changed to
6 active killer. The concept is to emphasize that
7 shooters are killers, but Broward County before it
8 became a national suggestion, before any state
9 requirements initiated as a requirement active
10 shooter training for every Broward Sheriff's
11 Office deputy, every one from command down to the
12 beginning, before it was a standard, before it was
13 a requirement.

14 And the evidence is going to show that to
15 this day, to June 18, 2019, active shooter
16 training is not a requirement for any law
17 enforcement officer or law enforcement agency in
18 the State of Florida. It is a requirement at the
19 BSO under Sheriff Israel. And note, the head
20 executive agency that sets the requirements -- not
21 the standards, the requirements for what is needed
22 for every law enforcement officer -- whether a
23 municipal officer, a deputy sheriff -- is the
24 Florida Department of Law Enforcement and
25 executive agency headed by the governor, the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 But in Broward County, not only does Broward ⁴⁸
2 County have, the evidence is going to show, an
3 active shooter policy 4.37 and it's part of the
4 exhibits, the exhibits: Israel Exhibit 1, 2, 3
5 and 4 are variance of the active shooter policy.
6 A policy that was put in place, no requirement by
7 the Florida Department of Law Enforcement,
8 consistent with national standards. Not a policy
9 that is easy. Not a policy that is too difficult.
10 A policy that is practical, and that policy
11 includes a directive under the Broward Sheriff's
12 Office that every law enforcement officer, no
13 matter the responsibility at Broward Sheriff's
14 Office, must undergo active shooter training. And
15 in that training the evidence shows -- and the
16 evidence shows in abundant depositions that have
17 already been made part of this record and that the
18 Special Master has and will continue to review --
19 that the training -- the training is a model for
20 the nation consistent with the International
21 Association of Chiefs of Police, the standard and
22 the training. And every deputy, including, by the
23 way, former Deputy Scot Peterson, was trained --
24 relentlessly trained on eliminate, surrender,
25 arrest. The consequence of an active shooter is

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 to eliminate, surrender and arrest. And contrary⁴⁹
2 to -- and I say this with the most respect for the
3 governor's counsel: Contrary to the flat-out
4 false statement, the evidence has already shown
5 that Broward County Sheriff's Office has had an
6 implemented effective real-time active shooter
7 training at public schools.

8 Exhibit -- Israel Exhibit 29 -- Israel
9 Exhibit 29 makes clear that in 2013, Broward
10 Sheriff's Office conducted an active shooter
11 training program at Pompano Beach High School. A
12 training program that was multi-agency, involved
13 the Broward school system, had the -- had
14 commandeered an entire high school to conduct
15 realistic active shooter simulation. And as the
16 exhibit reflects, that's become a model --

17 MR. PRIMROSE: If I can just step in. This
18 is the exhibit that we raised that they were going
19 to withdraw.

20 MR. KUEHNE: Not at all. Exhibit 29 is an
21 exhibit in evidence.

22 MR. PRIMROSE: Exhibit 29 is an article by
23 the template. The Pompano Beach is the -- that he
24 just mentioned is the exhibit that we raised that
25 there's no -- there's not Bates Stamp number for

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Stamped Israel 2139, and I specifically referred⁵¹
2 to that.

3 SPECIAL MASTER: Thank you. That's
4 consistent with what I have in front of me. Thank
5 you, Mr. Kuehne.

6 MR. KUEHNE: So the evidence shows that
7 contrary, by the way, to the bill of particulars,
8 contrary to the governor's bench memorandum that I
9 understand is just argument, Broward Sheriff's
10 Office conducted a large-scale training exercise
11 at a Broward County high school with the offices
12 of the Broward County schools and numerous
13 affected agencies that included teachers.

14 But that's not all. And yes, it is accurate
15 and the evidence has reflected that the SWAT teams
16 at Broward County Sheriff's Office train on
17 SWAT-related issues once every week. As a
18 specialized response team, the SWAT officers -- in
19 addition to the training every deputy receives, in
20 addition to the specialized training that SWAT
21 officers receive -- SWAT officers trained as a
22 team every week. The evidence is also clear that
23 other specialized units train as a team
24 periodically. And note that no standard by the
25 Florida Department of Law Enforcement or any

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 -- I just want to be clear, I mean, he's talking⁵⁰
2 about something that he said is going to be
3 withdrawn, anything about Pompano Beach, the
4 actual training itself. I'm just making it for
5 the record.

6 SPECIAL MASTER: Let me just take a pause for
7 a couple seconds. I want to check my own files on
8 these exhibits.

9 MR. KUEHNE: I have a copy of Exhibit 29 that
10 I specifically referred to if you would like me to
11 hand it to you.

12 SPECIAL MASTER: I'm looking now. I've got
13 Exhibit 29 as Police 1 Article, *Active Shooters in
14 Schools, a Template for Police Trainers*. That's
15 in one list submitted June the 1st, but there's a
16 different list -- okay. Pardon me. Mr. Primrose,
17 I've got Article 28 as being the *Active Duty
18 Shooter Training*. 29 is an article regarding
19 active shooter training but is not the exhibit
20 that Mr. Kuehne previously indicated had been
21 withdrawn.

22 MR. PRIMROSE: Okay.

23 SPECIAL MASTER: Thank you. Please proceed.

24 MR. KUEHNE: It's Israel Exhibit 29. The
25 governor's office has had that and it's Bates

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 national standard requires SWAT teams to train⁵²
2 weekly or monthly. BSO does that because it's in
3 their DNA, preserve and protect. But what Broward
4 Sheriff's Office does is for school resource
5 officers -- school resource officers who are
6 selected who want to -- the evidence has already
7 shown in the exhibits -- who want to become school
8 resource officers, who are interviewed, who are
9 evaluated, tend to be experienced deputies,
10 trained deputies functioning as police officers
11 under contract with the Broward County Schools
12 that specifically contracted to have a school
13 resource officer, one, at Marjory Stoneman
14 Douglas. Broward Sheriff's Office -- and that's
15 an exhibit. Broward Sheriff's Office fulfilled
16 that contract.

17 But not just a school resource officer, but
18 Broward Sheriff's Office Requires every school
19 resource officer, as school resource officers, to
20 engage and undergo annually the type of
21 specialized training, a 40-hour course. All
22 school resource officers required as a unit to
23 undergo a 40-hour special course in addition to
24 their required trainings for school resource, and
25 that includes -- the evidence has shown tactics,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 schools as targets. The governor calls them soft ⁵³
2 targets. Soft targets, hard targets; peoples'
3 lives are at issue any time an active shooter
4 takes place.

5 And Scot Peterson -- the school resource
6 officer at Marjory Stoneman Douglas who failed to
7 discharge his responsibilities on that day, failed
8 to implement the well-trained and ingrained
9 policies -- was not just a school resource officer
10 but he was a senior school resource officer with
11 nothing in his personnel file -- and his personnel
12 file is an exhibit before the Special Master --
13 nothing in his personnel file suggested the
14 slightest inability to not only perform the duties
15 of sworn deputy but the duties and
16 responsibilities -- the additional duties and
17 responsibilities of a school resource officer.

18 And the evidence is also going to show that
19 -- weighed against the preponderance of the
20 evidence, which is the standard here, the evidence
21 is going to show that Sheriff Israel did not
22 neglect his duties, was not negligent or failed to
23 perform a duty of office or required by law but in
24 fact on a daily basis, on a weekly basis, on a
25 month basis, on an annual basis and approved by

1 everybody else, including Homeland Security ⁵⁵
2 employees who are trained with security running in
3 the other direction. And he, like a salmon
4 swimming upstream with a purpose, makes a B line
5 to another place in that airport, confronts and
6 apprehends the shooter. He was given a
7 recognition of sheriff deputy of the year by the
8 Florida Sheriff's Association.

9 And not just that. The evidence shows that
10 the entire response -- the entire law enforcement
11 response to the Fort Lauderdale shooting became a
12 model -- a model, not just Sheriff Israel saying
13 that -- a model -- a model for the United States
14 Law Enforcement response to airport shootings.
15 The response -- the coordinated response was
16 taught at numerous law enforcement training
17 seminars around the country. The Broward
18 Sheriff's Office and the FBI were asked to make
19 presentations because the entirety of the handling
20 of the Fort Lauderdale shooting, the shooting and
21 its aftermath, became a model of training for how
22 law enforcement can and should respond to the
23 scene of a public conveyance shooting.

24 The evidence is also going to reflect that
25 Sheriff Israel was a former SWAT officer and

1 the voters went above and beyond. ⁵⁴

2 Now, the governor seeks to prove neglect of
3 duty by saying essentially if any law enforcement
4 officer doesn't perform perfectly, I, as Governor,
5 can decide whim or whimsy that the head of that
6 agency, the sheriff, has neglected duty. And the
7 governor does this in two ways: One points to the
8 Fort Lauderdale Airport shooting in 2017 --
9 January 6, 2017. An airport shooting involving a
10 former military trained soldier who opened fire at
11 the Fort Lauderdale Airport, taking property that
12 included a gun and ammunition from his checked
13 back that had been transported with him from
14 Alaska and within 72 seconds, Deputy of the Year
15 Jesse Madrigal confronted and apprehended that
16 killer.

17 The evidence shows that reports of shooting,
18 Deputy Madrigal who is trained as an aviation
19 officer -- he's a pilot -- trained as an aviation
20 officer doing a duty at the airport, trained as
21 every deputy is trained -- his specialized
22 training in the aviation, his training in active
23 shooter -- and as soon as the shots are reported,
24 he runs immediately to the scene of the shooter as
25 passengers are wildly going away -- passengers and

1 commander. And after Los Angeles, LAX, the entire ⁵⁶
2 BSO put together training protocols for just this
3 type of public accommodation exercise. And
4 contrary to what you have been told, the evidence
5 is that the BSO in conjunction with every
6 coordinating agency affecting Broward County had a
7 large-scale training at the Fort Lauderdale
8 Airport and Seaport known as a full-scale active
9 shooter/active terror response drill at the
10 airport and seaport -- full scale -- cooperated by
11 BCAD, Broward County Aviation Division, that
12 controls the property, a government agency, the
13 seaport authority, the FBI, Homeland Security and
14 all the effected agencies and municipalities. A
15 real-life exercise where an entire terminal of the
16 Fort Lauderdale airport was taken over by this law
17 enforcement exercise that began with an emergency
18 report. The evidence reflects and will reflect --
19 it actually is in evidence already -- report of
20 terrorists at the port -- the seaport.

21 And the evidence also shows that in Fort
22 Lauderdale, the airport and the seaport adjoin
23 each other. Law enforcement officers respond to
24 the seaport believing in real-life large-scale
25 training that terrorists have taken over the

1 seaport in a ship. And as if that's not real 57
2 scale enough, that, by the way, involved SWAT team
3 members, non-SWAT team members, emergency
4 response, Broward County officials, administrative
5 people, FBI municipal officers. Then the training
6 exercise -- and, okay, governor, let's suggest the
7 evidence doesn't say Sheriff Israel made that
8 decision how to develop that training realistic
9 simulation, but his people in charge of training
10 in coordination with the agencies did, command
11 decision. Then the exercise was that one of the
12 terrorists fled to the airport, and this was not
13 just a shooter. This exercise was evidence of
14 terrorism. And then the exercise continued to fan
15 out at the Fort Lauderdale Airport conducted by
16 BSO training large scale at the airport.
17 And the evidence reflects how difficult it is
18 for a law enforcement agency to take over an
19 institution that is not a law enforcement
20 institution. An institution that has to be shut
21 down, where otherwise it's a stream of commerce.
22 It's people come and go. And that BSO learned and
23 helped instill coordination in that active
24 training exercise under the offices of Sheriff
25 Israel.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Both involved a shooter at Marjory Stoneman 59
2 Douglas High School and both involved a
3 recordkeeping deficiency. None of them involved
4 any issue of an active shooter activity
5 information.
6 But the evidence is also going to reflect
7 that well before the State of Florida, post
8 Marjory Stoneman Douglas, implemented a Red Flag
9 law. Red Flag law, the evidence is going to show,
10 empowers law enforcement, empowers the community
11 to take action where somebody is potentially
12 troubled. They have not committed a crime or
13 maybe they have, but before any accusation, arrest
14 or crime, law enforcement can appropriately within
15 standards, standards only later set by the Florida
16 Legislature, can take away guns from somebody;
17 somebody who has a lawful right under the Second
18 Amendment that we all respect to own and possess
19 guns. Under certain circumstances, before they're
20 charged with a crime, before they're declared
21 mentally ill, law enforcement can get a Red Flag
22 order to take those guns from that person and
23 property. Long before it became an issue at
24 Marjory Stoneman Douglas, Broward Sheriff's Office
25 -- but the Sheriff's Association in Florida was

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 And the evidence is also going to show that 58
2 there are and have been failures on the part of
3 deputies who when determined to have fallen below
4 standards are subject to appropriate
5 employment-based assessment. Using the word
6 "discipline" is not the correct terminology of the
7 Broward Sheriff's Office because the BSO has a
8 procedure. And the evidence is already in the
9 record -- and we'll have more of it -- that
10 deputies, if deemed deficient -- whether they are
11 found to have not followed a rule or just in
12 training or practice -- deemed efficient go
13 through what we would call "remedial training."
14 They don't call it that because it sounds harsh
15 and the philosophy at the Broward Sheriff's Office
16 is to encourage each deputy to be the best they
17 can.
18 So yes, Deputy Eason and Deputy Treijs did
19 not follow the rules in matters that now loom as
20 significant the evidence reflects. But when
21 identified, those deputies were given the
22 appropriate type of sanction that was a
23 rehabilitative sanction to encourage the following
24 of the rules. And let's just reflect on what the
25 evidence is with regard to those two incidents.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 arguing to use that limited -- to give law 60
2 enforcement that limited power. Sheriff Israel
3 was one of them. It wasn't until the Marjory
4 Stoneman Douglas tragedy and reviewing the history
5 of that killer who now stands charged with capital
6 felonies that there might have been ways for law
7 enforcement to have separated him from weapons
8 that he was lawfully allowed to have at the time
9 of that shooting, and that is a tragedy itself
10 that they did not have that power.
11 But the evidence is also going to reflect
12 that these failures on the part of the two
13 deputies in those two instances were not
14 incompetence. They were not neglect of duty.
15 They were recordkeeping reports errors. And what
16 the evidence is also going to reflect -- because
17 the governor holds Sheriff Israel responsible
18 saying -- and I'm paraphrasing: If those deputies
19 had done their job, it's likely Marjory Stoneman
20 Douglas would not have happened. That is a slap
21 in the face to every law enforcement officer,
22 every elected official, every person interested in
23 public safety to have a look-back finger-pointing
24 that one action would have prevented this; as
25 though, the governor, who, by the way, has not

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 implemented active shooter training standards and ⁶¹
2 he's been governor now for six months.

3 The evidence reflects that the FBI was put on
4 notice of some -- I'll call it trouble with the
5 Marjory Stoneman Douglas killer. Whatever the FBI
6 did or didn't do did not rain in this killer. Not
7 that anybody should be rewarded. And the evidence
8 will not suggest that there is any reward for
9 failing to do a job, but there is a distinct
10 difference between neglect of duty, obligations
11 required by law and those set by the position of
12 office and whim or fancy on the part of a
13 politician who becomes the chief executive
14 officer.

15 And the evidence is going to show -- and I'm
16 going to briefly summarize some of what you have
17 as evidence -- Captain James Diefenbacher was
18 deposed. You have his transcript. Captain -- BSO
19 Captain, not some lackey that the governor has the
20 ability to call law enforcement officers, command
21 officers who served their entire careers as
22 honorable, responsible law enforcement officers.
23 Just because they were command staff for Sheriff
24 Israel, the governor refers to them as lackeys; as
25 though Undersheriff Steven Kinsey, a career law

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Airport shooting is a major event -- often take ⁶³
2 upwards of a year to finally work their way into a
3 comprehensive, presentable after-action report
4 with drafts in the process. Captain Diefenbacher
5 went through that after-action report and found
6 serious factual mistakes, errors, information that
7 was just not confirmed and not accurate. And he
8 next testified that that after-action report was
9 intended to be preliminary because it had not been
10 reviewed by any or consulted with the -- and this
11 is a police term of art -- subject matter experts
12 -- the SWAT team members, the specialized members,
13 the fire and rescue -- was just a compilation of
14 as much information as that initial reporting
15 officer could do.

16 And he also concluded, the method of
17 presenting this information just does not comport
18 or square with the model of after-action reports.
19 Not the model, the testimony is, that the sheriff
20 has directed but the national model of what
21 after-action reports are to be. And Captain
22 Diefenbacher says, "My review was still a vetting
23 and going out and trying to confirm some
24 information but it was never going to be a final
25 report. It was then going to be moved up the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 enforcement officer, is a lackey for anybody. ⁶²

2 And you're going to hear from some of these
3 -- the governor's denomination lackeys. Colonel
4 Jack Dale -- law enforcement pedigree that is a
5 model -- no lackey for anybody. And certainly
6 Captain James Diefenbacher -- currently a BSO
7 captain -- he drafted the second version of the
8 after-action report. Remember that 100-something
9 page initial draft of the after-action report that
10 the governor says, gee, I can't find anything in
11 the real report so let me go back to that first
12 draft and pick -- cherry pick portions of that
13 very first draft. A draft that has never been an
14 official report, never subject to any testing,
15 simply an effort -- a hurried effort on the part
16 of one officer assigned to gather as much
17 information as possible. And you know what
18 Captain Diefenbacher said -- who's job was to
19 review that very preliminary report that didn't
20 meet any of the accepted standards of after-action
21 reports and to vet it. Not instructions from the
22 sheriff. Instructions from the command because
23 that's what's done in major after-action reports.

24 And the evidence reflects that after-action
25 reports in major events -- Fort Lauderdale

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 chain." And then we have Undersheriff Kinsey who ⁶⁴
2 says, "I authored the final report called the
3 'Critical Incident Report.'" And it's an exhibit.
4 "I authored it, although the Sheriff signed off on
5 it. The Sheriff had no role in it. And I
6 determined what was appropriate after this report
7 had been vetted and gone through numerous
8 revisions what was appropriate." And I included
9 significant criticisms of the sheriff's office
10 only contrary to the governor's accusation, not
11 fact, Undersheriff Kinsey doesn't call them
12 criticisms. He calls them -- and we may say it's
13 a euphemism, but it certainly fits the role of the
14 model for after-action reports -- "opportunities
15 for improvement." To encourage the agency and all
16 those who work with the agency, not to call them
17 on the carpet, not to place blame but offer
18 opportunities for improvement in every significant
19 area the evidence shows.

20 The evidence also shows that Lieutenant
21 Colonel Michael DiMaggio, retired, responded to
22 both the Fort Lauderdale Airport and the Marjory
23 Stoneman Douglas massacres. And he participated
24 in the Regional Domestic Security Task Force, a
25 multi-agency organization of all law enforcement

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 agencies in South Florida, that regularly did ⁶⁵
2 joint exercises and exercise, by the way, at Miami
3 International Airport. The governor says, again,
4 I said inaccurately, "no large-scale training at
5 Fort Lauderdale Airport." We know there was
6 Operation Vigilant Port, but Broward Sheriff's
7 Office also participated in Joint Regional
8 Domestic Security Task Force at MTA, additional
9 training in real-life large-scale scenarios for
10 what are known as public accommodation terrorist
11 activity, terrorist shooter activity, things that
12 have the potential for involving large amounts of
13 people.

14 Lieutenant Colonel Edward Grant, retired, he
15 was the SWAT commander at the Fort Lauderdale
16 Airport. He talked about the effectiveness of the
17 active shooter training all through the BSO and
18 the specialized training that SWAT team members --
19 he would call them -- although he was very
20 respectful -- the highest challenge for law
21 enforcement, but let's just say a significant
22 challenge for law enforcement and how they are
23 drilled to work with responding deputies because
24 the road patrol officers -- deputies who are the
25 real police who tend to respond to everything

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 first before the specialized unit is called in -- ⁶⁶
2 he talks about Operation Vigilant Port and how the
3 specialized team works with the road patrol
4 officers. But what he says is at the airport --
5 at the Fort Lauderdale Airport, BSO was the lead
6 law enforcement agency for about an hour. The
7 response comes in, the evidence shows 72 seconds
8 later the shooter's apprehended, effort is made to
9 then begin the process of interviewing him -- the
10 shooter. FBI immediately called to the scene
11 along with Homeland Security. Effort is made to
12 fan out the location of the crime scene is the
13 terminal baggage claim area. BSO fully secures
14 that. The evidence shows brings in a command post
15 -- mobile command post. And as BSO had
16 anticipated, because of the nature of that
17 shooting, not just were other law enforcement
18 agencies dispatched -- FBI, Homeland Security,
19 Customs. There were even DEA agents there, which
20 the evidence is going to show caused yet another
21 issue where a federal agent reported hearing a
22 shot being fired -- even though it was never able
23 to be confirmed -- and law enforcement including
24 BSO had to -- had to -- not ignore it --
25 investigate that and numerous other reports of

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 potential activity. ⁶⁷
2 About an hour after the Fort Lauderdale
3 shooter was apprehended, the FBI took over as lead
4 law enforcement agent for the Fort Lauderdale
5 Airport. BSO became secondary. No less important
6 but secondary. Yet the evidence reflects and has
7 already reflected that BSO work closely with every
8 reporting agency with the command post. But why
9 did BSO become the secondary law enforcement
10 agency? Because the FBI determined that that
11 airport shooting might -- might be terrorism. The
12 governor says Broward Sheriff's Office had to
13 fight with the agencies. The evidence reflects
14 far from it. That's a fantasy. BSO, FBI and
15 every agency and every governmental agency worked
16 hand in glove.

17 Once it became a federal primary
18 investigation -- and, by the way, just to be
19 clear, the evidence is going to show no terrorism
20 was ever connected to this -- this Fort Lauderdale
21 shooting thankfully. But the FBI wasn't going to
22 simply say, oh, single shooter, no terrorism.
23 They took over and the BSO became secondary.
24 Still did huge work. And as a result, while the
25 FBI was in charge of that investigation, some of

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 these later reports -- a federal agent saying, ⁶⁸
2 "heard a shot," never been confirmed, it gets
3 reported. Somebody's seeing two men in white
4 shirts running through a parking garage -- not the
5 Terminal 2 parking garage, another parking garage
6 -- and a report: "Men with guns." We know --
7 much like the governor's after-the-fact knowledge,
8 we know now those were two federal agents with
9 guns drawn running to a potentially suspicious
10 scene. People with cell phones didn't know that.
11 They saw two men in white shirts with guns. That
12 became a law enforcement response that BSO, FBI
13 and everybody else had to respond to.

14 And interestingly, the governor finds fault
15 with the fact that civilians started responding.
16 Gun shooting, running away, hearing reports of
17 guns, a United Airline agent misreports that
18 somebody in another terminal heard a shot and all
19 of the sudden the terminals clear out. The
20 governor holds -- calls that chaos when in fact
21 the evidence reflects that in public accommodation
22 active shooter situations, civilian response is
23 unexpected, but law enforcement is trained to deal
24 with civilian response. And yes, the evidence is
25 going to reflect that when you tell a civilian to

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 stop after somebody's been shot in the terminal, ⁶⁹
2 the likelihood of a civilian stopping because a
3 police officer says so is zero. So law
4 enforcement -- BSO is trained in these active
5 exercises to deal with that, quote, "unknown,"
6 which is often what's involved.

7 And here's what BSO did in conjunction with
8 the other law enforcement agencies that responded
9 and self-responded. By the way, the evidence
10 reflects that self-responding means an agency or
11 police officer hears of something that may be of
12 monumental significance. And what do they do?
13 They get permission to go to the scene to see if
14 they can provide help. Massive amount of response
15 coordinated by the BSO command center -- the
16 mobile command center and the responsibility of
17 FBI, BSO and BCAD, Broward County Aviation
18 Division, and interestingly, besides one passenger
19 -- one civilian who was bitten by a K-9 officer --
20 the dog itself, the K-9 officer -- that K-9
21 officer, following exactly what that K-9 training
22 was -- besides that one person who was bitten, not
23 a single additional casualty despite BSO, FBI,
24 Homeland Security and every other agency moving
25 nearly 20,000 civilians off that airport property,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 the one incident. And the governor in his opening ⁷¹
2 statement faults Sheriff Israel for a law
3 enforcement officer, consistent with standards, to
4 leave his car with a K-9 dog inside it to run to
5 or walk to or however he got to the scene of where
6 his presence was needed is incompetent, is exactly
7 the type of standardless whim or fancy that the
8 constitution does not allow.

9 Marjory Stoneman Douglas is perhaps the most
10 tragic incident of significant magnitude that has
11 befallen the people of Broward County. Sheriff
12 Israel has expressed his deepest concern for and
13 condolences to every person, the families of those
14 murdered children and adults for that horrific
15 situation. We can't take it back even though we
16 know we wish we could. We can't point fingers for
17 a particular cause because every report has shown
18 that there probably is no single cause but many.

19 But the Broward County response -- the
20 Broward Sheriff's Office response to the incident
21 was consistent with the best standards. The
22 deficiency and failure of the officer on the scene
23 to follow the clear training and policy to go
24 towards the shooter, we may never know what caused
25 that deficiency. We know that the FDLE believes

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 getting buses to respond. ⁷⁰

2 And the governor finds fault that it took six
3 and a half hours after the shooting for buses to
4 move away from the Fort Lauderdale Airport. I
5 haven't seen -- and I presume since they haven't
6 shown it to me, there's no evidence that there's a
7 standard after a mass shooting, buses have to go
8 in three hours or four hours. But I'm not going
9 to make light of rush hour traffic in South
10 Florida, but a six and a half hour response to get
11 the buses off the property measures favorably with
12 cooperation by every agency, not neglect of duty
13 or incompetence, the fact that nobody else was
14 injured.

15 And, by the way, it is true that a Broward
16 sheriff's officer left his truck with the K-9 dog
17 in it at the airport while the officer went to
18 perform his law enforcement duty, precisely
19 consistent with standards and training with the
20 K-9 officer -- dog in the car. And some woman who
21 was running away goes to the police car, the
22 evidence reflects, for protection. And what
23 happens? The K-9 dog bites her exactly as the K-9
24 dog is trained to do. And she gets medical
25 assistance. She's bleeding. She's fine. That's

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 that that was criminal activity on the part of ⁷²
2 that deputy, but we may never know. But the one
3 thing we do know is that that deputy, in an
4 interview after the shooting, made clear that he
5 did not fail to respond for any reason that he
6 wasn't properly trained, didn't know the policy,
7 his active shooter training was so far in the back
8 of his head, none of that. None of the things
9 that the governor presupposes were neglect on the
10 sheriff's part are evidence in this case.

11 But the evidence does show that the SROs had
12 significant training; that that particular deputy
13 also was a trainer of teachers. Not training in
14 the active shooter going after the shooter, but
15 training the teachers in what to do in an active
16 shooter situation; that he was not just a
17 competent deputy. And let me note that the
18 original report at Fort Lauderdale that suggested
19 some lack of attentiveness by Broward sheriff's
20 officers for which no factual evidence has ever
21 been or will be found needs to be underscored
22 because SROs are not undertrained. They are in
23 fact among the most experienced of law enforcement
24 officers in responding to situations, because the
25 situation of our schools are considered so

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 critical. Not just to the Broward Sheriff's 73
2 Office but all throughout our nation.
3 So the evidence reflects that the
4 organization, the multi-agency response had a
5 command staff and a command post. Yes, there were
6 problems with the radio communication. The
7 governor has made very clear this case does not
8 involve in any way the radio communication mishap
9 because it is clear and undisputed that Broward
10 County controls the radio system and they've been
11 working for several years at the prodding of the
12 sheriff and every other user of that radio to
13 upgrade the system. A massive upgrade that will
14 cost -- not just tens of millions of dollars --
15 maybe in the hundred million dollars that Broward
16 County is responsible for. But the sheriff's
17 office had trained for an adequate work-around
18 where the massive use of the radio could result in
19 communication not being as effective. Their work
20 around: Hand signals, cell phones and what's
21 called site to site, sending deputies back and
22 forth. That was implemented. Perfectly? No.
23 Opportunity to learn? Yes. Coordination with the
24 other agencies work pretty well except that one of
25 the agencies responding had a completely different

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 focusing on responses, in developing 75
2 communications with Broward schools to increase
3 SROs under contract by schools, to implement
4 Exhibit 25 -- 24 is the memorandum to give Broward
5 Sheriff's Office immediate access to the schools'
6 cameras. Something that the Broward County
7 schools for lots of reasons was unwilling to do
8 previous to that, to give the Broward Sheriff's
9 Office immediate access to their cameras,
10 basically for reasons of privacy. But a new
11 memorandum was reached because this was important
12 in times of response. We need immediate real-time
13 access to your cameras. Something that they were
14 not allowed to have by that other governmental
15 agency because they were concerned appropriately
16 -- Broward schools -- with their right of student
17 privacy.
18 And also Exhibit 25, Broward Sheriff's Office
19 implemented an app called a SaferWatch app so that
20 people could immediately respond, especially --
21 and it was promoted in the schools. Parents,
22 teachers, children, an app on their phone so one
23 click and they can immediately get a report of
24 activity. Things, by the way -- and the evidence
25 reflect that this gets rolled out. And months

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 radio system, couldn't communicate with Broward 74
2 Sheriff's Office, so they did a work-around with
3 that the evidence reflects.
4 And after the Marjory Stoneman Douglas
5 tragedy, Sheriff Israel did his best to emphasize
6 to the community at a time of really low morale.
7 The evidence is going to reflect that the Broward
8 Sheriff's Office was being beaten and beaten and
9 beaten by the national press for this tragedy.
10 Sheriff Israel, the evidence reflects, because he
11 is a leader of the community by election -- that's
12 part of his job is community responsibility -- try
13 to instill confidence in the people of Broward
14 County and those deputies that serve and protect,
15 instill the mantra and model for BSO that the
16 community should feel comfortable with law
17 enforcement and that deputies in the Broward
18 Sheriff's Office who are not going to be held
19 responsible without facts being developed.
20 But Broward Sheriff's Office, the evidence is
21 going to reflect -- and the sheriff didn't neglect
22 his duty in demonstrating competence but took
23 immediately lessons understood from the Marjory
24 Stoneman Douglas tragedy and immediately began
25 implementing those in reorienting training, in

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 after it gets rolled out, FDLE tells law 76
2 enforcement, "Oh, by the way, we've come up with
3 an app." And Broward Sheriff's Office says,
4 "We've been working on an app and have one rolled
5 out already. Why didn't you tell us you were
6 working on that?" FDLE hadn't told any law
7 enforcement agency that they were working on an
8 app post Marjory Stoneman Douglas. BSO and others
9 implemented the app on their own. That's the kind
10 of attention to duty and competence that the
11 people elected Sheriff Israel for.
12 When all is said and done in this trial, when
13 the Special Master has an opportunity to put it
14 all together to identify fact and standards, the
15 Special Master will have abundant evidence far
16 beyond a preponderance of the evidence that at all
17 relevant times when the people elected Sheriff
18 Israel to be their sheriff, they expected a
19 standard of competence and attention and he
20 fulfilled that standard of competence and
21 attention, he exercised his duties and it is for
22 the people of Broward County to decide who is
23 their elected sheriff. It is not for the governor
24 to, for reasons not based on fact, try to
25 implement a narrow constitutional provision to

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 take over the job of the electors in Broward
2 County. Thank you.
3 SPECIAL MASTER: Thank you, Mr. Kuehne.
4 What we're going to do is take a 10-minute
5 break and reconvene at 11:15.
6 Take about a 10-minute break. Thank you.
7 (Brief recess.)
8 SPECIAL MASTER: Let's reconvene. It is now
9 time for the case-in-chief of the governor's
10 office. Mr. Primrose.
11 MR. PRIMROSE: Special Master, just for
12 record purposes, all of our exhibits are entered
13 into the record, and at this point, we rest our
14 case.
15 SPECIAL MASTER: Thank you.
16 Now, the case-in-chief by the suspended
17 official, Mr. Kuehne or Mr. Kaplan.
18 MR. KUEHNE: Thank you, Special Master. To
19 the extent that there is an opportunity for any
20 equivalent to legal argument following the close
21 of the governor's case, I want an opportunity to
22 make that legal argument, but I would ask the
23 Special Master, to the extent you would allow
24 legal argument, to allow me to reserve, not waive,
25 any argument to the deficiency of the governor's

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Please state your name.
2 A. John D. Dale, D-A-I-E.
3 Q. Do you go by the name Jack Dale?
4 A. I do.
5 Q. Okay. Even though I misidentified you as
6 Jack Dale, your full name is John Dale?
7 A. Yes.
8 Q. And I can call you --
9 MR. KUEHNE: Special Master, do you prefer
10 that I use surnames or first name or it doesn't
11 matter when I address the witness?
12 SPECIAL MASTER: Surnames, please.
13 BY MR. KUEHNE:
14 Q. Mr. Dale, please tell us your professional
15 background.
16 A. I started law enforcement in 1989. I spent
17 22 years at the Fort Lauderdale Police Department at
18 the ranks of patrolman, detective, sergeant, captain,
19 and spent time that I was in charge of investigations,
20 I was the commander of internal affairs, I was a SWAT
21 team leader, trainer, narcotics detective, I worked
22 accreditation, worked internal affairs.
23 Q. How long did you work in -- in that capacity?
24 A. I worked for Fort Lauderdale Police for 22
25 years and two months.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 evidentiary presentation, but continue with mine.
2 SPECIAL MASTER: I'll allow you to do that in
3 your closing statement at the end of the
4 proceeding today or in the findings of fact and
5 conclusions of law that you offer up -- as we
6 proceed.
7 MR. KUEHNE: Yes, sir. To the extent that I
8 was a bit obtuse, in the event that this is going
9 to be considered by the Special Master in the
10 nature of an administrative hearing, the normal
11 requisites that come after the -- after the
12 prosecuting party finishes, I would make those
13 arguments in my closing and final argument.
14 SPECIAL MASTER: Okay, sir.
15 MR. KUEHNE: Sheriff Israel calls as his
16 first witness Jack Dale.
17 SPECIAL MASTER: Please remain standing for a
18 second. Please raise your right hand.
19 Do you swear or affirm the testimony you're
20 about to give will be the truth, the whole truth,
21 and nothing but the truth?
22 THE WITNESS: I do.
23 SPECIAL MASTER: Thank you.
24 DIRECT EXAMINATION
25 BY MR. KUEHNE:

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Okay. And what was your status at the end of
2 that 22 years?
3 A. Retired.
4 Q. So that is a law enforcement retirement with
5 full law enforcement and retirement benefits?
6 A. Yes.
7 Q. Following that retirement, did you maintain
8 your law enforcement credentials?
9 A. I did.
10 Q. In the 20 plus years you've mentioned, have
11 you always been a Florida certified law enforcement
12 officer?
13 A. I started a brief stint of a year with the
14 New Jersey Department of Corrections prior to Fort
15 Lauderdale PD.
16 Q. And did you in New Jersey comport with their
17 standards for credentialing as a sworn law enforcement
18 officer?
19 A. Yes.
20 Q. Then you moved to Florida. By the way, when
21 you made that move, was it automatic or did you have
22 to go through some process to be accredited as a
23 Florida sworn law enforcement officer?
24 A. I took the -- I went through a police academy
25 here in Florida.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Okay. From then through your retirement -- 81
2 "from then" meaning starting as a Florida law
3 enforcement officer through your retirement with Fort
4 Lauderdale, did you maintain all required training,
5 certifications, needed to be a law enforcement officer
6 in good standing?
7 A. I do. I still maintain the certification.
8 Q. Still to this day?
9 A. Yes.
10 Q. Tell us how your life moved after you retired
11 from the Fort Lauderdale Police Department.
12 A. I was retired, I believe, for a day or two,
13 and then I started with the Broward Sheriff's Office.
14 Q. Under which sheriff?
15 A. Under Sheriff Israel .
16 Q. So Sheriff Israel was sheriff, and you then
17 moved to obtain an appointment to the Broward
18 Sheriff's Office?
19 A. Correct.
20 Q. In what capacity?
21 A. I was brought on as a colonel of professional
22 standards, initially started in charge of internal
23 affairs, public corruption, internal audit, and the
24 training division, and then my role expanded as I
25 continued.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Police Department, Sheriff Israel was not with Fort 83
2 Lauderdale Police Department?
3 A. He was not.
4 Q. For how long a period of time before you
5 became BSO lieutenant -- sorry, BSO colonel -- did you
6 and Sheriff Israel not work together?
7 A. From the time that he retired from Fort
8 Lauderdale PD, went to North Bay Village, and then ran
9 for sheriff for the first time, and then four years
10 later successfully won in his second attempt.
11 Q. So quite a few years?
12 A. Yes.
13 Q. You got hired as colonel and you have those
14 responsibilities. Did you serve in that capacity as a
15 sworn law enforcement officer?
16 A. Yes.
17 Q. You could make arrests?
18 A. Correct.
19 Q. Conduct investigations?
20 A. Yes.
21 Q. Wear a gun?
22 A. Yes.
23 Q. Did you go through BSO trainings?
24 A. Yes.
25 Q. You mentioned that one of the agency --

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. So you started as a colonel in those areas, 82
2 and to the best of your knowledge, did you have the
3 knowledge, skill, and experience to execute those
4 responsibilities?
5 A. Yes.
6 Q. You knew Sheriff Israel prior to this
7 appointment as colonel?
8 A. Yes.
9 Q. In what capacity?
10 A. Professionally, going back to a time when I
11 was a detective, he was a sergeant, I was a street
12 narcotics detective, he was my sergeant, I was a SWAT
13 team leader, he was the commander of the SWAT team at
14 the time. So at different junctures of my career, I
15 worked for Sheriff Israel .
16 Q. Okay. Alongside him?
17 A. Never alongside, and usually it was a case
18 that he was a rank or two above me and I worked for
19 him.
20 Q. At the time of your retirement from Fort
21 Lauderdale Police Department, was Sheriff Israel in
22 any sort of command of you?
23 A. From the -- until I was employed by BSO, no,
24 he was a chief with the North Bay Village.
25 Q. Okay. So when you retired to Fort Lauderdale

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 strike that -- one of the units was training when you 84
2 started as colonel?
3 A. Yes.
4 Q. Describe for us what the training hierarchy
5 was at BSO when you first started.
6 A. The training division does more than just
7 training. It's the training not just for law
8 enforcement, but for all the civilian personnel,
9 detention, CPS investigators, civilian employees,
10 pretty much everybody except for the firefighters
11 and --
12 Q. And what year is this that you're starting as
13 colonel?
14 A. 2013.
15 Q. 2013, okay.
16 A. Training also encompasses accreditations,
17 staff inspections, and policy.
18 Q. Okay. And over time, did you come to be
19 aware of the accreditations held by the Broward
20 Sheriff's Office?
21 A. I did.
22 Q. Were they numerous?
23 A. At one point, there were 18 of them.
24 Q. Eighteen.
25 Now, were any of these accreditations of

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 which you were aware required by BSO to hold?

2 A. No, they're all -- well, there are some
3 accreditations that -- say in the instance of the
4 crime lab, in order to get grants, you may need to be
5 accredited in a certain way to receive the money. I
6 don't know of any state requirements that require you
7 to be certified or accredited -- I should say
8 accredited in any of those 18.

9 Q. Okay. And did BSO -- actually, let me go
10 back, Mr. Dale -- or Colonel Dale, and ask you to tell
11 us when you -- when you concluded your service with
12 BSO.

13 A. In -- earlier this year. I guess it was --

14 Q. January of 2019?

15 A. Correct.

16 Q. And was that coincident with the governor's
17 suspension of Sheriff Israel ?

18 A. It coincided with it, yes.

19 Q. Was there a reason you -- strike that.

20 Was your termination from BSO voluntary?

21 A. Yes. My separation, yes.

22 Q. Your separation. Your separation was
23 voluntary.

24 Is there a reason you separated from BSO?

25 A. I came in with Sheriff Israel under his

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. That's a national organization?

2 A. Yes. It's a national law enforcement
3 accreditation. They also hold accreditations for
4 communications and for detention, and we held those as
5 well.

6 Q. Okay. So CALEA, if I tell you it means
7 Commission on Accreditation for Law Enforcement
8 Agencies, C-A-L-E-A, does that sound right?

9 A. Yes.

10 Q. So BSO held CALEA certification, several. Is
11 that known as the gold standard of certifications?

12 A. It's been referred to that. We had -- by
13 having all three certifications, they would call it
14 like a triple crown. We had that accreditation or the
15 history of it for so long, that they gave us other
16 statuses like excelsior status, and then we would
17 always pick the most difficult of the accreditations
18 with the highest number of standards to conform to.
19 So in that regard, we were like a flagship agency for
20 CALEA.

21 Q. And did BSO also hold an accreditation as a
22 training facility?

23 A. Yes, through PDLE.

24 Q. An PDLE certification as a training facility?

25 A. Yes. There's, I think, forty something

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 administration and I was like one of his cabinet, and
2 it's traditional that when there's a changing of the
3 guard, that the top advisers normally go with him to
4 leave -- make room for the next administration to put
5 in place whoever they feel they want to fill those
6 roles.

7 Q. So you resigned with a sense of duty to the
8 agency and organization to allow the new leader to put
9 his team together or her team together?

10 A. Yes. I mean, if you choose to stay, then in
11 all likelihood, you're going to be asked to leave or
12 be removed, terminated. I feel like it was just
13 better to spare everyone that -- that exercise.

14 Q. Okay. So that's 2013 to 2019 that you served
15 in the BSO. You mentioned training. That included
16 certification. Did BSO in your tenure -- and your
17 tenure is coincident with Sheriff Israel's tenure as
18 sheriff, right?

19 A. Correct.

20 Q. Did BSO hold any accreditation from an agency
21 or organization known as CALEA, C-A-L-E-A?

22 A. We held several, yes.

23 Q. And what is CALEA?

24 A. CALEA, the commission -- or law enforcement
25 accrediting agency, I believe, something --

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 training facilities throughout the state of Florida
2 that have the certification, and it enables them to
3 teach law enforcement curriculum through the Criminal
4 Justice Standards Training Commission. We're one of
5 the few agencies that had that certification.

6 Q. I'm going to hand you two exhibits -- they're
7 already part of the record -- Exhibit 11 and Exhibit
8 12. Those are Bates Nos. Israel 377 and then Israel
9 378, and I'm representing to you that they're packets
10 of information that deal with BSO's accreditation, but
11 I want you to take a look at them.

12 MR. KUEHNE: May I hand them to the witness?

13 SPECIAL MASTER: Certainly may.

14 BY MR. KUEHNE:

15 Q. Colonel Dale, take a look at Israel Exhibit
16 11. It's a one-page sheet. Down at the bottom it's
17 got what's called a Bates number, Israel 377. Does
18 that appear to be a list of accreditations held by the
19 Broward Sheriff's Office?

20 A. Yes.

21 Q. And is CALEA the only accreditation on that
22 list?

23 A. No.

24 Q. What are some of the other accreditations?
25 You don't have to read them all, but give us an idea.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. In the area of law enforcement, it's CALEA ⁸⁹
2 and CFA, which is a state accrediting body.
3 Q. Okay.
4 A. In detention, ACA, which is American
5 Correctional Association; FCAC, Florida Correctional
6 Accreditation. There's a National Commission on
7 Correctional Health. Some of the other notable ones
8 in the crime lab were ASCLD (inaudible) lab. And
9 training, we have the Florida training standards and
10 training commission certification. Communications, we
11 have several. CALEA is another one for
12 communications, and fire holds several of them as
13 well.
14 Q. Was it a matter of BSO practice and policy
15 under Sheriff Israel to maintain and enhance these
16 certifications?
17 A. Yes. I mean, not only would we stay --
18 remain credited, but we looked to improve the
19 processes, complete staff inspections to make sure
20 that people were actually following the policy, and
21 look to reinforce policy wherever we could.
22 Q. Okay. You mentioned that among the
23 accreditations is detention or corrections. Did I
24 hear you correctly?
25 A. Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. We'll call it for reference Section 4.37 of ⁹¹
2 the standard operating procedures.
3 Is an active shooter policy required by the
4 FDLE for sheriffs' offices during the time you were
5 with the sheriff's office?
6 A. Not to my knowledge.
7 Q. Exhibit 12 is before you. It's Bates-stamped
8 Israel 378 and a bunch of pages after that. If you
9 flip through it, is that a compendium of various
10 Commission on Florida Law Enforcement Accreditation
11 called CFLEA, C-F-L-E-A, accreditations?
12 A. Exhibit 12, I have it as -- the first page is
13 a CALEA page.
14 Q. Okay. What else?
15 A. And a reaccreditation report from 2011.
16 Q. All right. Does it appear that that entire
17 exhibit deals with BSO certifications from both the
18 national organization and the Florida organization?
19 A. I see the CALEA, but I don't know if I see
20 CFA in here.
21 Q. Let me give you Exhibit 13.
22 MR. KUEHNE: May I hand the witness Exhibit
23 13, which starts at Israel 471?
24 SPECIAL MASTER: Yes. Please continue to
25 offer those to the witnesses without asking.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. And what role does the Broward sheriff have ⁹⁰
2 in corrections and detention?
3 A. Detention, we pretty much hold all
4 individuals that have been arrested throughout the
5 county and hold them while they await trial.
6 Q. That's running the jails?
7 A. Yes.
8 Q. And is that part of the law enforcement
9 function at BSO?
10 A. It's separate from it.
11 Q. Different division?
12 A. Yes.
13 Q. And is the sheriff responsible for that
14 division, the detention or corrections division?
15 A. Yes.
16 Q. You mentioned a couple other areas that you
17 were involved in when you first came in as colonel
18 before they expanded, and was one of them in the
19 policy area?
20 A. Policy kind of goes hand in hand with
21 accreditation. So I was involved with the -- I would
22 say the process for policy and policy review.
23 Q. Okay. Are you aware of BSO's active shooter
24 policy?
25 A. Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 MR. KUEHNE: Yes, sir. ⁹²
2 BY MR. KUEHNE:
3 Q. Is Exhibit -- what exhibit is that?
4 Thirteen?
5 A. Correct.
6 Q. Is Exhibit 13 a compilation of CFLEA,
7 Commission on Florida Law Enforcement Accreditation,
8 accreditations?
9 A. Yes.
10 Q. And those were all current during the time of
11 your tenure with the BSO?
12 A. Yes.
13 Q. You've mentioned your law enforcement status
14 and history, including your continued certification as
15 a law enforcement officer. For yourself, have you
16 gone through any trainings or training programs
17 outside of BSO?
18 A. Many, yes.
19 Q. Any on the national level?
20 A. Yes.
21 Q. Such as?
22 A. I'm a graduate of the FBI National Academy, a
23 graduate of the FBI National Executive Institute, a
24 graduate of the Police Executive Research Forum Senior
25 Management Institute for Policing.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Are these graduations and being graduates of ⁵³
2 various institutes required as a condition of being a
3 sworn law enforcement officer?
4 A. No.
5 Q. Are they required as a condition of being a
6 colonel in the BSO?
7 A. No.
8 Q. Did you use your participation in these
9 national trainings, some of which you've mentioned,
10 and work that information into the trainings and the
11 standards at BSO?
12 A. Yeah, by attending these trainings,
13 conferences, you're doing your best to stay abreast of
14 changes in law enforcement, make sure that you're
15 doing what is the industry standard, and it puts on
16 the horizon things that are relevant to today's
17 policing, and you're looking to try and stay abreast
18 of those changes so that they're implemented in your
19 agency.
20 Q. Okay. And while you were with BSO, did you
21 make every attempt to have the agency achieve that
22 level of not just meeting professional standards, but
23 exceeding them?
24 A. Yes, absolutely.
25 Q. You mentioned that over time, your duties

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 of different job classifications we had. Well over a ⁹⁵
2 hundred. So there's a lot of different diversity and
3 services that are delivered at the agency.
4 Q. Were the sworn deputies at BSO part of any
5 organized labor union?
6 A. Yes.
7 Q. And was there a collective bargaining
8 agreement with that labor union?
9 A. More than one, yes.
10 Q. More than one. So multiple labor unions for
11 different sworn law enforcement officers?
12 A. Yes.
13 Q. And did you participate in any of the
14 negotiations for those collective bargaining
15 agreements?
16 A. Intermittently. I just sat in as -- I had --
17 HR was one of my divisions, so --
18 Q. And did those collective bargaining
19 agreements include in some measure dealing with sworn
20 law enforcement officers for disciplinary purposes?
21 A. I was the final decision-maker for all
22 discipline at Broward Sheriff's Office. So I would --
23 I had internal affairs and I would -- my personnel
24 would manage the processes to make sure everyone was
25 given their due process, and I would make the final

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 expanded. Can you explain that? ⁹⁴
2 A. Eventually, I also was the -- I also took on
3 multiple departments at one time. I had the
4 Department of Administration, which includes budget,
5 finance, fleet, IT, grants, purchasing. And then I
6 also took on Department of Investigations, which is
7 criminal investigations, special investigations, CPS,
8 and crime lab.
9 Q. So in those capacities, you dealt with more
10 than just the sworn law enforcement officers?
11 A. Yes. I basically split the operation with
12 Colonel Kinsey.
13 Q. Okay. In your time with BSO, how many staff
14 members or employees were under the auspices of
15 Sheriff Israel ?
16 A. We were budgeted for 5,600.
17 Q. 5,600 people?
18 A. Correct.
19 Q. Fair to say that that agency had a number of
20 divisions, some related to law enforcement, some not?
21 A. Very diverse with number of contracts, seven
22 different collective bargaining agreements. So we
23 dealt with different unions, many different positions.
24 I know in just one union, there were 85 job positions
25 in just the one union. So I can't tell you the number

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 decision and be the agency witness for arbitrations. ⁹⁶
2 Q. Fair to say under the BSO practice and as you
3 understood the law applicable to the BSO, the sheriff
4 could not on a whim just fire somebody who was a sworn
5 law enforcement officer?
6 A. No -- well, we have a police officer bill of
7 rights in the State of Florida, so there's statutory
8 protections for officers, plus the contract and case
9 law. So there's a --
10 Q. So the statutory protection, a statute passed
11 by the legislature, signed by the governor, and
12 becoming the law in the State of Florida provided
13 sworn law enforcement officers with certain rights
14 regarding their employment status?
15 A. Yeah. It's actually called the law
16 enforcement bill of rights.
17 Q. Bill of rights.
18 And was it your understanding that that
19 statute impacted the power of the elected sheriff to
20 just get rid of somebody if for some reason he wanted
21 to?
22 A. No, you have to -- you would have to follow
23 -- if you don't, there's actually provisions for
24 penalties for not following it, so you're bound --
25 Q. Did, as far as you know, the BSO do its best

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 to comport with the police officers' bill of rights in⁹⁷
2 all respects?

3 A. Yes.

4 Q. I want to ask you about the development of
5 Section 4.37, the active shooter policy at the BSO.
6 You mentioned you're involved in the development of
7 policies at BSO?

8 A. I would say when you're in charge of
9 accreditation in the policy division, you're really
10 the mechanism that brings about the review of it. It
11 then becomes the individual divisions that are
12 responsible for those areas to feed the content, and
13 we just provide the framework to make sure that it's
14 reviewed and put out.

15 Q. At the BSO, when significant policy changes
16 were made, did the office have involvement by the
17 general counsel at the agency?

18 A. Yes.

19 Q. Who was the general counsel at BSO during the
20 time that you served?

21 A. Ron Gunzburger.

22 Q. Ron Gunzburger. Licensed lawyer?

23 A. Yes.

24 Q. And he served as the general counsel to the
25 Broward Sheriff's Office?

1 protocol is to review what's out there nationally, as⁹⁹
2 well as in the State of Florida?

3 A. Typically, if there's a policy that requires
4 a substantial change or some emerging trend, we will
5 pull policy. Through the accrediting bodies, we would
6 request policy from other agencies, and we typically
7 get a sizable response. It would be the
8 accreditation's job to kind of go through and see
9 where the commonalities lie, and we would try and pick
10 the best parts of every policy and implement them with
11 us.

12 Q. When a policy is implemented in the law
13 enforcement category, so a law enforcement department
14 policy, is training made on that policy?

15 A. Training's involved in it, yes.

16 Q. Okay. And when a policy change is made, is
17 there some involvement at your level to make certain
18 the training is consistent with that policy?

19 A. It would be the job of the person in charge
20 of training to make sure that the lesson plans or the
21 people who are dispensed in training are doing so in a
22 manner that's consistent with the policy.

23 Q. Did the State of Florida have any requirement
24 for a sheriff's office to implement an active shooter
25 policy at any time you were with BSO?

1 A. Yes.

2 Q. And did that include, as far as your
3 involvement goes, participating in significant reviews
4 of policy and standards changes?

5 A. Yes.

6 Q. Section 4.37, the active shooter policy, went
7 through a number of changes and modifications while
8 you were with BSO, correct?

9 A. I believe so, yes.

10 Q. And in all those steps, was general counsel
11 involved?

12 A. In every policy that goes out, it first goes
13 out to all the subject matter experts. They weigh in
14 through their chains of command. We take input from
15 all the stakeholders in policy, and then we
16 incorporate it and bring it forth in a group meeting,
17 and in that meeting we basically come to a consensus,
18 and included in that meeting is general counsel.

19 Q. Okay.

20 A. They've also already weighed in from a legal
21 standpoint to make sure that policy doesn't conflict
22 with law or a collective bargaining agreement,
23 something to that effect.

24 Q. Is it your understanding that when BSO
25 reviews or changes or implements a policy, that the

1 A. It's not an FDLE mandate, no.

2 Q. Did the State of Florida have any requirement
3 that deputies, law enforcement officers, be trained in
4 active shooter policy or practice?

5 A. It's not required to maintain a law
6 enforcement certification, no.

7 Q. Did BSO have a requirement for active shooter
8 training for all law enforcement officers?

9 A. We had an active shooter program, yes, that
10 deputies would go through, and it was active shooter
11 and also the components of active shooter, like rescue
12 task force. And then even in regular firearms
13 classes, rifle refreshers, aspects of active shooter
14 were incorporated into those classes as well.

15 Q. Let me follow up with that a little bit. Did
16 BSO have an educational training called active
17 shooter?

18 A. We had a lesson plan for active shooter.

19 Q. Lesson plan, okay. So that's the word,
20 "lesson plan."

21 And is it your testimony that principles of
22 active shooter are also imbued in other lesson plans
23 and other trainings?

24 A. Absolutely, yes.

25 Q. Such as?

1 A. One, if you're responding to an active 101
2 shooter and they're shooting inside of a building, you
3 would have to know how to clear a building. So
4 there's a building-clearing class, so someone who can
5 tactically move through a structure and rooms,
6 stairwells, and that would be one part of it.
7 Rescue task force involves the usage of
8 hemostatic bandages, tourniquets, to treat wounded,
9 to -- and move as a team, to extricate wounded, set up
10 casualty collection points. That's another facet.
11 It's just -- it's not all put into one encompassing
12 active shooter class. It's parsed out into smaller
13 segments and we do what we call chunking. They put it
14 in smaller segments so that it's easier to digest, and
15 it's not just one, long, boring class, it's smaller
16 classes given more frequently to try and aid in
17 retention.
18 Q. Did BSO mandate training in addition to the
19 required FDLE minimum trainings?
20 A. Yes, we -- much more training than is
21 required by FDLE.
22 Q. How many sworn law enforcement officers are
23 in BSO?
24 A. I believe in Department of Law Enforcement,
25 there's approximately somewhere around 1,500, and in
FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 least one of the larger ones in the state of Florida? 103
2 A. We're one of the largest in the nation.
3 We're part of --
4 Q. Largest in the nation?
5 A. Yes.
6 Q. And is -- during your tenure, is BSO looked
7 at by other agencies around the country and national
8 organizations around the country as models for some
9 law enforcement policies?
10 A. We're frequently contacted to provide subject
11 matter experts for FDLE certifications, for training
12 curriculum. Our policies are requested, and we -- a
13 number of BSO individuals serve on boards. I served
14 on one for IACP, International Association of Chiefs
15 of Police. There are other people who did the same in
16 different capacities. So, yes, we shared a lot of
17 what we had at BSO with others throughout the country.
18 Q. And BSO received some international
19 recognition by the International Association of Chiefs
20 of Police while you were with BSO?
21 A. Yes.
22 Q. That's IACP?
23 A. Correct.
24 Q. That's an international law enforcement
25 organization?
FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 detention, there was somewhere around 1,300. 102
2 Q. So 1,500 and 1,300, twenty -- about 28,000 --
3 slightly less than 2,800 -- slightly less than 3,000
4 in the law enforcement function?
5 A. Yes, both maintaining -- now, the 1,500 and
6 the 1,300 have -- in detention, law enforcement, while
7 they're certified, they have different FDLE mandates.
8 So there's two separate tracks that happen to -- and
9 some of them are cross-trained, so they would have to
10 actually fulfill law enforcement as well.
11 Q. With the sworn and credentialed law
12 enforcement officers, so the deputies -- about 1,500
13 you said?
14 A. Yes.
15 Q. How does that compare to municipalities in
16 Broward County?
17 A. It's much larger. The second-largest agency
18 would be Fort Lauderdale with just over 500.
19 Q. And how does that number compare to sheriffs'
20 offices in the state of Florida?
21 A. We're one of the largest.
22 Q. Miami-Dade County is larger, but,
23 technically, it's not a sheriff's office?
24 A. Correct.
25 Q. So as far as sheriff's office goes, BSO is at
FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. Yes. 104
2 Q. So you mentioned that some components of
3 active shooter training are worked into different
4 trainings even if they're not called, quote, active
5 shooter, or, quote, active killer training?
6 A. Absolutely. If you're -- you know, to
7 respond to an active shooter, you have to be
8 proficient in your firearms, so firearms training
9 encompasses those skills that are necessary to respond
10 to an active shooter, and then the tactics, as you
11 respond, everything from the moment that you get there
12 to the moment you contact someone and put handcuffs on
13 them, they all are hard skills that have to be taught
14 to a deputy from handcuffing to shooting to weapon
15 retention, building clearing, use of flashlights, it
16 doesn't matter what it is, radio communications,
17 incident command, I mean, there are a lot of skills
18 that go into -- it's a complicated response and it's
19 not just simply one class that imparts all those
20 skills.
21 Q. And is it your understanding that the series
22 of trainings and the way BSO does it is over and above
23 the requirements by the State of Florida?
24 A. Yes, absolutely.
25 Q. Is every sworn law enforcement officer at
FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 BSO, no matter what their job description or function ¹⁰⁵
2 or title or rank, required to maintain the standards
3 of a law enforcement officer?
4 A. Every one of them has to be certified in the
5 State of Florida. They have to maintain that
6 certification. Otherwise, they -- if they -- if it
7 lapses in any way, they'll be taken off the road.
8 They need it to perform the job.
9 Q. So you are a colonel. Fair to say in many
10 respects, you handled administrative things?
11 A. Absolutely, yes.
12 Q. And is a road patrol deputy sort of the first
13 line of interaction with law enforcement, people who
14 drive the cars and go around --
15 A. The boots on the ground, yes.
16 Q. Boots on the ground.
17 So you're required to have the same Florida
18 training requirements as a road patrol deputy --
19 A. Yes.
20 Q. -- if you want to keep your credential?
21 A. Correct.
22 Q. Is there any part of the BSO where somebody
23 is a credentialed law enforcement officer where
24 they're not held responsible for law enforcement?
25 A. Not that I'm aware of.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. And is that usually by contract, there's a ¹⁰⁷
2 contract with the school board or a municipality that
3 runs a charter school to handle SRO responsibilities?
4 A. I would only know it from the administration
5 side and the fact that we received some funding, not
6 for the full amount of the position, but the actual
7 operational side of it wasn't under my supervision.
8 Q. Was any SRO at any time you were there not
9 trained for and capable of serving as a road patrol
10 deputy?
11 A. They would all have the same certification.
12 Q. I'm going to hand you Israel Exhibit 1. It
13 starts off with the Bates No. Israel 1. It's the 4.37
14 policy on active shooter effective March 28, 2016, and
15 it's the policy in effect at the time of the Fort
16 Lauderdale airport shooting and the Marjory Stoneman
17 Douglas massacre.
18 A. Okay.
19 SPECIAL MASTER: Mr. Kuehne, that's Exhibit
20 1?
21 MR. KUEHNE: Exhibit 1, Yes, Israel Exhibit
22 1.
23 BY MR. KUEHNE:
24 Q. So take -- you're familiar with that policy?
25 A. Somewhat, yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. For example, an SRO, school resource officer. ¹⁰⁶
2 That's a sworn law enforcement officer?
3 A. Yes.
4 Q. Same state requirements --
5 A. Yes.
6 Q. -- as you are required to maintain?
7 A. Yes.
8 Q. Ability to carry a gun, drive around in a
9 police car if that's their assignment?
10 A. Yes.
11 Q. Are SROs made available for movement to other
12 assignments if the need arises?
13 A. They're interchangeable. An SRO can be taken
14 out of a school and work a shift. He has the same
15 certification to do so.
16 Q. Does the BSO -- strike that.
17 In your position as colonel, were you aware
18 of the SRO, school resource officer?
19 A. I'm aware of the program. It didn't fall
20 under me, but I was aware of it.
21 Q. There's actually a coordinator for SROs in
22 the -- in Broward Sheriff's Office?
23 A. Yes.
24 Q. And SROs are assigned to schools, right?
25 A. Correct.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Actually post Marjorie Stoneman Douglas, ¹⁰⁸
2 you've looked at that policy more times than you can
3 count?
4 A. Yeah. I don't know it by heart, but, yeah,
5 I've read it a couple more times since then, yes.
6 Q. Okay. Go to the -- you can look at any part
7 of it, but go to the next page, Section C. It's right
8 at the top, Section C. Read that. That's the -- I'm
9 going to preface it by saying that's the "may"
10 language that has been featured in the governor's
11 suspension. So read that for us.
12 A. "If real-time intelligence exists, the sole
13 deputy or team of deputies may enter the area or
14 structure to preserve life. A supervisor's approval
15 or on-site observation is not required for this
16 decision."
17 Q. Were deputies at BSO trained on that policy?
18 A. When policy is distributed, it's -- everyone
19 is supposed to sign for the policy, meaning that they
20 looked at it, read it, and reviewed it.
21 Q. So BSO kept records of every deputy who
22 attended training on that active shooter policy?
23 A. Yes.
24 Q. And were the trainers for the active shooter
25 training given instructions on how to develop lesson

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 plans to implement that policy? 109
2 A. I'd have to assume so. It would be at a much
3 lower level than at my rank, but they would make sure
4 that the policy is consistent -- the training is
5 consistent with policy and that they don't conflict in
6 any way.
7 Q. I want you to think to the time when you went
8 through active shooter training at BSO, okay? There
9 was a time when that happened, right?
10 A. Yes.
11 Q. And was any part of your training focused on
12 the three goals of active shooter, to eliminate,
13 surrender, or arrest as the goal of the active shooter
14 policy?
15 A. Yes.
16 Q. That was the policy?
17 A. That was what was in training, yes.
18 Q. Okay. Was there any part of the training
19 that told officers you really don't have to go in and
20 arrest, eliminate, or obtain the surrender?
21 A. Absolutely not.
22 Q. I want to move to January of 2017, January
23 6th of 2017, the Fort Lauderdale airport shooting.
24 You're familiar with that?
25 A. Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 scene, and at some point there became -- there wasn't 111
2 a lot of information, but a concern that it could be
3 terrorist related, and if that were the case, then the
4 better option was to let FBI be the lead in case it
5 went into that direction. So we took a support role
6 at that point.
7 Q. In that support role, was there any conflict
8 or difficulty in working with the FBI?
9 A. No. We work very well with the FBI.
10 Q. On the scene at the Fort Lauderdale airport
11 that day, were other law enforcement agencies involved
12 as well?
13 A. Well, a number of law enforcement agencies
14 descended on the airport. Some -- some just showed
15 up. Some were already there for other duties within
16 the airport and were there to assist. Other local
17 agencies showed up as well. So, yes, there was a mass
18 number of law enforcement agencies there. Some had
19 formal responsibility. Some were just there to try
20 and assist in some way.
21 Q. Is the terminology in law enforcement circles
22 "self reporting" or "self assignment" when a law
23 enforcement officer comes to offer assistance to a
24 scene?
25 A. Yes. You get a number of people who just

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. Did you have a role in that? 110
2 A. I was in charge of investigations during that
3 time period.
4 Q. Did you have any on-the-scene involvement
5 with the Fort Lauderdale airport shooting?
6 A. Yes. I arrived on scene within the first
7 hour, probably somewhere maybe after 30 minutes, and
8 responded to the actual crime scene and looked to make
9 sure that everything was being covered from an
10 investigative standpoint.
11 Q. Okay. The crime scene you understood to be a
12 portion of Terminal 2 baggage area where the shooter
13 murdered people?
14 A. Yes.
15 Q. And was apprehended by Deputy Madrigal?
16 A. Yes.
17 Q. And you understood the apprehension was in 72
18 seconds?
19 A. Yeah, I've heard different numbers on the
20 seconds, but, yeah, around 80 seconds-ish, somewhere
21 in there.
22 Q. Did there come a time when you were there
23 that BSO became the secondary investigating agency and
24 the FBI took over as primary?
25 A. Yes. We were investigating it as a homicide

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 respond thinking, okay, I'll get there and I'll help 112
2 in some way.
3 Q. Sort of in the nature of being a law
4 enforcement officer --
5 A. I think so.
6 Q. -- and preserve and protect?
7 A. Yes.
8 Q. Was there a command center or tactical
9 operation center set up at the airport?
10 A. There was a command center that assembled
11 right outside the crime scene in baggage claim area is
12 where I responded and met with members of the FBI and
13 other command members of BSO where we handled the
14 crime scene itself.
15 Q. All right. And was there a place set up that
16 was able to coordinate the law enforcement command or
17 leadership that responded to the scene?
18 A. Yeah, as the -- as an event evolves and it
19 grows, a mobile command was brought in so that we had
20 another position to operate from. The airport set up
21 their EOC, we set up an EOC, and the sheriff's
22 office --
23 Q. Let's explain some of these initials. EOC?
24 A. An emergency operations center.
25 Q. So the airport sets up an EOC, an emergency

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 operations center? Yes?

2 A. They had their own, yes.

3 Q. They had their own.

4 You're aware that the airport is part of the

5 Broward County as a governmental entity, right?

6 A. It's a -- I guess a subdivision. BCAD is how

7 I hear it termed.

8 Q. B-C-A-D, Broward County Aviation Division?

9 A. Correct.

10 Q. And that's the government agency in charge of

11 the airport, as you understood it?

12 A. Yes. They contract us to provide police

13 services.

14 Q. So Broward sheriff is contracted with the

15 BCAD to be the law enforcement agency on site?

16 A. Correct.

17 Q. And do you participate in those negotiations

18 between the Broward County and the BSO?

19 A. I did not, no.

20 Q. But you're aware there was a contract?

21 A. Yes.

22 Q. So if I -- if I pointed out the contract in

23 the exhibits and showed it to you, you would not have

24 any familiarity with the specifics?

25 A. I just know the general mechanisms that we

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. And it's your understanding that the staffing¹¹⁵

2 levels -- the BSO staffing levels at the airport are

3 set by BCAD in its contractual relationship with

4 Broward?

5 A. Yeah, in all contracts, there's -- our budget

6 is kept separate. There's a contract side of it and

7 there's a regional side of it. The regional are the

8 things that a sheriff must do, and they're provided

9 for by the taxpayers. The contracts are separate, and

10 we painstakingly attempt to make sure that no taxpayer

11 money is used to supplement a contract. So --

12 Q. So the BCAD contract with BSO sets the number

13 of personnel who are contractually obligated to be at

14 the airport?

15 A. Correct.

16 Q. It's not a decision by the sheriff one day to

17 say "Let me cut the staff in half"?

18 A. It's entirely contingent upon the funding

19 that's provided by the contractor.

20 Q. And that's with Broward County, a county

21 constitutional governmental agency?

22 A. Yes.

23 Q. You were mentioning that you're at the

24 airport, investigations, a mobile command center is

25 set up, there's an executive emergency operations

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 meet with a contractor, whether it be a city or BCAD,

2 and it's between BCAD and the operational side of the

3 house that determines staffing levels and the details

4 of how the contract to be carried out and the pricing.

5 Q. I'm moving a little bit ahead, but since you

6 mentioned that, you're aware that after the Fort

7 Lauderdale shooting was fully resolved, that BSO

8 initiated an after-action report process?

9 A. Yes, I'm aware.

10 Q. Are you aware of the process of developing

11 after-action reports for large-scale incidents?

12 A. An incident like that was kind of historic.

13 So I wouldn't say that there was a template for

14 conducting that type an event, not just the shooting,

15 but all what occurred after the shooting, which was in

16 a lot of ways not directly connected. We place

17 someone in charge of doing that and they started to

18 assemble a draft.

19 Q. Okay. Was the development of an after-action

20 report under BSO practice intended to be a fairly

21 complicated and comprehensive affair?

22 A. It was intended to be one that brought in all

23 the stakeholders, all the people who responded, and

24 make sure that it was -- it was fully vetted and

25 encompassed all the operations of BSO.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 center set up by BCAD. Was there any inability of BSO¹¹⁶

2 to work with BCAD that day?

3 A. There was -- there were some communication

4 issues that -- with them having their separate EOC

5 from ours, but once we established or we placed

6 someone from BCAD or the decision-making authority

7 into our command structure, we were able to resolve

8 all those issues.

9 Q. Now, prior to -- prior to the Fort Lauderdale

10 airport shooting, there was a -- a joint real-time

11 exercise called Operation Vigilant Port at both the

12 airport and the seaport?

13 A. It wouldn't have involved me.

14 Q. So you're there, BSO is the lead, then FBI

15 takes over as lead and you're cooperating with the

16 FBI?

17 A. Yes.

18 Q. Did there come a time when a decision was

19 made to shut down the entire airport, all terminals,

20 all everything?

21 A. Yes.

22 Q. Did the FBI have a role in that?

23 A. I would say that they had input, but I don't

24 know who exactly gave the order. I mean, I guess

25 everyone thinks that at some point they simultaneously

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 had the same idea and they gave the order, but when we¹¹⁷
2 started getting reports of other -- of shots fired
3 throughout the airport, the concern immediately became
4 is this potentially a concerted attack on the airport.
5 And unknown to us, BCAD still had the rest of the
6 airport fully operational. So as far as I know,
7 they're the only ones that can actually shut it down.
8 So we requested that of them, and they assisted by
9 doing so.

10 Q. And you're not an aviation specialist, are
11 you?

12 A. No.

13 Q. But you know that the federal government has
14 some involvement in the operation of airports?

15 A. I assume so, yes.

16 Q. You just assume that, okay.

17 But at some point, a decision was made, shut
18 down the entire airport?

19 A. Yeah, for the -- just for the practicality of
20 public safety. We had people evacuating onto the
21 runways and the taxiway areas, so it was not an
22 environment conducive for landing airplanes.

23 Q. Now, in your experience and based on your
24 knowledge of active shooter incidents and training and
25 large-scale public accommodation situations -- let me

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 that are occurring throughout the airport, and it¹¹⁹
2 required that we shut the entire airport down,
3 evacuate it, and then clear it with tactical teams.
4 So the clearing of the airport structures alone took
5 several hours, and it took the coordination of 18 SWAT
6 teams to accomplish that.

7 Q. Not just BSO SWAT teams?

8 A. No. Eighteen total SWAT teams were used to
9 coordinate -- coordinated the tactical operations
10 center, were used to clear all -- not just all the
11 parking structures, but then each terminal
12 systematically until we had cleared the entire
13 airport.

14 Q. And BSO assisted in that process?

15 A. BSO ran and managed the process using all the
16 responding agencies.

17 Q. And were you able to move tens of thousands
18 of people off the airport proper?

19 A. Yeah, there were -- we were not aware of any
20 plan by the airport to evacuate that number of people,
21 and a plan was devised to bring buses in and we
22 secured a location at the port to -- basically as a
23 holding site to bring passengers to, and they were all
24 bused from the airport to the port and held there
25 until they could be reunited with family members or

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

118
1 ask it this way. Is there a recognition in national
2 models that active shooter situations in public
3 accommodation locations tend to have additional issues
4 and concerns?

5 A. I only know by reading other active shooter
6 events. You learn something in each one of them. One
7 common theme is that there are all these phantom
8 issues that appear. It's happened in other airport
9 events, some even without shots being fired, mass
10 evacuations. So it takes very little, I think, to
11 start the stampede.

12 Q. And does BSO in its training and
13 implementation attempt to work with that, as you call
14 it, stampede, the other effects of an active shooter
15 situation?

16 A. You do your best to adapt to whatever is
17 being thrown at you, and there are just some things
18 that you could never anticipate occurring that occur.

19 Q. And did BSO actively and aggressively work to
20 manage the mass of people who were at the airport?

21 A. Absolutely. We were presented with a very
22 challenging situation. You have -- I think it's the
23 23rd largest airport in the United States, it's
24 packed, and you have a shooting event, and then you
25 have all these splinter -- call them phantom events

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

120
1 make other accommodations.

2 Q. And as far as you know, during that effort to
3 evacuate all those civilians, were there any deaths
4 that resulted?

5 A. No.

6 Q. Were there any serious emergency 911
7 hospitalizations that resulted?

8 A. Not that I'm aware of.

9 Q. 20,000 people were able to be moved off the
10 airport safely and without injury?

11 A. Not just the airport. I think at one point I
12 was told that we had 24 airplanes still loaded on
13 taxiways and different parts of the property, so they
14 had to be brought in and unloaded and evacuated as
15 well.

16 Q. And BSO assisted in the evacuation of people
17 actually on planes?

18 A. Yes.

19 Q. Since the Fort Lauderdale incident -- I'll
20 get back to it in a minute, but since then, have you
21 had occasion to make presentations to other law
22 enforcement organizations about the response?

23 A. I gave a presentation, National Sheriffs'
24 Association, on the airport shooting.

25 Q. The National Sheriffs' Association. That

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1 sounds like a big group. 121
2 A. Yes. Well, it's -- the Major County
3 Sheriffs' Association was the presentation. It's for
4 the -- I think the 29 largest sheriffs' offices in the
5 country.
6 Q. And were you, the BSO, asked to assist in
7 making this presentation?
8 A. Yes.
9 Q. Was it because BSO was deemed incompetent or
10 neglected its duties in any aspect of the airport
11 shooting?
12 A. No. The purpose was -- is that it's an event
13 that can affect other major sheriffs and the
14 circumstances of event are not something that one
15 would predict and everyone's eager to learn about it
16 so that they can try and prepare in some way for a
17 similar event in their jurisdiction and learn from it.
18 Q. Is it your understanding from that
19 presentation and other knowledge you've gathered, that
20 the BSO coordinated response with the FBI and all
21 these other agencies is viewed by law enforcement
22 around the country as a model for how you deal with
23 something like this in a mass public accommodation
24 situation?
25 A. I've received -- you know, my contacts with

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1 believe it may have been before my time though -- 123
2 Q. Okay.
3 A. -- at BSO.
4 Q. How about -- how about the Las Vegas hotel
5 shooting?
6 A. Yes, extensively Las Vegas.
7 Q. How about the Pulse shooting just up -- down
8 the street -- up the street from Fort Lauderdale in
9 Orlando?
10 A. Yes.
11 Q. Is that something that BSO looked at,
12 reviewed, and tried to make certain it learned from
13 that tragedy?
14 A. Looked at not just everything that came out,
15 but we've -- I mean, a large number of us have
16 attended presentations by people who were actually
17 involved in the events to try and learn more.
18 Q. When you say "attend presentations," you
19 attend or give this national sheriffs' presentation.
20 Does anything that you do or you learn at those
21 presentations get pushed down by you into the Broward
22 Sheriff's Office?
23 A. Yes.
24 Q. You don't just retain it in your own head and
25 keep it secret knowledge?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 the other sheriffs that -- just at the major county 122
2 sheriffs, some who I know personally and who have
3 handled their own situations, were very -- not just
4 impressed, but were astounded by the number of things
5 that were thrown at first responders during that
6 event.
7 Q. "First responders" meaning law enforcement
8 officers --
9 A. Yes.
10 Q. -- and fire rescue people?
11 A. Yeah, the whole gamut.
12 Q. Now, to preface this area of questioning, the
13 governor has commented that I think in 2016 there was
14 the Los Angeles airport shooting. Are you familiar
15 with that event --
16 A. A little bit, yes.
17 Q. -- the Los Angeles airport?
18 As a BSO command rank officer, did BSO
19 attempt to learn from incidents and responses not
20 involving BSO?
21 A. Certainly, yes.
22 Q. So, for example, Los Angeles airport
23 shooting, is that something that was known to and
24 reviewed by the BSO personnel?
25 A. I don't know what year that it happened. I

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. No, no, we -- you look at where you may be 124
2 vulnerable, and you try and improve upon those areas.
3 Q. And is that process of reviewing and
4 improvement a constant, in your opinion, at BSO?
5 A. It's never ending. I mean, the profession
6 constantly evolves. You are constantly dealing with
7 new, emerging threats, and you have to try and find
8 ways to effectively deal with them.
9 Q. In many circles, 9/11 is considered the most
10 impactful terrorist tragedy of all. Fair to say?
11 A. Yes.
12 Q. Since 9/11, has BSO, as far as you know, and
13 other law enforcement officers studied ways to improve
14 responses to terrorist attacks?
15 A. Yes.
16 Q. The massive panic of civilians?
17 A. I'm sure to some degree.
18 Q. And are you aware up to today, besides the
19 governor claiming that the response to the Fort
20 Lauderdale shooting evinced negligence and
21 incompetence on the part of the sheriff, are you aware
22 of anybody in an agency, in an organization, in a law
23 enforcement circle, that have characterized the police
24 response to the Fort Lauderdale shooting in any way
25 other than positive?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. Yeah, to the exact contrary. The response 125
2 has been overwhelming that that many officers could
3 respond to a location and involve that many civilians
4 in that large of an area and in roughly 12 to 13 hours
5 clear an entire airport, all of its parking
6 facilities, evacuate fifteen to twenty thousand
7 people, and have it up and running the next day. So I
8 left -- I was there, I know he wasn't there, but I was
9 there, and I was proud of everybody that day.
10 Q. Now, following that shooting and the
11 aftermath, you mentioned that after-action report gets
12 done and ultimately it results in a final report, a
13 critical action report?
14 A. Yes.
15 Q. Is it your understanding that the process of
16 getting to a final report was complicated, involved
17 numerous hands, and lots of people responsible for it?
18 A. There's so many different facets to the
19 response that it's -- no one person can be that
20 knowledgeable to know everything about how to properly
21 handle an event like that. But someone has to put it
22 together, and I guess you eat the elephant one bite at
23 a time. You start putting it together and you
24 start -- keep reviewing it to see if the claims or the
25 opinions of people that have written parts of that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 report? 127
2 A. I don't remember him giving any input into
3 the report at all.
4 Q. How about direction to the writers to make
5 sure they made the sheriff's office look good?
6 A. No, absolutely not.
7 Q. In the final report, the critical incident
8 report, are there criticisms of the Broward Sheriff's
9 Office in that report?
10 A. It's a lessons learned. It's by design meant
11 to try and pick out things that could be done
12 differently and improved upon in the future, so yes.
13 Q. Is that what you understand in BSO parlance
14 to be an opportunity for improvement, OFI?
15 A. Yeah, it's -- the purpose of an after-action
16 is to try and find those opportunities. It's not
17 to -- it's not to cast blame. It's to try and make
18 the response better for the next time.
19 Q. Post Fort Lauderdale airport shooting, did
20 BSO incorporate lessons learned into its training and
21 practice?
22 A. You have to talk to the actual -- the
23 training division to get the details of that --
24 Q. Okay.
25 A. -- yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 report, if they're valid or not. 126
2 Q. Is it your understanding that Undersheriff
3 Kinsey was the final author and sign-off on that
4 critical incident report, the final report?
5 A. I believe so. I know I wasn't the final
6 signer, so it would either be Kinsey or the sheriff.
7 Q. You're command staff at the time of the Fort
8 Lauderdale airport shooting? You're considered
9 command staff?
10 A. Yes.
11 Q. Undersheriff is command staff, that's the No.
12 2 sort of?
13 A. One of the No. 2s, yes.
14 Q. One of the No. 2s.
15 Who else generally is considered command
16 staff?
17 A. I mean, in the broad sense, you know, all the
18 way down to a captain, they would be considered
19 command staff.
20 Q. Okay. Is there any part of the development
21 of the Fort Lauderdale after-action report into the
22 critical incident report, the final, that to your
23 knowledge involved Sheriff Israel putting his finger
24 on the thumb, demanding that certain things be
25 included or excluded, or in any way fashioning that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. I want to move now to the second incident 128
2 that I mentioned, the Marjory Stoneman Douglas High
3 School shooting, February 14, 2018. You know the
4 incident?
5 A. Yes.
6 Q. Did you have any involvement in law
7 enforcement of the incident?
8 A. Again, I responded and assumed control of the
9 investigative side of the response.
10 Q. And Marjory Stoneman Douglas had an SRO
11 assigned to that school --
12 A. Correct.
13 Q. -- right?
14 That is former Deputy Peterson?
15 A. Yes.
16 Q. Did you know former Deputy Peterson before
17 his name became infamous?
18 A. Not personally. I had seen him at the school
19 before, but we had never had a conversation before
20 that day.
21 Q. You had understood he was a long-serving law
22 enforcement officer?
23 A. I knew he had been there for a long time,
24 yes.
25 Q. Is there any part of what you knew about him

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1 or having seen him at the school that caused you to 129
2 think that he was unfit to be a law enforcement
3 officer?
4 A. No.
5 Q. Did he look grossly overweight and out of
6 shape and you wonder how could this guy be a cop?
7 A. No.
8 Q. Did you understand that he as an SRO had to
9 go through all the trainings that any law enforcement
10 officer had to do to maintain standards?
11 A. He was able to perform all the essential
12 functions of the job. He was certified. There was no
13 concern with him discharging his duties.
14 Q. And were you also aware that SROs went
15 through specialized 40-hour training each year on the
16 various functions that SROs are going to have to
17 handle?
18 A. Yeah, I'm not as familiar with the training
19 that occurred before the event. After the event, I
20 know that we provided even more training than before.
21 Q. And did you have occasion to review Deputy
22 Peterson's personnel file?
23 A. No.
24 Q. His training file?
25 A. I've looked at parts of his training file. I

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 training class and the qualification, but, yes, one is ¹³¹
2 a refresher of all the skills that are necessary, and
3 then the other one is just a test to make sure that
4 you can perform the skills to a satisfactory level.
5 Q. I know that the radio communications run by
6 the county at the time of Marjory Stoneman Douglas
7 were not up to par, but that's not the focus of my
8 question.
9 Was BSO in responding to the Marjory Stoneman
10 Douglas shooting able to coordinate with other
11 responding agencies?
12 A. At some point in time, as more users came
13 onto the system is when they started to experience the
14 throttling problems.
15 Q. I'm not talking about the use of the radio.
16 Let me try it differently.
17 Did other law enforcement agencies respond to
18 the Marjory Stoneman Douglas scene?
19 A. Yes.
20 Q. And did that include municipal agencies?
21 A. Yes.
22 Q. Did that include other law enforcement
23 agencies?
24 A. Yes.
25 Q. Was BSO able to coordinate with them and

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 don't recall the details of it, but I have looked at 130
2 it.
3 Q. And based on your general review of his
4 training file, is it your view that he went through
5 not just the required training, but lots of additional
6 trainings?
7 A. He went through training, both active
8 shooter, I believe he was rifle qualified, so I know
9 that he attended those courses as well, and other
10 forms of training that as we've talked about have
11 skills that would also incorporate -- be incorporated
12 in an active shooter response.
13 Q. Rifle qualified is not a mandatory
14 requirement for law enforcement officers?
15 A. No, it's not. We encouraged all SROS to be
16 rifle qualified as well.
17 Q. Is that additional training and -- is it
18 testing?
19 A. Both. Actually is an annual training course
20 that has to be taken every year to carry a rifle, and
21 then you have a qualification course, which is to test
22 your proficiency.
23 Q. Meaning to actually shoot on a range or some
24 simulation?
25 A. You actually shoot in both of them, in the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 communicate with them for a joint approach to MSD? 132
2 A. It was -- it was hampered by communications.
3 It was accomplished, but because of some of those
4 problems, a fragmented 911 system, I'd say not as
5 efficiently as it could have been.
6 Q. And did BSO have an ability to do
7 work-arounds like running people back and forth for
8 eye-to-eye communication?
9 A. Yeah, I mean, term "work-around," not
10 optimal. Just something that would work. Doesn't
11 mean it was efficient. It may have hampered the
12 response in some ways, but you do what you can do in a
13 situation like that.
14 Q. At the time that you responded to the
15 scene -- you say about 30 minutes later from the first
16 reporting of the shooting; is that about right?
17 A. I'd say maybe because of traffic in -- it
18 was -- airport was maybe 30 minutes, maybe this event
19 was maybe 45.
20 Q. Okay. When you got to the scene, did you
21 know at the time that Scot Peterson did not follow the
22 active shooter policy and training?
23 A. I wasn't aware of any of Peterson's
24 involvement at all once I responded, not until
25 sometime after.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Q. The reality came later? 133
2 A. Yes.
3 Q. With regard to your involvement in the
4 response at your higher level, was the response
5 coordinated?
6 A. Yes. When I responded, it was right outside
7 of Building 12, and it was at a -- it was kind of an
8 ad hoc tactical operations center, and we were
9 assembling investigative personnel and awaiting the
10 final clearance of the 1200 building so that we could
11 start to assess what had occurred and process the
12 scene.
13 Q. Now, when you responded, there were other law
14 enforcement officers, not just BSO, but other agencies
15 there?
16 A. Yes.
17 Q. I want to ask you about wearing ballistic
18 vests, like armor, body armor.
19 A. Yes.
20 Q. BSO doesn't have a policy of every deputy has
21 to wear body armor at all times that they're on duty,
22 do they?
23 A. They do now. At the time, we attempted to
24 implement it and it was objected to by the union.
25 Q. Okay. So "at the time," meaning at the time

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 It's an agency decision and it is to whether they want 135
2 to mandate it -- other personnel or not.
3 Q. At the time that the sheriff's office -- by
4 the way, was the sheriff, Scott Israel, if you know,
5 in favor of implementation of the mandatory body armor
6 policy?
7 A. Yes.
8 Q. At the time that process was going on, was
9 there any national standard that said mandatory body
10 armor by law enforcement officer is essential?
11 A. No.
12 Q. Was BSO, as far as you understood, ahead of
13 the curve in law enforcement development?
14 A. I'd say we're -- in law enforcement
15 development, absolutely. I mean, there's 17,000
16 agencies in the country. Most of them are under 100
17 people, very limited resources. We have sufficient
18 resources and facilities and we have a lot of
19 experienced personnel, and that gives us a lot of
20 people that can serve as trainers and events that we
21 can learn from. A lot of agencies don't have those
22 benefits.
23 Q. How about on the issue of mandatory body
24 armor? Was BSO behind, ahead, or just staying
25 current?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 of MSD shooting, the Broward Sheriff's Office 134
2 administrative had tried to implement that policy?
3 A. It was our feeling that everyone should wear
4 a vest. That was what command attempted to implement.
5 But with any policy that we change, if it has any
6 effect on working conditions of a deputy, they're
7 given an opportunity when a policy is implemented to
8 object to it within 10 days of implementation, and
9 they objected to it and that would call then for a
10 process called impact bargaining.
11 Q. So some type of negotiation with the actual
12 representatives of the sworn law enforcement officers
13 was put in place?
14 A. Yes.
15 Q. But BSO, as a matter of top down, had worked
16 to implement mandatory body armor?
17 A. Yes.
18 Q. At the time of MSD, was there any directive,
19 any standard, any requirement, by the Florida
20 Department of Law Enforcement for mandatory body
21 armor?
22 A. No.
23 Q. How about the Florida Accrediting Credentials
24 Committee?
25 A. There's no mandate anywhere for body armor.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. The -- the actual equipment that's issued is 136
2 first-rate equipment. It's -- the issue of making
3 people wear them is really more of a labor issue that
4 prior sheriffs were unwilling to tackle, and in this
5 administration we thought it was something that was
6 important just not for the safety of officers, but
7 safety of public, and it was something that we
8 insisted on moving forward.
9 Q. As far as you understand the BSO protocol and
10 training to respond to an active shooter situation,
11 are deputies encouraged to put on their ballistic vest
12 if they are coming to the scene of an active shooter?
13 A. We've always encouraged them to wear their
14 ballistic vest, no matter what they were doing. You
15 don't know when something's going to occur. You --
16 it's been a long-standing practice to push the wear of
17 body armor by all deputies. And a majority of
18 deputies do wear the body armor, but there are some
19 that choose not to.
20 Q. Is there any part of the training that you
21 understand on active shooter that encourages,
22 suggests, or allows deputies to take their good
23 old-fashioned time in putting on their body armor so
24 that they don't quickly respond to the incident?
25 A. No, absolutely not. It's very clear in

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 training that -- that a rapid response is paramount, 137
2 that any time that's wasted can result in the deaths
3 of more individuals, and that your job is to as
4 quickly as possible respond and follow the training
5 curriculum, which is the -- trying to get the culprit
6 to either barricade themselves, give up, or in some
7 cases commit suicide, whatever it is the option, just
8 as long you can prevent the further loss of life.

9 Q. That's the three-fold goal, eliminate,
10 surrender, or arrest?

11 A. Yeah, or flee. Anything -- any action that
12 results in them ceasing the active killing of other
13 individuals.

14 Q. Is the goal?

15 A. Yes.

16 Q. And that's the training?

17 A. That's incorporated in the training, yes.

18 Q. Are you aware prior to MSD of any reported
19 incident that officers responding to the scene of an
20 active shooter just took their good 'ole time in
21 putting on body armor and then going to confront the
22 active shooter?

23 A. You're talking about Columbine was probably
24 the closest thing you could say to that, but I don't
25 want to say that people took their good 'ole time,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 other issues like the -- I mean, just the welfare of 139
2 deputies and -- and -- that responded and are part of
3 that scene, making sure that they get help if they
4 need it. And then there's the part of trying to
5 analyze your own actions to determine if something was
6 done improper or something that needs to be -- that's
7 not in accordance with policy or the policy needs to
8 be changed. There's a whole host of issues that
9 you're trying to do simultaneously.

10 Q. Post Marjory Stoneman Douglas, did BSO
11 attempt to implement lessons learned -- let me
12 rephrase the question.

13 After MSD, did BSO attempt to implement
14 and -- corrections, changes, improvements to what it
15 learned from that incident?

16 A. Yes. The things that were in our control
17 like low-hanging fruit, there are definitely things
18 that we looked to implement, and then there were
19 things that are even out of our control that we still
20 in the aftermath tried to get more cooperation from
21 others to assist us in resolving it, like radios and
22 911 communications.

23 Q. Had BSO been working on that well before MSD
24 and FLL?

25 A. In some cases, there are areas that --

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 they just were following the protocols that they had 138
2 in place, which was to wait -- secure the scene and
3 wait for SWAT.

4 Q. Okay. Following the Marjory Stoneman Douglas
5 shooting, facts became available over time about what
6 happened there, right?

7 A. Yes.

8 Q. Was there, as far as you're concerned from a
9 leadership point of view, initial and continuous
10 criticism of the BSO response nationally?

11 A. I can't speak nationally. I mean, there was
12 criticism of the response.

13 Q. From your perspective as a command staff, did
14 you do your best to keep morale at BSO high,
15 notwithstanding this voluble criticism?

16 A. Yeah, I -- you're always trying to do things
17 that improve morale or don't detract from morale.
18 It's not what drives you at work, though. At the end
19 of the day, I'm in charge of investigations, we have
20 an investigation to complete, and that's where my
21 focus is is to -- two-fold, the investigative side,
22 3,000 potential witnesses at the scene that we have to
23 interview, we have a three-story crime scene, and we
24 have someone in custody that needs to be prosecuted.
25 So those things are paramount. But we have a lot of

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 frankly, they don't report to us, and we can ask, but 140
2 some of these things require money, and if they're not
3 willing to do it, there's little that we can do to
4 make them do it.

5 Q. "They're" meaning the county or the school
6 board or some other agency?

7 A. Yeah, or any person that contracts us. It's
8 difficult for us to -- in case of Parkland, to demand
9 how Parkland routes their 911 calls. They choose to
10 route to another city. There's very little that we
11 can -- we can voice objection to it, which was done,
12 but we can't make them change it.

13 Q. Did BSO work to correct a delayed access to
14 the actual school's cameras?

15 A. Yeah, we -- we worked with the school board
16 to obtain access to their video systems post MSD.

17 Q. So you learned that not only did BSO not have
18 access to the school camera system at the time of MSD,
19 but that what information they did get was time
20 delayed?

21 A. Yes, that was learned later.

22 Q. Okay. And did BSO change that?

23 A. No, BSO didn't change that. BSO asked the
24 school board to give us access to the cameras, which
25 is entirely their prerogative, and through some

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 negotiations there were a lot of concerns whether we ¹⁴¹
2 were permitted to have access to those records under
3 some federal laws protecting privacy of students, and
4 eventually we were able to obtain access. How -- what
5 their legal analysis was, I don't know, but they
6 finally agreed and granted us access to the cameras.

7 Q. And that was actually the subject of now a
8 contract that was entered into to have access?

9 A. Access, and we were working toward a system
10 that on any calls that related to like a shots fired
11 call in the school, that those cameras would
12 automatically come up into a real-time crime center
13 and we could respond in a more concerted effort.

14 Q. Okay. Are you familiar with an app called
15 Smart Watch?

16 A. SaferWatch, yeah.

17 Q. SaferWatch, I'm sorry. SaferWatch?

18 A. Yes.

19 Q. You're familiar with that?

20 Is that another post MSD improvement that BSO
21 attempted to implement?

22 A. It became evident that there were a lot of
23 people who had information involving the suspect
24 pre-shooting, and that when you put them all together,
25 they mean something, but when they're -- when no one

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. Yes. What we wanted to do is since we -- ¹⁴³
2 were also given some laws that allowed us to be more
3 proactive post MSD like the Red Flag laws --

4 Q. I'll get to that, but I wanted to just ask --
5 stay on SaferWatch for right now.

6 A. Yeah, so this was a mechanism to where we
7 could start to get information on people who might be
8 a threat to the community.

9 Q. You mentioned laws getting changed, and I
10 think you were starting to refer to Red Flag laws?

11 A. Yes.

12 Q. Tell us what that is.

13 A. Well, you have -- with a risk protection
14 order, you have now an actual mechanism that you can
15 take guns away from people who have legally purchased
16 them and using their mental status or that they
17 display some threat to the community. Prior to that,
18 we were not able to. If we -- in a case of a Baker
19 Act where someone was involuntarily taken for a
20 psychological evaluation, once they were cleared of
21 the Baker Act, we were obligated to give them back
22 their firearms, which was not something any of us
23 wanted to do and --

24 Q. That's your understanding of what the law
25 required at the time?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 reports them or they're -- they're not in a place ¹⁴²
2 where they can be collected, then they can be easily
3 overlooked. So we helped develop -- worked with a
4 vendor, developed the app, and encourage students to
5 like place tips and kind of the see something/say
6 something motto.

7 Q. Did BSO actively publicize this availability
8 to the community?

9 A. Yes.

10 Q. Go to schools and encourage principals and
11 leadership to get their kids and parents to implement
12 this app?

13 A. Yes.

14 Q. Take a look at Exhibit 25, Israel Exhibit 25.
15 That's Bates page Israel 2931. Although this is a
16 recent printout, June 2019, is this a presentation --
17 online presentation of the BSO's SaferWatch program?

18 A. Yes.

19 Q. And it's a smart phone app?

20 A. Yes.

21 Q. And that was implemented under Sheriff
22 Israel?

23 A. Correct.

24 Q. And was that part of the after tragedy,
25 events learning process?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. Well, it -- we would take the firearms ¹⁴⁴
2 anyway, and eventually case law was established that
3 if we did not return them and forced a court order,
4 even that we were impeding on the right to bear arms
5 and that we could actually be subject to liability and
6 court action. So --

7 Q. Had prior to the MSD tragedy BSO, either
8 individually or in concert with other law enforcement
9 agencies, attempted to get Red Flag laws or something
10 equivalent implemented?

11 A. I don't know if they did or not. I wasn't
12 part of it.

13 Q. Okay. But --

14 SPECIAL MASTER: Counsel, if I may, I'm sorry
15 to interrupt, but I'm sensitive to -- indicating
16 earlier that I'd like to take certain breaks. How
17 much longer do you think you're going to be on
18 direct?

19 MR. KUEHNE: Within five minutes, I'll be
20 finished.

21 SPECIAL MASTER: Thank you. Please proceed.
22 Thank you.

23 BY MR. KUEHNE:

24 Q. But post MSD, the Florida Legislature passed
25 and the governor signed a Red Flag law or risk

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 protection law? 145
2 A. Yes.
3 Q. And did BSO then do anything internally to
4 implement enforcement of that?
5 A. We did a lot of things. I mean, we beefed up
6 our civil process, beefed up investigators who could
7 follow up on possible threats so that these orders
8 would be filed on, and then we implemented a threat
9 assessment unit where we budgeted and brought in an
10 individual who ran a terrorism center for NYPD as a
11 means of collecting intelligence and --
12 Q. So what did you do?
13 A. We created a threat assessment unit.
14 Q. Okay. And what did that do?
15 A. For an incidence much like what we had here
16 is we have reports coming in on individuals that by
17 themselves are not sufficient to take any action, but
18 when you look at them in their totality, they are
19 someone who may be in need of some service, and we
20 would look to try and work with others, work with
21 family members, to get them -- sometimes if they maybe
22 had a history of mental health issues and look to try
23 and get them services, look to try and get family
24 involved, and once they've stabilized, to continue to
25 be on the lookout if they start to exhibit signs that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 an Airsoft gun and then did not wish to prosecute, and 147
2 I really don't know the likelihood of a prosecution,
3 that he denied the claims, there's no evidence to
4 support the claim. That's the closest thing to a
5 criminal violation that we would have had.
6 Q. Are you aware of other non-BSO agencies
7 perhaps overlooking or misresponding to any reports
8 involving that shooter?
9 A. Just like we had reports, I know the FBI had
10 reports, I know that Palm Beach had actually responded
11 to domestic violence calls involving Cruz' firearms
12 that were arrestable offenses, and to my knowledge, no
13 arrest was made.
14 Q. From a BSO perspective, you understand after
15 the fact that two deputies were sanctioned in some way
16 for deficiencies regarding reports involving the
17 shooter?
18 A. Yes, the -- I believe one case was a
19 reprimand, and the other case, the officer or deputy
20 received a couple days off, but it was a second
21 offense, so his penalty was more.
22 Q. When such action is taken against or
23 involving a deputy, is there some due process protocol
24 for the process of determining whether there's a
25 violation, No. 1, and No. 2, what the sanction is?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 look like maybe they had relapsed. 146
2 Q. Are you aware that there has been post MSD an
3 examination of all the law enforcement or potential
4 law enforcement contacts that happened or could --
5 should have happened involving the shooter before the
6 shooting?
7 A. Yeah, I'm aware of the prior contacts.
8 Q. And you're aware that there were some
9 deficiencies in the handling of those contacts?
10 A. They were -- they were deficient in that -- I
11 don't know if they were properly documented, I believe
12 is the -- in both the cases that we're -- you're
13 probably referencing. But the -- it still hasn't been
14 shown that even if properly documented, that any
15 action could have been taken that would have been
16 legal to take their firearms or make any physical
17 arrest.
18 Q. I understand that it's easy to do
19 Monday-morning quarterbacking. I'm not trying to do
20 that with you. But as you understand the various law
21 enforcement interactions with the shooter pre-MSD, are
22 you aware of any of them that would have resulted in
23 his arrest and taking into custody?
24 A. No. The closest event to an arrest was
25 someone reported warning that he shot a chicken with

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 A. Yes. 148
2 Q. Is that something that by law, as you
3 understand it, or by collecting bargaining agreement,
4 the sheriff can snap his fingers and say "This guy's
5 gone"?
6 A. No, I -- no different than a criminal case.
7 You just can't throw somebody in jail without having a
8 trial. In the case of a labor case, they have a right
9 to their due process, and there's a full
10 investigation, a finding, and when discipline's
11 imposed, there's even then a right to arbitration in
12 many cases.
13 Q. With regard to investigations of personnel
14 involved in the MSD shooting, was it your
15 understanding that BSO was asked to wait until the
16 Florida Department of Law Enforcement was able to
17 complete its investigation?
18 A. We were asked not to take compelled
19 statements of our personnel or other personnel because
20 they were actively conducting a criminal investigation
21 involving some of the same witnesses and they did not
22 want any what we call Garrity protection extended to
23 those witnesses. So they asked that we refrain from
24 interviewing any of them until after they had done so.
25 Q. And you're aware that that PDLE investigation

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 was initiated, directed by the governor of the State 149
2 of Florida?
3 A. Correct.
4 MR. KUEHNE: Nothing further, Special Master.
5 SPECIAL MASTER: Thank you. We'll take a
6 break now. Let's reconvene at 1:45 for cross
7 examination and then redirect examination of this
8 witness. And, Counselors, if you would just
9 remind the witness of the sequestration
10 provisions. We'll reconvene at 1:45. Thank you.
11 (Lunch Recess.)
12 (Proceedings continued in Volume II.)
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FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 CERTIFICATE OF REPORTER 150
2
3
4
5 I, JESSICA RENCHEN, Registered Professional
6 Court Reporter, certify that I was authorized to and
7 did stenographically report the foregoing proceedings
8 and that the transcript is a true and complete record
9 of my stenographic notes.
10
11 DATED this 18th day of June, 2019.
12
13
14
15 JESSICA RENCHEN, Court Reporter
16
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FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

**WORD
INDEX**

31:18, 33:3, 33:7,
34:3, 43:21, 46:3,
46:5, 46:6, 46:9,
46:15, 47:10, 47:17,
47:19, 48:3, 48:5,
48:14, 48:25, 49:6,
49:10, 49:15, 50:19,
53:3, 54:22, 56:8,
57:23, 59:4, 61:1,
65:17, 68:22, 69:4,
72:7, 72:14, 72:15,
90:23, 91:3, 97:5,
98:6, 99:24, 100:4,
100:7, 100:9, 100:10,
100:11, 100:13,
100:16, 100:18,
100:22, 101:1,
101:12, 104:3, 104:4,
104:5, 104:7, 104:10,
107:14, 108:22,
108:24, 109:8,
109:12, 109:13,
117:24, 118:2, 118:5,
118:14, 130:7,
130:12, 132:22,
136:10, 136:12,
136:21, 137:12,
137:20, 137:22
actively [4] - 23:20,
118:19, 142:7, 148:20
activities [1] - 21:20
activity [7] - 38:13,
59:4, 65:11, 67:1,
72:1, 75:24
acts [2] - 19:22,
32:23
actual [12] - 10:5,
11:1, 30:20, 37:9,
50:4, 107:6, 110:8,
127:22, 134:11,
136:1, 140:14, 143:14
ad [1] - 133:8
adapt [1] - 118:16
addition [6] - 37:9,
41:1, 51:19, 51:20,
52:23, 101:18
additional [12] -
7:10, 7:20, 13:17,
15:7, 29:21, 53:16,
65:8, 69:23, 118:3,
130:5, 130:17
additionally [1] - 8:8
address [5] - 6:23,
8:16, 9:20, 18:22,
79:11
addressing [1] -
29:22
adequate [3] - 7:13,
39:19, 73:17
adequately [1] - 16:6
adjoin [1] - 56:22
Administration [1] -
94:4
administration [5] -
39:18, 86:1, 86:4,
107:4, 136:5
administrative [4] -
57:4, 78:10, 105:10,
134:2
adults [2] - 41:13,
71:14
advance [3] - 9:21,
15:4, 36:11
advisers [1] - 86:3
advisory [2] - 4:13,
8:8
affair [1] - 114:21
affairs [5] - 26:25,
79:20, 79:22, 81:23,
95:23
affect [1] - 121:13
affected [1] - 51:13
affecting [1] - 56:6
affidavit [6] - 11:11,
11:13, 11:19, 14:5,
14:20, 14:24, 43:14,
43:25
affirm [1] - 78:19
after-action [18] -
23:1, 62:8, 62:9,
62:20, 62:23, 62:24,
63:3, 63:5, 63:8,
63:18, 63:21, 64:14,
114:8, 114:11,
114:19, 125:11,
126:21, 127:15
after-the-fact [1] -
68:7
aftermath [6] - 16:3,
20:23, 22:19, 55:21,
125:11, 139:20
Agencies [2] - 34:5,
87:8
agencies [27] -
51:13, 56:14, 57:10,
65:1, 66:18, 67:13,
69:8, 73:24, 73:25,
88:5, 99:6, 103:7,
111:11, 111:13,
111:17, 111:18,
119:16, 121:21,
131:11, 131:17,
131:20, 131:23,
133:14, 135:16,
135:21, 144:9, 147:6
agency [57] - 12:24,
19:18, 23:23, 26:9,
34:9, 34:22, 35:8,
35:11, 37:24, 37:25,
40:15, 40:16, 43:5,
43:14, 46:17, 46:20,
46:25, 47:22, 47:24,
49:12, 54:6, 56:6,
56:12, 57:18, 64:15,
64:16, 64:25, 66:6,
67:8, 67:10, 67:15,
69:10, 69:24, 70:12,
73:4, 75:15, 76:7,
83:25, 86:8, 86:20,
86:25, 87:19, 93:19,
93:21, 94:19, 95:3,
96:1, 97:17, 102:17,
110:23, 113:10,
113:15, 115:21,
124:22, 135:1, 140:6
agency-wide [1] -
23:23
agent [5] - 14:3,
66:21, 67:4, 68:1,
68:17
agents [3] - 19:19,
66:19, 68:8
aggressively [1] -
118:19
agreed [1] - 141:6
agreement [7] -
19:12, 28:16, 29:6,
29:13, 95:8, 98:22,
148:3
agreements [5] -
18:25, 28:18, 94:22,
95:15, 95:19
ahead [3] - 114:5,
135:12, 135:24
aid [1] - 101:16
aided [1] - 27:11
Airline [1] - 68:17
airplanes [2] -
117:22, 120:12
Airport [19] - 16:4,
20:24, 21:18, 21:22,
21:24, 22:20, 40:8,
54:8, 54:11, 56:8,
57:15, 63:1, 64:22,
65:3, 65:5, 65:16,
66:5, 67:5, 70:4
airport [67] - 21:17,
22:7, 22:9, 22:23,
23:13, 23:15, 23:19,
24:1, 24:5, 25:6, 26:2,
26:10, 54:9, 54:20,
55:5, 55:14, 56:10,
56:16, 56:22, 57:12,
57:16, 66:4, 67:11,
69:25, 70:17, 107:16,
109:23, 110:5,
111:10, 111:14,
111:16, 112:9,
112:20, 112:25,
113:4, 113:11, 115:2,
115:14, 115:24,
116:10, 116:12,
116:19, 117:3, 117:4,
117:6, 117:18, 118:8,
118:20, 118:23,
119:1, 119:2, 119:4,
119:13, 119:18,
119:20, 119:24,
120:10, 120:11,
120:24, 121:10,
122:14, 122:17,
122:22, 125:5, 126:8,
127:19, 132:18
airports [3] - 16:8,
21:20, 117:14
Airsoft [1] - 147:1
Alaska [1] - 54:14
allegations [1] -
17:19
alleged [2] - 18:3,
18:11
allies [1] - 25:16
allotted [1] - 30:20
allow [5] - 71:8,
77:23, 77:24, 78:2,
86:8
allowed [5] - 40:19,
42:2, 60:8, 75:14,
143:2
allowing [1] - 9:21
allows [2] - 8:2,
136:22
almost [2] - 16:20,
41:17
alone [2] - 19:4,
119:4
Alongside [1] -
82:16
alongside [1] - 82:17
amazing [1] - 35:9
Amendment [2] -
13:13, 59:18
American [2] - 40:3,
89:4
ammunition [2] -
21:3, 54:12
amount [3] - 7:13,
69:14, 107:6
amounts [1] - 65:12
analysis [2] - 34:3,
141:5
analyze [1] - 139:5
Angeles [4] - 56:1,
122:14, 122:17,
122:22
annual [3] - 29:24,
53:25, 130:19
annually [1] - 52:20
anticipate [1] -
118:18
anticipated [1] -
66:16
anyway [1] - 144:2
app [11] - 75:19,
75:22, 76:3, 76:4,
76:8, 76:9, 141:14,
142:4, 142:12, 142:19
appear [3] - 88:18,
91:16, 118:8
appearance [2] -
10:6, 11:2
APPEARANCES [1] -
2:1
applicable [3] -
45:13, 45:15, 96:3
applied [1] - 34:16
apply [1] - 6:7
appoint [2] - 19:5,
19:6
appointed [2] - 4:7,
19:14
appointees [1] - 47:2
appointment [3] -
10:12, 81:17, 82:7
appoints [1] - 32:13
appreciate [1] - 9:3
apprehended [6] -
21:4, 40:9, 54:15,
66:8, 67:3, 110:15
apprehends [1] -
55:6
apprehension [1] -
110:17
approach [1] - 132:1
appropriate [9] -
11:15, 14:22, 14:25,
44:13, 45:9, 58:4,
58:22, 64:6, 64:8
appropriately [2] -
59:14, 75:15
approval [1] - 108:14
approved [1] - 53:25
April [1] - 31:4
arbitration [1] -
148:11
arbitrations [1] -
96:1
area [11] - 33:6,
43:21, 64:19, 66:13,
89:1, 90:19, 108:13,
110:12, 112:11,
122:12, 125:4
areas [9] - 20:9,
23:8, 26:8, 82:1,
90:16, 97:12, 117:21,
124:2, 139:25
arguing [1] - 60:1
argument [7] - 18:4,
51:9, 77:20, 77:22,
77:24, 77:25, 78:13

- arguments** [6] - 7:5, 7:19, 7:25, 17:22, 35:20, 78:13
arises [1] - 106:12
armor [13] - 133:18, 133:21, 134:16, 134:21, 134:25, 135:5, 135:10, 135:24, 136:17, 136:18, 136:23, 137:21
arms [1] - 144:4
arounds [1] - 132:7
arrest [14] - 7:2, 11:11, 11:12, 42:20, 48:25, 49:1, 59:13, 109:13, 109:20, 137:10, 146:17, 146:23, 146:24, 147:13
arrestable [1] - 147:12
arrested [1] - 90:4
arrests [1] - 83:17
arrived [1] - 110:6
art [1] - 63:11
Article [3] - 17:12, 50:13, 50:17
article [2] - 49:22, 50:18
ASCLD [1] - 89:8
aspect [3] - 37:11, 40:24, 121:10
aspects [2] - 38:12, 100:13
assemble [1] - 114:18
assembled [1] - 112:10
assembling [1] - 133:9
assert [1] - 37:3
asserted [1] - 44:18
assertion [1] - 29:2
asserts [1] - 44:21
assess [1] - 133:11
assessment [3] - 58:5, 145:9, 145:13
assign [1] - 28:19
assigned [9] - 16:18, 24:5, 28:23, 30:4, 30:9, 31:12, 62:16, 106:24, 128:11
assignment [4] - 23:15, 23:17, 106:9, 111:22
assignments [3] - 19:25, 32:9, 106:12
assist [4] - 111:16, 111:20, 121:6, 139:21
assistance [2] - 70:25, 111:23
assisted [4] - 23:2, 117:8, 119:14, 120:16
Association [11] - 36:22, 39:9, 48:21, 55:8, 59:25, 89:5, 103:14, 103:19, 120:24, 120:25, 121:3
assume [3] - 109:2, 117:15, 117:16
assumed [1] - 128:8
assurance [1] - 41:9
assure [1] - 38:2
astounded [1] - 122:4
attack [1] - 117:4
attacked [1] - 22:16
attacks [1] - 124:14
attempt [7] - 83:10, 93:21, 115:10, 118:13, 122:19, 139:11, 139:13
attempted [5] - 40:17, 133:23, 134:4, 141:21, 144:9
attempting [1] - 38:2
attempts [1] - 37:5
attend [3] - 5:13, 123:18, 123:19
attendance [1] - 5:7
attended [5] - 29:24, 31:18, 108:22, 123:16, 130:9
attending [2] - 5:16, 93:12
attention [5] - 14:13, 26:15, 76:10, 76:19, 76:21
attentive [1] - 45:3
attentiveness [1] - 72:19
attributed [1] - 32:10
audio [1] - 5:11
audit [1] - 81:23
auspices [1] - 94:14
author [1] - 126:3
authored [2] - 64:2, 64:4
authority [9] - 18:24, 19:2, 19:3, 19:7, 19:10, 28:12, 29:10, 56:13, 116:6
authorized [2] - 19:5, 150:6
autistic [1] - 27:24
automatic [1] - 80:21
automatically [1] - 141:12
availability [1] - 142:7
available [2] - 106:11, 138:5
Aviation [3] - 56:11, 69:17, 113:8
aviation [5] - 22:2, 54:18, 54:19, 54:22, 117:10
avoided [1] - 35:17
await [1] - 90:5
awaiting [1] - 133:9
aware [26] - 36:8, 84:19, 85:1, 90:23, 105:25, 106:17, 106:19, 106:20, 113:4, 113:20, 114:6, 114:9, 114:10, 119:19, 120:8, 124:18, 124:21, 129:14, 132:23, 137:18, 146:2, 146:7, 146:8, 146:22, 147:6, 148:25
-
- B**
-
- background** [1] - 79:15
backup [1] - 11:20
baffling [1] - 32:11
baggage [3] - 66:13, 110:12, 112:11
Baker [2] - 143:18, 143:21
ball [1] - 44:19
ballistic [4] - 32:21, 133:17, 136:11, 136:14
bandages [1] - 101:8
bare [3] - 32:1, 34:25, 41:16
bargaining [7] - 94:22, 95:7, 95:14, 95:18, 98:22, 134:10, 148:3
barricade [1] - 137:6
based [4] - 58:5, 76:24, 117:23, 130:3
basis [6] - 30:6, 31:9, 53:24, 53:25
Bates [7] - 49:25, 50:25, 88:8, 88:17, 91:7, 107:13, 142:15
Bates-stamped [1] - 91:7
Bay [2] - 82:24, 83:8
BCAD [13] - 56:11, 69:17, 113:6, 113:8, 113:15, 114:1, 114:2, 115:3, 115:12, 116:1, 116:2, 116:6, 117:5
Beach [5] - 2:13, 49:11, 49:23, 50:3, 147:10
bear [1] - 144:4
beaten [3] - 74:8, 74:9
became [17] - 37:21, 39:3, 46:8, 55:11, 55:21, 59:23, 67:5, 67:17, 67:23, 68:12, 83:5, 110:23, 111:1, 117:3, 128:17, 138:5, 141:22
become [3] - 49:16, 52:7, 67:9
becomes [2] - 61:13, 97:11
becoming [1] - 96:12
beefed [2] - 145:5, 145:6
befallen [1] - 71:11
BEFORE [1] - 1:14
began [3] - 41:16, 56:17, 74:24
begat [1] - 39:15
begin [3] - 5:9, 9:5, 66:9
beginning [1] - 46:12
behalf [6] - 2:2, 2:7, 4:17, 4:19, 5:4, 6:25
behind [1] - 135:24
belabor [1] - 31:22
believes [1] - 71:25
below [4] - 45:12, 45:15, 45:18, 58:3
Ben [1] - 4:24
ben.kuehne@kuehnelaw.com [1] - 2:10
bench [2] - 14:14, 51:8
BENEDICT [1] - 2:8
benefit [3] - 11:4, 13:9, 13:16
benefits [2] - 80:5, 135:22
best [12] - 30:12, 31:21, 44:25, 58:16, 71:21, 74:5, 82:2, 93:13, 96:25, 99:10, 118:16, 138:14
better [4] - 25:18, 86:13, 111:4, 127:18
between [6] - 22:2, 31:5, 34:19, 61:10, 113:18, 114:2
beyond [2] - 54:1, 76:16
big [1] - 121:1
Bill [1] - 96:17
bill [4] - 51:7, 96:6, 96:16, 97:1
bimonthly [1] - 30:6
bit [5] - 5:20, 78:8, 100:15, 114:5, 122:16
bites [1] - 125:22
bites [1] - 70:23
bitten [2] - 69:19, 69:22
blame [2] - 64:17, 127:17
blatant [1] - 15:15
bleeding [1] - 70:25
block [1] - 30:19
Blvd [1] - 2:12
board [4] - 107:2, 140:6, 140:15, 140:24
boards [1] - 103:13
bodies [1] - 99:5
body [14] - 12:17, 89:2, 133:18, 133:21, 134:16, 134:20, 134:25, 135:5, 135:9, 135:23, 136:17, 136:18, 136:23, 137:21
boobytrapped [2] - 33:18, 33:24
boots [1] - 105:15
Boots [1] - 105:16
boring [1] - 101:15
bottom [1] - 88:16
bound [3] - 18:7, 36:25, 96:24
break [5] - 5:24, 5:25, 77:5, 77:6, 149:6
breaks [3] - 5:20, 5:22, 144:16
brief [1] - 80:13
Brief [1] - 77:7
briefed [1] - 42:18
briefing [1] - 42:19
briefly [1] - 61:16
bring [4] - 16:23, 98:16, 119:21, 119:23
brings [2] - 66:14, 97:10
broad [1] - 126:17
broadcast [1] - 5:11
brought [6] - 25:16, 81:21, 112:19, 114:22, 120:14, 145:9
Broward [112] - 1:4, 4:6, 10:21, 15:20, 16:23, 21:14, 22:12, 22:14, 22:25, 23:2, 23:10, 23:14, 23:22, 24:14, 25:7, 25:22,

26:20, 27:1, 28:17, 29:7, 32:15, 33:15, 33:22, 34:2, 35:9, 37:15, 37:24, 38:1, 38:7, 38:8, 38:9, 38:12, 39:4, 40:13, 41:20, 42:6, 42:10, 43:1, 44:22, 45:7, 45:9, 45:21, 46:7, 46:10, 47:14, 48:1, 48:11, 48:13, 49:5, 49:9, 49:13, 51:9, 51:11, 51:12, 51:16, 52:3, 52:11, 52:14, 52:15, 52:18, 55:17, 56:6, 56:11, 57:4, 58:7, 58:15, 59:24, 65:6, 67:12, 69:17, 70:15, 71:11, 71:19, 71:20, 72:19, 73:1, 73:9, 73:15, 74:1, 74:7, 74:13, 74:17, 74:20, 75:2, 75:4, 75:6, 75:8, 75:16, 75:18, 76:3, 76:22, 77:1, 81:13, 81:17, 84:19, 88:19, 90:1, 95:22, 97:25, 102:16, 106:22, 113:5, 113:8, 113:14, 113:18, 115:4, 115:20, 123:21, 127:8, 134:1
brutal [1] - 36:19
BSO [135] - 39:24, 40:9, 46:19, 52:2, 56:2, 56:5, 57:16, 57:22, 58:7, 61:18, 62:6, 65:17, 66:5, 66:13, 66:15, 66:24, 67:5, 67:7, 67:9, 67:14, 67:23, 68:12, 69:4, 69:7, 69:15, 69:17, 69:23, 74:15, 76:8, 82:23, 83:5, 83:23, 84:5, 85:1, 85:9, 85:12, 85:20, 85:24, 86:15, 86:16, 86:20, 87:10, 87:21, 89:14, 90:9, 91:17, 92:11, 92:17, 93:6, 93:11, 93:20, 94:13, 95:4, 96:2, 96:3, 96:25, 97:5, 97:7, 97:15, 97:19, 98:8, 98:24, 99:25, 100:7, 100:16, 101:18, 101:23, 102:25, 103:6, 103:13, 103:17, 103:18, 103:20, 104:22, 105:1, 105:22,

106:16, 108:17, 108:21, 109:8, 110:23, 112:13, 113:18, 114:7, 114:20, 114:25, 115:2, 115:12, 116:1, 116:14, 118:12, 118:19, 119:7, 119:14, 119:15, 120:16, 121:6, 121:9, 121:20, 122:18, 122:20, 122:24, 123:3, 123:11, 124:4, 124:12, 127:13, 127:20, 131:9, 131:25, 132:6, 133:14, 133:20, 134:15, 135:12, 135:24, 136:9, 138:10, 138:14, 139:10, 139:13, 139:23, 140:13, 140:17, 140:22, 140:23, 141:20, 142:7, 144:7, 145:3, 147:6, 147:14, 148:15
BSO's [4] - 31:20, 88:10, 90:23, 142:17
budget [2] - 94:4, 115:5
budgeted [2] - 94:16, 145:9
building [5] - 101:2, 101:3, 101:4, 104:15, 133:10
Building [3] - 1:12, 32:2, 133:7
building-clearing [1] - 101:4
bunch [1] - 91:8
bused [1] - 119:24
buses [5] - 70:1, 70:3, 70:7, 70:11, 119:21
BY [6] - 78:25, 79:13, 88:14, 92:2, 107:23, 144:23

C

cabinet [1] - 86:1
CALEA [13] - 86:21, 86:23, 86:24, 87:6, 87:8, 87:10, 87:20, 88:21, 89:1, 89:11, 91:13, 91:19
caller [2] - 27:25, 28:1
camera [2] - 32:19, 140:18

cameras [7] - 75:6, 75:9, 75:13, 140:14, 140:24, 141:6, 141:11
campaign [2] - 10:19, 42:3
candidates' [1] - 41:19
capable [1] - 107:9
capacities [2] - 94:9, 103:16
capacity [4] - 79:23, 81:20, 82:9, 83:14
capital [1] - 60:5
Capitol [1] - 2:5
capsulated [1] - 11:17
captain [5] - 24:15, 61:18, 62:7, 79:18, 126:18
Captain [9] - 24:23, 25:4, 25:11, 61:17, 61:19, 62:6, 62:18, 63:4, 63:21
caption [1] - 27:7
car [4] - 70:20, 70:21, 71:4, 106:9
career [2] - 61:25, 82:14
careers [1] - 61:21
carpet [1] - 64:17
carried [1] - 114:4
carry [4] - 28:13, 30:23, 106:8, 130:20
carrying [1] - 20:17
cars [1] - 105:14
cart [1] - 12:3
case [24] - 12:2, 14:3, 14:16, 19:17, 20:12, 43:10, 72:10, 73:7, 77:9, 77:14, 77:16, 77:21, 82:17, 96:8, 111:3, 111:4, 140:8, 143:18, 144:2, 147:18, 147:19, 148:6, 148:8
case-in-chief [2] - 77:9, 77:16
cases [5] - 4:11, 137:7, 139:25, 146:12, 148:12
cast [1] - 127:17
casualty [2] - 69:23, 101:10
category [1] - 99:13
caused [6] - 14:10, 39:7, 43:2, 66:20, 71:24, 129:1
ceasing [1] - 137:12
Cedeno [2] - 22:25, 24:22

Cedeno's [3] - 23:3, 24:7, 24:13
cell [2] - 68:10, 73:20
cellphones [1] - 5:16
center [13] - 69:15, 69:16, 112:8, 112:9, 112:10, 112:24, 113:1, 115:24, 116:1, 119:10, 133:8, 141:12, 145:10
certain [12] - 13:21, 20:9, 24:24, 28:19, 40:14, 59:19, 85:5, 96:13, 99:17, 123:12, 126:24, 144:16
Certainly [2] - 88:13, 122:21
certainly [4] - 14:2, 14:12, 62:5, 64:13
CERTIFICATE [1] - 150:1
certification [12] - 81:7, 86:16, 87:10, 87:24, 88:2, 88:5, 89:10, 92:14, 100:6, 105:6, 106:15, 107:11
certifications [6] - 81:5, 87:11, 87:13, 89:16, 91:17, 103:11
certified [5] - 80:11, 85:7, 102:7, 105:4, 129:12
certify [1] - 150:6
certifying [1] - 14:5
cetera [2] - 13:18
CFA [2] - 89:2, 91:20
CFLEA [3] - 91:11, 92:6
chain [1] - 64:1
chains [1] - 98:14
challenge [2] - 65:20, 65:22
challenged [1] - 17:17
challenging [1] - 118:22
chamber [1] - 8:19
chambers [1] - 36:12
change [6] - 99:4, 99:16, 134:5, 140:12, 140:22, 140:23
changed [4] - 33:9, 46:5, 139:8, 143:9
changes [7] - 93:14, 93:18, 97:15, 98:4, 98:7, 98:25, 139:14
changing [1] - 86:2
chaos [6] - 16:3, 16:10, 21:6, 22:10, 26:11, 68:20

chaotic [1] - 35:16
characterized [1] - 124:23
charge [11] - 40:20, 57:9, 67:25, 79:19, 81:22, 97:8, 99:19, 110:2, 113:10, 114:17, 138:19
charged [4] - 26:6, 43:17, 59:20, 60:5
charter [1] - 107:3
charters [1] - 18:24
check [1] - 50:7
checked [1] - 54:12
cherry [2] - 37:2, 62:12
cherry-picking [1] - 37:2
chicken [1] - 146:25
chief [4] - 61:13, 77:9, 77:16, 82:24
chiefs [1] - 18:23
Chiefs [3] - 48:21, 103:14, 103:19
children [3] - 41:13, 71:14, 75:22
choose [3] - 86:10, 136:19, 140:9
chunking [1] - 101:13
circle [1] - 124:23
circles [2] - 111:21, 124:9
circuit [1] - 17:24
circumstances [2] - 59:19, 121:14
city [3] - 18:24, 114:1, 140:10
civil [1] - 145:6
civilian [7] - 68:22, 68:24, 68:25, 69:2, 69:19, 84:8, 84:9
civilians [5] - 68:15, 69:25, 120:3, 124:16, 125:3
civilization [1] - 10:3
claim [4] - 21:9, 66:13, 112:11, 147:4
claimed [1] - 42:25
claiming [3] - 17:18, 47:21, 124:19
claims [2] - 125:24, 147:3
class [5] - 101:4, 101:12, 101:15, 104:19, 131:1
classes [3] - 100:13, 100:14, 101:16
classifications [1] - 95:1

clear [20] - 17:5, 19:17, 28:18, 35:21, 39:13, 40:23, 49:9, 50:1, 51:22, 67:19, 68:19, 71:23, 72:4, 73:7, 73:9, 101:3, 119:3, 119:10, 125:5, 136:25
clearance [1] - 133:10
cleared [2] - 119:12, 143:20
clearing [3] - 101:4, 104:15, 119:4
clearly [1] - 25:8
click [1] - 75:23
close [1] - 77:20
closely [1] - 67:7
closest [3] - 137:24, 146:24, 147:4
closing [6] - 7:16, 7:19, 7:24, 35:20, 78:3, 78:13
coincided [1] - 85:18
coincident [2] - 85:16, 86:17
collected [1] - 142:2
collecting [2] - 145:11, 148:3
collection [1] - 101:10
collective [6] - 38:17, 94:22, 95:7, 95:14, 95:18, 98:22
Colonel [6] - 62:3, 64:21, 65:14, 85:10, 88:15, 94:12
colonel [11] - 81:21, 82:1, 82:7, 83:5, 83:13, 84:2, 84:13, 90:17, 93:6, 105:9, 106:17
Columbine [2] - 27:20, 137:23
combat [1] - 16:19
comfortable [2] - 28:25, 74:16
coming [3] - 26:8, 136:12, 145:16
command [33] - 16:9, 21:25, 25:9, 46:11, 57:10, 61:20, 61:23, 62:22, 66:14, 66:15, 67:8, 69:15, 69:16, 73:5, 82:22, 98:14, 104:17, 112:8, 112:10, 112:13, 112:16, 112:19, 115:24, 116:7, 122:18, 126:7, 126:9, 126:11, 126:15, 126:19, 134:4, 138:13
commandeered [1] - 49:14
commander [4] - 56:1, 65:15, 79:20, 82:13
commended [1] - 21:12
commented [1] - 122:13
commerce [1] - 57:21
commission [4] - 41:2, 47:3, 86:24, 89:10
Commission [10] - 31:15, 31:25, 32:23, 41:3, 47:2, 87:7, 88:4, 89:6, 91:10, 92:7
commissioner [2] - 40:21, 47:1
Commissions [1] - 32:18
commit [1] - 137:7
commitment [1] - 42:13
committed [3] - 14:6, 44:5, 59:12
committee [3] - 8:11, 8:13, 8:16
Committee [1] - 134:24
common [2] - 42:9, 118:7
commonalities [1] - 99:9
communicate [3] - 6:12, 74:1, 132:1
communication [5] - 73:6, 73:8, 73:19, 116:3, 132:8
Communications [1] - 89:10
communications [8] - 22:11, 75:2, 87:4, 89:12, 104:16, 131:5, 132:2, 139:22
community [12] - 39:11, 39:12, 45:2, 45:3, 59:10, 74:6, 74:11, 74:12, 74:16, 142:8, 143:8, 143:17
compare [4] - 24:21, 25:19, 102:15, 102:19
compares [1] - 26:5
comparison [1] - 34:5
compelled [1] - 148:18
compendium [1] - 91:9
competence [4] - 74:22, 76:10, 76:19, 76:20
competent [1] - 72:17
compilation [2] - 63:13, 92:6
compiled [1] - 41:1
complacent [1] - 25:1
complete [7] - 10:10, 27:22, 39:25, 89:19, 138:20, 148:17, 150:8
completed [1] - 23:3
completely [2] - 24:25, 73:25
complicated [3] - 104:18, 114:21, 125:16
components [2] - 100:11, 104:2
comport [3] - 63:17, 80:16, 97:1
comprehensive [2] - 63:3, 114:21
computer [1] - 27:11
concept [1] - 46:6
concern [4] - 71:12, 111:2, 117:3, 129:13
concerned [3] - 12:12, 75:15, 138:8
concerns [2] - 118:4, 141:1
concert [1] - 144:8
concerted [2] - 117:4, 141:13
concluded [3] - 10:24, 63:16, 85:11
concludes [1] - 44:1
conclusions [3] - 7:15, 14:11, 78:5
concurring [1] - 20:12
condition [2] - 93:2, 93:5
conditions [1] - 134:6
condolences [1] - 71:13
conductive [1] - 117:22
Conduct [1] - 83:19
conduct [3] - 10:10, 45:8, 49:14
conducted [4] - 34:3, 49:10, 51:10, 57:15
conducting [3] - 20:6, 114:14, 148:20
conferences [1] - 93:13
confidence [1] - 74:13
confirm [2] - 35:14, 63:23
confirmed [3] - 63:7, 66:23, 68:2
confirms [1] - 22:20
conflict [3] - 98:21, 109:5, 111:7
conform [1] - 87:18
confront [1] - 137:21
confronted [1] - 54:15
confronts [1] - 55:5
confusion [3] - 16:8, 22:1, 26:11
conjunction [2] - 56:5, 69:7
connected [2] - 67:20, 114:16
consensus [1] - 98:17
consequence [2] - 34:16, 48:25
conservator [4] - 18:16, 28:9, 29:11, 35:3
consider [1] - 15:3
consideration [3] - 8:12, 8:19, 18:5
considered [7] - 29:17, 72:25, 78:9, 124:9, 126:8, 126:15, 126:18
considering [1] - 17:22
consistent [10] - 48:8, 48:20, 51:4, 70:19, 71:3, 71:21, 99:18, 99:22, 109:4, 109:5
constant [1] - 124:4
constantly [2] - 124:6
Constitution [3] - 13:13, 17:13, 18:10
constitution [3] - 19:2, 36:23, 71:8
constitutional [8] - 17:19, 18:7, 19:15, 36:19, 42:9, 44:10, 76:25, 115:21
consulted [1] - 63:10
contact [1] - 104:12
contacted [1] - 103:10
contacts [4] - 121:25, 146:4, 146:7, 146:9
content [2] - 7:10, 97:12
contingent [1] - 115:18
continue [6] - 15:11, 34:20, 48:18, 78:1, 91:24, 145:24
continued [4] - 57:14, 81:25, 92:14, 149:12
continuous [1] - 138:9
contract [14] - 52:11, 52:16, 75:3, 96:8, 107:1, 107:2, 113:12, 113:20, 113:22, 114:4, 115:6, 115:11, 115:12, 141:8
contracted [2] - 52:12, 113:14
contractor [2] - 114:1, 115:19
contracts [4] - 94:21, 115:5, 115:9, 140:7
contractual [2] - 18:24, 115:3
contractually [1] - 115:13
contrary [13] - 17:25, 19:16, 23:18, 29:2, 32:24, 35:8, 49:1, 49:3, 51:7, 51:8, 56:4, 64:10, 125:1
contravened [1] - 17:11
control [6] - 25:9, 26:19, 28:12, 128:8, 139:16, 139:19
controls [2] - 56:12, 73:10
conversation [2] - 5:18, 128:19
conveyance [1] - 55:23
convincing [1] - 21:7
cooperated [1] - 56:10
cooperating [1] - 116:15
cooperation [3] - 6:18, 70:12, 139:20
cooperative [1] - 38:15
coordinate [4] - 112:16, 119:9, 131:10, 131:25
coordinated [5] - 55:15, 69:15, 119:9, 121:20, 133:5

- coordinating** [1] - 56:6
coordination [4] - 57:10, 57:23, 73:23, 119:5
coordinator [1] - 106:21
cop [1] - 129:6
copy [1] - 50:9
Correct [16] - 81:19, 83:18, 85:15, 86:19, 92:5, 94:18, 102:24, 103:23, 105:21, 106:25, 113:9, 113:16, 115:15, 128:12, 142:23, 149:3
correct [4] - 12:14, 58:6, 98:8, 140:13
Correctional [3] - 89:5, 89:7
Corrections [1] - 80:14
corrections [4] - 89:23, 90:2, 90:14, 139:14
correctly [1] - 89:24
corruption [1] - 81:23
cost [1] - 73:14
counsel [9] - 4:15, 4:24, 8:16, 49:3, 97:17, 97:19, 97:24, 98:10, 98:18
COUNSEL [1] - 2:1
Counsel [2] - 2:4, 144:14
Counselors [1] - 149:8
count [1] - 108:3
country [7] - 55:17, 103:7, 103:8, 103:17, 121:5, 121:22, 135:16
county [9] - 18:17, 38:16, 38:18, 45:24, 90:5, 115:20, 122:1, 131:6, 140:5
County [45] - 1:4, 4:6, 10:21, 15:20, 16:23, 28:17, 29:7, 37:24, 38:1, 38:7, 38:8, 38:12, 41:20, 42:6, 42:10, 43:2, 45:7, 45:10, 46:7, 48:1, 48:2, 49:5, 51:11, 51:12, 51:16, 52:11, 56:6, 56:11, 57:4, 69:17, 71:11, 71:19, 73:10, 73:16, 74:14, 75:6, 76:22, 77:2, 102:16, 102:22, 113:5, 113:8, 113:18, 115:20, 121:2
couple [6] - 6:21, 6:23, 50:7, 90:16, 108:5, 147:20
course [5] - 5:11, 52:21, 52:23, 130:19, 130:21
courses [1] - 130:9
Court [4] - 1:22, 17:22, 150:6, 150:15
court [4] - 5:12, 17:24, 144:3, 144:6
courts [1] - 18:17
covered [1] - 110:9
CPS [2] - 84:9, 94:7
created [3] - 18:10, 27:10, 145:13
creates [1] - 18:15
creating [1] - 27:14
credential [1] - 105:20
credentialed [2] - 102:11, 105:23
credentialing [1] - 80:17
Credentials [1] - 134:23
credentials [1] - 80:8
credible [2] - 26:21, 27:15
credited [1] - 89:18
crime [2] - 18:19, 22:6, 28:10, 29:12, 35:4, 38:5, 44:20, 44:23, 59:12, 59:14, 59:20, 66:12, 85:4, 89:8, 94:8, 110:8, 110:11, 112:11, 112:14, 138:23, 141:12
crimes [2] - 14:6, 44:5
criminal [5] - 72:1, 94:7, 147:5, 148:6, 148:20
Criminal [1] - 88:3
criteria [1] - 28:20
critical [7] - 24:1, 25:13, 73:1, 125:13, 126:4, 126:22, 127:7
criticism [7] - 24:13, 25:5, 39:4, 39:6, 138:10, 138:12, 138:15
criticisms [5] - 24:24, 24:25, 64:9, 64:12, 127:8
critiques [1] - 23:14
cross [2] - 102:9, 149:6
cross-trained [1] - 102:9
crown [1] - 87:14
Cruz' [1] - 147:11
Cruz's [1] - 13:8
crystal [1] - 44:19
culprit [1] - 137:5
cures [1] - 13:22
current [3] - 33:15, 92:10, 135:25
curriculum [3] - 88:3, 103:12, 137:5
cursor [1] - 17:16
curve [1] - 135:13
custody [2] - 138:24, 146:23
Customs [1] - 66:19
cut [1] - 115:17
cycle [1] - 30:12
-
- D**
-
- D-A-L-E** [1] - 79:2
Dade [1] - 102:22
daily [1] - 53:24
DALE [1] - 3:4
Dale [10] - 62:4, 78:16, 79:2, 79:3, 79:6, 79:14, 85:10, 88:15
DATE [1] - 1:11
DATED [1] - 150:11
Davis [1] - 2:8
day-to-day [1] - 20:14
days [5] - 13:24, 134:8, 147:20
DEA [1] - 66:19
deadline [1] - 7:18
deal [5] - 68:23, 69:5, 88:10, 121:22, 124:8
dealing [2] - 95:19, 124:6
deals [1] - 91:17
dealt [2] - 94:9, 94:23
deaths [3] - 35:17, 120:3, 137:2
debate [1] - 34:19
decide [4] - 13:23, 45:7, 54:5, 76:22
decided [1] - 17:21
decision [16] - 17:23, 31:8, 32:2, 33:2, 33:12, 42:16, 57:8, 57:11, 95:21, 96:1, 108:16, 115:16, 116:6, 116:18, 117:17, 135:1
decision-maker [1] - 95:21
decision-making [1] - 116:6
decisions [4] - 32:6, 32:7, 41:10, 42:15
declared [1] - 59:20
deemed [3] - 58:10, 58:12, 121:9
deepest [1] - 71:12
default [1] - 19:11
defended [1] - 33:11
deficiencies [3] - 25:2, 146:9, 147:16
deficiency [4] - 59:3, 71:22, 71:25, 77:25
deficient [3] - 24:4, 58:10, 146:10
defined [2] - 18:18, 25:8
definitely [1] - 139:17
definition [2] - 28:9, 44:24
definitions [1] - 37:10
degree [1] - 124:17
delay [1] - 7:20
delayed [2] - 140:13, 140:20
delivered [1] - 95:3
demand [1] - 140:8
demanding [1] - 126:24
demands [1] - 17:15
democratic [1] - 41:20
demonstrate [1] - 36:17
demonstrating [1] - 74:22
demoting [1] - 19:25
denial [3] - 13:20, 42:11, 42:12
denied [1] - 147:3
denomination [1] - 62:3
department [3] - 22:2, 28:2, 99:13
Department [20] - 10:9, 12:25, 39:23, 40:20, 43:12, 46:24, 47:12, 48:7, 51:25, 79:17, 80:14, 81:11, 82:21, 83:1, 83:2, 94:4, 94:6, 101:24, 134:20, 148:16
departments [1] - 94:3
deposed [1] - 61:18
deposition [1] - 17:3
depositions [1] - 48:16
Deputies [1] - 33:6
deputies [6] - 15:22, 16:6, 16:17, 19:5, 19:7, 19:11, 19:14, 19:20, 22:3, 22:12, 23:13, 23:16, 23:19, 24:5, 26:19, 26:24, 28:3, 28:11, 28:19, 28:23, 29:8, 30:4, 30:9, 30:17, 31:12, 31:17, 31:18, 32:13, 32:15, 32:19, 33:3, 33:13, 33:15, 34:11, 34:24, 35:12, 43:4, 52:9, 52:10, 58:3, 58:10, 58:21, 60:13, 60:18, 65:23, 65:24, 73:21, 74:14, 74:17, 95:4, 100:3, 100:10, 102:12, 108:13, 108:17, 136:11, 136:17, 136:18, 136:22, 139:2, 147:15
deputy [38] - 11:16, 19:25, 21:4, 21:11, 22:14, 24:14, 26:6, 27:18, 30:11, 30:23, 30:25, 31:3, 32:9, 33:16, 34:15, 43:16, 46:11, 46:23, 48:22, 51:19, 53:15, 54:21, 55:7, 58:16, 72:2, 72:3, 72:12, 72:17, 104:14, 105:12, 105:18, 107:10, 108:13, 108:21, 133:20, 134:6, 147:19, 147:23
Deputy [22] - 2:4, 27:9, 27:13, 27:21, 27:25, 31:23, 32:1, 32:5, 34:21, 40:9, 42:20, 43:3, 44:1, 48:23, 54:14, 54:18, 58:18, 110:15, 128:14, 128:16, 129:21
DeSantis [7] - 2:2, 4:18, 10:14, 15:16, 16:1, 20:13, 41:12
DeSantis's [1] - 16:24
descended [1] - 111:14
Describe [1] - 84:4
describe [1] - 24:19

- described** [3] - 16:11, 32:17, 32:20
description [1] - 105:1
design [1] - 127:10
designated [1] - 10:8
designation [1] - 10:13
designed [1] - 36:20
desire [1] - 7:11
despite [5] - 38:21, 41:5, 41:9, 47:20, 69:23
detailed [1] - 23:5
details [4] - 23:7, 114:3, 127:23, 130:1
detective [4] - 79:18, 79:21, 82:11, 82:12
detention [8] - 84:9, 87:4, 89:4, 89:23, 90:2, 90:14, 102:1, 102:6
Detention [1] - 90:3
deter [1] - 23:21
determination [3] - 15:12, 43:6, 43:18
determine [4] - 22:5, 28:22, 40:25, 139:5
determined [3] - 58:3, 64:6, 67:10
determines [1] - 114:3
determining [1] - 147:24
detract [1] - 138:17
develop [5] - 20:4, 20:8, 57:8, 108:25, 142:3
developed [2] - 74:19, 142:4
developing [2] - 75:1, 114:10
development [7] - 20:15, 97:4, 97:6, 114:19, 126:20, 135:13, 135:15
devices [1] - 5:17
devised [1] - 119:21
Diefenbacher [9] - 24:16, 24:23, 25:4, 25:11, 61:17, 62:6, 62:18, 63:4, 63:22
difference [1] - 61:10
Different [1] - 90:11
different [16] - 50:16, 73:25, 82:14, 94:22, 94:23, 95:1, 95:2, 95:11, 102:7, 103:16, 104:3, 110:19, 120:13, 125:18, 148:6
differently [2] - 127:12, 131:16
difficult [4] - 48:9, 57:17, 87:17, 140:8
difficulty [1] - 111:8
digest [1] - 101:14
DiMaggio [1] - 64:21
DIRECT [1] - 78:24
direct [2] - 3:4, 144:18
directed [5] - 10:8, 40:19, 43:23, 63:20, 149:1
direction [4] - 34:10, 55:3, 111:5, 127:4
directions [1] - 32:6
directive [3] - 47:9, 48:11, 134:18
directives [1] - 22:8
directly [2] - 24:11, 114:16
directs [1] - 29:13
disaster [1] - 24:3
discharge [3] - 17:7, 42:8, 53:7
discharged [2] - 20:20, 35:15
discharging [1] - 129:13
disciplinary [2] - 27:3, 95:20
discipline [2] - 58:6, 95:22
discipline's [1] - 148:10
discovered [1] - 24:10
discretion [3] - 33:12, 34:13, 34:22
discuss [1] - 6:10
discussing [1] - 30:16
dispatch [1] - 27:11
dispatched [1] - 66:18
dispensed [1] - 99:21
display [1] - 143:17
disrupt [1] - 5:18
distinct [1] - 61:9
distributed [1] - 108:18
district [1] - 25:7
diverse [1] - 94:21
diversity [1] - 95:2
Division [3] - 56:11, 69:18, 113:8
division [7] - 81:24, 84:6, 90:11, 90:14, 97:9, 127:23
divisions [3] - 94:20, 95:17, 97:11
DNA [1] - 52:3
document [2] - 11:9, 34:9
documented [2] - 146:11, 146:14
documents [2] - 12:15, 26:8
dog [6] - 69:20, 70:16, 70:20, 70:23, 70:24, 71:4
dollars [2] - 73:14, 73:15
domestic [1] - 147:11
Domestic [2] - 64:24, 65:8
done [12] - 13:5, 37:15, 44:4, 45:18, 60:19, 62:23, 76:12, 125:12, 127:11, 139:6, 140:11, 148:24
door [3] - 33:17, 33:19, 33:25
Douglas [37] - 16:14, 16:21, 26:13, 27:17, 31:7, 31:14, 31:25, 33:11, 34:2, 39:2, 39:10, 40:1, 41:3, 41:15, 46:4, 52:14, 53:6, 59:2, 59:8, 59:24, 60:4, 60:20, 61:5, 64:23, 71:9, 74:4, 74:24, 76:8, 107:17, 108:1, 128:2, 128:10, 131:6, 131:10, 131:18, 138:4, 139:10
Down [1] - 88:16
down [11] - 22:8, 46:11, 57:21, 116:19, 117:7, 117:18, 119:2, 123:7, 123:21, 126:18, 134:15
dozens [1] - 32:4
draft [8] - 24:22, 25:20, 26:5, 62:9, 62:12, 62:13, 114:18
drafted [1] - 62:7
drafts [1] - 63:4
drawn [1] - 68:9
drill [1] - 56:9
drilled [1] - 65:23
drills [1] - 24:3
Drive [1] - 1:23
drive [2] - 105:14, 106:8
drives [1] - 138:18
dropped [1] - 21:3
Dudley [2] - 1:14, 4:7
due [15] - 10:4, 10:5, 10:6, 12:4, 12:6, 13:13, 16:5, 16:15, 33:24, 39:1, 42:11, 95:25, 147:23, 148:9
during [14] - 15:21, 16:3, 20:20, 26:23, 29:24, 30:15, 42:3, 91:4, 92:10, 97:19, 103:6, 110:2, 120:2, 122:5
duties [26] - 17:6, 17:7, 17:11, 17:14, 17:20, 18:2, 18:7, 18:8, 18:12, 18:13, 19:23, 20:1, 20:19, 29:25, 35:1, 35:15, 37:4, 53:14, 53:15, 53:16, 53:22, 76:21, 93:25, 111:15, 121:10, 129:13
Duty [1] - 50:17
duty [31] - 15:20, 16:2, 17:1, 18:15, 18:18, 18:19, 20:3, 20:7, 28:13, 35:4, 37:18, 37:19, 41:6, 42:1, 45:10, 45:14, 47:18, 47:22, 53:23, 54:3, 54:6, 54:20, 60:14, 61:10, 70:12, 70:18, 74:22, 76:10, 86:7, 133:21
effective [4] - 21:25, 49:6, 73:19, 107:14
effectively [1] - 124:8
effectiveness [1] - 65:16
effects [1] - 118:14
efficient [2] - 58:12, 132:11
efficiently [1] - 132:5
effort [10] - 39:16, 40:8, 41:19, 44:17, 62:15, 66:8, 66:11, 120:2, 141:13
eight [2] - 30:19, 32:3
eight-hour [1] - 30:19
Eighteen [2] - 84:24, 119:8
either [8] - 13:1, 24:11, 28:3, 32:19, 36:2, 126:6, 137:6, 144:7
Elect [1] - 10:13
elected [19] - 10:15, 10:18, 10:20, 12:22, 13:4, 36:24, 37:12, 37:16, 37:25, 42:5, 42:6, 43:1, 44:9, 45:6, 60:22, 76:11, 76:17, 76:23, 96:19
election [3] - 36:20, 42:3, 74:11
electors [1] - 77:1
electronic [1] - 5:17
elephant [1] - 125:22
eliminate [5] - 48:24, 49:1, 109:12, 109:20, 137:9
emanated [1] - 47:9
emergency [6] - 56:17, 57:3, 112:24, 112:25, 115:25, 120:6
emerging [2] - 99:4, 124:7
emotional [1] - 24:20
emphasize [2] - 46:6, 74:5
employed [3] - 19:20, 24:14, 82:23
employees [6] - 20:17, 23:2, 38:11, 55:2, 84:9, 94:14
employment [2] - 58:5, 96:14
employment-based [1] - 58:5
empowers [2] - 59:10

E

- E-mail** [3] - 2:6, 2:10, 2:14
eager [1] - 121:15
ear [1] - 6:1
early [1] - 10:18
easier [1] - 101:14
easily [1] - 142:2
Eason [4] - 26:24, 27:9, 27:13, 58:18
easy [2] - 48:9, 146:18
eat [1] - 125:22
echo [1] - 5:2
edit [1] - 24:15
edited [2] - 24:22, 25:17
edits [1] - 25:12
educational [1] - 100:16
Edward [1] - 65:14
effect [3] - 98:23, 107:15, 134:6
effected [1] - 56:14

- enables** [1] - 88:2
encompassed [1] - 114:25
encompasses [2] - 84:16, 104:9
encompassing [1] - 101:11
encourage [5] - 58:16, 58:23, 64:15, 142:4, 142:10
encouraged [3] - 130:15, 136:11, 136:13
encourages [1] - 136:21
encouraging [1] - 38:13
end [8] - 13:1, 13:15, 14:10, 35:13, 35:19, 78:3, 80:1, 138:18
ending [1] - 124:5
Enforce [1] - 39:23
enforcement [139] - 12:24, 21:16, 29:8, 37:17, 37:22, 38:8, 38:10, 40:3, 40:15, 40:16, 43:5, 43:7, 43:13, 43:24, 44:4, 44:15, 44:17, 45:3, 45:13, 46:17, 46:22, 47:3, 47:16, 47:22, 47:24, 48:12, 54:3, 55:10, 55:16, 55:22, 56:17, 56:23, 57:18, 57:19, 59:10, 59:14, 59:21, 60:2, 60:7, 60:21, 61:20, 61:22, 62:1, 62:4, 64:25, 65:21, 65:22, 66:6, 66:17, 66:23, 67:4, 67:9, 68:12, 68:23, 69:4, 69:8, 70:18, 71:3, 72:23, 74:17, 76:2, 76:7, 79:16, 80:4, 80:5, 80:8, 80:11, 80:17, 80:23, 81:3, 81:5, 83:15, 84:8, 86:24, 87:2, 88:3, 89:1, 90:8, 92:13, 92:15, 93:3, 93:14, 94:10, 94:20, 95:11, 95:20, 96:5, 96:13, 96:16, 99:13, 100:3, 100:6, 100:8, 101:22, 102:4, 102:6, 102:10, 102:12, 103:9, 103:24, 104:25, 105:3, 105:13, 105:23, 105:24, 106:2, 111:11, 111:13, 111:18, 111:21, 111:23, 112:4, 112:16, 113:15, 120:22, 121:21, 122:7, 124:13, 124:23, 128:7, 128:22, 129:2, 129:9, 130:14, 131:17, 131:22, 133:14, 134:12, 135:10, 135:13, 135:14, 144:8, 145:4, 146:3, 146:4, 146:21
Enforcement [16] - 10:9, 12:25, 34:4, 40:21, 43:13, 46:24, 47:13, 48:7, 51:25, 55:14, 87:7, 91:10, 92:7, 101:24, 134:20, 148:16
engage [3] - 30:2, 34:17, 52:20
engaging [1] - 30:21
enhance [2] - 23:11, 89:15
enhanced [3] - 23:12, 25:6, 26:1
ensued [1] - 22:10
enter [7] - 32:2, 33:6, 33:9, 33:10, 33:13, 34:23, 108:13
entered [4] - 17:4, 28:16, 77:12, 141:8
entering [1] - 33:24
entire [16] - 29:10, 30:19, 38:16, 45:2, 49:14, 55:10, 56:1, 56:15, 61:21, 91:16, 116:19, 117:18, 119:2, 119:12, 125:5
entirely [2] - 115:18, 140:25
entirety [1] - 55:19
entitled [1] - 11:8
entity [3] - 22:5, 22:7, 113:5
entrusted [1] - 28:13
entrusts [1] - 19:12
entry [3] - 34:11, 34:12, 34:14
environment [1] - 117:22
EOC [5] - 112:21, 112:23, 112:25, 116:4
equipment [2] - 136:1, 136:2
equipping [1] - 43:23
equivalent [2] - 77:20, 144:10
errors [3] - 12:14, 60:15, 63:6
especially [3] - 21:21, 40:3, 75:20
ESQ [3] - 2:3, 2:3, 2:8
essence [1] - 14:13
essential [3] - 20:17, 129:11, 135:10
essentially [2] - 12:3, 54:3
establish [1] - 28:20
established [4] - 22:4, 37:7, 116:5, 144:2
establishes [1] - 45:12
et [2] - 13:18
euphemism [1] - 64:13
evacuate [4] - 119:3, 119:20, 120:3, 125:6
evacuated [1] - 120:14
evacuating [1] - 117:20
evacuation [1] - 120:16
evacuations [1] - 118:10
evaluated [1] - 52:9
evaluation [1] - 143:20
event [18] - 22:13, 26:10, 26:14, 63:1, 78:8, 112:18, 114:14, 118:24, 121:12, 121:14, 121:17, 122:6, 122:15, 125:21, 129:19, 132:18, 146:24
events [15] - 15:14, 23:7, 23:21, 24:6, 26:22, 26:23, 27:4, 31:6, 62:25, 118:6, 118:9, 118:25, 123:17, 135:20, 142:25
Eventually [1] - 94:2
eventually [3] - 41:4, 141:4, 144:2
evidence [85] - 15:18, 17:8, 17:9, 21:8, 31:14, 31:24, 32:14, 35:14, 37:7, 37:18, 38:19, 38:25, 39:6, 41:18, 41:22, 42:17, 43:23, 44:7, 45:4, 45:11, 45:20, 46:2, 46:14, 47:8, 48:2, 48:15, 48:16, 49:4, 49:21, 51:6, 51:15, 51:22, 52:6, 52:25, 53:18, 53:20, 54:17, 55:9, 55:24, 56:4, 56:18, 56:19, 56:21, 57:7, 57:13, 57:17, 58:1, 58:8, 58:20, 58:25, 59:6, 59:9, 60:11, 60:16, 61:3, 61:7, 61:15, 61:17, 62:24, 64:19, 64:20, 66:7, 66:14, 66:20, 67:6, 67:13, 67:19, 68:21, 68:24, 69:9, 70:6, 70:22, 72:10, 72:11, 72:20, 73:3, 74:3, 74:7, 74:10, 74:20, 75:24, 76:15, 76:16, 147:3
evident [2] - 39:3, 141:22
evidentiary [2] - 8:13, 78:1
evinced [1] - 124:20
evolves [2] - 112:18, 124:6
exact [1] - 125:1
exactly [5] - 13:5, 69:21, 70:23, 71:6, 116:24
Examination [1] - 3:4
examination [3] - 146:3, 149:7
EXAMINATION [1] - 78:24
example [3] - 25:24, 106:1, 122:22
exceeded [1] - 46:1
exceeding [1] - 93:23
excelsior [1] - 87:16
except [2] - 73:24, 84:10
exception [1] - 33:23
excess [1] - 32:21
excluded [1] - 126:25
excuse [1] - 9:9
execute [1] - 82:3
EXECUTIVE [2] - 1:3, 1:10
Executive [7] - 2:4, 4:4, 16:1, 17:17, 17:24, 92:23, 92:24
executive [9] - 18:11, 40:17, 41:25, 46:20, 46:25, 47:7, 47:10, 61:13, 115:25
exercise [13] - 29:10, 51:10, 56:3, 56:15, 56:17, 57:6, 57:11, 57:13, 57:14, 57:24, 65:2, 86:13, 116:11
exercised [1] - 76:21
exercises [5] - 24:2, 30:21, 32:8, 65:2, 69:5
exhaustive [1] - 41:5
Exhibit [28] - 8:21, 8:22, 9:10, 43:15, 48:4, 49:8, 49:9, 49:22, 50:9, 50:13, 50:24, 75:4, 75:18, 88:7, 88:15, 91:7, 91:12, 91:21, 91:22, 92:3, 92:6, 107:12, 107:19, 107:21, 142:14
exhibit [15] - 8:25, 43:16, 49:8, 49:16, 49:18, 49:20, 49:21, 49:24, 50:19, 52:15, 53:12, 64:3, 91:17, 92:3, 145:25
exhibited [1] - 8:24
exhibits [11] - 8:15, 17:4, 35:21, 43:15, 48:4, 50:8, 52:7, 77:12, 88:6, 113:23
existed [1] - 22:5
exists [2] - 33:7, 108:12
expanded [3] - 81:24, 90:18, 94:1
expected [1] - 76:18
experience [5] - 40:10, 44:3, 82:3, 117:23, 131:13
experienced [3] - 52:9, 72:23, 135:19
experts [3] - 63:11, 98:13, 103:11
explain [4] - 12:18, 33:16, 94:1, 112:23
explains [1] - 34:10
explicit [2] - 19:3, 19:9
explicitly [1] - 29:13
exposure [1] - 23:17
expressed [1] - 71:12
extended [1] - 148:22
extensive [2] - 23:6, 34:3
extensively [1] - 123:6
extent [3] - 77:19,

77:23, 78:7
external [1] - 20:6
extremely [1] - 24:4
extricate [1] - 101:9
eye [2] - 132:8
eye-to-eye [1] - 132:8

F

face [3] - 12:4, 14:20, 60:21
faced [1] - 29:1
facet [1] - 101:10
facets [1] - 125:18
facilities [3] - 88:1, 125:6, 135:18
facility [2] - 87:22, 87:24
fact [23] - 7:15, 11:14, 14:5, 20:1, 29:23, 37:1, 37:2, 37:9, 37:13, 43:4, 47:21, 53:24, 64:11, 68:7, 68:15, 68:20, 70:13, 72:23, 76:14, 76:24, 78:4, 107:5, 147:15
facts [7] - 15:18, 17:8, 35:13, 41:11, 41:15, 74:19, 138:5
factual [4] - 10:17, 11:4, 63:6, 72:20
factually [1] - 34:8
faculty [1] - 16:13
fail [1] - 72:5
failed [12] - 15:19, 15:22, 17:13, 21:8, 26:14, 26:20, 27:14, 28:13, 31:24, 53:6, 53:7, 53:22
failing [1] - 61:9
failure [10] - 15:24, 16:5, 16:15, 16:16, 16:18, 21:23, 25:7, 32:4, 32:5, 71:22
failures [13] - 15:15, 19:13, 19:19, 20:22, 21:25, 22:21, 26:24, 31:22, 35:8, 35:16, 44:8, 58:2, 60:12
Fair [4] - 94:19, 96:2, 105:9, 124:10
fairly [1] - 114:20
fairness [5] - 11:1, 11:2, 12:5, 42:12
faithfully [1] - 17:14
fall [2] - 45:15, 106:19
fallen [1] - 58:3

false [4] - 19:16, 37:3, 38:1, 49:4
falsely [1] - 38:2
familiar [6] - 107:24, 109:24, 122:14, 129:18, 141:14, 141:19
familiarity [1] - 113:24
families [2] - 28:6, 71:13
family [3] - 119:25, 145:21, 145:23
fan [2] - 57:14, 66:12
fancy [2] - 61:12, 71:7
fantasy [1] - 67:14
far [13] - 46:1, 67:14, 72:7, 76:15, 96:25, 98:2, 102:25, 117:6, 120:2, 124:12, 135:12, 136:9, 138:8
fashioned [1] - 136:23
fashioning [1] - 126:25
fast [1] - 26:12
fastest [1] - 16:7
fatalities [1] - 32:3
Fathers [1] - 10:3
fault [2] - 68:14, 70:2
faults [1] - 71:2
favor [1] - 135:5
favorably [1] - 70:11
FBI [27] - 55:18, 56:13, 57:5, 61:3, 61:5, 66:10, 66:18, 67:3, 67:10, 67:14, 67:21, 67:25, 68:12, 69:17, 69:23, 92:22, 92:23, 110:24, 111:4, 111:8, 111:9, 112:12, 116:14, 116:16, 116:22, 121:20, 147:9
FCAC [1] - 89:5
FDLE [19] - 10:9, 10:24, 14:2, 42:14, 42:16, 42:18, 43:18, 71:25, 76:1, 76:6, 87:23, 87:24, 91:4, 100:1, 101:19, 101:21, 102:7, 103:11, 148:25
FDLE's [1] - 14:20
featured [1] - 108:10
February [6] - 10:7, 13:7, 16:13, 26:12, 27:5, 128:3
federal [6] - 66:21, 67:17, 68:1, 68:8,

117:13, 141:3
feed [1] - 97:12
fell [2] - 45:12, 45:18
felonies [2] - 43:17, 60:6
few [3] - 21:22, 83:11, 88:5
fifteen [1] - 125:6
fight [1] - 67:13
fighting [1] - 15:17
figure [1] - 13:2
file [7] - 53:11, 53:12, 53:13, 129:22, 129:24, 129:25, 130:4
filed [1] - 145:8
files [1] - 50:7
fill [1] - 86:5
final [27] - 4:4, 7:5, 8:20, 17:2, 21:10, 25:14, 25:17, 25:20, 25:21, 25:24, 26:4, 28:6, 34:20, 35:19, 63:24, 64:2, 78:13, 95:21, 95:25, 125:12, 125:16, 126:3, 126:4, 126:5, 126:22, 127:7, 133:10
finally [6] - 16:22, 25:12, 35:6, 36:16, 63:2, 141:6
finance [1] - 94:5
findings [5] - 7:15, 11:4, 24:8, 27:1, 78:4
fine [2] - 9:2, 70:25
finger [4] - 47:5, 47:6, 60:23, 126:23
finger-pointing [2] - 47:5, 60:23
fingers [2] - 71:16, 148:4
finished [1] - 144:20
finishes [1] - 78:12
fire [5] - 54:10, 63:13, 89:12, 96:4, 122:10
firearms [7] - 100:12, 104:8, 143:22, 144:1, 146:16, 147:11
fired [5] - 22:11, 66:22, 117:2, 118:9, 141:10
firefighters [1] - 84:10
firing [1] - 19:24
First [1] - 122:7
first [25] - 6:24, 8:5, 14:17, 14:21, 24:21, 27:4, 27:13, 30:15, 37:21, 40:11, 62:11, 62:13, 66:1, 78:16,

79:10, 83:9, 84:5, 90:17, 91:12, 98:12, 105:12, 110:6, 122:5, 132:15, 136:2
first-rate [1] - 136:2
fitness [1] - 28:22
fits [1] - 64:13
five [4] - 20:25, 23:4, 40:12, 144:19
Flag [7] - 59:8, 59:9, 59:21, 143:3, 143:10, 144:9, 144:25
flagship [1] - 87:19
flashlights [1] - 104:15
flat [1] - 49:3
flat-out [1] - 49:3
fled [1] - 57:12
flee [1] - 137:11
fleet [1] - 94:5
flies [2] - 12:4, 14:19
flip [1] - 91:9
FLL [1] - 139:24
FLORIDA [1] - 1:1
Florida [70] - 1:4, 1:13, 1:24, 2:5, 2:9, 2:13, 10:9, 12:24, 12:25, 13:13, 16:22, 17:13, 17:15, 17:21, 18:10, 18:17, 19:5, 20:11, 26:3, 34:4, 34:7, 35:24, 39:22, 40:20, 41:24, 42:14, 43:12, 44:6, 46:18, 46:24, 47:1, 47:4, 47:12, 47:16, 47:23, 48:7, 51:25, 55:8, 59:7, 59:15, 59:25, 65:1, 70:10, 80:11, 80:20, 80:23, 80:25, 81:2, 88:1, 89:5, 89:9, 91:10, 91:18, 92:7, 96:7, 96:12, 99:2, 99:23, 100:2, 102:20, 103:1, 104:23, 105:5, 105:17, 134:19, 134:23, 144:24, 148:16, 149:2
Floridian [1] - 40:2
focal [1] - 33:1
focus [2] - 131:7, 138:21
focused [2] - 26:16, 109:11
focusing [1] - 75:1
fold [2] - 137:9, 138:21
follow [11] - 27:14, 44:2, 44:3, 47:14, 58:19, 71:23, 96:22,

100:15, 132:21, 137:4, 145:7
followed [3] - 10:18, 28:2, 58:11
Following [2] - 80:7, 138:4
following [8] - 27:15, 58:23, 69:21, 77:20, 89:20, 96:24, 125:10, 138:1
FOR [1] - 1:10
Force [2] - 64:24, 65:8
force [2] - 100:12, 101:7
forced [1] - 144:3
foreclosing [1] - 15:6
foregoing [1] - 150:7
forever [1] - 15:8
forget [1] - 19:23
formal [1] - 111:19
former [9] - 22:3, 33:15, 42:20, 44:1, 48:23, 54:10, 55:25, 128:14, 128:16
forms [1] - 130:10
Fort [47] - 16:4, 20:23, 21:18, 21:24, 22:19, 40:7, 54:8, 54:11, 55:11, 55:20, 56:7, 56:16, 56:21, 57:15, 62:25, 64:22, 65:5, 65:15, 66:5, 67:2, 67:4, 67:20, 70:4, 72:18, 79:17, 79:24, 80:14, 81:3, 81:11, 82:20, 82:25, 83:1, 83:7, 102:18, 107:15, 109:23, 110:5, 111:10, 114:6, 116:9, 120:19, 123:8, 124:19, 124:24, 126:7, 126:21, 127:19
forth [3] - 73:22, 98:16, 132:7
forty [1] - 87:25
Forum [1] - 92:24
forward [4] - 11:3, 13:11, 26:12, 136:8
Founding [1] - 10:3
four [4] - 25:10, 30:17, 70:8, 83:9
four-hour [1] - 30:17
Fourteenth [1] - 13:12
fragmented [1] - 132:4
frame [1] - 8:1
framework [3] -

14:16, 19:1, 97:13
frankly [2] - 15:8, 140:1
frequent [2] - 31:2, 32:8
frequently [2] - 101:16, 103:10
front [1] - 51:4
fruit [1] - 139:17
fulfill [2] - 36:21, 102:10
fulfilled [2] - 52:15, 76:20
full [8] - 35:23, 37:13, 56:8, 56:10, 79:6, 80:5, 107:6, 148:9
full-scale [1] - 56:8
fully [4] - 66:13, 114:7, 114:24, 117:6
function [5] - 43:24, 45:16, 90:9, 102:4, 105:1
functioning [1] - 52:10
functions [4] - 20:14, 29:9, 129:12, 129:16
fundamental [1] - 12:5
funding [2] - 107:5, 115:18
furthermore [1] - 34:23
future [2] - 15:12, 127:12

G

gamut [1] - 122:11
garage [3] - 68:4, 68:5
Gardens [1] - 2:13
Garrity [1] - 148:22
gather [2] - 12:8, 62:16
gathered [1] - 121:19
gee [1] - 62:10
General [1] - 2:4
general [8] - 5:9, 97:17, 97:19, 97:24, 98:10, 98:18, 113:25, 130:3
generally [1] - 126:15
given [15] - 18:5, 18:23, 21:21, 38:21, 39:19, 42:7, 42:12, 42:19, 55:6, 58:21, 95:25, 101:16, 108:25, 134:7, 143:2

glove [1] - 67:16
goal [3] - 109:13, 137:9, 137:14
goals [1] - 109:12
gold [1] - 87:11
Goodlette [2] - 1:14, 4:7
governing [1] - 20:5
government [3] - 56:12, 113:10, 117:13
governmental [4] - 67:15, 75:14, 113:5, 115:21
governments [1] - 38:14
governor [54] - 11:24, 12:22, 14:15, 36:24, 37:1, 38:4, 38:23, 39:2, 39:20, 39:21, 39:22, 40:18, 40:22, 40:23, 41:1, 41:25, 42:4, 42:15, 42:19, 42:24, 42:25, 44:18, 44:21, 45:10, 45:17, 46:25, 47:2, 47:18, 53:1, 54:2, 54:7, 57:6, 60:17, 60:25, 61:2, 61:19, 61:24, 62:10, 65:3, 67:12, 68:14, 68:20, 70:2, 71:1, 72:9, 73:7, 76:23, 96:11, 122:13, 124:19, 144:25, 149:1
Governor [16] - 2:2, 2:4, 4:18, 4:20, 10:8, 10:13, 12:21, 15:15, 15:25, 16:24, 20:13, 39:17, 41:11, 41:24, 54:4
governor's [22] - 9:8, 9:14, 14:21, 35:5, 35:23, 36:17, 37:6, 38:23, 43:5, 43:13, 47:1, 49:3, 50:25, 51:8, 62:3, 64:10, 68:7, 77:9, 77:21, 77:25, 85:16, 108:10
graduate [3] - 92:22, 92:23, 92:24
graduates [1] - 93:1
graduations [1] - 93:1
Grant [1] - 65:14
grant [2] - 19:3, 19:9
granted [3] - 19:1, 29:10, 141:6
grants [2] - 85:4, 94:5
grips [1] - 40:25
grossly [1] - 129:5

ground [3] - 21:3, 105:15, 105:16
grounds [1] - 18:3
group [2] - 98:16, 121:1
growing [1] - 16:8
grows [1] - 112:19
guard [1] - 86:3
guards [1] - 29:4
gubernatorial [1] - 41:9
guess [4] - 85:13, 113:6, 116:24, 125:22
gun [7] - 27:7, 27:8, 54:12, 68:16, 83:21, 106:8, 147:1
gunfire [2] - 21:13, 32:14
guns [8] - 59:16, 59:19, 59:22, 68:6, 68:9, 68:11, 68:17, 143:15
gunshots [2] - 32:3, 32:22
Gunzburger [2] - 97:21, 97:22
guy [1] - 129:6

H

half [4] - 16:21, 70:3, 70:10, 115:17
hampered [2] - 132:2, 132:11
hand [10] - 50:11, 67:16, 73:20, 78:18, 88:6, 88:12, 90:20, 91:22, 107:12
handcuffing [1] - 104:14
handcuffs [1] - 104:12
handle [3] - 107:3, 125:21, 129:17
handled [3] - 105:10, 112:13, 122:3
handling [2] - 55:19, 146:9
handpicked [1] - 24:12
hands [2] - 21:1, 125:17
hanging [1] - 139:17
hard [2] - 53:2, 104:13
harm [1] - 23:17
harsh [1] - 58:14
head [5] - 19:17, 46:19, 54:5, 72:8, 123:24

headed [1] - 46:25
health [1] - 145:22
Health [1] - 89:7
hear [15] - 18:6, 21:2, 21:15, 22:10, 22:24, 25:15, 29:16, 29:23, 30:7, 30:9, 34:1, 34:6, 62:2, 89:24, 113:7
heard [6] - 8:6, 8:18, 32:15, 68:2, 68:18, 110:19
hearing [18] - 4:4, 5:15, 6:9, 7:14, 8:5, 8:14, 9:5, 17:2, 21:10, 28:6, 32:2, 32:22, 34:21, 35:19, 36:11, 66:21, 68:16, 78:10
HEARING [1] - 1:10
hears [1] - 69:11
heart [1] - 108:4
held [10] - 19:21, 35:10, 74:18, 84:19, 86:22, 87:4, 87:10, 88:18, 105:24, 119:24
help [3] - 69:14, 112:1, 139:3
helped [2] - 57:23, 142:3
helping [1] - 38:17
hemostatic [1] - 101:8
heroic [1] - 40:8
hierarchy [1] - 84:4
High [10] - 16:14, 16:21, 26:13, 31:7, 39:10, 40:1, 41:3, 49:11, 59:2, 128:2
high [6] - 11:14, 28:25, 43:24, 49:14, 51:11, 138:14
high-stress [1] - 28:25
higher [1] - 133:4
highest [3] - 42:13, 65:20, 87:18
highlight [1] - 26:18
highlighted [1] - 31:15
highlights [1] - 11:13
hired [1] - 83:13
hiring [1] - 19:24
historic [1] - 114:12
history [5] - 45:21, 60:4, 87:15, 92:14, 145:22
hoc [1] - 133:8
hold [6] - 85:1, 86:20, 87:3, 87:21, 90:3, 90:5
holding [2] - 15:3,

119:23
holds [3] - 60:17, 68:20, 89:12
home [1] - 28:7
Homeland [5] - 55:1, 56:13, 66:11, 66:18, 69:24
homicide [1] - 110:25
honor [1] - 4:22
Honor [4] - 9:23, 13:19, 14:15, 15:2
Honor's [1] - 14:13
honorable [1] - 61:22
hope [1] - 35:5
horizon [1] - 93:16
horrific [1] - 71:14
horse [1] - 12:4
hospitalizations [1] - 120:7
host [1] - 139:8
hotel [1] - 123:4
hour [7] - 30:17, 30:19, 66:6, 67:2, 70:9, 70:10, 110:7
hours [5] - 70:3, 70:8, 119:5, 125:4
house [1] - 114:3
HR [1] - 95:17
huge [1] - 67:24
human [1] - 44:7
hundred [2] - 73:15, 95:2
hurried [1] - 62:15

I

IACP [2] - 103:14, 103:22
idea [2] - 88:25, 117:1
identified [2] - 23:23, 58:21
identify [1] - 76:14
ignore [1] - 66:24
Il [1] - 149:12
ill [1] - 59:21
imagine [1] - 27:6
imbued [1] - 100:22
immediate [3] - 75:5, 75:9, 75:12
immediately [8] - 14:17, 54:24, 66:10, 74:23, 74:24, 75:20, 75:23, 117:3
imminent [1] - 23:18
impact [1] - 134:10
impacted [2] - 28:7, 96:19

- impactful** [1] - 124:10
- impanel** [1] - 42:14
- imparts** [1] - 104:19
- impeding** [1] - 144:4
- imperative** [2] - 39:21, 47:11
- implement** [20] - 40:14, 44:16, 47:23, 53:8, 75:3, 76:25, 99:10, 99:24, 109:1, 133:24, 134:2, 134:4, 134:16, 139:11, 139:13, 139:18, 141:21, 142:11, 145:4
- implementation** [3] - 118:13, 134:8, 135:5
- implemented** [13] - 45:25, 49:6, 59:8, 61:1, 73:22, 75:19, 76:9, 93:18, 99:12, 134:7, 142:21, 144:10, 145:8
- implementing** [1] - 74:25
- implements** [1] - 98:25
- implicit** [1] - 18:8
- implied** [1] - 19:23
- important** [11] - 10:4, 11:18, 12:16, 19:8, 24:21, 25:3, 26:18, 31:3, 67:5, 75:11, 136:6
- imposed** [1] - 148:11
- impossible** [1] - 34:15
- impressed** [1] - 122:4
- improper** [1] - 139:6
- improve** [5] - 25:23, 89:18, 124:2, 124:13, 138:17
- improved** [1] - 127:12
- improvement** [7] - 23:8, 26:8, 64:15, 64:18, 124:4, 127:14, 141:20
- improvements** [1] - 139:14
- IN** [1] - 1:3
- inability** [3] - 12:15, 53:14, 116:1
- inaccurately** [1] - 65:4
- inactions** [1] - 13:8
- inadequate** [2] - 14:19, 43:3
- inadequately** [1] - 43:2
- inaudible** [3] - 9:25, 38:24, 89:8
- inauguration** [1] - 42:4
- Inc** [1] - 1:23
- incidence** [1] - 145:15
- incident** [21] - 21:5, 25:13, 27:10, 27:15, 27:16, 27:22, 71:1, 71:10, 71:20, 104:17, 114:12, 120:19, 126:4, 126:22, 127:7, 128:1, 128:4, 128:7, 136:24, 137:19, 139:15
- Incident** [1] - 64:3
- incidents** [4] - 58:25, 114:11, 117:24, 122:19
- include** [5] - 47:16, 95:19, 98:2, 131:20, 131:22
- included** [6] - 51:13, 54:12, 64:8, 86:15, 98:18, 126:25
- includes** [4] - 28:10, 48:11, 52:25, 94:4
- including** [12] - 7:8, 17:2, 20:5, 20:15, 22:12, 23:11, 29:11, 34:5, 48:22, 55:1, 66:23, 92:14
- incompetence** [7] - 16:2, 17:1, 41:6, 42:2, 60:14, 70:13, 124:21
- incompetent** [7] - 13:3, 17:6, 17:11, 31:8, 37:5, 71:6, 121:9
- incompetently** [2] - 20:20, 35:15
- inconsistent** [1] - 31:20
- incorporate** [5] - 7:24, 8:2, 98:16, 127:20, 130:11
- incorporated** [3] - 100:14, 130:11, 137:17
- incorporation** [1] - 8:4
- increase** [1] - 75:2
- incumbent** [3] - 17:20, 18:13, 20:2
- indefinite** [1] - 15:11
- independent** [2] - 39:24
- INDEX** [1] - 3:1
- indicated** [2] - 29:7, 50:20
- indicating** [1] - 144:15
- individual** [4] - 28:23, 28:24, 97:11, 145:10
- individually** [1] - 144:8
- individuals** [9] - 16:11, 20:25, 28:20, 40:7, 90:4, 103:13, 137:3, 137:13, 145:16
- industry** [1] - 93:15
- infamous** [1] - 128:17
- inflammatory** [1] - 37:8
- information** [38] - 6:3, 7:1, 7:10, 7:17, 7:21, 7:22, 7:24, 8:1, 10:16, 10:17, 11:18, 12:1, 12:8, 12:21, 13:10, 13:15, 13:16, 15:7, 15:9, 26:21, 27:16, 27:22, 28:4, 42:18, 42:24, 59:5, 62:17, 63:6, 63:14, 63:17, 63:24, 88:10, 93:10, 111:2, 140:19, 141:23, 143:7
- informed** [2] - 36:10, 39:18
- infrequent** [2] - 24:4, 31:16
- ingrained** [1] - 53:8
- inherited** [1] - 45:23
- inimical** [1] - 39:14
- initial** [9] - 21:5, 23:9, 24:8, 24:13, 24:15, 24:22, 62:9, 63:14, 138:9
- initials** [1] - 112:23
- initiated** [4] - 39:22, 46:9, 114:8, 149:1
- injured** [2] - 21:1, 70:14
- injuries** [2] - 16:10, 32:4
- injury** [1] - 120:10
- innocence** [2] - 43:9, 43:11
- innocent** [2] - 40:6, 40:12
- input** [3] - 98:14, 116:23, 127:2
- inside** [2] - 71:4, 101:2
- insisted** [1] - 136:8
- inspections** [2] - 84:17, 89:19
- installation** [1] - 42:4
- installed** [1] - 41:24
- instance** [1] - 85:3
- instances** [1] - 60:13
- instead** [2] - 27:10, 38:6
- instill** [4] - 38:6, 57:23, 74:13, 74:15
- instilled** [2] - 37:21, 37:23
- Institute** [2] - 92:23, 92:25
- institutes** [1] - 93:2
- institution** [3] - 57:19, 57:20
- instructions** [4] - 36:5, 62:21, 62:22, 108:25
- intelligence** [3] - 33:7, 108:12, 145:11
- intended** [4] - 43:10, 63:9, 114:20, 114:22
- intends** [1] - 8:10
- intention** [1] - 5:22
- interaction** [2] - 39:8, 105:13
- interactions** [1] - 146:21
- interchangeable** [1] - 106:13
- interested** [1] - 60:22
- interesting** [2] - 10:2, 10:22
- interestingly** [3] - 46:4, 68:14, 69:18
- interests** [2] - 44:14, 44:15
- intermediaries** [1] - 6:12
- Intermittently** [1] - 95:16
- internal** [6] - 26:25, 79:20, 79:22, 81:22, 81:23, 95:23
- internally** [1] - 145:3
- international** [2] - 103:18, 103:24
- International** [5] - 20:24, 48:20, 65:3, 103:14, 103:19
- interrupt** [1] - 144:15
- interview** [2] - 72:4, 138:23
- interviewed** [3] - 11:6, 14:1, 52:8
- interviewing** [2] - 66:9, 148:24
- introduce** [1] - 4:16
- introduced** [1] - 31:13
- investigate** [1] - 66:25
- investigated** [1] - 27:18
- investigating** [3] - 26:7, 110:23, 110:25
- investigation** [15] - 10:10, 10:24, 12:23, 39:23, 39:25, 40:23, 41:5, 42:14, 67:18, 67:25, 138:20, 148:10, 148:17, 148:20, 148:25
- Investigations** [1] - 94:6
- investigations** [10] - 20:6, 27:1, 79:19, 83:19, 94:7, 110:2, 115:24, 138:19, 148:13
- investigative** [6] - 11:7, 11:20, 110:10, 128:9, 133:9, 138:21
- investigators** [2] - 84:9, 145:6
- involutionarily** [1] - 143:19
- involve** [2] - 73:8, 125:3
- involved** [18] - 49:12, 57:2, 59:1, 59:2, 59:3, 69:6, 90:17, 90:21, 97:6, 98:11, 99:15, 111:11, 116:13, 123:17, 125:16, 126:23, 145:24, 148:14
- involvement** [9] - 45:2, 97:16, 98:3, 99:17, 110:4, 117:14, 128:6, 132:24, 133:3
- involves** [1] - 101:7
- involving** [10] - 54:9, 65:12, 122:20, 141:23, 146:5, 147:8, 147:11, 147:16, 147:23, 148:21
- ish** [1] - 110:20
- Israel** [130] - 1:3, 2:7, 4:5, 4:25, 5:5, 5:6, 6:25, 8:7, 8:17, 9:11, 10:15, 10:20, 13:2, 15:16, 15:17, 15:19, 15:21, 16:2, 16:6, 16:15, 16:25, 17:6, 17:10, 17:16, 18:1, 18:4, 18:6, 19:12, 19:19, 20:13, 20:20, 21:8, 21:9, 21:19,

22:2, 22:22, 24:11,
25:12, 25:15, 25:18,
25:22, 26:9, 26:15,
27:12, 28:15, 28:18,
28:21, 29:2, 29:6,
29:16, 29:20, 30:7,
30:16, 31:8, 32:5,
32:10, 32:11, 33:9,
33:11, 33:21, 34:25,
35:6, 35:25, 36:16,
37:4, 37:12, 38:5,
38:20, 39:11, 39:16,
39:18, 41:7, 41:8,
41:16, 42:1, 42:2,
43:1, 43:7, 45:5,
45:12, 45:22, 45:23,
45:25, 46:19, 48:4,
49:8, 50:24, 51:1,
53:21, 55:12, 55:25,
57:7, 57:25, 60:2,
60:17, 61:24, 71:2,
71:12, 74:5, 74:10,
76:11, 76:18, 78:15,
81:15, 81:16, 82:6,
82:15, 82:21, 83:1,
83:6, 85:17, 85:25,
88:8, 88:15, 88:17,
89:15, 91:8, 91:23,
94:15, 107:12,
107:13, 107:21,
126:23, 135:4,
142:14, 142:15,
142:22

Israel's [12] - 8:21,
8:22, 26:19, 26:24,
28:12, 30:4, 32:6,
33:2, 34:9, 43:10,
43:15, 86:17
issue [11] - 9:22,
17:21, 18:21, 22:7,
53:3, 59:4, 59:23,
66:21, 135:23, 136:2,
136:3
issued [6] - 16:1,
22:17, 41:4, 41:25,
43:14, 136:1
issues [10] - 25:11,
45:3, 51:17, 116:4,
116:8, 118:3, 118:8,
139:1, 139:8, 145:22
IT [1] - 94:5
itself [4] - 50:4, 60:9,
69:20, 112:14

J

Jack [4] - 62:4,
78:16, 79:3, 79:6
jail [1] - 148:7
jails [1] - 90:6

James [3] - 24:15,
61:17, 62:6
January [8] - 10:18,
15:25, 16:5, 20:24,
54:9, 85:14, 109:22
Jersey [2] - 80:14,
80:16
Jesse [1] - 54:15
JESSICA [3] - 1:22,
150:5, 150:15
Jessie [1] - 40:9
job [15] - 38:5, 44:22,
60:19, 61:9, 62:18,
74:12, 77:1, 94:24,
95:1, 99:8, 99:19,
105:1, 105:8, 129:12,
137:3
JOHN [2] - 2:3, 3:4
John [3] - 4:19, 79:2,
79:6
joint [3] - 65:2,
116:10, 132:1
Joint [1] - 65:7
junction [1] - 13:11
junctions [1] - 82:14
June [6] - 1:11, 4:3,
46:15, 50:15, 142:16,
150:11
jurisdiction [1] -
121:17
Justice [2] - 20:12,
88:4

K

K-9 [11] - 22:14,
22:16, 69:19, 69:20,
69:21, 70:16, 70:20,
70:23, 71:4
KAPLAN [5] - 2:11,
5:1, 9:15, 9:18, 10:1
Kaplan [6] - 2:12,
5:4, 9:16, 15:5, 36:2,
77:17
keep [8] - 6:24, 7:4,
31:10, 42:22, 105:20,
123:25, 125:24,
138:14
keeping [1] - 30:5
kept [3] - 25:5,
108:21, 115:6
kids [1] - 142:11
kill [1] - 27:20
killed [1] - 21:1
killer [6] - 46:6,
54:16, 60:5, 61:5,
61:6, 104:5
killers [1] - 46:7
killing [1] - 137:12
kind [7] - 44:16,

76:9, 90:20, 99:8,
114:12, 133:7, 142:5
Kinsey [6] - 61:25,
64:1, 64:11, 94:12,
126:3, 126:6
knowing [1] - 37:6
knowledge [9] -
68:7, 82:2, 82:3, 91:6,
117:24, 121:19,
123:25, 126:23,
147:12
knowledgeable [1] -
125:20
known [9] - 31:24,
38:15, 41:2, 41:11,
56:8, 65:10, 86:21,
87:11, 122:23
knows [1] - 28:5
KUEHNE [28] - 2:8,
4:21, 5:6, 8:25, 9:6,
9:9, 36:9, 36:15,
49:20, 50:9, 50:24,
51:6, 77:18, 78:7,
78:15, 78:25, 79:9,
79:13, 88:12, 88:14,
91:22, 92:1, 92:2,
107:21, 107:23,
144:19, 144:23, 149:4
Kuehne [19] - 2:8,
3:4, 4:24, 5:3, 6:25,
7:4, 7:7, 7:9, 7:16,
7:21, 9:3, 9:13, 36:3,
36:4, 50:20, 51:5,
77:3, 77:17, 107:19

L

lab [4] - 85:4, 89:8,
94:8
labor [5] - 95:5, 95:8,
95:10, 136:3, 148:8
lack [5] - 16:9, 24:2,
31:2, 72:19
lacked [1] - 32:16
lackey [3] - 61:19,
62:1, 62:5
lackeys [2] - 61:24,
62:3
laid [1] - 41:16
landing [1] - 117:22
language [2] - 34:7,
108:10
lapses [1] - 105:7
large [13] - 21:17,
45:24, 51:10, 56:7,
56:24, 57:16, 65:4,
65:9, 65:12, 114:11,
117:25, 123:15, 125:4
large-scale [8] -
21:17, 51:10, 56:7,

56:24, 65:4, 65:9,
114:11, 117:25
larger [3] - 102:17,
102:22, 103:1
largest [5] - 102:17,
102:21, 103:2,
118:23, 121:4
Largest [1] - 103:4
Las [3] - 46:5, 123:4,
123:6
last [3] - 10:23, 31:5,
31:17
lasted [1] - 21:5
Lauderdale [45] -
21:18, 21:24, 22:20,
40:8, 54:8, 54:11,
55:11, 55:20, 56:7,
56:16, 56:22, 57:15,
62:25, 64:22, 65:5,
65:15, 66:5, 67:2,
67:4, 67:20, 70:4,
72:18, 79:17, 79:24,
80:15, 81:4, 81:11,
82:21, 82:25, 83:2,
83:8, 102:18, 107:16,
109:23, 110:5,
111:10, 114:7, 116:9,
120:19, 123:8,
124:20, 124:24,
126:8, 126:21, 127:19
Lauderdale/
Hollywood [2] - 16:4,
20:23
law [159] - 7:15,
12:24, 19:16, 21:16,
29:8, 29:11, 34:7,
37:1, 37:10, 37:17,
37:22, 38:8, 38:10,
40:3, 40:15, 42:9,
43:5, 43:7, 43:13,
43:24, 44:4, 44:14,
44:17, 45:3, 45:13,
46:16, 46:17, 46:22,
47:3, 47:15, 47:22,
47:24, 48:12, 53:23,
54:3, 55:10, 55:16,
55:22, 56:16, 56:23,
57:18, 57:19, 59:9,
59:10, 59:14, 59:21,
60:1, 60:6, 60:21,
61:11, 61:20, 61:22,
61:25, 62:4, 64:25,
65:20, 65:22, 66:6,
66:17, 66:23, 67:4,
67:9, 68:12, 68:23,
69:3, 69:8, 70:18,
71:2, 72:23, 74:16,
76:1, 76:6, 78:5,
79:16, 80:4, 80:5,
80:8, 80:11, 80:17,
80:23, 81:2, 81:5,
83:15, 84:7, 86:24,
87:2, 88:3, 89:1, 90:8,
92:13, 92:15, 93:3,
93:14, 94:10, 94:20,
95:11, 95:20, 96:3,
96:5, 96:9, 96:12,
96:13, 96:15, 98:22,
99:12, 99:13, 100:3,
100:5, 100:8, 101:22,
102:4, 102:6, 102:10,
102:11, 103:9,
103:24, 104:25,
105:3, 105:13,
105:23, 105:24,
106:2, 111:11,
111:13, 111:18,
111:21, 111:22,
112:3, 112:16,
113:15, 120:21,
121:21, 122:7,
124:13, 124:22,
128:6, 128:21, 129:2,
129:9, 130:14,
131:17, 131:22,
133:13, 134:12,
135:10, 135:13,
135:14, 143:24,
144:2, 144:8, 144:25,
145:1, 146:3, 146:4,
146:20, 148:2
Law [18] - 2:8, 10:9,
12:25, 34:4, 39:23,
40:21, 43:13, 46:24,
47:12, 48:7, 51:25,
55:14, 87:7, 91:10,
92:7, 101:24, 134:20,
148:16
lawful [1] - 59:17
lawfully [1] - 60:8
laws [6] - 141:3,
143:2, 143:3, 143:9,
143:10, 144:9
lawyer [1] - 97:22
LAX [2] - 21:22, 56:1
laying [1] - 14:15
lead [11] - 12:23,
14:3, 23:16, 44:8,
47:14, 66:5, 67:3,
111:4, 116:14, 116:15
leader [4] - 74:11,
79:21, 82:13, 86:8
leadership [9] -
26:14, 35:9, 38:15,
38:16, 39:11, 40:17,
112:17, 138:9, 142:11
learn [10] - 40:14,
42:23, 73:23, 118:6,
121:15, 121:17,
122:19, 123:17,

- 123:20, 135:21
learned [8] - 57:22,
 123:12, 127:10,
 127:20, 139:11,
 139:15, 140:17,
 140:21
learning [1] - 142:25
least [4] - 13:16,
 26:23, 32:3, 103:1
leave [4] - 13:20,
 71:4, 86:4, 86:11
led [5] - 21:24, 22:1,
 26:25, 32:3
left [3] - 22:14,
 70:16, 125:8
legal [10] - 17:17,
 18:25, 34:19, 36:18,
 77:20, 77:22, 77:24,
 98:20, 141:5, 146:16
legally [2] - 17:25,
 143:15
Legislature [2] -
 59:16, 144:24
legislature [2] - 19:4,
 96:11
less [3] - 67:5, 102:3
lessened [1] - 23:17
Lesson [1] - 100:19
lesson [6] - 23:12,
 99:20, 100:18,
 100:20, 100:22,
 108:25
lessons [4] - 74:23,
 127:10, 127:20,
 139:11
level [7] - 28:22,
 92:19, 93:22, 99:17,
 109:3, 131:4, 133:4
levels [4] - 24:10,
 114:3, 115:2
liability [1] - 144:5
Licensed [1] - 97:22
lie [1] - 99:9
Lieutenant [1] -
 64:20
lieutenant [2] -
 65:14, 83:5
life [9] - 13:7, 15:23,
 33:8, 56:15, 56:24,
 65:9, 81:10, 108:14,
 137:8
lifetime [1] - 37:17
light [1] - 70:9
likelihood [3] - 69:2,
 86:11, 147:2
likely [1] - 60:19
limit [1] - 26:4
limited [6] - 30:22,
 36:23, 36:25, 60:1,
 60:2, 135:17
- line** [3] - 33:20, 55:4,
 105:13
list [4] - 50:15, 50:16,
 88:18, 88:22
listen [1] - 6:9
listing [1] - 8:22
literally [1] - 41:23
lives [7] - 15:24,
 16:12, 29:12, 35:4,
 40:6, 41:13, 53:3
LLP [1] - 2:12
loaded [1] - 120:12
local [1] - 111:16
location [3] - 66:12,
 119:22, 125:3
LOCATION [1] - 1:12
locations [1] - 118:3
long-serving [1] -
 128:21
long-standing [1] -
 136:16
longtime [1] - 25:16
look [18] - 24:18,
 25:3, 25:18, 25:21,
 60:23, 88:11, 88:15,
 89:21, 108:6, 124:1,
 127:5, 129:5, 142:14,
 145:18, 145:20,
 145:22, 145:23, 146:1
look-back [1] - 60:23
Looked [1] - 123:14
looked [9] - 89:18,
 103:6, 108:2, 108:20,
 110:8, 123:11,
 129:25, 130:1, 139:18
looking [5] - 23:20,
 28:24, 29:4, 50:12,
 93:17
lookout [1] - 145:25
loom [1] - 58:19
Los [4] - 56:1,
 122:14, 122:17,
 122:22
loss [1] - 137:8
lost [3] - 13:7, 16:13,
 41:14
low [2] - 74:6, 139:17
low-hanging [1] -
 139:17
lower [1] - 109:3
Lunch [1] - 149:11
lunch [1] - 5:24
-
- M**
-
- MACIVER** [2] - 2:3,
 4:19
MacIver [1] - 4:19
made-up [1] - 37:9
Madrigal [4] - 40:9,
 54:15, 54:18, 110:15
magically [1] - 44:20
Magistrate [6] - 5:2,
 9:15, 9:20, 10:1,
 10:23, 12:7
magnitude [1] -
 71:10
Mahan [1] - 1:23
mail [3] - 2:6, 2:10,
 2:14
maintain [10] -
 45:23, 80:7, 81:4,
 81:7, 89:15, 100:5,
 105:2, 105:5, 106:6,
 129:10
maintaining [1] -
 102:5
maintains [1] - 20:7
Major [6] - 22:24,
 23:3, 24:7, 24:13,
 24:22, 121:2
major [7] - 23:25,
 26:14, 62:23, 62:25,
 63:1, 121:13, 122:1
majority [1] - 136:17
maker [1] - 95:21
manage [2] - 95:24,
 118:20
managed [1] -
 119:15
Management [1] -
 92:25
mandate [5] - 32:8,
 100:1, 101:18,
 134:25, 135:2
mandates [1] - 102:7
mandatory [7] -
 31:3, 130:13, 134:16,
 134:20, 135:5, 135:9,
 135:23
manipulating [1] -
 37:2
manner [1] - 99:22
mantra [4] - 38:4,
 41:16, 41:17, 74:15
March [1] - 107:14
Marjorie [1] - 108:1
Marjory [36] - 16:14,
 16:21, 26:13, 27:17,
 31:6, 31:14, 31:25,
 33:10, 34:1, 39:2,
 39:9, 40:1, 41:2,
 41:14, 46:4, 52:13,
 53:6, 59:1, 59:8,
 59:24, 60:3, 60:19,
 61:5, 64:22, 71:9,
 74:4, 74:23, 76:8,
 107:16, 128:2,
 128:10, 131:6, 131:9,
 131:18, 138:4, 139:10
- mark** [1] - 45:5
mass [5] - 70:7,
 111:17, 118:9,
 118:20, 121:23
massacre [1] -
 107:17
massacres [1] -
 64:23
massive [4] - 69:14,
 73:13, 73:18, 124:16
MASTER [28] - 4:2,
 5:8, 9:2, 9:7, 9:12,
 9:16, 9:24, 15:5, 36:1,
 36:13, 50:6, 50:12,
 50:23, 51:3, 77:3,
 77:8, 77:15, 78:2,
 78:14, 78:17, 78:23,
 79:12, 88:13, 91:24,
 107:19, 144:14,
 144:21, 149:5
master [1] - 8:4
Master [20] - 1:14,
 4:8, 4:21, 8:25, 9:6,
 15:14, 36:9, 36:15,
 42:22, 44:22, 48:18,
 53:12, 76:13, 76:15,
 77:11, 77:18, 77:23,
 78:9, 79:9, 149:4
materials [1] - 33:23
matter [18] - 7:3,
 8:20, 9:3, 11:10,
 13:23, 14:24, 17:16,
 36:18, 48:13, 63:11,
 79:11, 89:14, 98:13,
 103:11, 104:16,
 105:1, 134:15, 136:14
matters [3] - 5:9,
 6:23, 58:19
mean [16] - 12:21,
 50:1, 86:10, 89:17,
 104:17, 116:24,
 123:15, 124:5,
 126:17, 132:9,
 132:11, 135:15,
 138:11, 139:1,
 141:25, 145:5
Meaning [1] - 130:23
meaning [5] - 81:2,
 108:19, 122:7,
 133:25, 140:5
means [6] - 17:25,
 20:17, 44:14, 69:10,
 87:6, 145:11
meant [1] - 127:10
measure [1] - 95:19
measures [1] - 70:11
mechanism [3] -
 97:10, 143:6, 143:14
mechanisms [1] -
 113:25
- media** [2] - 27:6,
 39:5
medical [1] - 70:24
meer [1] - 17:9
meet [2] - 62:20,
 114:1
meeting [5] - 8:13,
 93:22, 98:16, 98:17,
 98:18
member [2] - 6:16,
 42:8
members [10] - 57:3,
 63:12, 65:18, 94:14,
 112:12, 112:13,
 119:25, 145:21
memorandum [4] -
 14:14, 51:8, 75:4,
 75:11
men [3] - 68:3, 68:6,
 68:11
ment [1] - 39:23
mental [2] - 143:16,
 145:22
mentally [1] - 59:21
mention [1] - 33:23
mentioned [16] - 8:9,
 30:25, 34:23, 49:24,
 80:10, 83:25, 86:15,
 89:22, 90:16, 92:13,
 93:9, 93:25, 97:6,
 104:2, 114:6, 125:11,
 128:2, 143:9
mentioning [1] -
 115:23
met [1] - 112:12
method [1] - 63:16
MIA [1] - 65:8
Miami [3] - 2:9, 65:2,
 102:22
Miami-Dade [1] -
 102:22
Michael [1] - 64:21
midafternoon [1] -
 5:25
might [14] - 7:11,
 7:22, 18:1, 23:15,
 23:24, 24:6, 27:20,
 27:24, 33:16, 34:14,
 60:6, 67:11, 143:7
military [2] - 40:10,
 54:10
million [1] - 73:15
millions [1] - 73:14
minds [1] - 31:11
mine [1] - 78:1
minimum [3] - 32:1,
 34:25, 101:19
minute [2] - 32:22,
 120:20
minutes [8] - 5:23,

5:25, 21:6, 30:20,
110:7, 132:15,
132:18, 144:19
 mishap [1] - 73:8
 misidentified [1] -
79:5
 misreports [1] -
68:17
 misresponding [1] -
147:7
 missions [1] - 33:14
 mistakenly [1] -
23:16
 mistakes [2] - 24:10,
63:6
 mobile [4] - 66:15,
69:16, 112:19, 115:24
 model [16] - 38:1,
46:1, 48:19, 49:16,
55:12, 55:13, 55:21,
62:5, 63:18, 63:19,
63:20, 64:14, 74:15,
121:22
 models [3] - 47:15,
103:8, 118:2
 modifications [1] -
98:7
 moment [4] - 9:18,
15:10, 104:11, 104:12
 moments [1] - 41:23
 Monday [1] - 146:19
 Monday-morning [1] -
146:19
 money [3] - 85:5,
115:11, 140:2
 Monroe [1] - 1:13
 month [2] - 30:4,
53:25
 monthly [2] - 30:5,
52:2
 months [7] - 23:4,
25:10, 27:17, 31:5,
61:2, 75:25, 79:25
 monumental [1] -
69:12
 morale [4] - 74:6,
138:14, 138:17
 morning [7] - 4:2,
4:21, 5:1, 5:5, 26:16,
36:15, 146:19
 most [5] - 49:2, 71:9,
72:23, 87:17, 124:9
 Most [1] - 135:16
 motto [1] - 142:6
 move [8] - 13:11,
70:4, 80:21, 101:5,
101:9, 109:22,
119:17, 128:1
 moved [5] - 63:25,
80:20, 81:10, 81:17,

120:9
 movement [1] -
106:11
 moving [3] - 69:24,
114:5, 136:8
 MR [38] - 4:17, 4:19,
4:21, 5:1, 5:6, 8:25,
9:6, 9:9, 9:15, 9:18,
10:1, 15:14, 36:9,
36:15, 49:17, 49:20,
49:22, 50:9, 50:22,
50:24, 51:6, 77:11,
77:18, 78:7, 78:15,
78:25, 79:9, 79:13,
88:12, 88:14, 91:22,
92:1, 92:2, 107:21,
107:23, 144:19,
144:23, 149:4
 MSD [15] - 132:1,
134:1, 134:18,
137:18, 139:13,
139:23, 140:16,
140:18, 141:20,
143:3, 144:7, 144:24,
146:2, 146:21, 148:14
 multi [3] - 49:12,
64:25, 73:4
 multi-agency [3] -
49:12, 64:25, 73:4
 multiple [4] - 26:22,
30:3, 94:3, 95:10
 municipal [5] -
18:22, 18:23, 46:23,
57:5, 131:20
 municipalities [3] -
38:14, 56:14, 102:15
 municipality [1] -
107:2
 Muniz's [1] - 20:12
 murdered [2] -
71:14, 110:13
 must [10] - 18:22,
19:21, 19:22, 23:19,
23:20, 34:6, 35:10,
41:16, 48:14, 115:8

N

name [5] - 79:1,
79:3, 79:6, 79:10,
128:17
 narcotics [2] - 79:21,
82:12
 narrow [1] - 76:25
 nation [5] - 18:18,
48:20, 73:2, 103:2,
103:4
 national [15] - 39:5,
46:8, 48:8, 52:1,
63:20, 74:9, 87:1,

87:2, 91:18, 92:19,
93:9, 103:7, 118:1,
123:19, 135:9
 National [7] - 36:21,
39:9, 89:6, 92:22,
92:23, 120:23, 120:25
 nationally [3] - 99:1,
138:10, 138:11
 nature [5] - 4:13, 8:9,
66:16, 78:10, 112:3
 nay [1] - 39:15
 nearly [1] - 69:25
 necessary [4] -
11:16, 13:11, 104:9,
131:2
 necessitate [1] -
13:17
 need [10] - 23:11,
26:1, 33:17, 47:19,
75:12, 85:4, 105:8,
106:12, 139:4, 145:19
 needed [3] - 46:21,
71:6, 81:5
 needing [1] - 25:6
 needs [4] - 72:21,
138:24, 139:6, 139:7
 neglect [18] - 16:2,
17:1, 19:11, 19:13,
32:12, 35:1, 41:6,
42:1, 45:10, 45:14,
47:21, 53:22, 54:2,
60:14, 61:10, 70:12,
72:9, 74:21
 neglected [8] - 17:6,
17:10, 20:19, 35:14,
37:4, 47:18, 54:6,
121:10
 neglectful [2] - 13:3,
31:7
 negligence [2] -
19:22, 124:20
 negligent [1] - 53:22
 negotiation [1] -
134:11
 negotiations [3] -
95:14, 113:17, 141:1
 Never [1] - 82:17
 never [17] - 21:17,
27:10, 28:2, 28:7,
38:21, 42:2, 42:21,
62:13, 62:14, 63:24,
66:22, 68:2, 71:24,
72:2, 118:18, 124:5,
128:19
 New [2] - 80:14,
80:16
 new [6] - 7:17, 7:22,
7:24, 75:10, 86:8,
124:7
 news [1] - 39:5

next [7] - 26:14,
27:20, 63:8, 86:4,
108:7, 125:7, 127:18
 nice [1] - 44:18
 NICHOLAS [1] - 2:3
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[1] - 2:6
 Nick [1] - 4:17
 nightclub [1] - 40:5
 Nikolas [1] - 13:8
 nine [1] - 31:5
 nobody [1] - 70:13
 non [2] - 57:3, 147:6
 non-BSO [1] - 147:6
 non-SWAT [1] - 57:3
 none [5] - 11:7, 11:8,
59:3, 72:8
 nonetheless [1] -
41:15
 nonpragmatic [1] -
24:20
 normal [1] - 78:10
 normally [1] - 86:3
 North [2] - 82:24,
83:8
 Nos [1] - 88:8
 notable [1] - 89:7
 note [9] - 6:6, 8:4,
10:22, 19:9, 41:4,
43:6, 46:19, 51:24,
72:17
 noted [2] - 27:12,
27:23
 notes [1] - 150:9
 nothing [4] - 38:3,
53:11, 53:13, 78:21
 Nothing [1] - 149:4
 notice [4] - 21:19,
29:17, 36:11, 61:4
 notwithstanding [1] -
138:15
 November [1] -
27:18
 nowhere [2] - 25:24,
33:21
 NRA [1] - 39:15
 NRA's [1] - 39:16
 nuance [1] - 18:21
 number [17] - 7:8,
49:25, 87:18, 88:17,
94:19, 94:21, 94:25,
98:7, 102:19, 103:13,
111:13, 111:18,
111:25, 115:12,
119:20, 122:4, 123:15
 NUMBER [1] - 1:3
 Number [1] - 8:21
 numbers [1] - 110:19
 numerous [11] -

34:14, 35:17, 38:21,
43:4, 43:17, 51:12,
55:16, 64:7, 66:25,
84:22, 125:17
 nuts [1] - 40:22
 NYPD [1] - 145:10

O

oath [3] - 11:22,
14:9, 17:12
 object [1] - 134:8
 objected [3] - 8:22,
133:24, 134:9
 objection [1] -
140:11
 obligated [3] - 44:25,
115:13, 143:21
 obligation [1] - 44:13
 obligations [4] -
18:12, 20:18, 23:25,
61:10
 obliged [1] - 44:24
 observation [1] -
108:15
 observations [1] -
23:10
 observe [1] - 5:13
 obstruct [1] - 43:10
 obtain [5] - 36:20,
81:17, 109:20,
140:16, 141:4
 obtuse [1] - 78:8
 obvious [1] - 15:16
 obviously [1] - 11:21
 occasion [2] -
120:21, 129:21
 occasions [1] -
26:22
 occupants [1] -
29:15
 occur [3] - 24:6,
118:18, 136:15
 occurred [10] - 16:3,
21:6, 22:13, 26:10,
27:5, 27:16, 31:6,
114:15, 129:19,
133:11
 occurring [3] -
44:23, 118:18, 119:1
 October [1] - 25:13
 OF [7] - 1:3, 1:9,
1:10, 1:10, 2:1, 3:1,
150:1
 offense [1] - 147:21
 offenses [1] - 147:12
 offer [7] - 39:20,
42:5, 42:8, 64:17,
78:5, 91:25, 111:23
 offered [1] - 29:24

- Office** [57] - 1:12, 2:4, 21:14, 22:25, 23:10, 23:23, 25:8, 25:23, 26:21, 27:2, 33:22, 34:3, 35:10, 37:15, 38:10, 38:13, 39:4, 40:13, 45:22, 46:11, 47:14, 48:12, 48:14, 49:5, 49:10, 51:10, 51:16, 52:4, 52:14, 52:15, 52:18, 55:18, 58:7, 58:15, 59:24, 65:7, 67:12, 71:20, 73:2, 74:2, 74:8, 74:18, 74:20, 75:5, 75:9, 75:18, 76:3, 81:13, 81:18, 84:20, 88:19, 95:22, 97:25, 106:22, 123:22, 127:9, 134:1
- office** [31] - 16:25, 17:12, 17:14, 18:8, 19:24, 20:5, 21:16, 24:24, 35:5, 35:25, 37:14, 39:14, 41:8, 42:13, 45:9, 45:24, 47:10, 50:25, 53:23, 61:12, 64:9, 73:17, 77:10, 91:5, 97:16, 99:24, 102:23, 102:25, 112:22, 127:5, 135:3
- office's** [1] - 21:10
- officer** [65] - 26:17, 30:1, 37:18, 37:22, 38:9, 40:4, 43:8, 43:22, 44:4, 46:17, 46:22, 46:23, 47:22, 47:25, 48:12, 52:13, 52:17, 52:19, 53:6, 53:9, 53:10, 53:17, 54:4, 54:19, 54:20, 55:25, 60:21, 61:14, 62:1, 62:16, 63:15, 69:3, 69:11, 69:19, 69:20, 69:21, 70:16, 70:17, 70:20, 71:3, 71:22, 80:12, 80:18, 80:23, 81:3, 81:5, 83:15, 92:15, 93:3, 96:5, 96:6, 104:25, 105:3, 105:23, 106:1, 106:2, 106:18, 111:23, 112:4, 122:18, 128:22, 129:3, 129:10, 135:10, 147:19
- officers** [46] - 18:23, 28:17, 29:3, 29:14, 29:21, 29:23, 30:1, 32:7, 38:10, 45:14, 51:18, 51:21, 52:5, 52:8, 52:10, 52:19, 52:22, 56:23, 57:5, 61:20, 61:21, 61:22, 65:24, 66:4, 72:20, 72:24, 94:10, 95:11, 95:20, 96:8, 96:13, 100:3, 100:8, 101:22, 102:12, 109:19, 122:8, 124:13, 125:2, 130:14, 133:14, 134:12, 136:6, 137:19
- officers'** [1] - 97:1
- offices** [5] - 51:11, 57:24, 91:4, 102:20, 121:4
- official** [6] - 6:8, 36:25, 40:20, 60:22, 62:14, 77:17
- officials** [1] - 57:4
- OFI** [1] - 127:14
- often** [3] - 44:8, 63:1, 69:6
- old** [1] - 136:23
- old-fashioned** [1] - 136:23
- omission** [1] - 35:11
- omissions** [3] - 12:14, 19:22, 32:12
- on-site** [1] - 108:15
- on-the-scene** [1] - 110:4
- once** [8] - 31:1, 35:20, 51:17, 67:17, 116:5, 132:24, 143:20, 145:24
- one** [58] - 6:13, 9:18, 16:7, 26:12, 31:4, 35:22, 40:16, 42:22, 46:11, 50:15, 52:13, 54:7, 57:11, 60:3, 60:24, 62:16, 69:18, 69:19, 69:22, 71:1, 72:2, 73:24, 75:22, 76:4, 83:25, 84:1, 84:23, 86:1, 88:4, 88:16, 89:11, 90:18, 94:3, 94:24, 94:25, 95:9, 95:10, 95:17, 101:6, 101:11, 101:15, 102:21, 103:1, 103:2, 103:14, 104:19, 105:4, 114:22, 115:16, 118:6, 120:11, 121:14, 125:19, 125:22, 131:1, 131:3, 141:25, 147:18
- One** [4] - 101:1, 118:6, 126:13, 126:14
- one-page** [1] - 88:16
- ones** [3] - 89:7, 103:1, 117:7
- online** [1] - 142:17
- open** [5] - 5:10, 6:25, 13:21, 33:17, 42:23
- opened** [2] - 7:5, 54:10
- opening** [6] - 6:22, 9:8, 9:14, 36:2, 36:14, 71:1
- operate** [1] - 112:20
- Operating** [1] - 33:4
- operating** [2] - 46:3, 91:2
- Operation** [3] - 65:6, 66:2, 116:11
- operation** [3] - 94:11, 112:9, 117:14
- operational** [3] - 107:7, 114:2, 117:6
- operations** [7] - 20:6, 112:24, 113:1, 114:25, 115:25, 119:9, 133:8
- operative** [1] - 40:24
- opinion** [4] - 20:12, 35:8, 37:2, 124:4
- opinions** [1] - 125:25
- opportunities** [4] - 15:6, 64:14, 64:18, 127:16
- opportunity** [20] - 4:10, 5:14, 8:6, 8:18, 12:20, 13:14, 36:16, 36:24, 36:25, 38:22, 39:19, 42:5, 42:7, 42:23, 73:23, 76:13, 77:19, 77:21, 127:14, 134:7
- opted** [1] - 6:6
- optimal** [1] - 132:10
- option** [2] - 111:4, 137:7
- order** [9] - 18:11, 41:25, 47:7, 59:22, 85:4, 116:24, 117:1, 143:14, 144:3
- ORDER** [2] - 1:3, 1:10
- Order** [4] - 4:4, 16:1, 17:18, 17:24
- orders** [3] - 16:9, 22:7, 145:7
- organization** [9] - 64:25, 73:4, 86:8, 86:21, 87:1, 91:18, 103:25, 124:22
- organizations** [2] - 103:8, 120:22
- organized** [1] - 95:5
- original** [1] - 72:18
- Orlando** [1] - 123:9
- otherwise** [2] - 6:9, 57:21
- Otherwise** [1] - 105:6
- outlines** [1] - 18:12
- outside** [4] - 5:18, 92:17, 112:11, 133:6
- overlooked** [1] - 142:3
- overlooking** [1] - 147:7
- overweight** [1] - 129:5
- overwhelming** [1] - 125:2
- own** [10] - 34:9, 43:5, 50:7, 59:18, 76:9, 113:2, 113:3, 122:3, 123:24, 139:5
-
- P**
-
- P.A** [1] - 2:8
- p.m** [1] - 1:12
- packed** [1] - 118:24
- packets** [1] - 88:9
- page** [7] - 11:13, 62:9, 88:16, 91:12, 91:13, 108:7, 142:15
- PAGE** [2] - 3:3, 3:6
- pages** [4] - 1:8, 23:6, 25:14, 91:8
- painstakingly** [1] - 115:10
- Palm** [2] - 2:13, 147:10
- panic** [1] - 124:16
- par** [1] - 131:7
- paragraph** [2] - 14:17, 14:21
- paramount** [3] - 15:19, 137:1, 138:25
- paraphrasing** [1] - 60:18
- pardon** [1] - 50:16
- parents** [2] - 75:21, 142:11
- Parker** [1] - 2:12
- parking** [5] - 68:4, 68:5, 119:11, 125:5
- Parkland** [7] - 10:11, 10:25, 14:7, 14:18, 16:14, 140:8, 140:9
- parlance** [1] - 127:13
- parotid** [1] - 33:20
- parsed** [1] - 101:12
- part** [32] - 8:17, 39:11, 41:6, 43:9, 43:16, 48:3, 48:17, 58:2, 60:12, 61:12, 62:15, 72:1, 72:10, 74:12, 88:7, 90:8, 95:4, 101:6, 103:3, 105:22, 108:6, 109:11, 109:18, 113:4, 124:21, 126:20, 128:25, 136:20, 139:2, 139:4, 142:24, 144:12
- participate** [3] - 4:22, 95:13, 113:17
- participated** [3] - 39:12, 64:23, 65:7
- participating** [1] - 98:3
- participation** [1] - 93:8
- particular** [4] - 10:16, 45:16, 71:17, 72:12
- particulars** [1] - 51:7
- parties** [5] - 4:10, 7:13, 7:23, 8:15, 17:23
- parts** [4] - 99:10, 120:13, 125:25, 129:25
- party** [1] - 78:12
- passed** [2] - 96:10, 144:24
- passenger** [3] - 22:15, 22:17, 69:18
- passengers** [3] - 54:25, 119:23
- past** [1] - 34:20
- patently** [1] - 19:15
- patrol** [5] - 65:24, 66:3, 105:12, 105:18, 107:9
- patrolman** [1] - 79:18
- pause** [1] - 50:6
- PD** [2] - 80:15, 83:8
- peace** [5] - 15:20, 18:16, 28:9, 29:12, 35:3
- pedigree** [1] - 62:4
- penalties** [1] - 96:24
- penalty** [1] - 147:21
- pending** [1] - 6:21
- people** [53] - 13:6, 18:19, 26:7, 27:20, 37:24, 38:1, 38:6, 38:8, 38:11, 42:6, 42:10, 44:5, 44:10, 44:15, 45:7, 57:5,

- 57:9, 57:22, 65:13,
68:10, 71:11, 74:13,
75:20, 76:11, 76:17,
76:22, 89:20, 94:17,
99:21, 103:15,
105:13, 110:13,
111:25, 114:23,
117:20, 118:20,
119:18, 119:20,
120:9, 120:16,
122:10, 123:16,
125:7, 125:17,
125:25, 132:7,
135:17, 135:20,
136:3, 137:25,
141:23, 143:7, 143:15
peoples' [1] - 53:2
perfectly [2] - 54:4,
73:22
perform [9] - 17:14,
34:17, 53:14, 53:23,
54:4, 70:18, 105:8,
129:11, 131:4
perhaps [2] - 71:9,
147:7
period [4] - 7:5,
13:21, 83:4, 110:3
periodically [1] -
51:24
permanently [1] -
16:25
permission [1] -
69:13
permitted [2] -
34:12, 141:2
person [8] - 12:7,
59:22, 60:22, 69:22,
71:13, 99:19, 125:19,
140:7
personal [1] - 37:18
personally [2] -
122:2, 128:18
personnel [17] -
23:15, 23:23, 25:1,
53:11, 53:13, 84:8,
95:23, 115:13,
122:24, 129:22,
133:9, 135:2, 135:19,
148:13, 148:19
perspective [2] -
138:13, 147:14
persuaded [1] -
20:11
Peterson [19] - 7:2,
9:22, 11:12, 13:9,
14:6, 15:1, 31:3,
31:23, 32:5, 34:21,
42:20, 43:3, 44:1,
44:2, 48:23, 53:5,
128:14, 128:16,
132:21
Peterson's [3] - 32:1,
129:22, 132:23
PGA [1] - 2:12
phantom [2] - 118:7,
118:25
philosophy [1] -
58:15
phone [2] - 75:22,
142:19
Phone [2] - 2:10,
2:13
phones [2] - 68:10,
73:20
physical [2] - 28:22,
146:16
physically [1] - 30:23
pick [5] - 62:12,
87:17, 99:9, 127:11
picking [1] - 37:2
pilot [1] - 54:19
PL-05 [1] - 2:5
place [17] - 11:15,
14:19, 14:23, 37:8,
38:18, 44:20, 48:6,
53:4, 55:5, 64:17,
86:5, 112:15, 114:16,
134:13, 138:2, 142:1,
142:5
placed [1] - 116:5
plan [6] - 21:23,
100:18, 100:19,
100:20, 119:20,
119:21
planes [1] - 120:17
planning [2] - 5:21,
6:3
plans [5] - 20:8,
23:12, 99:20, 100:22,
109:1
play [1] - 6:1
played [1] - 39:5
play [1] - 36:20
plus [2] - 80:10, 96:8
point [13] - 11:9,
19:8, 33:1, 71:16,
77:13, 84:23, 111:1,
111:6, 116:25,
117:17, 120:11,
131:12, 138:9
pointed [1] - 113:22
pointing [3] - 47:5,
47:6, 60:23
points [2] - 54:7,
101:10
police [15] - 18:22,
18:23, 28:1, 52:10,
63:11, 65:25, 69:3,
69:11, 70:21, 80:24,
96:6, 97:1, 106:9,
113:12, 124:23
Police [12] - 48:21,
50:13, 50:14, 79:17,
79:24, 81:11, 82:21,
83:1, 83:2, 92:24,
103:15, 103:20
policies [13] - 20:4,
20:16, 22:4, 22:22,
25:8, 27:14, 31:10,
34:4, 45:8, 53:9, 97:7,
103:9, 103:12
Policing [1] - 92:25
policing [1] - 93:17
Policy [1] - 90:20
policy [72] - 27:2,
27:23, 32:6, 33:3,
33:5, 33:22, 34:8,
34:22, 34:24, 36:8,
39:14, 48:3, 48:5,
48:6, 48:8, 48:9,
48:10, 71:23, 72:6,
84:17, 89:14, 89:20,
89:21, 90:19, 90:22,
90:24, 91:3, 97:5,
97:9, 97:15, 98:4,
98:6, 98:12, 98:15,
98:21, 98:25, 99:3,
99:5, 99:6, 99:10,
99:12, 99:14, 99:16,
99:18, 99:22, 99:25,
100:4, 107:14,
107:15, 107:24,
108:2, 108:17,
108:18, 108:19,
108:22, 109:1, 109:4,
109:5, 109:14,
109:16, 132:22,
133:20, 134:2, 134:5,
134:7, 135:6, 139:7
political [3] - 36:20,
38:24, 41:17
politician [1] - 61:13
politicized [1] -
41:13
politics [1] - 39:17
Pompano [3] -
49:11, 49:23, 50:3
Port [3] - 65:6, 66:2,
116:11
port [3] - 56:20,
119:22, 119:24
portion [1] - 110:12
portions [1] - 62:12
position [6] - 18:1,
38:24, 61:11, 106:17,
107:6, 112:20
positions [2] - 94:23,
94:24
positive [1] - 124:25
possess [1] - 59:18
possession [1] -
24:17
possibility [3] - 7:1,
13:22, 34:12
possible [6] - 13:10,
13:22, 22:18, 62:17,
137:4, 145:7
post [17] - 39:2, 42:3,
46:4, 59:7, 66:14,
66:15, 67:8, 73:5,
76:8, 108:1, 140:16,
141:20, 143:3,
144:24, 146:2
Post [2] - 127:19,
139:10
posted [1] - 27:6
potential [4] - 65:12,
67:1, 138:22, 146:3
potentially [3] -
59:11, 68:9, 117:4
power [4] - 22:1,
60:2, 60:10, 96:19
powers [2] - 18:12,
19:15
practical [3] - 30:21,
31:11, 48:10
practicality [1] -
117:19
practice [7] - 58:12,
89:14, 96:2, 100:4,
114:20, 127:21,
136:16
pre [2] - 141:24,
146:21
pre-MSD [1] - 146:21
pre-shooting [1] -
141:24
precisely [1] - 70:18
precluding [1] - 15:8
predict [1] - 121:15
preface [2] - 108:9,
122:12
prefer [1] - 79:9
prejudice [2] - 11:24,
12:18
preliminary [2] -
62:19, 63:9
prepare [5] - 15:22,
16:6, 16:17, 26:9,
121:16
prepared [1] - 11:6
preparing [1] - 24:4
preponderance [4] -
17:9, 37:7, 53:19,
76:16
prerogative [1] -
140:25
presence [1] - 71:6
present [5] - 4:11,
5:12, 6:9, 12:2
presentable [1] -
63:3
presentation [11] -
33:1, 39:1, 39:12,
78:1, 120:23, 121:3,
121:7, 121:19,
123:19, 142:16,
142:17
presentations [5] -
55:19, 120:21,
123:16, 123:18,
123:21
presented [5] - 17:4,
33:14, 33:21, 35:14,
118:21
presenting [2] -
37:3, 63:17
presents [1] - 37:9
preserve [6] - 33:8,
37:19, 45:1, 52:3,
108:14, 112:6
president [3] - 4:8,
4:14, 8:10
press [1] - 74:9
presume [2] - 33:2,
70:5
presumption [2] -
43:9, 43:11
presupposes [1] -
72:9
pretty [3] - 73:24,
84:10, 90:3
prevent [5] - 35:4,
38:5, 44:20, 44:23,
137:8
prevented [2] -
22:21, 60:24
preventing [2] -
28:10, 29:12
previous [1] - 75:8
previously [2] - 17:3,
50:20
pricing [1] - 114:4
primary [2] - 67:17,
110:24
primrose [2] - 36:1,
50:16
PRIMROSE [7] - 2:3,
4:17, 15:14, 49:17,
49:22, 50:22, 77:11
Primrose [6] - 4:17,
7:20, 8:21, 9:14,
15:13, 77:10
principals [1] -
142:10
principles [1] -
100:21
printout [1] - 142:16
prioritize [2] - 16:16,
29:19

- prioritized** [1] - 22:22
prioritizing [1] - 20:9
privacy [3] - 75:10, 75:17, 141:3
proactive [1] - 143:3
proactively [1] - 16:19
probable [7] - 11:19, 14:4, 14:20, 14:23, 43:14, 43:18, 43:25
problem [1] - 30:11
problems [5] - 31:15, 47:6, 73:6, 131:14, 132:4
procedure [2] - 46:3, 58:8
Procedure [1] - 33:4
procedures [6] - 20:5, 25:9, 31:10, 45:8, 45:25, 91:2
proceed [6] - 6:19, 15:13, 36:13, 50:23, 78:6, 144:21
proceeding [9] - 5:10, 5:13, 18:2, 26:16, 36:12, 37:5, 38:20, 44:19, 78:4
Proceedings [1] - 149:12
PROCEEDINGS [1] - 1:9
proceedings [15] - 4:9, 4:23, 5:19, 6:2, 6:10, 7:4, 8:5, 11:3, 11:25, 12:19, 15:4, 15:11, 18:14, 37:11, 150:7
process [31] - 5:15, 5:21, 8:6, 8:17, 10:4, 10:5, 10:6, 12:5, 13:14, 41:9, 42:11, 63:4, 66:9, 80:22, 90:22, 95:25, 114:8, 114:10, 119:14, 119:15, 124:3, 125:15, 133:11, 134:10, 135:8, 142:25, 145:6, 147:23, 147:24, 148:9
processes [2] - 89:19, 95:24
prodding [1] - 73:11
produced [2] - 8:23, 9:1
profession [1] - 124:5
professional [3] - 79:14, 81:21, 93:22
Professional [1] - 150:5
Professionally [1] - 82:10
proficiency [1] - 130:22
proficient [1] - 104:8
program [5] - 49:11, 49:12, 100:9, 106:19, 142:17
programs [1] - 92:16
progressive [1] - 47:15
prominent [2] - 18:21, 43:7
promise [3] - 10:14, 10:19, 36:21
promoted [2] - 39:7, 75:21
promoting [1] - 19:24
proper [1] - 119:18
properly [7] - 12:1, 15:22, 16:16, 72:6, 125:20, 146:11, 146:14
property [6] - 54:11, 56:12, 59:23, 69:25, 70:11, 120:13
proposed [1] - 7:14
prosecute [1] - 147:1
prosecuted [1] - 138:24
prosecuting [1] - 78:12
prosecution [1] - 147:2
protect [11] - 15:20, 15:24, 18:18, 18:19, 29:14, 31:12, 37:20, 45:1, 52:3, 74:14, 112:6
protecting [4] - 23:25, 29:12, 29:19, 141:3
protection [5] - 70:22, 96:10, 143:13, 145:1, 148:22
protections [1] - 96:8
protocol [4] - 32:25, 99:1, 136:9, 147:23
protocols [3] - 46:1, 56:2, 138:1
proud [1] - 125:9
prove [1] - 54:2
proven [1] - 17:8
provide [9] - 4:10, 4:12, 28:16, 29:8, 44:13, 69:14, 97:13, 103:10, 113:12
provided [7] - 7:6, 8:15, 11:8, 96:12, 115:8, 115:19, 129:20
provides [3] - 8:17, 21:16, 36:23
provision [1] - 76:25
provisions [2] - 96:23, 149:10
psychological [1] - 143:20
Public [3] - 31:14, 31:25, 32:17
public [19] - 5:10, 5:12, 5:14, 11:10, 14:24, 37:19, 38:3, 49:7, 55:23, 56:3, 60:23, 65:10, 68:21, 81:23, 117:20, 117:25, 118:2, 121:23, 136:7
publicize [1] - 142:7
pull [1] - 99:5
Pulse [2] - 40:5, 123:7
purchased [1] - 143:15
purchasing [1] - 94:5
purpose [4] - 13:1, 55:4, 121:12, 127:15
purposes [4] - 5:21, 6:4, 77:12, 95:20
pursuant [1] - 4:9
push [1] - 136:16
pushed [1] - 123:21
put [16] - 11:22, 12:3, 14:9, 32:20, 48:6, 56:2, 61:3, 76:13, 86:4, 86:8, 97:14, 101:11, 101:13, 104:12, 125:21, 134:13, 136:11, 141:24
puts [1] - 93:15
putting [6] - 11:24, 12:19, 125:23, 126:23, 136:23, 137:21
-
- Q**
-
- qualification** [2] - 130:21, 131:1
qualified [3] - 130:8, 130:13, 130:16
quarterbacking [1] - 146:19
quarterly [1] - 30:6
questionable [1] - 24:9
questioning [1] - 122:12
quickly [3] - 21:4, 136:24, 137:4
quite [1] - 83:11
quote [6] - 31:16, 32:18, 32:23, 69:5, 104:4, 104:5
quotes [1] - 24:9
-
- R**
-
- radio** [11] - 22:10, 22:17, 73:6, 73:8, 73:10, 73:12, 73:18, 74:1, 104:16, 131:5, 131:15
radios [1] - 139:21
rain [1] - 61:6
raise [1] - 78:18
raised [3] - 7:1, 49:18, 49:24
ran [5] - 21:2, 22:15, 83:8, 119:15, 145:10
range [1] - 130:23
rank [4] - 82:18, 105:2, 109:3, 122:18
ranks [1] - 79:18
rapid [1] - 137:1
rate [1] - 136:2
rather [1] - 29:6
RE [1] - 1:3
reaccreditation [1] - 91:15
reached [1] - 75:11
Read [1] - 108:8
read [4] - 88:25, 108:5, 108:11, 108:20
readiness [1] - 24:9
reading [1] - 118:5
real [12] - 15:23, 49:6, 56:15, 56:24, 57:1, 62:11, 65:9, 65:25, 75:12, 108:12, 116:10, 141:12
real-life [3] - 56:15, 56:24, 65:9
real-time [5] - 49:6, 75:12, 108:12, 116:10, 141:12
realistic [2] - 49:15, 57:8
reality [1] - 133:1
really [5] - 74:6, 97:9, 109:19, 136:3, 147:2
realtime [1] - 33:7
reason [8] - 13:6, 24:19, 25:3, 36:19, 72:5, 85:19, 85:24, 96:20
reasons [4] - 37:3, 75:7, 75:10, 76:24
receive [7] - 7:9, 7:17, 7:23, 8:7, 30:17, 51:21, 85:5
received [11] - 7:12, 7:21, 7:25, 8:1, 8:3, 31:20, 43:18, 103:18, 107:5, 121:25, 147:20
receives [1] - 51:19
recent [1] - 142:16
recents [1] - 42:22
recess [1] - 77:7
Recess [1] - 149:11
recognition [3] - 55:7, 103:19, 118:1
recommendation [5] - 7:6, 12:9, 12:11, 35:22, 41:7
recommendations [1] - 23:11
recommends [1] - 23:22
reconsider [2] - 13:19, 15:2
reconvene [4] - 77:5, 77:8, 149:6, 149:10
Record [1] - 1:23
record [19] - 4:16, 4:24, 6:24, 7:4, 9:10, 9:23, 9:25, 11:10, 14:24, 17:5, 37:11, 42:22, 48:17, 50:5, 58:9, 77:12, 77:13, 88:7, 150:8
recorded [2] - 5:11, 9:10
recordings [1] - 11:21
recordkeeping [2] - 59:3, 60:15
records [2] - 108:21, 141:2
recruit [1] - 16:17
Red [7] - 59:8, 59:9, 59:21, 143:3, 143:10, 144:9, 144:25
redirect [1] - 149:7
reelected [1] - 45:6
refer [2] - 8:11, 143:10
reference [1] - 91:1
referencing [1] - 146:13
referred [4] - 28:1, 50:10, 51:1, 87:12
refers [1] - 61:24
reflect [10] - 55:24, 56:18, 58:24, 59:6,

- 60:11, 60:16, 68:25,
74:7, 74:21, 75:25
reflected [2] - 51:15,
67:7
reflects [14] - 49:16,
56:18, 57:17, 58:20,
61:3, 62:24, 67:6,
67:13, 68:21, 69:10,
70:22, 73:3, 74:3,
74:10
refrain [1] - 148:23
refresher [1] - 131:2
refreshers [1] -
100:13
regard [7] - 4:4, 6:19,
8:6, 58:25, 87:19,
133:3, 148:13
regarding [6] - 6:24,
8:20, 27:14, 50:18,
96:14, 147:16
regardless [1] - 35:2
regional [2] - 115:7
Regional [2] - 64:24,
65:7
Registered [1] -
150:5
regular [1] - 100:12
regularly [1] - 65:1
rehabilitative [1] -
58:23
reinforce [1] - 89:21
relapsed [1] - 146:1
related [9] - 18:3,
25:5, 30:18, 30:21,
32:7, 51:17, 94:20,
111:3, 141:10
relating [1] - 7:1
relationship [1] -
115:3
relentlessly [1] -
48:24
relevant [7] - 7:3,
7:18, 14:7, 18:14,
30:15, 76:17, 93:16
remain [2] - 78:17,
89:18
remedial [1] - 58:13
remedy [1] - 12:14
remember [3] -
31:17, 62:8, 127:2
remind [2] - 28:8,
149:9
remove [3] - 10:15,
17:15, 35:25
removed [4] - 10:19,
24:25, 41:8, 86:12
removing [1] - 16:25
RENCHEN [3] - 1:22,
150:5, 150:15
reorienting [1] -
74:25
rephrase [1] - 139:12
Report [2] - 32:18,
64:3
report [68] - 4:13,
8:2, 8:8, 8:11, 8:12,
23:1, 23:3, 23:5, 23:9,
23:14, 23:22, 24:9,
24:13, 24:15, 24:18,
24:19, 25:4, 25:11,
25:13, 25:14, 25:17,
25:20, 25:25, 26:4,
27:5, 27:10, 27:19,
27:23, 40:11, 41:4,
56:18, 56:19, 62:8,
62:9, 62:11, 62:14,
62:19, 62:25, 63:3,
63:5, 63:8, 63:25,
64:2, 64:6, 68:6,
71:17, 72:18, 75:23,
91:15, 114:8, 114:20,
125:11, 125:12,
125:13, 125:16,
126:1, 126:4, 126:21,
126:22, 127:1, 127:3,
127:7, 127:8, 127:9,
140:1, 150:7
reported [5] - 54:23,
66:21, 68:3, 137:18,
146:25
Reported [1] - 1:21
reporter [1] - 5:12
Reporter [3] - 1:22,
150:6, 150:15
REPORTER [1] -
150:1
REPORTER'S [1] -
3:6
Reporting [1] - 1:23
reporting [4] - 63:14,
67:8, 111:22, 132:16
reports [22] - 11:7,
11:20, 26:5, 27:15,
54:17, 60:15, 62:21,
62:23, 63:18, 63:21,
64:14, 66:25, 68:1,
68:16, 114:11, 117:2,
142:1, 145:16, 147:7,
147:9, 147:10, 147:16
representatives [1] -
134:12
representing [1] -
88:9
reprimand [1] -
147:19
request [4] - 6:24,
39:1, 47:12, 99:6
requested [2] -
103:12, 117:8
requests [2] - 6:21,
38:22
require [5] - 29:20,
30:8, 47:10, 85:6,
140:2
required [26] - 12:9,
27:23, 30:16, 30:24,
43:19, 43:20, 47:23,
52:22, 52:24, 53:23,
61:11, 81:4, 85:1,
91:3, 93:2, 93:5,
100:5, 101:19,
101:21, 105:2,
105:17, 106:6,
108:15, 119:2, 130:5,
143:25
requirement [12] -
34:13, 46:2, 46:9,
46:13, 46:16, 46:18,
48:6, 99:23, 100:2,
100:7, 130:14, 134:19
requirements [8] -
39:15, 46:9, 46:20,
46:21, 85:6, 104:23,
105:18, 106:4
requires [5] - 13:14,
34:7, 45:14, 52:1,
99:3
Requires [1] - 52:18
requisites [1] - 78:11
Rescue [1] - 101:7
rescue [3] - 63:13,
100:11, 122:10
Research [1] - 92:24
reserve [1] - 77:24
resigned [1] - 86:7
resolve [1] - 116:7
resolved [1] - 114:7
resolving [1] -
139:21
resorts [1] - 37:8
resoundingly [1] -
45:6
resource [24] -
26:17, 28:17, 29:3,
29:14, 29:20, 29:23,
30:1, 32:7, 43:22,
52:4, 52:5, 52:8,
52:13, 52:17, 52:19,
52:22, 52:24, 53:5,
53:9, 53:10, 53:17,
106:1, 106:18
resources [2] -
135:17, 135:18
respect [14] - 6:5,
9:22, 10:3, 10:6,
11:24, 12:6, 13:19,
14:7, 14:12, 36:6,
43:6, 43:8, 49:2,
59:18
respectful [1] - 65:20
respects [2] - 97:2,
105:10
respond [17] - 55:22,
56:23, 65:25, 68:13,
70:1, 72:5, 75:20,
104:7, 104:9, 104:11,
112:1, 125:3, 131:17,
136:10, 136:24,
137:4, 141:13
responded [16] -
21:11, 32:16, 64:21,
69:8, 69:9, 110:8,
112:12, 112:17,
114:23, 128:8,
132:14, 132:24,
133:6, 133:13, 139:2,
147:10
responders [2] -
122:5, 122:7
responding [13] -
21:4, 27:9, 32:17,
65:23, 68:15, 69:10,
72:24, 73:25, 101:1,
119:16, 131:9,
131:11, 137:19
response [45] - 7:23,
10:11, 10:25, 16:12,
21:10, 21:14, 26:7,
30:24, 32:22, 39:12,
51:18, 55:10, 55:11,
55:14, 55:15, 56:9,
57:4, 66:7, 68:12,
68:22, 68:24, 69:14,
70:10, 71:19, 71:20,
73:4, 75:12, 99:7,
104:18, 120:22,
121:20, 124:19,
124:24, 125:1,
125:19, 127:18,
128:9, 130:12,
132:12, 133:4, 137:1,
138:10, 138:12
responses [3] - 75:1,
122:19, 124:14
responsibilities [12]
- 20:2, 20:4, 20:15,
42:10, 44:11, 44:12,
53:7, 53:16, 53:17,
82:4, 83:14, 107:3
responsibility [11] -
4:12, 20:8, 32:12,
34:17, 35:7, 37:14,
38:17, 48:13, 69:16,
74:12, 111:19
responsible [16] -
19:10, 19:13, 19:18,
19:20, 35:1, 37:12,
40:15, 40:16, 60:17,
61:22, 73:16, 74:19,
90:13, 97:12, 105:24,
125:17
responsive [1] -
40:21
rest [3] - 41:19,
77:13, 117:5
result [5] - 22:9,
43:17, 67:24, 73:18,
137:2
resulted [7] - 15:24,
16:10, 26:11, 35:16,
120:4, 120:7, 146:22
results [2] - 125:12,
137:12
retain [2] - 19:1,
123:24
retains [1] - 20:3
retention [2] -
101:17, 104:15
Retired [1] - 80:3
retired [6] - 64:21,
65:14, 81:10, 81:12,
82:25, 83:7
retirement [7] -
23:18, 80:4, 80:5,
80:7, 81:1, 81:3,
82:20
retrieve [1] - 32:20
return [1] - 144:3
reunited [1] - 119:25
reversion [2] - 25:21
reversions [1] -
25:20
review [11] - 22:19,
26:4, 39:25, 48:18,
62:19, 63:22, 90:22,
97:10, 99:1, 129:21,
130:3
REVIEW [1] - 1:10
reviewed [6] - 35:20,
63:10, 97:14, 108:20,
122:24, 123:12
reviewing [4] - 26:7,
60:4, 124:3, 125:24
reviews [2] - 98:3,
98:25
revisions [1] - 64:8
revolves [1] - 9:2
reward [1] - 61:8
rewarded [1] - 61:7
rhetoric [1] - 37:8
rich [1] - 41:20
rid [1] - 96:20
Riddick [1] - 14:4
rifle [4] - 100:13,
130:8, 130:16, 130:20
Rifle [3] - 36:21,
39:9, 130:13
rights [5] - 96:7,
96:13, 96:16, 96:17,
97:1

rise [2] - 15:15,
30:13
risk [2] - 143:13,
144:25
road [5] - 65:24,
66:3, 105:7, 105:12,
105:18, 107:9
role [9] - 4:10, 64:5,
64:13, 81:24, 90:1,
110:1, 111:5, 111:7,
116:22
roles [1] - 86:6
rolled [3] - 75:25,
76:1, 76:4
Ron [5] - 4:18, 15:15,
15:25, 97:21, 97:22
Room [1] - 1:12
room [5] - 6:14, 6:15,
6:17, 36:7, 86:4
rooms [1] - 101:5
roughly [1] - 125:4
route [1] - 140:10
routes [1] - 140:9
Rule [1] - 4:9
rule [2] - 36:11,
58:11
rules [4] - 8:11, 8:12,
58:19, 58:24
ruling [2] - 9:20, 15:3
run [2] - 71:4, 131:5
running [9] - 21:12,
55:2, 68:4, 68:9,
68:16, 70:21, 90:6,
125:7, 132:7
runs [2] - 54:24,
107:3
runways [1] - 117:21
rush [1] - 70:9

S

S.E [1] - 2:9
sad [2] - 41:12
safe [1] - 38:18
safely [1] - 120:10
SaferWatch [5] -
75:19, 141:16,
141:17, 142:17, 143:5
Safety [3] - 31:15,
31:25, 32:18
safety [5] - 16:16,
60:23, 117:20, 136:6,
136:7
saga [1] - 26:14
salmon [1] - 55:3
sanction [3] - 58:22,
58:23, 147:25
sanctioned [1] -
147:15
sat [1] - 95:16

satisfactory [1] -
131:4
save [1] - 35:4
saved [1] - 35:18
saw [1] - 68:11
scale [12] - 21:17,
51:10, 56:7, 56:8,
56:10, 56:24, 57:2,
57:16, 65:4, 65:9,
114:11, 117:25
scales [1] - 17:10
scenarios [1] - 65:9
scene [29] - 22:6,
54:24, 55:23, 66:10,
66:12, 68:10, 69:13,
71:5, 71:22, 110:4,
110:6, 110:8, 110:11,
111:1, 111:10,
111:24, 112:11,
112:14, 112:17,
131:18, 132:15,
132:20, 133:12,
136:12, 137:19,
138:2, 138:22,
138:23, 139:3
schedule [1] - 31:16
schedules [1] - 20:9
school [48] - 11:15,
16:16, 26:17, 27:9,
28:16, 29:3, 29:5,
29:9, 29:14, 29:15,
29:20, 29:22, 29:23,
29:25, 30:8, 32:7,
32:16, 43:21, 43:25,
49:13, 49:14, 51:11,
52:4, 52:5, 52:7,
52:12, 52:17, 52:18,
52:19, 52:22, 52:24,
53:5, 53:9, 53:10,
53:17, 106:1, 106:14,
106:18, 107:2, 107:3,
128:11, 128:18,
129:1, 140:5, 140:15,
140:18, 140:24,
141:11
School [10] - 16:14,
16:22, 26:13, 31:7,
39:10, 40:1, 41:3,
49:11, 59:2, 128:3
school's [1] - 140:14
schools [21] - 16:18,
28:17, 28:19, 28:21,
29:7, 29:17, 29:19,
30:4, 30:10, 32:9,
49:7, 51:12, 53:1,
72:25, 75:2, 75:3,
75:7, 75:16, 75:21,
106:24, 142:10
Schools [2] - 50:14,
52:11

schools' [1] - 75:5
Scot [14] - 7:2, 9:22,
11:12, 13:9, 14:5,
14:25, 31:3, 42:20,
43:3, 44:1, 48:23,
53:5, 132:21
Scott [65] - 1:3, 4:5,
4:25, 5:4, 5:6, 10:8,
10:15, 10:20, 12:22,
15:16, 15:17, 15:19,
15:21, 16:2, 16:5,
16:15, 16:25, 17:5,
17:10, 17:16, 18:1,
18:4, 18:6, 19:12,
19:19, 20:20, 21:8,
21:9, 21:19, 22:2,
22:22, 24:11, 25:12,
25:15, 26:9, 26:15,
26:19, 26:24, 27:12,
28:12, 28:15, 28:18,
28:21, 29:2, 29:6,
29:16, 29:19, 30:4,
30:7, 30:16, 31:8,
32:5, 32:6, 32:10,
32:11, 33:2, 33:9,
33:11, 33:21, 34:9,
34:25, 35:6, 35:25,
39:17, 135:4
Seaport [1] - 56:8
seaport [7] - 56:10,
56:13, 56:20, 56:22,
56:24, 57:1, 116:12
Second [1] - 59:17
second [10] - 25:4,
25:11, 27:16, 30:25,
62:7, 78:18, 83:10,
102:17, 128:1, 147:20
second-largest [1] -
102:17
secondary [5] - 67:5,
67:6, 67:9, 67:23,
110:23
seconds [7] - 40:11,
50:7, 54:14, 66:7,
110:18, 110:20
seconds-ish [1] -
110:20
secret [1] - 123:25
Section [6] - 17:12,
91:1, 97:5, 98:6,
108:7, 108:8
secure [3] - 22:8,
29:14, 138:2
secured [1] - 119:22
secures [1] - 66:13
Security [7] - 55:1,
56:13, 64:24, 65:8,
66:11, 66:18, 69:24
security [3] - 21:16,
29:4, 55:2

see [11] - 11:23,
21:7, 24:23, 25:4,
26:6, 69:13, 91:19,
99:8, 125:24, 142:5
seeing [1] - 68:3
seeks [2] - 7:4, 54:2
seem [4] - 11:1,
11:23, 12:6, 13:12
segments [2] -
101:13, 101:14
selected [1] - 52:6
self [4] - 69:9, 69:10,
111:22
self-responded [1] -
69:9
self-responding [1] -
69:10
semiannual [1] -
30:6
seminars [1] - 55:17
SENATE [1] - 1:1
senate [2] - 35:23,
38:20
Senate [12] - 1:12,
4:7, 4:9, 7:3, 8:7,
8:10, 12:10, 16:22,
17:15, 20:11, 26:3,
35:24
senators [1] - 8:14
sending [1] - 73:21
Senior [1] - 92:24
senior [5] - 24:12,
38:23, 40:19, 42:7,
53:10
sense [4] - 28:4,
32:16, 86:7, 126:17
sensitive [1] -
144:15
sentiments [1] - 5:2
separate [5] - 18:25,
90:10, 102:8, 115:6,
115:9, 116:4
separated [2] - 60:7,
85:24
separation [3] -
85:21, 85:22
sequester [1] - 6:6
sequestered [1] -
36:6
sequestration [3] -
36:8, 36:10, 149:9
sergeant [3] - 79:18,
82:11, 82:12
sergeants' [1] - 6:16
series [1] - 104:21
serious [2] - 63:6,
120:6
seriously [1] - 28:4
serve [5] - 7:16,
38:11, 74:14, 83:14,

103:13, 135:20
served [5] - 61:21,
86:14, 97:20, 97:24,
103:13
service [2] - 85:11,
145:19
services [3] - 95:3,
113:13, 145:23
servicing [3] - 44:14,
107:9, 128:21
set [10] - 59:15,
61:11, 101:9, 112:9,
112:15, 112:20,
112:21, 115:3,
115:25, 116:1
sets [4] - 46:20, 47:3,
112:25, 115:12
setting [3] - 21:25,
29:22, 30:9
seven [1] - 94:21
several [6] - 73:11,
86:22, 87:10, 89:11,
89:12, 119:5
Several [1] - 32:18
shall [3] - 34:6,
34:19, 35:2
shame [1] - 15:17
shape [1] - 129:6
share [1] - 38:22
shared [1] - 103:16
sharp [2] - 30:5,
31:11
sheet [1] - 88:16
sheriff [5] - 10:20,
13:4, 15:21, 17:20,
18:2, 18:9, 18:13,
18:16, 19:3, 19:4,
19:8, 19:10, 19:24,
20:3, 20:7, 21:8,
37:13, 37:17, 42:6,
42:12, 43:1, 44:9,
44:12, 45:16, 46:23,
54:6, 55:7, 62:22,
63:19, 73:12, 74:21,
76:18, 76:23, 81:14,
81:16, 83:9, 86:18,
90:1, 90:13, 96:3,
96:19, 113:14, 115:8,
115:16, 124:21,
126:6, 135:4, 148:4
Sheriff [7] - 1:3, 2:7,
4:6, 4:24, 5:4, 5:6,
9:11, 13:2, 22:12,
22:14, 23:2, 25:18,
25:22, 32:15, 33:15,
36:16, 37:4, 37:12,
38:5, 38:20, 39:1,
39:10, 39:16, 39:18,
41:7, 41:8, 41:16,
42:1, 42:2, 43:1, 43:7,

43:9, 43:15, 44:22,
45:5, 45:12, 45:22,
45:23, 45:24, 46:19,
53:21, 55:12, 55:25,
57:7, 57:24, 60:2,
60:17, 61:23, 61:25,
64:1, 64:4, 64:5,
64:11, 71:2, 71:11,
74:5, 74:10, 76:11,
76:17, 78:15, 81:15,
81:16, 82:6, 82:15,
82:21, 83:1, 83:6,
85:17, 85:25, 86:17,
89:15, 94:15, 126:23,
142:21
Sheriff's [60] - 21:14,
22:25, 23:10, 23:14,
23:23, 24:14, 25:7,
25:23, 26:21, 27:2,
33:22, 34:2, 35:10,
37:15, 38:10, 38:13,
39:4, 39:8, 40:13,
45:21, 46:10, 47:14,
48:11, 48:13, 49:5,
49:10, 51:9, 51:16,
52:4, 52:14, 52:15,
52:18, 55:8, 55:18,
58:7, 58:15, 59:24,
59:25, 65:6, 67:12,
71:20, 73:1, 74:2,
74:8, 74:18, 74:20,
75:5, 75:8, 75:18,
76:3, 81:13, 81:18,
84:20, 88:19, 95:22,
97:25, 106:22,
123:22, 127:8, 134:1
sheriff's [19] - 20:14,
20:18, 21:15, 24:24,
39:13, 45:9, 45:24,
64:9, 70:16, 72:10,
72:19, 73:16, 91:5,
99:24, 102:23,
102:25, 112:21,
127:5, 135:3
sheriffs [11] - 18:25,
19:1, 19:5, 19:6,
44:24, 44:25, 45:13,
121:13, 122:1, 122:2,
136:4
sheriffs' [4] - 91:4,
102:19, 121:4, 123:19
Sheriffs' [3] - 120:23,
120:25, 121:3
shift [1] - 106:14
ship [1] - 57:1
shirts [2] - 68:4,
68:11
shoot [4] - 27:8,
33:19, 130:23, 130:25
Shooter [1] - 50:18
shooter [110] - 15:23,
16:7, 21:2, 21:12,
21:21, 21:23, 22:18,
23:12, 25:10, 26:1,
27:6, 27:19, 27:21,
27:24, 27:25, 29:18,
30:2, 30:8, 30:14,
30:18, 30:22, 31:4,
31:9, 31:18, 33:3,
33:7, 33:18, 33:24,
34:4, 34:18, 40:10,
43:21, 46:3, 46:5,
46:10, 46:15, 47:10,
47:17, 47:19, 48:3,
48:5, 48:14, 48:25,
49:6, 49:10, 49:15,
50:19, 53:3, 54:23,
54:24, 55:6, 57:13,
59:1, 59:4, 61:1,
65:11, 65:17, 66:10,
67:3, 67:22, 68:22,
71:24, 72:7, 72:14,
72:16, 90:23, 91:3,
97:5, 98:6, 99:24,
100:4, 100:7, 100:9,
100:10, 100:11,
100:13, 100:17,
100:18, 100:22,
101:2, 101:12, 104:3,
104:5, 104:7, 104:10,
107:14, 108:22,
108:24, 109:8,
109:12, 109:13,
110:12, 117:24,
118:2, 118:5, 118:14,
130:8, 130:12,
132:22, 136:10,
136:12, 136:21,
137:20, 137:22,
146:5, 146:21, 147:8,
147:17
shooter's [1] - 66:8
shooter/active [1] -
56:9
Shooters [1] - 50:13
shooters [2] - 23:21,
46:7
shooting [64] -
10:11, 10:25, 11:15,
14:7, 14:18, 16:4,
16:22, 20:24, 21:7,
21:18, 22:20, 22:24,
23:5, 33:10, 34:2,
39:3, 39:10, 40:1,
40:5, 54:8, 54:9,
54:17, 55:11, 55:20,
55:23, 60:9, 63:1,
66:17, 67:11, 67:21,
68:16, 70:3, 70:7,
72:4, 101:2, 104:14,
107:16, 109:23,
110:5, 114:7, 114:14,
114:15, 116:10,
118:24, 120:24,
121:11, 122:14,
122:23, 123:5, 123:7,
124:20, 124:24,
125:10, 126:8,
127:19, 128:3,
131:10, 132:16,
134:1, 138:5, 141:24,
146:6, 148:14
shootings [1] - 55:14
shot [6] - 40:11,
66:22, 68:2, 68:18,
69:1, 146:25
shots [5] - 22:11,
54:23, 117:2, 118:9,
141:10
show [27] - 6:16,
15:18, 20:19, 30:19,
32:14, 37:19, 38:19,
38:25, 39:6, 41:18,
42:17, 43:23, 44:7,
45:4, 45:20, 46:2,
46:14, 47:8, 48:2,
53:18, 53:21, 58:1,
59:9, 61:15, 66:20,
67:19, 72:11
showed [3] - 111:14,
111:17, 113:23
showing [1] - 30:22
shown [6] - 49:4,
52:7, 52:25, 70:6,
71:17, 146:14
shows [11] - 26:9,
48:15, 48:16, 51:6,
54:17, 55:9, 56:21,
64:19, 64:20, 66:7,
66:14
shut [6] - 22:8,
57:20, 116:19, 117:7,
117:17, 119:2
side [9] - 33:19,
33:25, 107:5, 107:7,
114:2, 115:6, 115:7,
128:9, 138:21
sign [2] - 108:19,
126:3
sign-off [1] - 126:3
signals [1] - 73:20
signed [6] - 14:4,
25:22, 29:7, 64:4,
96:11, 144:25
signer [1] - 126:6
significance [1] -
69:12
significant [8] -
58:20, 64:9, 64:18,
65:21, 71:10, 72:12,
97:15, 98:3
signs [2] - 25:13,
145:25
silence [1] - 5:16
similar [3] - 25:1,
27:7, 121:17
simply [3] - 62:15,
67:22, 104:19
simulation [3] -
49:15, 57:9, 130:24
simultaneously [2] -
116:25, 139:9
single [6] - 47:9,
47:11, 67:22, 69:23,
71:18
sit [2] - 12:17, 16:20
site [5] - 73:21,
108:15, 113:15,
119:23
sitting [1] - 12:17
situation [12] - 16:7,
21:21, 21:24, 25:10,
71:15, 72:16, 72:25,
118:15, 118:22,
121:24, 132:13,
136:10
situations [12] -
15:23, 28:25, 29:18,
30:3, 30:14, 30:18,
35:16, 68:22, 72:24,
117:25, 118:2, 122:3
six [4] - 21:1, 61:2,
70:2, 70:10
sizable [1] - 99:7
**skaplan@
kaplanparkerlaw.
com** [1] - 2:14
skill [1] - 82:3
skills [9] - 30:5,
31:11, 104:9, 104:13,
104:17, 104:20,
130:11, 131:2, 131:4
skipping [1] - 29:5
slap [1] - 60:20
slightest [1] - 53:14
slightly [2] - 102:3
smaller [3] - 101:12,
101:14, 101:15
Smart [1] - 141:15
smart [1] - 142:19
snap [1] - 148:4
sniper [1] - 40:10
social [1] - 27:6
soft [4] - 23:25,
29:17, 53:1, 53:2
soldier [1] - 54:10
sole [1] - 108:12
someone [9] - 101:4,
104:12, 114:17,
116:6, 125:21,
138:24, 143:19,
145:19, 146:25
something's [1] -
136:15
something/say [1] -
142:5
sometime [1] -
132:25
sometimes [2] -
32:21, 145:21
somewhat [1] - 27:7
Somewhat [1] -
107:25
somewhere [4] -
101:25, 102:1, 110:7,
110:20
soon [2] - 39:9,
54:23
sorry [4] - 9:16, 83:5,
141:17, 144:14
Sort [1] - 112:3
sort [3] - 82:22,
105:12, 126:12
sought [1] - 37:1
sound [1] - 87:8
sounds [4] - 21:13,
41:20, 58:14, 121:1
soup [1] - 40:22
South [3] - 1:13,
65:1, 70:9
spare [1] - 86:13
SPECIAL [28] - 4:2,
5:8, 9:2, 9:7, 9:12,
9:16, 9:24, 15:5, 36:1,
36:13, 50:6, 50:12,
50:23, 51:3, 77:3,
77:8, 77:15, 78:2,
78:14, 78:17, 78:23,
79:12, 88:13, 91:24,
107:19, 144:14,
144:21, 149:5
special [6] - 8:4, 9:6,
10:1, 15:14, 52:23,
94:7
Special [23] - 1:14,
4:8, 4:21, 5:1, 8:25,
9:15, 9:20, 10:22,
12:7, 36:9, 36:15,
42:21, 44:21, 48:18,
53:12, 76:13, 76:15,
77:11, 77:18, 77:23,
78:9, 79:9, 149:4
specialist [1] -
117:10
specialized [11] -
26:2, 51:18, 51:20,
51:23, 52:21, 54:21,
63:12, 65:18, 66:1,
66:3, 129:15
specific [8] - 22:23,

- 23:10, 23:13, 25:6, 26:2, 29:21, 29:25, 34:7
specifically [4] - 43:20, 50:10, 51:1, 52:12
specifics [1] - 113:24
spent [2] - 79:16, 79:19
splinter [1] - 118:25
split [1] - 94:11
spokesperson [1] - 39:8
sponsored [1] - 39:7
spread [1] - 31:8
spurred [1] - 41:18
square [1] - 63:18
SRO [7] - 106:1, 106:13, 106:18, 107:3, 107:8, 128:10, 129:8
SROs [8] - 72:11, 72:22, 75:3, 106:11, 106:21, 106:24, 129:14, 129:16
SROS [1] - 130:15
stabilized [1] - 145:24
staff [15] - 24:12, 38:23, 42:8, 61:23, 73:5, 84:17, 89:19, 94:13, 115:17, 126:7, 126:9, 126:11, 126:16, 126:19, 138:13
staffing [3] - 114:3, 115:1, 115:2
stage [1] - 5:15
stairwells [1] - 101:6
stakeholders [2] - 98:15, 114:23
Stamp [1] - 49:25
stamped [1] - 91:7
Stamped [1] - 51:1
stampede [2] - 118:11, 118:14
stand [1] - 35:6
standard [18] - 45:13, 45:15, 45:19, 46:1, 46:3, 46:12, 48:21, 51:24, 52:1, 53:20, 70:7, 76:19, 76:20, 87:11, 91:2, 93:15, 134:19, 135:9
Standard [1] - 33:4
standardless [1] - 71:7
standards [22] - 45:25, 46:21, 47:4, 48:8, 58:4, 59:15, 61:1, 62:20, 70:19, 71:3, 71:21, 76:14, 80:17, 81:22, 87:18, 89:9, 93:11, 93:22, 98:4, 105:2, 129:10
Standards [2] - 47:1, 88:4
standing [3] - 78:17, 81:6, 136:16
standpoint [2] - 98:21, 110:10
stands [2] - 37:25, 60:5
start [7] - 36:4, 118:11, 125:23, 125:24, 133:11, 143:7, 145:25
started [11] - 68:15, 79:16, 80:13, 81:13, 81:22, 82:1, 84:2, 84:5, 114:17, 117:2, 131:13
starting [3] - 81:2, 84:12, 143:10
startling [1] - 23:9
starts [2] - 91:23, 107:13
State [17] - 12:24, 41:24, 42:13, 44:5, 46:18, 47:4, 47:16, 47:23, 59:7, 96:7, 96:12, 99:2, 99:23, 100:2, 104:23, 105:5, 149:1
state [8] - 46:8, 79:1, 85:6, 88:1, 89:2, 102:20, 103:1, 106:4
statement [6] - 9:8, 9:14, 36:14, 49:4, 71:2, 78:3
statements [4] - 6:22, 7:16, 36:2, 148:19
States [3] - 16:8, 55:13, 118:23
statewide [1] - 41:2
status [5] - 80:1, 87:16, 92:13, 96:14, 143:16
statuses [1] - 87:16
Statute [2] - 18:11, 19:6
statute [3] - 20:1, 96:10, 96:19
statutory [9] - 15:19, 17:20, 18:7, 19:9, 19:15, 20:18, 44:11, 96:7, 96:10
stay [5] - 86:10, 89:17, 93:13, 93:17, 143:5
staying [1] - 135:24
stenographic [1] - 150:9
stenographically [1] - 150:7
stent [1] - 80:13
step [1] - 49:17
steps [1] - 98:10
Steven [1] - 61:25
Still [1] - 81:8
still [10] - 32:15, 47:13, 47:17, 63:22, 67:24, 81:7, 117:5, 120:12, 139:19, 146:13
Stoneman [37] - 16:14, 16:21, 26:13, 27:17, 31:6, 31:14, 31:25, 33:11, 34:2, 39:2, 39:10, 40:1, 41:3, 41:14, 46:4, 52:13, 53:6, 59:1, 59:8, 59:24, 60:4, 60:19, 61:5, 64:23, 71:9, 74:4, 74:24, 76:8, 107:16, 108:1, 128:2, 128:10, 131:6, 131:9, 131:18, 138:4, 139:10
stop [1] - 69:1
stopping [1] - 69:2
story [1] - 138:23
stream [1] - 57:21
street [3] - 82:11, 123:8
Street [2] - 1:13, 2:9
strengths [1] - 23:7
strenuous [1] - 23:24
stress [1] - 28:25
strike [3] - 84:1, 85:19, 106:16
structure [5] - 33:6, 33:13, 101:5, 108:14, 116:7
structures [2] - 119:4, 119:11
struggle [1] - 22:1
Stuart [1] - 5:4
STUART [1] - 2:11
student [1] - 75:16
students [5] - 16:12, 29:5, 31:12, 141:3, 142:4
studied [1] - 124:13
subdivision [1] - 113:6
subject [8] - 44:10, 58:4, 62:14, 63:11, 98:13, 103:10, 141:7, 144:5
submissions [1] - 8:15
submit [6] - 7:14, 7:19, 7:22, 15:6, 15:9, 26:3
submitted [2] - 14:14, 50:15
submitting [1] - 7:18
subpoena [1] - 14:8
Subsection [1] - 18:15
subsequent [2] - 10:12, 26:25
substantial [1] - 99:4
successfully [1] - 83:10
sudden [1] - 68:19
sufficiency [1] - 17:17
sufficient [3] - 17:25, 135:17, 145:17
sufficiently [1] - 18:3
suggest [2] - 57:6, 61:8
suggested [3] - 47:25, 53:13, 72:18
suggesting [1] - 14:22
suggestion [1] - 46:8
suggests [3] - 7:7, 32:1, 136:22
suicide [2] - 33:14, 137:7
Suite [2] - 1:23, 2:12
summarize [2] - 24:7, 61:16
summer [1] - 29:25
superiority [1] - 38:2
supervision [2] - 20:16, 107:7
supervisor's [1] - 108:14
supplement [1] - 115:11
support [3] - 111:5, 111:7, 147:4
supported [1] - 11:11
supposed [3] - 13:4, 30:2, 108:19
supposedly [1] - 45:17
Supreme [1] - 17:22
surnames [1] - 79:10
Surnames [1] - 79:12
surrender [5] - 48:24, 49:1, 109:13, 109:20, 137:10
suspect [1] - 141:23
suspend [1] - 36:24
suspended [3] - 6:8, 41:25, 77:16
suspending [2] - 15:16, 16:1
SUSPENSION [2] - 1:3, 1:10
suspension [10] - 16:24, 18:4, 35:24, 36:17, 37:6, 38:4, 38:25, 42:17, 85:17, 108:11
Suspension [3] - 1:3, 4:5
suspicious [1] - 68:9
SWAT [20] - 30:1, 51:15, 51:17, 51:18, 51:20, 51:21, 52:1, 55:25, 57:2, 57:3, 63:12, 65:15, 65:18, 79:20, 82:12, 82:13, 119:5, 119:7, 119:8, 138:3
SWAT-related [1] - 51:17
swear [1] - 78:19
swimming [1] - 55:4
sworn [18] - 11:22, 37:22, 53:15, 80:17, 80:23, 83:15, 93:3, 94:10, 95:4, 95:11, 95:19, 96:4, 96:13, 101:22, 102:11, 104:25, 106:2, 134:12
system [8] - 49:13, 73:10, 73:13, 74:1, 131:13, 132:4, 140:18, 141:9
systematically [1] - 119:12
systems [1] - 140:16
-
- T**
-
- tabletop** [1] - 24:2
tackle [1] - 136:4
tactical [5] - 32:8, 112:8, 119:3, 119:9, 133:8
tactically [1] - 101:5
tactics [2] - 52:25, 104:10
talks [1] - 66:2
Tallahassee [3] - 1:13, 1:24, 2:5
target [2] - 21:20, 24:1

- targets** [5] - 29:17, 53:1, 53:2
task [3] - 23:24, 100:12, 101:7
Task [2] - 64:24, 65:8
tasked [2] - 12:23, 22:25
taught [2] - 55:16, 104:13
taxiway [1] - 117:21
taxiways [1] - 120:13
taxpayer [1] - 115:10
taxpayers [1] - 115:9
teach [1] - 88:3
teachers [6] - 29:6, 31:13, 51:13, 72:13, 72:15, 75:22
team [16] - 6:16, 51:18, 51:22, 51:23, 57:2, 57:3, 63:12, 65:18, 66:3, 79:21, 82:13, 86:9, 101:9, 108:13
teams [6] - 51:15, 52:1, 119:3, 119:6, 119:7, 119:8
technically [1] - 102:23
template [2] - 49:23, 114:13
Template [1] - 50:14
tend [3] - 52:9, 65:25, 118:3
tens [2] - 73:14, 119:17
tenure [7] - 15:21, 20:21, 86:16, 86:17, 92:11, 103:6
term [2] - 63:11, 132:9
termed [1] - 113:7
terminal [6] - 22:18, 56:15, 66:13, 68:18, 69:1, 119:11
Terminal [2] - 68:5, 110:12
terminals [4] - 22:8, 22:11, 68:19, 116:19
terminated [1] - 86:12
termination [1] - 85:20
terminology [2] - 58:6, 111:21
terror [1] - 56:9
terrorism [5] - 57:14, 67:11, 67:19, 67:22, 145:10
terrorist [8] - 21:20, 23:21, 41:14, 65:10, 65:11, 111:3, 124:10, 124:14
terrorists [3] - 56:20, 56:25, 57:12
test [2] - 130:21, 131:3
testified [3] - 24:16, 24:17, 63:8
testify [1] - 6:18
testifying [1] - 6:11
testimony [11] - 5:14, 6:11, 6:13, 17:3, 22:3, 24:17, 33:14, 35:21, 63:19, 78:19, 100:21
testing [2] - 62:14, 130:18
textbook [3] - 19:17, 21:11, 21:15
thankfully [1] - 67:21
THE [2] - 1:1, 78:22
theme [1] - 118:7
themselves [3] - 6:11, 137:6, 145:17
thereby [1] - 44:4
therefore [1] - 19:21
they've [2] - 73:10, 145:24
They've [1] - 98:20
thinking [1] - 112:1
thinks [1] - 116:25
Thirteen [1] - 92:4
thoroughly [1] - 12:2
thousand [1] - 125:6
thousands [1] - 119:17
threat [6] - 29:1, 30:13, 143:8, 143:17, 145:8, 145:13
threats [5] - 16:19, 27:11, 29:22, 124:7, 145:7
three [6] - 30:12, 31:1, 31:9, 70:8, 87:13, 109:12, 137:9, 138:23
three-fold [1] - 137:9
three-story [1] - 138:23
three-year [2] - 30:12, 31:9
throttling [1] - 131:14
throughout [12] - 17:2, 18:1, 18:17, 21:9, 26:16, 45:21, 73:2, 88:1, 90:4, 103:17, 117:3, 119:1
throw [1] - 148:7
thrown [2] - 118:17, 122:5
thumb [1] - 126:24
TIME [1] - 1:12
tiping [1] - 17:9
tips [1] - 142:5
title [1] - 105:2
today [15] - 13:1, 13:24, 13:25, 14:16, 16:20, 18:6, 18:14, 25:16, 28:6, 33:2, 35:6, 47:13, 78:4, 124:18
today's [1] - 93:16
together [8] - 56:2, 76:14, 83:6, 86:9, 125:22, 125:23, 141:24
took [15] - 28:3, 40:5, 67:3, 67:23, 70:2, 74:22, 80:24, 94:2, 94:6, 110:24, 111:5, 119:4, 119:5, 137:20, 137:25
top [3] - 86:3, 108:8, 134:15
total [1] - 119:8
totality [1] - 145:18
tourniquets [1] - 101:8
toward [1] - 141:9
towards [2] - 21:13, 71:24
tracks [1] - 102:8
traditional [1] - 86:2
traffic [2] - 70:9, 132:17
tragedies [3] - 40:12, 40:13, 44:9
tragedy [16] - 40:2, 40:4, 40:5, 40:7, 41:1, 47:5, 60:4, 60:9, 74:5, 74:9, 74:24, 123:13, 124:10, 142:24, 144:7
tragic [1] - 71:10
train [5] - 15:22, 16:17, 51:16, 51:23, 52:1
trained [25] - 30:10, 30:12, 37:17, 37:20, 43:2, 48:23, 48:24, 51:21, 52:10, 53:8, 54:10, 54:18, 54:19, 54:20, 54:21, 55:2, 68:23, 69:4, 70:24, 72:6, 73:17, 100:3, 102:9, 107:9, 108:17
trainer [2] - 72:13, 79:21
Trainers [1] - 50:14
trainers [2] - 108:24, 135:20
training [148] - 11:14, 11:17, 14:18, 14:22, 14:25, 15:1, 16:9, 20:8, 20:10, 20:16, 21:17, 23:12, 23:13, 24:2, 24:3, 25:6, 26:1, 26:2, 29:21, 29:24, 30:3, 30:8, 30:20, 31:1, 31:2, 31:4, 31:5, 31:9, 31:10, 31:16, 31:18, 31:19, 31:20, 33:22, 43:3, 43:19, 43:20, 43:21, 43:22, 44:2, 45:1, 46:10, 46:16, 47:11, 47:17, 47:19, 48:14, 48:15, 48:19, 48:22, 49:7, 49:11, 49:12, 50:4, 50:19, 51:10, 51:19, 51:20, 52:21, 54:22, 55:16, 55:21, 56:2, 56:7, 56:25, 57:5, 57:8, 57:9, 57:16, 57:24, 58:12, 58:13, 61:1, 65:4, 65:9, 65:17, 65:18, 69:21, 70:19, 71:23, 72:7, 72:12, 72:13, 72:15, 74:25, 81:4, 81:24, 84:1, 84:4, 84:6, 84:7, 86:15, 87:22, 87:24, 88:1, 89:9, 89:10, 92:16, 99:14, 99:18, 99:20, 99:21, 100:8, 100:16, 101:18, 101:20, 103:11, 104:3, 104:5, 104:8, 105:18, 108:22, 108:25, 109:4, 109:8, 109:11, 109:17, 109:18, 117:24, 118:12, 127:20, 127:23, 129:15, 129:18, 129:20, 129:24, 129:25, 130:4, 130:5, 130:7, 130:10, 130:17, 130:19, 131:1, 132:22, 136:10, 136:20, 137:1, 137:4, 137:16, 137:17
Training [3] - 50:18, 84:16, 88:4
Training's [1] - 99:15
trainings [15] - 22:22, 30:17, 32:9, 52:24, 83:23, 92:16, 93:9, 93:10, 93:12, 100:23, 101:19, 104:4, 104:22, 129:9, 130:6
transcript [2] - 61:18, 150:8
TRANSCRIPT [1] - 1:9
transmission [1] - 22:17
transported [1] - 54:13
treat [1] - 101:8
Treijs [5] - 26:25, 27:18, 27:21, 28:1, 58:18
trend [1] - 99:4
trial [3] - 76:12, 90:5, 148:8
tried [3] - 123:12, 134:2, 139:20
triple [1] - 87:14
trouble [1] - 61:4
troubled [1] - 59:12
truck [1] - 70:16
true [4] - 23:19, 34:8, 70:15, 150:8
truth [4] - 41:21, 78:20, 78:21
try [17] - 74:12, 76:24, 93:17, 99:9, 101:16, 111:19, 121:16, 123:17, 124:2, 124:7, 127:11, 127:16, 127:17, 131:16, 145:20, 145:22, 145:23
trying [7] - 40:24, 63:23, 137:5, 138:16, 139:4, 139:9, 146:19
Tuesday [1] - 4:3
turn [1] - 27:8
turns [1] - 25:12
twenty [2] - 102:2, 125:6
twice [1] - 37:25
two [24] - 10:23, 22:12, 23:2, 24:8, 25:19, 26:5, 26:23, 27:4, 27:17, 30:17, 54:7, 58:25, 60:12, 60:13, 68:3, 68:8, 68:11, 79:25, 81:12, 82:18, 88:6, 102:8, 138:21, 147:15
two-fold [1] - 138:21
type [9] - 28:23, 31:19, 38:15, 52:20, 56:3, 58:22, 71:7, 114:14, 134:11
Typically [1] - 99:3
typically [1] - 99:6

U

ultimately [5] - 4:12, 15:24, 17:23, 27:2, 125:12
Unacceptability [1] - 32:24
unacceptable [2] - 40:4, 44:8
unbelievable [1] - 41:21
uncertainties [1] - 7:8
uncertainty [1] - 7:9
unclear [1] - 16:9
Under [2] - 81:14, 81:15
under [32] - 11:22, 13:12, 13:13, 14:9, 17:12, 19:7, 19:14, 26:19, 28:12, 29:11, 34:9, 45:22, 46:19, 48:11, 52:11, 57:24, 59:17, 59:19, 61:25, 64:1, 64:11, 75:3, 85:25, 89:15, 94:14, 96:2, 106:20, 107:7, 114:20, 135:16, 141:2, 142:21
undergo [5] - 29:21, 30:3, 48:14, 52:20, 52:23
underscored [1] - 72:21
Undersheriff [2] - 126:2, 126:11
understood [7] - 74:23, 96:3, 110:11, 110:17, 113:11, 128:21, 135:12
undertakes [1] - 38:16
undertrained [1] - 72:22
undisputed [6] - 28:15, 31:23, 33:5, 33:8, 34:21, 73:9
undoubtedly [1] - 42:11
unexpected [1] - 68:23
unfit [1] - 129:2
unfortunate [1] - 22:13
unfortunately [2] - 13:6, 20:25
informed [1] - 32:19
union [5] - 94:24, 94:25, 95:5, 95:8,

133:24
unions [2] - 94:23, 95:10
unique [1] - 23:25
unit [4] - 52:22, 66:1, 145:9, 145:13
United [4] - 16:8, 55:13, 68:17, 118:23
units [2] - 51:23, 84:1
unknown [2] - 69:5, 117:5
unlike [2] - 18:22, 30:1
unloaded [1] - 120:14
unlocked [1] - 22:15
unnecessary [2] - 16:10, 26:11
unseat [1] - 39:16
unwilling [2] - 75:7, 136:4
up [35] - 13:1, 13:15, 14:10, 21:25, 23:24, 26:8, 27:8, 27:15, 28:2, 37:9, 44:23, 63:25, 76:2, 78:5, 100:15, 101:9, 111:15, 111:17, 112:9, 112:15, 112:20, 112:21, 112:25, 115:25, 116:1, 123:7, 123:8, 124:18, 125:7, 131:7, 137:6, 141:12, 145:5, 145:6, 145:7
upgrade [2] - 73:13
upheld [2] - 17:23, 35:24
upholding [1] - 16:24
upstream [1] - 55:4
upwards [1] - 63:2
urgency [2] - 28:5, 32:17
usage [1] - 101:7
user [1] - 73:12
users [1] - 131:12
utilize [1] - 7:11

V

valid [1] - 126:1
variables [1] - 34:14
variance [1] - 48:5
various [5] - 14:6, 91:9, 93:2, 129:16, 146:20
Vegas [3] - 46:5, 123:4, 123:6

vehicle [2] - 22:14, 22:15
vendor [1] - 142:4
venue [1] - 29:18
verse [1] - 20:13
version [3] - 24:23, 25:22, 62:7
versus [2] - 34:5, 35:2
vest [3] - 134:4, 136:11, 136:14
vests [2] - 32:21, 133:18
vet [1] - 62:21
vetted [2] - 64:7, 114:24
vetting [1] - 63:22
via [1] - 19:2
victim [1] - 22:18
victims [2] - 35:18, 40:12
video [1] - 140:16
view [5] - 39:20, 42:5, 42:8, 130:4, 138:9
viewed [1] - 121:21
vigilance [1] - 29:1
vigilant [1] - 23:20
Vigilant [3] - 65:6, 66:2, 116:11
Village [2] - 82:24, 83:8
violation [2] - 147:5, 147:25
violations [1] - 27:1
violence [2] - 16:19, 147:11
voice [1] - 140:11
voluble [1] - 138:15
VOLUME [1] - 1:7
Volume [1] - 149:12
voluntary [2] - 85:20, 85:23
voters [2] - 38:7, 54:1
votes [1] - 41:19
vulnerable [1] - 124:2

W

wait [4] - 6:17, 138:2, 138:3, 148:15
waiting [1] - 33:19
waive [1] - 77:24
walk [1] - 71:5
warning [1] - 146:25
warrant [1] - 11:12
wasted [1] - 137:2
Watch [1] - 141:15

watching [1] - 28:7
ways [6] - 54:7, 60:6, 114:16, 124:8, 124:13, 132:12
weaknesses [1] - 23:8
weapon [1] - 104:14
weapons [2] - 27:19, 60:7
wear [6] - 133:21, 134:3, 136:3, 136:13, 136:16, 136:18
Wear [1] - 83:21
wearing [1] - 133:17
week [2] - 51:17, 51:22
weekly [2] - 52:2, 53:24
weeks [1] - 10:24
weigh [1] - 98:13
weighed [2] - 53:19, 98:20
weighing [1] - 17:7
welcome [2] - 5:13, 15:9
welfare [1] - 139:1
well-trained [1] - 53:8
whatsoever [1] - 10:17
whereas [2] - 44:21, 45:10
whim [4] - 54:5, 61:12, 71:7, 96:4
whimsy [1] - 54:5
white [2] - 68:3, 68:11
whitewashed [1] - 25:18
whole [4] - 21:13, 78:20, 122:11, 139:8
wholly [1] - 19:18
wide [1] - 23:23
wildly [1] - 54:25
willing [2] - 13:20, 140:3
wish [2] - 71:16, 147:1
withdraw [1] - 49:19
withdrawn [4] - 9:1, 9:11, 50:3, 50:21
withstanding [3] - 10:17, 14:23, 40:7
WITNESS [2] - 3:3, 78:22
witness [7] - 78:16, 79:11, 88:12, 91:22, 96:1, 149:8, 149:9
WITNESSES [1] - 3:1
witnesses [16] - 6:5,

6:7, 6:8, 6:14, 6:19, 11:5, 11:22, 13:18, 14:1, 33:21, 36:6, 36:10, 91:25, 138:22, 148:21, 148:23
woman [1] - 70:20
won [1] - 83:10
wonder [1] - 129:6
word [3] - 34:10, 58:5, 100:19
work-around [3] - 73:17, 74:2, 132:9
work-arounds [1] - 132:7
works [1] - 66:3
worse [1] - 27:12
wounded [2] - 101:8, 101:9
writers [1] - 127:4
writing [1] - 23:1
written [4] - 7:14, 20:1, 28:16, 125:25
wrote [2] - 20:13, 27:11

Y

Year [1] - 54:14
year [13] - 16:20, 26:12, 30:12, 31:5, 31:9, 55:7, 63:2, 80:13, 84:12, 85:13, 122:25, 129:15, 130:20
years [9] - 21:22, 31:1, 73:11, 79:17, 79:25, 80:2, 80:10, 83:9, 83:11
yourself [3] - 12:10, 12:11, 92:15
yourselves [1] - 4:16

Z

zero [3] - 18:5, 32:11, 69:3