THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL

________________________:

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

DEPOSITION OF CAPTAIN JAMES DIEFENBACHER

Taken before Carol Ann Kridos, Registered
Professional Reporter and Notary Public in and for
the State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.
APPEARANCES:

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EXHIBITS

(No exhibits were marked during the deposition.)
PROCEEDINGS

Thereupon:

CAPTAIN JAMES DIFEENBACHER was called as a witness, and having been first duly sworn and responding "I do," was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KUEHNE:

Q Please state your name and spell your name.

A James Diefenbacher,

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

Q Should I address you as captain?

A Sure.

Q Captain Diefenbacher, all right.

My name is Ben Kuehne. I am counsel for Sheriff Israel in connection with senate review of his suspension.

A Right.

Q So I'll be asking you questions about that and just some background questions.

MR. KUEHNE: Mr. Primrose, would you
BY MR. KUEHNE:

Q    You are a sworn law enforcement officer?
A    I am.

Q    For how long?

Q    Well, thank you for your service.

Q    What agencies have you worked with as a sworn law enforcement office?
A    Just the Broward Sheriff's Office.

Q    So you went to the academy and became a deputy sheriff in 1991?
A    I did. Detention deputy sheriff.

Q    You worked for detention for how long?
A    I still do. I'm actually working as a detention officer in the Department of Law Enforcement.

Q    Department of Law Enforcement?
A    Right.

Q    And how long have you held the rank of captain?
A    Approximately five years.

Q    And what are your current duties and
responsibilities as a captain currently?

A I'm a captain of the policy and accountability division which handles policy,

standard operational procedures, CJIS, which is Criminal Justice Information Systems, compliance, contracts with the state of Florida, FBI compliance. Mainly anything governmental compliance-related I handle.

Q And how long have you been in that position?

A Approximately eight years.

Q Some before you became captain?

A Yes.

Q My focus for my questions are primarily around the time of the Fort Lauderdale Airport shooting, I'll refer to it as the "airport shooting," which was in January of '17, going through to the Marjory Stoneman Douglas High School shooting, which was February of 2018.

A Right.

Q And I'll have some other questions around that time, but that's going to be the primary focus. Did you -- and I'll also ask about the after-action report for the Fort Lauderdale
Airport shooting.

Did you have a role in the Fort Lauderdale Airport shooting on the scene during the time of the shooting and its aftermath?

No.

Did you go to the Fort Lauderdale Airport at any time during it being classified as an active crime scene for the Fort Lauderdale shooting?

No.

Did you have a role in evaluating the Fort Lauderdale shooting for purposes of an after-action report?

Yes.

What was your role in that regard?

I am uncertain if it was Colonel John Dale or if it was the Assistant General Counsel approached me and said they had a public records request from the Sun Sentinel newspaper asking for the agency's draft AAR, which is an after-action report, for the Fort Lauderdale shooting.

Okay.

I was given a copy of the current draft which was prepared by Major Cedeno and, using my own words, they described it as emotional and
22 non-pragmatic and they wanted me to look at the
23 report to see if I could structure it more like
24 other agencies had structured their AARs.
25 Q And did you do that?
8
1 A I did.
2 Q And what was the result of your
3 fulfilling that task?
4 A The Sun Sentinel was insisting upon
5 immediate release of the draft. Our lawyers
6 negotiated ten days for me to review a box full of
7 materials. I then looked at Major Cedeno's draft
8 of the AAR and I added or changed the structure.
9 Before doing so, I researched several other AARs
10 from other airport shootings, Sandy Hook tragedy,
11 some FAA AARs. The one I settled upon was one
12 offered by the United States Army and I structured
13 mine based on their recommendations.
14 Q Did your research of those other AARs or
15 the type of document you've described come because
16 of a decision by you or were you directed to look
17 at those items in particular?
18 A That was my decision.
19 Q Okay. You researched other AARs
20 involving scenarios that you thought would be
helpful in guiding you in the format --

Correct.

-- of an AAR?

Correct. I had never written an AAR in that grand a scope so I looked to others to find examples and I selected the format that I felt would work best for us.

What did you understand as you were performing this task the purpose or function of an AAR to be?

Before or after I read the others?

In the entire process.

In general? Basically you evaluate what happened based on the facts, based on reports, based on any evidence collected. You examine how you responded to the event and you identify areas of improvement or you identify areas that you did well. Basically pragmatically take the facts and list them in a time -- I found that listing them in a time frame as they happened was the best way to explain this very complex event.

Was your effort to do this job an effort -- an attempt to accomplish what you understood to be the purpose of an AAR?

What I understood, yes. It was never
intended to be an AAR, it was intended to be a
draft so that the command could examine the facts
in a different format than what Major Cedeno had
presented.
Q    And did you understand from your

research and review that an AAR in general is
reviewed by several layers of reviewers?
A    Of course. My review would be the very
lowest. Mine is the collection of all of the
facts. I spoke with many different entities that
had participated in the event, including Broward's
emergency management agency or organization, the
county's ORCAT division, which is the radio
system, and I got their input and I included their
input in my draft of the AAR.
Q    Were you told by whoever gave you this
assignment, I think you mentioned Colonel John
Dale or maybe somebody else, what your draft was
to include or contain?
A    No. I did consult with them when I
found large issues that were not discussed in the
original AAR. I also discussed law enforcement
sensitive information, whether I should include it
or not, which included strategic planning to
respond to such events, and they provided guidance.

Q Using the term "guidance," did you consider it to be just that, guidance, or did you feel that you were being directed to include something or exclude something that was not your choice?

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

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

A Barely.

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

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

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

A Correct, it was BSO's counsel and myself. We redacted any statutorily allowed
matters, such as plans to respond to such events.

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

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

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

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

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

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

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

Q  Was your early draft intended by you to be the final determination of the after-action
19 report?
20 A No.
21 Q Did you expect and anticipate that others at the BSO at various levels would have a role in revising, redrafting, editing a report until it got to final form?
25 A Yes.
19    Q    Broward County?
20    A    Yes.
21    Q    And you understand that the radio system
22   used by BSO is a county system?
23    A    County owned, yes, and operated.
24    Q    County owned and operated. And that
25   other law enforcement agencies besides BSO are

14

users of that system?

2    A    That was in my report, yes, that it was
3    overutilized, yes.
4    Q    Did you understand in preparing your
draft report that Broward County had been in the
process of upgrading and improving the radio and
communication system?
5    A    I am very aware of it.
6    Q    And that process continues to this day?
7    A    It is laborious and it is very
difficult, yes.
8    Q    Did you understand at the time of doing
your draft report that the Broward Sheriff's
Office could not on its own implement the
equipment and the operations to run a countywide
communication system?
9    A    Yes. We did not have the ability or the
statutory -- actually, it's by county ordinance.

And they changed the county charter to transfer those functions to the county government and away from the sheriff.

Q Right. You understand that the county charter, the Broward County Charter actually requires that the county perform the function of operating a countywide emergency communications system?

A I do.

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

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

Q Client?

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

Q Client and customer.

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

A No.

Q Let me move to the Marjory Stoneman Douglas shooting on February 14th -- Marjory Stoneman Douglas High School shooting February 14, 2018. Did you have any on-the-scene participation?

A No.

Q Did you respond to the scene of the school during the time it was considered an active crime scene?

A No.

Q Did you respond to the school after it was no longer an active crime scene to conduct any investigative work?

A No.

Q On the day of the Marjory Stoneman Douglas school shooting, were you working in your law enforcement capacity?

A Yes.

Q What was your function at the time?

A I had heard of the active shooter call. I responded to the sheriff's emergency operation
center and provided the center with staffing. I called all available staff in my division and those of the training division and had them man telephones and monitor the radios.

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

A It is my expectation.

Q Your expectation?

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

Q So you augmented the existing staff?

A Correct.

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

A Certainly.

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

A No.

Q Besides making certain that the SEOC was
appropriately staffed, did you have any other
function that day, the day of the MSD High School
shooting?

A No.

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

A Yes.

Q And that was in your capacity as an

officer --

A Yes.

Q -- law enforcement officer?

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

A I was simultaneously monitoring the
radios and watching the televisions in the SEOC.

So I knew there were other law enforcement
agencies there. I could not hear them on our
radio system.

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

A I was.
16        Q    Were those deficiencies matters that
17 were known at the time?
18        A    Yes.
19        Q    As the result of an antiquated
20 county-operated radio system?
21        A    I can characterize it as that, yes.
22        Q    Okay. Did you assist law enforcement
23 officers, including those at the SEOC, in any
24 work-arounds to accommodate deficiencies in the
25 radio towers?

1       A    We do not have that power to do so.
2        Q    Okay. Did you provide any direction to
3 any officers or emergency responders to go to the
4 scene of the MSD shooting?
5        A    No. But I did hear a good staging plan
6 and I heard dispatching to staging. And the
7 on-site global command vehicle was in my opinion
8 effective in taking people off the main channel
9 and putting them on the tactical and staging
10 channels.
11        Q    And you were able to learn of this
12 activity from your -- from wherever you were that
13 day?
14        A    Correct. I could listen to all three
15 channels because we had all three on and I can say
that this is an improvement over the tapes I listened to of the FLL shooting.

Q    Meaning you had as part of your after-action report draft preparation listened to recordings of communications?

A    I had.

Q    And here for MSD, you were listening in real time as they were taking place?

A    Correct.

Q    And you were able to identify in your experience improvement in the means and effectiveness of communications?

A    From my comparison of the tapes of the FLL shooting and the actual MSD shooting, I saw improvement.

Q    I'm going to direct your attention now to the Broward County Sheriff's Office, the Broward Sheriff's Office active shooter policy.

A    Um-hmm.

Q    And I'll be quoting for you standard operating procedure 4-37 denominated active shooter.

A    It should be SPM 4.37.

Q    Yes, SPM.
Okay.

Tell me what SPM stands for.

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

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

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

I do.

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

Yes. I facilitate all changes, amendments and publication.

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

Yes.

Are you aware of training done by BSO on
the active shooter/active killer scenarios?

A    Yes.

Q    How are you aware of that?

A    I witnessed it and I saw schedules.

Q    Okay. So "witnessed" it meaning participated in active shooter training?

A    No. I actually was at a -- went to view it with an assessor, a state assessor that was on-site to show him an active training session.

Q    Explain the role of a state assessor in observing an active trained -- active shooter training session as you understood.

A    We are accredited through the Florida Commission for Law Enforcement Accreditation. Every three years they send a team of assessors to evaluate whether an agency is compliant with all of the standards of the accreditation of which the agency is applying.

Q    In your role as captain of policy and accountability, do you track BSO accreditations?

A    Yes.

Q    That's part of your role?

A    It's part of my job, yes.

Q    And during the time that you've
described, that five-year period when you've been
that captain -- although I think you said eight
years you've been doing that; is that correct?
A  Correct.
Q  -- has BSO always continuously been
certified by the Florida law enforcement
accreditation organization?
A  Yes.
Q  And has BSO been accredited by other law
enforcement accrediting agencies during that time?
A  Yes.
Q  Is one of them known as CALEA, a
nationwide accreditation organization?
A  Yes.
Q  Do you understand CALEA to be known, at
least in the industry, law enforcement industry,
to represent the gold standard of law enforcement
certifications?
A  That is their characterization. I see
them differently. CALEA is a basic blueprint that
a law enforcement agency should follow. They
provide what should be done. The agency is left
then to decide how to comply with the standard.
Q  Okay. And in your experience in your
position, has the BSO been continuously CALEA
14 certified?
15 A Yes.
16 Q Did the BSO hold at the time, 2017 and
17 2018, other active in-place accreditations?
18 A Yes.
19 Q Do you know how many?
20 A Seventeen.
21 Q Seventeen.
22 A Are you aware of the BSO being an
23 accredited training agency?
24 A Yes.
25 Q Is being an accredited training agency

1 something that every law enforcement agency has?
2 A No.
3 Q Do you have a sense based on your
4 experience of how many or how few accredited
5 training agencies are within the state sheriff's
6 organizations?
7 A I believe BSO's the only accredited CJST
8 facility.
9 Q Describe CJST.
10 A Criminal Justice Standards Training
11 facility.
12 Q And that's a statewide designation for a
training facility?
A Correct. Normally, it is colleges that become CJST qualified. Colleges run police academies and corrections academies. BSO applied -- due to severe staff shortages and Broward College's inability to provide enough space, BSO applied to become a CJST-certified school.
Q Does maintaining that CJST training certification require comporting with certain rules, requirements, regulations?
A I do not know.
Q In the time frame that you've been captain, has BSO been continuously accredited as that training facility?
A Yes.
Q Did you keep records and monitor records of actual trainings done by BSO?
A I do not. I take samples, random samples to show compliance. But the training division keeps the records.
Q What's the purpose of sampling the training?
A Sampling allows an assessor to actually see documentation of compliance. They don't want
13   to see every certification, they just want to see
14   a sampling.
15        Q    Are you aware of BSO conducting active
16   shooter training programs besides the one that you
17   attended with a state assessor?
18        A    Yes.
19        Q    Is that part of the training practice at
20   BSO?
21        A    It has been in the last eight years that
22   I have been in my position.
23        Q    Are you familiar with Mel Murphy at the
24   BSO?
25        A    I am.
26
1        Q    Does he have a role in BSO training?
2        A    Yes, he does.
3        Q    Have you conferred with him or spoken
4   with him about BSO training?
5        A    No.
6        Q    Have you reviewed any records kept by
7   Mel Murphy of the training division?
8        A    No.
9        Q    Have you reviewed or sampled other
10   active shooter policies existing in the state of
11   Florida?
Q How many did you review or sample?
A Probably the majority of sheriffs' offices, twenty or 30 municipals. I went nationwide to similar size agencies. I have quite a library.
Q For record purposes, each county has a sheriff's office other than Miami-Dade County, which is part of the unified county government, and that's called a public safety department?
A Correct. In 2020 every county will have a sheriff again, but Miami-Dade was one of the rare counties.
Q Right. We passed a constitutional amendment that we go back to every county having a sheriff.
A Right.
Q So you reviewed the policies for essentially all -- attempted to review the active shooter policies for all of the county sheriffs?
A Those who did have them. Some sheriffs did not even have a policy on it.
Q Did you consider your search of sheriffs' policies to be comprehensive?
A Oh, yes.
Q When you conclude that some sheriffs' offices did not have an active shooter policy, is it likely that you just missed an existing policy?
A No.
Q And you also identified a number of municipal law enforcement agencies with active shooter policies?
A Yes.
Q And you looked at policies that existed outside the state of Florida for agencies of the type or size of Broward County?
A Yes.
Q Did you also look for any model policies or standards by any of the accreditation or law enforcement agencies?
A Yes. We have a network of professional law enforcement groups where model -- and I use the term loosely because they never actually give you a model, they just suggest certain language be added to your model. One of them that I had researched was PERF, which is the Police Executive Research Forum. Another was the IACP, which is the International Association of Chiefs of Police?
A Chiefs of Police, I'm sorry, yes. I did look at CALEA's model source, but I had already had those policies.

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

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

A I could not find one, no.

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

A Yes.

Q Prior to the Marjory Stoneman Douglas High School shooting, were you aware of any accreditation agency or law enforcement agency that criticized the existing BSO active shooter policy?
If there had been criticism of the active shooter policy, BSO's active shooter policy, is that something of which you would be aware in your professional capacity?

In my -- yes. Yes, it would because I attend IACP, PERF accreditation conferences, I attend forums where free information of --

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

Actually, there are no standards for active shooter by CFA. The training I took them to just happened to be an active shooter training.

When did you conduct your review of Florida active shooter policies and other active shooter policies?

Upon the criticisms of the words "shall" and "may" and "will." I went to controlling opinions of the state supreme court and the United States Supreme Court to first determine if there
was any precedent about the use of those words. I collected a number of cases and presented them to the command staff.

Q    What or who are included in the command staff?

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

Q    Is that the undersheriff?

A    That was the undersheriff, yes.

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

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

A    I believe it did, yes. Gunzburger.

Q    Who was the -- that's Ronald Gunzburger who was then the General Counsel for the sheriff's office?

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

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

A    I am. I am aware of that.
10 Q Did you review the active shooter policy
11 for Sheriff Gualtieri's county?
12 A I did.
13 Q What county is that?
14 A I believe it's Collier. Or, sorry,
15 Pinellas.
16 Q Pinellas County. All right.
17 A I'm sorry.
18 Q And you understand -- do you understand
19 that Sheriff Gualtieri is also a licensed lawyer
20 in the state of Florida?
21 A I am.
22 Q Based on your review and your
23 presentation, did the then existing 4.37 active
24 shooter policy, BSO policy depart from standards
25 and policies in use throughout the state of

Florida and in other locations?

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

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

A Yes.
That some law enforcement agencies and sheriffs' offices in Florida have active shooter policies that have language consistent with "may" as exists in the BSO policy?

Yes. I listed them in my report.

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

That is why I researched the supreme court. "Shall" was described in one case, I'm sorry, I don't know the cite, that indicated that a "shall" should be referred to as an imperative, but if you place a condition -- so, for instance, if I say "you shall do this" and then you put a condition after it, for instance, "you will take a drink of coffee if it is not hot," it's a condition placed on the imperative which makes the imperative a false imperative. So if any condition comes after the word "shall" -- I'm sorry, "will" or "shall," it becomes essentially a "may."

Based on your research, if an active shooter policy in the state of Florida says to the effect an officer -- a sole officer shall
immediately confront the perceived shooter if circumstances warrant, is that consistent with your understanding it becomes a "may," it's not a "mandatory"?

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

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

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

Q Spreadsheet?

A What I did, I listed the agency on one side, I listed if they used the word "shall" or "may" or "will" and then I listed any conditions after it, and then I just organized them by "will," "shall," "may."

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

A I did not attend any of his trainings,
so I can't give you an answer on that.

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

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

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

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

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

A I did not witness it, no.

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

A I can't remember if I did specifically or not. I was more worried about what other agencies were doing.
8 Q Did you understand that the BSO policy 4.37 was intended to, designed to direct a law enforcement officer to respond to an active shooter in an effort to protect lives?

9 A Could you repeat the question?

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

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

12 Q You would defer to Mel --

13 A Either Mel or Kevin Shults.

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

15 A Correct.

16 Q They would be the ones as far as you understand from your knowledge of how the BSO works to be responsible for the training and the training protocols?

17 A I do.

18 Q Are you aware that in addition to --

19 strike that.
Are you aware that BSO requires participation in active shooter training for all of its officers?

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

Q Sworn law enforcement officers?

A Yes.

Q BSO has multiple thousands of employees; right?

A We have over 350 job descriptions.

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

A Correct.

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

A Correct.

Q With regard to that sworn law enforcement officer training, are you aware that part of the BSO training includes violent and counter trainings that are not identified as active shooter training or active killer training?

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

Q And you understand that that is part
of -- that use of force policy standard is part of BSO training?

A    Yes. It's a state requirement also.

Q    It's a state requirement?

A    To maintain your certification, you must take use of force training, I believe eight hours, at least every four years.

Q    Even though there's no state law enforcement certification requirement to take active shooter training?

A    There's no accreditation.

Q    No accreditation.

A    And I believe there's also no state law enforcement certification. Certification is your individual law enforcement officer certification. An accreditation is the agency's policies and training.

Q    So for law enforcement certification, to keep your certification as a sworn law enforcement officer, you have to go through certification on a regular basis?

A    Yes.

Q    Is that every three years?

A    Four.
Q    Every four years.
A    We exceed it because it's a high-liability topic and we choose to teach use of force at least once a year.
Q    Okay. And is it your understanding that all sworn law enforcement officers in BSO, let's say, in 2017 through the 2018 period did meet that requirement imposed by BSO to have annual use of force training?
A    I would not know. The training division would know.
Q    That's something training records would show?
A    Correct.
Q    But you understand that to be the BSO practice and protocol for once-a-year, annual use of force training?
A    I do. I've seen it on our in-service -- we call it in-service training, which means during the year you go through phases of training. It's usually three phases. And use of force I've seen probably every year since I started keeping track of accreditations.
Q    And with regard to certification,
what is the state of Florida requirement for participating in active shooter/killer training?

A    There is none.

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

A    No.

Q    -- Broward County Aviation Division?

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

Q    Okay.

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

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

A    No.

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

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

MR. KUEHNE: I'm finished with my questioning of you, Captain. I'm turning questioning to Mr. Primrose.
CROSS-EXAMINATION

BY MR. PRIMROSE:

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

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

A    Correct.

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

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

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

A    Yes.

Q    So if I've got a document that's about
700 pages with a whole slew of examples of
different policies, that would be something that
5 you created?
6    A    Correct.
7    Q    Okay. I'm going to go to -- I'm looking
8   at that document. I don't know if Mr. Kuehne has
9   any of this for you.
10   A    I believe he does.
11    MR. KUEHNE:  Mr. Primrose, let me just
12    interject for just a second. I don't have --
13    I only have on computer, I don't have printed
14    out, the executive office documents that have
15    the number on them, but is this the document
16    you're referring to?
17    MR. PRIMROSE:  Yes.
18    MR. KUEHNE:  Okay. So it doesn't have
19    your numbers on it. It's my copy of it. Can
20    I give this to the witness in case it helps
21    him find what you're talking about?
22    MR. PRIMROSE:  You can, yeah. Yeah.
23    MR. KUEHNE:  Okay.
24    MR. PRIMROSE:  And I don't have -- yeah,
25    I don't have numbers on what I'm looking at
26    either.
27    MR. KUEHNE:  Oh, okay. Okay. So I'm
28    going to hand it to him and maybe you can
4 help him figure out what you're talking
5 about.
6 THE WITNESS: If you have it in PDF
7 form, it's hyperlinked so you can jump right
8 to whichever one you want to go to.
9 BY MR. PRIMROSE:
10 Q And I think this might help you. So the
11 Pinellas County policy appears to be one of the
12 last 20 or so pages.
13 A Do you know if it has anything on the
14 bottom that I might be able to...
15 Q It does. It will say on the bottom
16 right corner General Order 19-8. It should be
17 pages 1 through 10.
18 A Small one then.
19 Q Yeah.
20 A I'm getting close.
21 Q And I promise I'm not going to go
22 through any other policies other than that.
23 A I appreciate it. I'm at orange, so I
24 got a few more to go. Hopefully, they're in
25 alphabetical order. This is bringing back bad
26 memories. I had to read all this junk.
27
28 What was the GO number again, sir?
29 Q I've got GO19-8 --
A All right.

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

A Okay. I found it.

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

want to direct your attention to subheading B,

Deployment of Solo Deputy or Contact People.

A Okay.

Q Am I correct that this section right

here is the equivalent of the Broward policy --

the Broward County -- Broward SOP 4.37 with what a
deputy should do in an active shooter situation?

A Yes. Each agency words it very

similarly and they place it in different order,

but I would agree with you that this is very

similar to the BSO policy.

Q And the first bullet point there, if you

can just read that out loud for us.

A "The response goal in solo deputy or

contact team shall be to stop the threat to the

public by locating, isolating, capturing or

applying the lawful use of deadly force against

any persons posing such a threat."

Q Is that policy in Pinellas County the

same or different than what existed back in
February of 2018 for Broward Sheriff's Office?

A  May I look at Broward's?

Q  Absolutely. I don't know -- I assume Mr. Kuehne has it.

A  Because we've revised this a number of times. Our new policy, actually, is very similar to this. It might be in here. Hang on.

MR. KUEHNE: It's in there. I don't have a separate version of it with me.

THE WITNESS: Okay. All right.

BY MR. PRIMROSE:

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

A  Sure.

Q  -- the standard operating procedure 4.37 that would have been in place at the time of Marjory Stoneman. And I believe Mr. Kuehne read it.

MR. PRIMROSE: And, Mr. Kuehne, if I'm reading something different than what you already have, please interject.

MR. KUEHNE: Of course.

BY MR. PRIMROSE:

Q  This is Broward Sheriff's Office standard operating procedure 4.37 and it says --

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

A Correct.

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

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

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

A Okay.

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

A I think so, yes.
Q I think it's -- I think it's what you've
got in front of you, that big 700-page stack.
A It is.
Q So that "may" versus "shall" underneath
the "may" heading where it talks about "all our
active shooter policy," that's describing the
Broward Sheriff one?
A Correct. I believe I did not write
this. I believe this was written by Kevin Shults.
Q Okay. And it says there, "Our active
shooter policy uses "may" because entry is
permitted and is a possibility. There are
numerous variables that make an entry impossible
or unadvisable and no legal consequence can be
applied if not performed."
Q What does that mean -- I mean, I guess
is -- is the whole debate accurate that "may" in
Broward Sheriff's policy means it's a possibility
to enter the structure for the preservation of
life or is it a poorly-worded policy, it shouldn't
be "may," it's a "shall"?
A It would be an opinion, but noting the
number of other agencies that use the word "may,"
I believe it to be a condition, that there is an
obligation. However, if there is a danger that
the deputy would be killed upon entering a scene
he should wait for backup, or at least another
officer or an entry team. Not having gone through
our training, I'm not sure how they did train on
it.

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

A No, I haven't heard that.

Q Okay. It's in the -- in Broward
Sheriff's Office, it's a lesson plan. And I'm
looking at one that says Lesson Plan 01-513. It
talks about in a single-deputy situation that the
deputy should question whether or not, you know,
there might be other shooters in the area or if
leaving an area or position of cover, they are
comfortable leaving the situation to secure a
suspect and it says, and I'll quote here, quote,
"Remember the cavalry is on their way, so it's
better to hold than to expose yourself to unknown
1   threats," unquote.
2   Do you have any understanding or
3   knowledge of what that might mean?
4   A    Just on my basic understanding of
5   English, a euphemism that -- again, I can't give
6   an opinion on it.
7   Q    Okay. I'm just wondering if -- coming
8   from non-law enforcement, just reading the
9   training material, reading the policy, when I read
10   "based on intelligence you may enter" and then
11   seeing training where it says "there's no reason
12   to give up a good position of cover, remember
13   cavalry is on the way, it's better to hold," it
14   sounds like to me it's -- again, I don't want to
15   put words in your mouth, but if the deputy's
16   assessing the situation and determines that it
17   might not be advisable to go and confront the
18   shooter, if they've called it in like they're
19   supposed to, SWAT or some other personnel is on
20   their way, it's better to have four-on-one versus
21   one-on-one. That's just the way that I read it.
22   Didn't know if you had any opinion one way or the
23   other if that's an appropriate way to view the two
24   things together.
25   A    I would opine that it's a consideration;
that you know the cavalry is on the way, but if
you have an opportunity to save lives, then you're
obligated.

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

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

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

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

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

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

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

Q    Okay. So in the CALEA, my understanding
is that that's actually something that the agency
has to pay the organization to do an assessment
and give the accreditation; right?
Correct. We have to pay for access to the standards, we have to pay for the lodging of the assessors, but CALEA compensates the assessors themselves.

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

Way before, yes.

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

Correct.

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

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

Okay. And I don't want to go through
all of the draft report that you did because that
would be burdensome.

A  Thank you.

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

A  (Witness nods.)

Q  Right?

A  Yes.

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

A  I'm sorry. Right.

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

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

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

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

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

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

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

A    No, I didn't.

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

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

Q    Okay. So there's just a -- there's a few differences from Major Cedeno's first draft to your second draft, so I just want to ask about why
One of the areas that was taken out of your draft was an area of improvement related to the Broward Sheriff's Office airport district personnel. And Major Cedeno wrote that, "While many of them are tenured, they should avoid complacency based on their environment and perceived sense of security. The deputies assigned to the safety assignment have lessened exposure to harm or perceived retirement when the contrary is highly needed to vigilantly address and deter active shooter and bombing events."

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

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

Q Did you find any evidence that any of
the deputies at the airport district maybe did
have a perceived sense of security because it's an
airport, it's not being out on the street with,
you know, the general population and not knowing,
you know, if you do a traffic stop what the person
might do or do you believe that that area of
improvement by Major Cedeno is just not founded
based on the facts?
A I have anecdotal evidence just with
conversations of friends that work at the airport.
They say it's a very nice area to work for. But
an airport assignment is basically a security
assignment where you're not going from call to
call, you're basically controlling crowds. So
some people enjoy interacting with crowds more
than going to domestic violence. So in that
respect, anecdotally through my conversations with
friends, it is a good job, a more desirable job.
Q Okay. One of the other areas that I
noticed there was -- didn't transfer over to your
report was Major Cedeno had characterized a
deficiency of miscommunication and frantic
responses aided to a loss of control during the
event and basically said BSO airport district
that was kind of taken out of your draft; and I'm wondering what your thought is about why that didn't carry over to your version?

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

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

A I called it panic and mass hysteria.

Q Okay.

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

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

1 recommendation was more training, more real-life
2 scenario training versus just tabletop. Is that
3 something -- I mean, am I correct in reading you
4 are critical of the training for BSO airport?
5 A I don't recall putting that in my
6 report, but I do remember mentioning tabletop
7 drills. And, I'm sorry, like I said, I didn't
8 have time to review it. I didn't know why I was
9 being called in. I wouldn't call it critical, but
10 I do believe that in specialty districts there
11 should be different training --
12 Q Okay.
13 A -- to meet that particular district.
14 Q And would it surprise you to know that
15 both Major Cedeno's -- I'll call it criticism, but
16 at least acknowledgment of a deficient training
17 which was put into your report and -- for example,
18 I'll tell you one of your areas of improvement you
19 wrote was enhanced training specific to BSO
20 airport district. You put another point of
21 improve active shooter training lessons to better
22 prepare BSO for similar future events -- that
23 those recommendations were completely cut out of
24 the final critical incident report into the Fort Lauderdale Airport shooting?

1 A As I didn't read it, I didn't -- I can't
2 comment on it. But I also have to mention, again,
3 that I am not a subject matter expert on training
4 or active shooter. It was basically an opinion
5 based on my knowledge of the many different types
6 of districts that we have.
7 Q So -- and I guess if we -- if you had it
8 your way and your report was the final one, again,
9 you'd stand by, after you reviewed everything,
10 your knowledge, if you had an area of improvement
11 that related to training it was because you
12 believed that's what BSO should take from the
13 incident and try to improve?
14 A As a layperson, yes.
15 Q Okay.

16 MR. PRIMROSE: Mr. Kuehne, I don't have
17 any other questions.
18 Captain, I thank you for talking with us
19 today.
20 THE WITNESS: Thank you.
21 MR. KUEHNE: Captain, as you know from
22 depositions, there's a read or waive. In
23 this situation, we're probably going to
transcribe your deposition quickly. I will
make sure that Terrence Lynch, the counsel
for the sheriff's office, immediately gets
the transcript. You will have a chance to
make any augmentations, comments, et cetera.
Even if you waive it --
THE WITNESS: I will read.
MR. KUEHNE: You will read?
THE WITNESS: I will read.
MR. KUEHNE: Okay. And should I send
it -- should I have the reporter send it
to --
THE WITNESS: Terrence.
Thank you.
THE WITNESS: Thank you.
(Witness excused.)
(Thereupon, at 6:24 p.m. the deposition
was concluded.)
------------------
CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BROWARD)

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

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

Carol Ann Kridos
Registered Professional Reporter
ACKNOWLEDGMENT OF DEPONENT

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.

CAPTAIN JAMES DIEFENBACHER

SUBSCRIBED AND SWORN before and to me this ____ day of _____________, 2019.

Notary Public, State of Florida
My Commission Expires:

REASON FOR WITNESS'S NON-SIGNATURE:

______ WITNESS FAILED TO APPEAR

______ WITNESS COULD NOT BE LOCATED
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ERRATA SHEET

IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL

DATE: June 5, 2019

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REPORTER'S DEPOSITION CERTIFICATE

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

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

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.
Dated this 7th day of June, 2019.

Carol Ann Kridos, RPR
Notary Public - State of Florida

June 7, 2019

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

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

Dear Captain Diefenbacher,

This letter is to advise you that the transcript of the deposition listed above is completed and is awaiting reading and signing. Please arrange to stop by our office in Suite 2250, 2 South Biscayne Boulevard, Miami, Florida to read and sign the transcript. Our office hours are from 8:30 a.m. to 4:00 p.m. Monday through Friday. Depending on the length of the transcript, you should allow yourself sufficient time.

If the reading and signing has not been completed prior to the referenced date, we shall conclude that you have waived the reading and signing of the deposition transcript.
June 7, 2019

DEAR COUNSEL,

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

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

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.
APPEARANCES:

On behalf of Governor Ron DeSantis via Skype:

EXECUTIVE OFFICE OF THE GOVERNOR
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On behalf of Sheriff Scott Israel:

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ben.kuehne@kuehnelaw.com
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## EXHIBITS

(No exhibits were marked during the deposition.)
Thereupon:

MICHAEL DIMAGGIO

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

DIRECT EXAMINATION

BY MR. KUEHNE:

Q    What is your name and spell your last
name.
A    Michael A. DiMaggio, D-i capital
M-a-g-g-i-o.
Q    Do you go by Michael or Mr. DiMaggio or
do you still use your former honorific as colonel?
A    No, you can call me Mike.
Q    Okay.
A    That's fine.
Q    My name is Ben Kuehne. I am counsel for
Sheriff Scott Israel in connection with his senate
suspension review proceedings and have asked you
to appear for a deposition today.
A    Yes.
BY MR. KUEHNE:

Q This deposition is being taken and

A Mr. Primrose is appearing via Skype.

When did you last serve at the Broward

Sheriff’s Office?

A September of last year.

Q September of 2018?

A Yes.

Q When did you first start serving in BSO?

A January of 2013.

Q January of 2013.

Describe your law enforcement career.

A I began as a patrol officer with the

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

served four and a half years there. I left there
to pursue a career with the city of Fort

Lauderdale. I retired after 20 years as a

lieutenant with the City of Fort Lauderdale in

charge of criminal investigations. Before that, I

had served in strategic investigations, before

that patrol and special operations. I was also
the SWAT commander in Fort Lauderdale. I left
there in 20- -- the end of 2012 and began at BSO
in 2018 as a major in charge of special
operations. I had the SWAT team, K9, bomb squad,
various other units. I was promoted a couple of
years later to lieutenant colonel. I took over
criminal investigations division, special
investigations division, child protective
investigative service and the crime lab.

Q And you finished your service in January
of 2013 -- of 20- -- September of 2018?
A That's correct.

Q And was that a voluntary separation?
A It was.

Q Are you currently employed?
A I am.

Q In what capacity?
A I'm the director of security in private
industry.

Q My questioning focuses largely on two
time frames during your tenure with BSO. One I
refer to as the Fort Lauderdale Airport shooting,
that's in January of 2017, and the other is the
Marjory Stoneman Douglas High School shooting,
February 14, 2018. And the questions deal with generally that time frame, although there are some questions that may require answers outside that time frame.

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

A Yes.

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

A Yes.

Q Describe generally your involvement.

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

Q You responded on the scene that day?

A That's correct.

Q You responded that day?

A Yes, I did.

Q And the report of the shooting was in
the early afternoon that day at the airport. Can
you time when you got there in relation to the
report of the shooting?
A  I probably arrived there 40 minutes or
so after the shooting had occurred.
Q  As you arrived you understood that the
perpetrator, the shooter had been taken into
custody by Deputy -- maybe you didn't know who it
was, but Deputy Madrigal?
A  Yes.
Q  Fairly promptly?
A  Yes.
Q  And that the airport was on a process of
being secured?
A  At that time -- upon my arrival they
were securing Terminal 2, which was the Delta
terminal, where the shooting had occurred
downstairs. The Delta terminal was still open for
business. The first thing we wanted to do was,
obviously, set up a crime scene, and I made sure
that was done, so that nobody could enter the
crime scene. And the second thing that we really
tried to do was secure the witnesses, because it
was a very busy time of year at the airport and we
21 had a significant number of witnesses to deal
22 with.

23 Q Primarily witnesses who were non-law
24 enforcement and nonofficial airport people?
25 A They were all civilians, yes.

9

1 Q Civilians, okay.
2 Had you been to the airport for official
3 BSO business on any prior occasion?
4 A Yes.
5 Q Were you familiar with the various
6 federal agencies and other county governments that
7 operate at the Fort Lauderdale Airport?
8 A Yes.
9 Q You're aware that the airport is
10 operated by Broward County?
11 A Yes.
12 Q And that there is a Broward County
13 governmental organization called BCAD, Broward
14 County Aviation Division, that's essentially in
15 charge of the airport?
16 A Yes.
17 Q But there were also federal agencies
18 that have some involvement in the operation,
19 including security, at the airport?
20 A Yes.
21 Q Among those do you know that
22 U.S. Homeland Security and TSA is a regular at the
23 airport?
24 A I do.
25 Q That there are Customs, U.S. Customs
10 facilities there?
2 A Yes.
3 Q Other law enforcement agencies such as
4 DEA frequently operate at that airport?
5 A Yeah, as part of the strategic -- or
6 special, I keep saying that, the special
7 investigations division. We operated the
8 interdiction unit down there and we were partnered
9 up with a lot of those agencies. That's one of
10 my --
11 Q The FBI has authority and federal
12 jurisdiction at the Fort Lauderdale Airport?
13 A They have jurisdiction anywhere in the
14 United States.
15 Q Okay. And you know the FBI to be a
16 presence at the airport?
17 A Yes.
18 Q On the occasion of the Fort Lauderdale
19 Airport shooting incident that we're talking
20   about, did you interact with the FBI and possibly
21   other federal agencies?
22        A    I did. Upon my arrival, in addition to
23   meeting with other BSO command-level officers, at
24   my side was actually one of the ASACs from
25   Homeland Security. That's assistant special agent

1   in charge. Shortly thereafter one of the ASACs
2   from FBI arrived, and then shortly thereafter that
3   George Piro, the SAC of Miami FBI, arrived and
4   they were either with me or the sheriff for the
5   remainder of the event.
6        Q    And did you interact with those agents
7   in charge or their subordinates throughout your
8   time at the airport that day?
9        A    Yes.
10        Q    Was there a central facility or central
11   location where law enforcement office -- law
12   enforcement operated the safety and security at
13   the airport when you arrived?
14        A    There was a -- we set up a mobile
15   command post outside of Terminal 2. We also had
16   a -- there was a fire command post there as well.
17   And they stood up the airport emergency operations
18   center and, to the best of my recollection, the
19   airport BSO captain was there along with everybody
that they needed to keep that a functioning facility.

Q    Did other non-BSO law enforcement officers or officials come to that command post?
A    To our mobile command post?
Q    Yes.

A    Yes.

Q    What agencies were at various times represented at the command post?
A    We had representatives there from BSO fire, from BCAD, from the FBI, from Homeland Security. I had various other commanders there from other local law enforcement agencies. To my recollection, Miami-Dade Police Department was there. Fort Lauderdale had representatives there because we worked hand in hand with them to try and secure the facility at some point. There were numerous, numerous law enforcement command-level people there from other agencies and ours.

Q    In addition to command-level people, did you become aware that numerous law enforcement officers from various agencies responded to the scene of that shooting?
A    Yes.
Q Have you as a BSO official had experience and training in dealing with mass shooting incidents?
A Yes.

Q Is that called active shooter or active killer training at least in some part?
A That's correct.

Q And you've had experience in training in that area?
A Yes. As a matter of fact, right after Columbine High School occurred, the incident in Colorado, I was one of the primary developers and instructors in the Fort Lauderdale Police Department rapid response active shooter program.

Q Did you take that experience with you to BSO?
A Yes.

Q Were you familiar generally with the BSO training in active shooter?
A Yes.

Q Who headed the training?
A The actual training division was run by Major Kevin Shults and he reported to Colonel Jack Dale.

Q Were you aware of a BSO officer named
19   Mel Murphy being involved in training?
20        A    Yes, he was one of the trainers.
21        Q    In your experience with active
22   shooter/killer training, did it appear to you that
23   the BSO training in that area was up to date and
24   effective?
25        A    Yes.  Everything that I ever experienced

1   with BSO's active shooter training was absolutely
2   relevant, current and it conformed with generally
3   accepted practices within the industry.
4        Q    "Industry" here being law enforcement?
5        A    Law enforcement, yes.
6        Q    Was the process of setting up a mobile
7   command post consistent with your understanding of
8   the BSO procedure when an event like this occurs,
9   meaning an unexpected shooting or a potential for
10   mass casualties?
11        A    We brought it out when there was a
12   large-scale event.  It really depends on what the
13   event is.  But it could be a community event where
14   there was a lot of people in attendance, it could
15   be a mass shooting, it could be an escaped
16   prisoner.  It doesn't matter. If we needed it, we
17   brought it out.
Q: When you arrived at the Fort Lauderdale Airport, was it your understanding that a definitive determination had already been made that the -- that a single shooter was involved and nobody else was involved?

A: That's correct.

Q: And was it important, as you understood your role as a senior officer, to gather witnesses to the crime?

A: That's correct.

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

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

I made the recommendation to the airport
had numerous duties that we needed to take care of
and there were just a lot of people everywhere.

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

A I'm not sure I understand your question.

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

A Yes.

Q The operators of the airport disagreed
with that recommendation. Were there discussions
with the operators of the airport as to what part
of the terminal constituted the crime scene over
which you had primary control or could exercise primary control?

A    Yes. They were present for some of the crime -- well, they could see it because they were there. But we did have a discussion about the size of the crime scene and basically the fact that there were people still entering Terminal 2, not in the crime scene area but entering the terminal. And so we had to post numerous officers

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

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

A    It's a little bit unusual.

Q    Okay. In what respect?

A    Well, normally we have full command and authority to do what needs to be done in order to gather evidence and gather witnesses and then move on to clear the crime scene and do what we need to do. In this particular instance, we were met with a lot of resistance. As a matter of fact, I think...
they threw out a number at us, like do you know how many millions of dollars that will cost to close down this terminal for any period of time.

Q This is BCAD?

A Correct.

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

A Yes. Shortly there- -- and I'll tell you how that came about. Shortly after I arrived on scene and was told that we had the shooter in custody, our intelligence unit started working on the identity and the background of the shooter. They were able to access a social media account where the shooter had put -- I don't know, he had some garb from the Middle East that he was wearing and looked to be making signs associated with international terrorism, at which point we notified the FBI and they really took over the primary -- as the primary investigative body for that incident. Of course, we worked hand in hand with them because we had so many resources there on scene already.
Q. Did you have experience in working closely with federal agencies on investigations?
A. Yes.

Q. Was it at all unusual in a case of potential terrorism at an airport for the FBI to become primary?
A. No.

Q. Did BSO resist and demand to be considered the primary?
A. Never. As a matter of fact, we had a spectacularly good working relationship with George Piro and the FBI and we were glad to help them in any way we possibly could, and vice versa. Before they even knew that it had a possible terrorist tie, they were nothing but professional. It goes a long way to show that we had great relationships with every single one of those agencies.

Q. Did the relationship and the coordination that you're describing generally between BSO and the FBI or the other attending federal agencies continue throughout the conclusion of that incident?
A. Yes.

Q. How long did you stay on the scene of
the Fort Lauderdale Airport that day?

A Until about four o'clock in the morning.

Q Okay. So the whole day into the next morning?

A Correct.

Q And is it fair to say that during the time you're there the airport was essentially cleared of thousands of civilians?

A I think the final estimate was somewhere around 20,000 people that we had to clear out of the entire airport. And that was because -- when we got there -- when I got there, I can't speak for everybody else, but when I got there, it was a manageable-size scene. We had enough resources there to secure the terminal. We had crime scene there which was actively working to document the scene. We had plenty of people there. It wasn't until we started experiencing what I'll call the follow-up incidents that it became problematic for all the agencies involved.

Q Tell me about and describe for me the follow-up incidents. What is it you're referring to?

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

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

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

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

A Oh, absolutely. We looked at numerous ones. We looked at Sandy Hook, we looked at Columbine, we looked at the Navy shipyard shooting, numerous other incidents. We looked at school shootings that happened overseas in evaluating what our SOP, our standard operating procedure and protocol would be.

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

A Yes.

Q -- and having them held as potential reserve.

A Right. So you asked me about some of those follow-up incidents that were occurring. Shortly after we started working the scene in Terminal 2, there was reports of shots fired in the parking garage which, if you've never
been to Fort Lauderdale Airport, it's set up in a big U. In the center of that U, around -- in the center of all the terminals is parking garages anywhere from four to six to seven stories tall. Many thousands of cars. So when we heard reports of shots fired there, we obviously sent a team immediately to investigate and either neutralize the shooter or take them into custody or figure out what was going on over there. As that happened, we started getting calls from other SWAT teams in the area, their commanders calling to ask if we needed help. Of course at that point, the parking structures are so big I started to have -- well, I guess at that point he was a major -- Major Ed Grant coordinate all the SWAT activities and start bringing in extra teams so that we had enough manpower to effectively clear the rest of the parking garage structures.

Q And ultimately as many as 17 SWAT teams responded?

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

Q And was BSO through Major Ed Grant and
the FBI able to coordinate all of those responding
forces?

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

To my recollection the next incident
that occurred started in Terminal 3, which is just
to the west of Terminal 2. And I think
investigation led us later to find out that that
was brought on by an airport employee -- one of
the airline employees that told his people that he
thought there was somebody with a gun in
Terminal 3. It created a mass exodus from
Terminal 3 and thousands of people were running
from Terminal 3 both out onto the tarmac and out
on the east side into the traffic lanes and
towards Terminal 2.

I think the next incident that occurred
was in Terminal 1 where somebody reported a shot
fired. Terminal 1 is just to the east of Terminal 2. It houses Southwest Airlines and a bunch of other ones. And one of the civilians who was trying to get away from there ran outside of Terminal 1 and tried to -- saw a BSO SUV and opened the door of the SUV. Unfortunately, it was a BSO K9 car and the dog did what he was trained to do and he latched onto her. Shortly thereafter one of the federal agents that was there saw what was going on -- because nobody would help that poor lady. He happened to be armed with a shotgun. He put his shotgun on the ground and he took the dog off of her and secured the dog. We found out later through investigation that created more panic because people saw a man running around with a shotgun and the woman bleeding from her leg and people assumed, incorrectly, it was another -- a gunshot.

Shortly thereafter, I think in Terminal 4, which is on the south side of the airport, there were also reports of shots fired. That created havoc in Terminal 4 whereby people self -- they decided by themselves to evacuate onto both the tarmac and to the street. And then going along with all of this,
there was a report of shots fired on the extreme
north side of the airport at one of the -- nearby
one of the private hangars by a Fort Lauderdale
officer who reported sounds of shots fired.

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

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

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

A Eventually. It took us a while to get
everything under control, but eventually we got everybody off the tarmac.

At that point we had to get back in touch with BCAD and let them know that this was a point where we needed to shut the airport down. It was unsafe for everybody. It was unsafe to have aircraft landing with people walking around the runways. It was unsafe to have aircraft sitting on the runways not being able to leave. It took a while, but eventually everybody got to some terminal and was being escorted by law enforcement.

Q Did the FBI concur with the recommendation this time to shut down the airport?

A Yes.

Q And they took an involvement in informing BCAD of that determination?

A They were there with us every step of the way.

Q In light of what appeared to be this self-directed mass exodus and panic, citizen panic, did the training that you understood the BSO responders have include means to handle such a mass -- potential for a mass disturbance?

A There had never been an incident of that
And so if you're going to ask me if our training had prepared us to handle 20-plus thousand people self-evacuating terminals, no. And I don't think, even with the amount of people that we had there at that point, that we would have been able to stop what was going on. You just had too many people in that airport that were hell-bent on getting out, and rightly so. I mean, they thought that they heard gunshots and they were being told by airline employees that there were people with guns. They absolutely did what I think any unarmed person would do, and that's run, hide, fight.

Q Was the BSO in connection with the other law enforcement agencies able to adapt to this situation and bring it to some type of control?

A Yeah. Eventually what our plan was was to clear the terminals, bring everybody back in the terminals, have enough law enforcement response in there to keep everybody calm until we could evacuate them in a true fashion and get them to a place where they could then get transportation to a hotel or to their home or to a friend or a relative, but they could not stay.
We had now had -- all four terminals were totally not sanitized. So even on the clear side of TSA security checkpoints, people jumped the checkpoints, people ran -- you know, they're just belts that you can unlatch and you can run through and that's what they were doing. So we had to sanitize that entire airport before it could be reopened for travel.

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

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

There were thousands and thousands of bags. I saw the video from Terminal 3. There were thousands of bags there, just left there. So, you know, part of active shooter training is, you know, any bags that are left could be a potential danger, so you have to sweep them with EOD dogs and make sure that there's nothing there, and then they all have to be cataloged and tagged and put away for safekeeping. So this took a long time.
In the evening, we were trying to get the airport evacuated. The sheriff wanted to know how we were going to get them out of there. And we put in requests to Broward County for buses to move all of the people off the airport property over to the convention center at the port, at Port Everglades, which is great. It's a great idea. It's fantastic. In a tabletop exercise you ask for, you know, a hundred buses and the Broward County bus guy tells you got a hundred buses coming to you, but try that in real life.

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

A    Oh, we did.

Q    And were you able to accomplish that?

A    We were able to accomplish getting buses, yes.

Q    Was it as simple as a tabletop exercise?

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

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

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

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

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

Q And were you able to work through that?

A Yes, we were.

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

A It did. It did. As a matter of fact, we had set -- we had stood up the sheriff's command post at the public safety building.

Colonel Jim Polan was in there manning that at the
time and he helped us work on some of those
issues.

But eventually the airport manager came and said, oh, by the way, there's -- I think it was 15 aircraft that were still sitting -- many of which had gone dark, which means they ran out of fuel and they were sitting on the tarmac full of people. So once we got the actual civilians, walking people off the tarmac and got the rest of them away from the areas where they had gone to, the private hangars on the north side, we got them all picked up, then we started with the aircraft that had gone dark and we got all of those people out of the airport. And then we just systematically started with evacuating Terminal 1, Terminal 2, Terminal 3 and Terminal 4.

We were also letting everybody who had a vehicle parked there go back to their vehicles because the parking garage at that point had been cleared, so we let them go back to their vehicles.

If they wanted to leave, they could. But it took a long time to move, you know, even with 20 buses at a time, taking them from the terminals to the port and then back, you
can imagine how many people were there.

Q You mentioned some reference to a

limitation in tabletop exercises. Let me pose

this question to you: In any of the tabletop

exercises you've been involved in with BSO, has

any participant refused to do what was expected at

the tabletop exercise? For example, asking for

buses and having one of the tabletop participants

say "we're not giving you buses because our people

are not working overtime"?

A No. Well, the point -- I guess the

point of the tabletop is that you learn from --

you're trying to put all your past experience

together and meld that with your standard

operating procedure and then figure out what's the

best way to do something. So at the end of the

day, you know, everything that's happened always

works out to be, you know, a successful conclusion

because you have basically unlimited resources,

you know, at your disposal even when they tell

you, you know, no, you only have this to work with

to begin with. Well, okay, that's probably good

because no incident starts out where you have 500

policemen and 250 firefighters on scene. You

always start out with the first responding unit
and then a backup unit. And then if you need
more, you get a supervisor on scene. And then
maybe two more units come. And then maybe five
more units come. But eventually there's no
incident that cannot be handled; right? Even 9/11
was eventually handled; right? I mean, they
called in firefighters from all over the U.S. and,
you know, we sent a group from Miami. But, you
know, eventually everything gets handled. But,
you know, that's -- I guess that would be a
limitation of a tabletop.
But we -- my experience has always been
to do more of a hands-on operational training
scenario. And, you know, we started with active
shooter scenarios when I got to BSO. In my first
year we did one at Pompano Beach High School and
we utilized SWAT medics, we utilized Pompano Beach

Fire Rescue, we utilized patrol resources. And
from there we noticed that we had a shortfall.
And why did we notice that? Because SWAT medics
and fire department personnel would not enter the
hot zone. The hot zone is generally the area of
an incident where it's not secured yet and the
perpetrator, the gunman, could still be in there,
but you also have victims who need to be treated down there. So while you have a group that's advancing to clear the school and perhaps pursue the gunman, you have victims still in the hot zone which need to be evacuated and treated; right?

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

Q Is it fair to say that your understanding is that the Florida law enforcement agency that accredits and certifies law enforcement officers and agencies doesn't require and have a standard for active shooter training?

A FDLE?

Q FDLE.

A No, none that I know of.

Q As you described the -- the learning
from a -- I think you said the Pompano Beach High School active shooter operation, did BSO incorporate its learning into future training and future advising?

A    Yes.

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

A    Yes.

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

A    You know, I -- that particular part of it was -- I wasn't -- I was really only in Terminal 2, so, you know, I was responsible for making sure the investigation was being handled correctly. I can't tell you what the other deputies were doing in the other terminals. You know, we would -- as a command staff, we would put out "this is what we want you to do." And I don't -- I really don't know what happened in the other terminals because I wasn't there.

Q    Did you find at any time that the BSO
officers assigned to the airport who were present that day were complacent or lackluster in their handling of matters?

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

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

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

Q    Is road patrol often the first line of responders?
A Yes.

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

So everybody, to my knowledge, was doing their jobs and doing them as they were supposed to, as they were supposed to.

Q Did you have any role in preparation of or review of the Fort Lauderdale shooting -- the Fort Lauderdale Airport shooting After-Action
6 Report?
7 A Yes.
8 Q What role?
9 A At one point Major Cedeno, who was the
10 airport major, that was his -- that was one of his
11 areas, had put together a draft of an after-action
12 report. I guess there was some -- I don't know
13 how to term it. There was some concern that his
14 after-action report was less than professional,
15 wordy. It was not well written. It was unduly
16 harsh when it came to other agencies.
17 The sheriff called a meeting of people
18 who were involved in the incident. There was
19 numerous people at that meeting. And we
20 started -- we looked at the draft that he had come
21 up with and made recommendations to make it a more
22 professional report. Now, I can tell you that
23 some of the recommendations that were made I don't
24 think turned up in the final report.
25 Q And did you find the process of having a

1 meeting among BSO to determine how to make that
2 initial draft more professional to be troublesome,
3 unusual, problematic?
4 A It wasn't any of those things.
5 Q Have you participated in any way in
after-action reports?

A Yes.

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

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

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

A Yes.

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

A Not usually for a simple arrest, you wouldn't do an after-action report. But for anything that utilizes a lot of manpower, you know, has something that you can learn from or something that you can improve upon in either your training or your standard operating procedure as you move forward, you would do an after-action
And in those situations is it typical that the after-action report is reviewed by many heads before it gets to final form?

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

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

No.

None at all?

To make BSO look better? No.

Look, we had -- that week I was fielding calls from airport commanders all around the United States. I talked to the airport commander at LaGuardia International and I asked him, I said, "What would you have done differently?"

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

And I said, "Well, we had to do all of
them, so I suggest that you plan that in the
future."

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

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

A    I am familiar with that. I know that
many, many people have been given presentations on
what happened at the airport. I did a
presentation on it for the regional domestic
security task force down here for the law
enforcement group. But I know that presentations
have been given all over the U.S.

Q    What is the regional domestic security
task force?

A So that's -- it's a collaborative group

that gets funding from various sources, mostly

from the federal government. We have all

different working -- well, "had" when I worked

there. We had many different groups that worked

together handling what, you know, should have

been -- well, I won't say should have been, but

was more prevalent towards a terrorism event. But

it gave you both money for equipment and money for

training to train all of your different

disciplines within emergency response. So you had

collaboration between law enforcement, fire,

public information, Department of Health,
hospitals. Virtually anything that you can

possibly imagine as a discipline that would have a

hand in disaster response, especially
terrorism-related disaster response, was part of

the RDSTF.

Q And BSO was a component of the RDSTF?

A RDSTF. Yes.

Q Let me move to the second incident, the

Marjory Stoneman Douglas High School shooting.

A Okay.

Q Did you have a role or participation in
that?

A Yes.

Q What?

A Again, I was in charge of investigations at that point and the crime scene unit and the crime lab. And I responded to MSD immediately upon getting notified of it, and I think I was probably on scene there about maybe 40 minutes after it occurred. I responded from the public safety building.

Q What did you do there?

A So I initially walked to the tactical operations center, a command post of such, which was located in the parking lot on the north side of the 12- and 1300 building and I met with Colonel Polan, Captain Jordan, Major Grant, Captain Robson, who's in charge of the BSO SWAT team, there were various personnel there from fire, from Coral Springs Fire because it falls in Coral Springs Fire jurisdiction, and BS-- or, I'm sorry, the Coral Springs SWAT commander.

And then from there they -- since I didn't have SWAT at that point, they had been moved to Colonel Polan's command, I was
responsible for coordinating all of the detectives and crime scene units to come in and start working that incident.

Q   You mentioned earlier the Pompano Beach High School exercise?

A   Um-hmm.

Q   Did that include school board-affiliated people?

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

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

A   No, I wasn't aware.

Q   Continuing with MSD, you got there, you explained what you did. Was there a command post that was set up and organized?

A   When I got there?

Q   Yes.
A Yes.

Q Who had done that?

A I think Captain Robson had started it as he was probably one of the first responders.

Captain Jordan to my recollection was there. She was one of the first command-level responders.

I got there -- I was probably late to the game. I think I was probably one of the last ones to learn of the incident that occurred. I think the sheriff got there a little bit after me and my boss, Colonel Dale, got there a little bit after me.

But we were -- as you know, as I'm sure you've read, we were experiencing pretty bad radio failure and we needed to be able to communicate face to face and start working that incident and get things done.

Q There is a section of the BSO operating procedures called active shooter. It's policy 4.37. You are or were familiar with that; correct?

A (No oral response.)

Q I'm going to read you a section.

A Okay. Go ahead.
Q. But you know what I'm talking about?
A. Yes, I do.
Q. I'm going to quote a portion of the policy. If you need to look at it, I can give you a copy.

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

Q. You've heard of that policy? You've been trained on that policy?
A. (Witness nods.)
Q. Yes?
A. Yes.
Q. And you have certainly heard post-MSD school shooting that the policy has gone through significant criticism?
A. Yes.
Q. Because of the use of the word "may" in the policy?
A. Yes.
Q. Did you understand that policy -- based on your knowledge of it and training that the policy allowed a responding deputy to simply not
respond to the scene of the shooter?

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

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

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

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

A No, it's not consistent with our
And when you say that, is that based on your participation and training and your knowledge of the training process at BSO?

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

For instance, there was a school that was taken over by terrorists in Beslan, which is -- this was some years ago, which is former Russian Republic, and it was taken over by so many terrorists and they had put explosive devices virtually on every door. Well, in order for them to make entry, they would have had to breach the door and they would have been killed immediately.
Well, if I'm a hostage, I don't want you doing that anyway; right? Or if I'm a victim, I don't want you to come and meet me in heaven.

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

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

A  Yes.

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

A  No, nothing that I know of.

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

A  Yes.

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

A I don't know.

Q There's a program with the Broward schools called the Real Time Crime Center, RTCC. Are you familiar with that?

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

Q Yes.

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

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

A No.

Q Okay. Was there a limitation on accessing the cameras at the time of the MSD school shooting?
They -- you're talking about BSO being able to actively look at the camera systems in the schools?

That's what I'm asking about.

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

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

The day of the incident --

Yes.

There was a delay. They had gone back and they were reviewing some video as the first responding officers were getting on scene.

I remember hearing this on the radio early on when I was responding, that the shooter was on the second or third floor of the 1200 building. Come to find out later that was a delayed video and he had already left the area, but they had gone back in time in the video to actually review and see where he was and if they could get an identification on him. That's what I believe you may be referring to.

Okay. Were you -- you retired from or concluded your service with BSO at the time of the
1 MSD commission report?
2 A They were still working on it.
3 Q Were you called to present any
4 information to the MSD commission?
5 A No. I went to one or two of the
6 meetings, but I was not called to present.
7 Q During the months you were with BSO
8 following the MSD incident, did BSO take active
9 measures to learn from and implement new
10 information based on what had happened at MSD High
11 School?
12 A Yes.
13 Q Was that integrated into the training
14 that occurred between February of 2018 and the
15 time you left the service in late 2018?
16 A Yes. So the training department went
17 back and reviewed all of their training protocols
18 when it came to active shooter. We looked -- from
19 the investigative standpoint, we looked at
20 bringing in new technology that would assist the
21 community and the students with not only being
22 able to send in tips and complaints about people
23 who were making threats at schools but also gave
24 parents a way to check in with their children, and
25 that was through an app that I was very happy to
get brought in called SaferWatch.

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

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

And then the third thing is we hired a captain -- a former inspector from the NYPD, brought him down here to head up our Real Time Crime Center. And that was going to be a -- eventually it would have been a 24-hour
clearinghouse for information coming in, being
processed and being put in the hands of the right
officers to intervene or investigate an incident
where it could be an active shooter, could be a
terrorist event. But it would basically be able
to communicate between SID and CID and a patrol --

Q  Tell us what SID and CID are.

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

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

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

MR. KUEHNE: I have no further questions
and tender the examination to Mr. Primrose.

MR. PRIMROSE: All right. Thank you.

CROSS-EXAMINATION

BY MR. PRIMROSE:

Q Mr. DiMaggio, when's the last time you spoke to Scott Israel?
A Maybe a month or so ago. He did text me -- he did text me last week and asked me to call Mr. Kuehne because he was looking to depose me in this case.
Q Okay. And when you guys spoke last month, what was that about?
A It was just about how he was doing since he had been removed, if he had found any work.
Q Okay. And when you got a text message last week to call Mr. Kuehne, I imagine you called him?
A I did.
Q And what did you and Mr. Kuehne speak about?
A That he wanted to depose me today.
Q Anything else?
A No, that's it.
Q Did you guys talk about what kind of questions he would ask you?
Q    What about Mr. Kaplan, Mr. Israel's
other attorney, have you spoken to him?
A    No.
Q    My understanding is that you worked with
Scott Israel at the Fort Lauderdale Police
Department --
A    I did.
Q    -- is that right?
A    Yes.
Q    And it was actually Scott Israel that
brought you on board to Broward Sheriff's Office
in 2013; right?
A    That's correct.
Q    And Scott Israel also hired another
colleague of yours from Fort Lauderdale Police
Department, Jack Dale?
A    That's correct.
Q    And Jack Dale is who I believe you
mentioned was kind of overseeing all the training
for Broward Sheriff's Office?
A    Yes.
Q    Okay. You mentioned at the beginning
that you're currently the director of security in
private industry. Can you be more specific? Who
do you work for?

A I'm not going to answer that question.
Q Can you explain why you're not going to
answer?
A Because the sheriff was removed by the
governor and I don't want to create any problems
for the company that I work for. So if you want
me to answer that, you're going to have to certify
it.
Q What do you mean "certify it"?
A You're going to have to get a judge to
order me to give you the answer to that question.
Q Okay. Just so that we've got this
pretty clear on the record, you are not telling me
who your current employer is?
A That's correct.
Q Okay. When Mr. Kuehne was asking you
questions about the airport district not wanting
to shut down the terminal, I need to understand
this a little bit more. Isn't the Broward
Sheriff's Office in charge of all law enforcement
and security for Fort Lauderdale Airport?
A Yes. Not all security, but they are in
charge of security, yes.
Okay. And Broward Sheriff's Office is the primary supplier of law enforcement to the airport; correct?

Yes.

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

I'm not familiar with any.

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

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

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

Yes.

Okay. Had you ever been to Fort Lauderdale Airport prior to January 2017 to go over how BSO might respond to an active shooter situation?
23        A    Not to the airport, no.
24        Q    Okay. Had you ever had to train with
25        any of the BSO airport district staff on how they
59
1    might handle an active shooter situation?
2    A    No. I did interact with the captain at
3    the airport and their executive officer on many
4    occasions when we -- when they would ask for our
5    SWAT units to go down there for a deterrent
6    against active shooters. But that wasn't a -- it
7    wasn't a training event, that was a real-time
8    event.
9        Q    Okay. Now, you said that you actually
10   reviewed the after-action report into the Fort
11   Lauderdale Airport shooting; correct?
12        A    Yes.
13        Q    And I believe you said that -- and these
14   were your words about Major Cedeno's first draft:
15   Less than professional, not well written, wordy
16   and unduly harsh on other agencies. Did I get
17   that correct?
18        A    You did.
19        Q    Okay. Is it your testimony, then, that
20   things that he put into the report were not
21   accurate?
22        A    At the time -- and I haven't reviewed
that after-action report lately, but I can tell
you at the time, the first draft of reading it, I
would absolutely agree with my assessment of that

Q    Well, that's what I'm asking you.
So you never said that you had a problem
with the accuracy of it, you just said that it was
less than professional, not well written, wordy
and unduly harsh on other agencies. So the
question is: You're not saying that anything in
it was inaccurate or false; is that fair?
A    I would say -- I don't know if --
inaccurate would probably be a good term of it.
False? I don't think if you're -- if you're
trying to say that he was doing something that was
nefarious, I don't think that was it. I just
think that his interpretation was -- of the event
was inaccurate as to the way he wrote it.
Q    So if -- when you sat in on this meeting
with the sheriff and some other individuals to go
over the first draft, do you remember if there was
ever a discussion that certain areas of
improvement identified by Major Cedeno were
inaccurate, meaning those were not, in fact, areas
that needed to be improved?

A    I don't recall that, no.

Q    So I've gone through the report a bunch of times and I guess, if I've got this correct, at that time you were the head -- or you oversaw the CSU, the crime scene unit; right?

A    Yes.

Q    So when Major Cedeno puts in a critique that CSU members were not tactically prepared for the escalation of events leaving them vulnerable to potential injury or death, just trying to remember back to that time, do you agree or disagree with that assertion by Major Cedeno?

A    To be honest with you, I don't even remember him having that in there.

Q    Okay. Well, I am reading from the report, so I'm just wondering if something like that sticks out in your mind as, you know, Major Cedeno was 100 percent wrong on that opinion of his?

A    No. Honestly, I don't even remember that verbiage being in there.

Q    Okay. The crime scene unit -- I want you to understand what they do. So when the -- at the conclusion of an incident the crime scene unit
goes in and they will first photograph, using different camera systems, the entire scene. Once they're done with that, they'll take measurements, they will document where each piece of evidence is, and then they'll start collecting the evidence and cataloging it for prosecution.

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

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

A No.

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

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

22 Q Have you ever had a chance to compare

23 Major Cedeno and Captain Diefenbacher's draft

24 reports to the final one that was released?

25 A No.

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1 Q Would it surprise you to learn that the

2 final critical incident report that was released

3 that contained a letter from Sheriff Israel

4 included really no criticisms of BSO and no areas

5 of improvement for BSO after the airport shooting?

6 A Nothing surprises me, sir.

7 Q Well, I guess the reason I ask that is,

8 you had mentioned when Mr. Kuehne asked you

9 questions that the after-action report, nothing

10 should be done to that to make BSO look better.

11 But in fact, if you compare the two draft versions

12 to the critical incident report or the final

13 report, there's zero criticisms of BSO's response

14 to the Fort Lauderdale Airport shooting or any

15 areas that they might improve.

16 A I don't -- I don't know if there's a

17 question in there, but I would tell you that, as I

18 have testified to, that I believe that there's

19 always room for improvement, but nobody had ever

20 seen an event of this magnitude.
Okay.

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

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

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

Yes, sir.

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

Yes.

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

No.

Now, you talked about -- Mr. Kuehne
20 asked you some questions about responding to an
21 active shooter situation and you said not
22 responding would be inconsistent with the training
23 that BSO deputies receive; correct?
24 A Yes.
25 Q Okay. Who is ultimately responsible for

1 making sure all Broward Sheriff's Office deputies
2 are trained?
3 A Well, that responsibility falls to the
4 training division.
5 Q Okay. But who does the training
6 division ultimately respond to?
7 A They -- are you getting to the sheriff
8 being in charge of the sheriff's office?
9 Q That's what I'm getting to.
10 A There's your answer.
11 Q Okay. So you'd agree that ultimately
12 the sheriff is in charge of making sure that all
13 of his deputies are properly trained?
14 A I would.
15 Q Now, you've obviously got thousands of
16 employees so you can delegate certain, you know,
17 tasks, but ultimately he's the leader of the
18 sheriff's office?
19 A Yes.
So he would also be ultimately responsible for making sure every single deputy that wears the badge of Broward Sheriff's Office knows the standard operating procedures of the agency?

Yes.

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

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

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

That's correct.

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

And Sheriff Israel, then, would have been responsible for making sure that any deputy that wore the badge of Broward Sheriff was
actually going to protect life in a real-life,
real-time situation; correct?

A I don't think that that's his personal responsibility. You can never tell what's going
to happen when the bullets are flying. There's no policy, there's no training, there's no SOP that's
going to dictate what a human being does when faced with a combat situation. You can refer to
the United States Army, the Marine Corps, the Navy and the Marines [sic]. They put people through
boot camp and they still have people that freeze in combat, which is a personal choice carried out
by the person. The people that ultimately wear the badge and gun are the ones who are going to be
depended on to either respond properly or not respond.

The deputy that took the shooter in custody at the airport had the same training that Scot Petersen did. As a matter of fact, I think Scot Peterson, based on my recollection of the case, had much more training. I think he was an active shooter trainer. He had taught classes at his school on active shooters. So no matter what training he had, no matter what amount of skill that he had, Scot Petersen froze that day and
chose not to make an entry.

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

the ultimate responsibility, though, of the

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

put our deputies in real-life situations as

training but that the deputies are trained in as

close to real-life situations as possible to see

how they act under high-stress situations?

A  Certainly.

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

active shooter training for Broward Sheriff's

Office was broken up into two four-hour blocks;

right?

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

Q  And it was two four-hour blocks that the

entire sheriff's office had to do between 2015 and

2017?

A  That sound about right.

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

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

monthly or every other month they're doing

in-service active situations and trainings to test

how somebody is going to be in a high-stress

situation. Is that a fair understanding of the
training that went on?

A I think that's a bit different from what reality is. There's a million different trainings that deputies have to go through and there's only a finite amount of time to get them through that training. So there's active shooter trainings, there's rescue task force trainings, there's CPR trainings, there's trainings on how to use your computer, there's trainings on de-escalation, there's trainings on defensive tactics, there's trainings on interactions -- professional interactions with the public, there's training on traffic stops, there's training on driving, there's training on -- I'm sure I'm forgetting a million other things. But there is just -- you have to understand, and I'm trying my best to give you a real, you know, evaluation of what a deputy has to go through on a, you know, monthly basis. But there's so much training that needs to be accomplished, some state-mandated and some not, that there's just not enough time. You would literally constantly be in training, and you have to staff the road. So -- and you have to deal with manpower issues at the same time. So if your district or your division is down in deputies --
for each time that that person goes to training,
you have to have another deputy cover either the
case or the road or whatever it is. So you
couldn't possibly do all the training that you
wanted to do unless you had an infinite number of
dollars to throw at it.
For the amount of training that they
got -- and, again, I went through the same

training that they did -- I believed that they
were properly trained to respond to an active
shooter.
And to be honest with you, when I first
saw the video, I think I was the first person at
BSO to see that video of Deputy Petersen standing
behind that light post, I was -- I couldn't
believe it, Nick. I couldn't believe it, if you
allow me to call you that. That guy caused the
death of -- not directly, but I think he could
have interceded and at least saved some of those
victims on the third floor.
Q Now -- and I don't want to belabor this
point, but I guess the decision of which trainings
are going to be offered -- and understanding that
there's some that are required training to
maintain credentialing, but all of those decisions about prioritizing, you know, maybe prioritizing active shooter in-service training, creating more real-life situation training especially, as you mentioned, after Columbine and Aurora and you even mentioned the Middle Eastern school, the choice on what type of training to prioritize and stress and make sure deputies are 100 percent aware of their responsibilities, what's required of them is ultimately a decision that falls on the sheriff to make; right?

A  Yes. Ultimately, yes.

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

THE WITNESS: Thank you, Nick.

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

REDIRECT EXAMINATION

BY MR. KUEHNE:

Q  In your knowledge of Scot Petersen,

there were some questions about that, is it your view as a former senior staff member that Scot Petersen was properly trained to respond at MSD?
Q He was a school resource officer assigned to MSD?
A Yes.

Q Did he, as far as you know, have training for the role of a school resource officer?
A Not only just for SRO but, as I mentioned, he had -- he was an instructor in active shooter.

Q So you're aware that then-Deputy Petersen was actually an instructor for the Broward County Schools active killer/active shooter course?
A I did not know that. I did not know that he trained for the schools.

Q So that's new information? You knew he was a trainer for active shooter/killer programs?
A Yes.

Q But you did not know that additionally he was an instructor for the Broward Public Schools active killer --
A No.
16  Q    -- course?
17  A    I did not.
18  Q    You're aware that as part of his role as
19   a school resource officer he participated in
20   school resource shooting boot camp?
21  A    Did not know.
22  Q    Did not even know that.
23   He attended programs that included
24   active shooter in-service trainings?
25  A    I knew that he had been trained for
26    active shooter.
27  Q    Now, you were asked some questions by
28   the governor's counsel. Does the governor's law
29   enforcement agency, Florida Department of Law
30   Enforcement, require any active shooter training?
31  A    No.
32  Q    Today the governor's been governor now
33   for February, March, April, May, June. In the
34   course of five months or so, are you aware, if you
35   followed it, whether the governor has instructed
36   the Florida Department of Law Enforcement to
37   immediately implement active shooter training as a
38   mandatory requirement?
39  A    I don't know, sir.
40  Q    You're aware that the governor, before
he became governor, was a member of Congress; right?  U.S. Congress.

A  Yes.

Q  Have you ever heard that as a member of U.S. Congress the governor filed a bill or gave a speech mandating that after Columbine law enforcement agencies must as a requirement for federal funding mandate active shooter training classes?

A  No.

Q  But it's your understanding as a member of U.S. Congress he could, in fact, promote a bill that would require that; right?

A  I would imagine that's correct, yes.

Q  Is law enforcement a high-stress job in your opinion?

A  Yes.

Q  Does that include a law enforcement assignment to a school resource officer?

A  Is that a high-stress job?

Q  Yes.

A  I believe it is.

Q  Okay. As far as you know, are there any active law enforcement positions at BSO that are
not high stress?

A  Active sworn positions?

Q  Yes.

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

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

correct?

Right.

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

Not generally, but some days I did.

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

I guess some people could say that.

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

Yes.

Could you be on a moment's notice called
15   into real action, having to respond to the bad
16   guys who might have weapons?
17        A    Yes. I would frequently go out with the
18   SWAT team when they were under my command on
19   operations, and I wore the same bullet-resistant
20   vests and bullet-resistant helmets that they did
21   and made entries right alongside them.
22        Q    Did you commit when you became a sworn
23   law enforcement officer to an oath of duty to
24   preserve, protect and defend the public?
25        A    Yes.

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1        Q    Is it your understanding that
2   Deputy Peterson and all other BSO deputies took
3   that same oath of obligation?
4        A    Yes.
5        Q    And as a part of being certified by the
6   state of Florida as a law enforcement officer,
7   does that include a commitment to preserve,
8   protect and defend?
9        A    It does.
10       Q   Was there any part of your knowledge of
11   Deputy Peterson's background or any of the
12   responding officers at MSD High School that gave
13   you advance notice that any of them would freeze
or not follow their policies or training?

A I didn't know any of those deputies before that day. So, no, there would be nothing -- I would have expected them to respond like me or any of the guys that I do know personally, and that is to go in and save those children's lives. And that's the reason I got out of law enforcement.

Q Did you do everything in your capacity as a senior officer with BSO both at the Fort Lauderdale Airport shooting incident and at the MSD High School shooting incident to preserve, protect and defend lives of people?

A Yes.

Q And is it your understanding that the deputies responding to both of those scenes had the obligation to do the same?

A Yes.

Q In the process of going through trainings at BSO, if training officers or superiors identify a person who might have gone through the training but doesn't seem to understand the training, is there a corrective action or some follow-up that is a part of the BSO?
Q    If BSO identifies a person who is emotionally or mentally unfit to serve in an active law enforcement capacity, is there any process at BSO to take that into consideration, to accommodate that, to resolve that?

A    Yes, there is.

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

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

Q    The governor's lawyer asked you some questions upon making observations of the Fort Lauderdale Airport after-action incident report.

A    And you have not, as far as you recall, seen or
studied the final report?

A No, I haven't.

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

A I recall that.

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

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

A Yes.

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

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

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

you that the final version of the after-action
report does in fact include constructive criticism
designed to publicly identify areas of
improvement?
A    Yes.

Q    You did not write the final version of
the after-action report?
A    No.

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

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

A Yes.

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

A Yes.

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

A I would say that reading -- to my recollection, and this was a while back, I had -- I don't know if he got the facts wrong, but I think the way he wrote, his writing style was verbose, it was borderline unprofessional and it didn't -- it didn't do much for pointing out deficiencies in other agencies and how we
interacted with them which I didn't see.

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

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

Q I understand. Your --

A -- generalizations.

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

You were asked by the governor's lawyer about a comment, and as I wrote it down I didn't -- I'm not going to quote it, that CSU members were not tactically prepared for the escalation of events, an observation made by -- in the first draft report. Do you remember that discussion?

A Yes.

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

A No.

Q "Tactically prepared" means something in
law enforcement terminology, doesn't it?

A Yes.

Q And is the crime scene unit in terms of
doing its crime scene job designed to utilize
tactics in confronting an active scene?

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

that's not part of what their duties are once they
get to a scene. Once they're -- once the crime
scene unit is at a scene it's not a hot zone
anymore, it's a cold zone. So the perpetrator's
been removed, there's no immediate danger and they
go about their job. So generally when they
respond, unless they just do it as a matter of
habit, they're not wearing, you know, vests. They
always have their gun and their badge with them,

but they're dressed like a detective would dress.

Q So even though members of the crime
scene unit might in fact be sworn law enforcement
officers, their role as a crime scene unit, when
they're in that role, is different from a road
patrol officer or a homicide officer --

A Yes.

Q -- right?

Now, they could still be tasked to do
active law enforcement because they are -- if they
11      are sworn law enforcement officers; right?
12          A    Yes.
13        Q    But if that happened -- hypothetically,
14       you're at the scene of the Fort Lauderdale
15      Airport. Crime scene officers come, some of whom
16      are sworn law enforcement officers. You as a
17      senior officer could direct them out of the crime
18      scene to then do, I'm going to call it, active law
19      enforcing; right?
20          A    Yes.
21        Q    And that essentially would be a command
22      to them to change their function?
23          A    Yes.
24        Q    And you as a command -- I don't know if
25      you were a command officer, but a senior officer
     could have that authority to make that direction?
2       A    Yes, I could.
3        Q    When you were on the scene at Fort
4      Lauderdale, did you make that direction to any
5      crime scene unit officers, that stop being a crime
6      scene unit officer, we need you to do active law
7      enforcement?
8          A    No.
9        Q    Did you feel there was a need for that?
A No.

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

A I believe so.

Mr. Kuehne: I don't have any further questions, but I tender the witness for any follow-up questions.

Mr. Primrose: I just have a quick follow-up.

Mr. PRIMROSE: Okay. I have no other

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

A I would.

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

A Yes, Nick.

Mr. PRIMROSE: Okay. I have no other
questions then.

THE WITNESS: Thank you.

MR. KUEHNE: Thank you.

Thanks, Nick.

Read or waive? You can just let her know.

THE WITNESS: Read.

(Witness excused.)

(Thereupon, at 3:09 p.m. the deposition was concluded.)

CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF BROWARD

I, Carol Ann Kridos, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the
witness, MICHAEL DIMAGGIO, personally appeared before me on June 6, 2019 and was duly sworn by me.

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

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

ACKNOWLEDGMENT OF DEPONENT

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.
ERRATA SHEET

IN RE:  SUSPENSION OF SHERIFF SCOTT ISRAEL

DATE:   June 6, 2019

PAGE   LINE   CORRECTION AND REASON

__   __   ___________________________________
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## ERRATA SHEET

**IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL**

**DATE:** June 6, 2019

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REPORTER'S DEPOSITION CERTIFICATE

I, Carol Ann Kridos, RPR, certify that I was authorized to and did stenographically report the deposition of MICHAEL DIMAGGIO, the witness herein on June 6, 2019; that a review of the transcript was requested; that the foregoing pages, numbered
from 1 to  , inclusive, are a true and correct
transcription of my stenographic notes of the
deposition by said witness.

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

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

Dated this 7th day of June, 2019.

_________________________________
Carol Ann Kridos, RPR
Notary Public - State of Florida
RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Michael DiMaggio
TAKEN: June 6, 2019
READ & SIGN BY: July 7, 2019

Dear Mr. DiMaggio,

This letter is to advise you that the transcript of the deposition listed above is completed and is awaiting reading and signing. Please arrange to stop by our office in Suite 2250, 2 South Biscayne Boulevard, Miami, Florida to read and sign the transcript. Our office hours are from 8:30 a.m. to 4:00 p.m. Monday through Friday. Depending on the length of the transcript, you should allow yourself sufficient time.

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

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

cc: All counsel on appearance page.

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

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

Dear Counsel,

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

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

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL

______________________:

Wednesday, June 5, 2019
One East Broward Boulevard
Suite 902
Fort Lauderdale, FL  33301
12:27 p.m. - 12:58 p.m.

DEPOSITION OF STEVEN GELLER

Taken before Carol Ann Kridos, Registered
Professional Reporter and Notary Public in and for
the State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.
APPEARANCES:

On behalf of Governor Ron DeSantis via Skype:

EXECUTIVE OFFICE OF THE GOVERNOR
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On behalf of Steven Geller:

OFFICE OF THE COUNTY ATTORNEY
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rharrod@broward.org
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EXHIBITS

(No exhibits were marked during the deposition.)
PROCEEDINGS

Thereupon:

STEVEN GELLER

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

DIRECT EXAMINATION

BY MR. KUEHNE:

Q Please state your name, spell your name?
A Senator Steven A. Geller, S-t-e-v-e-n,
A, G-e-l-l-e-r.  I say senator.  I'm a former
senator, but pursuant to House rules we still keep
the title; or, actually, the book Practical
Protocol for Floridians.  I am currently a Broward
County Commissioner.

Q Commissioner Geller, my name is Ben
Kuehne.  I represent Scott Israel, the elected
sheriff who's in proceedings before the Florida
Senate on the executive order of suspension.  I
have asked for issuance of a subpoena.  I sent a
subpoena to your counsel.
A I authorized them to accept that.

MR. KUEHNE:  I would ask for additional
appearances on the record at this time.

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

MR. KUEHNE: Appearing via Skype.

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

BY MR. KUEHNE:

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

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

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

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

Q I am going to pose a number of questions
to you, Commissioner Geller, in your capacity as a Broward County Commissioner. If any of my questions cause you to need to go outside of that capacity please let me know, it's probably something I would ask you to just answer based on your knowledge as a Broward County Commissioner.

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

Q Thank you.

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

A I do, but I'm not sure what you're talking about. There are two separate issues. I don't know what your question is, whether your question is pertaining to the 911 dispatch or whether it's pertaining to the radio system that law enforcement and other people use. I think
they both fall under the question. Could you be more specific?

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

A I'm familiar with both.

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

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

Q Radio communications?

A Yes, as emergency radio communications.

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

A Okay. I am familiar with both of those.

Q The 911 system that involves making calls and dispatching emergency life safety services, what agency maintains and controls that,
As far as my understanding, I can't answer maintains and controls. My understanding is that the county is responsible for the purchase of the system, and I believe that that means -- I know that, that we are responsible for the purchase. I believe that we are also responsible for the equipment. The operations on that is primarily controlled by the Broward County Sheriff, although, first of all, the county would have some input on that. Secondly, there are several cities that have opted out of this, and I presume that they are not under the sheriff's control. And finally, there are disputes between the county and the sheriff in reference to something called the Fitch report which I can describe to you at greater length later should you wish.

Did I answer your question sufficiently?

Yes. Thank you.

Thank you.

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

I will do my best. There are two that
have opted out of the unified system. They are Plantation and Coral Springs. I know that some of the -- for example, with Coral Springs, when cell phone calls from Parkland are made, they also -- although not landline -- they also go to Coral Springs depending on where. So although there are only two cities that have opted out, Plantation and Coral Springs, that may or may not affect other surrounding cities. The only city that I have actual knowledge that it affects is Parkland. There may be other cities that I simply cannot comment on.

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

A Yes.

Q -- emergency calls?

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

Q As far as you understand -- strike that. Are you assigned to or have any responsibility as a county commissioner with any committee or suborganization of Broward County
that is involved with regional communications?

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

Q Okay.

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

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

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

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

MS. HARROD: Can you clarify what equipment?

BY MR. KUEHNE:

Q Equipment for radio towers, if those exist.

A The radio towers would be in the other
Q Okay. Radio towers don't deal with 911?
A (No oral response.)
Q Strike that. Let me move on.
A Okay. I apologize, I just don't understand.
Q That's fine.
A Okay.
Q Are radio towers part of either of the systems --
A Yes.
Q -- in Broward County?
A Yes.
Q When I use the term "radio towers" in dealing with any aspects of the Broward County communication system, who is responsible for maintaining them, installing them, paying for them?
A That would be the county commission. I think those, again, are primarily in the emergency radio, not as part of the 911 is where I think some of the confusion lies.
Q Okay. Has Broward County studied --
A I apologize. I said Broward County, but that's Broward County in cooperation with the
cities. As you may be aware, we have had battles with some of the cities over the location. So if you're asking about the siting, that's the county in coordination with the cities who have to issue us building permits.

Q Let me focus on that for just a moment. Has the county studied the need for additional radio towers or improvements to existing radio towers?

A The best answer I can -- the county hasn't. We have contracted with Motorola to do that, so I don't know how to answer your question.

Q And is Motorola the vendor?

A Yes, sir.

Q Has the county been in ongoing communications and discussions with Motorola over improvements to that radio system?

A When the county entered into the contract with Motorola, we knew there would be additional towers necessary. There had been multiple reports as to the approximate locations of the towers. We have fought with some of the cities, specifically Hollywood and Tamarac, as to the specific locations of those towers.

Q Do the locations of the towers affect
the ability to have effective radio communication throughout the county?

A Yes. But I will point out again we're now no longer talking about the 911 dispatch, you're now on to the other topic; correct?

Q Correct. Right.

A Yes, it does according -- again, I am not an expert. I can tell you what our expert has advised the county, which is that you have to have the towers, they have to be of certain height, they have to be in a certain location, if they move the location they won't work as well as they're supposed to, there can be lapses in service, et cetera, which is why it's important for us to get them in the right locations.

Q Is the Broward Sheriff's Office as a governmental entity responsible for the location or erecting of any of those towers?

A No, it is between the county and the cities.

Q Is the Broward Sheriff's Office allowed to utilize the frequencies transmitted by those towers?

A Today the -- I'll do my best to answer. Tell me if I'm answering your question correctly.
All emergency responders in Broward County, including but not limited to the sheriff, use that system. In addition to that, there have been many other users of the system which has contributed to some of our problems, which we're fixing, such as, you know, school buses, garbage trucks, you know, other users. So when you say is the sheriff permitted, yes, he is, but one of many.

Q So as you've described it, the BSO is one of many users of that system?

A That's correct.

Q And the infrastructure and repair of the equipment, the towers for that system, the emergency radio system, belong to the county?

A That's correct.

Q Does the emergency radio system include access by the airport BCAD, Broward County Aviation Division?

A I'm almost certain it does.

MS. HARROD: To the extent that you know, he's asking.

THE WITNESS: To the extent that I know, yes.

BY MR. KUEHNE:

Q Is Broward County Aviation Division,
BCAD, a separate governmental entity from BSO?

A Oh, yes. The BCAD is directly under the supervision of the county. The sheriff is a separately elected constitutional office.

MS. HARROD: I'm sorry, can you repeat that last question again? I'm not sure we understood it.

BY MR. KUEHNE:

Q Is BCAD a different agency from BSO?

MS. HARROD: Thank you. I apologize, I misheard it.

THE WITNESS: Yes, as I just said.

BY MR. KUEHNE:

Q Is the county involved in ongoing evaluation for improvements and upgrades to the emergency radio system?

A The county is in the middle of spending tens of millions of dollars in trying to improve that system to eliminate issues like throttling and to get other people, the nonemergency people off of the system.

Q Is that perceived as an expensive improvement or enhancement to the system?

A I know not to go beyond the extent of your question, but I will a little just to try and
Q Well, I can rephrase.
A No. In 2015, prior to my election to the commission, we received a report -- and that's the reason I have notes on dates. On November 3, 2015, we received a report from a county consultant telling us that our E911 -- excuse me, our system pertaining to the radio system, that it was obsolete and needed to be replaced and we've been trying and have spent tens of millions of dollars to replace this since November of 2015. I have a chronology of the steps we've taken.
Q Is that part of what is known as the Fitch report?
A No.
Q What report is that?
A The Fitch report deals with the 911 calls and that's a separate issue, as I said several times, from the radio tower issue.
Q So let me follow up on the report that you just described in 2015.
A Okay.
Q Is there a name for that report?
A The E -- it says it's the E911 Assessment -- but it's not really dealing with the
911 phone calls, it's the interoperability --
Assessment Report by Mission Critical Partners. I
don't know when they wrote it. I can tell you it
was presented to the commission on November 3,
2015. Based on that, the county commission
approved a request for qualifications two-part.
The first part was February 9, 2016, the second
part was May 6, 2016. And I can continue, but
we've spent years approving it, going through
multiple protests, bid protests trying to get the
towers in place. As of today, which is -- today's
date is June 5th, we still don't have approval of
the final tower; we've been battling with the city
of Hollywood. But we've been trying to do this
since 2015. One of the important things we've
been trying to do is get other people off of the
system to prevent the throttling.

Q You mentioned getting nonemergency users
off that system?
A That's correct, which would have already
occurred except for a June 25, 2016 bankruptcy
petition for Control Communications, which was the
only 400 megahertz provider at the time here. So
it has taken longer, but I believe we have now
either fixed the problem or are very close to
having fixed that problem of the nonemergency providers being on the system.

Q As far as you know, since you've been a commissioner up through January of 2019, so since you've been a commission through January of 2019, has the BSO as a user of that system been part of the discussions on improvements to the system?

A The BSO -- when we did the selection committee and there were two finalists, Motorola and a company called Harris Corporation, there was a selection committee which chose Motorola. BSO was part of that selection committee.

Q Let me move to the Fitch report.

A Yes, sir.

Q You say -- you describe that as being focused on the 911 part of --

A Yes, sir.

Q -- our discussion?

A That's correct.

Q What is the Fitch report?

A The county hired Fitch -- and I don't know their full name, it's just referred to as "Fitch" -- to do an assessment of the regional E911 consolidated communication system. That agreement was signed January 5th -- or it was
approved by the board January 5, 2016.

One of the reasons there may be confusion is the Fitch report and the 911 improvements were happening contemporaneously with the radio issues and that's why they're sometimes confused.

The Fitch report has basically been telling us, based on their expertise, what they regard as correct staffing levels for the 911 -- the 911 dispatch center and other ways of improving efficiency. The sheriff has had other ideas and they have argued in favor of higher staffing requirements than that which Fitch has said.

Q Is the BSO as an entity involved in the process of improving the 911 system?

MS. HARROD: Can you rephrase the question?

THE WITNESS: Yeah, I really don't understand.

BY MR. KUEHNE:

Q Is the BSO a participant in efforts by the county to improve or enhance the 911 system?

A I would say yes. We have met with -- I as a commissioner have met with representatives of
BSO who have been urging us to have, again, as I said, higher staffing levels and to push back where they have disagreed with the Fitch report.

Q Is the BSO the only entity, organization besides Broward County that is involved in any aspects of the improvements to the 911 system as recommended by the Fitch report?

A I am not --

MS. HARROD: If you know.

THE WITNESS: I'm sorry?

MS. HARROD: If you know.

THE WITNESS: I'm not sure. As of today, I know that there was a group of 911 people from the cities, typically police and fire chiefs. It is my understanding that that board recently went out of existence and was replaced with something else. But that would be over the last, you know, number of months. So I don't know as I sit here what the new board is. So there was a board, but that went out of existence a few months ago.

BY MR. KUEHNE:

Q Is it fair to say based on your knowledge and experience that municipalities as well as the BSO and the county are involved in
discussions about the implementations and improvements to the 911 system?
A That is a fair statement on your part.
Q Is the process of working through those improvements a lengthy one?
A It has been ongoing for years.
Q Is there any part of the lengthy process to improve the 911 system that has been solely the responsibility of BSO?
A I believe, although I don't warrant, that BSO is in operational control pursuant to a budget that we approve. So we may approve --

THE WITNESS: Stop me if I'm saying something incorrect.
My understanding is we approve a budget -- actually, the sheriff requests certain money, there's a -- we approve a budget. After that happens the sheriff, you know, is largely in direct operational day-to-day control. If you're talking about the attempts at upgrading, that's been an area of dispute between the city, the sheriff and the county for years.

BY MR. KUEHNE:
Q You mentioned "we" set the budget. You
are --

Q -- referring to the Broward County Commission?

A Yes.

Q Does --

A One of the areas also that has been an area of dispute has again been the two cities, two holdouts.

Q Holdouts of Plantation and Coral Springs?

A Yes. I represent Plantation. I've met with current and former mayors urging them to join the system.

Q Okay. With regard to the 911 system, has the number of users of that system increased over time, over the time you've been a commissioner?

MS. HARROD: Can you just clarify which system you're talking about?

MR. KUEHNE: The 911.

MS. HARROD: That's the dispatch system?

THE WITNESS: Yeah, that's the dispatch system?
BY MR. KUEHNE:

Q The dispatch system.

A Okay. Thank you.

I have no personal knowledge. I mean, I know that the population of Broward has increased, so I have to assume that if there's a static number of calls per 10,000 that the number of calls would have increased. But as I sit here, I have no direct knowledge. I can tell you the population of Broward continues to increase.

Q Would the answer be generally the same as to the other system, the emergency radio system, that the use has increased in the time you've been commissioner?

A The -- that I can't -- there's a bunch of problems with the emergency radio system that we have been trying, specifically since the airport shooting, we have been trying to fix through a lot of areas hoping to reduce the number of users to avoid throttling. So if people have been listening, then I'm hoping that the number of users has been going down. I can't -- I don't know anybody knows the actual number of people using the system each day.

Q And is it fair to say that those
discussions for limiting the users to that system
has included participation by the BSO in those
discussions?

A Yes. Not limited to, but including.

Q As far as you understand, has the BSO
during your time as commissioner been involved
with the county in discussions over the
appropriate budget for both the 911 system and the
emergency radio system?

A As far as I am aware, the -- I know that
there have been discussions and disagreements
between the -- BSO and the sheriff over the 911
system [sic]. I have no knowledge of any
discussion on the part of the BSO pertaining to
the budget of the radio system other than asking
it be implemented as soon as possible because I
don't think they care about how much we spend on
towers.

Q As far as you understand, the BSO has
made requests to implement the emergency radio
communication fixes or improvements as soon as
possible?

A Yes. I can tell you I met directly with
Sheriff Israel shortly after the -- I don't
remember when, but at some point after the Fort
The Lauderdale Airport shooting, in the next few months, where he stressed that was a priority. And I've also met on a regular basis with his command staff that have met -- and it's not just me. They met with every commissioner, I assume.

MR. KUEHNE: I have no further questions. I pass the witness to Mr. Primrose.

MR. PRIMROSE: I have no questions.

MR. KUEHNE: Commissioner Geller, we're on an expedited basis with this upcoming trial. Your deposition will probably be transcribed. We will get that transcript on an expedited basis. When a transcription comes, I will immediately send it to Ms. Harrod, but you have a right to read the transcript --

THE WITNESS: I waive.

MR. KUEHNE: You waive. Thank you.

Thank you for your time.

(Witness excused.)

(Thereupon, at 12:58 p.m. the deposition was concluded.)
STIPULATION

It is hereby stipulated by and between appearing counsel for the respective parties and the witness that the reading and signing of the foregoing deposition be, and the same are, hereby waived.

AND FURTHER DEPONENT SAITH NOT

-------------------
CERTIFICATE OF OATH

STATE OF FLORIDA  
COUNTY OF BROWARD  

I, Carol Ann Kridos, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, STEVEN GELLER, personally appeared before me on June 5, 2019, and was duly sworn by me.

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

__________________________  
Carol Ann Kridos  
Registered Professional Reporter  
Notary Public - State of Florida  
Commission No.: FF977714  
My Commission Expires: 4/27/20
REPORTER'S DEPOSITION CERTIFICATE

I, Carol Ann Kridos, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of STEVEN GELLER; the witness herein; that a review of the transcript was not requested; that the foregoing pages numbered from 1 to 25, inclusive, is a true and correct transcription of my shorthand notes of the deposition by said witness.

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

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

Dated this 7th day of June, 2019.

Carol Ann Kridos, RPR
Notary Public - State of Florida
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL
______________________:

Wednesday, June 5, 2019
One East Broward Boulevard
Suite 902
Fort Lauderdale, FL 33301
3:03 p.m. - 4:54 p.m.

DEPOSITION OF EDWARD GRANT

Taken before Carol Ann Kridos, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition filed in the above cause.
APPEARANCES:

On behalf of Governor Ron DeSantis via Skype:

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### EXHIBITS

(No exhibits were marked during the deposition.)
Thereupon:

EDWARD GRANT

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

DIRECT EXAMINATION

BY MR. KUEHNE:

Q Please state your name and spell your last name.

A It's Edward Grant, G-r-a-n-t.

Q Mr. Grant, my name is Ben Kuehne. We met as you came into the door just a moment ago. On the video Skype, he'll introduce himself, is Nicholas Primrose, the governor's deputy counsel.

I've issued -- or I've asked for issuance of a subpoena for you that I'm going to hand you for your deposition in the senate review of the suspension of Sheriff Scott Israel.

There's your subpoena. Thank you for attending.

A Okay.

Q And I'll be asking some questions and Mr. Primrose might be asking you some questions about our upcoming trial.
How are you currently --

MR. KUEHNE: Oh, let's get introductions, Mr. Primrose.

MR. PRIMROSE: This is Nick Primrose for Governor Ron DeSantis.

MR. KUEHNE: Okay. Thank you.

BY MR. KUEHNE:

Q Tell me how you are currently employed.

A I work in private industry in a capacity of a security director.

Q You had previously been a sworn law enforcement officer?

A Correct.

Q Relate briefly your career as a law enforcement officer.

A Twenty-eight, almost 29 years in law enforcement and prior to that I was almost two years as corrections deputy. So about 30 years combined total law enforcement experience.

Q And where were you a corrections deputy?

A Broward County.

Q And your 29 years in law enforcement, all in Broward County?

A Yes. Originally when I started my corrections, I was hired by the Broward Sheriff's
Office as a detention deputy. I worked there for almost two years, realized at that point that I wanted to go and be a police officer and go to the road. BSO at that time wasn't looking to move people out of the jails, so I interviewed at several other departments.

I was hired by the City of Pompano Beach Police Department. I went over there, went back to the police academy, went through a full academy then, and then worked in the City of Pompano Beach until 1999.

August of '99 is when the Broward Sheriff's Office merged with the City of Pompano Beach, took over the policing services, and it was at that point I became a deputy sheriff and then -- till the end of my career, till I retired.

Q When did your career end?
A I retired -- I started looking at this other job in October, started doing interviews, things of that nature. And then I decided to put my papers in December 1st, and officially it was -- January 4, 2019 was my last day employed with the sheriff's office.

Q What was your position within the Broward Sheriff's Office at the time of your
When I retired, I retired at the position of lieutenant colonel over the department of investigations.

And in your career as a law enforcement officer, have you worked a number of different units, offices, divisions?

Yes. I mean, I had a very diverse career. I experienced -- I was able to develop a lot of on-the-job experience and skills throughout my career. I worked primarily in narcotics, but at one point I was a K9 handler. I was also a member of the SWAT team for 25 years. Started as an operator, became a team leader and was a team leader for eight years, and then eventually became the team commander for almost six years.

Well, I started SWAT in '93 and I stayed on the SWAT team up until Jan-- my last official SWAT call that I was in charge of was, believe it or not, the airport shooting at Fort Lauderdale. That's when I was promoted to major. So I was the captain over the SWAT team and then I was promoted to major. And because of that promotion, I was required to step away from the SWAT team. And my
last official day was actually January 6, 2017.

Q  At the time of the Fort Lauderdale Airport shooting -- and I'll variously refer to it as the "Fort Lauderdale shooting" or the "Fort Lauderdale Airport shooting" or the "airport shooting." You were working that day?

A  Yes.

Q  And in what capacity?

A  At that time I was a major in the strategic investigations division and I was still affiliated with SWAT. Because of the promotion, we had to do a transition with my old executive officer, Steve Robson. He transitioned into the role of SWAT commander, but he was out of town that week in Orlando doing a Disney marathon. So for that reason I stayed in that position for obvious reasons, to handle any type of incidents.

So on that date I was out at the off-site office that we have for strategic investigations, and I had heard that there was a possible shooting at Terminal 2, the Delta terminal, at the Fort Lauderdale-Hollywood International Airport so I immediately responded there with -- at the time it was Lieutenant Joe Achilarre.
Q To focus you, the Fort Lauderdale Airport shooting occurred on January 6, 2017?
A Correct.
Q So that's the day you're talking about responding to the Fort Lauderdale Airport?
A Yes.
Q The shooting occurred in the afternoon?
A Yes.
Q You received a call that there was a possible shooting?
A It came over our CAD page, it was on my phone. I saw that there was a possible active shooter at Fort Lauderdale International Airport, Terminal 2. We actually were coming back from lunch, so we were right at University Drive and 595. So I made the right turn and jumped onto the expressway and was at the airport in probably less than eight minutes. Seven, eight minutes.
Q And did you confirm that there had been an active shooter situation?
A Yes.
Q And when you arrived, did you confirm that the perpetrator had been taken into custody shortly after the shooting?
A Yes.
Q By Deputy Madrigal?
A Yes, that's correct.
Q Had Deputy Madrigal been under your supervision at any time around the time of the airport shooting?
A No.
Q Okay. Did you know him?
A I knew him through his job as a pilot with the air division. Lot of interaction with SWAT in the sense that we did a lot of air assault training, repelling, fast-roping, things like that. So I didn't know him well, but I knew who he was.
Q You responded on January 6, 2017 essentially in your capacity as having been the SWAT team commander?
A I was still the SWAT team commander that day because --
Q That day.
A -- like I said, the transition period hadn't taken effect because of Steve Robson's vacation, and it was just easier to leave me in the capacity until we could transition it smoothly.
Q Did you in that capacity arrange to have
a SWAT presence at the airport?

A Yes. When I first heard that there was a possible shooting I started making phone calls to other -- to the fugitive squad, which was at the time the on-duty, full-time element of all SWAT operators, I knew that they were working, and it was to have them start that way. I was very pleased to know that they were already in route. And some of them were actually already on scene because they had heard it come over the actual radio channel and they were already there.

So at that point I didn't -- until I got there to do a face-to-face -- because, again, when you're not there in something like this you want the boots on the ground to be making the decision as things are unfolding because me from three miles away in my car, it's not the right place to be making any type of critical calls.

Q Was it consistent with how you had commanded the SWAT team that SWAT members arrived on the scene prior to you actually calling them into duty or into effect?

A Sometimes that happens. If they're on duty and they hear that type of call go out, whether it's an active shooter or a barricaded
subject, anything that's going to be a high -- a
level of high-incident crisis, they'll
automatically respond. They'll start responding,
start gathering immediate intel, information to
start gathering up so we can formulate a tactical
plan, if necessary, or contain and control the
area.

We always had the plus-one theory in a
shooting situation, always anticipate that there
could be another shooter involved. So with that
plus-one theory, it's -- you know, once you're
there, shooter's in custody in something like that
incident, they still have to contain the area,
they have to address any wounded, they have to
look for people that are concealed and potentially
other threats.

Q The items that you mentioned, starting
with the plus-one theory in addition to assisting
others and eliminating threats, is that all part
of the process as you understood it on that day of
responding to an active shooter?

A It's the way that I was -- we've always
trained that way.

Q Okay. I'm going to move into some of
the training with active shooter scenarios or
scenarios that involve rapid response to potentially dangerous firearm-related situations.

You have always been a sworn, certified, credentialed law enforcement officer during the time you described?

A Yes.

Q Kept your credentials current during the time you described?

A Yes.

Q As part of your work as a BSO deputy -- is deputy a fair term even though you held numerous other positions?

A Yes, that's fine.

Q As part of your involvement as a BSO deputy, in all your positions have you received active shooter training?

A Yes.

Q Have you received training if not called active shooter training does involve rapid-response issues?

A Yes.

Q Describe in a general sense what you have experienced in training that assists you as a then-BSO deputy in responding to an active shooter incident.
A I mean, throughout my career, especially after 1999, after Columbine, it seemed that the focus went into high gear focusing on active shooter incidences after Columbine. And that continued to grow and we continued to do active shooter training for years. It just was recurrent training that always came up. Whether it was through in-service training or we focused on it during SWAT, our SWAT training days, it was always something that was -- because things always changed.

You had Columbine. And then after Columbine, you know -- I'll use the Virginia Tech school shooting in 2007. You had that at a large college campus, so that kind of changed how the responses were done. And then after that you had the Batman movie theater in Aurora, Colorado. That kind of then changed how things were done because that was the first time anybody ever assaulted a movie theater in the middle of the night in the dark while the movie's playing, you know, in a packed house. So that changed the tactics. You had Sandy Hook and then you had Pulse, and the list just goes on and on. Whether it was mall shootings -- you had Salt Lake City in
Utah when they had an active shooter in the mall there. So it's always been an evolving type of training. It's continually evolved through the years.

And I can tell you through my experience that, for instance, in 2006, 2007, some of the training that the agency put on the SWAT team taught. We taught it. We would go to the middle schools and the high schools during the summer when they were closed, and deputies had to come out there at night, and we put on these active shooter response classes where the deputies were -- you know, at that time it was your first two, three, four guys that got there made what's called either a diamond formation or a wedge formation and then they had to go in and go after the assailant. And then as time continued to go on, you know, the tactics started to change because the tactics on the bad guy's side started to evolve as well. So then it went from, well, sorry, man, the diamond formation's great if you have the manpower, but now if you're the only guy there, you need to get in there, attract the attention, disrupt the shooter, you know, take the focus off of what he's there to do, which is get a
body count, and put the focus on you so that he concentrates more, or she, concentrates more on you. You become a disruption to their plan. So it evolved throughout the years.

And, I mean, I couldn't give you an exact number of hours that I've trained in active shooter, but it was quite extensive because we did focus on it often.

Q Moving to the time -- the approximate time frame of the Fort Lauderdale Airport shooting, 2017, were you a participant in any of the trainings that you've described, whether it be active shooter trainings or SWAT trainings, in the general time frame leading up to the Fort Lauderdale shooting, say, 2016 through early 2017?

A Like I said, on SWAT we conducted active shooter training only because a lot of times we're responding to active, quickly evolving incidents where we have to respond to gunfire. So that's a constant for us in SWAT. You know, a lot of the other training, you know, that we did at the port, we had done exercises.

I can tell you that I was also the chair for the Regional Domestic Security Task Force - Region 7 down here. I was the law
enforcement chair. And every year we did training in -- since 2015 or '16, I might be messing the date up, but we did what's called Operation Heat Shield, which was a regional training exercise. And we did it with Dade County, with Broward and Palm Beach counties and multiple different police entities in those counties. And the majority of the training focused on an active shooter response. One of them was in the Government Center in downtown Miami, another one at the baseball stadium, there was one in a residential area. So it wasn't just one overall scenario, you got multiple scenarios throughout the day where you had to respond to active fire.

Q  In your involvement in such scenarios, multi-agency scenarios, did you utilize what you learned or how you participated when you went back to BSO and worked with your other officers?
A  I watched them that day with the SWAT element. When I first got to the airport, like I said, I went into Terminal 2. The shooter was already in custody, that was known. But, again, the guys that were on scene -- I want to say there was about 14 or 15 SWAT operators that had arrived -- they were holding certain areas and
then they were also clearing because the panic
that started initially after the gunfire, you had
people go hiding in bathrooms, you had people that
went through the -- you know when your luggage
comes through the aircraft operation side of the
terminal there's the little doorway that opens up
and your bags come through? Well, people actually
dove through that and went into the aircraft
operating area.

So we had to, you know, we had to
contain it and then we had to start retrieving
people. People were hiding in the bathrooms.
They were able to locate people hiding in certain
areas. And then at the same time you had the
victims, the deceased that were there. You had
wounded being transported to Broward General. And
then we had about a hundred witnesses that we had
to try to contain and not lose that were there
when this incident occurred.

So the reality of it is at that time you
had a homicide side, you had five -- unfortunately
five people that lost their lives and you had six
others that were injured, but they were
transported to Broward General for treatment, and
now you're trying to figure out what do you do.
I think the biggest problem at that point, during the course of that day, was what is the airport going to do. Because it's a Friday afternoon, it's very busy obviously, the first of the year, and your Terminal 2 no longer has a baggage claim area. So you have all these inbound flights, outbound flights. That was the biggest problem for the airport.

This was a homicide scene. Shooter's in custody. You know, you're getting video, you're getting the evidence. And we were working on getting buses to try to take these witnesses, put them in an air-conditioned place. A lot of them were older so, you know, you want to be able to let them sit down, but at the time there was nowhere to take them to temporarily hold them without losing them. So that was the biggest...

Q I'm going to try to break down some of what you said and ask some specific questions. If you don't understand --

A Sure.

Q -- something, just let me know.

A Sure.

Q Prior to the day of the airport shooting, based on some of the scenario trainings
that you've described, did you take your own training and help others who may not have been part of that training learn from what you learned through your scenarios?

A The people I was working with that day, they all knew what to do and understood what was required to make this successful, make a horrible incident, unfortunate incident be somewhat successful for us, if that's the right word to use.

Because, again, you have a big problem. You have a large terminal on a Friday. There were a lot of other people there that I overheard, I don't know who they are, but they were adamant about keeping Terminal 2 open. And I was hearing my bosses argue with them that, no, you know, this is not -- they wanted to keep normal operations and I remember Mike DiMaggio saying, "You can't because this is not normal. We've had a shooting."

You know, it was very controlled initially when you had just the homicide scene. You had the shooting. Okay, you did have some panic initially when people heard gunfire. You've seen the videos. They ran into Terminal 2. But
everything else was fine.

QOkay.

A Everything was operating normal. Well, not normal in that sense. Everything on the outside of Terminal 2 was operating normal, meaning Terminal 1, Terminal 3, Terminal 4, the garage, the rental car center. Operations were normal. They didn't even know.

Q You understood at that time that besides law enforcement there were other entities that had a say in what was happening at the airport?

A Absolutely.

Q Are you familiar with an acronym known as BCAD, Broward County Aviation Division?

A Yes.

Q And do you understand that to be the Broward County entity that actually operates the airport?

A Yes.

Q That's not a BSO subdivision?

A Correct.

Q And you knew and understood that you'd have to work with people from BCAD in how to handle the ongoing activity of the airport?

A Correct. Yes.
Q This was not a situation where, perhaps as in other homicide cases, you could simply contain the whole area and take total control from a law enforcement perspective?

A Yes, in my opinion there were a lot of outside factors. Other people -- from a law enforcement perspective, it was a very simple answer, shut this place -- shut Terminal 2 down. This is a homicide scene. We have an active scene in the sense that we have an investigation to conduct. But those other sides, in my opinion their decisions were based on financial reasons.

Q Were you also aware on the day of the Fort Lauderdale shooting that other non-BSO law enforcement agencies responded and were involved?

A Yes, I was.

Q Did some of those include federal responders?

A Yes.

Q FBI and maybe Customs and other agencies?

A Yes. You had FBI, HSI, Customs and Border Patrol, FDLE. There was quite a few federal entities on the site.

Q Did you understand at some point that
day that the FBI had taken responsibility for or control of the investigation?

A Initially, because they were not sure if it was -- had a terrorism nexus. So they were heavily involved from the onset because, you know, it was an international airport. An airport obviously is a target for terrorism, so they were treating it as such from the beginning.

Q As the SWAT team commander on the scene that day, did you work with the other law enforcement agency responders?

A That came later in the day. My initial thing was once the downstairs area was contained, we knew that there was not a second shooter, okay, we know what we have. We have the sole shooter, sole gunman in custody. The people that needed medical attention were transported. At that point it was okay. Like I said, we knew what we had because we've dealt with it. That just goes with being a law enforcement officer, especially if you're in investigations and homicide, all right, here's what we have.

So it was backing people out, containing, trying to sterilize the crime scene, getting video, evidence retrieval. Because we --
obviously you know that there's cameras. You
know, that's one of the big first things you want
to go after, let's get the video so we can kind of
get a real idea what happened, where this guy came
from because -- I mean, look, he wound up coming
from that far east -- I'm sorry, western bathroom.
That was critical because now we have to control
that, we have to seal it off for evidence
purposes. So for those reasons, this was an
investigation.

We were fine. It was the sheriff that
had to deal with -- and the colonels that were
dealing with the airport administration trying to
determine who was in charge, one, and -- you know,
because there was a lot of that, no, it's my
house; no, it's not. It was a law enforcement
scene. The sheriff should have been the only guy
calling the shots there, not anybody from BCAD,
but that wasn't the reality. That's not what
happened.

And long story short, it was probably an
hour and 30, 40 minutes later was when there was a
report to a fire captain on the exterior that
there was -- somebody had heard, and I believe it
was civilians had told them, "I think there might
have been gunshots in the parking garage." He
then relays that over the radio, which we have
shoulder mics so other people that probably
shouldn't have heard that transmission heard it
and -- I mean, it's all on the video, you know --
and that airport person called another airport
person and said there's possibly another shooter,
get our people out, and that's when the domino --
the finger pushed the domino and there was no way
that you were going to stop -- and I'm telling
you, I was there, I watched hundreds of people
start running out the door of Terminal 3 and I
couldn't understand why, because I'm standing and
I'm listening -- I was listening for gunfire so I
could track it and locate it. And I couldn't hear
gunfire yet I was seeing hundreds of people rushed
out these doors -- you can get the video on it,
you can watch it happen -- and I couldn't
understand why.

And then that domino effect led to
Terminal 4 where they started self-evacuating
because people started panicking. At lower and
upper where you drop people off and pick them up,
everyone starts running there. So it just was a
domino effect that you couldn't stop.
And then I started hearing on the radio "shots fired in Terminal 4." Terminal 1 was self-evacuating.

And then the parking garage where the car rental center is isn't even connected to anything. We started getting reports from dispatch of people calling in saying there were shots fired in the parking garage in the car rental center.

So in my mind I started to believe this was a coordinated -- that maybe that first incident was the distraction and now this was the -- it was a terrorist incident. You know, we were lured in to think that it was isolated to Terminal 2 and now here we have it happening -- in less than five minutes -- the airport self-evacuated in less than five minutes. That place is massive. And you couldn't stop it.

Fire alarms were going off because people went out the emergency exit doors. So anything that was enclosed, like downstairs, lower level one, you can see in the videos the flashers, the strobe lights are flashing from the fire alarms and a siren's going off, so you couldn't hear.
And then we actually got reports -- and there's video footage of me running up the stairwell with Andrea Penoyer and another female deputy because we were told there was a gunman wearing black slacks -- and this came through dispatch -- wearing black slacks and a white shirt on the sixth floor. So I ran up to the sixth floor, came through the garage. And we found people in black slacks and white shirts, but they were USA Parking employees. Those were calls coming in from civilians. So -- and like I said, it all happened quickly.

Q In your training and experience with active shooter/active killer incidents, are you given an understanding that members of the public might be involved and do not have a law enforce- -- a trained law enforcement response?

A Members of the public being involved? There's always that chance people are going to get involved.

Q And does part of your active shooter training focus on how to handle non-law enforcement people who happen to be involved in scenes of active shooters?

A Usually, I mean, we're not -- if
anything, you might try to get that person to get some information, intelligence from. You know, if they saw the shooter, a description, a quick description. But during an active shooter, if it's active and you're hearing gunshots, you are moving towards the gunfire.

Q You mentioned the plus-one scenario and you described it as trying to make certain there's not more than one person involved?

A Correct.

Q Was it consistent with your active shooter training, as you understood it, with BSO that it was your obligation to track down and determine the verifiability of any of these other reports of potential shots or shooters?

A Absolutely. And because of what I was visually seeing with all these people running for an unknown reason, and I'm talking from everywhere sprinting, running, that's when it hit, made me say, "Okay, this isn't rumor, it's not speculation, there's something going on. These people are running because they're scared. There's something there." So that's what we were trying to locate, and it wasn't. There wasn't any shooter.
Q You mentioned your satisfaction with the SWAT team members who responded and were there. Is it fair to say that the SWAT team has a particularly intense level of training in dealing with active shooter scenarios?

A Yes.

Q And that under the Broward Sheriff's Office policies and procedures SWAT team is dispatched to active shooter scenes as quickly as possible?

A Yes.

Q But other non-SWAT law enforcement officers as part of the sheriff's BSO policy are dispatched to active shooter scenes?

A Everyone is trained to go to the scene and engage the shooter. Anyone that says they weren't trained that way -- I mean, all you have to do is read an article or a book. It's common sense.

Q I'm going to -- I don't know if you are or were familiar with BSO standard operating procedure, SOP, 4.37 known as active shooter, but I'm going to read you a section of it. It's called part C. I'm going to quote it for you and then ask you some questions.
"If real time intelligence exists the sole deputy or a team of deputies may enter the area and/or structure to preserve life. A supervisor's approval or on-site observation is not required for this decision."

You're familiar with that policy?

A Yes.

Q Is there any part of that policy as I read to you, focusing on the use of the word "may" in that policy, that directs or cautions or suggests in any way that a law enforcement officer is not to attempt to contain or incapacitate the perceived perpetrator?

MR. PRIMROSE: Object to the form.

BY MR. KUEHNE:

Q You can answer.

A I will say this: I'm well aware of the wording of the policy. And I will say that I was aware of it because I was part of administration. I will say that probably less than 25 percent of the department reads their policies and procedures. That's just a reality. You put them out, but these guys just don't read them. I know that, okay.

But as a police officer, when you put on
a badge and you take a sworn oath and you have a
gun and you -- everyone knows what your job is to
do. For years we had been training on this, from
Sheriff Jenne to Sheriff Lamberti to
Sheriff Israel. And I can tell you I only needed
the training one time. I could have been trained
back under Ken Jenne in active shooter and I have
enough common sense and moral compass to know what
the right thing to do is as a policeman in that
situation.

Q You mentioned that as a result of a
number of real-life incidents, and you've
described them, training over time has evolved and
changed --

A Correct.

Q -- to meet the new realities. Did the
Broward Sheriff's Office under the tenure of
Sheriff Israel continue to evolve the training as
needed?

A Yes. It was very clear, like I said,
from when it was the wedge to the diamond
formation to what the most recent one was, which
was, hey, if I'm the first guy that gets there and
I'm hearing gunfire, it's not the greatest
position to be in, but guess what? You go in
there and you engage the shooter. It was very clear.

And, again, I think a lot of people are using the "may" word as an excuse for their inaction, for their own personal failures, but that's on them. Because I know the vast majority -- and I only wish that some SWAT guys had responded there that day because I know what they would have done because there was no guess game to it.

Like I said, you take a sworn oath to -- what is the motto of police -- of law enforcement? To protect and serve. Protect. So anyone telling me that, well, I thought about the policy and it gives me an option to not go in, they shouldn't be a policeman, they shouldn't be in law enforcement, they shouldn't have a badge.

Q Is the training given at BSO during the time of the airport incident or -- I haven't asked you questions about later the next year -- the Marjory Stoneman Douglas incident, but focusing on those, was the training at that time on active shooter ever designed to train law enforcement officers to not go to the location of the shooter, an active shooter?
Never. And if I had ever heard that was in the training program, I don't know, I would have had to rethink what I was doing there because that to me, like I said -- and maybe -- and, again, I get a little riled up about this because I am a parent. I am, you know, a career law enforcement officer and I know what the right thing to do is.

Now, if certain individuals were operating in Condition Black, which that's an actual -- it's in the military, where people under high volumes of stress, they shut down physically, mentally. They cannot work through problems. Their body won't allow them. They just can't do it. It happens in the military to well-trained soldiers and it happens in law enforcement, unfortunately, too. That's just the reality. But you should, as an experienced officer, be able to work through that. But, again, everybody can sit back and say what they would do when not in that instance.

Q Continuing with Fort Lauderdale Airport, how long did you stay at the scene that day?

A Well, because when the airport -- we kind of jumped off that, but when the airport
self-evacuated, at that point in time with all
different calls coming in about shooter
here, shooter there, we had to -- at that point
the sheriff said "the airport's closed down" and
closed it.

I then had to make a call. And we had
17 SWAT teams respond to the airport that day.
It's in the after-action. Seventeen teams came
that day. I set up our command post, which is
called the tactical operations center, on the far
east entrance, lower level, Terminal 1. So
outside -- under the overhang but outside the
immediate -- the depth of the airport. We had all
17 teams check in. We had teams come from
Hollywood, FBI, Fort Lauderdale, Coral Springs.
You name it, they showed up. Miami-Dade SWAT
showed up. And we were able to break it down into
quadrants and areas of responsibility and we were
able to clear that terminal -- every terminal, the
parking garage and the car rental center in under
five hours.

And we found people hiding in cars,
underneath cars. And, again, you can't explain
why are these people underneath cars or in their
cars with their hands up in the parking garage.
It was some of the most unexplainable stuff I'd ever seen. Why did people run across an active runway? I mean, they were in fear of something. But nothing ever happened. It was the sheep following the sheep. Once one started running they all started running, and you were not going to stop that.

So we had to clear all that entire property internally, the terminals, the parking garage and the car rental center. Nothing on the exterior as far as private hangars or anything on the outside of the airport. It was just that interior island. We were able to clear that. We did it in a really swift, smooth action. We did it in a really amazing amount of time in my opinion, under five hours to do that much area and find everybody. We found people hiding in broom closets. I mean, it was unbelievable. All of those SWAT teams worked together. All of those teams communicated.

We had the throttle issue, the radio issue, which was a massive problem for BSO, for us, but we were able to use the same thing that, you know, that we had to do at the school. You had to use runners, we used point-to-point radio
channels and we were able to work through it and get it done, and that was with every other SWAT team that was there. Very smooth, very fluid operation. And you can depose any SWAT team leader that was out there that day from the assisting teams and I assure you that they will agree with my assessment of it.

Q You became aware that Deputy Madrigal apprehended the shooter in less than two minutes from the first shots being fired?

A I didn't know who -- I didn't know it was Madrigal initially. That was like the next day I found out the name of who actually was there. That wasn't even a concern of mine initially, you know. I mean, we had a lot more going on. It was a deputy was able to take him into custody in 72 or so seconds. He did an outstanding job. I saw the video on that.

You know, there's a difference between, and I'll say it, Madrigal and Scot Peterson. Because Jesse Madrigal, his event's been downplayed, you know. Oh, the guy ran out of bullets, he laid down on the floor. Well, when you watch the video, you see Jesse running from his checkpoint at Terminal 2 where he was working;
when everyone else is running in the opposite
direction, he's going through them down the
stairs. He didn't know the guy got off a plane
from Anchorage, Alaska and had only a limited
amount of -- he didn't know that. He didn't know
if it was someone that walked in off the streets
that was ready for bear. He went down there ready
to confront that threat. He had the training, the
same training; he just had a better heart and
better mindset. That's what it comes down to.

Q You mentioned a radio throttling issue.
Generally speaking, at the Fort Lauderdale Airport
was the radio throttling issue the responsibility
of BSO?
A No. It was Broward County's radio.
Q Did you as a SWAT team commander have a
way of accommodating or working around the
throttling issue?
A We went to a direct point-to-point
channel. It did work at times. But for me to
communicate with the actual command post, I wasn't
able -- I had to do it through cell phones or I
would run back and physically look at somebody
because I wanted to make sure that I delivered the
message, that it wasn't lost in translation. And
it was effective, it worked.

Q And that was a work-around that you put into place?
A Yes.

Q You and others put into place?
A Adapt, improvise and overcome. You know, you deal with the hand you got. But you can't throw your hands in the air and say, well, the radio doesn't -- we had a job to do and we did it, and all the other SWAT teams did it.

Q The five hours to clear the airport, were you and the law enforcement officers able to at some point determine that the perpetrator or shooter acted alone?
A Through the FBI and a couple of our detectives interviewing Mr. Santiago, you know, he pretty much, I guess, told them that he was -- it was believed that, okay, this is going to be the only guy, it's isolated. But we still had to clear the entire property. It was too involved at that point. There were too many calls, separate calls. It wasn't like just you said, oh, I heard gunfire and then everything -- there were calls from multiple, multiple people on cell phones. You know, there were so many things that confirmed
to a degree that, hey, there's something else
going on here.

Now, after the fact we know that -- it's unexplainable. Why did -- it's just the first
domino fell because of a rumor started by some
airport employees who sent their people running
and we wound up with, you know, a problem, a
bigger problem than what we had, which we had a
homicide scene. And then it turned into, you
know, a chaotic scene for a little while. But we
were able to bring that back together, slow things
down. And you're talking about almost 20,000
people. You have to contain it, slow it down,
bring it back together, get those people together.

You know, and we also -- I didn't
mention that we also had to put bomb teams in with
the SWAT teams as they searched because you had
abandoned bags. And when I tell you there was a
million and one things they came across, some
hunters had gotten off a plane that had rifles, so
they found rifle cases. They found people with
gas cans in their car. I mean, anything that made
you think this was a terrorist event was dropping
into place.

So, you know, I applauded all the guys
that worked out there that day because, yeah, was it chaos? Absolutely. And in my opinion, anyone that's ever been to an active shooter scene or something to that level, if they say there wasn't a level of chaos I'm going to question if they were really there.

Q Have you had an opportunity to review the Fort Lauderdale Airport After-Action Report?

A I reviewed SWAT's portion of it, because that's what applied to me, because I wanted to see what criticisms, what positive things were taken from our day.

Q Are you familiar with the BSO protocol or practice in developing an after-action report?

A No.

Q Are you aware that the --

A I mean, I've written after-action reports. But something to that degree, I'm not sure how -- I wasn't involved in the decisions that were made as to who was going to author it, where it was going to come from. I wasn't part of that.

Q Did you understand that the Fort Lauderdale Airport shooting after-action report was essentially a group effort a lot of people
participated in?

A Yes.

Q Are you aware that there were draft versions before a finalized version?

A Yes.

Q Did you have an opportunity to review, at least as far as the SWAT portion goes, any drafts of a reporting?

A I reviewed, other than what I saw in the Sun Sentinel, but I reviewed the final version.

Q Okay. Did you have input as SWAT team commander or commander in place into the after-action report?

A Yes. I was interviewed several times, once at the airport by -- I couldn't give you his name. I forget who it was. I mean, there were several -- I think there might have been several different after-actions done. I think maybe the airport did one. But the SWAT part of it was exactly the same across the board because it was cut and dried as to what our job was.

Q Did you learn or understand from anybody working with BSO that the after-action report that was finalized was in any way cooked or written to avoid criticism or in any way sanitized?
A No, I don't. As far as sanitizing it, the questions that I answered were basically pretty much what I told you here today. Here's what we started with, a response to an active shooter. They arrived on scene. The shooter was in custody. Two of the SWAT guys actually took him and secured him in a holding room, Mr. Santiago is who I am referring to, and stayed with him throughout the day.

Q That's the perpetrator, shooter?
A Yes. Correct.

And then the other guys cleared their areas. They cleared and they found people hiding in the lower level area of the baggage claim where there was bathrooms, the people that ran out through the opening, the baggage opening onto the AOA. They did what they had to do. So my portion of it was very clear, concise and to the point.

And then everything after that, where it was the 17 teams that arrived on scene to initiate the clearing of the parking garage and all the four terminals and the car rental center, that was all listed because I did an after-action report. A quick sum— -- not a quick summary, but a SWAT after-action is what we call it. And then I had
to submit that. And that's where they got the
bulk of the information as far as the 17 teams
that were on scene that day and how the airport
was systematically cleared via the terminals, the
garage and how we did it, and then once we
secured, how we posted SWAT guys all along.
Because now we had to bring people back and get
them on the buses and we wanted to have them there
to maintain order and also provide a level of
comfort to people because we felt they might still
be on edge, worried is this something -- you know,
because of the lack of information.

You could not -- there was just too many
people where you couldn't get all the information
to everybody. And I think that probably
frustrated a lot of people. That's where some
frustration came in. Because first it was fear,
and then it became, okay, they were good, and then
people started getting angry because, my bag's
inside. Well, you can't get your bag now. What
do you mean? You know, they missed their flights.
You know, so people started to -- you know, the
fear went away and now they were getting angry.
Life came back to reality.

Q I want to move to February 2018.
February 14, 2018 is the day of the Marjory Stoneman Douglas High School mass shooting.

Did you respond to the scene of the high school that day?

A  Yes.

Q  In what capacity?

A  I was the major of strategic investigations. And I was out at the office and I got a phone call from Sergeant Danny Fitzpatrick. And Sergeant Fitzpatrick -- one of our detectives, Rich Olson, got a phone -- found out that there was a shooting at the school.

Danny called me -- Fitzpatrick called me asking if I heard about a shooting in Parkland at Stoneman Douglas. I hadn't heard anything at that point. I had not gotten any information. He told me, well, it's on radio channel -- you know, he told me the channel to go to. So I went out to my truck, grabbed my radio, turned it on, immediately started the car and started heading that way.

And where our office was was near the Broward Mall. It's an undercover location so I don't want to give the address, but it's in that
vicinity, that area. So that just gives you an
idea of how far I had to drive to get to the
school. And I got there, I think, 38 minutes
after the first shot. And I'm going off of the
FDLE commission timeline on that. I believe it
was 38, 39 minutes.

Q When you arrived, what did you do in
your law enforcement capacity?
A When I arrived there, the radio was
already having a lot of problems. It was doing
the throttling issue again. So I was trying to
get on the radio to find out -- now, some
information was -- connection's lost here. I
don't know if...

THE COURT REPORTER: We lost
Mr. Primrose.

MR. KUEHNE: Oh. Okay. Let's take a
moment.

(Brief interruption of proceedings.)

MR. PRIMROSE: Where were we?
(The last question and partial answer
were read by the Court Reporter as above
recorded.)

BY MR. KUEHNE:

Q Do you want to continue with that
Yeah. I was trying to find out where a command post was. Now, I could hear some transmissions intermittently that would come across so I knew that SWAT had arrived and I knew that they were in the building.

So I -- and also while I was in route there I heard a staging location where they wanted people -- units coming into the area to stage, which was on the south side of the Sawgrass Expressway on Pine Island Road, so that's where I drove to park my car, which would put you on the southeast side of the school.

As I was running up Pine Island northbound trying to get on the radio to find out where's a command post -- you know, obviously, I mean, there were police cars from Sunrise, there were tons of BSO cars, Fort Lauderdale Police cars. I mean, you name the agency, everybody was coming there.

What I learned from the airport throttling issue is when the radio channel becomes so overloaded, because so many people go to that channel and that's obviously -- that was apparent because there were just so many cops that were
there.

So as I came out from underneath the overpass of the Sawgrass going north trying to figure out, okay, is there a command post, I was assuming there has to be something in place because it's 40 minutes later. There -- you know, this is -- this has been ongoing. Somewhere there's a command post, I'm just trying to locate it.

And as I'm cutting through, that's when I ran into Chief Tony Pustizzi from the Coral Springs Police Department. When I saw the chief -- I've known Chief Pustizzi for a long time. I think he's a great man, excellent chief of police, fantastic leader. He called to me, actually, when I was going by. He said "Ed," so I looked over. I went over and I asked him, I said -- because at that point there was no -- I didn't know if there were any victims. I didn't know the totality of everything, how severe it was. I didn't -- you know, what was this. So I asked the chief. I said, "Are there any victims? Do we actually have a shooting with victims?"

And he says, "I know of three." That's what he told me.
And I said, "Oh."

So in my mind I started to think Valentine's Day, is this new boyfriend-old boyfriend, you know, whatever the situation is, but maybe a love triangle-type thing.

But you could see all the fire rescue units. And I asked the chief, I said, "Chief, is there a command post established?"

And his words to me, he told me, he goes, "Eddie, I don't know." He goes, "It's so fucked up right now."

You know, it was chaotic. And I agree 100 percent when you had this much going on, you had, you know, a ton of Coral Springs cops there, BSO there, everything, you had all these cops, fire assets there. Yeah, there was a lot going on.

So I then said to him, "Well, let me see if I can get Jordan on the phone." So I went to my cell phone and I tried to call Jan Jordan and it went right to voice mail. It didn't go through.

My next step was I'm going to call Steve Robson, who was now the SWAT commander. He was my former XO. And I knew SWAT was on scene, so I
wanted to know where he was, because having been in his shoes, you know, unfortunately, a little over a year ago, I knew that, you know, he was going to need some assistance. He wasn't at the airport shooting, so I was trying to locate him to see if he needed any help. I did get ahold of Robson, he answered his phone, and he told me he had a TOC, tactical operations command post, set up in the northwest parking lot of the school outside of Building 13. So I said, "All right. I'm on my way," and I hung up on him.

I went to go tell the chief, Pustizzi, he was over with his assistant chief talking, tell him that I was heading over that way, they were involved.

I immediately began heading north on Pine Island towards the command post. As I was going north there's a pedestrian gate, not a -- you can't go through with vehicles. It's the walk-through where Nikolas Cruz entered the campus. As I was passing that pedestrian gate, Brandon Hayes was driving a golf cart with a couple of other SWAT medics. And I'm not sure who they had, but they were tending to a victim that had a gunshot wound. And Brandon said, "Eddie,
can you get some SUVs over here? We need trucks, pickups, anything." I said, "On it." So he kept going in the golf cart, never stopped. He just asked me to line trucks up over next to that gate. So he continued towards fire rescue with the patient.

I then looked over and there was a fire captain. I don't know his name. He was with Coral Springs. He was a dark-haired gentleman with a dark mustache, tan skin. I don't think he was that tall. I said, "Do you" -- and he had an SUV. I said, "Can you get SUVs, trucks?"

He says, "I got an SUV right here and I'll get more pickups." He goes, "I got this."

So I said, "All right, you got it. I'm going to keep going to the" -- now, at that pedestrian gate I could hear on the radio that SWAT said no one come into Building 1200, don't come on the school grounds unless you're SWAT, so I didn't want to cut through the gate. Again, they know more than me. I'm limited with what I have on the radio because it was intermittent, it was in and out.

So I proceeded down running to Holmberg Road and then came up Holmberg Road west and in
through the northwest gate into the parking lot and went to the back of his SUV where he had established a command post.

Q A TOC?
A Correct.
Q All right.
A There intel -- I had intel respond. They responded over there. You had intelligence over there, you had all SRT over there. There were -- Brad Mock from the Coral Springs Police Department, he's the SWAT captain, he was over there. We had our SWAT command in place. And the operators and the medics and everything, they were already taking care of in the interior of the school. We had some other -- Fort Lauderdale SWAT commanders showed up over there. You started getting a lot of command presence. You had Colonel DiMaggio there from BSO, Colonel Dale was there from BSO, Colonel Kinsey was there from BSO, Colonel Polan was there from BSO. Now, they all started coming there at different times. And like I said, multiple other agencies. You had Troy Walker from FDLE come over there.

So that was where the decisions were being made because we didn't have the shooter in
custody at that point. The victims had been transported, the wounded had been transported out. The deceased, you know, unfortunately the deceased, they were still there in place. But you still had kids in some of the classrooms.

And now you have a 47-acre campus that you can't ignore because, again, it goes back to the plus-one theory. Is this one shooter? We didn't -- is it one? Is it two? It was unknown at that time. Obviously with the confusion with the video from the school being 20 minutes delayed, or whatever it is, giving out that information saying, oh, he's in the building when he was long gone. But, you know, you got guys holding these hallways and, you know, information comes in now, oh, he's in the stairwell. No, he's not. These guys are like, I'm in the stairwell. That did not help things.

But at that command post is where you had decisions being made like, okay, we're going to clear Building 1300, then we're going to go to Building 6, 3, 4, 5, and so on, clear the cafeteria, clear the theater. You had to clear all these areas because kids were hiding. Just like at the airport they were -- you found them
hiding in closets, you found them hiding in places that you -- well, jeez, you know, on the other side of campus where they probably didn't hear anything but, you know, they were terrified.

Q As you were on the scene as you've described it, did it appear to you that the officers with whom you interacted functioned in response to active shooter training education?

A Absolutely.

Q Did you have an understanding at the time you arrived and during what you've described that any of the officers with whom you interacted had no clue what to do in responding to that situation, a potential active shooter situation?

A By the time that I had gotten there, everybody that I had seen -- it appeared to me everything was working the way it was supposed to work. Now, obviously I wasn't aware of the initial response. But everything that was in place from when I was there that I personally observed was working the way that we had been trained to do. Again, it went back to, from a SWAT perspective, that school was cleared systematically. The building, unfortunately, where the shooting occurred, those guys that
cleared that area, they did what they were
supposed to do systematically whether they were
Coral Springs guys, BSO guys or anyone else that
went in that building. To my knowledge, those are
the only ones that went in the 1200 building. But
the other buildings on campus that were cleared by
the multiple other teams, again, the FBI came out,
was a very well-coordinated, smooth process. They
did what they needed to do. They were able to get
those kids out.

And one of the other things was -- and
it wasn't just a simple "all right, let's escort
them out this way." One of the other things we
took into consideration is these are kids. They
just went through a very traumatic experience
regardless of whether they were in the 1200
building or not. Because I watched these kids
walk out and they were crying and they were
rattled, and they were from across campus.

We had two victims outside. You had
Coach Feis [redacted]. And he was a
very recognizable person. He was a large man,
shaved head. You know, you would be able to know
who he was if you knew him from across the
[redacted]. You had Jaime Guttenberg [redacted]
So now -- and it was graphic. So now you have to get these kids, hundreds of kids -- I think it's thousands because of the population of the school -- out. The only way we could take them to where we could contain them, because we didn't want to lose them into the Sawgrass or any other ways, we created -- we got as many police officers as we could to create a barrier wall, a police shield, and kept those kids walking, to keep their heads down, you know, look down, keep walking to distract them so they didn't see what was laying in the courtyard. You know, that was part of it as well. It wasn't --

Q Is that response part of your training that you've gotten over the course of --

A No.

Q -- time as an officer?

A No. That was just the right thing to do knowing the situation. It was a school. These are children. This is the most horrific thing that you could ever possibly think of. We all went to school. And I can tell you when I went to school, I never ever thought about something like that happening.

And we as people -- and that's what
impressed me with all these other -- they weren't people that I knew. Some of them were cops I had never met, but they knew that we wanted to build that shield to try to prevent those kids from seeing what we couldn't hide because that was the only way we could get them out of the buildings they were in and off the property, you know.

Q Did you participate in any after-action report for the Marjory Stoneman Douglas shooting incident?

A I didn't participate in an actual after-action report but obviously was involved in the commission.

Q Okay. The Marjory Stoneman Douglas Commission?

A Correct.

Q Okay. And what was your involvement?

A Just that -- I wound up --

Q You provided information?

A I had provided the information basically that I just had mentioned to you about when I arrived.

We lost him again. It says, "Connection lost." I don't know when.
(A recess was taken at 4:10 p.m. after which the following proceedings were had at 4:22 p.m.):

MR. KUEHNE: Okay. We are back on the record. I apologize for the technical glitch, but our Veritext people came to the rescue.

BY MR. KUEHNE:

Q Okay. So I was asking about --

MR. KUEHNE: Actually, could you refresh me.

(The previous question and answer were read by the Court Reporter as above recorded.)

MR. KUEHNE: Okay. I have no further questions and tender the witness to Mr. Primrose.

MR. PRIMROSE: Okay. Thank you.

CROSS-EXAMINATION

BY MR. PRIMROSE:

Q I don't have many for you. I've got a couple of questions, though.

When you had mentioned arriving at the scene of the airport, you had mentioned that there were some people making decisions that weren't
similar to the decisions of Mr. DiMaggio.

A Right. No, what it was was the airport, the BCAD, for lack of a better term, I guess command, the Broward County Aviation Division department heads, it seemed that they were more interested -- I mean, obviously they recognized what it was and that it was a horrific scene and it was terrible. They weren't discounting the victims as to what happened, but obviously I think that their primary focus wasn't law enforcement's primary focus. Their objective was to try to get the airport -- and this is my opinion from what I saw and what I heard. Their ultimate objective and goal was to get the airport back to normalcy as soon as possible to not impact revenue. So there seemed to be some discord there.

Q Now, the BCAD is not the law enforcement entity that protects and secures the airport; correct?

A Correct. But I'll give you just a quick example. During the SWAT portion of it -- I mean, they -- it is their little island let's just say. So they have the -- they hold all the controls there. I asked them for the -- for a blueprint of the airport property just so we could coordinate
from the SWAT talk, you know, areas of responsibility. And the person that was detached to me -- and, again, I don't remember his name, but it's all documented -- he turned around and he said, "I don't think I can get you that."

And I said, "Well, I need it. You know, this is critical to the operation here. We need the blueprints to know what we have."

And about 15 minutes later he came back -- now, we didn't stop. We continued to move forward. I mean, we're not going to wait. But it would have been a nice -- it would have helped us move along a little bit swifter. In the end he came back, he goes, "No, I'm not allowed to give you those." I didn't even get into -- it wasn't going to turn into an argument there. I didn't have time for that. I just pretty much dismissed him at that point as useless to me and we continued doing what we were already doing. It would have just been nice to have.

But that's just an example that I personally can give you where this is a law enforcement operation but yet we're forced to work with an outside entity such as BCAD who holds some of the valuable information that they wouldn't
share. Whether it was wouldn't or couldn't,
didn't have it, it was just he came back and told
me, "I can't give it to you."

Q So was that the first time that SWAT had
been out to the airport to discuss these types of
issues was in an actual situation of a response?

A No. We had trained there before. As
part of the SWAT training program, every year we
did aircraft training. We did aircraft assaults
and we also trained how would we enter a jet
bridge, a jetway going -- leading to a jet if
there was a barricade there, how would we
handle -- we actually did do an active shooter
training drill a couple of years earlier after
hours when the airport was, you know, limited
operations, there wasn't a lot of flights, closed
terminal area and we did active shooter response
there. So we had done some training in the past,
and we're heavily involved with airport security
operations.

Q I guess my question is: The issue of
receiving of blueprints, that was never -- to your
knowledge that was never discussed as, If we're in
an active shooter situation BSO is going to become
command of the entire airport, not this aviation
department"?

A  Right. I think what it came down to is because there had never been an incident it's one of those things, unfortunately, I think -- and this would be for every department in my own opinion across the country -- that until they find themselves in a situation or there's a lesson to be learned from somebody else's experience, you know, you think that you're going to be able to go there.

I'll be honest with you. I assumed, which was my fault, that if you ask for the blueprints from the aviation division of Broward County in this type of circumstance, you request something like that, it's going to be provided. You know, I mean, we deal with private entities when we go -- if this building here was part of a barricade or a target and we asked building management can we get a copy of the building -- I mean, I can tell you that the SWAT team does not have, unless they've received them since my departure, we don't have blueprints of most of the county buildings in Broward. You know, it's just one of those things. There's so many of them that you would just assume -- now, I
can tell you this: Still don't have blueprints to the airport because it's not as easy as you think. BCAD, it's very territorial I suppose would be the right answer. It's always what if you lose them and then they fall into the hands of -- which, you know, is insane to even bring that up. But that always seems to be the argument.

Q Okay. So I guess another question, though, would be: Wouldn't there be a protocol in place specifically for the airport that in an active shooter situation all decision-making is to be transferred to the incident commander versus anybody else who might need it?

A Well, I can answer this question now that I'm no longer in Broward County -- under Broward County employment. You are -- I agree with you, and that theory is great, but the reality, it's far from it because of the politics that come into play.

I can tell you that day at the airport you had the mayor of Broward County claiming to be the one running the show, you had the BCAD airport director wanting to be the one running the show and, you know, then you had the sheriff trying to deal with both of them.
I agree with you that there should be a state-mandated protocol that in these type of instances where it's a police matter, which it was clearly, that that -- whether it's a chief of police or a sheriff, they have the ultimate say as to what's going to happen at the airport.

But I'm telling you a Friday afternoon, two o'clock in the afternoon, the first of the year, you better believe that none of those people, other than the sheriff who was looking at it from a law enforcement perspective, was thinking about that. They were clearly focused on getting things operating normally as soon as possible.

Q Okay. Who was incident command during the Fort Lauderdale Airport shooting?

A There was -- Colonel Jack Dale was there and Colonel Mike -- well, he was Lieutenant Colonel Mike DiMaggio because it was an investigation, a homicide investigation. Again, the active portion of it was well over. Shooter's in custody. Again, like I had mentioned earlier, you know, the scene was secure. People were corralled that we needed to interview. So from an investigative, it was Mike DiMaggio and Jack Dale
that were making, for me, all of the decisions that I recognized. And it was efficient. It was -- there were no issues at that point. Everything was -- what needed to be in place was in place. It was secure. It wasn't until the panic ensued an hour and a half later.

Q Okay. I know you said that SWAT as its own entity or unit did training at the airport prior to this event happening.

A Well, I can tell you that -- and training would have the actual dates and records. The night that we did the active shooter training operation there in the terminal, that was in conjunction with road patrol, because obviously they would be the first -- the tip of the spear. They would be the first ones there and then we would have to come in and try to mitigate and operate through them and get whatever intelligence we could and transition into taking over as the primary.

Q Was there in your -- based on what you
know, was there ever a full-scale exercise done at Fort Lauderdale Airport to kind of be prepared for a situation like what happened?

A We had done a full-scale exercise I want to say two years, maybe three years ago. It was called Operation -- it was part -- what it was done through, it was a grant, a federal grant.

And because the airport and the seaport down here -- I don't know if you're familiar with the geography of this area, but they're about a mile apart is all that separates them. And they -- God, I wish I could remember the name of the operation right now. But it was Chief Greg Holness, Greg Holness with Broward County Fire, he was the chief of the port at the time and he was the one that set this exercise up. He could get you the exact dates and everything.

And what it was was they had an active shooter in a cruise ship terminal. I want to say this was 2015, 2016. They had -- Operation Vigilant Port. That's what it was, Operation Vigilant Port. And what they had to do is they had an active shooter in the cruise ship terminal over there. Road patrol responds and then SWAT responds after the initial response of patrol.
And then once we came in, it had turned into -- it moved from the terminal area. The bad guys got onto a -- they had a freighter at the back of it. And then at that freighter we had to assault the ship and find these guys. But then -- you know, they scripted it like something out of 24, where it transitioned because of location, being so close, that the coordinated effort then went and they hit the airport and they took over a plane.

So BCAD actually has an old FedEx cargo plane that they use that we were able to get for fire training and law enforcement training. So it transitioned over to that location where it was on an aircraft and it was a part of the runway where they drove a car through the fence line along the north side of the airport.

And actually, you know who came in for it? It was in the -- she was in the Obama administration. So this exercise took place before the election. She went -- Fong or Wong. She was the Homeland Security -- not director. She's now the chief of San Francisco PD. I'm sorry if I'm confusing you. I'm just trying to give you all the information.

So, yes, there was a large-scale
exercise between fire, police, active shooter to a terminal and then it moved over. And this was before the airport shooting in 2017, so it was definitely 2015.

Q Okay. And the reason I ask that is, in one of the after-action report versions they don't mention any full-size exercise -- full-scale exercise occurring at the Fort Lauderdale Airport in the years before, but they do reference a February 2016 exercise called Operation Heat Shield which was down in Miami-Dade County.

A Yes. Heat Shield, that was part of the Regional Domestic Security Task Force. Are you familiar with RDSTF? You're up in Region 1.

Q Yeah.

A All those -- so every year now -- and it started in 2016. Every year February, March, they just did the last one a couple of weeks ago, we do these full-scale exercises as a region for regional response with multiple different locations in the tri-county area. We did Palm Beach last year, and then the year before was Miami-Dade, and this year was in Broward, Miami-Dade and Palm Beach. And the airport was not -- in the Heat Shield that you're talking
about there was an airport portion of it, but,
again, it was an aircraft assault, and that was at
MIA.

Q Okay. And then my -- I just want to
make sure that I've got this right.

Other than the exercise that you
described before with the seaport and the airport
in this 2016 -- the regional one, that the only
other training, not for SWAT but for the BSO
airport district law enforcement, is a yearly
tabletop exercise versus a real-life scenario, you
know, exercise. Do you agree with that or do you
disagree?

A I don't know of -- other than what I
told you earlier, and I'm not sure of when the --
the terminal exercise that I had mentioned, where
it was an active shooter specifically addressing
the terminal, and we did it in Terminal 3 that
year, but I'm just not sure of the year, whether
it was 2012, it could have been 2013 or -- that
you'd have to check with training, but it was done
at the airport.

Q Okay. What's your -- in the
after-action report, the authors of that put in
there that there was some -- a failure of --
there's a deficient BSO airport district command that led to some failures in the response to the shooting after the shooter was apprehended, the aftermath. Would you agree with that statement?

A From my position, no. Because, again, I was still dealing with Colonel DiMaggio, who was my direct boss. He was who I recognized and, as far as I was concerned, was the incident commander because he was making the critical decisions that affected me.

Now, I think that what that stems from -- because to tell you there was not confusion, that would not be the truth because there was. But I can tell you that what played a big part of that problem and that confusion or maybe what people perceived as a lack of command was the radio. If you can't communicate over a radio -- if I can't tell you when you're on the other side, you know, a mile away from me, half a mile away from me, hey, I need you to do this, it's ineffective. And now you're standing a half a mile away from me going what are they doing, who's in charge here? Because you couldn't get on the radio. You couldn't transmit.

And, you know, I'm going to tell you
right now that when I -- I assumed, again, I
thought that Broward County had fixed the radio
problem after the airport. I thought that that
was a critical failure that contributed to some of
the problems that day. And now I know that it was
another critical problem with the aftermath of
MSD. It presented a great problem because --
again, it wouldn't have been a big deal, you know,
if we went and it was a house, one structure or
one isolated area, but you're talking about
47-acre school property. And then looking at the
airport, another -- I don't even know how many
acres that that eats up. But these are large
properties. And to not be able to have an
efficient, effective radio system to communicate
with, it makes it very -- you're restricted. It
just limits you.

Q Okay. I want to talk -- you mentioned
the knowledge about the active shooter policy
having been ingrained in the officers from the
moment they kind of take their oath to protect and
serve, but you also -- I mean, you also recognize
that the policy wasn't followed, at least to your
understanding, in the Marjory Stoneman Douglas
shooting; correct?
A The policy, you know, with the "may" opposed to "shall," what I meant by that is, you know, "shall" or "may" unless you're -- I don't think that -- I don't think a lot of guys understand the difference between the two words. I really don't. And I don't think that they understood it until it was actually brought to the forefront during the course of this investigation.

My feelings are it's guys are using it as an excuse. I said that -- you know, we send out -- there's a lot of policy change throughout the year in any administration, there's a lot of amendments that go out and I'm almost -- I would be willing to guarantee you, if you could ever audit people's computers, they delete it before they even read it because it's just, you know, it's just nonsense in their minds.

Those guys that went there that day, there is no way in hell that they were considering the policy. And if they were and a word is what deterred them or made them feel that they should stay outside or not go in and not act, if that word is what dictated that, they should have rethought their careers a long time ago.

That's just, you know -- I mean, look, I
would be -- it's like when you open up a newspaper and you read an article where a guy in Oklahoma sitting in a McDonald's shoots a guy and all he has is a concealed weapons permit, but he stops a robber from robbing the store and maybe killing people there. Well, he has no training, but he knew what to do and he had the mindset. And that's what I think it comes down to.

And it's frustrating for me because, you know, I live in Parkland. I moved there. My wife and I moved there two years ago, because we have a little daughter, for the schools. I'm four blocks from Stoneman Douglas. I drive by it every day I leave my house to go to work. And when I go running, I gotta run by it. So I have a constant reminder. And it just bothers me when people, certain individuals are trying to hang their hat on a word to excuse their inaction. It drives me nuts.

Q And I don't know if we covered -- if when Mr. Kuehne was asking you questions he covered this, but how often are you getting trained on what the active shooter policy demands of you as an officer and that you will follow the policy, you know, when you're -- when you've got
the badge on and you're working as an officer?

A I can tell you in every training class outside of SWAT that I ever went to -- because SWAT we, you know, obviously those guys know exactly what to do. I can tell you that Mel Murphy and the guys that were in that training division that taught tactics, they were very direct. John Kelly had it before that and he was in charge, Sergeant Kelly, he was very direct.

These guys knew what to do.

And I just -- as a policeman, I know what to do. As a civilian, as a guy who is licensed -- I got my concealed weapons permit now. I know what I would do if I heard gunfire in this office right now. It's just for the average person 100 percent it shouldn't, you know, it doesn't come into play. But for a policeman that goes to that training -- and like I said, I only needed to go to that training one time. And it all really ramped up after Columbine in '99. And, again, the tactics varied and they changed subtly over the years because, you know, initially it was go with the wedge formation, a diamond, you know, two-man entry. And then as time went on and you started to see more and more victims people
realized, no, first guy there with a gun's got to get in there and stop it.

It is a known -- it is a -- I assure you if you polled police departments across the country and said "answer this question," they're all going to answer it they know that you go after the shooter. That's your job. You're supposed to distract him, take the attention away from the victims and put it on you. It's terrible. It sucks. But that's what -- you know, I don't like using the term "that's what you signed up for," but yeah. You know, you go to violent domestics, you go to robberies in progress. I mean, that's part of it.

Q Well, isn't it -- is it factually accurate that the active shooter training is something -- it was broken up into two four-hour courses that were completed sometime between 2015 and 2017? That would have been like the retraining or the in-service training that was received?

A From my understanding, the reason why it was broken up into four-hour increments was a lot of people complained about the eight-hour training day. They didn't feel that it was effective
enough. You lost people's attention whether because it was hot or this or that. And then the other thing was also staffing. From what I was told, because it was so many people that were required to go through training it put the district at a disadvantage from a staffing perspective. So that's why -- and, again, you'd have to get that accurate, actual answer from the training cadre, but that was what I was of the understanding.

Q Well, but I guess -- so you're agreeing, though, it was -- it's two four-hour blocks of training on active shooter, and that was something that -- my understanding, and correct me if I'm wrong, is that all of the deputies under BSO had to complete this between 2015 and 2017?

A Yes. And I can tell -- I remember the scenarios that they had set up, because obviously they have to have the logistics to facilitate the training. And they did it out at Markham Park in the shoot house. And the way that they did it is they had two men -- you know, you pulled up in a police car. It was more of a response to a domestic or a suspicious incident. And then when you got there, shots started ringing out. And
then you had to get into the shoot -- you know, the shoot house there and maneuver through and engage the target. But you also had to be cognizant of your surroundings because they didn't want you to drop your guard because they had someone come out and ambush you if you weren't paying attention from the wood line.

So, I mean, they did have the training in place. And, again, like I said, I needed to only hear that training one time.

And most cops -- before Stoneman Douglas, I guarantee you if you had asked any of those guys what would you do in an active shooter, their answer would have been, oh, I'm going to get in there and engage. I guarantee it. But there's a difference between saying it and doing it. When there's actual gunfire -- I mean, everybody wants to be the hero and say what they would do, but when it's time to put the rubber to the road, sometimes people just can't.

Q Right. And I guess -- so was there -- that 2015 to 2017 block where they had to complete the two four-hour courses, was there a yearly training for all deputies or was it you do your training, you do your two four-hour blocks and
then you're good for two, three, four, five years, something like that, until you do it again?

A It seemed like it wasn't -- for me there wasn't that much of a separation between the active shooter stuff. It seemed like every year they were always trying to incorporate some type of violent encounter training, where you were going to be confronted and maybe have to take lethal force or something in that sense. But it seemed like we were constantly at training because of all the FDLE requirements and the mandates that are required by the state on top of what as an agency you want to get across to the troops on the ground.

So I thought that our training division, I thought they did a good job. I thought the instructors were passionate and I thought they covered the material very well. They were direct. Mel Murphy, I'm sure you've heard his name a ton of times if you've been talking to people, he's one of the best trainers in the country, forget about just the state. I mean, Mel Murphy knows his stuff. He takes this stuff very serious.

And, you know, granted there were the types of courses -- the de-escalation and things
like that, but it's what was the -- you know, what was the requirements at the time. You were coming out of Ferguson, you know. You were coming out of that era hands up, don't shoot, where the police -- you know, you had all that going on with de-escalation and talking things out. That was the forefront. You know, that's -- the president of the United States was pushing that agenda and, you know, law enforcement was too aggressive. If you remember, you know, we need to demilitarize law enforcement and take away, you know, the armored vehicles and stuff.

So there was a lot of other requirements I think that went in, but I certainly don't think the agency was deficient in its tactical training. Because I know those instructors, and the last thing they want to do is attend a police officer's funeral because they failed to train them to be tactically proficient.

Q Right. You had mentioned that the "may" versus "shall," you thought people are using that as an excuse for not doing their job. I'm wondering, then, if you're aware of Sheriff Israel's testimony to the Marjory Stoneman Douglas Commission where he defended the "may" in
giving discretion to the deputies because he, quote, "Didn't want them engaging in suicide missions."

So how do you take that comment of, well, the "may" is in there to give discretion about entering into a situation where you might interact with a shooter versus no, everybody knows that you go and engage the shooter, that's objective number one?

A The only thing I can think of from an administrative point -- because a lot of times when they're writing these policies they're thinking of it from an administrative stance. The only thing I can think is that you're giving a deputy the option to, well, let me see, I have to get in there but do I have to go through that door, am I mandated because this is where I know it's coming from or can I seek another route, you know. Well, you know, a guy gets shot in the leg because he did this, he sues the agency and he says, well, you said I had to go through that door when -- it's just language. It's language.

Common sense has to be the biggest key in any -- and should be probably the biggest thing that a police officer should have as a trait is
common sense because, okay, I know I need to get in there. But if I know he's behind that door there and I'm going to just get shot, I'm ineffective. I'm going to come through a window or I'm going to come through another door, but I'm going to get in there. Or I'm going to cause a distraction outside, whether it's shooting into the ground, into the wall, something to make him think I'm coming through. Who knows.

I mean, it's just -- you know, the "shall" or "may," like I said, those guys that responded there, if you went to a shooting call and you want to tell me after the fact that you pondered the policy, I would say you need to rethink your career because you shouldn't be thinking about shall, may, what do I do. You should be thinking about how do I get there, how do I stop this guy, how do I get in there. That's the bottom line. And that's why -- I'm sorry to keep -- this poor woman's typing so fast. But I'm very passionate about this because, you know, my daughter's going to go to that school one day, you know, so. It's just to me, sir, that wording of it, you know, to me it's inconsequential in a sense because none of those guys that were there
that day considered the policy. And if they did, shame on them.

MR. PRIMROSE: Okay. Mr. Kuehne, I don't have any other questions. I appreciate you coming here today.


MR. KUEHNE: There is, as you know, a read or waive with depositions. This deposition will probably be transcribed. I will assure you that as soon as it's transcribed, I'll send you a copy.

THE WITNESS: Okay.

MR. KUEHNE: You can waive reading. It doesn't affect your ability to say, no, I didn't say that, and you can make changes, but at least it allows us to expedite getting a transcript.

THE WITNESS: I mean, normally I would always read because other things could pop up in my mind and I just -- if something does come up that refreshes my memory to something, because it has been a while between the two incidents, I just want to have the ability to reach out to the two of
you.

MR. KUEHNE: You will get the transcript immediately the same time the lawyers get it. We will send it to you and you can do whatever you would normally do by updating, errata, supplemental --

THE WITNESS: Okay.

MR. KUEHNE: -- calling us, you name it.


MR. KUEHNE: Okay. Thank you.

THE WITNESS: That works.

MR. KUEHNE: And we have your e-mail address. I have your e-mail address.

THE WITNESS: Yes. If either one of you need anything else, just please call me.

MR. KUEHNE: Thanks so much. Appreciate you being here.

(Witness excused.)

(Thereupon, at 4:54 p.m. the deposition was concluded.)

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---82---
CERTIFICATE OF OATH

STATE OF FLORIDA  )
COUNTY OF BROWARD )

I, Carol Ann Kridos, Registered
Professional Reporter, Notary Public in and for
the State of Florida at Large, certify that the
witness, EDWARD GRANT, personally appeared before
me on June 5, 2019 and was duly sworn by me.

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

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

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.

___________________________
EDWARD GRANT

SUBSCRIBED AND SWORN before and to me this ____ day of _____________, 2019.

_________________________
Notary Public, State of Florida
My Commission Expires:

REASON FOR WITNESS'S NON-SIGNATURE:
_____ WITNESS FAILED TO APPEAR
_____ WITNESS COULD NOT BE LOCATED
_____ WITNESS IS ILL
_____ WITNESS REFUSED TO SIGN
_____ OTHER _____________________
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REPORTER'S DEPOSITION CERTIFICATE

I, Carol Ann Kridos, RPR, certify that I was authorized to and did stenographically report the deposition of EDWARD GRANT, the witness herein on June 5, 2019; that a review of the transcript was requested; that the foregoing pages, numbered from 1 to 82, inclusive, are a true and correct transcription of my stenographic notes of the deposition by said witness.

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

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

Dated this 7th day of June, 2019.

_________________________________
Carol Ann Kridos, RPR
Notary Public - State of Florida
June 7, 2019

Edward Grant
c/o BENEDICT P. KUEHNE, ESQ.
KUEHNE DAVIS LAW, P.A.
100 Southeast Second Street
Suite 3550
Miami, FL 33131

RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Edward Grant
TAKEN: June 5, 2019
READ & SIGN BY: July 7, 2019

Dear Mr. Grant,

This letter is to advise you that the transcript of the deposition listed above is completed and is awaiting reading and signing. Please arrange to stop by our office in Suite 2250, 2 South Biscayne Boulevard, Miami, Florida to read and sign the transcript. Our office hours are from 8:30 a.m. to 4:00 p.m. Monday through Friday. Depending on the length of the transcript, you should allow yourself sufficient time.
If the reading and signing has not been completed prior to the referenced date, we shall conclude that you have waived the reading and signing of the deposition transcript.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

cc: All counsel on appearance page.
June 7, 2019

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

RE:  SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF:  Edward Grant
TAKEN:  June 5, 2019
READ & SIGN BY:  July 7, 2019

Dear Counsel,

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

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

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL

One East Broward Boulevard
Fort Lauderdale, Florida
June 7, 2019
11:16 a.m. - 1:06 p.m.

DEPOSITION OF STEVE KINSEY

Taken before Lilly Villaverde, Florida

Professional Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of Taking
Deposition filed in the above-mentioned cause.
APPEARANCES:

BENEDICT P. KUEHNE, ESQUIRE
ben.kuehne@kuehnelaw.com
Kuehne Davis Law, P.A.
100 S.E. 2nd Street
Suite 3550
Miami, FL 33131
on behalf of Sheriff Scott Israel

NICHOLAS A. PRIMROSE, ESQUIRE
Nicholas.Primrose@eog.myflorida.com
Executive Office of The Governor
The Capitol
PL-05
Tallahassee, FL 32399
on behalf of Governor Ron DeSantis
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EXAMINATIONS

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EXHIBITS

NUMBER DESCRIPTION PAGE

No exhibits were marked.
THEREUPON:

STEVE KINSEY

called as a herein, having been first duly sworn, was

examined and testified as follows:

THE WITNESS: Yes.

DIRECT EXAMINATION

BY MR. KUEHNE:

Q. What is your name and spell your name, please.


Q. Mr. Kinsey, you are a retired law enforcement

officer?

A. That's correct.

Q. Is it all right if I call you Mr. Kinsey or

Steve during the course of this deposition, without

meaning any disrespect for --

A. Either is fine.

Q. -- your service.

My name is Ben Kuehne. We met for the first

time just as I was arriving late for this deposition,

and for that, I do apologize. I am counsel for Sheriff

Scott Israel in connection with Senate review of his

suspension and I've caused a subpoena to be issued to

you for your appearance today at a deposition in this

case.
MR. KUEHNE: Mr. Primrose, would you announce your appearance.

MR. PRIMROSE: Nicholas Primrose for Governor Ron DeSantis.

BY MR. KUEHNE:

Q. Okay. I will be asking you questions about information that is related to the suspension review, but primarily about two specific events. One known as the Fort Lauderdale-Hollywood Airport shooting incident. I'll refer to as the airport shooting incident in January of 2017.

You're generally familiar with that incident?

A. Yes, I am.

Q. The other major event that I will be asking you about is known as the Marjory Stoneman Douglas High School shooting. That was February 14, 2018.

You're familiar generally with that matter?

A. Yes, I am.

Q. I'll also be asking you some questions about BSO training issues and matters that I suspect you have some knowledge.

Let me ask you first to provide a narration of your law enforcement experience.

A. I started the police academy in January of 1992. I was actually hired in 1991 by the City of Fort
Lauderdale Police Department. I worked road patrol. I was a narcotics detective.

1999, I was promoted to sergeant, went back to road patrol and then went back to narcotics. 2002, I was promoted to the rank of captain.

At the time, Fort Lauderdale did not have lieutenants, which is why we went from sergeant to captain, back to road patrol and then eventually back to narcotics for the third time as the captain for the special investigations division.

In 2008, I was promoted out of that division to assistant chief, jumping the rank of major, and was assistant chief from 2008 till 2013 when I retired after 21 years.

I retired as an assistant chief of operations, which is all of road patrol, specialty units, such as canine, motors, marine patrol, the SWAT team, all of those type of non-administrative duties.

Following that, in January of 2013, I joined the Broward Sheriff's Office as a colonel. I was the colonel in charge of the investigations division, which comprised of the special investigations division, the criminal investigations division and what we call CPIS, which is the Child Protective Unit.

On March of 2013, I was promoted to the
position of undersheriff and I maintained that position until I left the agency in January of 2019, after six years.

Q. Describe the position of undersheriff at BSO.

A. Undersheriff is pretty much responsible for most of the agency. It's easier to tell you what wasn't under my command than what was, but you have 5,500 employees.

The Office of General Counsel did not answer to me. At the time it was led by Ron Gunzburger. They answer directly to the sheriff. The sheriff's chief of staff answered directly to him and Colonel Dale, who was overseeing professional standards and internal affairs, answered directly to sheriff on most matters.

I had everything else, which includes the Department of Law Enforcement, which is your road patrol, your SWAT team, that type of thing. I had investigations most of the time. Jack Dale had it for a few -- a small period of time. I had all of the jails, which comprised of five jails, the Department of Detention.

I had the entire communications division, which was about 447 people handling regional communications.

I had the community outreach folks, community services, which is pretrial and post-trial services provided to
people that have been arrested or are going to be arrested.

I had department of administration, which is basically your budgeting and financing. I think that covers it.

Q. Okay. In respect to all of those areas, were you largely the senior person subject to the sheriff's oversight?

A. Senior, as far as rank was concerned?

Q. Authority.

A. Yes, sir.

Q. So when you say that you were in charge of those divisions, you were subject to any sheriff review, the decisionmaker in those units?

A. Yes.

Q. Where did training fall?

A. Training falls under Colonel Dale. That wasn't one of the things that I was responsible for. Again, in part, there's two types of training. You have your training division and then you have training that goes on every day on the road patrol in each individual district.

I mean, every day there's some type of call training, briefing training or some type of training at the district. That, I would have been
responsible for, because that was the Department of Law Enforcement or Detention, but if it was a training class, so to speak, or some type of centralized training, that was under the command of Major Kevin Schults and Kevin Schults answered directly to Colonel Dale.

Q. And with regard to training, you mentioned that that was under the control of Colonel Dale. Did you have, in your position, knowledge of training protocols at the BSO?

A. Yes.

Q. Were you aware of training on topics that involve active shooter?

A. Yes.

Q. At the time that you were in this position as undersheriff, did you know whether the Florida Department of Law Enforcement or any State of Florida credentialing or accreditation agency required specific agency training on active shooter?

A. I'm not sure that it was specific to active shooter. BSO had several different accreditations, including CALEA at the time, but as far as actually saying specifically there was active shooter training, I don't believe that there was.

Q. Did -- let me just make that clear. You don't
believe there was a requirement for specific active

shooter training?

A. Correct.

Q. But were you aware that BSO did, in fact,

include active shooter training in its training

protocol?

A. Absolutely.

Q. And that sworn law enforcement officers were

required, over a period of time, to attend and complete

active shooter training?

A. Yes.

Q. Who was in charge of training, not Colonel Dale

the overall in charge, but in charge of the training

division during, let's say, the 2016 to 2019 time frame?

A. Major Kevin Schults.

Q. Did you have experience with Major Schultz's

command of training?

A. I did.

Q. Did you find him to be knowledgeable and

competent, in your experience, as undersheriff in the

training area?

A. Absolutely.

Q. Were you aware of any of the specific people

who were involved in training, such as a Deputy Mel

Murphy?
A. Yes, I know Mel Murphy.

Q. And you know Deputy Murphy was a trainer in the training department?

A. Yes.

Q. Did you consider Deputy Murphy to be knowledgeable and skilled in training?

A. Absolutely.

Q. Did you attend training yourself?

A. I did.

Q. And during the time frame that you've mentioned, as a law enforcement officer, were you continuously certified in good standing as a law enforcement officer?

A. Yes, I was.

The screen just went out.

Q. That happens.

MR. KUEHNE: Nick, you're still there, but not on video. So let me just see if I can do it easily without having to contact them.

(Off the record.)

BY MR. KUEHNE:

Q. So I was asking you about Deputy Murphy and his -- his knowledge of training.

Did you find him to be knowledgeable and competent?
Q. You have been a continuously certified law enforcement officer up to the time of your retirement?

A. Yes, sir, from '92, when I got my certification when I left the police academy, all the way through 2019.

Q. Okay. And you met all of the required trainings protocols to keep that certification?

A. I did.

Q. Did BSO, during the time you were undersheriff, make certain that all of its sworn law enforcement officers met the required training standards and kept certification current?

A. Yes.

Q. Was that part of the maintenance process of BSO?

A. Absolutely.

Q. At any time during your tenure as undersheriff, was the BSO identified as being non-compliant by any accreditation agency or certification agency in any aspects of training?

A. No.

Q. Were you familiar with training done by other non-BSO law enforcement agencies during the time that you were undersheriff?
A. As far as?

Q. Communication with other agencies, participation in seminars, joint conferences, joint task forces, et cetera?

A. Absolutely. We were very involved in all kinds of task forces, state and federal. Some of them we just had members of the agency join another task force. Some of them we actually hosted ourselves, as one of the lead agencies.

All kinds of conferences were attended at my level all the way down to deputies and we would have several exercises in conjunction with, not only agencies in the county, such as Fort Lauderdale or Hollywood, but also in the region. We trained with the Miami-Dade Police Department. We trained with the Palm Beach Sheriff's Office on mass casualty types of events.

Q. Did you also -- strike that.

Were you also aware of any training exercises with federal agencies?

A. Yes. The FBI was involved and some other federal agencies as well. They are part of the -- a lot of task forces we are a part of, whether it's interdiction at the airport or joint terrorism task force, things such as that.

Q. Did the BSO, during your tenure, receive any
25 federal government funding in law enforcement matters?

1 A. Yes.

2 Q. And is that something that was within your assignment, overseeing federal funding?

3 A. At times, when I had the administration department, I would say, yes, but I couldn't speak to the ins and outs of each and every grant that we received, because we had so many at the state and federal level.

9 Q. Was there ever a time, during your tenure as undersheriff, that BSO was deemed insufficient or non-compliant with any terms of a federal grant?

12 A. Not to my knowledge, no.

13 Q. Were you aware whether the federal government had a requirement or a protocol to review grant compliance for BSO as a recipient of grant money?

16 A. I'm sure they did, yes.

17 Q. And did BSO at any time, as far as you know, identify any deficiencies in its requirements of fulfilling the grant?

20 A. No.

21 Q. I -- you mentioned BSO had about 5,500 employees, many of whom were under your supervision and oversight as undersheriff.

24 That 5,500 includes non-sworn law enforcement
25 officers, in addition to sworn law enforcement officers?

1 A. That is correct.

2 Q. Does BSO have policies and protocols, particularly for compliance, by sworn law enforcement officers?

5 A. Yes.

6 Q. Is that through the Department of Law Enforcement largely?

8 A. Well, for all the sworn members of law enforcement, yes.

10 Q. I'm going to ask you generally about policy -- Standard Operating Procedure Policy 4.37, known as the active shooter policy. I can give you a copy, if you want it. My questions may not require you to look at it.

15 You're generally familiar with that policy, active shooter policy?

17 A. I am.

18 Q. It fair to say has undergone significant criticism since the Marjory Stoneman Douglas shooting, hasn't it?

21 A. Yes.

22 Q. Prior to either of the two events that I mentioned, were you aware of BSO having an active shooter policy?
Q. Prior to those incidents, did BSO train its sworn law enforcement officers on active shooter?

A. Yes.

Q. At the time of your arrival at the BSO in 2013, was BSO training deputies in active shooter, active killer scenarios?

A. Yes.

Q. Did that continue?

A. Yes, and was expanded.

Q. It was expanded?

A. Yes.

Q. You are aware of that expansion?

A. Yes.

Q. And was that expansion a result of realities of active shooter incidents that occurred, maybe not in Broward County, but all over the world?

A. Yes. I mean, we would have many conversations that the region was too big for us to avoid some type of tragedy like that and we had to be prepared for the day that it may come.

Q. Were some of those conversations made during joint task force or joint operational discussions with other law enforcement agencies?

A. Absolutely.
Q. Including federal government law enforcement agencies?
   A. Yes.

Q. Is it fair to say that the attention to active shooter training was something that BSO and other agencies shared during the, say, 2013 to 2018 period?
   A. Yes.

Q. In your view, as an undersheriff or a colonel in BSO, before you became undersheriff, was BSO deficient in its attention to active shooter, active killer training?
   A. Not at all.

Q. In your knowledge, if you have, of other agencies, law enforcement agencies with which you interacted, is it your view that BSO's active shooter, active killer training was at least consistent with what was done in the law enforcement area in South Florida?
   A. Yes, it was.

Q. How about in larger areas? Did you ever have experience, through conferences or other interaction, with areas beyond South Florida?
   A. I have, yes.

Q. And in your view as undersheriff or a colonel, was the BSO training on active shooter at least compatible with prevailing standards?
25       A.   It was very, very similar and compatible.  Post

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Columbine, the dynamics changed in those type of active
shooter instances, and every police agency that I've
ever been in contact with, whether it's at a training
every meeting or a conference, knew that taking up a
perimeter point, calling for SWAT was no longer an
option.

Q.   And Columbine, from a law enforcement
perspective, had significance in terms of preparation
and realities of what could happen involving mass
shootings, terrorists activities and the like?

A.   Yes.  I think Columbine probably changed the
way police departments operate and sheriff's office more
than anything I can remember in my career.

Q.   January 2017 was the day of the airport
shooting.

A.   Yes.

Q.   Did you have any participation in the airport
shooting?

A.   I did.

Q.   What generally?

A.   Generally, I arrived on scene probably within
an hour of the shooting, very busy scene, as one can
imagine.

At that point, the suspect was already in
we had about 12,000 people at the airport some of which knew about the shooting, some of which didn't, at that point, because it happened in the lower level of terminal two, at that point terminals one, three and four were pretty much operating as, what we would call, normal days. Obviously terminal two was a little bit different, because that was the crime scene. For those first 90 minutes, it was basically that, it was a homicide scene. There was no information that there were any other active shooters and we treated -- although a large crime scene and very tragic crime scene, it was basically a homicide scene. That's how we treated it. A command post was set up outside. The areas were roped off. We were working very closely with the FBI. At that point, we were the lead agency. We were interviewing the suspect, Esteban Santiago and at some point the FBI SAC George Piro made a decision there was possibly a terrorism nexus and that the FBI was going to take the lead. So we basically just reversed roles. We became the support role and the FBI was going to be the lead agency.
When that reversal of roles occurred, did the BSO fight, oppose the FBI becoming lead?

A. Absolutely not. The relationship that we had with George Piro and the FBI Miami field office and Sheriff Israel, it was seamless. It was basically you are now the lead interviewer and we will shadow you and we will provide you -- because it was such a large crime scene, even the FBI needed our assistance preserving that crime scene and collecting the evidence.

It was a seamless transition to the FBI taking the lead.

Q. And also to follow-up, was it your understanding that the FBI took the lead because some investigative information suggested the perpetrator, the shooter, might have had some terror-related contacts?

A. Yes. I wasn't in the interview room, but I was told that they had developed what they thought was a nexus to domestic terrorism and that the FBI, because of that nexus, was now going to take the lead that. It wasn't just a horrific -- I don't want to use the word normal or regular, but a horrific homicide scene that the BSO would handle that the FBI made that decision. They are allowed to make that decision and we supported that decision, and, again, I say that.
But there was no pushback. There was no butting heads. It was a seamless transition between the sheriff and George Piro. He said, Hey, we're going to take the lead now and.

We said, Okay. How can we help you out?

Q. From a timing point of you view, you said you got there about an hour after the report of the shooting?

A. Correct.

Q. Was it soon after that that the FBI developed whatever that information was and became the lead?

A. I think it was within the first couple of hours, yeah. The importance of the 90-minute window was at the 90-minute mark, it became not a normal homicide scene, because that's when the calls started coming in via 911, fire radio and police radio of shots fired in other areas of the airport.

And what you saw for about the next four hours was the sheriff's office deputies, other agencies, federal, state, local, running towards these active shooters, these active shooter calls. There was never one that was ever identified as being real, but there was I think there was over a hundred 911 calls and numerous radio transmissions and some, to this day, swear that they did. Fire captains, you had JetBlue
employees going over their internal radio saying, hey,

clear out. So at some point it became -- TSA lost
control of the secure areas. The TSA took off running,
which was -- may have been their policy. They are not
armed. And we lost, at some point, complete security of
the entire airport.

We had people running across runways while
planes were still landing and taking off. They were
jumping off jet bridges. You basically had 12,000
people self-evacuating, because you had deputies running
all over, you had other agencies running over, you had
TSA running, and, again, it was probably almost 2,500
law enforcement officers at that scene.

Q. Of many agencies, including federal agencies?
A. Oh, you know, I tell everybody, any agency with
an initial was there, whether it was ATF, Homeland
Security, which is HSI, the FBI, FDLE.

Not to mention, I mean, the second call I got I
think was from the Miami-Dade director Juan Perez,
saying, Hey, Steve, what do you need? I will send you
two SWAT teams right now.

We ended up coordinating 18 SWAT teams.

Q. The expansion of the airport incident to these
other matters from one crime scene to having to
potentially track down other potential shooters, as well
as self-evacuations, that occurred during the time that

the FBI was involved in this incident?

Yeah, they were involved pretty much from the
beginning, like I said. It was just sometime, in my
recollection, in the first couple of hours it was
basically that we just -- they became the lead agency
and we became the -- but, again, we were still the
uniforms. You know, they are not always in uniform.
They have their SWAT team, of course, and they have FBI
jackets, but we became the lead agency.

We coordinated those 18 SWAT teams from a
tactical command post, because we -- at some point, the
airport had to be shut down and we had to clear the
entire airport, which consisted of four terminals, three
parking garages, there's areas under construction and we
had to look in every car, every storage. We found
hundreds and hundreds of people hiding hours and hours
and hours later.

These were civilians?

Civilians and people that work there. You got
to remember people vacated all of the stores and
restaurants in the airport, over 22,000 personal
articles were left behind. And, again, you had, you
know, in excess of 2,000 law enforcement officers
self-dispatching coming to the scene maybe with their
radios on, maybe not. I mean, Miami-Dade doesn't even

So it became --

Q. And was an effort made with you and the FBI and the other agencies to coordinate all the different law enforcement officers?

A. Yeah. There's always an effort to create a staging area and to handle those things that when you are sitting in a sterile environment, in a tabletop exercise, you know, it works perfectly in there, but when you have over 2,000 law enforcement officers self-dispatching to the scene, no matter how many times you say, hey, don't do they. You can't help us unless we know who you are and where you are, it happens. And it's not just in Broward County, it happens across the country, probably across the world. There's never been any type of mass incident, to my knowledge, where everybody staged, nobody self-dispatched, it was orderly.

What was very, very orderly, however, and because they trained so often together was the coordination of the SWAT teams. Those 18 SWAT teams. Major Grant was the SWAT commander at the time. He asked each SWAT team to send one representative to the
tactical command post. And from there, they basically

used the side of a white truck and said, okay, you take
the 7th floor of this parking garage and don't go
anywhere else, because, obviously, we are trying to
eliminate any type of blue-on-blue, blue-on-green
shooting.

So they sectored out the entire airport and
used those 18 SWAT teams to clear an entire airport
while 12,000 people are running.

Q. Did -- strike that.

Was the BSO's participation in prior tabletop
exercises, active exercises, joint exercises of an
assistance to you and the other responding officers in
performing their functions that day?

A. Yes, absolutely.

Q. The coordination, was that done through a
command post or a command operation center?

A. Yes.

Q. Was that set up by the BSO with the
consultation of other agencies?

A. The command post was set up outside terminal
two and it was there before I even got there. It was --
our mobile command vehicle was there and there was
already command post in there, a unified command. The
fire department was involved, of course, other agencies,
the FBI, when they arrived.

1            But the challenges were, for us, one, was the
2   radio system continually failing.
3            Two, the cell phone coverage wasn't working,
4   because you had not only 12,000 people trying to call
5   their friends and relatives, you had all these law
6   enforcement officers.
7            And then just the actual infrastructure of an
8   airport with a lot of concrete and steel, our mobile
9   command vehicle was parked underneath the overhang of
10   the airport, which is concrete, and the reason for that
11   is because, again, at the time that vehicle was placed
12   there, it was a homicide scene. So there wouldn't have
13   been so much radio traffic or need for consistent cell
14   phone usage, at that point.
15            It was at that 90-minute mark when things
16   started going a little -- things became a little
17   chaotic, that's when maybe that wasn't -- you know, it
18   was tough to get on the radio. I couldn't get on the
19   radio at all, so...
20       Q.   The radio system that was used by BSO in that
21   area, that's a county system, isn't it?
22       A.   It's completely operated by the county. It's
23   owned by county. BSO only provides the personnel. So
24   basically, if it breathes, it was a BSO employee, for
The county does have several people that run the system, the technology on their side, but the system itself was turned over to the county but Sheriff Lamberti before Sheriff Israel ever got there and it is a county-wide, taxpayer-funded system. They contracted with BSO for the dispatchers and the call takers.

Q. Is it your understanding that BSO is a customer or a user of that communication system?

A. They love to call us a vendor.

Q. A vendor?

A. But, yes, a customer, a vendor, party to a contract. The system, BSO owned no part of that system.

Q. And as a user, many other law enforcement agencies and non-law enforcement agencies are users of that system?

A. All of them in the county, except two; the City of Plantation and the City of Coral Springs, but you also have school -- hundreds of school, maybe thousands of school bus drivers on the same system, public works, yeah, and it's a 25-year-old system.

Q. Is it your understanding at the time of the Fort Lauderdale shooting, that among the demands on the system by users, included many governmental functions that were not law enforcement or emergency related?
Q. You mentioned bus drivers, their communication includes communication going through that same system?

A. Absolutely.

Q. And that was not a decision by BSO to authorize non-emergency law enforcement agencies to utilize that system?

A. BSO has no say in how the county operates their system. There is a governance board that can suggest changes. BSO, as big as we are and as the biggest user, still only has one vote. So the sheriff would have -- or his designee would have one vote, the same as a really small city like Lighthouse Point, that doesn't have any schools, they each get one vote.

Q. Was it your understand, during your time as undersheriff, the BSO was promoting expedited improvements, upgrades, changes, alterations, enhancements to that system?

A. It was almost a daily conversation internally and with the county members that operate the system, they are called ORCAT, the Office of Regional, something, and Computer Technology. I sat -- I was one
of the three people nominated by the Broward chief to sit on a committee called the operational review team that met monthly, before and after, to talk about the things -- the deficiencies of the system and we're still sitting here today and I think I read yesterday it's being pushed back to 2021.

Q. In your role, as you mentioned, with that operational organization, is it your understanding that the county was actively evaluating, investigating and trying to implement corrections to the system, it was just a massive project?

A. I think that's accurate, yeah. I think they were trying, but I -- we knew before the airport shooting that the system failed, because it fails on a day when there's not 2,500 people getting on the channel and overloading it. It would fail on a daily basis, what we call routine operation. Not always, but there were times that that happened where it would go down for hours. It just happened, I believe, in May.

But especially after the airport shooting and the difficulty that we had of just not being able to transmit, they had 13 months between the airport shooting and Marjory Stoneman Douglas to do something, and Marjory Stoneman Douglas happened and the radio system did the same thing.
25            So I can't tell you what they did during that
30
1 13 months, but they didn't fix it, because it failed
2  again.
3 Q.   During that interim time frame, as well as
4 during other time frames where you mentioned the system
5 got overloaded, did BSO have its own way of doing
6 workarounds, requiring use of cell phones, going to
7 other means of communications?
8 A.   I mean, we have policies in place for officer
9 safety. So, of course, almost everybody, probably most
10 of the people carry a cell phone. A lot of times what
11 we do, even going back to my Fort Lauderdale days, if
12 the radio goes down, we basically go to a central
13 location, whether it's a substation, a fire station,
14 somewhere safe, a hospital, and the dispatcher would
15 call the sergeant and the sergeant would say, All right,
16 you two guys go to emergency call and come immediately
17 back, because we can't talk to them to, or we might send
18 four people, because if a situation goes bad, we would
19 not respond to any non-emergency calls.
20 Q.   And at the same time of -- I call it
21 workaround, that may not be the right word, existed,
22 during your tenure at BSO, to deal with the realities
23 that the communication system that you had to use may
24 not be capable in a major crisis?
A. Yeah. We always had plans in place, because we were used to the system not working, even to the point of there's three main PSAPs, public safety answering points, south, central and north, where all the calls in the county are received and dispatched out of, again, with the exception of Plantation and Coral Springs, and we've even had instances where those entire centers have had to be shut down and we've had to move people to a different center and operate with two, because one entire center went down.

Q. I'm going to quote a section of Standard Operating Procedures Policy 4.37 Active Shooter that has Subsection C and I'm going to quote it.

If realtime intelligence exists, the sole deputy or a team of deputies may enter the area and/or structure to preserve life. A supervisor's approval or on-site observation is not required for this decision,

You understand that to have been the 4.37 policy during at least some of your undersheriff years?

A. Yes.

Q. I'm going to represent to you that the section that I quoted is the policy that was in existence in January of 2017 for the Fort Lauderdale Airport shooting and in existence in February of 2018. Take that as a
25 given --

A. Okay.

Q. -- for my questions. And if you are not sure,

I can give you documents for you to look at.

Was there any part of that policy that you are aware of through training informed law enforcement officers that they were not to go to the vicinity of an active shooter?

A. Absolutely not.

Q. Was there any part of the training on that policy that inhibited officers or gave officers a reason to not proceed in a manner to confront or disrupt the shooter?

A. No.

Q. And is that based on your knowledge and experience with the training in BSO?

A. Yeah. That's based on my knowledge and experience and training at two separate agencies, at Fort Lauderdale and at the Broward Sheriff's Office.

Q. The SOP language that I read to you includes the word "may," Deputies may enter the area. You are aware that that may language has, post-MSD, been subject to significant discussion and criticism?

A. Yes, I am aware.

Q. Is there any part of that policy or the
training on that policy that was designed to give a law

enforcement deputy a reason to not attempt to actively
prevent a shooter from continuing and, in the process,
to save lives?

A. Yes. I think the use of the word "may" was we
weren't going to ask a deputy to go on a suicide
mission. We weren't going to ask a deputy to go into a
single point of entry into a structure, whether it be a
school, a bank or hospital, that we had realtime
information that was booby trapped or we had realtime
information that there was a person on the other side of
that with an AR15 pointed at the door. That's what the
may was intended to be.

The training was very, very clear that single
officer, single deputy entry was something that you were
required to do in a situation where you had realtime
intelligence that shoots were being fired and there was
an active shooter situation and that you were to enter
that structure and one of three things needed to happen;
the shooter barricade himself, the shooter surrendered
or the shooter kill himself or got killed or injured by
law enforcement. Those are the three options there and
that's consistent with the training across the country.

And I would add that ever since Columbine, I
don't know any officer or deputy, and I don't know them
all, of course, but that was standard procedure after

Columbine that, again, there was no surround and wait.

It was go in and confront.

Q. In your knowledge of the training on the BSO policy and your general knowledge of active shooter training, is there some benefit to an active shooter situation for an officer to walk through a known or likely booby-trapped door and get blown up?

A. No. That doesn't benefit anyone, because -- especially if he is the first responder on scene, now you still don't have anybody that can mitigate that incident and now you have a dead officer or a dead deputy, or severely injured.

Q. With regard to the Fort Lauderdale Airport incident, is it your understanding that an officer, Jesse Madrigal, Deputy Madrigal followed that policy and confronted an active shooter and was able to?

A. He absolutely did. Within 85 seconds Esteban Santiago was in custody. And there's video of Jesse Madrigal running towards the sound of bullets.

And not only Jesse, but post the 90-minute homicide scene, when everything else started going on, there's hundreds or thousands of airport videos showing time and time again BSO deputies running towards what they thought were active shooters, over and over and
And not just BSO deputies, other law enforcement officers, including federal agencies?

Yes, sir, state, federal and local, time and time again of an active shooter call in the parking garage, terminal four, terminal three and all the deputies and other agencies running towards those active shooters.

With the other events unfolding at Fort Lauderdale Airport, is it your view that the combined response of law enforcement helped protect lives and prevent injuries?

At the airport, I think it helped, but, again, it creates an issue, at times, when you don't know where everybody is or what their doing. Like I said, that's why the coordination of the SWAT teams were so important, that's why we pulled back all the regular officers and deputies that come to assist and we gave them other assignments.

For instance, traffic control was being handled by Florida Highway Patrol, Fort Lauderdale handled some of the hangars on the north side of the airport for us, because a lot of people had run across the tarmac and were hiding in there. So they handled that for us.

So we delegated some of those responsibilities.
We had officers guarding -- the FBI had over 200 people that either saw something or heard something. They wanted to interview each one of them. We had to keep them segregated. So we took the officers and deputies. So, yeah, they did assist in that area so that we could actually coordinate with the SWAT teams that we trained with to clear the airport and make sure there wasn't a second active shooter.

Q. Was the BSO a contracting agency with the county to provide law enforcement function at the Fort Lauderdale Airport?

A. That's correct.

Q. You understand a county agency called BCAD, Broward County Aviation Division actually controls the airport?

A. Very aware.

Q. And then there's a similar agency that controls the seaport, they are next to each other?

A. Yes, sir.

Q. And did BSO have a contractual relationship with the county to provide law enforcement for both of those ports?

A. Yes.

Q. There has been some criticism that BSO did not immediately shut down the entire airport as soon as the
25 shooting occurred. You've heard that criticism?

A. Yes, I have.

Q. In your view, was the process of shutting down
the entire airport over time something that was
discussed with numerous agencies, including the FBI?
A. It was discussed with the FBI, with the FAA and
also with BCAD, because originally, there was no reason,
in any opinion, to shut down the entire airport, because
the first questions that were being asked of Esteban
Santiago were, did you act alone, you know, is there a
vehicle that has a bomb in it, and he was telling them.
Now, that doesn't mean he was being truthful,
necessarily, but the information they were getting from
him, in the original minutes of the interview, where he
acted alone. He wouldn't tell them why. He wouldn't
tell them why he picked Fort Lauderdale. I don't know
if he ever has, but he said he didn't have a car, he
didn't have a bomb. Again, terminals one, three and
four were operating at normal level.
The problem came when we started getting these
other calls and now we're telling the FAA or BCAD
through the FAA, or whichever way, you need to shut this
airport down, because there's a public safety issue
here. And they were getting all these reports of active
shooters. And, again, that went on for a number of
hours that we were chasing down these active shooter calls, over and over again. Some of them were federal agents running through the airport with a gun out, in a white T-shirt, with no markings at all. That's what we were trying to prevent. Somebody like that getting shoot and turns out they were a law enforcement that just didn't have the right insignia on.

Q. And others reporting that there was a shooter loose in some place who didn't seem to be wearing a police uniform?

A. We got several calls on a white male running through the airport in a white T-shirt with a handgun and it turned out to be a federal agent. We confronted two or three gentlemen in a parking garage with rifles, and turned out they were hunters. They were either going to a hunting trip or coming back from one.

It was almost a comedy of errors that you couldn't think. These aren't the things that happen in a tabletop. To run into people with rifles during an active shooter incident, to have these people, these agents undercover in plain clothes running throughout airport with a gun, with no markings, no badge.

Q. Was BSO able to control what was identified as being the crime scene from the actual shooting?
The scene was roped off with the crime scene tape. We had armed guards there. The FBI had armed guards there. I mean, I didn't walk through the crime scene. There was no reason for people. Nobody was allowed in there. It was treated, again, as a tragic, multi-victim homicide scene.

Q. Was it your view, as an undersheriff, when you arrived there that BSO and the other agencies that had responded had control over the necessary part of the airport that was the crime scene?

A. Absolutely. For the first 90 minutes, that situation was completely under control. Again, I hate using the word routine, but it was a homicide scene. A very tragic homicide scene with multiple victims, but it was completely under control. It was roped. It was being guarded. The witnesses were being identified. They were segregated so they can be interviewed. Everything was operating according to normal protocol for a homicide scene, whether it's at the airport or the middle of a neighborhood.

Q. When the event unfolded so that other incidents or reports came to be the subject of this investigation, were there ongoing discussions about shutting down larger aspects of the airport?
A. Absolutely.

Q. And were those discussions ultimately resulting in the airport shutting down?

A. Yes.

Q. Did BCAD and other agencies cooperate in the discussion coming to the conclusion that shutting down the airport was necessary?

A. They cooperated, yes. It wasn't something that happened right away. There was definitely some discussions there. I mean, someone mentioned that every hour the airport shut down cost them a million dollars. I don't know if that's an accurate figure.

So as with anything, you know, we were on the side of public safety. We wanted to make sure nobody else got hurt. There was other people that might have had different opinions, but at the end the day, yes, we came together and the airport was shut down and I think we had 22 or 23 full planes on the tarmac at the time it was shut down.

Q. Did you have any involvement in the preparation or review of the Fort Lauderdale Airport after action report or critical incident report?

A. I didn't have any involvement in the initial draft, but I did have a lot of involvement in what became the final report.
Q. There has been some criticism that the final report differed from earlier drafts by not containing the same level of criticism found in earlier drafts. Have you heard that?

A. I've heard that, yes.

Q. Have you worked on or participated in or reviewed after action reports for large scale events?

A. Many of them, yes.

Q. Is the final report the -- called the critical incident report, the final report, consistent with your view of what an after action report final version should include?

A. Yes.

Q. Were there constructive criticisms, in your view, in the final report?

A. Yes.

Q. Were there identification of areas that BSO and other responding entities could improve?

A. Yeah. There was definitely opportunities for improvement. There's going to be in any incident, nobody is perfect. And that's why you do after action reports. It's not about editorializing or pointing fingers. It's about how do we get better or how do we not make the same mistakes we made, if we made mistakes, the next time something like this comes.
Q. As the after action report moved from drafts to final, were there meetings among specialized units, command staff, other superiors to review the unfolding work product?

A. I actually hosted the meeting. After the initial draft report, I hosted a meeting of what we call the subject matter expert, the SMEs, from training, from the airport itself, from all different MTs. We had a full room in the auditorium at BSO. It was an eight-hour, day long meeting. I think we brought lunch in and we went through that draft report line by line and made sure that the information was accurate, that we weren't unnecessarily pointing fingers at other agencies or other entities, and that we were making sure that if we had opportunities for improvement, that those were in there and we could address those.

And we also wanted to highlight the things that we did well, because we did do quite a few things very well at the airport, and those were in there as well. What didn't need to be in there were some inaccuracies, some editorializing. That's why it's a draft.

Q. In your understanding of that meeting with subject matter experts, was there a view that portions of the initial draft were just factually inaccurate?
Q. Was the review that portions of the initial
draft were conclusory or opinionated, not in the form
that after action reports generally take?
A. Yes, and that's why they undergo a command
review before a final report is issued.
Q. Was there any effort at that meeting with the
subject matter experts to present a white washed report
or to cover up mistakes?
A. Absolutely not. There's no point in doing
that. The point of the after action is to identify
those opportunities, those areas for improvement and
identify the things that we did do right so we know,
hey, we don't need to change this.
Again, like the tactical operation center and
the 18 SWAT teams and the coordination there, that was
highlighted in there because this was something that was
done very well.
But, you know, there were other things we
wanted to talk about, where it was communication or
other areas. We identified, I believe, that the BCAD
had their own command post that we didn't even know
about, because they didn't tell us. So that was an
issue where we said, Hey, if you are going to have your
own command post with the airline representatives,
JetBlue and United, Delta, we need to have a seat at that table, because if you are making decision on what's going on at the airport, we need to know.

And what happened was a JetBlue supervisor overheard a police or fire radio at some point and called his people and said, Hey, get out of here, they're shooting in terminal three now. And they weren't, but if we would have been in the room, we could have said, Hey, no, that's not accurate. And that started some of the chaos in terminal three.

Q. Did the sheriff respond to the scene of the Fort Lauderdale incident?

A. Absolutely.

Q. And stayed?

A. We were all there. I think I left around 1:00 or 2:00 in the morning. I'm pretty sure I wasn't always side by side with him. I was with him quite often, but at times I was going to handle other things for him or things that needed to be done.

I mean, at some point, at 1:00 in the morning I found myself loading elderly people on about buses to get them to the port so we can get them social services, so.

Q. Have you learned, since the Fort Lauderdale
25 Airport incident, that the critical incident report and

1 the joint response of all the law enforcement officers
2 has been used as a model for training and evaluation of
3 other potential large scale mass incidents?
4 A. Yeah. I don't know who received that report.
5 I've given that report out myself to other agencies that
6 have requested it. I am assuming they are asking for
7 it. Especially right away, we got a lot of requests
8 from actual cities that patrol airports, whether it's
9 Charlotte or any other to say, hey, let us see this.
10 Tell us about this.
11 I've even flown around the country and taught
12 classes about the airport, not only -- I mean, I happen
13 to know the NYPD commissioner. I taught at an NYPD
14 terrorism school, but I also taught in Charlotte for
15 NASCAR to all their security people for their track
16 security.
17 So it's been used as a model for, again, what
18 went wrong and what areas -- you know, what areas could
19 we improve and also the things that we did well.
20 Q. You are not the only one at BSO who has
21 similarly gone around the country to train, provide
22 seminars and educate people about the Fort Lauderdale
23 Airport incident?
24 A. No. There's been others and depending on the
discipline. Colonel Polan has done several, I believe.

I think the public information officer has done one or two to, say, a PIO conference. I think the Fire Chief has presented positive a fire conference.

So if it fell underneath what I considered my realm, I was the lead, I was the coordinator. If not, I can farm that out and say, hey, this is a PIO, Mira, why don't you handle this. Hey, this is a fire conference, Joe, why don't you handle this.

There were some that we turned down just because it was -- it wasn't something that needed to be done.

And then Jimmy, Jimmy Polan went to some as well.

Q. I want to move to a later time, the February 2018 Marjory Stoneman Douglas High School shooting. Are you familiar with that?

A. I am.

Q. Did you have any involvement in that incident?

A. I did.

Q. What is that?

A. I was still in my position as the undersheriff.

Once again, I think I was there within 45 minutes or an hour. I know for a fact that I was on scene at the tactical command post prior to Nikolas Cruz being taken
1 into custody, and I think that was about an hour after
2 the shooting, 45 minutes, an hour after the shooting,
3 maybe 90 minutes, somewhere in that time frame.
4 Q. What did you do generally at the scene?
5 A. When I got to the scene, Colonel Polan was
6 there already. He was meeting with, at the time,
7 Captain Robson, who is now our new SWAT commander. I
8 believe Lieutenant Colonel DiMaggio was there. He was
9 investigative -- investigative unit.
10 And the first thing we were trying to do was
11 two prong. One is we were trying to identify and take
12 into custody Nikolas Cruz. And number two, as always,
13 we were trying to assure that there wasn't a secondary
14 shooter, and that's always a concern in any type of
15 incident. You are taught that since the days of the
16 police academy. If you find one shooter, look for the
17 second one. If you search somebody and you find a gun,
18 look for the second gun.
19 So those are the two things at the time, the
20 immediate things. And, again, I can see victim -- I can
21 see Coach Feis from my advantage point. So we knew,
22 also, that we had to get rescue task forces in there as
23 quickly as possible and get these people transported to
24 the hospital.
25 Q. Was a command post set up?
A. There was a tactical command post that I

responded to immediately. At some point there was also

a BSO command post and a Coral Springs command post at a
different location. They were east of the school. The
tactical command post was on the north side. I spent
most of my early hours at that command post, because
that's where the decision -- again, that's where the
SWAT teams are and those are the people you are using to
go into these buildings and make sure that the buildings
are safe, that they are clear and that they can get the
paramedics in there or SWAT medics to get these kids or
teachers that had been shoot immediate medical care and
get them transferred to a hospital.

Q. Was there a similar kind of coordination at MSD
high school shooting incident with other agencies,
responding agencies as at the airport?

A. There was. There wasn't the sheer volume of
people that came to respond at MSD, but, you know, every
agency -- once again, every chief that I know. The same
Miami-Dade director called me said, What do you need?
What do you want me to send you?

So, yeah, they were sending people. Some
people we said, you know, we didn't need their help at
that point. I remember seeing the Fort Lauderdale SWAT
team and the Davie SWAT team, obviously Coral Springs
had a very large presence there, because their police
department is two or three miles away from the actual
school. So anytime -- I mean, Fort Lauderdale is right
down the road, any time you have an incident close to
the police department. The bigger issue was Coral
Springs was operating on a different communication
system with a completely different set of facts then
what we had and that information wasn't being relayed to
us.

Q. You mentioned that it was your understanding
that Coral Springs did not participate in the uniform
county communication system?

A. They do not, no. Coral Springs and Plantation
are the only two cities have their own separate systems,
and their systems aren't together either. Plantation
has a system, Coral Springs has a system and everybody
else in the county is on the regional system.

Q. In your experience, did BSO set up an adequate
command center for that incident?

A. I think -- yeah. I think, again, the tactical
command post was the most important thing at that time
and that's what was set up and that's -- they were up
and running when I got there.

The command post doesn't have to be a physical
mobile command vehicle. A command post can be a desk.
It can be drying on the hood of a car. It's not a physical structure. It's do you have the decisionmakers there and are you forming a plan, and that's exactly what was happening at the tactical command post, which is why I was there, the sheriff was there. I mean, at that some point there was the actual mobile command vehicle that was set up and -- but at that point, I was at the tactical command post.

Q. Did BSO work with the other responding agencies at that incident?

A. We did, but, again, we were operating under a completely different set of facts then Coral Springs, because they were receiving calls from inside the building, victims being shoot. They knew the shooters description and name before we did. They had all this -- what we would call realtime information and I'm talking via phone calls and we did not. Our information was being given to us by Scott Peterson.

Q. Was the same active shooter policy and the training thereon in effect at the time of the MSD shooting?

A. Yes.

Q. And in your experience, had the training on that active shooter policy been consistent with responding officers going to the scene of the shooter in
25 attempt to accomplish the three goals that you

1 mentioned, surrender, barricaded or incapacitated?

2 A. Yes.

3 Q. You've since learned that there was a very

4 serious deficiency in that regard?

5 A. Yes.

6 Q. And just recently, I think within the last

7 couple of days, the school resource officer, Peterson,

8 has been charged with criminal activity as a result of

9 his conduct at the school --

10 A. That's correct.

11 Q. -- or lack of conduct at the school?

12 A. That's correct.

13 Q. Up to the time of the MSD incident, was there

14 anything known to you, in your command staff position,

15 that led you or any command staff to believe that School

16 Resource Officer Peterson was unfit for duty or

17 incapable of responding to life or death situations in

18 an appropriate law enforcement manner?

19 A. Absolutely not. I mean, he was a former SRO of

20 the year. He not only went through the active killer

21 training, same one that Jesse Madrigal went through from

22 the airport, he taught active killer training to staff

23 at the school. So there was no indication that he was

24 wasn't going to do what we would expect of him in that
Q. In your view, were the officers who responded to the MSD shooting incident appropriately trained in active shooter incidents?

A. Yes.

Q. Did that include Peterson?

A. Yes.

Q. If you have an understanding, were the assigned school resource officers appropriately trained for handling law enforcement situations at schools?

A. Yes. They're still deputies. I mean, they have all the police powers that any other deputy out in the county have and they have the ability to take that action. It's a different relationship with the school board, but at the end of the day, they have weapons, they have training, they have equipment, they have resources and they were given proper direction to take action if something like this happened.

Q. Do you have an understanding whether BSO had some relationship with the Broward Schools that led to BSO having deputies assigned to various schools?

A. Yes.

Q. Is that something that was in the nature of a contractual relationship?

A. It absolutely is, and it's not just with BSO,
they enter into a contract with the school board, the
school board pays a portion of the salary and the
agencies pick up the rest and that contract list the
duties of the school resource officer, in the schools
that have them.

Q. Does Broward County schools have its own law
enforcement unit or division where sworn law enforcement
officers work for the school system?

A. They do. It's not a police department, per se.

It's called -- it was called a special investigations
unit. I don't know what they call it now. I think it
was pretty small, about 18. It's not at all like what
they have in Dade County or Palm Beach, and I think most
of what they were tasked with doing would be more
handling internal investigations, like a teacher --
misconduct from a teacher or staff member. It wasn't
doing any type of school resource activity at all.

Q. Is it your understanding that among that small
group in the Broward County schools, there are sworn law
enforcement officers, credentialed law enforcement
officers?

A. Yes.

Q. But the relationship between the Broward
Schools and the BSO for school resource officers
deputies, sworn deputies assigned is a contractual one?

1 A. Yes.

2 Q. Were you aware, prior to the MSD shooting

3 incident tragedy, that there was any complaint or

4 criticism that BSO was not properly staffing the

5 required school resource officer function?

6 A. No.

7 Q. Or that Broward Schools wanted more of a

8 Broward Sheriff's Office presence at the schools, but

9 the administration at BSO refused to provide that?

10 A. That never happened that I -- to my knowledge.

11 Q. The combined efforts of law enforcement

12 agencies responding to the Marjory Stoneman Douglas

13 school incident, had there been a reliance on prior

14 trainings and exercises to coordinate with other law

15 enforcement agencies?

16 A. Yes.

17 Q. Is that something, this coordination with

18 outside agencies, something that is a regular part of

19 the Broward Sheriff's Office training?

20 A. Yes.

21 Q. Had the Broward Sheriff's Office done any

22 active training, not just classroom trainings, active

23 training at schools, as far as you know?

24 A. As far as -- I'm not sure if they did it at a
school, but I know they have conducted that type of

training. Sometimes they do it in different locations.

I know they've done some type of training out at BB&T
where the hockey arena is with multiple jurisdiction.

Whether it's active shooter or any type of field force
training or, you know, quick task force training.

So, yes, if they did it at an actual school, I
am not aware of that, but it may have happened.

Q. Are you at all familiar with the Pompano Beach
High School active shooter training program coordinated
by the BSO?

A. I am aware of it, yes.

Q. But you did not personally participate in that?

A. That's correct.

Q. And is it your awareness that the Broward
Schools, BSO and numerous other agencies participated in
that on-site active shooter training?

A. Yes.

Q. Is on-site active shooter training the only
way, as you understand it, to do active shooter
training?

A. I wouldn't say it's the only way, but I would
say it's probably the best way, because when you are
actually in a school -- or, again, I did my active
shooter training, which was an eight-hour course, at the
port, which we know, you know, on a busy Saturday,

Sunday they are moving 70,000 people in and off cruise
ships. So, again, it can be anywhere, as we've seen, an
airport, school.

So I think it's very important to do that
on-site training with Simunitions and with role players,
because that's as close as you can get to mimicking what
might happen in the real world. That's why, as
important as tabletop exercises are, again, you are in a
sterile environment, you have your bottled water and cup
you have coffee and you are talking about scenarios that
might happened and who is responsible for what, that
translates only so far to the real world.

Q. In your experience, training and your
leadership with BSO, did the BSO have adequate active
shooter training scenarios at the time of the MSD
shooting?

A. Yes.

Q. Are you aware of any pre-MSD shooting incident
criticism of BSO that BSO was not doing enough active
shooter training or BSO should be having more real life
scenarios?

A. No, I've never heard that.

Q. And since -- you retired in -- this time
around, did you retire from BSO --
A. No, I resigned. I didn't have enough years to retire. Yeah, resigned.

Q. So you resigned in January of 2019?

A. Yes.

Q. Coincident with the suspension of the sheriff?

A. It was just prior to his suspension, yes.

Q. Just prior to the suspension.

Between MSD shooting, February of 2018, and the time you resigned with BSO, had FDLE implemented any mandatory active shooter training requirement?

A. Not to my knowledge, no.

Q. Had any agency of the State of Florida implemented active shooter training requirements for law enforcement officers in that interim?

A. Not to my knowledge. I mean, I wasn't necessarily up to speed on everything that goes on with FDLE, but not to my knowledge.

Q. Following the MSD shooting tragedy, did BSO implement any changes, improvements or advances, based on what happened at and what was learned from the shooting tragedy?

A. Yes. We even -- we ramped up the training to try to get it expedited so we can get more people trained in it in a faster period of time, all the way up to my level. Like I said, I went through that training
challenging with an agency that size. If I have a
ten-man department, yeah, I can train my guys every
week. When I have 1,300 sworn deputies and 20
instructors, you can do the math. It's a little more
challenging.

So, but we implemented a schedule that we can
get everybody retrained again, I think, within a
12-month period and with very few exceptions, that goal
was met.

Q. Was there an effort to develop more access to
information from the school system following MSD
shooting?
A. There absolutely was. I was involved in that
as well. We started what we call real crime -- a
realtime crime center, modeled after the NYPD model,
which I had visited two or three times. We brought down
a retired NYPD deputy inspector to run this and the
number one thing that was important to us was getting
access to the school board camera, because the school
board traditionally has been very reluctant to let the
deputies or officers to have access to student files,
and there is some protections there, in the law, where
they can't, but there was no reason why we wouldn't have
access to cameras, and if we would have realtime access
25 to the cameras at Stoneman Douglas, possibly we could

1 have seen the stairwell when Nikolas Cruz first walked
2 in with his weapon and told the another kid, Get out of
3 here, something bad is going to happen, or we could have
4 known exactly where he was at. We didn't have that
5 ability.
6 Q. And that access to information was improved
7 following the lessons learned at MSD?
8 A. After months and months and months, yes, I
9 think it was improved finally.
10 Q. And was that a high level of negotiation and
11 discussions with Broward Schools?
12 A. Yes, it was at the highest levels, with
13 Mr. Runcie, school board.
14 Q. School board superintendent?
15 A. Yes.
16 Q. And how about at the sheriff's office, was
17 Sheriff Israel involved with that?
18 A. He was involved with it. I was intimately
19 involved with that project.
20 Q. As undersheriff?
21 A. Again, yes, because it's great to have a
22 realtime crime center and have traffic cameras and
23 cameras at Sawgrass Mills Mall, but the most important
24 place we need these cameras is in the schools, so.
Q. Did BSO implement an -- I will call it an app, computer-based safety program?

A. We did. We -- early on we got -- we had a initial meetings with a company called Saferwatch, I think they are out of Boca Raton. We had several meetings with them. I don't like to use the word "pilot project," but they asked for us to take on this app, use it, help them out, as they're trying to grow. They had maybe a couple of other accounts in Massachusetts or something and so we did.

We partnered with Saferwatch. We set a goal that that app would be up and run by August of 2018, the start of the new school year. We met that goal. We publicized that. We educated people. I have it on my phone. My girls go to public school, they have it on their phone, and basically it's an app that allows to send video, send tips, send information on anything related to school shootings or mall shootings or anything like that.

Q. Was this program, this Saferwatch app promoted with the school system?

A. It was promoted with the school system, with the sheriff's office and subsequent to that the FDLE came up with another app, which was also promoted.

There was no, that we saw, any type of competition. The
more apps that are out there, the more people that want
to share information the better.

Q. Prior to the MSD tragedy, were there any
requirements by FDLE that sheriffs' offices needed to
implement such a communication app like Saferwatch app
or any program like that?

A. No.

Q. Prior to BSO implementing Saferwatch app, were
you aware of FDLE beating you to that, so to speak?

A. We didn't even know FDLE was working on
something like that. We wanted to get something for
Broward County and we wanted it by the start of the
school year in August. So we worked very closely with
this company to work out the kinks. We took them to the
Broward chiefs. We tried to sell this to the Broward
chiefs and tell them, hey, this is important. And, you
know, I have a great relationship with all the chief
necessary this county, so it was a combined effort.
It wasn't going to just help us to have it at
BSO schools. We needed it in every school in the
county, private and public.

Q. And in that interim, while BSO was working on
this Saferwatch partnering, nobody from FDLE reached out
to the command at BSO to say, hey, we have this great
idea, we would like to work with you in developing this
A. Not to my knowledge, no.

Q. I have nothing further. I tender the witness to Mr. Primrose.

MR. PRIMROSE: Thank you, Mr. Kuehne. I just want to put on the record that this morning, when Mr. Kuehne submitted his exhibit list, he included this new app as an exhibit and it has not been provided to me. So I just want to put on the record that this is the first time I'm hearing about it or it was disclosed.

MR. KUEHNE: Yes. And let me just -- I'm not objecting. Let me just respond that I did get your e-mail. I'm trying to figure out what form I can give that to you. If I just have to print out a sheet, I will do that, but it's not the same kind of exhibit as paper exhibits.

So I respect your request and I was trying to figure how to do that and I will get it to you as soon as I can, but I do know that I have not given you anything about Saferwatch app, and for that I apologize.

MR. PRIMROSE: No, I understand. I just want to pointed that that was a newly disclosed exhibit today that wasn't included on the original exhibit.
THE REPORTER: One second, can we adjust the sound on the speaker?

MR. KUEHNE: Yes, one second.

Okay. Nick, would you speak again, see if we can hear you better.

MR. PRIMROSE: Madam court reporter, is this better?

THE REPORTER: Yes, much better.

CROSS-EXAMINATION

BY MR. PRIMROSE:

Q. What I was just saying is, Mr. Kinsey, thank you for coming this afternoon. I want to start off just, do I have this correct that you were brought over to BSO after Scott Israel was elected as the sheriff in 2013?

A. That's correct.

Q. And you worked with him at the Fort Lauderdale Police Department, right?

A. I did.

Q. And you resigned from BSO, what was it, a day before or two days before he was suspended?

A. It might have been the same day. I resigned on January 11th.

Q. Is that because you have an allegiance to Scott
Israel, you didn't want to work under the new sheriff or what was the reasoning?

A. I didn't know the new sheriff. I have never met the new sheriff. I know Scott Israel and I came over to work for him and to do a job and as the undersheriff, I didn't want to sit back and possibly be terminated from somebody that didn't even know me or my work product, and I had the ability to resign, based on, you know, I had a lot of years in law enforcement, 27, and I felt that was the best decision for me and my family.

Q. Okay. And what are you currently doing for employment?

A. I'm retired and I'm terrible golfer.

Q. So you don't have any source of income right now?

A. Only my pension from Fort Lauderdale.

Q. Okay. Now, you were asked some questions about the 4.37 policy on active shooter. And I want to make sure that I understood this correctly.

You said part of the policy is you're not going to ask deputies to go in to an area, if it's single point or otherwise if it's trapped, did I get that right?

A. Single point, if that only point of entry is
possibly -- they have some type of knowledge that it's

booby trapped or maybe there's somebody on the other
side with an assault rifle was what I meant to say.

Q. Okay. Doesn't that require the deputy then to
at least seek out other points of entry to a structure
where there might be an active shooter?

A. I would think, absolutely, a deputy should try
to find out if they have knowledge that an entry is
booby trapped or that what's on the other side is,
they're not going to be effective in making entry, that
they should absolutely try and search for another way
in.

Q. So doesn't the -- well, let me first start this
way, first, the policy doesn't provide the exceptions
that you just listed, if it's booby-trapped or it's a --
we will just call it a suicide mission, because that's
what Scott Israel called it, it doesn't provide that
exception in the written policy, does it?

A. Not that I know, no.

Q. Okay. And you would at least hope that, based
on the training and the policies, that a deputy would
continue to seek out ways to engage the shooter, either
being another door or some other way to engage the
shooter, correct?

A. Based on the training, yes.
Q. So if a deputy goes to a building, doesn't

think that the first door is a good idea, they shouldn't
just step back and look at the door and not do anything
else, right?

A. That's correct.

Q. They should go look for at least another point
of entry or somehow to engage the shooter?

A. Yes.

Q. Okay. I'm not going to go through everything
that happened at Fort Lauderdale, because we've gone
through it with a lot of witnesses, but I want to know
about the after action report.

You said that it was you that hosted a meeting
after Major Cedeno's first draft was released, right?

A. Yes.

Q. Was it your decision to do that or was it the
sheriff's decision?

A. It was my decision.

Q. Okay. Who all was in the room for that
eight-hour or so meeting?

A. You know, I'm going to go off of memory, but I
know for sure that Major Cedeno was in there, I believe
Colonel Polan was in there, Major Schults from training,
the airport command, which was Captain Liddicot at the
time and Lieutenant Furman. PIO might have been in
25 there. I can't remember anybody else offhand.

1 It was a pretty big group and I couldn't even
2 tell you if there was a sign-in sheet or not, but that's
3 who I remember offhand.
4 Q. Okay. Do you remember offhand you had -- I
5 wrote down here that you guys wanted to make sure it was
6 accurate and you weren't pointing fingers at other
7 agencies.
8 So let's start with -- well, let me do this, I
9 can agree with you that the first draft did involve a
10 lot of discussion about non-BSO agencies, but as to the
11 first part, wanting to make sure it was accurate, do you
12 have any recollection what was inaccurate in Major
13 Cedeno's first draft?
14 A. You know, I would have to have the report in
15 front of me, because I could tell you that as we went
16 through that report, we went line by line, page by page
17 and that's why that turned into an all day meeting.
18 So I don't have that marked up copy in front of
19 me. I can try to access it, if they would allow me to
20 get to my old e-mails and try to find out, you know, or
21 if somebody has it, but just off the top of my head, no,
22 but I know as we went down the list, there were things
23 that even the airport command said, no, that's not how
24 it happened or that's not how it was done, and those are
Was it -- whose decision was it to then give Captain Diefenbacher a chance to do an amended or a second draft of that report?

I don't know whose decision that was. He is our, you know, works with accreditation out of the training unit and so I don't know whose decision that was, but at the end of the day, the final report was authored by me, so.

Okay. But did -- so I guess you would have reviewed Captain Diefenbacher's report?

Any changes he made, yeah, I would have sat down with the original information gathering, draft report, I would have sat down with any markups or any changes that Captain Diefenbacher made and then I was the final author on what became the final critical incident report.

Okay. So after you got Major Cedeno's report, Captain Diefenbacher second draft of the report, it was you who compiled the final critical incident report?

That's correct.

Who was involved in the process of editing the two draft versions that you had in making a final report?

The editing process came about in that meeting.
The majority of the editing process came about at that
meeting where we, as a group, decided, hey, this was
inaccurate or this was -- this is unnecessary, as far as
pointing fingers, and the final editing was mine.

Q. Well, so let me get this straight, did you have
Captain Diefenbacher's second draft when you had that
eight-hour meeting?

A. I don't remember him having a second draft or
if he just -- there was a markup of the first one. I
guess it's kind of splitting hairs. I don't know if I
had a second draft from him or it's just I had his
comments on the first one, if that makes sense, and I
used that information to compile mine.

Q. Okay. I can submit to you at least that the
May 3rd version, which is Major Cedeno's and the May 2nd
which was Captain Diefenbacher, there were already
significant deletions and edits made.

A. Okay.

Q. So I'm just wondering if you had had the second
draft when you created your critical incident report?

A. If that's -- if what you are saying is
accurate, and I have no reason to believe it's not
accurate, then I probably would have had both of those
drafts, if that's what you want to call them, in my
possession as I authored the final report, yes.
Whether or not I had Diefenbacher's draft at

the time of the meeting, I don't remember that being
done at the time of the meeting.

Q. Okay. But --

MR. KUEHNE: Nick, excuse me one second, I am
not trying to interrupt, but can I give him, just to
look at, your exhibit list so he can see that there
are in front three reports with dates on them. I
won't do that, but I thought it might help refresh
him, based on your questions.

MR. PRIMROSE: Yeah, of course.

MR. KUEHNE: You can just look at here. Just
to let you know, this is the exhibit list, but C, D
and E are three different dated versions of what
Mr. Primrose is asking you about.

THE WITNESS: So Mr. Primrose, just looking at
this, I would make the -- I would say that the
May 3rd version was Major Cedeno's, the June 2nd
version is Captain Diefenbacher's, and the
October 6th version is mine.

BY MR. PRIMROSE:

Q. Okay. So I'm not going to go -- I don't need
to belabor this, but I guess let's me first start out by
asking if -- and I've got the documents and so does
Mr. Kuehne. You would at least defer to what each of
those individual documents say, as far as what's in the

reports, right?

A. Yes. I use those original documents, plus my

personal knowledge of the actual incident, because I was

there for however long, yeah, to finalize the final

version, yes.

Q. So in the first and second drafts, there was an

observation about active shooter response and training

and in the two draft versions, under areas of

improvement, it was to improve the current active

shooter training lesson plan to better prepare BSO

personnel for similar future incidents, and I will

submit to you that that area of improvement, whether you

want to characterize it as an area of improvement or an

opportunity for improvement, is missing from your final

version.

A. Okay.

Q. Do you have any reason to remember why you

struck out the suggestion that the active shooter

training plan could be improved?

A. I think that's because that was an opinion of

the initial writers and in my opinion, as the author of

the final report and the undersheriff, I felt that the

training was adequate, that it met the standards that we

were trying to achieve at the sheriff's office and that
that wasn't an issue that we needed to immediately

change up in a large scale manner.

I mean, those type of reports -- training and
policies are fluid, as you know. So there's always a

chance to do something different or tweak something, but

I didn't feel that a wholesale change in our active
shooter training was necessary at the time.

Q. Okay. So just so that I understand that
properly then, Major Cedeno and Captain Diefenbacher
believed there was a need for improvement of the active
shooter training, that was their opinion. Yours was we
don't need improvement, and so you made the decision to
take that out of the report?

A. Well, just -- the decision was mine, yes. To
clarify though, there's always some room for improvement
in any entity, but I can go off the memory and tell you
that I absolutely would have had that conversation with
Major Schults, either in that initial meeting or on a
sidebar, because he was the person that was the major in
charge of the training.

So I'm absolutely certain, I can't tell you
verbatim what the conversation would have, but it would
have been Kevin, Major, do we need to do something here
with our training? Is it adequate? Is it inadequate?

Do we need to tweak it? Do we need to scrap the whole
thing and start over? I can promise you that

conversation happened at some point.

Q. Did the conversation happen between you and
Scott Israel as to, hey, two individuals that looked
into the shooting made this comment about improving the
active shooter training lesson, I disagree, you know,
should we cut it out of the report?

A. No, we never had that conversation.

Q. Okay. Maybe not even the whole conversation of
cutting out of the report, was it ever discussed between
you and Scott Israel that that was an area of
improvement identified by Major Cedeno and Captain
Diefenbacher?

A. No.

Q. Okay. Underneath that same observation of
active shooter responsive training, both Major Cedeno
and Captain Diefenbacher wrote that there needs to be
enhanced training specific to the BSO airport district
applicable to immediate response, establishment and
implementation of critical protocols.

That was not included as an area of improvement
or an opportunity for improvement in your final report.

Any -- do you remember any reason why you cut that out?

A. No. Again, once again, if that was removed
from the final report by me, it was because I thought
that the training was adequate at the airport, but once

again, those conversations are always ongoing, as far as
can we enhance some type of training, do we need to do
something different, but it's impossible to put every
aspect of our law enforcement training into a report.

Q. Okay. Same observation, and you had mentioned
earlier in a question that Mr. Kuehne asked you about
the training at Pompano Beach and you had said on site
is the best way, you know, tabletop exercises don't
translate well for the real word. Did I understand that
correct?

A. Yes, you did.

Q. And Major Cedeno and Captain Diefenbacher's
draft reports, they are critical of not having on-site,
real life training at the airport and they specifically
put that, similar to you testified, tabletop exercises
are very limited in how they translate.

That was not something that you identified in
your report and so same question, just wondering why
there wasn't an acknowledgment that there needs to be
on-site, real life training versus just the yearly
tabletop that occurred at Fort Lauderdale Airport?

A. Well, I could tell you that the training at the
airport that we tried to do in the past had to be
coordinated through BCAD, which means we weren't allowed
any part of the airport to train unilaterally without

So that possibly was part of the areas of the report that I didn't need to get involved in pointing fingers at BCAD when I can handle that later down the line with a phone call to Mark Gale or his number two and try to establish that on-site training, but just because it wasn't listed in the report or because I took it out doesn't mean it wasn't going to be something we tried to address down the road.

Q. Okay. And I want to -- so in the cohesive interaction and I unified command part of your report, you do list an opportunity for improvement of, BSO and BCAD must ensure incident command procedures are utilized and that in a law enforcement incident, such as this one, BSO is clearly designated the lead agency based on the primacy of the incident, okay.

So -- that was a direct quote from your report?

A. Okay.

Q. You had mentioned earlier that BSO didn't even know that BCAD had set up their own command post at the airport, right?

A. Yes.

Q. Was there a lack of communication between BSO and BCAD prior to the Fort Lauderdale Airport shooting?
A. I don't know if there was a lack of

communication, but for the guys that worked the airport command, which would have been, at the time, Captain Liddicot and Lieutenant Furman, I think they had more of a day-to-day operational communication, but when we were on scene and we found out, after the fact, that they had their own EOC set up, or emergency unified command, emergency operating center, whatever term you like to use, that was news to us, that was news to me, that was news to Colonel Polan, that was news to Sheriff Israel. I don't think anybody at BSO had knowledge of that. If they did, that would be news to me today.

But it was one of those situations where you don't know what you don't know and it actually did prove, as I mentioned earlier, it proved critical in the secondary, we call it the secondary response, after the first 90 minutes, because again a JetBlue supervisor just overheard something and released that information out to all his team members and his personnel without verifying it with us.

Q. Okay. Now, am I correct in understanding that part of your role -- by the way, the video cut out on my end, but I will keep asking questions.

A. Yes, you're frozen on my end too.

Q. We'll keep going.
Q. My understanding is that in your role, you also are -- do you oversee the internal affairs investigation or did you?

A. No, I never oversaw any of the internal affairs investigation. That would be Colonel Dale.

Q. Okay. I reviewed some document that you signed off on transfers of personnel. So -- would that have been your sole, kind of, oversight over personnel decisions?

A. Yeah. And I might have reviewed some internal affairs documentation and there may be some that I signed, if Jack Dale was on vacation or if he was away from the office, but any transfers that involved any part of the entities that were under my command, yeah, I would have signed those at some point.

Q. Okay. And so are you at least familiar with the most recent internal affairs that had to do with the Marjory Stoneman Douglas shooting?

A. With regard to Deputy Peterson?

Q. Well, Deputy Peterson, Deputy Eson and, I'm going to completely butcher his last name, Deputy Treyhas?

A. I don't -- I haven't seen that investigation, if that's what you're asking. I haven't seen any part...
Q. Okay. So you wouldn't know, you know, why they were actually found to have violated the standard operating procedures or anything like that?

A. No. I mean, at this point, I have been out for over five months. So any information I get is usually from a newspaper.

Q. Well, they would have been suspended -- they would have been disciplined while you were at BSO.

A. Are you talking about the guys that were involved pre-incident with the calls --

Q. Yes, sir.

A. Oh, yeah.

Q. Yes, sir.

A. Again, I wasn't involved in that investigation, but, yeah, I am aware of that.

Q. Okay.

A. I think we had two guys suspended.

Q. Well, I don't want to waste your time asking questions, if you weren't involved in why they were disciplined.

A. No, I had almost no involvement in that at all.

Q. Okay.

MR. KUEHNE: Are you still there, Nick?

MR. PRIMROSE: Yeah, I'm still there. I am
just reviewing my notes.

MR. KUEHNE: I'm still working the Internet, seems to be done now. I should have tried an Ethernet connection, but I'm still trying.

MR. PRIMROSE: Okay.

BY MR. PRIMROSE:

Q. Mr. Kinsey, I want to go back to the kind of chain of command here, and just so that I can understand how this all works properly. Who is in charge of making sure that all BSO deputies know the written policies and procedures of the agency?

A. So those policy and procedures come out of the training division or the policy and accreditation division, but it's the responsibility -- well, first off, it's always the responsibility of the deputy, but it's also the responsibility of the district commands to make sure that information gets given to them, whether that's via electronically or if that's a handout at roll call, that any policies, and policies are fluid, like I said, and they are evolving, as they should be at times, so it's kind of a two-part answer to your questions.

Q. Okay.

A. Training and policy puts those out and it's the responsibility of command to get those to their personnel and, ultimately, like I said, each deputy
25 himself is responsible to know the policies and

1 procedures of the agency.

2 Q. And ultimately who do the deputies in command

3 have to be accountable to?

4 A. As in a paramilitary organization, up the chain

5 of command. So, you know, the deputy is going to report

6 to the sergeant, the sergeant will report to lieutenant,

7 the lieutenant reports to the captain, captain reports

8 to the major, major to lieutenant colonel, lieutenant

9 colonel to colonel, most of the colonels were to me, as

10 the undersheriff, and then the sheriff.

11 Q. Okay. So to cut all that out, though,

12 ultimately the sheriff is the CEO and the top boss of

13 the entire agency?

14 A. That's correct.

15 Q. So the sheriff is responsible for making sure

16 all of the deputies know or are properly trained?

17 A. They are his subordinates, yes.

18 Q. Okay. Similarly, the sheriff is responsible

19 for making sure that his deputies will actually carry

20 out the written policies that are put in place?

21 A. Yes. That's -- I mean, he is responsible for

22 the agency and the members of the agency.

23 Q. Okay. And the sheriff is also ultimately

24 responsible for making sure his deputies will actually
carry out the training that he wanted to ensure all of

1   his deputy undergo?
2       A.   Well, he is responsible for making sure they
3   get the training, but as we saw at MSD, sometimes the
4   situation dictates otherwise.
5       Q.   But isn't that still the responsibility of the
6   sheriff, to make sure that his deputies would actually
7   perform what the policies have been engrained in a
8   person to do?  I mean, put the deputy into situations
9   and test whether or not they will act under high levels
10   of stress or -- sorry about that.
11   So my question, it's ultimately the sheriff's
12   responsibility, though, to make sure that if he's
13   putting deputies in the field, that they are going to
14   act in a way that is consistent with the policies and
15   consistent with the training that they have received?
16       A.   I would say, to answer that question, is the
17   sheriff is responsible for the people in the agency, but
18   he's responsible for giving them training, giving them
19   resources, giving them direction, but I don't see how
20   you can ever predict how someone is going to act in a
21   critical incident until that actual time happens.  You
22   can do training exercises.
23       We do the most realistic training that we can
24   get without firing real bullets at people, in my
opinion, but I don't know if there's any sheriff or

chief in the country that can tell you exactly Deputy A
is going to carry out what we want him to do, based on
his training and resources. I don't know how you would
know that.

Q. Well, let me ask you this, because you had
mentioned that if you could have it your way, you know,
you would do weekly trainings with the deputies, but
just the sheer size of BSO, it was impossible to do
that, right?

A. Well, I said -- I was using the example of I
don't know if anybody could ever do weekly training on
something as active shooter, as being an eight-hour
course. What I was saying was if you had to train ten
members of a small department or even a department the
size of Coral Springs, it's going to be easier to
facilitate that training, then it is in a larger,
1,300-man department, just based on the sheer number of
trainers and venues and time you have in the day, that's
what I meant by that.

Q. Okay. Is this correct that prior to the
Marjory Stoneman Douglas shooting, the deputies, all of
the BSO deputies, had to complete two four-hour courses
related to active shooter training over a two-year span
of time?
Q. Okay. And of those two four-hour courses, how much of that was actual tactical exercises?

A. I couldn't answer that for you. I mean, that would have to be -- I would have to look at the lesson plans or speak to the training command.

Q. If the lesson plan indicated a course agenda, would it be the heading "practical exercises" that would be the time that you were actually doing real life training?

A. That would be the term that would be familiar to me, yes.

Q. Okay. So I'm looking at -- and this is for the court reporter and Mr. Kuehne -- it's course lesson plan 01-513 and the Bates number is 4139. That course agenda says, For this four-hour course, 90 minutes will be spent on practical exercises and scenarios. Does that sound about right to you?

A. I mean, based on -- that's a tough question for me to answer. I guess at the time, if that was the requirement, that was the standards that were being met then, yes. But, again, like I said, training and policy is fluid. More training is always good, I guess.

Q. Okay. And this training wouldn't have been solely on a solo deputy in an active shooter situation,
right, I mean, it encompasses the entire gambit of

active shooter?

A. I can only speak from my experience. When I went through the training class, it was the entire gambit. We went from what we would call maybe a 15-man entry to a two-man entry, and then I did a single deputy entry, all with what we call, you know, Simunitions training, where you have bad guys, role players. They were shooting out, again, paint balls, they still hurt, and you are shooting back at them and you are trying to eliminate the threat or get them to surrender. So, yes.

Q. So let me just make sure I understand this 100 percent, because I don't want there to be any ambiguity here. Once a deputy did their training in active shooter during that 2015 to 2017 period, when would they again have to go through active shooter training?

A. I won't be able to answer that question, because I don't know what the training schedules were. I know there was some challenges there, like I said, with instructors and time and venues, but I couldn't tell you what the actual schedule was for them to go back to training.

I do know that there's so many other mandatory trainings that they must go through, whether it's OSHA or that type of thing, but I would have to look at the
Q. Are there any -- so I understand that there being some mandated trainings that might be in place because of law, but are there trainings that BSO required its deputies to do that were, let's call them discretionary, meaning BSO decided we want our deputies to do this training because we feel it's an important subject area or lesson for them to learn?

A. I think there was probably three areas of training. There was training mandated by statute, there's training that was required as part of our accreditations, and then there was probably training that was discretionary or specific maybe to what the BSO wanted to train its deputies.

Q. Okay. So there was at least some discretion that the sheriff could put training lesson plans in place, if he felt there was a certain subject matter area that I wanted to make sure my deputies had engrained in their brains and would carry out, if the duty called?

A. I mean, he had the ability to do that. Again, based on instructor's time and venue, I would say, yes.

Q. Okay. Just a few other questions. When is the last time you spoke to Mr. Israel either in person, over the telephone or via a text message communication?
Q. Okay. And did you talk at all about your involvement as a witness in this proceeding?

A. Not one word.

Q. Okay. What about Mr. Kuehne? I know he said that earlier he had just met you this morning before the deposition. Have you spoken to Mr. Kuehne before him seeing you this morning outside the court reporter's office?

A. I met Mr. Kuehne only on one occasion prior to this and we did not discuss this deposition at all.

Q. What was the circumstances of meeting him previously?

A. I went to the -- I believe it was the initial hearing in the Broward County courtroom for Sheriff Israel. I think you called in on the phone.

Q. Okay.

A. And I was -- I was in the audience for that one and I think I met Mr. Kuehne outside either before or after and just shook hands, but there was no conversation about this.

Q. Okay. Did Mr. Israel ask you to come to that hearing for him back in, I believe, it was in maybe April or so?
A. No. I knew that the hearing was upcoming and I

wanted to go there and be a witness to the hearing.

Q. Okay. And you obviously were there in support

of Mr. Israel, correct?

A. I was.

Q. Okay.

MR. PRIMROSE: Mr. Kuehne, I don't have any

further questions.

Mr. Kinsey, I do thank you for speaking with us

this afternoon.

THE WITNESS: Thank you for your time, sir.

MR. KUEHNE: You are familiar with reading and

waiving. You are going to have your transcript

transcribed. You will get a copy of it. You can

make whatever changes. If you agree to waive, it

just facilitates us getting a transcript faster, but

at the same time, we get, I will send a copy to you

and you can make any corrections, adjustment, if you

think Lilly got it wrong or need to make

augmentation.

THE WITNESS: Okay.

MR. KUEHNE: And I will send it to your e-mail

address?

THE WITNESS: Yes.

MR. KUEHNE: You will give me your e-mail
THE WITNESS: Yes.

MR. KUEHNE: Okay. Thank you.

(The deposition was concluded at approximately 1:06 p.m. Signature and formalities were waived.)
CERTIFICATE

STATE OF FLORIDA:

COUNTY OF MIAMI-DADE:

I, the undersigned authority, certify that

STEVE KINSEY personally appeared before me on

June 7, 2019, and was duly sworn.

WITNESS my hand and official seal this 9th day

of June, 2019.

Lilly Villaverde

My Commission GG010818

Expires July 23, 2020
CERTIFICATE

STATE OF FLORIDA:

COUNTY OF MIAMI-DADE:

I, Lilly Villaverde, Florida Professional Reporter, a Notary Public in and for the State of Florida at Large, hereby certify that I reported the deposition of STEVE KINSEY; and that the foregoing pages constitute a true and correct transcription of my shorthand report of the deposition by said witness on this date.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action nor financially interested in the action.

WITNESS my hand and official seal in the State of Florida, this 9th day of June, 2019.

Lilly Villaverde
Florida Professional Reporter
My Commission GG010818
Expires July 23, 2020
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL
______________________:

Wednesday, June 5, 2019
One East Broward Boulevard
Suite 902
Fort Lauderdale, FL 33301
10:58 a.m. - 12:13 p.m.

DEPOSITION OF DEPUTY JESUS MADRIGAL

Taken before Carol Ann Kridos, Registered
Professional Reporter and Notary Public in and for
the State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.
APPEARANCES:

On behalf of Governor Ron DeSantis via Skype:

EXECUTIVE OFFICE OF THE GOVERNOR
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EXHIBITS

(No exhibits were marked during the deposition.)
Thereupon:

DEPUTY JESUS MADRIGAL

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

DIRECT EXAMINATION

BY MR. KUEHNE:

Q State your name and spell your name.

A Jesus Madrigal, J-e-s-u, first name. Last name M-a-d-r-i-g-a-l.

Q Deputy Madrigal, my name is Ben Kuehne. We met just a little while ago here. I have obtained a subpoena from the Florida Senate for you as a witness in an executive suspension proceeding involving now suspended Sheriff Israel. You understand that?

A Yes.

Q And I do apologize for reasons that I can only take blame. I had your first name incorrect on the subpoena.

A That's okay. That's my nickname.

Q Right. I know it's your nickname as opposed to your full name --

A Right.
Q -- and I do apologize.

MR. KUEHNE: Nick, do you want to make an appearance?

MR. PRIMROSE: This is Nick Primrose from Governor Ron DeSantis' office. It's nice to meet you, Deputy.

THE WITNESS: Nice meeting you, too, sir.

BY MR. KUEHNE:

Q To start, please tell me your current occupational professional capacity and the length of time.

A I'm currently a deputy pilot with the Broward Sheriff's Office. I've been employed with the sheriff's office for approximately 15 years. I got hired on August 2, 2004. I'm currently the BSO aviation unit OIC until I get promoted to a sergeant.

Q Tell me what OIC means.

A Officer in charge.

Q And how long have you been aviation unit OIC?

A Currently 24 months.

Q Were you assigned to work -- strike that.
Where is your current duty assignment?

Do you have a headquarters office?

A That's correct. I work at Fort Lauderdale Executive Airport at 5223 Northwest 20th Terrace. Telephone number (954) 938-0650. That's my work location.

Q Okay. And on January 6, 2017 you were a BSO deputy?

A (Witness nods.)

Q Were you still -- yes?

A (Witness nods.)

Q Please answer yes.

A Yes. Yes.

Q Were you working at the Fort Lauderdale-Hollywood International Airport?

A Yes, I was.

Q What was your assignment at that time, around January 6, 2017?

A At that time I was considered a detail deputy for the TSA checkpoint, Delta checkpoint Terminal 2, I believe the address is 100 Terminal Drive, at the Fort Lauderdale International Airport. And I was assigned there from 05:00 hours, 5 a.m., till 6 p.m. that evening of that day.
Q You mentioned, I believe, that you are a licensed pilot?
A Yes.
Q Provide a brief summary of your training and experience as a licensed pilot.
A I was trained by the United States Army back in 1994. I went through flight school with them for a year and a half, then I was assigned with Black Hawks. I did that for ten years. And the training encompasses me utilizing turbine aircraft into VFR conditions, instrument conditions, IMC conditions and how to utilize day, night and night vision goggles in the evening.
Q When you -- how long did you have as a military service?
A Currently right now I've completed my 20 years, 11 years active duty, nine years reserve. During my time of reserve, I joined -- I was an airline pilot for two years prior to joining the Broward Sheriff's Office back in 2004.
Q What airline company?
A I was a -- Pinnacle Airlines as a first officer, which at that time back in 2003 was a subsidiary of Northwest Airlines which no longer is in service.
Q Do you still maintain flight certification, certification as a licensed pilot?
A I still do, but only in helicopters.
Q Okay.
A I'm current in helicopters. I'm not current in airplanes, no.
Q Okay. How long were you assigned to the Fort Lauderdale-Hollywood International Airport as a BSO deputy?
A I think -- I believe, and I can't go by the actual dates, when I was given the SIDA badge and the assignment of the Delta checkpoint, I want to say it started back in 2016, maybe April. I have to go back where the original time frame was.
Q Okay. But you were -- between the time you first got assigned there and January 6, 2017, you had been at the Fort Lauderdale Airport assignment for at least some period of time?
A Yes, as a detail deputy.
Q As a detail deputy.
A Holding a SIDA badge.
Q And tell us what a SIDA badge is?
A It's the badge given to all employees that work on the secure portion of the airport. And in order to work that detail, you must be able
to get those credentials from the airport.

Q Okay. And how do you spell SIDA? Do you know?

A S-I-D-A.

Q S-I-D-A. And that stands for something?

A I should remember that. I don't remember exactly.

Q And is that a badge that's issued by some federal agency?

A That is correct. It is issued by the airport, but it's with federal oversight, you know, federal aviation oversight of it.

Q When you began working at the Fort Lauderdale Airport, did you receive any specialized training for that position?

A Other than the criteria associated with obtaining a SIDA badge, we are given also an SOP for the airport, for the detail position. And the training is just involved with what your -- what your duties entail for the TSA checkpoint as it is.

Q Okay. As an assigned deputy with your SIDA badge at the Fort Lauderdale Airport, do you work with other government agencies? And if so, which ones?
Absolutely. You work with TSA. At times you have to clear other law enforcements through the -- depending what part of the airport you work, clear them through FBI, DEA, U.S. Marshals. Any law enforcement personnel associated with the federal government is allowed to get through and pilots that are -- have the qualifications of the FFD, which is Flight Officer -- Flight Officer Deck [sic]. That's a qualification pilots get to carry a weapon on board in the cockpit.

Okay. Do you know what governmental organization, by virtue of your assignment at the airport, actually oversees the Fort Lauderdale-Hollywood International Airport?

My understanding is Broward County Aviation Department, BCAD.

BCAD, Broward County Aviation Department. And do you understand that to be a part of the Broward County government?

That is correct, yes.

Is it your understanding that BCAD, Broward County Aviation Department, is not a part of BSO, Broward Sheriff's Office?

That is correct, it is not.
Q Okay. Do you understand how it is that the Broward Sheriff's Office is involved in security or law enforcement at the Fort Lauderdale International Airport?

A I don't know the interims of how they're associated. I know they're assigned -- you know, they're given the -- I guess the assignment of covering the security for the Fort Lauderdale International Airport, but I don't know what the relationship is between BCAD and -- I don't know the specifics.

Q During your tenure as a BSO deputy, you've been certified as a law enforcement officer?

A That's correct.

Q And you keep that certification as required?

A That's correct.

Q Have you also received various trainings in connection with your duties and responsibilities as a BSO deputy?

A Yes, every year.

Q Every year?

A Every year.

Q And are you required to maintain a log
or some record of your trainings?
A Yes. Our training department maintains that log.
Q Do you have any recollection of having attended training that covers the general topic of active shooter or active killer?
A Yes.
Q Can you describe generally what the training, the BSO training involving active killer or active shooter involves?
A Well, it involves that once we get a -- they put up a scenario where we are placed in a position, a scenario the whole entire time utilizing our equipment that we have on hand and issued to us to go ahead and stop the threat, whatever that threat is, enter whatever building or facility to try to -- the intent is to minimize life [sic] and to engage or be -- or stop the threat any possible ways or means utilizing the tools that are given to you and you're trained on, whether it's a gun or hands or so forth.
Q Had you received active shooter or active killer training prior to January 6, 2017?
A I have.
Q I'm going to focus your attention now on
the circumstances on January 6, 2017.

A  Okay.

Q  There was an incident which I'm referring to as the Fort Lauderdale-Hollywood International Airport shooting incident. You're familiar with that; right?

A  Yes, I am.

Q  You were assigned at the airport that day --

A  That's correct.

Q  -- at the Delta checkpoint 2?

A  That is correct.

Q  Did you become aware of an active shooter incident?

A  Yes.

Q  Did you respond to the active shooter incident?

A  Yes, I did.

Q  Did you utilize your law enforcement training as a BSO deputy in fashioning your response to the active shooter incident?

A  Yes, I did, to include also based on my military experience, so. Not that I had specific active shooter, but the military training did, you know, did coincide with BSO training, absolutely.
Q Fair to say that the entirety of your training helped you respond to that active shooter incident?
A Yes.
Q That was not a scenario, it was a real-life, real life-threatening matter?
A Yes, sir.
Q Based on your involvement in that active shooting incident, did your training assist you in fashioning your response?
A Yes, it did.
Q Tell me what you did based on your training, BSO training and any other training you've had, in responding to what came to be known to you as an active shooter incident.
A I basically at that point in time -- at the initial few seconds, you realize the enormity or the -- how huge the incident was occurring. They tell us in training, and when it happens in reality, you always revert back to your training. So training just took over at that point in time. So I was not thinking about any policies or procedures, I was basically going -- reacting towards my -- what I was trained on what to do. So I went towards the shooting, or where the
incident would occur, which at that time I did not
realize where the exact location was, but I knew I
had to get there quickly.

Q And is it, based on your training,
unusual or atypical that a responding officer or
officers would not immediately know where the
scene of the shooting is?
A That's correct. We don't know unless
someone has given that information either
personally while you're there or through a radio
dispatcher advising you on the radio that there's
a specific location.

Q Had you or any law enforcement officer
of which you are aware been on notice that a
shooting was going to happen at the airport?
A No.

Q When you first learned of the shooting,
was that contemporaneous with the shooting taking
place?
A Yes.

Q Were you able to confront the
perpetrator, the --
A Yes.

Q -- person identified as the shooter?
A Yes.
Q Were you able to take that person into custody?
A Yes.
Q Do you have any appreciation for the amount of time that elapsed from when you were first aware of the active shooter to the time you took the active shooter into custody?
A I was not aware at the time. I believe in the training scope of things they always say that everything appears to go in slow motion, so time seems like it's taking forever when it could only probably take a few seconds, and that's the way I felt that day when I apprehended that shooter.
Q In the course of apprehending the shooter, did you make any communications through law enforcement radio or law enforcement channels to others about what was happening?
A I believe I made two that I remember, and one of them was to acknowledge that there is shots being fired and the second one was that I needed -- if I'm not mistaken, I think I needed backup and that the shots were being fired from the baggage claim area.
Q Okay. And you made that determination
about the location?

A Based upon what was given to me on the second floor, like someone had yelled at me from a distance telling me it was coming from there.

Q So you gathered information using visual and auditory?

A That's correct. That's right.

Q You conveyed information to other law enforcement officers by communication on a radio channel?

A Just the two radio calls I made immediately and that was it.

Q Okay. And you understand that those radio communications are through a county emergency communication system?

A Yes, sir.

Q And did you -- strike that. Were you were able to successfully apprehend the individual?

A Yes.

Q You've been recognized, in my personal view, appropriately, for your heroism that day as Deputy of the Year; is that correct?

A That's correct.

Q And you received a citation from the
Florida Sheriffs Association for your performance in the line of duty that day?

A Yes, sir.

Q Do you recall that the citation described the time frame of the apprehension as being less than a minute and a half?

A Yes. Yes. I don't -- I don't know exact. I've never watched the video. I know people have watched it. Somehow they've timed it. I've heard, you know, it might have been, you know, like 70 seconds to 80 seconds. I've heard different ways. I've never seen the video, so I don't know.

Q As the deputy on the scene at that time doing what you've described, was there any part of your training that made you hesitate to not follow your training as you learned it?

A Absolutely not. I never hesitated.

Q Did you feel at the time that your training was adequate to respond to this real-life active shooter?

A Yes.

Q Had you been in a position, Deputy, as a BSO deputy to be the first responder to a prior active shooter incident?
A Prior to --
Q Prior to this.
A No. No, I was not.
Q How many other law enforcement officers are you aware were on the premises of the Fort Lauderdale-Hollywood International Airport on January 6, 2017?
A That I'm aware of at the time that I took the podium, or my security location, I believe there had to be at least a couple from my terminal. At least one terminal deputy, you knew the sergeant was involved somewhere in the airport and you knew you had other detail deputies on the other terminals, to include what they call a deputy -- terminal deputies.
Q Terminal deputies?
A That's correct. So I'm assuming between my terminal and the other two next to me that's closest to the incident, it had to be at least -- two, four, six -- maybe six of them --
Q Okay.
A -- within the vicinity. I can't pinpoint exactly where they were or what they were doing, but at least I know through radio traffic there had to be at least those deputies. And
that's not including the rest of the airport. I just had no...

Q  So you mentioned deputies?
A  Yes.
Q  That would be BSO deputies?
A  That's correct, BSO deputies.
Q  Were you aware of other federal agents at or assigned to the airport that day?
A  The only ones I know for sure that would be there, but I don't think they were in the location, was Customs.
Q  Okay. Customs?
A  Customs agents. I'm pretty sure there had to be at least, if they're doing undercover work, probably DEA or maybe FBI.
Q  On your assignment at the airport, do you have any supervisory authority over federal officers or officials?
A  No, I do not.
Q  When the shooting occurred and you apprehended the perpetrator, how much time afterwards did you spend at the airport that day?
A  I was there until 20:00 hours, till 8 p.m.
Q  Till 8 p.m.? 
A Yeah.

Q So this occurred early afternoon?

A Yes.

Q And you were at the airport for many hours thereafter?

A Yes. Yes, sir.

Q What type of work did you do at the airport for the hours after you apprehended the perpetrator?

A We secured him in the district office, that's one of the things my duty was. So once we -- I had him apprehended, we had to pat him down, secure him, make sure there's no other weapons around him, secure the scene, but I was controlling the perpetrator, take him to the district office, make sure he was properly taken care of. Someone else took my position of watching the -- at that point the prisoner and then we -- I went back to my location and then I started to assist -- I mean, you can't imagine the chaos that occurred in that terminal. I started assisting taking family members and kids from storage facilities. I mean, they were hiding in locations you could never think of. You know, women and children were hiding in men's bathrooms,
stalls, so forth. So I had to clear that whole area to include all the eatery locations. They were hiding under the counters of the eateries, back in the kitchens of the eateries, behind the bar. So I kind of cleared for those people to come out and let them know it was safe in the terminal at that point in time. I could not account for all the people that departed the jetways out to the ramp. I had no way.

And then I had to turn off all the kitchen burners because food was burning, and the next thing I needed not to happen is a fire in the kitchen. So I had to make sure -- because everything was left as, you know, as -- everything was left. It was a really eerie feeling. I mean, credit cards, cash was left on the counter, purses, iPads, stuff that people would never leave behind. That was the scene. Had to clear that second whole terminal. Now, Terminal 2, if you're not familiar with it, it's a very small terminal, so it was easier -- it's easy to clear all those locations of people just letting them know it's okay, you can come out.

Q You mentioned clearing people. Is it fair to say that the clearing involved citizens or
non-law enforcement personnel who needed to be

cleared from the terminal?

A That's correct. I wasn't clearing each
individually from the terminal, I was just making
sure they were getting out from the areas,
correct, to another safer location and make them
feel that whatever danger they felt or whatever
they thought, it's over, it was over.

Q Is that aspect of clearing a space where
an active shooter incident had occurred part of
the training that you've received?

A Yes. Yeah, you have to clear just to
make sure there's not another additional threat in
the area.

Q When you apprehended the perpetrator,
were you aware that there were no other
perpetrators or co-perpetrators involved?

A At the moment that I apprehended him, I
waited for my backup to arrive in order to make
sure, or at least to assure me, he's the only one
that was the threat. At that point in time I had
no idea if there was a second or third. Just
based on what's been going on worldwide at that
point in time, I know based on training and
listening to the TV reports and so forth that
there could be a second or third perpetrator. So
before I apprehended him, I made sure I waited for
my backup before putting any handcuffs on him.

Q Okay. As part of your training, are you
instructed to work with other officers in
identifying whether other threats exist or are
likely to exist?

A Yes. Yes.

Q Did you coordinate, once you apprehended
the perpetrator, with other law enforcement
officers?

A I did, yes.

Q Is that consistent with your training in
active shooter incidents?

A Yes.

Q Were among the other law enforcement
officers with whom you communicated and
coordinated people assigned to non-BSO law
enforcement agencies?

A No, they were all BSO deputies.

Q Okay. Did you become aware that other
law enforcement agencies responded to the airport?

A Yes, and that's only after the
perpetrator was in custody and I had come back to
work the terminal those additional hours until I
Q Okay. So you took the perpetrator into custody, secured him and did processing consistent with an arrest?
A That is correct, yeah.
Q To whom did you put the perpetrator into custody? Whose custody did you bring him to?
A I left him with -- I don't remember his name. George McCord was there helping me out, Deputy George McCord, and then I had Danny -- I forgot his last name. But Danny was there, too. And then the SWAT member, I believe Jason Rotella, showed up and we passed that -- the deputy, I mean, he was there to secure the prisoner, so we passed that on.
So those are the three members that I left the prisoner with because I had to go back. I told them, look, I need to go back to my post and clear that up, because there was nobody there. Everybody was really targeting the -- or securing the crime scene down at the baggage claim.
Q Okay. Did you become aware after the prisoner was secured that other agency law enforcement officers responded to the airport?
A Yes.
Q What agencies did you become aware of?
A I saw FBI, I saw Customs, law enforcement agents from Customs, U.S. Customs, postal police. There was a couple more, I just couldn't -- I couldn't tell what their emblems were.
Q Were you aware of U.S. Homeland Security responding?
A I was not aware.
Q Okay. In the process of clearing Terminal 2, did you work with other BSO officers in working on clearing?
A Not at that time. Not at the beginning, no, I did not.
Q Were you attendant to life safety issues when you were clearing the terminal?
A Yes. If people needed to see paramedics, absolutely, I was willing to bring the paramedics to them --
Q Okay.
A -- yes, absolutely.
Q Did you make any communications on your law enforcement radio about any aspects of clearing the terminal?
A In the beginning of the incident, I
would say within the next half hour or 45 minutes, I did make a couple and that was in relation to the burners and making sure I was getting people out, that I was attempting to clear the second -- the terminal area. Then after that I did not make any more, no.

Q Okay. As the hours progressed till eight o'clock when you concluded, did you see more law enforcement officers and emergency responders come to the airport area?

A Yes. Yeah.

Q Were you aware of others like yourself, other deputies or law enforcement officers, working on clearing other terminals in other parts of the airport?

A Yes, but through the radio.

Q Okay.

A I didn't know any other way. You know, I didn't see them personally. I just knew that through the radio.

Q As part of your training, was it understood that the airport itself would need to be cleared and checked?

A Yes.

Q That was not unusual as far as you
understood?
A Correct, that's not unusual.
Q Did you participate in any effort to move people off the airport grounds?
A No, I did not participate in that.
Q Are you aware of law enforcement officers engaging in efforts to move people off the airport grounds?
A Yes.
Q Did you understand that to be consistent with the training to such incidents that you've been through?
A Yes.
Q What was, as far as you understood it from your training, the importance of clearing not just the terminal but other terminals and the airport grounds following an active shooter incident?
A We were -- you know, based on our training, just to make sure that those facilities where people congregate for flights and so forth, that they had to be secured. Because once the active shooter was there, some of that security was compromised. Those security areas were compromised just based on how the people reacted
towards this active shooter. So once the secured
areas are compromised, to my knowledge, to my
training, we have to re-- we have to go and scan
and clear those rooms, make sure there is no other
security threats or features that were compromised
and just to put back -- everything back to the way
it was prior to the shooting, you know, maintain
those facilities and areas secured.

Q You mentioned that in the immediate
aftermath of the shooting there was what you
described as chaos?

A Yes.

Q Do you recall that?

A Yes.

Q Is that type of response consistent with
your training in handling active shooter
incidents?

A Yes. They told us that when an incident
like this occurs to the non-training --
non-trained personnel it would be chaos.

Q And by "non-trained personnel," the
public, the general public?

A Correct. The general public that's not
associated with anything with law enforcement,
yes, it'll be chaos.
Q So your training recognizes the likely reaction of regular people?
A Absolutely.
Q And did your training assist you in responding to that reaction of regular people in a way to protect their health and safety?
A Absolutely. Yeah. Yes, they did.
Q Did you understand as part of your training that one of your principal objectives was to incapacitate the perpetrator or the perceived perpetrator?
A Absolutely, yes.
Q And did you do that?
A I did.
Q You would probably say that the response to the Fort Lauderdale Airport shooting was a team effort, but with regard to your work, did you seek out the recognition you received as Deputy of the Year?
A Oh, absolutely not. I didn't want to be recognized for something that I believe should be ingrained in every law enforcement officer that wears our uniform. The actions I took that day I believe are the actions that should -- you know, every member of BSO should take immediately, yes.
Following the Fort Lauderdale Airport shooting incident, did you participate in any way in a postmortem or an after-action evaluation?

A No, I did not. I did not participate, no.

Q You were interviewed?

A Oh, yes. Yes, I was interviewed. I did -- it was the FBI's case. They took statements the day of and I believe it was like a couple of weeks later when I had to give a statement for them on the actions or what occurred that day.

Q You became aware as a result of the type of active shooter incident involved at the airport that the FBI was either taking control of or taking involvement in the shooting?

A That's correct, yes.

Q And did you cooperate with the FBI in their investigative efforts?

A Yes. I gave them all the statements they needed and, you know, attended anything else they needed from me, absolutely.

Q Following that January 6, 2017 incident and your departure from the scene later that night, did you continue to work at the Fort
Lauderdale Airport?

A Yes. The next week I was there already working my shift --

Q Okay.

A -- on that detail.

Q And did you and the colleagues of yours who had similar shifts do anything different based on the incident that had occurred on January 6, 2017?

A Different in what way? I mean, they are still doing the policing in the airport, the terminal like we were before.

Q As a result of your having lived through and your heroism on the January 6, 2017 day, did you as a law enforcement officer believe that you and people similarly situated needed to have different kind of training or other instructions on how to respond to such an incident?

A No. I believe the training covered how I responded and reacted to that threat. I mean, there's -- I mean, there's no other -- I mean, how much more training? Maybe more scenarios possibly, but I don't foresee us needing more additional training or any different training, just do it consistently and that's it. If we are
allowed to do it every year, we're fine. I mean,
that's my opinion of it, yes.

Q There is another incident that forms the
basis in part of the suspension of Sheriff Israel
and that's generally called the Marjory Stoneman
Douglas High School shooting. You're familiar
with the incident?

A Yes.

Q Were you a responder to that incident?

A I was, but in a different capacity.

Q In what capacity?

A I actually -- being the OIC at this
point in time of the unit, I launched --

Q The aviation unit?

A The aviation unit, that is. So I
launched one aircraft, and that was for the air
ambulance portion of operations, and then I
launched a second aircraft that I piloted to
search for the perpetrator at that point in time.

Q Was that activation consistent with your
law enforcement training and experience based on
what you understood to be an active shooter
incident?

A Yes. Yes.

Q And did you understand it to be an
active shooter incident?

A You're talking about -- specifically about --

Q When you launched the two planes.

A Yes. Yes, I did.

Q Okay. Did you receive instructions or information about what was happening at Marjory Stoneman Douglas?

A We did through the radio, through dispatching, yeah.

Q And is that the same dispatching communication system that you used at the airport?

A That is correct.

Q Okay. Do you know who controls that dispatching radio communication system?

A The Broward County. Broward County.

Q Broward County?

A Broward County.

Q Not Broward Sheriff's Office?

A Not BSO, no.

Q Are you aware that other law enforcement agencies utilize that communications system?

A Yes, I believe so.

Q Such as local police officers?

A Local police, yes, sir.
Okay. You're not involved in the operational maintenance of that system?

A I am not.

Q In connection with your response to the Marjory Stoneman Douglas High School shooting -- by the way, that was on February 14, 2018, so about a year and some months after the Fort Lauderdale Airport shooting -- did you act in a manner consistent with your training and experience?

A Yes.

Q Did the other law enforcement officers subject to your supervision act similarly?

A Yes. Yes.

Q Let me just review my notes and I believe that I am wrapping it up. I'm going to read you BSO Standard Operating Procedure 4.37 entitled "Active Shooter." So let me read it to you.

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

So I just read you verbatim subpart C of
that policy. You've been trained on that policy?
A Yes.
Q That was part of your active shooter training?
A Yes.
Q Did any part of that policy and your training on that policy inhibit you from responding as you've described your response to be?
A No.
MR. KUEHNE: I have no further questions. I pass the questioning to Mr. Primrose.

CROSS-EXAMINATION
BY MR. PRIMROSE:
Q Thank you, Deputy, for taking the time to speak with us this morning. First, I do want to commend you on your quick response to the Fort Lauderdale shooter.
I want to start with a question that Mr. Kuehne just asked you about the deputies that were working underneath your command during the Marjory Stoneman Douglas shooting. He had asked you if those officers acted in a way that was consistent with the training that they received.
I just want to make sure that I understand this correctly. You and the officers that were under your direction during the Marjory Stoneman Douglas shooting were not actually boots on the ground at the school itself?

A That is correct. That is correct. I had a pilot on one aircraft and I had -- my tactical fly officer, which is also a pilot, he was flying with me in that aircraft. That is correct, sir.

Q So when the question of everybody acted, at least in your unit, according to policy, that has nothing to do with the policy about responding to an active shooter; right?

A Well, I mean, we did react to an active shooter, it's just we -- not in the capacity of what you define as boots on the ground. We reacted by placing a platform or resource above to overwatch and to seek and find the actual perpetrator.

Q I completely understand.

But I guess the policy that Mr. Kuehne just read you, the 4.37, that was not a policy that was necessarily utilized by your unit in responding to the Marjory Stoneman Douglas
shooting?

A I mean, we -- I mean, we're deputies, you know, and we all gotta follow procedures and policies. So if there is an active shooter, just depends how you get there.

Q I guess let me ask it this way.

A Sure.

Q You, nor the deputies that were in your unit, were specifically utilizing the policy about if intelligence exists you may enter the structure?

A I see what you're saying. No, they didn't use it in that sense. I see what you're saying.

Q Okay.

A Okay.

Q You also mentioned that you were interviewed by the FBI in the aftermath of the Fort Lauderdale Airport shooting; is that correct?

A Yes, they took statements --

Q Okay.

A -- from me. And then after that they subpoenaed me and brought me in to do some more statements.

Q Okay. Were you ever interviewed by any
of the BSO deputies for an investigation after the Fort Lauderdale Airport shooting?  

A  No.  

Q  So you never spoke with -- and let me just get to the cover page here real quick.  

Okay. So did you ever speak with Major Cedeno about the Fort Lauderdale Airport shooting?  

A  If I did, I don't know if it was -- you're asking if I got interviewed is what you're...  

Q  Well, okay, did you provide any --  

A  Statement?  

Q  -- statement --  

A  A written report? Yes, I had to on the BSO side because it was required based on OSSI, based on our reporting system. Even though the FBI took over as far as the case goes, my understanding, I still had to provide some -- a statement of what occurred that day, yes.  

Q  Okay. Did you have a chance to review any of the two drafts or the final report that was issued by the Broward Sheriff's Office into the Fort Lauderdale Airport shooting?  

A  No, I did not. And like I said, maybe
we weren't on camera, I have not -- I believe I
said earlier I never even seen the video either.

Q Okay.

A I know people keep telling me, hey, have
you seen the video? I haven't seen no video.

Q Okay. So I want to read you some
statements from the three different versions of
the report and just get you to tell me your
opinion of the statement that's in there.

One of the statements is that "there was
no reason for those assigned, involved or
potentially designated to responding to incidents
not being formally acclimated with the operational
demands, layout and key operational components of
the Broward Sheriff's Office airport district."

Do you agree with that statement?

A That's pretty broad because -- I guess
I'm assuming it depends on where that deputy is,
how much they know about the layout of the airport
itself.

Q Okay. When Mr. Kuehne was asking you
about training specifically when you were at the
airport, I believe you had mentioned you didn't
get any specialized training under BSO for the
airport other than what was required as part of
your duties with the TSA checkpoint. Is that correct?

A That's correct.

Q So there wasn't a specific training related to how to respond in an active shooter situation that was Fort Lauderdale Airport-specific, was there?

A No.

Q Were there any specialized policies that governed the airport district deputies and how they were supposed to act or respond to situations within the airport?

A Sir, I wouldn't know that because I'm not assigned to the airport as a district deputy. I was just there as a detail deputy, which is completely different.

Q Okay. But I guess -- I guess what I'm getting at, though, is when you were assigned to the airport, there wasn't a whole other course of training that you were required to go through because you would now be in a different setting than if you might be on the streets or at a school or any other type of location?

A Right. Right. Yes.

Q Okay. Another statement that was made
in one of the reports is that the individuals that
were assigned to the airport district maybe were
lulled into a false sense of security since it's
not as dangerous as being out on the streets.
Would you agree with that statement?
A You know, you're asking for an opinion,
I think, and I'm just going based on my experience
working there. You always learn something new
because you've never seen it before and you go
like, wow, I couldn't see that coming. With
people -- so many thousands and millions of people
going through that checkpoint, I can't, you know,
I can't agree on that because things will be
different, I mean. And I understand what you're
getting at. On the street, yeah, I can see where
it's a little more dangerous, at least it appears
that way, but the airport could be just the same.
It has definitely changed my mindset or outlook on
that.
Q Okay. Let me read you one of the areas
of improvement --
A Okay.
Q -- that was listed in a draft of the
After-Action Report, and this is what it says:
"BSO district personnel, though many are tenured,
most avoid complacency based on their environment and a perceived sense of security. BSO deputies assigned to the BSO airport district can mistake the assignment as a lessened exposure to harm or perceived retirement when the contrary is highly needed to vigilantly address and deter active shooter and bombing events. Historically, it has been an accepted process, but times have changed immensely requiring a global view to assigned personnel."

Okay. I want to start with the first area of improvement that was suggested. And this is going back to 2017.

A Okay.

Q So certainly you were -- you've gone through the situation, now you have a different understanding and appreciation for the complexities of the airport.

But the first statement that the "BSO district personnel, though many are tenured, must avoid complacency based on their environment and a perceived sense of security," do you agree with that area of improvement statement?

A (No oral response.)

Q Maybe prior to the airport shooting?
A Could be prior maybe, yes.
Q Okay. What about the statement that
deputies assigned to the airport district can
mistake the assignment as lessened exposure to
harm or perceived retirement?
A It's just hard coming from me because
I'm not assigned there --
Q Right.
A -- you know, and I don't take my work as
a retirement location. So, I mean, it's hard for
me to put -- you know, agree or disagree on
something that's just not my belief. It's just a
statement, so.
Q Well, let me ask you this. I mean,
taking yourself out of it, because I do want to --
I do, you know, commend your response. And I
think -- as you stated earlier, I think your
military experience is probably something that
puts you on a different level than some that don't
have military training and experience.
If you were to step out of your position
and look at what was going on in the airport
district back then, would that statement that
those assigned mistake the assignment for lessened
exposure be an accurate statement?
A I mean, you're looking at really a little piece of the pie. The airport's huge and there's a lot of facets of it that I am not even -- I can't even begin to fathom what they have to deal with in that district. So I can only give you like a piece of the pie. Now, I didn't feel that way, at least not -- at least in my position. And also understand that when I did take over some of those position checkpoints I might be the only deputy there, so I would not, like, be exposed to a lot of the dealings that goes on in the district per se. I was concentrating on just the TSA checkpoint.

Q Okay.

A You can hear the calls on the radio going out and terminal deputies handling those calls. So there wasn't a lot of like, you know, per se, you know, sitting around talking to a couple of guys, you know. You would back them up when they needed assistance and stuff like that, but I don't know, you know, the realm or the facet. You speak in my area, I can tell you exactly all the stuff that goes on in aviation.

Q Yeah.

A But I'm kind of, like, out -- you know,
I'm looking -- I'm putting myself, like you're saying, outside looking in, but it's just a small slice of the pie of a big --

Q Okay. So you wouldn't necessarily, if I'm understanding you correctly -- and I don't want to put words in your mouth, but you would say -- that opinion -- you can't necessarily answer that opinion because you don't have the full scope of everybody that was there at the airport --

A Correct.

Q -- around that time and --

A Correct. And if you -- I believe I was only there maybe a couple months prior to the incident. I just got my badge, I just got the assignment, so I didn't know as many people at the airport, to include command, in reference to now. I mean, now people, unfortunately, I don't like it, but they come to me because they think, you know, what I -- what happened that day. That's how I got to know more people, otherwise --

Q Okay.

A -- I'd be just another guy going in.

Q So I guess one of the other things in the report, and I'm just going to kind of
summarize it, is that there were some failures that the report authors attributed to a deficient airport district command. Do you have any thoughts on that conclusion or opinion by the report authors, that there was a deficient airport district command at the time?

A The only thing I can say, and that's my opinion, if someone saw a deficiency, then apparently someone had to have evidence of it. That's the only way I can think of.

Q Okay. Another area of concern identified in the draft versions of the report was a lack of tactical preparedness. And, again, I don't think that applies to you because you certainly acted quickly and apprehended the shooter, but from an overall perspective, what are your thoughts on that area of improvement recommendation by the report authors?

A Maybe I can compare it with other airports that I've been to.

Q Okay.

A And that's just my opinion. You know, you see armed security or armed police at the airport more vigilant and maybe you didn't see that at Fort Lauderdale. But I don't know if
that -- again, that goes back to is that something that's in policy or that's something that, what we mentioned earlier, BCAD had control over. You know, I believe there should be more tactical stuff. I definitely agree, but I'm definitely not in any position to make those kind of policies or procedures, you know, at all.

Q Right. And that would partially be -- I mean, you could probably suggest some changes, but ultimately there's a chain of command of who can approve going to a more tactical response or presence; right?

A Correct. And as large as our agency is, you know, I'm really probably not even in a position to even suggest based on my rank and so forth.

Q Okay. Who is the top person in the agency of Broward Sheriff's Office who can ultimately make the decision of whether or not to go to a more tactical presence and response?

A I work for the Division of Law Enforcement. I'm assuming it has to do either with the colonel of law enforcement in conjunction with the undersheriff and the sheriff itself. I'm assuming that would be the people that would get
Q And this is going to sound like a real obvious question, but who's the ultimate decision-maker for Broward Sheriff's Office?

A The sheriff himself, sir.

Q Okay. I want to go back to the report. One of the reports said that there was a need for more than just tabletop exercises and threat assessments back in 2017. Do you agree with that area of improvement, that there needed to be more than just tabletop exercises and threat assessments?

A Yes; but then I just won't go just with Fort Lauderdale, I have to go through, you know, schools and every other area, government centers and so forth that you probably do need to build up some scenarios and practice, not just table talk. I agree.

Q So is that something that you still believe, that there needs to be more than just -- I mean, I guess it would be what, like real-life scenario training more frequently? Is that what you're talking about?

A Yes.

Q Okay. My understanding is prior to the
Fort Lauderdale Airport shooting in January of 2017 there was a tabletop exercise that occurred within the airport district. Were you a part of that?

A No, I was not.

Q Okay. Can you tell me what -- when you were at the airport specifically, and I know you said you were only there for a couple of months -- well, I guess it would have been -- what's that? -- almost a year?

A Almost, yes.

Q So what kind of specific training did you do within the airport itself during that time from when you got there to January of '17?

A Well, like you mentioned before, I mean, we don't have specialized training for someone that takes a security position at the airport.

Q Did you take part in the -- well, I guess this would have been before you got there, but my understanding is there was also a full-scale exercise conducted with some other agencies in Miami-Dade in the winter of 2016, about February of 2016. Did you take part in that?

A I did not, sir, no.
Q Okay. So if I understand correctly, from the time you got to the Fort Lauderdale Airport through the shooting in January, you never took part in a full-scale exercise or tabletop exercise related to the airport specifically?

A Correct.

Q What about after the shooting? Did you take part in any full-scale exercises specifically related to the airport?

A No, I did not.

Q Okay. Were you -- how much were you involved in the response after the shooter was apprehended at the airport?

A Well, I stayed in my terminal and, like I discussed earlier, I cleared the top. And then, of course, I stayed in the -- then I stayed at the front end because the TSA manager, there's gates on there, on the area, too, and he ended up locking them up to not allow, you know, just stragglers to come and go from the checkpoint once it was cleared. So I positioned myself towards the, you know, where the ticket counter is, the unsecured area of the terminal. And then --

Q Okay.

A -- posted there and then assisted on the
crime scene when they needed more assistance down there as far as security goes.

Q So would you have any independent knowledge of the response that was going on in the other terminals after you apprehended the shooter?

A Other than the fact there was possibly -- I know there was radio calls about another shooter, so forth, and I think -- I definitely assisted on the people panicking, trying to intervene in the crime scene, yes.

Q Okay. Was there any -- prior to the shooting was there training about how the team would communicate as a whole in a situation like this, a large airport, a call of an active shooter, you know, what would be appropriate things to say on the radio, how to check to make sure you're not giving misinformation and causing more chaos? Was there anything like that that happened before the shooting?

A Not specific to the airport, no. No.

Q Okay. I guess in general, though, was there training on communication between the team members?

A Just when we did our active shooter training, that was the training we got based on
the scenarios there.

Q Okay. Do you have an opinion one way or the other as to whether or not what you heard over the radio on the day of the shooting at the airport was in compliance with what you learned in your training about making sure not to send misinformation over the radio or speak too quickly before confirming?

A Yes. But, again, being that the airport is such a large facility and so many people spread out, I can understand how that radio system got way under -- I mean got overstressed, I should say, so much transmissions just making sure that there possibly wasn't a second or third threat.

So --

Q And I'm not necessarily talking about the throttling back of communication because, actually, the governor's office hasn't made the radio system or the deficiencies of it an issue. I'm talking more about just the deputies using the radio in compliance with what they were trained.

And I guess my question is more along the lines of: Did it seem to you or do you have an opinion if deputies were using the radio and sending intel in an appropriate manner, you know,
checking to make sure that what they were saying over the radio was actually accurate versus knee-jerk statements that might have caused unwarranted chaos?

A Well, the thing is that after the shooting you can only imagine how the deputies were as far as pins and needles and the amount of people that were involved in that airport at that point in time. So the real intel was actually deputies providing that through the radio system. There was no other way to -- you know, even though we have cameras at the airport, there was no way anyone looking at those cameras, transferring that information through the radio system to law enforcement.

And then the multiple agencies that were not utilizing the same frequency or channels and we were not able to communicate, I'm pretty sure it added more to the confusion or to the proper, you know, communication process, trying to get information through the radio system itself.

And I understand what you're saying. I think what I heard in my opinion was intel, was real information. The problem was it was such a huge facility and the amount of people that were
there, you know, you can only gather so much of it.

Q Are you familiar with the events that happened at the Los Angeles airport a couple of years prior to the Fort Lauderdale Airport?

A Yeah, I don't know the full -- the full, but I have heard some remnants of it.

Q Okay. So at least -- well, I guess let me just ask it this way: One of the ways that could potentially have minimized the confusion and chaos, do you believe it would be a real-life training exercise at the Fort Lauderdale Airport shooting [sic] to really put deputies and other responding agencies in a position where they can see the sheer mass of people and response that might happen?

A I mean, if you want my opinion, I'm going to be biased, you know, because of my military training. We did everything that -- before we went to a mission, we had to know everything, everything that was involved in what we were getting into, what's the survey of the land, the building, so forth. Would we like to do that as law enforcement? Absolutely. I think we can. I just don't know if the resources are
there, available to conduct such a thing.

Q Okay.

A I know every time, at least in aviation, I try to do something, I know it comes down to the resources, do we have the resources available to conduct that kind of training. And then, again, you also got to think about, okay, what's the benefit/risk on the financial spending of that resource or what you're going to get out of it, I mean.

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

Deputy, I do appreciate you taking the time off to come speak with us today.

THE WITNESS: All right. Thank you.

MR. KUEHNE: Thank you. I do have a couple follow-ups.

REDIRECT EXAMINATION

BY MR. KUEHNE:

Q Deputy, were you at any time on January 6, 2017 in your capacity as the detail deputy at the Fort Lauderdale Airport complacent?

A No.

Q Were you thinking of your eventual retirement as a result of being assigned to the
airport?

A No. No.

Q Are you aware of any other deputies that you knew at the time who were assigned to the airport who were thinking about what a cushy job this was, I'm getting ready to retire?

A The guys personally that I knew at that point in time?

Q Right.

A None of them. No, they still had many years to go before retirement.

Q At the time --

A Right.

Q -- were you aware of any deputies assigned to the airport who were complacent in their duties and -- in fulfilling their duties and responsibilities?

A Not the guys that I knew at least, no.

Q You mentioned briefly in response to one of the questions something about at your level. Let me focus on that.

Do you believe as a deputy either in January of 2017 or today if you make any recommendations or suggestions up the chain of command that they are well received and
A Yes, I believe so. Yes.

Q You recognize your authority to make decisions?

A Yes.

Q What you're allowed to do?

A Yes.

Q As OIC --

A Yes.

Q -- of the aviation unit, you have some decision-making responsibility?

A Oh, absolutely. I do. I do.

Q When something's not at your decision-making responsibility, have you at the airport assignment or your current assignment made recommendations to the staff above you to look at things a different way or to think of other things to do?

A Yes, I have.

Q And let me stop you at the time that Sheriff Israel was the sheriff, the active sheriff of Broward County. So not the time when the appointment, Sheriff --

A Okay.

Q -- Tony, is there.
A Okay.

Q But up to the time of Sheriff Israel being active sheriff, did you find that the chain of command was receptive to any suggestions and recommendations that you made?

A I believe so at that time, yes.

Q And let me just close on another item you were asked about and that was the later radio traffic at the airport.

At any time in the training and experience you've received with active shooter incidents, have deputies been told to tone down their radio communications and not report intelligence that may be helpful to those on the scene?

A No. No.

Q In your experience that day, going to the eight o'clock time, did you find the radio communication to be helpful to you as an assigned deputy in doing your job?

A At that time, yes. Yes.

MR. KUEHNE: I have nothing further.

Anything more?

MR. PRIMROSE: No other questions.

MR. KUEHNE: The deposition is
probably -- so we're finished with the deposition. The deposition is probably going to be transcribed.

THE WITNESS: Okay.

MR. KUEHNE: You have a right to look at the transcript. Certainly when it gets transcribed I'll send it to Terrence Lynch; he's the chief legal counsel.

THE WITNESS: Okay.

MR. KUEHNE: But you also have a right to read it before it gets finalized.

THE WITNESS: Okay.

MR. KUEHNE: But you need to let me know what you need to do. And we'll probably be asking to do transcripts fairly quickly.

THE WITNESS: Okay.

MR. KUEHNE: So do you need to read it first or are you okay with transcribing and us just sending it to Terrence Lynch? You can always look at it and make any corrections.

THE WITNESS: I'm okay with it, yes.

MR. KUEHNE: Okay. So I'll just send it to Terrence Lynch directly if it's transcribed, but I think it will be.
THE WITNESS: Okay.

MR. KUEHNE: Thank you very much, Deputy. We appreciate you being here.

THE WITNESS: Thank you.

Thank you, sir.

MR. KUEHNE: Oh, by the way, I forgot to hand the deputy his subpoena. He got it already from Terrence Lynch, but I'm just handing him the subpoena --

MR. PRIMROSE: Okay. Thank you, Deputy.

MR. KUEHNE: -- so it's clear that he's under subpoena.

THE WITNESS: All right. Thank you.

(Witness excused.)

(Thereupon, at 12:13 p.m. the deposition was concluded.)

-------------------
CERTIFICATE OF OATH

STATE OF FLORIDA  
COUNTY OF BROWARD 

I, Carol Ann Kridos, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, DEPUTY JESUS MADRIGAL, personally appeared before me on June 5, 2019 and was duly sworn by me.

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

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

I hereby certify that I have read the foregoing deposition given by me, and that the statements contained therein are true and correct to the best of my knowledge and belief, with the exception of attached corrections, if any.

___________________________
DEPUTY JESUS MADRIGAL

SUBSCRIBED AND SWORN before and to me this _____ day of _____________, 2019.

_________________________
Notary Public, State of Florida
My Commission Expires:

REASON FOR WITNESS'S NON-SIGNATURE:

_____ WITNESS FAILED TO APPEAR
_____ WITNESS COULD NOT BE LOCATED
_____ WITNESS IS ILL
_____ WITNESS REFUSED TO SIGN
_____ OTHER _______________________


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ERRATA SHEET

IN RE: SUSPENSION OF SHERIFF SCOTT ISRAEL

DATE: June 5, 2019

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REPORTER'S DEPOSITION CERTIFICATE

I, Carol Ann Kridos, RPR, certify that I was authorized to and did stenographically report the deposition of DEPUTY JESUS MADRIGAL, the witness herein, on June 5, 2019; that a review of the transcript was requested; that the foregoing pages, numbered from 1 to 61, inclusive, are a true and correct transcription of my stenographic notes of the deposition by said witness.

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

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

Dated this 7th day of June, 2019.

_________________________________
Carol Ann Kridos, RPR
Notary Public - State of Florida
June 7, 2019

Deputy Jesus Madrigal
c/o TERRENCE LYNCH, GENERAL COUNSEL
BROWARD COUNTY SHERIFF'S OFFICE
2601 West Broward Boulevard
Fort Lauderdale, FL 33312

RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Deputy Jesus Madrigal
TAKEN: June 5, 2019
READ & SIGN BY: July 7, 2019

Dear Deputy Madrigal,

This letter is to advise you that the transcript of the deposition listed above is completed and is awaiting reading and signing. Please arrange to stop by our office in Suite 2250, 2 South Biscayne Boulevard, Miami, Florida to read and sign the transcript. Our office hours are from 8:30 a.m. to 4:00 p.m. Monday through Friday. Depending on the length of the transcript, you should allow yourself sufficient time. If the reading and signing has not been completed prior to the referenced date, we shall conclude that you have waived the reading and signing of the deposition transcript.

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.

cc: All counsel on appearance page.
June 7, 2019

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

RE: SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: Deputy Jesus Madrigal
TAKEN: June 5, 2019
READ & SIGN BY: July 7, 2019

Dear Counsel,

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

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

Sincerely,

CAROL ANN KRIDOS, RPR
VERITEXT/FLORIDA REPORTING CO.
THE FLORIDA SENATE

EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL

DEPOSITION OF JAMES POLAN

Taken before Lilly Villaverde, Florida
Professional Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of Taking
Deposition filed in the above-mentioned cause.
APPEARANCES:

BENEDICT P. KUEHNE, ESQUIRE
ben.kuehne@kuehnelaw.com
Kuehne Davis Law, P.A.
100 S.E. 2nd Street
Suite 3550
Miami, FL 33131
on behalf of Sheriff Scott Israel

NICHOLAS A. PRIMROSE, ESQUIRE
Nicholas.Primrose@eog.myflorida.com
Executive Office of The Governor
The Capitol
PL-05
Tallahassee, FL 32399
on behalf of Governor Ron DeSantis
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### EXAMINATIONS

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## EXHIBITS

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THEREUPON:

JAMES POLAN

called as a witness herein, having been first duly
sworn, was examined and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. KUEHNE:

Q. What is your name and spell your last name.
A. James David Polan, P-O-L-A-N.

Q. And what title do I use for you? You are a law
enforcement officer, what --

A. My title is assistant chief.

Q. Assistant chief. So I can call you chief?
A. You can call me Jim.

Q. Jim, I want to be appropriately respectful.
A. No. Jim is fine.

Q. My name is Ben Kuehne. We just met, as I was
walking you in. I am counsel or lawyer for Scott Israel
in proceedings involving review of his suspension.

I've asked you to appear for a deposition and I
sent you, but I have, I'm handing you the subpoena for
your appearance. So you are a subpoenaed witness in
these proceedings. And we'll get an introduction on the
record of the governor's counsel.

MR. PRIMROSE: This is Nicholas Primrose for
Governor Ron DeSantis.

BY MR. KUEHNE:

Q. I am going to be asking you questions largely about two incidents that occurred. One in January of 2017, known as the Fort Lauderdale Airport incident. The other February of 2018, the Marjory Stoneman Douglas High School shooting and policies and procedures at the Broward Sheriff's Office during that general time frame.

A. Okay.

Q. You worked, at one time, for the Broward Sheriff's Office?

A. Yes, I did.

Q. In what capacity?

A. I was hired as captain in November of 2005, under Sheriff Ken Jenne as a SWAT commander and I retired January 11th of 2019 as a colonel.

Q. Is that -- up to 2019, is that the entirety of your law enforcement career?

A. No, sir.

Q. Okay. Why don't you give me a brief description.

A. Sure. I went to the police academy in 1981 in the State of Michigan. I worked for the Cambridge Township Police Department from '81 to '83. I then accepted a position with the Fort
Lauderdale Police Department where I worked until November of 2005. I retired as a captain and then transferred over to the Broward Sheriff's Office.

Q. And you came in at what position?
A. To the Broward Sheriff's Office?
Q. Yes.
A. Captain for the position of SWAT commander.
Q. Okay. How long did you serve in that capacity?
A. As a captain, I was in that position from November of 2005 until January of 2009.
Q. And then what did you do after that?
A. And then new sheriff in town, Sheriff Al Lamberti came in. I was terminated, because of a relationship with Sheriff Scott Israel. I then accepted a position with the Seminole Police Department as a lieutenant, to run their training division and I retired -- I didn't retire from there. I left there in May of 2012 as a major and I took a job with Harley Davidson Motor Company, because my background in motorcycles.

I moved to Milwaukee because I had to work out of their world headquarters. Lasted one year because my wife is a Florida girl and she wanted nothing to do with snow and I came back to Florida.

Q. And certainly Wisconsin gets its share?
A. Yes, sir, it does.
Q. So you came back to Florida and did what?
A. And in June of 2013, I went back to the sheriff's office and I remained there until I actually retired from the Florida retirement system in January 11th of this year. So a total of 38 years in law enforcement.

Q. But you're currently working as a law enforcement officer?
A. I'm currently an assistant chief with the Seminole Police Department. I have operations and training.

Q. Are you a sworn law enforcement officer?
A. Yes, sir, I am.

Q. Have you kept your law enforcement certification intact largely over those 38 years?
A. The entire time, since I was first certified in 1981.

Q. So even when you worked for Harley Davidson Motorcycle, you still had a valid certification?
A. Yes, I did.

Q. The Fort Lauderdale Airport shooting took place on January 6, 2017. You're familiar with it?
A. Yes, sir.

Q. Did you have any active involvement in that?
A. I was assigned -- when that occurred, I was in
my office at the public safety complex, 261 West Broward, when it occurred. It was over in 85 seconds. We never even left the building, because it was over and completed and turned into a crime scene, therefore, we continued on with our meeting, didn't even drive down. The airport was not under my command at that time.

And then approximately, what, an hour and 30, 40 minutes later is when, I call human behavior took over and then I ended up being the deputy incident commander in the Broward Sheriff's Office EOC, which we activated for the event.

Q. Tell me what an EOC is.

A. Emergency operation center. It is basically the -- not your on-site command post, but it is the hierarchy of the command post. So you are staffing it with individuals that are going to make sure that everyone stays at a level playing field, communication past on, orders are given, resources are requested.

Q. The hour and a half later that you described as calling you to the scene, was that the result of reporting of potential terrorists activities or shooting activities at the airport?

A. Yeah. As a matter of fact, my biggest concern was when I heard -- I don't know how many exactly there were, 12, 13, 14 calls for service for shots fired by
different law enforcement, just going from memory, so my concern was we were being attacked by a well-trained team, much as we have seen across this world.

Q. As you've developed a perspective on the Fort Lauderdale Airport that was not just a view that you had, that was shared by lots of the law enforcement?
A. Yes, sir.

Q. Not just BSO?
A. No, sir. That's correct.

Q. Fair to say that the response to the airport shooting involved a massive amount of law enforcement presence?
A. It was actually almost an overwhelming response. I believe the ballpark figure, no one could actually have the exact number, was 2,000 law enforcement officers had responded to that area, many of them from a problem that impacts public safety nationwide called self-dispatching.

Q. And that includes law enforcement of virtually every agency, state, local, federal?
A. From the tri-county area, yes, sir.

Q. And you, as incident commander at the EOC, did you have a responsibility to work and coordinate with the various responding officers and agencies?
A. That was done at the on-site command post. So
no, sir, I did not.

Q. Okay. Did you have any work in any activity in coordinating with any of the federal agency responses?
A. No, sir.

Q. Okay. Do you know that the FBI was present at the scene?
A. That's correct.

Q. And actually took charge of the incident?
A. Yes, sir.

Q. Sometime after the shooter was apprehended?
A. That's correct.

Q. And was that based on the developing belief that this might be a terrorist-related shooting?
A. I'm going from memory, but I believe it had more to do with the firearm being transported from -- in an airplane from state to state, crossing state lines and also the concern for domestic terrorism.

Q. Okay. You were at the time a colonel?
A. In 2017, I was a -- I believe I was a lieutenant colonel.

Q. Lieutenant colonel?
A. I'm going from memory.

Q. But certainly command staff?
A. Yes, sir.

Q. And had you worked with federal agencies before
in any capacity, not working for them, but working on matters with them?

A. Yes, sir.

Q. Did that include joint training exercises?

A. We had more than one joint training exercises with our feds. Many years ago, we developed a Broward County SWAT Commander Association where all of our SWAT commanders would get together, we would share ideas, equipment, concepts, theories, review after actions for lessons learned on things that we all participated in, and we also had one to two joint training sessions per year and the FBI local team, for their SWAT team was always involved.

Q. Fair to say that you have significant SWAT team experience?

A. Yes, sir.

Q. In the law enforcement world, including BSO, are SWAT team members more specially trained than road officers?

A. Yes, sir.

Q. Is there a reason for that?

A. The type of -- we use a phrase that when the community needs help, they call 911. When police need help, they call SWAT. There's that certain area that there's only so many things we can prepare law
enforcement officers to do on the street, because it's a job, unfortunately, where anything can happen, so how do you prepare for everything?

So the SWAT team itself, they go through -- depending on the agency, I can tell you Broward Sheriff's Office specifically, it's a three-week training period that they have to go through. It's about a 50 percent or higher failure rate.

Q. And these are already trained law enforcement officers?

A. That's correct.

Q. Who then want to develop SWAT experience?

A. Yes. And then they have training every Thursday from that point forward.

Q. As a command officer, and given your abundant experience in law enforcement, is it possible in an organization the size of Broward Sheriff's Office to equally train every deputy as though they were SWAT officers?

A. No.

MR. PRIMROSE: Object to form.

BY MR. KUEHNE:

Q. You can answer.

A. No, it's not.

Q. Do you see any benefit to law enforcement or
the community if every law enforcement officer, road
patrol officer were trained as a SWAT member?

A. I don't believe it's relevant, only because
there's not enough -- there's not enough time.
Unfortunately, I hate to use this word, there's not
enough money, because training cost money and if you
wanted to train everyone to that level of a SWAT team
member, there would never be anyone on the road to serve
the community, which is really our number one person to
serve, the community. No one would be out there. With
the number of staffing that the Broward sheriff's -- if
you go with the number of sworn, no one would ever be at
work.

Part two of that, not everyone has the ability,
the skill and the knowledge to truly be a SWAT team
member, or have the desire to remain physically fit,
that they are required to do, and go through testing
every year.

Q. So you mentioned training, and you sound like
you have a significant amount of experience in training
at BSO and elsewhere?

A. Really started my training career in Fort
Lauderdale.

Q. Fort Lauderdale.

A. And then it continued on to Broward Sheriff's
Office and with the Seminole Police Department, that's what I was hired for specifically in 2009.

Q. Okay. You are aware of state required training?

A. Mandatory training through FDLE?

Q. Yes.

A. Yes, sir.

Q. That mandatory training, during any of the time that you were a law enforcement officer in Broward, did not include active shooter training, did it?

A. That's correct, did not.

Q. And how about today?

A. It does not.

Q. You are an assistant chief with a law enforcement agency?

A. Yes.

Q. And by the way, the Seminole tribe, that's a Native American tribe, are there standards that govern policing in the Seminole tribe?

A. I will answer that two ways. Number one, the Department of Interior Bureau of Indian Affairs is the federal accreditation for all tribal community police officers. So it's kind of CALEA.

Q. CALEA?

A. The Commission Accreditation For Law
Enforcement Agencies.

Q. Okay.

A. Broward Sheriff's Office is a member of that. But the Seminole Police Department, not only do we follow BIA, but we follow the State of Florida law. So we do not work off tribal law. We follow State of Florida law. We serve -- there's seven different reservations throughout Florida, so we deal with five different counties and two different court systems.

Q. Okay. And to your knowledge, today, post Fort Lauderdale Airport, post Pulse, an Orlando mass tragedy, mass shooting, post MSD, has FDLE made mandatory active shooter active killer training?

A. No.

Q. Did, during your tenure with BSO, did BSO make mandatory active shooter training?

A. Yes. And I will answer that a couple of different ways. I'm going to back up. Right after Columbine in 1999, when I was with Fort Lauderdale, I actually started the active shooter program with the City of Fort Lauderdale Police Department training Fort Lauderdale police in the active response. I worked with Mike DiMaggio, who is a friend of mine that worked in the police department with me and we spearheaded that training and trained the entire police department for
When I came to BSO in 2005, I'm going to say it was late 2006, early 2007, I also initiated active shooter at the Broward Sheriff's Office using the SWAT team members. As a matter of fact, the gentleman I just passed in the hallway, who was here prior to me, Steve Robson, he was a deputy on SWAT at the time. He was one of the original cadre members that helped me teach that active shooter training back then.

Q. And that was with Sheriff Jenne?
A. That was with Sheriff Jenne.

Q. And when you came -- when you rejoined BSO, did that active shooter requirement by BSO continue?
A. I believe it increased.

Q. Increased.
A. I believe so. Not only the active shooter training, but during that -- my -- the period of time with Sheriff Israel, we implemented a few different courses that would be on record and filed at the Broward Sheriff's Office. One was supervisory leadership training where every FTO, sergeant, lieutenant were required to go through the training. I taught the class.

Q. Tell me --
A. It was an eight-hour class.
Q. Tell me what FTO means.

A. I'm sorry, field training officer. Basically, they are a full-time supervisor because they are training the new cadets that are coming on. They are grooming them for the future.

Q. Okay.

A. And this supervisor leadership training was an eight-hour course classroom setting, but it focused on tactical decisionmaking, command post initiation, the requirements they have to do when they are at the command post staging areas and it was multiple tabletop exercises as well. So that was implemented under Israel.

We also did critical incident response training, which was, I want to say, I'm going to ballpark figure 2012, '13, but BSO would have the accurate records. All supervisors were required to attend that as well. That was held in Port Everglades. There they also focused on command post training, leadership and decisionmaking for a tactical situation and they went through practical applications with scenarios. So hands-on training for what they learned.

Q. And when you say "Port Everglades," that's the seaport?

A. Yes, sir.
Q. That adjoins the airport?

A. Yes, sir. We did all the training there.

The third course that was put into play, and again, it will be on file and record at the sheriff's office, crowd management civil disturbance training. And even though it has nothing to do with active shooter, it actually does because it's focused, again, on command post initiation, tactical decisionmaking and directing your troops.

Q. You mentioned that civil disturbance training doesn't have -- or crowd management doesn't necessarily involve active shooter training, but isn't -- hasn't experience demonstrated that crowd management is a consequence of active shooter scenarios?

A. It very well may be, absolutely.

Q. And there is training done at BSO to help respond to that?

A. Well, prior to -- again, it would be on file with SO. 2017, the Broward Sheriff's Office did not train their deputies in crowd management control. They did not. They had a special team called field force, mobile field force. There was approximately 150 guys and gals that were trained in crowd management. It's not efficient.

Under Sheriff Israel's direction, we then began
to train the entire agency in crowd management control, and that went on for -- we were training on Saturdays in Tamarac, eight-hour class, classroom and practical application to complete everyone in the agency for that concept.

Q. You mentioned at Fort Lauderdale Airport the shooter was apprehended quickly, but as the situation unfolded, potential for other shooters or other acts of violence. You were at the EOC?
A. Yes, sir.

Q. And essentially kept track of what was going on on site?
A. Yes, sir.

Q. There was some radio communications problems?
A. Yes, sir.

Q. Not unusual?
A. Correct.

Q. You understood, as did Broward County, that the system, radio system was antiquated overcapacity. Did BSO have a workaround to work around a deficient radio system?
A. No, sir.

Q. Did you have to use a lot of people going back and forth actually running or going to locations?
A. It was basically back to fundamental
communication trying to speak, you know, going from one corner to another to actually speak to someone to get the message across.

Q. Okay. And was BSO able to coordinate with the federal agency, FBI, that took command of the airport and all the affiliated responders?

A. They were. After the shooting occurred and the shooting was over and the bad guy was in custody, at that point we -- lower level terminal two becomes a crime scene. You know, law enforcement deals with crime scenes every day. So your command bus pulls up and it's basically in front of the crime scene, terminal two, and that basically becomes the communication hub for the entire operation.

    Again, a ballpark figure, hour and a half hour, and 45 minutes is when the additional problems occurred. Human behavior took over, but the command post had already established. So the working parts were already there for the people to see each other and talk back and forth. So that did help with that unified command presence.

Q. Did you have any involvement in the post-airport development of after action reports or the critical incident report?

A. I did. The airport shooting occurred on a
Friday, the 7th, January 7th, I believe, and the
following week, the airport was then placed under my
command.

Q. Okay.
A. So I was involved with the draft, you know,
collecting as much as we possibly could of the after
action.

Q. The development of the after action report
leading to the publication of the critical incident
report went through several drafts?

A. Yeah, there were several drafts.

Q. Is that unusual, in the event of the magnitude
at Fort Lauderdale Airport, that something would go
through multiple drafts?

A. I think anything we do in life, we do multiple
drafts of. If you are drafting something for a court
proceeding, you are not going -- your first hearing,
your first draft or memo that you give to a judge, you
will never give me your first copy. You are probably
going to rewrite that thing three or four times and make
sure that's going to be done. I imagine anyone in your
profession would do that.

Our profession is the same way. You know, we
grab everything we can, we throw it against the wall,
now we need to look at everything, we need to vet it,
make sure it's accurate, make sure it's truthful, make sure it's factual before we put it down on paper for that first go around, and then we have to go through our command process.

So, you know, I wasn't the final decisionmaker for that. It would go to my boss, at the time, and at that point it would end up going to the sheriff for the final approval or signature.

Q. Okay. And Major Cedeno was first tasked to do the initial fact gathering?
A. He was. Major Cedeno was one of my direct reports.

Q. Okay. And he put together an early draft?
A. Yes.

Q. Did he do that in a fairly quick time frame?
A. I would say yes. Even when we look at the airport shooting or even more so with MSD, which I know you are going to speak about, you know, it took Sandy Hook almost five years to finish and publish their after action report.

Q. Wow.
A. So Stoneman Douglas was put out in less than a year. I don't know seven, eight months, and the airport shooting, you know, we were -- I don't remember the exact time line, but it was not even close to five
years, like Sandy Hook or Columbine.

Q. Well, the critical incident report, and there's a piece of evidence that has it, but the date published, the final report, was October 6, 2017. So essentially nine months after the incident.

A. Yeah.

Q. Is that speedy by law enforcement standards?

A. I believe so, yeah.

Q. Was it expected in the BSO system that Major Cedeno's initial draft would then be reviewed, vetted and worked into yet another draft?

A. Absolutely.

Q. Captain Diefenbacher was assigned to do the next review?

A. He was -- I don't remember the next review or not, but obviously Dief was in the -- in that review line. He was going to be the -- probably the final reviewer for structure and grammar, not for content, because he wasn't there, that's not -- not content, but for structure, grammar and how it was going to be formed, and then that would be passed off to, at the time, Undersheriff Steve Kinsey, who was going to be, okay, this looks good enough for me to now give it to the sheriff.

Q. And Kinsey was the undersheriff, the number
two?

A. Yes, sir.

Q. Was there a process used to get to a final report after incident report?

A. You know, I almost believe that the process ended up being skewed, only because of being sued by the Sun-Sentinel to release that draft. I think that created some issues, some concerns within the sheriff's office, because now we have all this information that's now out in the public and whether it's true, accurate or not, once the accurate report is released, no one cares about the truth at that point, because now all the nonsense that may not be actually truthful is already out into the public.

Q. Was BSO, as an institution, focused on getting it right, getting it accurate?

A. Of course.

Q. And was it expected, within the BSO process, that the early drafts would need a lot of work?

A. Yes.

Q. Is that -- does that sort of go with the territory with police work?

A. You know, we do what's called a debrief or hot wash almost after everything that we do. Even if there's a car chase, there will be a short -- everybody
involved will get together, almost like a huddle on a football field, and you will do a debrief. You talk about what did we do well, what do we have to do to improve, so there's almost like an informal after action, like we did for the airport.

On Monday, I will be holding an after action review, debrief, for -- we just buried one of our lieutenants who was killed in the line of duty. So we had a very large funeral we had to take care of this week. We will be doing a debrief, did we do well, what do we have to improve upon, even though we pray we never have to do it again, there may be a next time.

So there is a structure a format that law enforcement goes through. Learned from the U.S. Army, they wrote the book on after action reviews. That's where we got it from and it's been around for a long time. So without a doubt, you want to get it right and it's going to take time.

Q. So there are actually some standards, not just BSO inclination as to what an after action report or review should involve?

A. Yes, sir, the Army wrote the book on it.

Q. And the purpose for an after action report --

A. Yes, sir.

Q. -- based on your position and your knowledge of
what unfolded at Fort Lauderdale Airport, was there any significant problem with the active shooter training up to the time of that incident?

A. Well, you know the airport, obviously it's a unique place. We can't close down the airport to go in and actually train there, even though several years ago we did, but we were training during the midnight hours, you know, they were out there like 2:00, 3:00, 4:00 in the morning to train in the actual concourse.

Q. So BSO has done actual training at the airport?

A. Yes, yes. It's documented. There's pictures on it with people in there. I was one of the guys doing the training, so I know for a fact it occurred.

Q. Nature of rapid response or active shooter scenarios?

A. Yes, sir.

Q. And also at the seaport?

A. At the seaport we did it as well.

Q. Okay.

A. And I -- there's a video. I'm really quite surprised it hasn't been released in the public with all this stuff going on.

In September of 2016, the news came out and actually videotaped the sheriff's office conducting, what I call, realistic, force-on-force active shooter
training with simulated gunfire, with using what we call
FX marking cartridges shooting at each other with
plastic bullets, with role players. It's all on film.
It's documented. They interviewed the lead instructor,
whose name is Sergeant Morris McCool, they interviewed
him, and it shows you exactly the type of training that
BSO was providing, but I have yet to see that on the
news anywhere.

Q. Back to the active shooter training that was in
place up to the time of the Fort Lauderdale shooting.

Did BSO identify any deficiencies in its active
shooter training up to that point?

A. Not to my knowledge, no.

Q. Did BSO learn from the airport incident and
evolve its active shooter training?

A. I think the one thing we learned from that, the
most is really the command post, the staging areas, you
know. The airport itself, there were cars left
literally everywhere. Police cars, the roads were
clogged, which is common, across the country, if you
look at critical incidents, that occurs.

Those are a couple key things that we learned,
but as far as learning to change things, no, the deputy
who responded at the airport, Deputy --

Q. Madrigal?
A. -- Madrigal, he was working overtime. He is one of our helicopter pilots and I don't know if you've seen the video or not, but there's a video of -- if you visualize the airport concourse and you have everybody running one direction and all you see is this guy coming upstream, coming upstream, he is running towards the gunfire. It's a tremendous video. He is running towards the gunfire. He had the same training as everybody else. He had the same training as the guy at MSD on that day.

Q. And he was able to confront and apprehend the shooter within less than 80 seconds?

A. Yes, that is absolutely correct.

Q. And that was what the -- you understand the training to be focused on, to apprehend the shooter?

A. Correct.

Q. Or shooters?

A. Yes. You know, active shooter training first began back in 2000. It was built off what's called a quad-diamond or T-formation, which means it's multiple officers going in. There was a minimum of four that was going in. That was their whole purpose to do that.

It's changed over the years and now we are to the point, and it's taken several years to get there, it's one guy or one gal, you are going in.
Q. So that's the evolution based on real life scenarios?

A. It has. It has. And with that evolution, they've seen it change where now statistically that obviously officers are getting shot or killed more often, because they are going in alone, but that's their job. They go in. So it's changed now to that solo officer response.

Q. At the time of Fort Lauderdale Airport shooting, continuing until through the MSD shooting BSO had an active shooter policy in section 4.37 of the standard operating procedures. I got it, but I'm going to read a section to you.

Subpart C, quote, If realtime intelligence exists, the sole deputy or a team of deputies may enter the area and/or structure to preserve life. A supervisor's approval or on-site observation is not required for this decision, end quote.

What was the nature of the training, the actual training on that policy?

A. Realtime intelligence is defined as, you know, you get your call over the radio, there's a white male, blue shirt, blue pants on the 9th floor of 1 East Broward Boulevard actively shooting people, realtime intelligence begins, I'm responding there.
As I pull up, I see people running from the building, screaming, that's more realtime intelligence telling me there's a problem here.

Now I hear gunfire, that's more information, realtime intelligence guiding me towards that.

So that's how we would start our scenario training, feeding them realtime intelligence. You have people running out, "He's got a gun. He's got a gun. He's inside."

So trying to feed them to make them understand you got to go, and your only job is to go stop that shooter, period. You are not there to rescue anyone. You are not there to provide medical care. You are not there, even if an officer goes down, to help him or her. You have to go stop that guy.

Q. So the first focus is subdue the shooter in some way?

A. And it's been that way since I started teaching in 2000. Again, Fort Lauderdale Police Department, Broward Sheriff's Office and at the Seminole Police Department, that training hasn't changed, and it's not my concept or idea, it's across the nation.

Q. You mentioned that FDLE has no requirement for active shooter training at all, up to today.

Does FDLE have a mandatory policy that law
enforcement agencies are required to implement on active shooter?

A. I don't believe FDLE even has a policy. You know, when I checked recently, FDLE has two groups. You have your investigators, they are out in the field all over, and they have the uniformed officers up at the capital. There was a policy for them up at the capital, but there's no policy in place, unless it's changed over the last few months for FDLE agent working here in Broward County, that's something I would follow-up on myself, but I know when I checked on it before, it wasn't there.

Q. You know that post MSD, the Broward active shooter/killer policy was subject to significant criticism, right?

A. I do.

Q. Over -- is it primarily over the use of the word "may" in that policy --

A. Yes.

Q. -- versus, the criticism, "shall"?

In terms of the training on the policy that then existed, the may, was there any difference in training between a may versus shall?

A. No.

Q. The policy post MSD was changed to remove may
and put in shall. Did the training, in any way, change?

A. No.

Q. Was there any need for a change in training?

A. No, not at all. Training was on point.

Q. There's no doubt that, at least as events have unfolded, moving now to MSD, that the initial responding officers response was not as trained law enforcement officers would want or expect, fair?

A. Agree.

Q. Was there any part of that officer's training, if you know, that did not focus him on phase one, job one, get the shooter, apprehend the shooter, subdue the shooter?

A. Talking about the SRO specifically?

Q. Yes.

A. You know, to me, his standards, his mindset should be at a higher level than mine, not only -- because we were all trained the same, Jesse Madrigal, Jim Polan or Scott Peterson, we are all trained the same. You go in and you stop that bad guy, that is your job, period.

He was working in a school most of his career and that's something he should, in his own mind, he knows that's going to happen one day, what am I going to do with it.
Q. So a school resource officer, based on that function, is aware that that's actually a heightened environment?

A. Absolutely. And Peterson was also a member -- in 2015, we started a program at the Broward Sheriff's Office, again under Israel, we went out with a cadre from all across law enforcement in Broward County and we trained the teachers and the administrative staff in the schools, not all the schools, because it's the sixth largest school district in the country, but every teacher's workday we were training teachers on run, hide and fight, how they were going to survive from the first gunfire till we arrive. Peterson was one of the instructors on that group.

Q. So Peterson was a trainer for active killer for the actual school personnel?

A. That's correct.

Q. And did that -- strike that.

In his involvement as a trainer, was that a selected position he was selected by experienced training people to do that training?

A. First of all, it starts with someone who is willing to volunteer and has the passion to do it.

Q. Okay.

A. So he was one of those individuals.
Q. All right. And that was as recent -- that was relatively recent, in relation to the MSD shooting?

A. That is correct. We were only allowed to do the training on teacher workdays and there are like four or five a year, that was it, when the school was closed, teachers were off. We would do anywhere from seven to ten schools per day. So where we would have 80 to 100 instructors out at these different schools teaching and Peterson was part of that cadre.

Q. And you had to coordinate with Broward County Schools?

A. We did. At the time, Kevin Schults was the major in training. He was our point of contact with the agency. He coordinated and facilitated the scheduling with the Broward County School Board.

Q. So moving to Marjory Stoneman Douglas, February 14, 2018. Did you have a role in that?

A. I did.

Q. What was that?

A. I got my -- the first call -- I actually took that day off. It was Valentine's Day, try to do the right thing, took the day off. My wife and I were just getting ready to go into the movies and I got a phone call from Major Naiaska that there was a shooting going on at Stoneman Douglas.
Get my wife, we head home. I drop her off. I get in uniform. The entire time, I am trying to talk on my radio and I can't get my radio to work. I'm trying to get ahold of the captain, cannot get my radio to work. It's in and out, in and out.

Q. Do the deficiencies in the Broward County operating communication system --

A. Absolutely, overwhelmed. Absolutely.

Q. Okay.

A. I finally did arrive on scene, 3:10, 3:15, somewhere, just ballpark. I don't remember exactly. I did finally get on the air to make the statement that I was the incident commander. I mean, that's one of the biggest problems we have, failure to identify who actually is the IC. So I felt it was extremely important I got that out.

And I arrived on the northwest corner of building 1200 and my first point of contact was Steve Robson, who was the SWAT commander.

Q. Steve Robson had been wearing two hats, one SWAT commander and one incident commander?

A. Correct. And you really shouldn't wear two hats like that, but it was just -- you are dealing with one of those, what we call, a high risk, low frequency situation. So it's very difficult to do that.
Q. So you took over the responsibilities to be incident commander?
A. Correct.
Q. And he focused on the tactical side, the SWAT aspects?
A. Correct.
Q. Did BSO work with other agencies, other law enforcement responders at MSD?
A. Yes.
Q. Not the same number of responders as at the airport, but nonetheless, a significant amount of responders?
A. Yes.
Q. Local officers, municipal officers?
A. Yes.
Q. Officers from other communities?
A. Yes, sir.
Q. And was there effective coordination?
A. Well, I can answer that in two ways. One, we were at -- where Steve and I were at, we call that the TOC, tactical operations center, that's where we at. SWAT teams from all jurisdictions were there at that TOC.

I knew, at the time, there was a command post set up at Pine Island over just north of the Sawgrass,
the command post is where, obviously, the incident commander and others go there to facilitate the process to make sure your perimeters are set up, your staging areas are set up, your media has a place to go to.

I sent Captain Jan Jordan and Major Dave Holmes together over there to make sure that we have the perimeter, the coordination, staging area set up because we were still looking for the bad guy. He hadn't been captured yet and we had, at that time, the video was played back, which we weren't aware of, we thought we were still hearing this guy in the second floor.

Q. Meaning there was a time delay?
A. Yes, that's correct.

Q. And the video was made available to you by the Broward Schools?
A. That's correct.

Q. Okay.
A. Yes.

Q. That access has since changed, post MSD, right?
A. It has.

Q. Now, you are aware that BSO has an agreement with Broward County Schools to get immediate realtime access when an incident occurs?
A. Yes, sir.

Q. But did BSO have any control, the ability to
take over the Broward School Systems communications and television?

   A. Absolutely not. In fact, it took us probably -- wow, I bet it took a year or longer to get that signed agreement you just mentioned with the school board to make it happen today.

   Q. BSO contracts with -- at the time contracted with Broward Schools, right, to perform the school resource officer function?

   A. Actually, the way it's set up, the actual cities would. So the City of Parkland contracts the Broward Sheriff's Office for police services. Then the city decides who and how many SROs they want to put in the schools, because that's extra staffing they have to pay for. It's kind of like looking at a menu, say, they need ten officers to run the City of Parkland, but they need five more, if they want to put them in the schools. They have to agree to increase their contract allotment to the sheriff's office knowing that, what's called a cop kit costs about $150,000 a year for a new deputy, that's all the bells and whistles, but if they put that deputy into a school, the school board is only returning on their dollar, at the time, 52,000, and it went up to 57,000 after MSD. So the city is now putting a deputy in the school at full cost. So unless the cities agree
to actually pay the sheriff for those additional
deputies in the schools, it doesn't happen.

Q. So as you understand the laws and the policy,
the school system is responsible for security at their
schools?

A. Well, it's changed since MSD, but prior to MSD,
there was no requirement to put deputies or officers in
any school, none.

Q. And BSO was able to assign officers to schools
based on its contractual agreement with municipalities?

A. That is correct.

Q. And did BSO negotiate, if you are aware, with
municipalities over suggested, preferred staffing?

A. Yes.

Q. So BSO couldn't make the decision, you've got
to have X number of officers?

A. No.

Q. That's a negotiation with the city?

A. Correct.

Q. And if the negotiations were unsatisfactory to
BSO, BSO could simply not contract with the city?

A. Correct, but also that's, you know, if BSO
decided to walk away without an agreement, you are
leaving the city without law enforcement coverage, which
is difficult.
Q. So that's another public policy issue --
   A. Yeah, that's an issue.

Q. -- the sheriff and the BSO has to deal with?
   A. Yes.

Q. So the staffing of a school resource officer at Marjory Stoneman Douglas was not the decision of BSO, whether one person should be there or 15 people should be there?
   A. No. In fact, Parkland, they have, I believe, five schools. You have Marjory Stoneman Douglas, you have West Glade Middle and there are three others. So Scott Peterson was the only SRO at Douglas with a student population over 3,000 and probably 300 staff members. He was it, the only guy there.

   West Glades had a deputy assigned there and Pine Trails Elementary, you know, they had deputies, and they are all paid for by the City of Parkland, not paid for by the sheriff. It's part of their contract.

   After Douglas, they upped all of their positions. They signed a contract addendum with the sheriff's office to add deputies to all those schools. I believe, memory, MSD went up to three deputies and all the other schools went up to two. So they significantly increased their staff, which is their, you know, their cost and, you know, the sheriff's contract with them,
it's revenue neutral. You know, the sheriff is not making any money off them. It's revenue neutral, whatsoever. So they paid and they decided to increase and put the deputies there. It's not the sheriff's decision.

Q. And does the sheriff and the sheriff's office have input into making recommendations with that amount of kids, you really should think about having another officer or something along those lines?

A. We do. Unfortunately, it does come back -- prior to MSD, before the recommendation of one deputy for every thousand kids, which came out in the MSD report, you know, the city manager could look and say, Sheriff, great idea, but I don't have an extra $300,000 for two more deputies. So, you know, it is what it is.

Q. At the time of MSD, did the State of Florida have any suggestion how many school resource officers per student?

A. No.

Q. There was nothing?

A. No. The Miami-Dade Police Department, they do not run the school's resource officers. The school board in Miami-Dade has their own police department. Same thing with Palm Beach County Sheriff, they have their own police department for the school board.
Broward County, they have an investigative unit, period. So they put back on to the cities within the county.

Q. And then the cities contract with the sheriff's office for a law enforcement and fire rescue services in some capacities, if they decide?
A. Yes, sir.

Q. And with regard to Broward, there are some cities that do their own law enforcement and other cities utilize the services of BSO?
A. Correct.

Q. So you respond to MSD, there's still some concern about apprehending the shooter and developing a sense of what's really going on in realtime. And did you, as the incident commander, have any idea at the time that Scott Peterson, the SRO in charge, had not followed the training of 4.37 active shooter?
A. None whatsoever.

Q. Was it reported to you that he made the decision not to go in?
A. No. We actually -- we moved our talk from outside into building 13, which is right next to building one, to get all the SWAT guys out of there, to use the boards to map out --

Q. And building 12 is where the --
A. Where the attack was.

Q. -- where the killings had occurred?

A. Yes, sir.

Q. Where the attack occurred?

A. Yes. Then we sought out Scott Peterson, where is the SRO. No one knows the school better than he does. Find him, bring him in here, and he did, but we had no indication of him not going into that building.

Q. And as a command officer, was there any indication from training, experience, him being a trainer, active shooter trainer at the schools, that he was not up to the task?

A. No, none whatsoever.

Q. At the time of MSD, were trainers instructed to evaluate the quality of their trainees, of the people going through the training?

A. They are. Obviously every training class has a lesson plan. You are required to have a lesson plan. In that lesson plan, it's going to tell you what the scope of training is and it's going to have anywhere from two to maybe 12 objectives, and those objectives will say, you know, upon completion of this class, this student will demonstrate the ability to, and each objective has a certain thing that must be required.

If there's a deputy that's in there -- Jim
Polan is in there and I am struggling, I'm a safety concern or I'm hesitant on doing mine, then that is a trainer's responsibility to pull them out.

There are six Rs to a training program and one of those Rs is a review and that's very important for a registrar to do, you pull them out and you give him a review, give them an opportunity to improve themselves.

Q. And is that part of BSO process that trainers are and do identify such need for improvement or deficiencies?

A. Absolutely. Even all my years as a trainer, state certified trainer, and being on the SWAT team, you know, I will still go out and do qualifications with all the other deputies and I will have a red shirt come up to me and, hey, think about taking more slack off the trigger, even with all my time doing it.

Q. And when you say "red shirt," what do you mean by that?

A. An instructor, I'm sorry.

So that is their role, yeah.

Q. BSO also has an accreditation as a training facility by the State of Florida, doesn't it?

A. At one time they ran a full academy for the Department of Detention, ran their own academy there, and they are an FDLE training site, which means they can
train and certify deputies for the mandatory
requirements per FDLE.

Q. That's unusual for sheriff's offices to have
that accreditation?

A. I don't think it's -- not for a sheriff's
office, but for a small agency it may be, but for a
sheriff's office, it would be normal, because it's cost
effective, providing you have the talent in your
instructor cadre that can fulfill that, and BSO has that
talent.

Q. At any time prior to MSD, had the BSO active
shooter policy 4.37 been criticized or deemed to be
inaccurate or inconsistent?

A. No. You know why, because that policy doesn't
mean anything. That policy doesn't mean a thing. There
could be no policy or that policy could have said this,
you don't go through that door, you are going to give up
your firstborn child. Either you are going in or you
are not. The one thing -- you could have the best
instructor in the world, the one thing that that
instructor can't teach is courage.

Q. Was there any indication in the SRO's
background, history, involvement that when the time
came, he would not have the courage to do what he was
expected to do?
A. None. I believe the year before or within the last couple of years he was actually awarded SRO of the year for Florida. I don't remember exactly what year, but it's familiar to me.

Q. There was some discussion earlier, let me ask you about this, that being SRO of the year really doesn't mean somebody is a good, trained, competent law enforcement officer. It just means, well, they get along well with the kids. Is that your view?

A. You know, the one unique thing about this profession is that there's so many different opportunities you can do. You can be on the SWAT team. You can ride a motorcycle. You can ride a horse. You can fly a helicopter. You can go into a school.

Each one of those positions bring a different, what I call, pedigree. They all have different things. Like me personally, my pedigree, I could never work in a school. So it does bring certain people to the table. It takes a certain individual to be an attorney. I couldn't be an attorney. It brings something to the table.

Does it mean that SRO is not a good officer or competent officer, absolutely not. A great example I provide to you, a deputy by the name of Quigley was in our burglary apprehension team. It's a plainclothes
unit that basically goes out and they find the worst of the worst of the people that break into our homes when we are sleeping. It is a very sought after position at the sheriff's office. Big man, Quigley is probably 6'2", 6'3", good size man. He requested to leave that to go be an SRO, and he is in Parkland.

So I don't believe you could say that the standards are lower or the individual may act different than another officer.

Q. Okay. Following the apprehension of the shooter at MSD, did BSO identify deficiencies in the operations to do the follow-up work?

A. Well, when you say after the apprehension, you mean at the time, on the scene?

Q. On the scene.

A. Well, when he was apprehended, unfortunately, we still have a school loaded with thousands of children and in police work, this is taught to me back when I first started, it's still taught today, you always think plus one. We have one bad guy, but there's a second bad guy here. We have to find him.

So now every building on that campus, every classroom, every closet, every doorway has to be cleared, has to be secured. All those children have to come out and make sure that they are safe and we have to
make sure there are no bad guys behind.

So even though he was captured, it was a
relief, but we couldn't lower our guard, because there
was still another one out there and there was still
thousands of children hiding in that school and we had
to go take care of them.

Q. And was BSO, along with the other responding
officers, able to do that?

A. Tremendous team work. Inside building 13,
Lieutenant Chris McCoy was the choreographer of that and
he was assigning teams to go out, Fort Lauderdale --
making this up, Fort Lauderdale you have building 1400,
Coral Springs you have building 1500, that's your
building, go take care of that building. Take care of
those kids, search it and make sure there's not a plus
one bad guy.

And I don't believe we called that campus safe,
ballpark, probably until like 5:30, maybe 6:00 at night.

Q. Was the sheriff on the scene at MSD?

A. He was.

Q. And how about at Hollywood -- at Fort
Lauderdale Airport?

A. I wasn't on scene at the airport. I was at the
EOC. I know eventually he was down there. I don't know
what time he arrived at the airport, but I know for a
fact MSD he was, because I spoke to him.

Q. Was BSO able to, consistent with its policies, handle the clearing and the inspection of the schools?

A. Absolutely. The -- you talk about the airport and MSD, at the airport it was really a flawless operation with the airport, with the tactical teams doing the searches of the parking garages and then of all of the terminals. You know, it's a first time in history that an airport was completely self-evacuated, never happened before, and I don't know if it will ever happen again, but in three minutes and 40 seconds, it was complete self-evacuation and the SWAT teams were all over. Did a tremendous job, tremendous job working together.

At Stoneman Douglas, the SWAT teams did a tremendous job working together.

Q. Broward Sheriff's Office has something called the Todd Fata policy. Are you familiar with that?

A. Yeah. Todd Fata was killed on August of 2004 on a search warrant that went bad and I know there is a protocol written for him in reference to if that door that is to be breached or broken into, then the SWAT team would be the team that does that, does that breach for safety reasons.

Q. And is it your understanding that one of the
reasons that led to the implementation of the 4.37
active shooter policy was to make certain that the Todd
Fata policy didn't prevent officers from being able to
go into the scene of an active shooter without having to
first get SWAT permission?
   A. No. No. It's two different things.
   Q. Okay.
   A. The active shooter policy, you don't need
permission for anyone to go inside. If you have
realtime intelligence, then you got to go and that's how
you are trained, you go, and that's a standard in our
industry across this country. For an officer not to
know that, I have a difficult time.

   The Todd Fata would be if you are going to a
search warrant for narcotics or a search warrant for an
arrest, then there's a protocol that your operational
plan must be approved by SWAT. If it meets a certain
threshold and door is going to be breached, broken into,
then SWAT must do it.

   Q. So there's a significant difference in law
enforcement action when an event is being planned?
   A. Two different things.
   Q. Like executing a search warrant or making a
known arrest than an active shooter incident, which
hopefully is not a planned for event?
A. Correct. We use a basic fundamental thing for planned event. We are going to contain, isolate, communicate. We contain the problem. We isolate so nobody can go in and out. We try to communicate with that person to solve the problem without using any use of force. That's for traditional law enforcement response, barricaded gunman, for example.

For active shooter there's no contain, isolate and communicate. You follow realtime intelligence and you go through that door and you find them.

Q. Fort Lauderdale Airport is a county facility?
A. Yes, sir.

Q. Is there a contract between BSO and the county for BSO to provide law enforcement to the airport?
A. The contract is actually through the Broward County Aviation Division, through BCAD and then BCAD, the airport director, obviously, goes to the county administrator for final approval, but it's called -- it's a -- there's a certain word for that contract, because they doesn't use any tax dollars -- enterprise fund. That's what it's called, enterprise fund, because the entire law enforcement -- I should say public safety, because Broward Sheriff is there and fire rescue as well, the entire contract is funded by BCAD. So there's no county tax dollars going to it whatsoever,
enterprise fund.

Q. And that contractual relationship includes negotiations between the sheriff's office and BCAD over staffing levels at the airport and the seaport?
A. That's correct.
Q. Now, the seaport has federal facilities there as well?
A. Yes, sir.
Q. And the airport does as well?
A. Yes.
Q. But when it comes to things like the budget allotment for the law enforcement and fire and rescue at the airport, that's the subject of a contract with BCAD?
A. That is correct.
Q. It's not a unilateral decision on the part of the sheriff's office?
A. No, sir. And if you look at those contracts, the contract hasn't been renewed, and ballpark figure, probably since about 2005, which is recurring that airport over the last decade has just all it's done is grown, and we all know that, just grown larger and larger. However, the staffing numbers have gone down. That was a contention, I don't want to say an argument, it was a spirited discussion since the airport shooting over the next year or longer trying to increase our
staffing there.

Q. And even before the airport shooting, didn't BSO and its people at the table press BCAD for more funding, for more law enforcement and fire rescue there at the airport?

A. I sat at that table, yes, sir.

Q. And those are not easy negotiations, are they?

A. No, sir. No.

Q. You are dealing with governments, you realize that various governments have different statutory mandates and statutory controls?

A. Correct.

Q. Did BSO ever lay down in those negotiations and not press for what BSO believed was a robust presence at the airport?

A. No. In fact, I know there's obviously documentation of -- whether it's correspondence or e-mails or files left behind, reference to that airport, requesting additional staffing, not only deputies, but supervisors.

We did a comparison with Miami-Dade Police Department, their airport staffing, their airport is larger, not that much larger, but their staffing was almost double, and that was the comparison we used.

So we sat at the table more than once with BCAD
Director Mark Gale.

Q. And part of those discussions, Fort Lauderdale BCAD would always reference that Miami-Dade County is completely different, it's a different organization, the mayor is in charge of the airport, as well as public safety, and the mayor makes those decisions, right?

A. That's correct.

Q. You constantly hear that?

A. Yes, sir.

Q. Did, at any time, Broward Sheriff's Office understaff the law enforcement presence at the airport?

A. Deliberately, no, never. No, no.

Q. The governor's office takes the position, and I'm going to quote you a section, and I want to ask you about it, the governor's office takes the position, and I'm quoting the initial draft report, indicates that between 2008 and 2013, staffing levels at the airport district drastically reduced and that reduction in staff coincided with the growth of FLL, including more passenger capacity and the addition of terminal four, end quote.

And the governor's office is referring to one of the earlier draft reports of the Fort Lauderdale after action report. If the initial draft, the Cedeno draft made that observation that I just quoted to you,
that the governor's office quoted, is it accurate that BSO had any involvement in the drastic reduction, if there was such a thing, of staff?

A. No.

Q. Was that any ability BSO had to do anything?

A. No.

Q. Was that a matter that was a decision of public policy, decision by BCAD as to the funding and staffing for that function?

A. Yes. The, you know, like I said, the one thing -- the only thing that increased at the airport was the size of the airport, the number of passengers, the number of customers coming in and out, but the law enforcement staffing did not increase, but it was not on any part of BSO reducing or deliberately not staffing the airport.

Q. In your experience as a command officer, sitting at the table with BCAD and negotiating for increased staffing, increased budget to do that function, besides pressing for that, what authority does BSO have to make BCAD do anything?

A. None.

Q. Could you have used a tactic like imposed tariffs if BCAD didn't give you more funding?

A. No, not to my knowledge.
Q. If the original initial draft report of the Fort Lauderdale after action report included that reference that I just made to you, in your experience, would that be an appropriate part of a BSO after action report?

A. In reference to not having sufficient staffing?

Q. Correct.

A. For law enforcement safety, yes.

Q. Did BCAD do a similar version of an after action report?

A. They did.

Q. And did you ever -- were you ever consulted by BCAD about what should be included, from a law enforcement perspective?

A. Not that I remember, no.

Q. When the final report for the Hollywood -- the Fort Lauderdale Airport was done, was it your view that it met the standards and practices for after action reports?

A. Yes.

Q. Was there any part of the review and vetting process that had, as an intention or actual fact, to cherry-pick or white wash the report?

A. Absolutely not.

Q. Did the sheriff ever direct or actually red
line out sections of draft reports that were viewed as unfavorable to BSO?

A. No.

Q. Does the final version of the action report, if you recall, include constructive criticisms of BSO identified as opportunities for improvement?

A. Absolutely.

Q. Is that what an after action report is supposed to do?

A. It is, and if you look across this country, across the world with these attacks that we have, again high risk, low frequency, there are no perfect operations. There are none. There are always going to be issues, there are going to be problems, things are going to occur, it's just at what level can we mitigate those problems. Are we going to have complete chaos or are we going to have controlled chaos. That's the difference and that's what we all learn from these reports and we learn, whether it's in California, in Michigan or Florida, we read those and learn from them.

Q. I have no further questions.

MR. KUEHNE: I tender the questioning to Mr. Primrose.

MR. PRIMROSE: Thank you, Mr. Kuehne for that.
CROSS-EXAMINATION

BY MR. PRIMROSE:

Q. I am going to jump around a little bit, so please bear with me.

You had mentioned that not everyone has the fitness, skill or ability to be a SWAT team member, but wouldn't you agree with me that SRO officers are placed into an environment where there is a heightened level of target or protection required due to the increase of school shooting events happening across the country?

A. I agree 100 percent. However, that comes down the individual himself, what's their mindset.

Q. Completely understand. But you would agree then that if schools are a target of heightened focus, that the individual selected to be at the school should be of a certain fit, skill and fitness ability to adequately protect the students and teachers, right?

A. Should, in theory, yes. Unfortunately, there is no a physical fitness program for them that they have to abide by.

Q. Well, so there is a physical fitness program that SWAT team members have to abide by?

A. Yes, there is.

Q. And who develops that fitness program?

A. The SWAT cadre, they go through it twice a
year.

Q. But is that within Broward Sheriff's Office?
A. It is and I -- if you did a toll across the
country, you are going to see just about any SWAT team
in the country has physical fitness standards that are
job related. I had them when I was in the City of Fort
Lauderdale as well.

Q. Okay. But just so I understand the fitness
standards that are imposed on SWAT members within the
Broward Sheriff's Office, those are standards that the
sheriff's office imposes on to their SWAT?
A. Yes, sir.

Q. Right. So there's no national, if you are
SWAT, you have to have a separate certification by FDLE.
That doesn't exist, right?
A. There's no national rule. However, there's a
national guideline for SWAT operations, fitness and
equipment and training, and that's authored by the
National Tactical Officer Association, and that is a
national industry standard recommendation.

Q. Okay. So if Broward Sheriff's Office wanted
their school resource officers to have the same physical
fitness skills and abilities as SWAT team members,
that's something that the sheriff could unilaterally
impose?
A. He could. However, I will share this with you, we tried to do a physical fitness program with -- over the last few years for the agency and we had continuous objections and grievances filed by the union. So I don't -- if they can make it happen, that would be great, I just don't see it happening.

SWAT team members, again, different pedigree. They would never file a grievance or an issue because they are required to complete physical fitness.

Q. Who has the ultimate decision over which officer gets which placement within the agency?

A. It's kind of like what will -- I will stick with SWAT, there's a -- the posting will go out and the posting is going to have a list of requirements for the posting and what the objectives of that job are and there will be a due date. You have to be off probation, usually three years on the job. You have to have, you know, outstanding evaluations, no sick time, et cetera, ballpark figure, and there will be a closing date. You must submit paperwork for this position.

Once that position is closed, dependent on the job, you give an opportunity -- let just say, SWAT, you get selected and you are going to go to the SWAT school and the SWAT school is pass or fail, depending on if you get that position.
If you want to be a motorcycle officer, you are going to go through a three-week motorcycle training program in which many say is harder than SWAT school and if you don't pass it, you don't go on a motorcycle and then both those positions, you are required to, SWAT, go back to training. Every single Thursday you go back to training. And motors, you go back to training every single month.

Q. Okay. On that note right there, so SWAT and motorcycle require weekly training; is what I heard?

A. SWAT weekly, motors monthly. SROs same process for filling SROs. There's a posting that goes out, talks about the scope of the position, talks about the requirements, has a closing date where you are required to submit, you know, like past evaluations, maybe a resume, et cetera, and then for the SROs, there would be an interview process.

After the interview process, you would go on to a list and on that list, they would select -- so they say call Jim Polan. We have an opening at Parkland for SRO. Do you want to go there?

No. I would really rather stay in Weston.

They pass me go to the next guy. And then they are required to go to training every summer when they have to do their training.
Q. Okay. So SROs have an annual, specialized training for them?
A. And that is something that we put into play prior to Israel and myself and others leaving the sheriff's office, because in the past, they would go to training with everybody else. So they would leave the school, which they are allowed to by the contract, to go to in-service training, but now with the new law, they are not allowed to leave the school. So now they have to wait until school is out in the summer and now they all go to training together.

Q. Okay. But, again, just to answer my question though, SRO has an annual, once-a-year training, whereas, I believe you said SWAT is weekly and motorcycle is monthly?
A. Yeah, in the training -- yeah, that's correct.

Q. Okay.
A. The training the SROs get is the same training as every other deputy, nothing above and beyond.

Q. Okay. And then to go back to the decisionmaking of who gets put in as an SRO, ultimately the decision is up to the sheriff to decide what qualifications he or she wants in an SRO and who should get the position, based on who applies, right?
A. The sheriff is responsible for it, yes.
Q. So, you know, you mentioned that well -- it was attempted before, the police union didn't like it, but ultimately, if the job posting says, I want the similar skills and fitness of a SWAT member in my school, that's the decision of the sheriff to make?

A. It is, in providing you get people who actually apply. When I was there before, we were having a very difficult time getting deputies wanting to be an SRO.

Q. Okay. You said with regards to SRO Peterson, that he volunteered and then was ultimately selected to be a trainer in 2016 for the active shooter training, correct?

A. For the school board, yes, sir.

Q. So he was just training members of the school district?

A. That is correct, on the "run, hide, fight" concept.

Q. Okay. So if there's a suggestion that Deputy Peterson was training other BSO deputies in active shooter training, that would be a misstatement of what his actual involvement was?

A. Yeah. I couldn't comment on that. If he was, I am not aware of it, but I do know he was part of the Broward County team for the school board.

Q. Okay. And then who ultimately picked him to do
that training for the school?

A. You know, I believe, again, the facilitator for that program was Kevin Schults, who is the major over training. So he put all that together and dependent on the day of the week -- or excuse me, the teacher's workday, we would have seven to ten schools. We would need 75 to 100 instructors, so he was one of those selected to go to those different schools.

Q. Okay. And I -- I don't have written down that you told us exactly what that training was, but can you just briefly describe for us what Deputy Peterson would have been training the school members on.

A. Yeah, I would be happy to. So they come in large -- just visualize either the library in a larger school in the auditorium, cafeteria, gymnasium. We do a one-hour presentation on the effects of active killer. We discuss about all the objectives we want to accomplish for the day. We even sneak in the back and we fire a gun with the blank and we see how they react and when they do that, we run a clock and see how long it takes for anybody to do -- just to simulate them, a little bit of stress inoculation.

We ask some questions and answers and then at that time we break into groups and we take groups of 20 to 25 to different to classrooms. We take them in the
classrooms and we give them ideas on how they can secure their classrooms that's going to benefit everyone involved. We talk about the blind corners, getting out of your windows, what you can cover your window and door with, where your desk should be, where your cabinets should be, how are you going to block that door. What can you arm yourself with and your children if someone comes in, and if you hear gunfire, you secure that door, you turn off the lights, you mute your cell phones, you close your blinds and you arm yourself and you wait to see what's going to happen.

We have them do that two or three times with a lot of suggestion and we actually have them physically move their desk and tables to the door. And without them knowing, we begin again what I call realism training where we start shooting shotgun blanks in the hallway, extremely loud. We have people starting banging on the door screaming and yelling to get in shooting shotgun blanks. And we make them now, under panic, and they panic, and unfortunately we've seen many, many cry out of the fear in a sterile training environment to get them to react to that situation.

We will do that two or three times. We have a debrief in a room with them. We regroup back in the cafeteria. We have a final Q and A session and it's
usually over in about four hours.

Q. Okay. So if I understand that correctly then, that training that Deputy Peterson would have been doing is not the training on Broward Sheriff's Office 4.37 on, what a deputy should do in an active shooter situation; is that fair?

A. Yes, that's -- correct, it's two different things.

Q. Okay. Now, on the after action report that you were asked about for the Fort Lauderdale Airport shooting, you stated that part of the reason to review it afterwards was to make sure it was truthful, accurate. Did you -- well, let me ask you this, did you review anything in Major Cedeno's first draft that you believed was factually inaccurate?

A. I think there -- I did -- to answer your first part of the question, I did receive and review Cedeno's first draft, because he was my direct report. I had numerous concerns, because it hadn't been vetted yet. I didn't know, and I'm going from memory, I don't have it in front of me, if he was talking about a specific agency is that -- did that really happen.

So we have it in pencil, but before we put it in pen, we got to make sure it's true and we just never had that opportunity, because the lawsuit from the
Sun-Sentinel.

Q. Okay. And then let me ask you this, if Major Cedeno wrote down his own opinion as to items he reviewed or areas of concern that he believed existed, that wouldn't necessarily mean that his opinion was wrong, right?

A. Well, that's true. I mean, obviously an opinion is the perception that you see, whether it's truthful or not is a different issue, but with a debrief, he would have reached out to, you know, all of the different stakeholders and say, you know, provide me with a list of what you saw as well. So if it was any of his opinion, it was just not his ideas or thoughts that went into that after action.

Q. Okay. And then we know that Captain Diefenbacher was given a second bite at the apple to review Major Cedeno's first draft, right?

A. Correct, but, again, like I mentioned earlier, you know, he's really looking at structure, grammar, format. Content wouldn't exist because, you know, Diefenbacher works administration, was never even close to the airport.

Q. Okay. So which review then -- because now I've heard some conflicting testimony. Which review would have been given the most scrutiny, Diefenbacher's or
Cedeno's draft?

A. Diefenbacher's.

Q. Okay. So Captain Diefenbacher's draft had some edits made to Major Cedeno that was deleted sections or areas of concern or opinion, and then his version would have been the basis for final edits before Sheriff Israel put his signature on it and stamped it for final publish?

A. Correct.

Q. Okay. My understanding is from Major Cedeno and Captain Diefenbacher's draft to the final version any mention of a need for enhanced training or improved training with active shooter was eliminated from the final report.

Do you have any knowledge about that?

A. I don't, you know, and I don't have that report with me to review.

Q. That's okay. You would agree with me that the reports speak for themselves and that includes the two draft versions and the final version?

A. Yes.

Q. Okay. You were asked a question by Mr. Kuehne about did Scott Israel ever instruct you to remove things or redact any portions of that and you said no, right?
A. That's correct.

Q. Who would Sheriff Israel have gone to to review the final draft version and give his final sign off and approval?

A. That would have been Undersheriff Steve Kinsey --

Q. Okay.

A. -- who was my boss.

Q. Okay. Do you have any knowledge of the discussion between Mr. Israel and Mr. Kinsey as to the final version before it was signed off on?

A. No, sir, I don't.

Q. Okay. And just so that I kind of know -- understand this time line right. You retired from Broward Sheriff's Office, was it the day after Scott Israel was suspended or before?

A. The day of.

Q. The day of, okay. And what was the reason for you retiring on the same day?

A. Well, there's more than one reason. I wasn't going to be involved in the political nonsense show. I was going to walk away with my head up high and have character and leave that agency.

Q. Okay.

A. Because Scott Israel never should have been
taken out of office, period.

Q. Okay. So your opinion, as we sit here today, and I guess all the way back to when it happened, is that Mr. Israel should not have been suspended from office?

A. 100 percent accurate.

Q. Okay. When is the last time you spoke with, texted or met with Mr. Israel in person?

A. Well, he's been a friend for probably 30-some years, probably within the last week talking about the Bruins.

Q. Okay. Did you see him in person or did you just like talk to him over the phone or via text message?

A. Yeah, text.

Q. Okay. And at any point, did you tell Mr. Israel that you would be willing to testifying on his behalf during this process?

A. No. I got the subpoena from Mr. Kuehne here.

Q. Okay. So your testimony then, under oath, is that you have not discussed with Mr. Israel the Senate removal process or willingness to be involved in it?

A. Correct.

Q. And when did you first speak with Mr. Kuehne?

A. Actually, we've spoken on e-mail a few times.
I got the final notification for the subpoena, I guess, it was this week.

Q. Okay. And so your communications with Mr. Kuehne over e-mail have been about your -- was it about your willingness to testify on behalf of Mr. Israel?

A. Correct.

Q. Okay. I do not have any other questions.

Mr. Polan, I do appreciate you taking the time to speak with us this afternoon.

A. My pleasure. Thank you.

MR. KUEHNE: You understand the read versus waive. We are on a tight time limit here and we are going to be having your transcript -- deposition transcribed. I will get you the transcript as soon as we get it, Mr. Primrose and I get it. If you have the need to make any edits, suggestions, changes, you have the ability to do that, but if you waive reading, it lets us use it rather than waiting for you to make your edit, just because we are on a really tight time frame, but you will still get it. You will still be able to make whatever alterations you think are necessary, if there are any deposition edits, but you need to let me know -- and then ultimately any alterations you make become the actual
transcript, but it allows us to start using the transcript as soon as we get it.

THE WITNESS: But I would always read, but if I would waive today because of that time, and plus I'm going out of town for a week, so I won't be around -- I leave the 16th.

MR. KUEHNE: So you will probably get it this weekend or Monday.

THE WITNESS: You know what, I'm going to read.

MR. KUEHNE: Okay. Thank you. And you will need to give the court reporter your contact info so she can get it to you by e-mail, right.

THE WITNESS: Yes, sure.

MR. KUEHNE: Nick, anything else I have to do with the witness?

MR. PRIMROSE: No, I am okay.

MR. KUEHNE: Okay.

(The deposition was concluded at approximately 4:44 p.m. Signature and formalities were not waived.)
CERTIFICATE

STATE OF FLORIDA:

COUNTY OF MIAMI-DADE:

I, the undersigned authority, certify that JAMES POLAN personally appeared before me on June 7, 2019, and was duly sworn.

WITNESS my hand and official seal this 9th day of June, 2019.

______________________________

Lilly Villaverde
My Commission GG010818
Expires July 23, 2020
CERTIFICATE

STATE OF FLORIDA :
COUNTY OF MIAMI-DADE :

I, Lilly Villaverde, Florida Professional Reporter, a Notary Public in and for the State of Florida at Large, hereby certify that I reported the deposition of JAMES POLAN; and that the foregoing pages constitute a true and correct transcription of my shorthand report of the deposition by said witness on this date.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action nor financially interested in the action.

WITNESS my hand and official seal in the State of Florida, this 9th day of June, 2019.

________________________
Lilly Villaverde
Florida Professional Reporter
My Commission GG010818
Expires July 23, 2020
June 9th, 2019
JAMES POLAN
Jpolan7@aol.com

RE: In re:
SUSPENSION OF SHERIFF SCOTT ISRAEL
DEPO OF: JAMES POLAN
TAKEN: June 7, 2019

Dear JAMES POLAN:

This letter is to advise you that the transcript of your deposition is available for reading and signing.

PLEASE CALL THE ABOVE NUMBER TO MAKE AN APPOINTMENT to come to the Veritext office closest to you to read and sign the transcript. Our office hours are 8:30 a.m. to 5:30 p.m., Monday through Friday.

In the event other arrangements are made, please send us a notarized list of any and all corrections and/or changes, noting page and line numbers, and the reason for such changes, so that we can furnish respective counsel with a copy.

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

Your prompt attention to this matter is appreciated.

Sincerely,

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Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Witness signature ___________________________ Date ___________________________
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF
SCOTT ISRAEL
__________________________/

One East Broward Boulevard
Fort Lauderdale, Florida
June 7, 2019
1:38 p.m. - 3:08 p.m.

DEPOSITION OF STEVE ROBSON

Taken before Lilly Villaverde, Florida

Professional Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of Taking
Deposition filed in the above-mentioned cause.
1 APPEARANCES:

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EXAMINATIONS

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EXHIBITS

NUMBER   DESCRIPTION            PAGE
No exhibits were marked.
THEREUPON:

STEVE ROBSON

called as a herein, having been first duly sworn, was 

examined and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. KUEHNE:

Q. Please state your name and spell your last 

name.

A. Steve Robson, R-O-B-S-O-N.

Q. And you are a major?

A. I am, sir.

Q. With the BSO?

A. Correct.

Q. Major Robson, my name is Ben Kuehne. We met, I 

think, for the first time when you came into the room a 

couple of minutes ago.

A. Correct.

Q. And I am represent Sheriff Scott Israel in the 

legal proceedings involving a review by the Florida 

Senate of his suspension.

I asked for a subpoenaed to be issued to you.

It was issued. I had sent one to the general counsel, 

but that's a copy for you of your subpoena. So you are
MR. KUEHNE: Mr. Primrose, do you want to make an appearance?

MR. PRIMROSE: This is Nicholas Primrose for Governor Ron DeSantis.

BY MR. KUEHNE:

Q. My questions are primarily about two incidents with which I believe you have some familiarity known -- the first one known as the Fort Lauderdale Airport incident in 2017, and then the Marjory Stoneman Douglas shooting incident in February of 2018.

A. Correct.

Q. I'll be asking you some questions about some policies and procedures.

A. Okay.

Q. First, provide your professional background, please.

A. Okay. I'm currently the major over the training division. So I'm the executive director for training for BSO.

Immediately prior to that -- this took effect in January of 2019. Immediately prior to that, for two years I was the special operations captain for BSO, which was also the SWAT commander for BSO. That was
from 2017 to the end of 2019. So that was two years.

In that capacity, I ran the fugitive task force, our viper unit, which is our street crimes unit, our burglary apprehension task force and regional control over our district crime suppression teams, as well as a SWAT commander.

Q. Okay.

A. Prior to that, I was a lieutenant for two years. My capacity there, I was a shift commander in Pompano Beach for part of that. I was also a lieutenant in regional services for the back half of that two years.

In regional services, I supervise our crime stoppers, our reserve unit, our honored guard, as well as the burglary apprehension task force, regional crime suppression teams and -- what else did I have at that time? Oh, and special events and PSB security, and I was also the executive officer on the SWAT team.

You want me to go prior to that?

Q. I want a summary of your law enforcement career.

A. No problem. So going backwards again, I was a sergeant for BSO. I started off in Pompano Beach. I was a shift sergeant there for about a year and a half and then he ran the money laundering task force for
a year and a half. And also I was -- at that time frame, I was a team leader on our SWAT team for that duration.

So backing up prior to sergeant, I was a full-time instructor for firearms for five years. I taught in-service classes and firearms for five years. I also worked on our -- I was a major narcotics detective in strategic investigation. I was there for approximately five years.

Before that, I was a crime suppression detective in Deerfield Beach district for about four years.

Before that was road patrol. I also was a SWAT operator and team leader for a large part of that time frame, as well as a deputy.

Q. When did you first become a sworn law enforcement officer?

A. I started the academy in January of '97. I graduated the academy in June of '97 and started patrol in Deerfield Beach that summer.

Q. With BSO?

A. Yes, sir, all BSO.

Q. Your law enforcement career has been the BSO?

A. Yes, sir.
Q. And a number of sheriffs?

A. Yeah, a number of sheriffs. I started with Ron Cochran and then Ken Jenne and Al Lambert and Scott Israel, and now Sheriff Tony.

Q. Thank you for your service. And I want to start with I think it's your transition to becoming special ops captain, that was around the time of the Fort Lauderdale-Hollywood Airport shooting that occurred January 6, 2017.

A. Yes, sir.

Q. And you had been named SWAT captain, but your transition was taking a couple of days in relation to the Fort Lauderdale-Hollywood Airport incident?

A. No. It just happened to fall, on that particular time frame, I had vacation that was already planned. So it just -- the role was already assumed, but the SWAT commander position just was delayed a week, because I had already planned vacation. So previous --

former SWAT Commander Eddie Grant, he was still the SWAT commander for an extra week until I got back to assume the actual SWAT command role.

Q. For the Fort Lauderdale-Hollywood Airport shooting, were you present at that shooting?

A. No, sir.

Q. You were on your --
Q. -- annual leave?
A. Yes, sir.

Q. Okay. And you didn't return until that incident was over?
A. Correct.

Q. When you did return, did you have any work that you consider assigned to any of the follow-up aspects of the Fort Lauderdale-Hollywood Airport shooting?
A. As far as like the debriefing?

Q. Debriefings, reviewing things, preparing reports, anything of that?
A. I didn't prepare a report because I was not there. We did debrief the team, as far as what the roles were and how the incident was handled from a supervisor level, for the -- we call it ICS, incident command system.

Q. Incident command system?
A. Yes, sir. On how we utilize that to organize the SWAT response, because we had I believe it was 17 teams came that day to the airport to help out BSO, to help us clear the airport and clear all the terminals, the parking garages, et cetera.

Q. For yourself personally, as a BSO deputy at that time, had you gone through active shooter training?
Q. In what -- what manner was that training?

A. So I received it as a deputy, but I was -- at the time, I was in the training division. So I received it as a deputy, but I also, my position on SWAT, gave me a lot of additional training for active killer response.

So we had trained not just through regular formal training, but we also had full scale scenarios that SWAT was part of. So I feel I got a little bit additional training for active killer response.

Q. As you think about it, now that you are in charge of training, SWAT gets a lot of additional active killer type training?

A. Yes, sir.

Q. Including actual scenarios, not just classroom training?

A. Correct. Well, most of the -- for the majority of BSO, for Department of Law Enforcement I'm speaking of, the active killer training is handled through in-service training.

The SWAT team, they have our own training curriculum above in-service training that everybody goes to, that's inclusive of SWAT, but obviously our SWAT trains once a week. Where everybody for in-service training gets historically between three and four blocks
of training in a year, SWAT trains every week. Not

necessarily for active killer, but obviously there's a
whole gambit and curriculum of disciplines that they
train on, but they to get a lot of extra training.

Q. Generally with SWAT, are officers assigned to a
team or a unit where they work with certain individuals
routinely, regularly?

A. The SWAT team is comprised of three teams, but
they're not all full-time teams. So there's about --
now, and starting in 2019, about half are assigned to
either the fugitive unit or what we created, the
tactical training unit in the training division. So
that's about half.

The other half is divided up between other
responsibilities and assignments throughout the agency,
with SWAT being a collateral responsibility.

Q. And when the SWAT is a collateral
responsibility, do these deputies, those officers then
get a call and they respond to a SWAT call?

A. Correct. So the format that I implemented when
I became SWAT commander was it would rotate on a
three-week basis, because we have three teams. We have
an Alpha team, a Bravo team and a Charlie team. So one
team will be primarily on call for one week a time and
then it rotates. So every third week, that team, those
operators would know they would be primary for a

response, whether it would be for call out, whether they
would be on duty or not, but the majority of incidents
that would be deemed to be a call out, obviously other
operators from other teams would have to come and
assist, obviously, because we don't have these kind of
numbers to facilitate a call out with just one of those
three teams. Does that make sense?

Q. Yes. When somebody works on SWAT in the
collateral position --

A. Okay.

Q. -- so not full-time SWAT, do they also
participate in the once a week training?

A. Yes, sir.

Q. So everybody, whether you are full-time SWAT or
-- is it called collateral?

A. Collateral responsibility.

Q. Collateral responsibility, one time a week?

A. Yes, sir.

Q. And that's different from the other functions
of deputies in terms of the intensity of that training?

A. Yes, intensity is a good word, but that's also
-- so there's regular in-service training that we have
certain FDLE mandates that we have to give everybody,
requirements for FDLE, firearms training, defensive
tactics training, and then there's other skill sets we

put in the in service.

So we build an in service schedule on a
year-to-year basis on the different things we want to
cover and that covers everybody in the Department of Law
Enforcement. SWAT is within that umbrella, so whether
it be use of force training, defensive tactics training,
firearms qualifications, things of that nature, SWAT,
although they train once a week, they also come to
in-service training to get that training. That's the
one everybody goes to.

So I'm trying to make sure the lines don't get
blurred on what SWAT training is versus what in-service
training is.

Q. So I will ask you to separate a little bit of
those out, but let me first start with, as you
mentioned, FDLE required training.

A. Yes, sir.

Q. Are there certain trainings that are mandatory,
obligatory by FDLE for a law enforcement officer?

A. Yes. So there's certain amount of hours of
training you have to receive for your certification for
FDLE. So there's firearms qualifications, there's
defensive tactics, there's use of force training.

Q. Okay. And BSO makes certain that all of its
sworn law enforcement officers are always certified as

1. sworn law enforcement officers?

   A. Correct.

2. And somebody at BSO, may be you or before you, tracks to make sure all of the deputies have the required, mandatory trainings?

   A. Correct. We track that internally. So we have a running list of when people -- when they are due, like if they miss a training block for whatever the reasons, we make sure that they don't go too far down without having the jeopardy of their certificate getting in trouble.

3. Then you mentioned BSO has its own requirements for certain trainings?

   A. Correct. So not everything for in-service training is an FDLE requirement. So there's other things that BSO decides is best practice that they have -- we've done for in-service training.

4. In the time that you've been with SWAT and then moving to your more recent responsibility as in charge of training, what are some of the topic areas that BSO includes in their in-service training that are not statute -- or statewide mandatory?

   A. So what we've done when I came in in January, we implemented a critical incident management in-service
Understanding of how to manage a critical incident from the field level. You know, we think of ICS through -- ICS is an incident command system that was developed by FEMA and it's a primarily designed for big disasters, natural disasters or large scale events, we're simplifying that down for line personnel, line supervisors to -- obviously going through the airport shooting, going through Stoneman Douglas, how important it is, when you come across a critical incident, that the line supervisor initiates some kind of command and control and what the priorities are within that command and control, because that just sets us up for success in managing that incident, whether it turns out to be something not as big as it potentially could have been or something that turns out to be much larger than we initially thought it was. If those ICS protocols are put in place and implemented initially by the supervisor, it is much easier for additional resources and response to manage that situation.

Q. Okay. Prior to your becoming major in charge of training, so let's say 2008 -- I'm sorry, 2018, 2017, so the time frame with Fort Lauderdale Airport and Marjory Stoneman Douglas massacre. Do you know any of the in-service training
topics included by BSO that were not part of the statewide mandatory requirements?

A. I do. I have them in my notes. Would you mind if I look at them?

Q. Go right ahead.

A. I will show them to you. If you want to look, I will show them to you first, so you can see. I highlighted them by year. You can see the topics that were covered for in-service.

Q. Okay. Why don't you tell us.

A. So you want me -- I will cover 2017 and then I will talk about 2018; is that okay?

Q. That's good.

A. So in 2017, BSO was focusing on what we call the PAT, which is a physical agility test. We were trying to increase the overall fitness, health of all of our deputies. So that was one in-service.

We had CPR, which was one of the mandates.

Fire and qualification, one of the mandates.

Defensive tactics and use of force, which was a mandate.

We did driving, which was another mandate.

And then we did tactical handgun.

And then we did verbal defense and influence,

the VDI training, that was one the ones that was
Q. Tell us what PERF is.
A. It's the -- you're going to ask me what the acronym stands for.
Q. It's a law enforcement --
A. It's a law enforcement organization that regulates training and things for law enforcement.
Q. Okay.
A. I don't know the exact acronym. I can't think of what it stands for.
Q. Okay. That's fine. Anything else in 2017?
A. No, sir.
Q. Okay. And then 2018?
A. So 2018 we did defensive tactic and use of force again.
We did the fair and impartial policing, which was another PERF suggestion.
And then tactical handgun, tactical traffic stops.
We did firearms qualifications, which was one of the mandatories.
And then we did an eight-hour active killer block at the end of -- summer into the late 2018, they did an eight-hour active killer training for all the Department of Law Enforcement.
Q. Okay. And does your list have 2016 as well?

A. Yes, sir.

Q. What's in 2016?

A. So for 2016 they did building tactics. They did patrol tactics. They have it listed as handgun, use of force with scenario based, firearms qualifications and then they did rescue task force/active shooter.

Q. Fair to say that the FDLE requirements, mandatory requirements in '16, 2016, '17, '18, did not then include active killer training?

A. Correct.

Q. How about today?

A. FDLE just came out with a single officer response active shooter. I don't think it's -- I don't think they've levied that to be a mandatory class for this year. It's just the train the trainers are just coming out right now.

Q. What's that called, train the trainers?

A. Train the trainer, yes, sir. That's when their FDLE trainers come down to give training to the actual other instructors to other departments so then those trainers can train the personnel.

Q. And when did that come about?

A. That's this year.

Q. This year --
Q. So during the time that you've been the major in charge of training?

A. Correct. That's just come out and the train the trainer hasn't even been delivered yet. It's scheduled to come out, I think, within a month.

Q. Does that mean somebody from FDLE comes down works with you --

A. Our trainers.

Q. -- to implement a training program for the trainers?

A. Right. We would take their lesson plan that they've developed for the training, they would train our trainers on it. We would adopt the lesson plan and then facilitate that training that as deemed appropriate for BSO.

Q. And are the trainers that you use people who are within your training division?

A. Yes, sir.

Q. Is Mel Murphy still doing training?

A. Yes, sir.

Q. He's been doing that a while?

A. Yes, sir.

Q. So at the time of the airport -- let me go on to something else.
So then in addition to those in-service trainings that you have identified as the prioritized, the SWAT team, as an example, has even more specialized trainings that they do throughout the course of the year?

A. Correct.

Q. And is it fair to say there are many more topics or the topics just repeated over and over again?

A. No. There's a pretty diverse set of disciplines that the SWAT team covers throughout the year.

Q. And the SWAT team is generally viewed as a response type team, they get dispatched to a critical incident?

A. Correct. So when any incident that evolves where it expands past the capabilities of patrol, they make the request for a SWAT.

We have certain protocols in place, when it comes to preplanned events, and then obviously certain incidents would automatically trigger a SWAT response, active killer being one of them. We have the top five protocol in place when it comes to serving arrest warrants or search warrants that are deemed to be high risk, that the SWAT team must be utilized to serve those. Any time like a physical breach on a door has to
be done to serve a warrant, SWAT has to be notified to

1) serve that warrant and things like that.

Q. All right. So you've worked in your career

from road patrol up to SWAT and various command

positions?

A. Yes, sir.

Q. In your experience as a train -- as the

training major now, is it possible, within the structure

of BSO, to have weekly trainings for every BSO deputy?

A. We have training that goes on every week in one

form or another. Right now -- and I'll speaking for the

Department of Law Enforcement, that's primarily what we

are talking about.

For the Department of Law Enforcement, for me

to facilitate one phase of in-service, because of the

size of BSO, it takes me in anywhere between 60 to 70

different classes, depending on the number of students

we can facilitate per class, and depending on the

discipline that we are facilitating, that's how many it

takes just to do one phase. So you break that down to

how many -- you know, on a block, that's why we can only

do three and four phases in a year. It just takes that

long to get it done.

Q. That sounds a little like math. There's only

so many hours in the day --
Q. So many weeks, so many deputies in the law enforcement division. So you have to work with the resources to figure out how do I get the right amount of people through a training, to get through all the necessary trainings, including BSO in-service trainings, in the course of a year?

A. Correct.

Q. And in the process, monitor, I guess, by computer the mandatory requirements so that everybody meets the certification every -- is it three years or four years?

A. Well, certain ones it's every four years and other ones at a minimum every other year.

Q. So there's a computer program that keeps track of everybody's --

A. Yes, sir, our training records keep track of all that.

Q. Okay. When an officer, when a deputy goes through any of these trainings, including active killer training, some record is kept of that?

A. Their -- yes. Well, previously, prior to me getting there, their attendance was kept. So when they show up for the training, they sign in. So there's a sign-in sheet that's recorded they showed up there.
There's usually an enrollment ahead of time on the computer base for them to enroll in class, but that's sometimes accurate, sometimes not, because sometimes people do show up or other people don't show up, but the sign-in sheets what's -- that's the physical, you were physically there.

There's a training completion report, we call it TCR, that's completed for every class that's facilitated. So if I do active killer train and I did it five days this week, there's going to be five different TCRs that are generated, so for each class, that's done. And the TCR captures, obviously, who was there, if anybody left early, they don't get full credit for the number of contact hours that was there, any issues that came about that need to get noted for the class, what lesson plans were utilized to facilitate that class, because sometimes we will put on a class that might utilize different lessons plans. So all the lesson plans that were done and what instructors were there that day.

Q. It sounds, the way you've described it, Major, that there is some assurance that the attendees actually attend these classes?

A. Correct.

Q. It's not like, perhaps, going to a college
there's a big auditorium, you show up for the start, you 
sign in and then you walk out five minutes later and 
nobody knows whether you attended the class?

A. Correct.

Q. That's not likely to happen in the trainings 
that you've described at BSO?

A. Correct, right. Even before, one of the things 
that I changed when I came in is now every student gets 
an individual evaluation based on the objectives. So 
it's a little more taxing for the instructors, but they 
actually fill out what they objectives are, based on the 
lesson plan, for what the training is and that student 
has to demonstrate the proficiencies for what we wanted 
to accomplish for that training block. So each student 
now, starting in 2019, gets an individual evaluation.

Q. Before you instituted that individual 
evaluation --

A. Correct, it was just a sign-in sheet.

Q. Sign-in sheet.

In your knowledge and experience, is it likely 
that a deputy could attend one of these trainings that 
you've discussed, sign in, attend and sleep during the 
whole training?

A. Excuse me, water.
Q. Okay. Did BSO -- before you implemented the changes you've discussed, did BSO, in the training function, have a way of trying to assess whether deputies got it, whether they understood and benefitted from training?

A. Well, at the end of each class, each student fills out an evaluation, that's historically been done, that's continuing. They are anonymous, just on what was the most useful aspects, anything you would like to change, any instructor comments, any general comments, they have an opportunity to critique the class. They are anonymous.

Other than instructor observations, if somebody was just clearly deficient to where they were not meeting the standard, it was just up to that individual training cadre that day to identify that person and then document that in the TCR, that that person needed remedial training.

Q. And are instructors encouraged to make those kind of observations, if they identify a deputy who may need additional training or may not seem to have gotten whatever the focus of the lesson was?

A. I could speak for my -- the five years I did in training, as a deputy, yes. I can't speak past that. I
can tell you from when I came back in this year, that

absolutely that is encouraged, as well as me
implementing the individual evaluations.

Q. You mentioned that BSO has instructors and
there's train the trainer programs. How are instructors
or trainers identified in BSO? And I'm really looking
more for not what you have implemented, but the system
that you understood existed when you were doing
trainings and through the time -- up to the time you
became major in charge of training.

A. Okay. Well, there's -- the primary -- prior to
me getting there, Sheriff Tony has greatly increased the
size of training division. So prior -- right now we are
at about 25 instructors. Prior to me getting there,
immediately when I got there, the instructor cadre for
Department of Law Enforcement was 12, that included the
two sergeants.

So those were selected and that process stayed
the same even from when I was there. There would be a
posting, people would have to apply for it, for the job.
They would have to come in and get an interview and then
they were selected to come into the training division
based on their -- whether it be their skill sets they
already had or however the training staff at the time
wanted to bring them in for whatever specialty or
whatever the idea was, whether it was general instructor

or firearms or defensive tactics. So they were selected
on the needs of training division, as well as what that
individual brought to the division. That's how they
were selected.

Q. So there's some individual selection process
that goes to identify and select the trainers?
A. Correct. So there was -- like I said, there
was a posting and then there was an interview process
and then an eligibility list.

Q. Is being selected as a trainer considered to be
a cushy job, a retirement job, an easy job that doesn't
require you to do much of anything?
A. No. It's actually a very hard job. It's very
demanding. It requires a lot of -- unfortunately, being
outside. Our gun range is at Marcum Park. Our shoot
house that we utilize we for tactical training and
things is outside. Obviously defensive tactics training
is very physical. Active killer training is very
physical. So it's not an easy job at all.

Q. There's a unit or a section within BSO that has
deputies assigned to schools, I think they're called
school resource officers?
A. Yes, sir.

Q. Is that a unit or a division in the law
A. I believe they're either Department of Law Enforcement or Department of Administration, but they are sworn officers, yes.

Q. Okay. But as you understood it in -- if you had any understanding, in 2016, '17 and '18, were those officers who were assigned to that function, as opposed to a SWAT function where it's an additional function to your main function?

A. No. School resource was a full-time position.

Q. Okay. And is there training that is in-service training specially for school resource officers?

A. Now there is. Now there is.

Q. Meaning now, when you use the word now --

A. 2019.

Q. -- you're saying Major Robson training -- head of training?

A. Correct.

Q. Okay. So you've implemented more specialized training for SRO, school resource officers?

A. Correct.

Q. Prior to you taking command of that --

A. I'm unsure if there was individual training for them. I know they came to the in-service classes, because that's from the time I was in training. So I
know that division came through in-service, along with all the other divisions. So I know they came through.

I don't know if there was individual special training that they got aside from regular in-service.

Q. Okay. But at a minimum, those deputies, you know, would be obligated to do the mandatory FDLE requirements and the BSO implemented in-service requirements?

A. Yes, sir.

Q. They are not basically told this is a retirement job for you, have fun?

A. Correct.

Q. For an officer to become a trainer or an instructor for active shooter, active killer, prior to the time you took over, would that require the same kind of selection system that you have described?

A. No. So once you are in the training division, it's a pool of instructors, everybody has to wear multiple hats. You have guys that would be the lead instructors for certain disciplines. So you have guys that would be lead instructors for firearms, lead instructors for defensive tactics, lead instructors for combat medicine, lead instructors for like an active killer program, but a lot of times, like the 2018 active killer program that we did, the training division
 partnered with SWAT and there were SWAT operators and


SWAT training cadre that were there every day for the
eight-hour active killer to help facilitate that. So

that was a partnership to bring the best instructors
within the agency to facilitate that training for
everybody.

Q. And without trying to elevate somebody over
another, fair to say in that kind of specialized area,
the SWAT team members probably have much more experience
in active killer situation than a regular road patrol
deputy would?

A. Yes.

Q. And do you call upon -- say, in the 2018
program, did you call upon the SWAT members to be more
involved in that active killer training than in other
kinds of trainings?

A. Yes, sir.

Q. After the Fort Lauderdale Airport shooting, did
you participate in any of the after action reports?
There were a couple of drafts that led to the final
critical incident report, did you participate in the
preparation of those?

A. No, sir.

Q. Okay. Did you review any of the summaries or
drafts?
Q. Okay. What was your role in doing that, or maybe alternatively, what was the purpose in you doing any reviews?

A. It was more just to determine the accuracy, as far as the report went, for what SWAT's response was to the airport shooting, obviously a SWAT after action was generated for that incident. And just to make sure what was relayed in our internal after action report was accurate.

Q. How did you go about trying to assess the accuracy of that area, since SWAT was your command at that time?

A. So just, again, speaking to everybody that was there. Obviously we did a big team debrief. We generated our after action report, any supplements that had to get done. The supplement reports were done by the individual operators and just collectively having an understanding of what SWAT did, how we did it and, again, going against the after action reported we generated and then what is was transcribed into the agencies after action report.

Q. For SWAT purposes, would you be considered within BSO a subject matter expert in the time frame after the Fort Lauderdale Airport shooting?
A. I have to self-declare myself?

Q. Yes.

A. Sure.

Q. And is it common, in developing after action reports that involve an incident with a large scale response, not a traffic stop, but a large scale response, to have portions of the report evaluated by subject matter experts?

A. Yes.

Q. What do you understand the purpose of that to be?

A. Well, we want to make sure to evaluate ourselves. We want to evaluate that our actions and what we did was appropriate, that it was efficient. Self-improvement, you know, what happened, what was ours response, how did we handle it, did we do it correctly, could we do it better next time, always learn from your mistakes and just for overall agency efficiency.

Q. Have you had occasion, up to the time you're being deposed, to compare and review the various versions of the Fort Lauderdale Airport after action reports that led to the final critical incident report?

A. No. I only reviewed, I think, it was the final draft is what I reviewed.

Q. Okay. Had you reviewed or looked at any after
action reports involving significant events prior to the

Fort Lauderdale one?

A. To what scale?

Q. I don't --

A. Because we --

Q. I don't have that ability to do so --

A. With SWAT, every what we call mission for SWAT,

whether it's just a search warrant, an arrest warrant

service or a response to a call out, a barricaded

subject, hostage situation, any mission that SWAT goes

to, we generate after action reports. So I have

reviewed, I have authored many of them --

Q. So many?

A. -- approved.

Yes, sir.

Q. And I will ask you to help me with a gauge, but

are there some incidents that SWAT gets involved in that

have a much larger scale response than others?

A. Yes.

Q. In thinking about incidents that have a larger

scale response, have you participated in the SWAT after

action report preparation?

A. Yes.

Q. Have any of these incidents with a larger

response involved other agencies participating with BSO,
other municipal law enforcement?

A. In a SWAT capacity or just in general?
Q. In general.
A. Yes.
Q. It's not uncommon, in your experience, to respond to incidents where other agencies are involved, other law enforcement agencies?
A. Not uncommon, no.
Q. Federal, as well as municipalities?
A. Federal, it's usually a preplanned operation, but I've done that, yes, sir.
Q. You know that the federal -- various federal law enforcement agencies were extensively involved in the Fort Lauderdale Airport incident?
A. Yes.
Q. I want to move to the Marjory Stoneman Douglas school shooting.
A. Okay.
Q. February 14th of 2018. Were you involved in that in any way?
A. Yes.
Q. In what way?
A. I was a -- I was the SWAT commander and I was the incident commander, until I was relieved by Colonel Polan.
Q. Okay. And what -- if you can narrate,

1 generally, your duties in those capacities.

2 A. As the SWAT commander?

3 Q. Yes.

4 A. I was in charge of coordinating the tactical

5 response. I was obviously trying to mitigate any

6 threats, trying to mitigate as many of the wounded as we

7 could, while preserving any evidence that we came

8 across, and also coordinating the other SWAT teams that

9 were also responding to the incident, trying to

10 coordinate a response.

11 Q. How long after the initial report of shooting

12 did you arrive on scene?

13 A. I believe it was approximately 20 minutes.

14 Q. 20 minutes. Had other SWAT members gotten

15 there before you did?

16 A. Yes, sir.

17 Q. About how long after, if know?

18 A. Probably ten, it's an approximate ten.

19 Q. Approximately ten minutes. So the initial

20 response getting to the site was -- sounds quick, to me,

21 but it was within ten minutes or so?

22 A. I believe so, yes, sir.

23 Q. That scene had numerous law enforcement

24 officers, over time, congregate to do work?
Q. Not just BSO officers, but other agencies?
A. Yes, sir.

Q. Local municipalities, even not so local municipalities, right?
A. Right.

Q. And did you work on coordinating with other law enforcement agencies in your SWAT commander capacity?
A. I did.

Q. Were there SWAT teams from other law enforcement agencies that responded?
A. Yes, sir.

Q. And were you or your SWAT function the primary for that?
A. Yes. So I was -- as I said, I was the SWAT commander. So I also had my executive officer, who at the time was Lieutenant McCoy. When I was wearing both hats, I was the incident commander and I was trying to be the SWAT commander at the same time. So I was doing both things simultaneously, until Colonel Polan came and we separated the command post, command response, incident command from what we call TOC, which is a tactical operation center. So you have your tactical command post and you have your overall command post. So the tactical command post is a branch of the actual
command post. Does that make sense?

Q. Yes.
A. Okay.

So you first arrive in about 20 minutes and you have described you wear two hats, SWAT commander and incident commander?
A. Right. I was both initially because when I was driving to the scene, listening to the radio traffic -- I could tell the radios were already having problems, but I could not identify any single person that was in charge. So when I got there, assuming nobody else was in charge, I took charge.

Okay. So you took charge and that's something that you developed, based on your experience, but your training as well?
A. Yes, sir.

And you were in a position to take charge and knowledgeable in how to take charge in an unfolding incident that seemed to be --
A. Very chaotic.

-- a tragedy?
A. Very chaotic.

Yes, sir.

Chaos kind of goes with the territory when you have mass incidents?
A. Yes, sir.

Q. And are you trained as a deputy, going through the ranks as you have, to deal with that?

A. You are just trained what the responsibilities are and what the priorities are. Chaos is a given, it's going to happen. So you try your best to mitigate that.

Q. And try not to have it interfere with the things you have to do to attend to an event?

A. Right. It's about prioritizing.

Q. And you mentioned that you have gone through, participated in active shooter trainings, including real life, on-the-scene type scenarios?

A. Full scale scenarios, yes, sir.

Q. Full scale scenarios. Is it fair to say, as a deputy, experienced SWAT commander, that no matter what full scale scenario you've been through, the actual event is always going to have some new and unexpected situations?

A. Absolutely.

Q. And is part of the training to prepare for the unexpected?

A. Yes. The different scenarios, you know, we -- they give a diversity of different problems. Not every active shooter is the same. Not every venue is the same. Every venue is going to come with its own set of
Q. You arrive, you are wearing the two hats, how long does it take for Colonel Polan to come in and then take over the command -- incident commander responsibilities?
A. Can I review my notes? Do you mind?
Q. Of course.
A. I don't have the time written down. I'm sorry.
Q. It wasn't a long time afterwards --
A. Not a terrible long time.
Q. Not hours?
A. Not hours. I would say within approximately 30, 40 minutes, probably somewhere within that time frame.
Q. The tactical operations is the part that you continued to control as the SWAT commander?
A. Yes, sir.
Q. Did you have a place or a facility where you coordinated your activity?
A. So initially when I arrived, I found our BearCat, which is our armored vehicle.
Q. It's called a BearCat?
A. BearCat, yes, sir, that's our armored vehicle.
I -- when I got -- before I -- I got on the radio, because they were establishing a staging area and trying
-- and so I advised all SWAT personnel that was responding to go to the student parking lot, because I didn't want them to go to the staging area.

So when I arrived at the student parking lot, I saw the BearCat. So I parked about 50 feet away from the BearCat and established a command post at the rear of my vehicle, right there, and made contact with my team leader that was standing at the BearCat.

Q. How did you know there was a student parking lot at Marjory Stoneman Douglas High School? Did you just anticipate that there would be one?

A. Yes, sir.

Q. And so you directed people to that area?

A. Correct.

Q. And that's where you met up with the people, as you've described?

A. Right.

Q. How did a BearCat get to the school before you did?

A. The team was training. It was our training day, so they were at Marcum Park, so the team was together. I had a small team element that was working fugitive work that was already separate from training. They were in the north end of the county, so they got their really, really quickly. The rest of the team
traversed from Marcum Park to there. I was not there.

I was actually -- in Boca, so I came from a different location.

Q. Oh, what a day. So the system in place that
day had SWAT teams that were training somewhere
immediately respond to Marjory Stoneman Douglas High
School?

A. Our SWAT team, BSO SWAT team.

Q. Right. That's what I'm asking about, BSO.

And that included bringing this BearCat, which
is like a tank type vehicle?

A. It's just a -- I could show you a picture of
it, if you want, but it's just a -- picture an armored
truck for a bank.

Q. Okay.

A. That style, but it's armored for law
enforcement.

Q. All right. So that there and you set up your
command post in a staging area?

A. Correct.

Q. And you mention that there was some radio
communications problems?

A. Yes.

Q. Not unusual and not unexpected, given the
problem BSO has had with the radio system?
Knowing what happened at the airport with the radio systems, when it started happening at Stoneman Douglas, I identified what it was. I knew it was throttling.

And were you able to develop an effective workaround?

Yes, between cell phones, between direct channels, which bypasses the network, and for the most of it, I actually incorporated runners. So I was actually having SWAT operators from the command post run back to the 1200 building, because where I parked my building, there was the 1200 building. The 1300 building is here, the BearCat was almost at the edge of the 1300 building facing the 1200 building, and my car was parked about 50 feet to the north of the BearCat here in the student parking lot.

Did you know the school resource officer who was assigned to Marjory Stoneman Douglas prior to getting there?

No.

You know who he was now, Scott Peterson?

Yes, sir.

Did you have any idea that Scott Peterson would not respond in the way that you would expect one of your deputies under your command to respond?
MR. PRIMROSE: Form.

BY MR. KUEHNE:

Q. Do you have -- did you, that day, have an expectation, given your role and your experience as a BSO officer, as to how a deputy should respond to such an active shooter?

A. Yes.

Q. The BSO had then, I know it's been changed, but had then an active shooter policy in Section 4.37?

A. Yes, sir.

Q. I'm not going to ask you to memorize it, although you probably do, but I'm going to read a section of it to you.

4.37 is the active shooter policy procedure for BSO, law enforcement division, right?

A. Uh-huh.

Q. And I'm going to read section C.

A. Okay.

Q. Quote, If realtime intelligence exists, the sole deputy or a team of deputies may enter the area and/or structure to preserve life. A supervisor's approval or on-site observation is not required for this decision, end quote.

A. Yes.
Q. So that's what it said then, in effect at Fort Lauderdale Airport and Marjory Stoneman Douglas.

You are aware that that post Marjory Stoneman Douglas massacre that provision has been criticized, subject to criticism?

A. Yes.

Q. That provision had been in place during times when you took training or you were doing trainings?

A. Yes, sir.

Q. The "may" word is -- seems to be -- this is my asking you the question, seems to be the subject of lots of after the fact criticism. So I want to focus you on that.

In the training done prior to you becoming training major, the trainings you've done, participated in, the training where you were in the training division, was there any focus on limiting law enforcement action by use of the "may" in that policy?

A. No, sir.

Q. How did BSO train on that active shooter policy when you either did training or attended training?

A. So the primary objectives, when we conducted active killer training for the law enforcement officers that were responding were to either kill the offender, force a barricade or force a surrender. Those were the
three primary objectives that were given. The scenarios were based around those objectives to give the deputies in the training the stimulus to accomplish those three main objectives.

So the training was obviously stimulated by stimulating gunfire, forcing the deputies to respond into the active killer incident that we had set up for training and either they directly confronted the shooter and shot the shooter with using Simunitions -- you know what Simunitions are?

Q. Are those simulated --

A. It's like a simulated bullet. Yeah, it's like a paint ball. It uses Simunition weapons. It acts like a real weapon. The weapon cycles like a real weapon. It's a projectile being led, it's actually plastic with paint in it or it's actually soap, but it's colored so you can see it hits. It leaves a mark. It's a marking cartridge.

Q. But it actual functions like a real weapon would?

A. A real firearm.

Q. A real firearm?

A. Yes, sir.

Q. Okay.

A. So they go in and either directly confront the
which point they hold the barricade, so long as they are contained and there's no immediate threat to other life where the subject is barricaded or the subject surrenders.

Now we -- that was kind of the three main outcomes and that was based on reviewing the active killer cases historically in the United States, those were the three primary incidents that the officer would face upon arriving on an active killer.

Q. As far as you knew up to time, including becoming the major of training, did FDLE have a form policy to be used for active killer?

A. Like an FDLE's lesson plan? What do you mean by "form policy"?

Q. Let me ask it this way, did FDLE have any mandatory policy that law enforcement agencies had to implement for active shooter?

A. I do not know.

Q. How about today?

A. Other than the single officer response that's coming out, the training, I don't know of any actual policy from FDLE. I am not aware of that.

Q. So as far as today, you are not aware that FDLE has on their computer to punch a button when a law
enforcement agency says, We want to implement an active

shooter policy, and FDLE says, This is what we

recommend?

A. I do not know.

Q. Had you, prior to becoming training major,

reviewed active shooter policies in effect for sheriffs'

offices around the state?

A. No, sir.

Q. Municipal law enforcement offices around the

state?

A. No, sir.

Q. Prior to you becoming -- strike that.

Prior to Marjory Stoneman Douglas massacre,

were you aware of any criticisms to the BSO active

shooter policy?

A. No.

Q. This question is not intended to put you or

anybody on the spot, but have you been in any

situations, as a SWAT commander or SWAT member, where a

colleague froze or seemed to be incapacitated in

responding because of a heightened environment?

A. For SWAT, no, sir.

Q. Okay. Certainly freezing under stress is not

what you would want a trained officer to do?

A. Absolutely not.
Q. In your experience as a trainer, experienced

SWAT officer, how do you identify whether an officer
will freeze or collapse under some heightened pressure?

A. There's no way to know.

Q. Does BSO keep track of problem officers, by "problem officers," officers who are known to shirk their duties or to not respond in ways that they are supposed to do?

A. If there's an incident that is prompting a review, whether it's a pursuit, a use of force, a shooting, things like that, yes, there's different things in place.

We have shooting review boards that review all officer involved shootings. We have use of force all get reviewed by different layers of command prior to going for records. Any kind of vehicle pursuit that's reviewed, we have a pursuit review board. Any crashes, there's crash review boards.

So there are records in place, any time there's an incident deemed to be a pattern of problems with an individual officer, yes, they do get identified.

Q. In your experience, again, prior to becoming your current senior position, command position, did the BSO system and process of trying to identify and correct officers who don't act appropriately seem to work?
A. If it's -- it's a complicated question only because it would depend. If it's multiple -- if it's a critical incident the officer involved in and something happened, if it's documented, there would be remedial training, but for me not to have independent knowledge of different things with different officers, I really can't answer the question. I know if there's too many uses of forces by a certain officer, if there's certain characteristics that are metastasizing that an officer might have a personal problem or things like that, certainly there's things in place for that. But actual tracking lagging performance, that's not captured in any of other mechanisms that we have in place, prior to me, no. Which is why, another reason why I implemented that individual evaluation sheet every time somebody comes through training. So not only did -- yes, you went through training. Yes, you went through the scenarios, but did you actually demonstrate the abilities to meet the objectives. That's one of the reasons why I changed that.

Q. So now the system is designed to more discretely capture the individual officer attendee at all of these trainings?

A. Correct. And if the instructors that are
facilitating that day, somebody can -- essentially they
can fail in-service, where before me, they really
couldn't. Now it's documented. So if somebody needs
remedial training, they are going to get that remedial
training. If they didn't meet all the objective, if
they problems handling their firearm or they just
couldn't grasp the concepts for whatever the objectives
were for the training evolution, it's documented and
they are given the follow-up training.
Q. And prior to you implementing this
documentation process, this individualized critique, I
will call it --
A. Okay.
Q. -- was it the practice of instructors at BSO
to, if they have identified a problem attendee or an
area where additional work is needed, to try to
facilitate that?
A. If it was an individual problem they saw with a
person, yes, they could either that day pull that person
aside and give them remedial training or they could work
with that person on the side, but I don't think there's
a formal process in place that captured that data.
Q. I respect your use of the word "could." I'm
going to focus the question a little bit differently.
A. Okay.
Q. Based on your experience, was it part of BSO training and evaluation system that if an instructor identified deficiencies on the part of an individual officer, that the instructor would likely try to implement some corrective action or remedial training or talk to the person or do something --

A. Yes.

Q. -- as opposed to just blowing it off and saying well, that's --

A. Of course not. Of course not. Their job is to instruct their job is to train everybody to make sure the person keep meet the objectives of the training evolution. When they left that training, the goal of the instructor is to have that proficiency demonstrated to them and if it wasn't, the expectation would be that they would do corrective action.

Q. And is it your understanding from the instructor system, up to the time you took over training, that instructors accepted that responsibility as instructors?

A. Yes.

Q. Did you have any involvement in the writing of the 4.37 that became the active shooter policy that I just read to you with the may language?

A. The earlier policy, no.
Marjory Stoneman Douglas shooting revision of this policy?

A. Yes.

Q. And was there a process that was developed to do that?

A. It was a group meeting with different command staff that went over the policy and we collectively drafted the policy, or revised the policy, I should say.

Q. Right. Who were -- do you recall some of the people who were involved in that?

A. Colonel Dale, there was the general counsel. It was Captain Diefenbacher, Major Schults, and I don't recall anybody directly offhand.

Q. Do you know if somebody in that group was responsible for surveying active shooter policies in other law enforcement agencies as part of that review?

A. Yes, sir.

Q. Who did that?

A. Captain Diefenbacher.

Q. Diefenbacher. And you know that you prepared a fairly comprehensive report that got a number of different policies from sheriffs' offices, municipal law enforcement offices and tried to analyze them in various forms?
A. Yes, sir.

Q. And was that the subject of some general discussion?

A. Yes, sir.

Q. It wasn't -- is it Captain Diefenbacher?

A. Yes, sir.

Q. It wasn't Captain Diefenbacher just telling you this is the way it is?

A. No. There was multiple agencies' policies from around the state that we reviewed. Primarily agencies that were comparable to our size and we reviewed different aspects of their policies and comparison to what ours was, a lot of it was in alignment, and we made adjustments to ours based on that.

Q. I have no further questions of you.

MR. KUEHNE: I tender questioning to Mr. Primrose.

THE WITNESS: Okay.

MR. PRIMROSE: All right.

CROSS-EXAMINATION

BY MR. PRIMROSE:

Q. Thank you, Major. I just want to -- I want to go back to the new policy that you put in place to require an individual assessment of each deputy who takes training.
Q. That is something that you said did not exist prior to your promotion to being -- overseeing the training, correct?

A. Not that I am aware of, no, sir.

Q. And that was something that was done under the current sheriff, Sheriff Tony?

A. Yes, sir.

Q. Is part of the reason to do that a direct response to what happened at Marjory Stoneman Douglas?

A. Yes. The decision to do that was mine, to do the individual assessment, and partially it was for that because what we -- what we found was although people attended training, holistically, not exclusive to Scott Peterson, holistically somebody attended training, but when it came to identifying did they actually perform the objectives, the training completion report was a little bit vague and didn't really allow an individual aspect of identification for the objectives were met by that individual.

Q. And prior to January 2019, how often would a deputy have to undergo active shooter training?

A. I had the list here. I can get it back out for you. I will tell you what the objectives were. I went back to 2016 for our train -- in-service trainings.
So the mandatory ones for 2016 they had, it was a hybrid class between introducing a rescue task force and active killer training. So that was a joint training with fire rescue.

Are you familiar with rescue task force, sir?

Q. No. What is that?

A. So rescue task force is when fire rescue shows up and depending on the size and scope of the incident and how many victims are there and where the victims are located, it would actually bring fire rescue personnel into what we call the warm zone. So, you know, you have a hot zone, warm zone and cold zone, when you're looking at an overall incident. So they would bring fire rescue actually to the patients in a warm zone under escort of law enforcement to get better treatment to those victim faster than waiting for the incident to be over to establish a cold zone and then fire rescue comes in. So that's what that training was about and so then that was intricate upon active killer, because it was focused on rescue task force, but it was intricate with active killer, because the scenario was an active killer situation that resulted in needing the rescue task force, if that make sense.
So that was in 2016. I don't have the records as -- did we get 100 percent compliance on attendance for that, I didn't bring that with me, but I know that class was part of in-service and then they didn't get active killer again until the end of 2018, when it was an eight-hour mandatory training.

Q. And does this sound accurate, my understanding is that the entire sheriff's office had to do two four-hour training blocks sometime between 2015 and '17 on active killer training?

A. I would have to pull -- I don't have those records here. I don't see that. In 2016, there was the active shooter rescue task force there. There was nothing in 2017 for that and I didn't bring 2015.

Q. Okay. But I guess do you have any independent knowledge -- I mean, the active shooter training is not something prior to Marjory Stoneman Douglas that was required on an annual basis, was it?

A. No, sir.

Q. And I know you said in December of '18 it was now required that everybody do it. Moving forward, how often do the deputies now need to undergo like an active shooter training?

A. They got, like I said, eight hours in the 2018. I am continuing that and as long as I am the training
director at BSO, active killer training will be annually.

Q. Okay. And it sounds like since Sheriff Tony has been put in place, that training has become a priority of the sheriff?

A. Yes, sir.

Q. Are you -- I know Mr. Kuehne asked you questions about the after accident report that was done after the Fort Lauderdale shooting. Did you review any of the draft versions of that report?

A. No, sir.

Q. Okay. So you weren't aware that at least two different individuals mentioned that an area of concern was active shooter training after the Fort Lauderdale Airport shooting?

A. No, sir, I am not aware of that.

Q. Okay. And I know that -- I don't want you to try to guess here, but would it surprise you if I told you that the critical incident report or the final version of the Fort Lauderdale Airport shooting made no mention of a need to focus on or increase active shooter training?

A. You said -- the question was would that surprise me?

Q. Yes, that it was completely absent from the
1   A.   Yes, that would surprise me. I mean, that was
2   something that was identified as a need.
3   Q.   Okay. Now, I know -- I know you've mentioned
4   there's really no way to tell in training whether a
5   deputy is going to freeze under a real life situation.
6   What are some of the ways, though, based on your
7   experience, that you can get close to figuring out if
8   the deputy is actually up for the task in a real life
9   situation?
10  A.   So the way we do that is to give them as much
11   realistic stimulus as we can when we provide the
12   training, especially when we do scenarios surrounding
13   active killer training. We're using sound. We're using
14   loud music. We're using fog machines. We're using
15   screaming, role players. We are using blanks from long
16   guns rifles, shotguns, handguns. We're using moulage on
17   some of the victims to make it look as realistic as
18   possible for their injuries. And we are giving them --
19   so we're trying to give them a sensory overload when
20   they go into these scenarios and trying to get them to
21   stick to the objectives of what they are doing based on
22   the stimulus that we are giving them.
23   Q.   Okay. Given the current state of the
24   unfortunate frequency of mass shooting events, has that
25   final report.
created an increased sense of needing to make sure that

the people who are putting on the badge are up to the
task of stopping an active shooter situation, are at
least mitigating the amount of damage one could do?

A. Yes, I would agree with that. With just
today's law enforcement environment, it's a duty for the
respective command staff to ensure they provide that
training to their officers to make sure their officers
are capable of stopping that threat.

Q. And, I guess, in the law enforcement community,
are there certain targets or duties that would be even
higher than the normal road patrol exposure to an active
shooter situation?

A. Are you referring to, as far as like an SRO or
a school resource officer or any kind of, I guess, what
I would determine a critical infrastructure area,
something that would be a good target for an active
shooter to go to?

Q. Yes.

A. Right.

Q. So if there's that understanding that there are
high, and you articulated it better than I did, but
structures or targets that would be more commonly
targeted by the shooter, is it generally the idea, from
a sheriff's perspective, let's get more training on how
25 to respond to those situations and scenarios?

60

1 A. Yes.

2 Q. I know that you were not -- you were on

3 vacation during the Fort Lauderdale Airport shooting.

4 Since that incident happened in January of 2017, has

5 there been a large scale, real life exercise done at the

6 airport to put the BSO airport district staff in that

7 situation for if it were to happen again?

8 A. Yes, there was.

9 Q. Okay. What about at schools, I'm talking prior

10 to Marjory Stoneman Douglas, were there any large scale,

11 for all the SROs, to go through how they might react in

12 a situation if a school was attacked?

13 A. I'm unaware of any training directly for the

14 SROs. I know they went through active killer training

15 through in-service with everybody else, that part I do

16 know. I just don't know if there was any specific

17 training directly for the SROs related to the school. I

18 don't know that.

19 Q. Okay. And this might be an unfair question, I

20 hate to ask you -- put you in this position, but one of

21 the original drafts of the Fort Lauderdale Airport

22 shooting after action report made a comment that BSO

23 deputies assigned to the airport maybe were complacent,

24 because it seems like it wasn't as high risk as being
out on the road and that the deputies may have been

either complacent or not as vigilant.

Is that kind of the general understanding, that somebody gets shipped off to the airport or, say, a school, not as dangerous as being out on the road?

A. No. I mean, those assignments are an individual decision based on the officers. That's not really, that I am aware of, a command decision to put somebody who's not -- skills sets aren't as good as somebody else to put them in a place like that. I am not aware of that.

As far as I know, assignments to the courthouse, airport, seaport or a school, it's an individual request to go to those locations.

Q. Okay. Are there any -- well, I guess let me ask this question, because I know it's been mentioned that Deputy Peterson was named the SRO of the year at some point.

Does that -- do you know if that honor has anything to do with his caliber as a deputy in the aspect of protecting and saving lives?

A. I don't know what the categories was that summarized him getting that award. I know the roles and responsibilities of an SRO are more gauge, you know, interaction with the kids and what are they doing for
So I guess a fair answer would be probably not, as far as what his tactical abilities, you know, was that a part of that award, I would say probably not, but, you know, I don't have that firsthand knowledge.

Q. Okay. I'm going to go silent for just a second as I review my notes, so just bear with me.

A. Okay. Sure.

Q. I do want to ask you, after Marjory Stoneman Douglas, there were some discussion that the active shooter policy for Broward was changed, and my understanding it was the "may" was changed to "shall"; is that right?

A. Yes, sir.

Q. What was the catalyst for making just that one change of may to shall?

A. I know that was one of the major points that came out of the MSD commission, from some of the other sheriffs that are involved in that commission, that was one the main criticisms that our policy got and we changed it.

Q. Okay. Is that -- and if you don't know the answer to this question, that's okay.

Is that because "may," in combination with Scott Israel's assessment that he doesn't want a deputy
going into, quote, suicide mission, that may was a discretionary choice for the deputy?

A. I don't think that was a -- that was an intended action for the deputy to take that as well, you know, I'm not obligated to, because of the policy. I don't think that -- I don't think that was the purpose of it. I think deputies may have looked at that afterwards of trying to justify their actions by looking at the policy and thinking -- trying to interpret it differently after the fact. Does that make sense?

Q. Okay. Mr. Kuehne asked you some questions about a detailed review of other municipals and county law enforcement policies regarding active shooter, and I believe you said you were familiar with that kind of summary that was done?

A. Yes, sir.

Q. And in that particular summary, it makes -- it makes an -- I don't know who wrote this, but an opinion that the "may" in the Broward policy is there to provide some discretion on the deputy and so that there's no liability on the deputy, if they determine that they are not going to engage the shooter.

A. I am vaguely familiar with that. I believe it was the intent on the "may" was to not make the deputy
feel they had to go into what, essentially, would be a suicidal situation. If they know, you know, going through that door, I'm immediately going to get shot or if there's some kind of explosive device to a door, that they have to open that door even if they know they're going to suffer an explosive. That was kind of the explanation that I heard with it, but I wasn't part of the original decision process for when that policy was implemented or created.

Q. And I want to just really quickly touch on that, the suicidal aspect of engaging the shooter. In order to make that determination, as to whether or not entering the structure is going to be immediately result in either a loss of life to the sheriff or some serious injury to the sheriff, they've got -- or the deputy, excuse me, they've got to do some sort of due diligence to see if that's even a real possibility of danger to them, right?

A. Absolutely.

Q. So that would -- I mean, that would include checking to see if there are other points of entry into the structure itself, right?

A. Correct.

Q. And seeing if anybody knows of any booby trap or explosive that might be on the door that would create
a dangerous situation?

A. Correct.
Q. Okay. The last just round of questions I've
got, kind of, are just broad, but in the structure of
Broward Sheriff's Office, who is ultimately responsible
for all the deputies?
A. The sheriff.
Q. Okay. And is the sheriff the one that is
ultimately responsible for making sure anybody wearing
the badge of a deputy sheriff is actually going to carry
out the policies and the training that the sheriff has
in place?
A. Sure, yes. He's the sheriff. It would be the
chief of police, the sheriff, ultimately they are the
ones that are responsible.
Q. Okay. So at least within Broward Sheriff's
Office, the one ultimately responsible for making sure
that his or her deputies are going to protect and save
lives when they are out in the field is the sheriff,
right?
A. Yes, sir.
Q. Okay. Major, I don't have any other questions.
I do thank you for taking the time to speak with us this
afternoon.
A. You're welcome.
REDIRECT EXAMINATION

BY MR. KUEHNE:

Q. Major, I have a couple of follow-ups.

A. Sure.

Q. In your experience, with regard to the last question asked, that the sheriff has responsibility for making sure the deputies are going to protect and safe lives. How does a command staff or a sheriff do that?

A. It's through the training, through the experience, through the training and putting those people in the simulations that best mimic a real life situation, but when the situation is real and is not a training, there's no way to 100 percent know, even though -- I am a major. Ultimately, I am responsible to make sure my people are trained, to the best of my knowledge they are going to perform the duties, but when the day comes and they actually have to do it, how do I actually know you are actually going to do that? That's a question I don't know. I'm responsible for the end action, your end action, but there's no way for me to know you are actually going to do it when it's real.

Q. But you do the best you can, as a supervisor, to see that you can identify weaknesses, if you can find them?
Q. You were also asked, sort of to the end, about -- I think it was introduced as the suicidal aspect of engaging the shooter.

A. Correct.

Q. Remember the question about that, this is the may/shall discussion?

A. Yes, sir.

Q. And you agreed that some sort of due diligence is needed to assess the situation?

A. Yes, sir.

Q. Is there any part of the training at BSO, under 4.37 or any other part of the training, that doesn't focus on law enforcement doing everything they can to incapacitate the shooter or accomplish those three objectives that you mentioned?

A. That's the training.

Q. That's the training?

A. Right.

Q. The training is 100 percent focused on those three objectives?

A. That's what it's geared around. It's geared around the outcome. Obviously it's stopping the killing and then stopping the dying, that's where we are. So
you're stopping the killing by one of those three objectives, either when you get there, if there are shots being fired, either I have to stop the shooting by directly contacting with the shooter, forcing a barricade or surrender, that's part of it. The second part of it is once that's stopped, then you shift gears into now I have to stop the dying. Now once the killing has stopped, now my focus are the victims, now I have to try to stop them from dying.

Q. So the first focus.
A. Yes, sir.
Q. Active shooter, killing is possible?
A. Absolutely.
Q. So that first part. Is part of training designed to focus the responding deputy or deputies to quickly and competently assess the situation?
A. Yes.
Q. Assess whether there's one shooter or multiple shooters?
A. The stimulus that we give them in trainings just there's gunshots, whether there's one or several, your response is the same. That's your job.
Q. But also to figure that out, whether --
A. If you can, yes.
Q. -- there's one or several?
Q. Whether there's a sniper on the roof, in addition to a shooter in the building?

A. Yes. Part of the training is communication.

So we want the deputies to communicate what are they seeing, and that's also part what we're going to now with the critical incident management part with the ICS integration into that is for the supervisor to try to get that information from the people that are inside. We're calling it a CAN report. It's a means analysis report, basically. It's part of ICS.

So if you are inside, you are the first guy in there, I am the supervisor outside, I can't see what's going on inside. I am trying to train that supervisor to get that information to them so they can make better decisions outside for management, what's going on inside, do I need to give you more resources or do I need fire rescue. What do I need inside right now.

Q. And that ICS type system that you are working on pushing down to --

A. Line personnel, line supervisors.

Q. -- the line personnel?

A. Yes, sir.

Q. That's a development from -- is it called NIMS, N-I-M-S?
Q. And NIMS is a standard or a policy that actually has been implemented so that all personnel go through some form of NIMS training?

A. Yes, sir.

Q. That includes more than just sworn law enforcement personnel?

A. Yes, sir, because under NIMS, with ICS, if it's a big event, even civilian personnel, the goal of it is to make everybody to speak the same language. So whether you come in another state and you are coming down here to help me recover from hurricane, we are speaking the same language, or whether it's internal in the agency, a lot of it is civilian staff that have help out with things like finance, things like procurement. So a lot of civilian staff that get involved with appropriating things through a proper response. So that's where -- that's ICS and that's NIMS and that's all speaking that same language.

Q. And you have identified working on that focus to keep pushing down -- I don't mean it in a bad way --

A. I know you what mean.

Q. -- but pushing down that incident command structure to the line staff --

A. Correct.
Q. -- so everybody is speaking the same language?

A. Correct. So when, if a problem starts small or if you take an MSD or an airport shooting, that first supervisor that's there, if they are setting up that command structure, as it continues to expand out, if you are using the proper procedures, it is much more efficiently, much more controlled and eliminates a lot of response chaos.

Q. And these are realities from the way situations evolve and what you learn from each situation?

A. Correct.

Q. And there's no doubt that at BSO, BSO as an entity learned from Fort Lauderdale Airport shooting?

A. Yes, sir.

Q. And implemented practices that were a result of having learned from that tragedy?

A. I can speak from the SWAT response what we learned and figured out at the airport shooting, carry it over to how we ran the tactical operation center at Marjory Stoneman Douglas.

Q. And similarly, although, we wish no tragedy would ever occur, BSO, as an organization, learned from the MSD to implement, including through your implementation, new systems, procedures, practices today?
Q. But they -- that implementation didn't start with you taking over as major of training?

A. No, sir.

Q. It was an ongoing process with Sheriff Israel, Sheriff Tony's continued that?

A. Yes, sir.

Q. I have nothing further. I don't know if Mr. Primrose has any follow-up.

MR. PRIMROSE: I do not.

MR. KUEHNE: Okay. Thank you. You know about reading and waiving.

THE WITNESS: Yes, sir.

MR. KUEHNE: Your transcript is going to be prepared on a fairly expedited basis. You will get a copy of it. I will immediately send it to Mr. Lynch, the general counsel, so that you can get access immediately.

If you waive reading, it will give us a chance to get it and have the lawyers have it at the same time you have it, because it's probably going to be transcribed over the weekend. But you need to let us know whether you waive reading, but the lawyer will still get it. You will be able to make whatever suggestions, changes, et cetera, or whether you want...
to read, which limits our distribution until you read

THE WITNESS: Waiving is fine.

MR. KUEHNE: Okay. And I will make certain Mr. Lynch gets it immediately.

THE WITNESS: Yes, sir.

MR. KUEHNE: Okay. Thank you.

(The deposition was concluded at approximately 3:08 p.m. Signature and formalities were waived.)
CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, the undersigned authority, certify that STEVE ROBSON personally appeared before me on June 7, 2019 and was duly sworn by me.

WITNESS my hand and official seal this 9th day of June, 2019.

______________________________
LILLY VILLAKERDE

My Commission #GG010818
Expires July 23, 2020
REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, LILLY VILLAVERDE, Florida Professional Reporter, certify that I was authorized to and did stenographically report the foregoing deposition of STEVE ROBSON; and that a review of the transcript was not requested; and that the transcript is a true and complete record of my stenographic notes.

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

Dated this 9th day of June, 2019.

LILLY VILLAVERDE
FLORIDA PROFESSIONAL REPORTER
THE FLORIDA SENATE
EXECUTIVE ORDER NO. 19-14

IN RE:
SUSPENSION OF SHERIFF SCOTT ISRAEL.

_______________________________________/

Veritext
1400 Centrepark Boulevard
Suite 605
West Palm Beach, Florida 33401
Tuesday, June 11, 2019
9:02 A.M. – 10:31 A.M.

DEPOSITION OF KEVIN SHULTS

Taken before Robyn Maxwell, RPR, FPR,
RSA, and Notary Public in and for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed in
the above-mentioned cause.
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**NO EXHIBITS MARKED**
Thereupon,

the following proceedings began at 9:02 A.M.:

THE COURT REPORTER: Raise your right hand, please.

Do you solemnly swear or affirm the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

Thereupon,

KEVIN SHULTS,

having been first duly sworn or affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KUEHNE:

Q. We're at Veritext. Robyn -- Robyn Maxwell is our court reporter at Veritext. Witness has been sworn.

Good morning. My name is --

MR. KUEHNE: Whoops. Nick, we lost you.

MR. PRIMROSE: I can still see him.

MR. KUEHNE: You can see him? Okay. We can't see you for some reason, but you can see him so that's fine.
BY MR. KUEHNE:

Q. So good morning. My name is Ben Kuehne. I am counsel for Sheriff Scott Israel in connection with proceedings involving the Senate review of his suspension by the governor.

I have asked you to appear pursuant to a subpoena that was issued by the Florida Senate. Here's a copy of the subpoena for your attendance.

Mr. Primrose, would you enter an appearance, please?

MR. PRIMROSE: This is Nick Primrose for Governor Ron DeSantis.

BY MR. KUEHNE:

Q. Please state your name and spell your last name.

A. Kevin Shults, S-H-U-L-T-S.

Q. Mr. Shults, you have been a law enforcement officer. Are you a currently a law enforcement officer?

A. I am not.

Q. Please state and describe for me your law enforcement history in a narrative fashion.

A. I have a total of 34 years of law enforcement experience. One year with the City of Wilton Manors. Twenty-seven years City of Fort Lauderdale where I retired. Six years of Broward Sheriff's Office.
I have been involved in special operations command and training since 1990. I possess numerous instructional certificates. I have been a part of various high liability trainings throughout the majority of my career.

Q. What -- is it appropriate for me to call you "Mr. Shults" in the course of this deposition?
A. It is.
Q. Okay. I don't mean any disrespect for your long-term of law enforcement service.

During the 34 years as a law enforcement officer, have you been continuously certified as a law enforcement officer by the State of Florida?
A. Yes, I have.
Q. When did you conclude your law enforcement career?
A. January of 2019.
Q. 1/2019. Was that a voluntary separation?
A. It was.
Q. Okay. Was that coincident with the decision of the governor to suspend Sheriff Israel?
A. It was.
Q. What position did you hold at the time of your separation from BSO?
A. Major.
Q. Major. And did you have any duties and responsibilities as major?

A. Director of training and the director of policy and accountability.

Q. Training, policy and accountability. How long?

A. Six years.

Q. When you came -- when you joined BSO after your retirement from Fort Lauderdale Police Department, did you enter as a major?

A. No, sir.

Q. What did you enter as, with?

A. Captain.

Q. Captain. And you were promoted to major?

A. Yes.

Q. What were your duties and responsibilities when you joined as captain?

A. The same.

Q. Training and?

A. Policy and accountability.

Q. Were you the senior officer at BSO in charge of training?

A. Yes.

Q. Did you have a unit or a staff dedicated to training?
A. Yes.

Q. And did that unit or staff at various times include others who assisted in training?
A. Yes.

Q. Did training involve both in BSO training as well as training exercises with other agencies?
A. Yes.

Q. Did some of those agencies include other local municipal agencies as well as federal agencies?
A. Yes.

Q. How about other sheriffs or the equivalent, such as the equivalent in Miami-Dade County?
A. There were training operations that were multi-jurisdictional that would have fallen within the commands, say, of special operations, which would be SWAT. Those entities -- those training were conducted between SWAT operations and Miami-Dade SWAT operations. Same thing occurred with maritime operations. They were usually unit to unit. Aviation, unit to unit. They didn't necessarily involve training command approval or review.

Q. Okay. You mentioned you have significant experience in special operations?
A. Correct.

Q. What did that involve?
A. I was a member of SWAT for 17 years. Served as executive officer for seven years, City of Fort Lauderdale.

Q. So 17 years with SWAT and 7 years as executive officer?

A. Correct.

Q. What does "executive officer" mean?

A. Second in command.

Q. At BSO as a major, were you considered command staff?

A. Yes.

Q. My principal focus during the -- your deposition is on two discreet incidents and the time frame around those incidents.

One is known as the Fort Lauderdale airport shooting in January of 2017. Are you familiar with that incident?

A. I am.

Q. The second is a February 14, 2018 tragedy known as the Marjorie Stoneman Douglas High School shooting. Are you familiar with that?

A. I am.

Q. Are you also familiar with the policies and procedures applicable to BSO involving active shooter?

A. I am.
Q. Are you familiar with the training at BSO on the active shooter policy?
A. I am.

Q. Moving to the Fort Lauderdale airport incident, January 2017, did you have a role in that?
A. No.

Q. Were you aware of the incident as it unfolded?
A. Yes.

Q. How did that come to your attention?
A. Command staff receives a text message regarding incidents that are occurring, and then I listened on my radio to the incident.

Q. And where were you at the time?
A. At the public safety building.

Q. Is that the BSO headquarters?
A. That's the main headquarters, yes, sir.

Q. And did you stay there during the entirety of the airport shooting and its aftermath?
A. Yes.

Q. Did you have any involvement in the activity of the BSO response to the airport shooting?
A. Not in the BSO response, no.

Q. Okay. What response at all?
A. My position at BSO also assigns me as the
liaison to the Broward County Emergency Operations Center, so the director at the time was on the phone with me communicating information back to Broward County management.

Q. What is the purpose of that communication and liaison function in an emergency situation?

A. So that Broward County can properly respond to assist a, develop any large capacity incident that affects Broward County.

Q. Did you exercise your liaison duties and responsibilities that day in connection with the Fort Lauderdale airport incident?

A. Yes.

Q. Was, in your experience, coordination with the Broward emergency management system a needed component of the response to the Fort Lauderdale airport shooting?

A. It was vital that Broward County management be kept appraised of the overall picture of the event, its impact to the county, as well as any additional resources that may have been needed. County management tends to want to have information and, as we know, information is -- is time sensitive, so what comes in now, 30 seconds from now, can be absolutely incorrect and it is difficult for them because they want constant
information. So my role as liaison is to help provide them with what information we know so that operations can continue uninterrupted.

Q. As part of your liaison work, were you in regular communication with BSO responders at the Fort Lauderdale airport?

A. Through the BSO emergency management center that was on site, I was.

Q. Okay. The emergency management center on site, what do you mean by that?

A. The command center.

Q. The command center?

A. Yes, sir.

Q. And that was being operated by a BSO person?

A. Yes, sir.

Q. Were you able to assist Broward County in directing responsive facilities or additional assistance as requested by BSO to the scene?

A. The original time frame, within the first few hours, there was no immediate need for any resources from the county. The majority of the resources that were needed from the county were when things became calm and then we realize -- they realized there were going to be movement needs of personnel, civilians that were at the
airport as they had been shut down for flight operations. So that actually transitioned from my role to a direct contact at the airport.

Q. Did that include making transportation facilities available?
A. Yes.

Q. Buses and moving equipment?
A. Location also within the Port Everglades terminals for those individuals who had missed flights.

Q. And is that coordination that BSO works to develop in such a large scale emergency?
A. It would be BSO responsibility to make sure that the other entities know that would be their responsibility, so we work in coordination with other members of the county. Broward County Transportation. Broward County BCT. But that's really, there are people within the EOC command that that is their function.

Q. EOC again is?
A. Emergency operations center.

Q. Did you in your liaison capacity become aware of numerous other law enforcement agencies responding to the scene of the Fort Lauderdale airport?
A. Yes.

Q. Did that include the Federal Bureau of Investigation and other federal agencies?
A. Yes.

Q. Did you understand that at a soon time after the shooting and the shooter was taken into custody the FBI took primary responsibility for the investigation?

A. Yes.

Q. And is that because there were concerns raised by the FBI and others about a possible terrorism connection?

A. I am not directly aware of the rationale behind that decision. I wasn't privileged to that.

Q. When the transition occurred to the FBI being the primary, did you as the BSO liaison, as you described it, to Broward continue to maintain your position?

A. I did for a couple of hours, until we, BSO, sent it down to a centralized command and we designated an individual at the command post for any further Broward County needs, as it had transitioned to mainly a transportation and movement operation.

It wasn't really law enforcement critical at that point. So transportation needs were set up with Broward County aviation management, since they control the airport. So you had Broward County Aviation communicating with Broward County EOC. We kind of were
eliminated because we weren't needed at that point in the flow.

Q. Was it your understanding at the time that the airport itself is operated by a county agency called BCAD, Broward County Aviation Division?

A. Correct.

Q. And BSO provides the law enforcement function to BCAD by contract with the county?

A. That is correct.

Q. Up to this time, 2017, in your liaison capacity had you actively worked with Broward County officials in connection with emergency responses?

A. Yes.

Q. Was that a normal part of the BSO operation and development?

A. It is a part of Broward County emergency management's yearly training criteria. They are required to set up a training exercise every year. They establish it. Sometimes it has been law enforcement critical. Sometimes it has been natural disaster. Sometimes it's been hurricane related, in addition to actual operations that occur within the year.

Q. A wide range of scenarios that might impact Broward County?

A. Correct.
Q. And implicate both Broward emergency response and law enforcement response?

A. Correct.

Q. As part of your role in the training function, did you help develop trainings to respond to all sorts of problems and issues that might arise in Broward County?

A. They fell through Broward County EOC, they actually have a training division and they're responsible. There are certain criteria that Broward County EOC has to answer for state mandate.

All of the EOCs within the State of Florida have a designated trainer. They establish their yearly training events. I'm not sure how they do them.

The only responsibility that BSO would have is once we learn what the overall exercises will entail, my role would be to establish the contact within that jurisdiction.

So we had one that was a -- a mass migration of individuals who landed at various locations within the county. So as those cities that were involved were contract cities with BSO, my role is to establish the point of contact in the liaison for those cities and the training and the management of those operations so that they can apply realistic response operations on the
training day.

Q. Is the aspect of coordination with other agencies, including Broward County, considered an essential part of the BSO response to emergency situations?

A. Absolutely.

Q. Okay. BSO can't do it alone in many respects?

A. We cannot.

Q. There's a section of the BSO Department of Law Enforcement Standard Operating Procedures involving active shooter. Are you generally aware of that?

A. Yes.

Q. Does --

A. I'm aware of what was in effect as of January of 2019.

Q. Okay. I'll ask you about that.

There's a section called 4.37 and I'm going to show it to you, but I'm going to read a section. It's part of the exhibits that have been identified in this case.

But the active shooter policy I'm going to show you and read was that which was effective March 2016. And it existed, I'll ask you if that existed through late 2018 when the policy -- there's evidence the
policy was changed. Okay. So that's the focus.

So active shooter policy 4.37, I'm going to read you subsection C. And it says, and I quote: "If Real Time Intelligence exists the sole deputy or a team of deputies may enter the area and/or structure to preserve life. A supervisor's approval or onsite observation is not required for this decision." End quote.

So I quoted you the operative section. I'm handing you the policy that I referenced. It's on page 2 is the section I read.

You're familiar with that section?

A. I am.

Q. Okay. You're aware that post-Marjorie Stoneman Douglas shooting tragedy that active shooter provision has been subject to significant review and criticism?

A. I have.

Q. I'd like you to focus on the inclusion of the word "may" in that policy.

You're aware that the policy as then-existed included the word "may"?

A. I am.

Q. Describe -- strike that.

Did you as the person in charge of training
oversee training on the active shooter policy then in existence at BSO?

A. The policy would be inclusive in the training for knowledge base.

Q. So does that mean that the pol -- the training includes active shooter, a portion of which is training on the policy?

A. Correct.

Q. What is the form -- strike that. What is the focus of training on the active shooter policy?

A. The purpose of training is to provide enhanced skills and knowledge relevant to the task at hand.

Q. And is there an objective utilized by training for compliance with the active shooter policy?

A. There is a desired outcome on metric that is observed within the scenario. The training goes through knowledge. Goes through application. It goes through sort of what we call a walk-crawl-run phase and then we usually end with a scenario where we're looking for a desired outcome of performance.

Q. What is or are the desired outcomes when dealing with an active shooter situation per the training at BSO?
A. One of three outcomes: Eliminate the threat, barricade the threat or arrest the threat.

Q. Okay. And is that the outcome objective taught in the training scenarios?

A. Yes.

Q. Does the use of the word "may" in the training -- in the active shooter policy impact the response -- the training response of an officer to an active shooter scenario?

A. The use of the word "may" being a modal verb is placed in there because it authorizes and gives permission to. When the Department of Law Enforcement -- this is a standard operating procedure which the ultimate sign-off on this is the Department of Law Enforcement command.

There was consideration between the word "may" and "shall." The problem with "shall" is it applies a false imperative, that you must do it.

And from a special operations perspective, my opinion was that there are a multitude of reasons and rationale that immediate entry would not be feasible, possible or advisable. The training that occurs for us allows that instruction to tell them that, hey, look, you may come to a scenario where it is inadvisable for you to run in that door. However, your job is defined somewhere
to go, to get in, understanding that time is the critical element.

    So "shall" was -- the comparison "shall" and "may" were the two comparisons.

    We give the instruction. They know that time is the element. They know what the three objectives are. They know their job is to think, understand what their responsibility is and make a correct decision to get to that. Eliminate that problem.

    So the word "may" stays in policy; however, the instruction is very clear on what the expectation -- the expected performance is.

    Q. Is there any part of the training on that policy that allows law enforcement officers responding to an active shooter situation to not attempt to implement one of the three outcomes that you described?

    A. The training is very descriptive on what's expected. However, because there's a human element in here, having been involved in real-life operations, it is very difficult to predict performance on the game field when you're comparing the performance to the practice field.

    So there is an enormous gap between real life and training. To be honest with you, in 34 years everybody trains well. I will also tell you that in
34 years not everybody plays well. But that's the human element that is the unpredictable factor.

Q. Did training as you oversaw it, attempt to minimize the problems that might be experienced in any actual situation from the training scenarios?

A. To an extent.

Q. How did you go about doing that?

A. Training needs to have three things. It needs to be realistic. It needs to be relevant. And it needs to be repetitive.

The problem is, is that in 34 years training only rises to a certain level. We can't shoot at officers with real bullets. We don't punch each other in the face as hard as we can to see how you recover.

So there is a -- there's what is called training scars. In other words, people rise to the level of the training.

But I can't, and trainers know, that we can never fully prepare you because you're not facing something that your body interprets to be real. And the human body has an instinctual desire to survive. And when those overwhelming factors that are both physiological and psychological impact an individual, people make decisions that are less than desirable, but that's the human element. The job of training is to push
them as high and far as we can, at the same time knowing that we really never take them to the level that they need to be.

Q. At the time of your involvement in the training operation, did the training function include guidance to trainers to make a best effort to evaluate the understanding of trainees during training?

A. I was blessed to have a group of trainers -- to get a group of trainers that understood the realities that in order to make active shooter training realistic, it needs to be personal. In other words, we need to push the element.

The deputies understand that that individual in there could be their daughter, their sister, their husband because then there's an understanding of commitment. In other words, I will do things for a family member and risk things much greater than I ever would for someone that I don't know.

Q. Is that unique to law enforcement in your experience?

A. It is a unique function in law enforcement because everything that law enforcement does is for somebody that they don't know, by and large. And to ignore that element is not a human characteristic and it needs to be understood; that law enforcement officers do
everything they do every day for a complete stranger.

Q. Did BSO training work with that reality to encourage responders to use all appropriate responses necessary even though the individuals they may be working to assist are strangers?

A. We, as a division, the Broward Sheriff's Office training division wants to personalize everything. Treat people the way you would want to be treated.

So it is inclusive in everything to make it personal, to make your actions accountable, to make your actions relevant, to make your actions realistic. And it requires trainers who understand that so that people don't think they're just going through the motions in training.

It has to matter. It has to mean something when they leave here. The best training you will ever have is something that you feel, not something that you do.

Q. Did you get involved in any way in the post-Fort Lauderdale shooting evaluation or review?

A. The division of policy and accountability was tasked with being -- Captain James Diefenbacher, D-I-E-F-E-N-B-A-C-H-E-R, was responsible for the final preparation of the after-action report from that division -- from my division.
Q. Did you make any assessment whether the first responding officer, Deputy Madrigal -- do you know that name?
   A. I do.

Q. -- at Fort Lauderdale actively and appropriately implemented the Section 4.37 active shooter policy?
   A. He, as an individual, would have assessed the situation based on the information or as it applies in policy and real time intelligence. He responded within, I think, a minute and a half. Went directly to the threat, located the shooter and placed him in custody based on the same training that others have had, same information. But he is an individual to interpret that information, and no two individuals are the same.

   So it is a misnomer for individuals to think that 25 people went to training; therefore, the outcomes will be the same of 25.

Q. The Fort Lauderdale incident as you understood it, even though you're not on the scene, involved an actual active shooter, correct?
   A. Yes.

Q. And the potential for mass loss of lives?
   A. Well, I believe there was mass loss of life to start with. Why that individual chose not to
continue, there's only one person that can answer that.

But I don't think the response would have changed. And Deputy Madrigal's response was exactly what we would have expected.

He processed the information. He made a decision, and the outcome was favorable.

Q. Did the training department utilize the information gleaned from the Fort Lauderdale airport shooting and the active shooter response in evaluating and considering further training on the active shooter policy?

A. When we -- yes.

Q. Is that normal for the BSO training department to evaluate situations and determine whether training can be augmented, advanced, changed based on the actual occurrences?

A. Actual occurrences are the only time you can evaluate what's on paper versus what's performed.

Q. You mention that you were part of -- and if I misstate this, please correct me -- part of a group of command officers who reviewed and determined the appropriate language in the active shooter policy that we've described.

A. Yes.

Q. And is that fair to say?
A. Yes.

Q. That it was not a sole decision of one person to mandate a policy?

A. It was a group of individuals with their input, and it goes up the chain for final decision-making.

Q. And ultimately approval by the sheriff?

A. Correct.

Q. Was that also approval by the sheriff's general counsel, if you know?

A. The sheriff's general counsel would have been a part for his input.

Q. Okay. And you had some input?

A. Yes.

Q. With extensive special operations and SWAT training?

A. Yes.

Q. Were you aware at the time that the State of Florida credentialing organizations did not have any requirement for active shooter policy or active shooter training?

A. Correct.

Q. Yet, BSO had an active shooter policy and an active shooter training system?

A. Yes.
Q. In your view, was the BSO active shooter policy consistent with standards or use of policies by other agencies within and without Florida?
   A. Yes.

Q. Were there, in fact, any standards for active shooter policies required by the State of Florida?
   A. None.

Q. By the Florida Department of Law Enforcement?
   A. None.

Q. Were you familiar with then-Deputy Scott Peterson prior to the Marjorie Stoneman Douglas tragedy?
   A. No.

Q. You know that there is a duty function at BSO called "school resource officer"?
   A. Yes.

Q. Are they, SROs, school resource officers, subject to training as would be Broward deputies?
   A. All Broward deputies are subject to the same training protocols.

Q. And is there a protocol in the BSO that the SROs have training together with the other SROs?
   A. Prior to 2018, the SROs at Broward Sheriff's Office were assigned to districts. And because they were assigned to districts, there was -- there was
not a unified program for what SROs have.

In other words, Pompano can send their SROs to one thing. Tamarac may decide to send them to others. That occurred before the current administration, Sheriff Israel's administration, arrived. I don't know why that occurred.

My understanding was is that, prior to this decision, they were a singular command to keep them unified and keep them concurrent, so to speak.

I know that in late 2018 that was returned to a singular command. But that wouldn't have been underneath my responsibility, so I wouldn't have the information to tell you whether or not they did train or did not train with other SROs.

Q. Okay. Is there any part of the SRO assignment that is not a law enforcement function?

A. Yes.

Q. What is that?

A. The SRO, although their sole responsibility is the safety and security of individuals on a campus, they have a multitude of roles. They are -- they are peers. They are counselors. They are -- they are -- they do a multitude of functions that are in relation to what you would expect of someone who deals with children. And they possess a unique skillset to do that.
Q. In your experience, as a BSO major command staff and in charge of the training function, are BSO deputies who are assigned as SROs evaluated for fitness as an SRO?

A. No.

Q. Is the SRO considered in the BSO structure, if you know, to be a cushy job? A retirement job? A job that is less law-enforcement focused?

A. I would say no. It is a job with a unique set of skills, unlike any multitude of jobs that have a unique skillset, that certain people are more prone to fill. You certainly couldn't take an individual who has a skillset, training and mindset of SWAT. And I wouldn't want him in a school.

It just doesn't go. It's just not a place for that mentality. It's that place for the day something goes wrong.

But the other 99.9 percent of the days, it would be confrontational and it would not fill the skill sets of an SRO.

Q. Okay. Given the nature of different functions within BSO, you mentioned SWAT, SWAT special operations, SRO.

In addition to being a sworn law enforcement officer, are there different skill sets that
you view as appropriate for different kinds of assignments?

   A. Most definitely.
   
   Q. Okay. Does BSO, at the time you were there, try to determine whether officers assigned to particular areas have the needed skill sets?
   
   A. Yes.
   
   Q. Moving to the Marjorie Stoneman Douglas tragedy, February 14, 2018, did you have any involvement in that?
   
   A. No direct involvement. Again, my only involvement was in coordination with the Broward County emergency operations.
   
   Q. And when did you become aware of the Marjorie Stoneman Douglas active shooter situation?
   
   A. I believe about seven minutes into the incident.
   
   Q. And how did you become aware of that?
   
   A. I don't remember. I want to say somebody in the office knew it was going on, and I turned on, again, my radio.
   
   Q. Okay. That's your law enforcement communication radio?
   
   A. Correct.
   
   Q. And is that over a communications channel
that is -- that is operated by and the responsibility of
Broward County?

   A.   Yes.

   Q.   What did you do in response to hearing
about the shooting?

   A.   Well, there was a multitude of both command
staff as well as operational staff responding to the
incident. So the only thing that I did was listen. I
wasn't -- there was more than enough cooks in the
kitchen, so to speak.

   Q.   Okay. Did you implement the coordination
and communication with the Broward emergency operations
that you described in the Fort Lauderdale airport
shooting?

   A.   I had two phone calls, if I recall
correctly, with the Broward County EOC director. But
because this was a uniquely law enforcement-centric
operation, it did not involve county facilities other
than the school board.

   There wasn't really -- there was no
identified need for additional resources or coordination
other than informational purposes for the needs of the
Broward County EOC.

   Q.   Did you use your efforts to further any
communication with the Broward school board?
A. No. That was done through Broward County EOC, if I recall correctly. The main desire of Broward County EOC was for information, which it usually is. And once a PIO was identified for Broward BSO, they were put in direct communication to eliminate me from the communications flow.

Q. Did you go to the scene of the Marjorie Stoneman Douglas at any time while the incident unfolded or its aftermath?

A. No.

Q. Did you post Marjorie Stoneman Douglas, utilize any of the information learned to assist in or redevelop opportunities for training?

A. Yes.

Q. Any examples?

A. The policy -- the training curriculum was modified. What we learned in the Marjorie Stoneman Douglas incident is that even though we had a rescue task force concept, there was -- it was glaringly apparent there was an enormous amount of false information. The false information led to inaction. And while there was inaction, time was going by.

Traditionally, law enforcement's role has been primarily locate and accomplish one of the three objectives: Either to eliminate, force a surrender or
arrest the subject. And that is the primary function.

What became apparent in the post-evaluation of MSD is that an enormous amount of time was spent focusing on that singular task with false information continuing to drive.

So what we did is we decided -- we didn't decide it. What we ended up fabricating or fabricating/formulating is that one of three objectives will always be occurring in active shooter. If real time intelligence exists that the shooter is on scene, then you will find and eliminate the threat.

If you can't find it, then you will immediately start extraction teams of victims and move towards with the rescue task force, which is a combination of law enforcement and fire rescue paramedics for triage and treatment of victims on scene.

So those three tasks used to be tiered. It used to be that the first task was to find, and you don't move to tier 2 until you find and ensure that that person is gone.

Because the information was so glaringly false and it created such a delay, we should have moved to tier 2. We should have started extracting victims immediately or setting up rescue task force.

So on the policy or -- excuse me, the
protocols that exist now are those three tiers, one is
being done all the time. So even though you may still be
looking, you immediately start setting up, because
personnel are moving.

You have the resources coming there. It
just requires coordination of extraction teams to get
victims out or to establish rescue task force teams that
combine law enforcement and fire rescue personnel to get
into the war zone and start treating victims.

That was what was learned from an incident, and it was only learned because of an incident.

Q. Is the development of training in response
to incidents something that is expected in the law
enforcement structure?

A. I would like to think it is, but I can't
answer. I know that for my history of Fort Lauderdale,
every operation that we ever did you had an opportunity
to review.

There's always improvement. Nothing is
perfect. Nothing ever goes to plan. There's a human
element, and there's an opponent in every single
incident.

So it's -- it's not computer driven. There
has to be what we call a "hot wash" and an after-action
review of everything.
Q. And explain what that means.

A. A hot wash is something that you do immediately after an incident. "Hey, what was wrong right now that we can fix should this occur tomorrow?"

Those are the glaringly apparent causal factors.

And your after-action review is where you really dig down to find out what can you change. Was something not followed? Was information not processed correctly? Was there confusion? What led to the decisions that were made? Because nobody wants to show up and fail, but we're fallible creatures.

Q. In your experience, during your time with BSO, did BSO attempt to utilize that process of studying events and then determining how to implement effective learning from those events?

A. As far as it comes to the training aspects, which would be under my requirement, that was absolutely tasked to my personnel. I have extremely smart personnel who understood outcomes sometimes are not the best. But the question is what causes that and what can we do to change?

Q. Is there -- strike that.

During the time that you were in charge of training, was BSO ever identified as having been deficient in any aspect of training?
A. None.

Q. Was there any aspect of training that you determined involved trainers who were not competent to handle the training?

A. There were trainers throughout my tenure who were reassigned, yes.

(Phone interruption.)

MR. KUEHNE: One moment, please.

BY MR. KUEHNE:

Q. During the time of your activity as a -- as the training major, were there any instances when an officer who went through the training was determined to not have learned properly from the training, yet no follow-up was done?

A. My answer would be no. But BSO has 2500 deputies. And because they're all human, they all have different levels of competence.

It would be incorrect to say that everyone performs perfectly. There are levels of performance-desired outcomes. The trainers individually identify individuals whose performance is so egregious that they need remedial training, and efforts are done within the process to remediate them. Bring them back in, put them through, do a needs assessment of the individual, find out where the gap is, and appropriately
apply.

But the reality is, is that there's a logistical issue that exists in every large agency across the country; that you're moving personnel through on a limited time. And we're only given a limited time to have those individuals. That's the reality of the job.

So we trainers know that there are personnel who need more training. That's a desire. The reality of that desire is, is that there's also districts that need those personnel. There are also jails that must have deputies working all the time. So there's a competing interest.

Too many times we compare law enforcement and we say it's a military-style operation. It's not. In the military, you do months of "train to" training. I don't have them for months. I've always felt that there's no bad time to train for anything, but the reality is, is that sometimes there's no time for the training.

So the overall answer is absolutely. Do we remediate? Yes.

Do we have a realistic ability to remediate everyone to the level that we desire? No.

Q. As far as you know, had there been any indication during your time with BSO that former Deputy
Scott Peterson was in need of remedial training and did not receive it?

A. None that I'm aware.

MR. KUEHNE: I have nothing further. I tender the witness to Mr. Primrose.

CROSS-EXAMINATION

BY MR. PRIMROSE:

Q. All right. Thank you.

I want to go back to your time -- your career in law enforcement.

If I've got my math right, you worked with Scott Israel at the Fort Lauderdale Police Department, correct?

A. At various times in my career, correct.

Q. Were you ever a direct report to Scott Israel when you were at Fort Lauderdale Police Department?

A. Yes.

Q. And when was the last time that you would have been a direct report to him at the Fort Lauderdale Police Department?

A. Between 2004 and 2006.

Q. Okay. And you went over to Broward Sheriff's Office after Scott Israel became the elected sheriff, correct?
A. Yes.

Q. Did he ask you to join him at the Broward Sheriff's Office?

A. I was actually recruited by John Dale. And once I agreed, then-Sheriff Israel did make a phone call to me.

Q. And Mr. Dale, he also worked with you at Fort Lauderdale Police Department, correct?

A. At various times in his career, correct.

Q. And he also would have worked with Scott Israel at Fort Lauderdale Police Department?

A. I -- I can't -- I believe he did, yes.

Q. And do you know whether Mr. Dale was recruited to go to Broward Sheriff's Office once Scott Israel became the elected sheriff?

A. I can make that assumption. I don't have information of whether -- how that occurred, no.

Q. Okay. And if I remember correctly, you testified that the reason you left Broward Sheriff's Office was because of Scott Israel's suspension?

A. Correct.

Q. Because you -- you don't believe that Scott Israel should have been suspended from office. Is that a fair conclusion to make?

A. Correct.
Q. Okay. You had discussed the "shall" versus "may" in the active shooter policy. And your testimony was that the "shall" creates a false directive; is that correct?

A. False imperative.

Q. False imperative. Meaning if it's "shall," you've got to -- you've got to breach the building even if there might be a booby trap or the shooter is on the other side of the door, right?

A. That is one of a couple scenarios that I can probably come up with. But I'm sure, as you're aware, there's a multitude of realities.

Q. Correct. And, in fact, Scott Israel essentially backed up the "may" by saying, "didn't want my deputies to engage in suicide missions"?

A. I believe that was one of his quotes, yes.

Q. Wasn't the policy changed from "may" to "shall" after Marjorie Stoneman Douglas shooting happened?

A. Yes.

Q. And why was that done?

A. I don't have knowledge of the exact reason why, but I'm sure the pressure and the overall optic had something to do with it maybe.

BSO was not the only agency, both statewide
and nationally, that has "may." I venture to say that there's a multitude of places that have changed it.

Q. Right. Were you involved in the decision to change it from "may" to "shall"?

A. No.

Q. Even though you are overseeing training, you were not included in that discussion?

A. No.

Q. Are you aware at all of a discussion that the Broward Sheriff's Office active shooter policy uses "may" because entry is permitted and a possibility, but that no legal consequence could be applied to the deputy for not performing?

A. I am aware of that.

Q. Okay. Is that something that was included in the training to the deputies when going over the active shooter policy?

A. No. That was -- that would be a part, if I recall correctly, during the conversation of "may" versus "shall" when the policy was changed back in 2015 --'14 -- excuse me, '15 or '14.

Q. Okay. I noticed that in the training document that I believe you were shown there's no discussion about if it's inadvisable to breach a structure you should go look for other points of entry.
Is that anywhere in the training documents that you were given?

A. No. That would be in part of the training instruction.

Q. Okay. So -- so we're to assume that even though it's not written down in the training outline, that was something that would be verbally told to the deputy?

A. Yes.

Q. At a bare minimum what you're saying is that all the deputies were trained that if they don't believe that they should go through Entry Point A, they should do their best to find Entry Point B or C or D, correct?

A. Yes.

Q. But they should not -- if I'm understanding you correctly, the policy did not indicate if you've got a position of cover, you should stay in cover versus trying to engage the shooter?

A. As I previously stated, the three objectives are to eliminate, force a surrender or an arrest. Those are priorities.

Q. Okay. But, again, would it ever have been trained to the deputy that if they've got a position of cover they should stay until backup or SWAT could arrive?
A. There are a lot of variables in that. It functions on what we call real time intelligence. That's information that should lead you to act: Gunshots, screaming, people running. So there are other variables that would cause you to act.

So just because a deputy is behind a position of cover, I can't -- there's not enough information you're providing to tell me what a desirable position would be. If there's no shooting, no nothing, then I can't explain why a deputy would stay where he's at or leave. That deputy would have to explain that.

Q. Okay. But I guess from a training perspective, is that something that the deputies are taken through? If real time intelligence exists that there may be an active shooter and you are in a position of cover that you, as a single deputy response, should wait until backup or SWAT can arrive before exposing yourself to further danger?

A. No. We should not wait.

If real time intelligence exists in the scenarios that we develop, and I believe some of the scenarios that are listed clearly indicate that gunshots, something will be used as a stimulus to make that deputy consider and move.

And at the same time there would also be
Q. Okay. Prior to the Marjorie Stoneman Douglas shooting, how often would a deputy have to undergo the active shooter training?

A. It was on a three-year time line.

Q. Okay. And that means that they go through the program once every three years?

A. Correct.

Q. Okay. And if I understand the exhibits that have been provided, the training for active shooter consisted of two 4-hour courses; is that correct?

A. What year are you referring to? '15/'16?

Q. Prior to the Marjorie Stoneman Douglas.

A. I believe --

Q. So --

A. -- correct.

Q. Okay. Of that, of the two 4-hour courses, how much of that time was spent doing actual, practical, simulated active shooter response?

A. It is difficult to put an actual time line on that. Every class has different individuals. You may have deputies who have been on the agency for a year. So their knowledge and understanding level would be lower, which would mean they would require more instructional
component before we move to scenarios.

So it's difficult for me to sit here and
give you an overall perspective on the exact amount of
time line that would be dedicated to scenarios.

Q. Okay. I don't know if this is available to
you in a paper copy, but I'm going to submit to you that
there -- discovery has been provided to Mr. Kuehne for a
2016 lesson plan related with a course titled "Response
to Active Shooter."

And in the course agenda it says -- and I
just -- this is just from my knowledge. It gives five
bullet points and an amount of time related to each
bullet point.

Are you familiar at least generally with
that format?

A. I am.

Q. Okay. The third bullet point says, "Two to
four-man bounding overwatch practice, 40 minutes."

What is that?

A. That's a movement drill based on real time
intelligence that trains the deputies to move to what
they hear. It's a tactic for movement.

Q. Okay. And I think we've heard some other
testimony about a diamond or different formation. Is
that the same thing?
A. Well, you're going back in time and evolution when the very first active shooter teams were waiting on individuals to create some formation. So there's a diamond formation. There's a "T" formation.

All of those have kind of gone to the wayside now where we're looking for single-officer response based on real time intelligence.

Q. Okay. But a two to four-man bounding overwatch is -- is multiple people in a tactical movement together to get to the threat, right?

A. Yeah. It provides an opportunity for cover while an individual moves.

Q. Okay. And then the fourth bullet point says, "Practical exercises scenarios, 90 minutes."

Is that what we would be talking about was the actual, real-life exercise where the deputies are playing out what they have been trained?

A. We would. But as I previously stated, that 90 minutes is listed by the instructor when they're formulating the lesson plan. Every class would be different.

So you may have a class where it's technically 220 minutes of scenarios based on how much information, how far, what the understanding of that class is. So again, there are variables.
Those are just time lines that are prepared during the creation of the lesson plan, but they're not applicable and accurate for every single class.

Q. Okay. When you -- so if I understand what you have just said, there is the possibility that a trainer could do an entire four-hour course on practical exercises related to active shooter response?

A. Well, it would -- no. He couldn't do a four-hour class because there's, obviously, an overall -- he's going to go over the expectations, put that information out.

But there are classes that come in that have a much greater understanding, a much greater experience level and vice versa. There are classes that come in where it's a brand new group where you only have 2 tenured deputies and you have 14 relatively brand new deputies.

So again, the lesson plan is applicable for the information. But because the trainers have the ability to interpret the level of understanding, operation of the class, that's their -- that's their freedom.

Q. Just so that I understand then, in the four-hour -- the two 4-hour blocks that would have been in place in between 2015 and '17 that we talked about,
does that -- would that ever go more than the two 4-hour blocks about response to active shooter?

    A. When you say more than two 4-hour blocks, I'm not following your question.

    Q. So the lesson plan that I'm looking at, which is dated 2016 with the course title "Response to Active Shooter," it says, "Course Duration: Four hours."

And I think you testified that the three-hour or this -- the three-year window of training on active shooter would have included two 4-hour blocks of training.

    A. Correct.

    Q. So my question is: This sheet of paper for response to active shooter, says, "Course Duration: Four hours," would it ever go beyond four hours on practical exercises?

Or are you saying there are other trainings that could be more in depth and solely related to practical exercises?

    A. The practical exercises that were applicable for Response to Active Shooter, that portion is listed as 90 minutes. It could have been longer than that. It may have been shorter than that, depending on the class.

The overall time frame for the class is
four hours. It would not exceed four hours based on the assignment of those individuals to training.

Q. Okay. And if a deputy completed their training in Response to Active Shooter in 2015, they would not have to go through the training again until after 2017 and that three-year cycle was up, correct?

A. Correct. That would be the next time the training division would have active shooter training on their calendar for that calendar year.

Q. Okay. For school resource officers, was there a separate training for them on how they would respond to an active shooter in a school setting?

A. No.

Q. Okay. My understanding is that Deputy Peterson was a trainer of Active Shooter; is that correct?

A. Deputy Peterson was a trainer in a program called "Active Killer" that was done for the Broward County School Board, not for the Broward County Sheriff's Office.

Q. And we have some testimony on this from another witness, but I want to make sure that since you were the one overseeing all of the training we have a full understanding.

Is it correct that the training he would
have -- Deputy Peterson would have provided to Broward County schools was related to how a teacher or an administrator might act in response to an active killer in a school setting?

A. Correct.

Q. And that was mostly designed to lock the door, hard corner, soft corner, protect the students, code red, that kind of thing?

A. The training encompasses two functions: Target hardening and threat mitigation.

Q. Okay. That training that Deputy Peterson would have been responsible for doing for the Broward County schools would be separate and apart from the Response to Active Shooter training that he and all the other Broward Sheriff's deputies would have received, right?

A. Yes.

Q. Does the training for the Broward County schools have any discussion about what you listed as the three objectives: Eliminate, surrender, or eliminate?

A. Yes.

Q. Okay. Was there ever a -- prior to Marjorie Stoneman Douglas, was there ever a full-scale exercise at a school within Broward County to train deputies on how they might respond to a school shooter?
A. Not in my tenure.
Q. Okay.
A. A location of a school, no.
Q. Okay. Just looking over my notes real quick. I apologize.
A. No problem.
Q. Going back to the Fort Lauderdale airport event, do you have any opinion as to when Deputy Madrigal approached the shooter whether or not the shooter was already out of ammunition and had stopped firing?
A. I have no knowledge.
Q. Okay. Do you have any opinion as to whether or not Deputy Madrigal had to enter into a separate structure to engage the Fort Lauderdale airport shooter?
A. He entered into the terminal. So if you mean by "separate structure," I think the answer is yes.
Q. Okay. But did he have to go through a separate door similar to what has been alleged to have occurred at -- with Deputy Peterson?
A. He did have to go through a door.
Q. Okay. Are you aware of any training that would have occurred inside of the Fort Lauderdale airport prior to January 2017 with regard to active shooters?
A. I am not directly aware. Airport has their
own command. I believe the airport did conduct -- has conducted separate trainings relative to their needs within the airport command, but I am not directly aware.

Q. When you say "airport command," are you talking about the Broward County airport district or the Broward County Sheriff's Office airport district?

A. There are two functions. There is BCAD, who Broward County Aviation Division who runs the overall airport. They contract with BSO.

    I do know that there have been operations set up together for various scenarios historically at the airport. They did not involve the direct communication with the training division because they were done between, like I said, BCAD and BSO's airport command.

Q. So if I understand correctly, I just want to make sure that the Broward Sheriff's Office deputies who would have been assigned to the airport district would have received -- you believe they would have received separate training by the aviation division as to active shooter within the airport?

A. I don't know that it was who was the controller of the training itself, but I know that there was scenario development in response to various scenarios within the airport. Port Everglades has done the same thing.
Q. Okay. Did you as the major overseeing training ever conduct active shooter exercises inside Fort Lauderdale airport prior to January 2017?

A. No.

Q. And you had talked about the trainers can identify individuals who need remedial training. How often are deputies being identified as needing remedial training?

A. I don't know how often that's occurring.

Q. During your six years at BSO, if you had to put a percentage on how many deputies required remedial training, can you give me a ballpark? Was it -- I imagine it was less than 50 percent of deputies needed remedial training.

A. I would say it's way less than 50 percent need remedial training. I would say maybe 5 percent. But, again, this is occurring on the trainer-to-deputy level, and there's an immediate sergeant who is responsible for those trainers.

So that's an -- that's a responsibility that's delegated to the bottom. They identify them, they see the need, they create the opportunity to remediate the need.

Q. Okay. And in those trainers, they would have to be ultimately responsible to you as the director
of training as far as making sure every deputy that runs
through the training course is fully understanding what
is department policy and asked of them, right?
   A. Correct.
   Q. And then you were ultimately responsible
and held accountable by Scott Israel to make sure all the
deputies understood what was required and were trained?
   A. Correct.
   Q. And so if there was a failure to follow
department policy, that would ultimately fall on the
shoulders of the sheriff, would it not?
   A. A failure to follow policy would ultimately
fall on the -- I -- I think that's a -- that question is
a little -- how would I put it? That's a very long
responsibility. Policies are not followed all the time.
   Q. I guess -- well, let me ask it this way.
The head of BSO is the sheriff, right?
   A. Correct.
   Q. And so the sheriff is the one with the
ultimate statutory authority to run their department and
agency.
   A. Understood.
   Q. What would you -- do you agree with that?
   A. Yes.
   Q. Okay. And so the sheriff delegates certain
responsibilities to someone like you, someone like Jack Dale to do certain aspects of what he is ultimately responsible for providing to Broward County, right?

A.    Correct.

Q.    And like we said, the trainers they're -- they are basically delegated stuff by you. You delegate to the trainers certain tasks and responsibility that you are going to hold them accountable for meeting?

A.    Yes.

Q.    And then the trainers go out, make sure that the deputies understand what the policies and procedures are and that they'll actually carry out what they're trained to do.

A.    You're making a leap right there. Their responsibility is to make sure that we provide both the knowledge and the skills relative to policy for the task of which they're being trained. Whether or not they perform it, would be the deputy, the individual's responsibility.

Q.    Okay. So if I understand, then, your -- your belief then is if a deputy fails to follow department policy or the training that they have been provided it is solely on them, not anybody that trained them or the person that oversees the training or ultimately the sheriff who is charged with making sure
everybody underneath him knows and understands and will carry out the training.

A. The responsibility of the command would be to make sure that we are providing the information. Whether or not the individual performs could be a multitude of reasons.

It could be a gap analysis. There could be a needs assessment that needs to be done. Maybe the person didn't understand the policy. Maybe the person didn't follow the policy for a multitude of reasons. They didn't interpret information. But there's a big difference between following your training of policies when it comes to performance.

Q. Okay. On a yearly basis, what -- I'm looking at something that says, "BSO School Resource Shooting Boot Camp."

Do you know what that is?

A. I do not.

Q. Would BSO's school resource officers go through a separate training apart from, you know, like, a road cop or a detective within BSO?

A. There are courses within the SRO structure that they are required to take. And I do believe when the SRO command was brought back to a singular entity, we were training -- was tasked with creating a two-week
course -- I think it was a one-week course.

Each class was two weeks long for different groups over the summer. And I think that occurred in '17 or '18. I'm not sure.

But there was a separate class that was conducted for the SROs. Part of it was when they returned with their carbines. They were issued carbines -- C-A-R-B-I-N-E.

Q. So you're not aware, though, of what the -- what the actual course lesson plan or practical exercises might have been specific to the SROs?

A. If it was for their summertime -- and I don't remember it being called a "boot camp," so that's why it doesn't ring any bells with me. But the training division did conduct a week-long course for SROs.

Prior to that individual course, whatever SROs were given or required would have been under the command of SRO. Their decision.

Q. Okay. Do you know if that annual summer SRO training includes responding to an active shooter in a school situation?

A. It did have a -- that was part of the curriculum for what was conducted underneath my responsibility, but I believe that was in, like I said, '17, maybe '18.
Q. Okay. Do you believe it happened after or before the Marjorie Stoneman Douglas shooting?
A. After.
Q. Okay.

MR. PRIMROSE: Mr. Shults, I don't have any further questions for you. Thank you for coming this morning.

THE WITNESS: Thank you.

REDIRECT EXAMINATION

BY MR. KUEHNE:

Q. Let me do a little follow-up. You mentioned an SRO command?
A. Yes.
Q. Who heads that or who headed that?
A. I don't know who heads it now. It was my understanding prior -- like I said, prior to Sheriff Israel's administration, there was a consolidated SRO command. It was disbanded and the SROs were distributed throughout BSO and then --
Q. Through the districts?
A. Through the districts. And they answered to each district.
Q. Okay.
A. How they conducted their training, how they made sure everyone was on the same page, I couldn't
answer for you. That would be Department of Law Enforcement operations.

And then post-MSD, that was another thing that was identified as a lack of consistency. So they were brought back in. And last I knew, he's been promoted, but Oscar Lorena was in charge when I left the SROs. I assume that's been changed because I think he as promoted.

Q. You were asked some questions that were in the context of the "may" versus "shall" active shooter policy. I'm going to ask you a couple questions based on my notes. If I get it wrong, please clarify.

I believe you were asked if deputies were informed or instructed or understood that there was no legal consequence to them under the active shooter policy if they didn't confront, eliminate or arrest the active shooter. Did I understand that correctly?

A. Well, I think the way I interpreted the question was that the "may" versus "shall," which was in the discussion of the policy development, that's where the legal consequence for deputy -- I am not aware of any law enforcement officer in my history who went to an incident and said, you know what, I was scared to death. I froze. I couldn't move.

I don't understand how -- I'm not aware of
any precedent that's been set where that becomes a basis for a legal matter. So that was in the discussion of "may" versus "shall."

But when the instruction is to the deputies, the focus of that instruction on deputies is those three objectives. However, like I spoke about it, it is now move towards. It's more than three objectives.

The three objectives encompass Tier Number 1. Tier Number 2 is victim management. Tier 3 is the creation of rescue task force. It's all three of those are being done now.

So it may be quiet, and I believe as Mr. Primrose spoke, I may be in a position of cover while it's only quiet. But there are also two other functions that I should be looking to do right now: Victim management, victim location, rescue task force.

Q. During the section -- or during the training on the Section 4.37 that includes the now -- that includes the "may," was there ever instruction or suggestion that confronting the active shooter was optional?

A. Never. And I believe the lesson plans clearly designate that it talks about every time you hear a shot, that's another shooter. You have to get to the problem.
I think that's all in some of the lesson plans. I think I do remember reading some of that verbiage.

Q. Was there any training on that policy that gave an officer responding to an active shooter scenario an opportunity to do nothing?

A. There's never a decision to do nothing. It's the worst decision you'll ever make.

Q. Is there any training that encourages a decision to do nothing?

A. No.

Q. In your experience, did SROs have a unique knowledge of the campus or the institution to which they were assigned?

A. I would assume that would be an absolute expectation.

Q. Do you have any idea how long former Deputy Peterson had been assigned as the Marjorie Stoneman Douglas SRO?

A. I know it was somewhere around ten years.

Q. And was it your understanding as a command staff officer that an assignment as an SRO is essentially a full-time assignment?

A. It is.

Q. That's where that deputy responds to work
on a daily basis?
   A. Yes.

MR. KUEHNE: I have no further questions.

The -- do you have any follow-up,

Mr. Primrose?

MR. PRIMROSE: Yeah, I do. Just real quick.

RECROSS-EXAMINATION

BY MR. PRIMROSE:

Q. On this notion that an SRO is a full-time position, the SRO's responsibility or placement is no different than any other BSO deputy who might be put on as a road cop or a detective or anything like that, right?

A. Well, it would be different. There's an application process. There's a review process before there is an assignment.

So it is not -- it's not done random. It is absolutely a review -- an application and a review.

Q. Right. So the SROs have to actively seek out that post and, ultimately, it's -- I mean, I guess ultimately up to the sheriff on whether to approve transferring someone to the SRO posts?

A. It would come after review and then, of course, recommendation up to the sheriff for his
approval, yes.

Q. Okay. But similar to a road cop, an SRO has time where they are not going to be at their post, right?

A. I -- I can only assume that, but I don't know that directly.

Q. Well, I guess -- if there's a suggestion that somehow SROs cannot be trained in a consistent or regular camp -- you know, cycle, because of their position, that wouldn't necessarily be a true statement, would it?

A. Well, that wouldn't be my -- within my control. What I'm telling you is, is that when they were assigned to different to districts, and each school is out, those districts decided what they were going to do with them.

So you may have one district that decides, you know what? We need them on the roads, so the three SROs that they have are on the road.

You could have another district that decides, hey, it's a day for them to receive some training. Let's see what they have.

It eliminates the ability of consistency when they were assigned to the districts. I didn't have any -- again, that -- that decision came prior to Sheriff
Israel's administration and they carried on with it.

Q. Okay. So just so that I completely understand what you're saying, prior to Marjorie Stoneman Douglas, there was no unified command overall of the SROs within Broward Sheriff's Office?

A. There was a command, Sergeant Carol -- God, I can't think of her last name. She was sort of, like -- and I apologize. I can't remember Carol's last name now. But she was, like, the overall administrator for SRO command. But how it functioned, how it was set up, I can't answer to that so I wouldn't be able to tell you that there was no overall.

There definitely was an overall view, but they were assigned to districts. But how they functioned, how they communicated, I -- I can't tell you.

Q. Well, I guess -- let me ask this question.

If Scott Israel wanted to have all of the SROs undergo a real live training exercise within a school on responding to an active shooter, he would have had the authority to make that call, correct?

A. He would have had the authority to request that occur. However, there's a lot of entities that are involved in getting that to occur.

Q. What other -- what -- are there entities outside of the Broward Sheriff's Office that would have
had that call?

   A. Of course. The location --
   
   Q. Who?
   
   A. -- the location is under the authority of
   the Broward County school board.

   Q. Okay. So we've got the school district
could have decided whether or not to allow one of their
schools to be used.

   Are there any other entities that would
have had input as to if Scott Israel wanted to do active
shooter training with all of the SROs in a school, are
there any other entities that would have had input in
that?

   A. Not that I'm aware of.

   Q. Okay. And so this whole -- the notion that
there is these different commands over SROs, ultimately,
given the occurrence of school shootings, if he wanted --
if Scott Israel wanted training to be done to protect a
school in active shooter training, it was ultimately him
who could make that call?

   A. He would could make that request, yes.

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

MR. KUEHNE: Let me just follow up on that
last point.
REDIRECT EXAMINATION

BY MR. KUEHNE:

Q. Are you aware of any situation where the only officers involved in an active shooter training are those limited to a task like SROs?

A. No.

Q. You know that SWAT goes through active shooter training on a regular basis?

A. Yes.

Q. And is SWAT normally a department within the agency that is immediately dispatched to a report of an active shooter?

A. Everyone is responsible to respond to the report of an active shooter who is not assigned to a task.

Q. Okay. You're aware that there was a highly publicized and model training at Pompano Beach High School for active shooter done in conjunction with BSO and numerous other agencies?

A. What year was that?

Q. 2013.

A. Yes.

Q. And that was a joint exercise with numerous other law enforcement agencies and the Broward schools?

A. Correct.
MR. KUEHNE: Nothing further.
Anything else, Mr. Primrose?

MR. PRIMROSE: Nothing for me.

MR. KUEHNE: This deposition is going to be transcribed probably promptly. You know that you have a right to read or waive.

If you waive, you're still going to get a copy of the deposition transcript as soon as it's released on the lawyers. And if you have a need to make any errata corrections, if you send it to me or send it to the court reporter, that will become part of the final. But you need to let the court reporter know about reading or waiving and we will be seeking expedited transcription for reasons associated with this case.

THE WITNESS: With the information that I will receive a copy, I will waive.

(Thereupon, the proceedings adjourned at 10:31 a.m. Signature and formalities were waived.)
CERTIFICATE OF OATH OF WITNESS

THE STATE OF FLORIDA )
COUNTY OF PALM BEACH )

I, Robyn Maxwell, Registered Professional Reporter, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, KEVIN SHULTS, personally appeared before me on June 11, 2019 and was duly sworn by me.

WITNESS my hand and official seal this 11th day of June, 2019.

Robyn Maxwell, RPR, FPR, CLR
Realtime Systems Administrator
Notary Public, State of Florida at Large

Notary No. GG 194507
My Commission Expires: 4/4/2022
REPORTER'S DEPOSITION CERTIFICATE

THE STATE OF FLORIDA  )
COUNTY OF PALM BEACH  )

I, Robyn Maxwell, Florida Professional Reporter, certify that I was authorized to and did stenographically report the deposition of KEVIN SHULTS, the witness herein on June 11, 2019; that a review of the transcript was requested; that the foregoing pages numbered pages 1 through 70; and that the transcript is a true and complete record of my stenographic notes.

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

DATED this 11th day of June, 2019.

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Robyn Maxwell, RPR, FPR, CLR
Realtime Systems Administrator
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