

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action
)	No. 13-10200-GAO
)	
DZHOKHAR A. TSARNAEV, also)	
known as Jahar Tsarni,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

JURY TRIAL - DAY THIRTY-THREE

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts 02210
Monday, March 16, 2015
10:23 a.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

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I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
<u>WITNESSES FOR THE GOVERNMENT:</u>				
JOSEPH REYNOLDS				
By Mr. Mellin	6		35	
By Mr. Watkins		33		
JOHN MACLELLAN				
By Mr. Weinreb	35			
By Mr. Watkins		79		
JEFFREY PUGLIESE				
By Mr. Chakravarty	84		116	
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ANDREW KITZENBERG				
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E X H I B I T S

<u>GOVERNMENT'S EXHIBIT</u>	<u>DESCRIPTION</u>	<u>FOR ID</u>	<u>RECEIVED</u>
771	Map		39
772	Diagram of Laurel and Dexter streets		46

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	GOVERNMENT'S			
	<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>FOR ID</u>	<u>RECEIVED</u>
1				
2				
3				
4	1522	Photograph		53
5	1532	Photograph		55
6	1530	Photograph		57
7	1531	Photograph		57
8	1533	Photograph		57
9	775	Diagram		60
10	1525	Photograph		68
11	1527	Photograph		69
12	776	Photograph		72
13	777	Photograph		73
14	845	Photograph		73
15	948-7	Photograph		74
16	948-8	Photograph		75
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24	1526	Photograph		143
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E X H I B I T S (cont'd)

GOVERNMENT'S

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>FOR ID</u>	<u>RECEIVED</u>
1455	Overhead satellite-type image		163

DEFENDANT'S

<u>EXHIBIT</u>			
3005	Photograph		82
3006	Photograph of Tamerlan and Dzhokhar Tsarnaev		112
3034	Photograph		170

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P R O C E E D I N G S

THE CLERK: All rise for the Court and the jury.

(The Court and jury enter the courtroom at 10:23 a.m.)

THE CLERK: Be seated.

THE COURT: All right. We're ready to proceed.

MR. MELLIN: Good morning, your Honor. The United States calls Officer Joseph Reynolds.

JOSEPH REYNOLDS, duly sworn

THE CLERK: Have a seat. State your name, spell your last name for the record.

THE WITNESS: Joseph Reynolds, R-E-Y-N-O-L-D-S.

DIRECT EXAMINATION

BY MR. MELLIN:

Q. Good morning, sir.

A. Good morning. How are you?

Q. I'm doing good. How are you doing?

A. Good, sir.

Q. Sir, where are you employed?

A. The Watertown Police Department, Town of Watertown.

Q. And what is your rank?

A. I'm a patrolman.

Q. Officer Reynolds, where did you grow up?

A. I grew up in Watertown, Mass.

Q. Did you go to high school in Watertown?

A. Yes; all public school in Watertown.

00:58

00:59

1 Q. After high school, what did you do?

2 A. I went to college at Suffolk University for a year and
3 transferred to Worcester State College.

4 Q. Did you get a degree from Worcester State?

5 A. Yes, sir.

6 Q. What kind of degree did you get?

7 A. Health and nutrition education.

8 Q. After that what did you do?

9 A. I got employed by the Town of Watertown in 2006.

00:59 10 Q. And when you were employed by Watertown, is that with the
11 police department?

12 A. I'm sorry?

13 Q. Were you with the police department?

14 A. Yes. Yes.

15 Q. And have you been with the police department ever since?

16 A. Yes, the past nine years.

17 Q. During those nine years, generally what have you been
18 doing?

19 A. I work patrol out in the streets.

00:59 20 Q. Back on April the 18th at about 11:45 p.m., so just before
21 midnight on the 19th, did you report for work?

22 A. Yes, sir.

23 Q. What were you doing that day?

24 A. That day before work? I -- just a regular day. As I was
25 getting ready for work that evening, I was watching the news,

1 as I usually do, and the photos were released of the two
2 marathon bombers.

3 Q. When you went to work that night, did you have a roll call
4 before you actually went out on duty?

5 A. Yes, sir, I did.

6 Q. And what is a roll call?

7 A. Usually we go over the last few days, just shift
8 briefings, any recent news.

9 Q. Prior to getting to work that night, had you seen on the
01:00 10 news anything about the shooting?

11 A. The shooting at MIT? Yes.

12 Q. Okay. And what had you seen at that point or learned at
13 that point?

14 A. We learned that MIT Police Officer Sean Collier had been
15 shot, and that there was two suspects that had not been caught.

16 Q. Is that something you learned at the roll call?

17 A. As well, yes.

18 Q. And what were you told at roll call about that shooting?

19 A. Just to be extra vigilant in our duties that evening.

01:01 20 Q. How close is MIT to Watertown?

21 A. Within three to four miles. Very close.

22 Q. When you left roll call and went out on patrol, what did
23 you do that now-very-early morning?

24 A. I usually -- I just check my side streets, check
25 everything for any suspicious behavior.

1 Q. What side streets and what area at that point were you
2 patrolling?

3 A. I work Route 5, which is the east end of Watertown. It
4 borders Cambridge, Brighton, Belmont.

5 Q. When you say "the east end of Watertown," so you're
6 talking about the west end of Cambridge, then?

7 A. Yes, sir.

8 Q. Okay. And how would you describe that area that you were
9 patrolling? Is it residential, is it mixed use, is it --

01:01 10 A. Yeah, it's mixed. It's residential. There is businesses.
11 There's elementary schools as well.

12 Q. While you were out on patrol after midnight, now into
13 April 19th, did you receive a call about a carjacking?

14 A. Yes, sir, I did.

15 Q. Can you tell us about that?

16 A. At about 12:28 a.m. we first received a call -- or the
17 dispatcher received a call that in Cambridge there was an armed
18 robbery, and a few seconds later it turned out it was a
19 carjacking.

01:02 20 Q. What were you told to do, or what were you going to do
21 based on that?

22 A. Based on that information, I headed down to Mount Auburn
23 Street which leads into Cambridge, and, I just kind of stayed
24 in that area. They gave out a BOLO for the vehicle.

25 Q. Okay. And if you can wait there. Now, why did you head

1 towards Mount Auburn?

2 A. Just to head down towards Cambridge Street in case we saw
3 the suspect, area into Watertown.

4 Q. Now, you just said that they put out a BOLO. What is a
5 BOLO?

6 A. A BOLO is a "be on the lookout."

7 Q. And what were you to be on the lookout for?

8 A. They gave a description of a black 2013 Mercedes utility
9 with Mass. registration 137NZ1.

01:03 10 Q. When you say a "Mercedes utility," you mean a sport
11 utility?

12 A. Yes, sir.

13 Q. An SUV?

14 A. Correct.

15 Q. Okay. Once you received that information, what did you
16 do?

17 A. I remained on my patrol, just keep on the lookout for that
18 vehicle, obviously, and just patrolling the streets.

19 Q. At some point after that were you given more information
01:03 20 about the black SUV?

21 A. Yes. It was pinged to the area of Dexter Ave., and we
22 had -- I'm sorry. They used the GPS in order to ping the
23 vehicle to Dexter Ave.

24 Q. Once you got that information, what did you do?

25 A. At that point I was on Arsenal Street and I was heading

1 eastbound. I was in the immediate area, probably about 100
2 yards away from Dexter Ave.

3 Q. You were 100 yards from Dexter?

4 A. Yeah, approximately. Yes.

5 Q. Okay. Given your vicinity to Dexter, what happened?

6 A. I first turned left onto School Street, and I took an
7 immediate right onto Dexter Ave. I sped up to the area they
8 gave us the ping --

9 Q. Let me ask -- let me stop you there. The area that you're
01:04 10 now in, can you describe that area?

11 A. It's a residential area, all residences. There's no
12 real -- too many businesses around there.

13 Q. Are there homes lining the road?

14 A. Yes.

15 Q. Okay. What did you do?

16 A. I sped up to the area that they gave the description, or
17 the ping. And I sped up to that area and then slowed down and
18 canvassed the area to see if I could locate the vehicle.

19 Q. At some point did you locate the vehicle?

01:04 20 A. Yes, sir.

21 Q. Approximately how much time elapsed between the time of
22 the be-on-the-lookout until the time you located the vehicle?

23 A. I would say about 20 minutes from when we received the
24 original BOLO.

25 Q. What did you do?

1 A. At that point I located a green -- later-model green Honda
2 Civic, and it had a black hood to it. Directly behind it was a
3 black Mercedes. I slowed down to get a good look at the plate
4 to see if it matched, in which it did.

5 Q. Now, you mentioned a green Honda. Was the green Honda in
6 front or behind the black Mercedes SUV?

7 A. It was right in front of me. Oh, I'm sorry. It was right
8 in front of the Mercedes.

9 Q. And at that point in time, had you had any information
01:05 10 about a green Honda?

11 A. No.

12 Q. So when you rolled by the green Honda, did you pay any
13 attention to it?

14 A. No, sir.

15 Q. What happened when you rolled by the black SUV?

16 A. We were going probably about five to ten miles an hour. I
17 looked over to observe the operator, in which I did. So and we
18 locked eyes at each other.

19 Q. And when you say we were rolling at five to ten miles per
01:05 20 hour, were you with anyone at that time?

21 A. No, I was in a one-man cruiser.

22 Q. So you were going about five to ten miles an hour?

23 A. Yes, sir.

24 Q. And approximately how fast were the Honda and the SUV
25 going?

1 A. They were going just as slow. It was very suspicious.

2 Q. All right. When you went by the SUV and you locked eyes
3 with the driver, did you recognize the driver?

4 A. Not at that time, I did not.

5 Q. Subsequently have you learned the identity of that driver?

6 A. Yes, sir.

7 Q. And who was the driver of the black SUV at that moment?

8 A. Tamerlan Tsarnaev.

9 Q. After you rolled by the black SUV and you saw the
01:06 10 defendant's brother driving it, what did you do?

11 A. Immediately I turned left onto Hazel Street, and I
12 reversed back out -- almost a three-point turn, you could
13 say -- and started to follow the vehicle. And I radioed to
14 dispatch that I had the vehicle we were looking for.

15 Q. You were in a police cruiser, correct?

16 A. Yes, sir.

17 Q. What type of a car?

18 A. We have an SUV. It's a Ford Escape.

19 Q. Okay. Does it have lights on top?

01:06 20 A. Yes, sir.

21 Q. Did you at that time activate your lights?

22 A. No, sir.

23 Q. Why not?

24 A. My patrol supervisor, Sergeant MacLellan, told me to wait
25 for backup to make a stop on the vehicle.

1 Q. So what did you do?

2 A. At that point I turned around. As I was following them,
3 they both sped up for a bit. I thought they were going to take
4 off, it might be a car chase. But they immediately turned left
5 onto Laurel Street. At that point I was still following them.
6 And they kind of slowed down. I was keeping my distance, maybe
7 20 to 25 yards, trying to observe what they were going to do.

8 Q. At that point what did they do?

9 A. At that point they came to a stop in the middle of the
01:07 10 street on Laurel Street.

11 Q. And at that point which car is in front?

12 A. The green Honda Civic was in front of the Mercedes.

13 Q. When those two cars came to a stop, what happened?

14 A. At that point I was maybe, I would say, two car lengths
15 behind the black Mercedes. That's when Tamerlan Tsarnaev got
16 out of his vehicle, out of the driver's side door, and he began
17 shooting at my cruiser.

18 Q. When he began shooting at your cruiser, approximately how
19 far away were you from him?

01:08 20 A. I would say about five to ten yards as he continued to
21 walk towards me.

22 Q. Where did he shoot at the cruiser?

23 A. I'm sorry. Where did he shoot?

24 Q. Yeah.

25 A. I believe he was trying to hit me.

1 Q. What did you do?

2 A. At that point my only defense was my cruiser. I didn't
3 want to exit. I didn't think it was a good vantage point for
4 me. So what I did was I ducked down behind my dashboard, I
5 threw the cruiser into reverse, and I backed up about 30 yards.

6 Q. After you backed up, did you get out of your car?

7 A. Yes. Before doing so I notified dispatch that we had
8 shots fired. "Shots fired."

9 Q. At that point in time, had anybody else come on the scene?

01:08 10 A. I was still alone at that time, yes.

11 Q. What did you do?

12 A. I exited my driver's side door and I used that as cover.
13 And I was exchanging gunfire with Tamerlan, I believe.

14 Q. You said "Tamerlan, I believe." What do you mean by that?

15 A. Well, Tamerlan was still from cover. So it was Tamerlan
16 that was shooting at me at that time.

17 Q. Where was he located in relation to the black SUV?

18 A. At that time he was still beside -- I believe he was using
19 his driver's side door as cover. All I could see was muzzle
01:09 20 flashes.

21 Q. And when you say he was using his driver's side door as
22 cover, in what direction is the black SUV pointing? Is it
23 pointed back at your vehicle or is it pointed down the street?

24 A. No, sir. It's still directly pointing down the street,
25 so...

1 Q. Do you know approximately how many shots were fired at
2 that point in time?

3 A. Did I fire or did --

4 Q. No, that he fired at you.

5 A. I couldn't count. It was nonstop.

6 Q. Did you return fire?

7 A. Yes, sir.

8 Q. And at that point, now where are you located while you're
9 returning fire?

01:09 10 A. I'm still using my driver's side door as cover.

11 Q. And what happens?

12 A. At that point Sergeant MacLellan arrived on-scene, and he
13 pulled around to -- I was on the right side of the street. He
14 pulled around to my left side.

15 Q. What type of car does he have?

16 A. He has an SUV, a Ford Expedition.

17 Q. So it's a larger SUV than the car you were in?

18 A. Yes, sir.

19 Q. Okay. What did you do?

01:10 20 A. At that point Sergeant MacLellan had left the vehicle in
21 neutral -- or drive, and it continued to drive down Laurel
22 Street towards the suspects.

23 Q. With the car rolling down towards the suspects, what
24 happened?

25 A. I came out from cover behind my driver's side door. I was

1 using the rear of his cruiser, and I was walking down the
2 street continuing to fire at the two suspects.

3 Q. What was Sergeant MacLellan doing?

4 A. At that time -- I had not realized at that time that he
5 had exited his cruiser and he had ran into the side yards of
6 one of the residences at Laurel Street -- on Laurel Street.

7 Q. As you're using his car now as cover, what do you see in
8 front of you?

9 A. I could see muzzle flashes at that point.

01:11 10 Q. Where were the muzzle flashes?

11 A. Coming from behind the black Mercedes.

12 Q. Now, when you're saying it's behind the black Mercedes,
13 it's no longer behind the driver's door, it's someplace else?

14 A. Yeah, in front of the hood -- in front of the front hood,
15 so...

16 Q. At that point in time, were you able to tell who was
17 shooting?

18 A. No.

19 Q. What do you actually see? You see muzzle flashes. What
01:11 20 else?

21 A. I could see muzzle flashes. And at that time I saw
22 Sergeant MacLellan run into the side yard, so I followed him
23 over there to communicate what he wanted.

24 Q. When you followed him to the side yard, describe what that
25 side yard looked like.

1 A. It's a very narrow area. There's a small tree that we
2 were using for cover. There's bushes, a white plastic fence.

3 Q. So are the two of you taking cover behind one tree?

4 A. Yes.

5 Q. What happened as you were doing that?

6 A. We continued the gun fight with the two suspects.

7 Q. Again, can you describe for us exactly what you see
8 happening at that point in time?

9 A. I could see two men. I could not distinguish who was who.
01:12 10 I could see muzzle flashes. As well, I saw a lighter being lit
11 and a wick being -- what looked like a wick burning.

12 Q. And when you saw that wick burning, did you see something
13 happen with that item?

14 A. I saw -- I didn't see who threw it, but it was thrown
15 towards myself and Sergeant MacLellan.

16 Q. What happened to that item?

17 A. It landed in the middle of Laurel Street and exploded.

18 Q. When it exploded, what did you do?

19 A. At that point I ran back into -- to get more cover behind
01:13 20 the houses.

21 Q. At the time that you are seeing these muzzle flashes and
22 this gunfire, are both of the suspects behind that black SUV?

23 A. Yes, sir.

24 Q. But you can't tell who is shooting?

25 A. No. No.

1 Q. And you don't know who threw that first pipe bomb?

2 A. I do not.

3 Q. And then what happened when you went around to your
4 vehicle?

5 A. Well, before that, sir, there were other bombs thrown.

6 Q. Okay. Tell us about that.

7 A. Again, it was a long gun battle, approximately eight to
8 nine minutes. They had thrown, I believe, three more -- four
9 more bombs -- or three more pipe-bomb types. I could see those
01:13 10 being lit and being thrown at us as well as taking gunfire.

11 Q. Did all of those explode?

12 A. No.

13 Q. Do you recall how many exploded?

14 A. I believe two exploded.

15 Q. Two more?

16 A. Two more were exploded, yes.

17 Q. Now, when you said they were being thrown at you, could
18 you tell who was throwing them?

19 A. No, sir. I could not.

01:14 20 Q. What happened after that?

21 A. Then as we were still in their yard taking gunfire, of
22 course, I could see -- I didn't see who threw it. I saw it
23 coming through the air, but I saw a larger-type bomb being
24 thrown at us.

25 Q. When you say you saw a larger-type bomb, what -- can you

1 describe what you saw?

2 A. It was a cylinder, almost like a big cooking pot, a big
3 pan.

4 Q. What exactly did you see? Did you see it in the air? Did
5 you see it being thrown? What did you see?

6 A. I could not see it being thrown. I saw it coming through
7 the air at that time.

8 Q. At that point in time, where were the two suspects?

9 A. They were still behind the front of the Mercedes.

01:14 10 Q. As you saw that going through the air, what did you do?

11 A. I was closest to the street at that time, Sergeant
12 MacLellan was to my left. I wasn't sure if he had seen the
13 size of the bomb coming towards us. So what I did was I said,
14 "Run, Sarge. Run, run, run." And I grabbed his shoulder and I
15 pulled him along with me. Obviously I thought there was going
16 to be a bigger blast radius, so I wanted to create as much
17 distance as possible.

18 Q. Was there a bigger blast?

19 A. Yes, sir.

01:15 20 Q. Can you describe that blast?

21 A. It shook me to my knees, my ears were ringing. I could
22 hear all the car alarms going off throughout the many streets
23 around us. There's a big, huge cloud of smoke. I could feel
24 all the debris landing on top of me as well.

25 Q. What type of debris did you feel landing on you?

1 A. At that time I just thought it was -- it felt like little
2 pebbles or dirt. I believe I created so much distance of --
3 lucky enough -- to get out of the initial radius of the --
4 where any damage could be done.

5 Q. What did you do after that?

6 A. At that point I wasn't sure if they had any more of those
7 pressure-cooker-type bombs, so I hopped the fence that we were
8 in. And the house we were -- that we were taking cover is on
9 the corner of Laurel and Dexter, so what I did was I ran around
01:16 10 Dexter to return to where my cruiser was, and I continued to --
11 exchanging gunfire from there.

12 Q. When you began to exchange gunfire again, where were the
13 suspects?

14 A. They were still behind the black Mercedes.

15 Q. During these eight or nine minutes that you were engaged
16 in this earlier gunfire and then when you started to engage
17 again, in addition to pipe bombs being thrown, what did you see
18 the suspects doing?

19 A. I could see them ducking down underneath -- behind the
01:16 20 Mercedes. That's about all I could see. They were coming in
21 and out of cover.

22 Q. Could you estimate about how many rounds were fired in the
23 direction of either you or Sergeant MacLellan?

24 A. For eight minutes it felt like it was hundreds. I
25 couldn't -- obviously I couldn't count. But, I mean, lots of

1 bullets.

2 Q. Were there times during the gunfire where there was a
3 pause in the gunfire from the suspects?

4 A. Yeah, there was many times.

5 Q. And having been a police officer for as long as you've
6 been a police officer, do you know at some point an
7 automatic -- a semiautomatic weapon is going to run out of
8 bullets, correct?

9 A. Yes, sir.

01:17 10 Q. Okay. And so if that happens, what do you have to do?

11 A. Reload the gun, sir.

12 Q. Did you have to reload your gun at times?

13 A. Yes.

14 Q. How many times did you reload?

15 A. I reloaded -- I have two spare mags on my belt as well as
16 the one in my gun, and I used all my bullets.

17 Q. So what kind of gun did you have?

18 A. A Glock.

19 Q. And what caliber is it?

01:18 20 A. .40 caliber.

21 Q. You talked about having two spare mags. Just so we can
22 clear that up, what's a mag?

23 A. That's where you -- it contains your bullets.

24 Q. Okay. So that's a magazine?

25 A. Yes, sir.

1 Q. And it holds the bullets?

2 A. Correct.

3 Q. Okay. And then you have to take out the one that is --
4 the magazine that's empty and you put in a new one?

5 A. Correct, sir.

6 Q. All right. Okay. So when you came back around to your
7 car and you started to engage in the gun battle again, what did
8 you see?

9 A. At that point I saw Officer Colon had arrived on-scene, as
01:18 10 well as Sergeant Pugliese had arrived on-scene.

11 Q. And what were the suspects doing?

12 A. They were still engaging in gun battle with us.

13 Q. At that point in time, approximately how far are you from
14 where they are located?

15 A. I would say about 50 yards.

16 Q. At some point does someone walk out from behind one of the
17 SUVs?

18 A. Yes, sir.

19 Q. Okay. When does that happen in relation to this gunfire?

01:19 20 A. That's when Sergeant Pugliese had flanked the suspects.
21 And he ran behind the yards on Laurel Street. And that's when
22 I believe he exchanged in gunfire -- started to engage in
23 gunfire with Tamerlan.

24 Q. You said that he had flanked them. What do you mean by
25 that?

1 A. Basically just went behind all the yards so he could come
2 up on them from the side.

3 Q. As Sergeant Pugliese approached on the side and you were
4 shooting from straight-on, what happened?

5 A. At that point Tamerlan had come up from cover, and I
6 believe he was in the driveway of one of the residences there.
7 And he was exchanging gunfire with Sergeant Pugliese, at which
8 point I came out from cover, I started walking down the street.
9 I had a good visual on him, so I got down on one knee and I
01:19 10 started -- attempting to strike the suspect.

11 Q. By shooting him?

12 A. Yes.

13 Q. Okay. Why did you abandon your more-secure position?

14 A. I believe I had a good shot on him that I could end the
15 threat.

16 Q. Okay. Do you know what the other suspect was doing at
17 that point in time?

18 A. I could not see.

19 Q. You came out, Sergeant Pugliese is engaging him in
01:20 20 gunfire, and you're shooting at Tamerlan Tsarnaev?

21 A. Correct.

22 Q. What do you do?

23 A. At that point I was just down on one knee, like I said,
24 and just exchanging gunfire. At that time I don't know what
25 happened with Tamerlan or Sergeant Pugliese, but Tamerlan

1 started running towards this officer, towards me.

2 Q. Towards you?

3 A. Yes.

4 Q. Okay. As he started to run towards you, what did you do?

5 A. At that point I saw Sergeant Pugliese chasing him, so I
6 holstered, I started running down the street, and that's when
7 Sergeant Pugliese tackled him from behind.

8 Q. When the defendant's brother started running at you, how
9 far was he from you?

01:21 10 A. Probably about 30 yards.

11 Q. At the time that he was tackled, how far were the two of
12 you apart?

13 A. From when he was tackled, about ten yards.

14 Q. When he was tackled by Sergeant Pugliese, what did you do?

15 A. Sergeant MacLellan had come from where he was located, and
16 we all, the three of us, tried to subdue Tsarnaev -- or
17 Tamerlan. Sorry.

18 Q. When you say you tried to subdue him, how did you try to
19 do that?

01:21 20 A. He was wrestling with us and we were trying to gain
21 control of him so we could get handcuffs on him.

22 Q. Were you able to do that?

23 A. No, not at that time.

24 Q. Why not?

25 A. He was a big kid. He was wrestling with us. We just

1 weren't able to control him at that time.

2 Q. At some point did you hear a car rev up?

3 A. Yes, sir.

4 Q. What happened?

5 A. At that point we were wrestling with Tamerlan, and all of
6 a sudden I could hear an engine revving and, you know, come
7 closer to us. I screamed to the guys, I said, "Get off. Get
8 off. He's coming back towards us."

9 Q. When you said "he's coming back towards us," what was
01:22 10 coming back towards you?

11 A. The black Mercedes was aiming right at us.

12 Q. How fast was that Mercedes coming at you?

13 A. It was speeding up so I assume he -- you know, I hate to
14 say pedal to the metal, but that's what it, you know, sounded
15 like.

16 Q. When you look up and you see that Mercedes, how far away
17 is it from you?

18 A. At that point he was maybe 30 yards.

19 Q. What did you do?

01:22 20 A. I pulled my gun out and I attempted to shoot the operator
21 of the vehicle.

22 Q. Were you successful?

23 A. I don't know if I hit him but I know I hit the windshield.

24 Q. Did the car stop?

25 A. No.

1 Q. What happened?

2 A. The next thing that happened was myself, Sergeant
3 MacLellan and Sergeant Pugliese, we all kind of dispersed, and
4 Sergeant Pugliese attempted to pull Tamerlan off the road, or
5 off -- out of the way of the vehicle.

6 Q. Was he successful in doing that?

7 A. Negative.

8 Q. What happened?

9 A. He was ran over by the Mercedes. I remember being -- I
01:23 10 was very close, maybe seven to ten yards away. I saw Tamerlan
11 get run over, get stuck in the rear wheel well. He then kept
12 going and ran over his brother.

13 Q. Do you know who was operating the Mercedes at that point?

14 A. It was Dzhokhar.

15 Q. And for the record, do you see him in court today?

16 A. Yes.

17 Q. Can you identify him?

18 A. Him (indicating).

19 MR. MELLIN: Your Honor, I would ask that the record
01:24 20 reflect identification of the defendant.

21 THE COURT: All right.

22 BY MR. MELLIN:

23 Q. When you looked up and the defendant's driving that SUV,
24 what did you do?

25 A. At that point Dzhokhar had struck my SUV. He got stuck.

1 His driver's side front tire got held up into my front driver's
2 side and hit each other.

3 Q. The way you just indicated, you kind of had both vehicles
4 moving and hitting each other, but was your --

5 A. My vehicle was parked, and he struck my vehicle.

6 Q. All right. And he hits your vehicle in the front left
7 quarter-panel area?

8 A. Yes.

9 Q. Okay. And he hits -- the vehicle he's in also is in the
01:24 10 front left quarter-panel, correct?

11 A. Correct.

12 Q. All right. What happens when there's the impact?

13 A. He got hung up on my -- on my vehicle. At that point I
14 was maybe ten yards away, and again I tried to -- attempting to
15 hit the operator -- I'm sorry. Shoot the operator.

16 Q. And what happened?

17 A. I don't believe I struck him at that time.

18 Q. Where was Tamerlan Tsarnaev at that point?

19 A. At that point he was probably about ten yards back, 15
01:25 20 yards back.

21 Q. So he had been run over but at some point dislodged?

22 A. Yes, sir.

23 Q. After you attempted to shoot the defendant as he was
24 operating the SUV, what happened?

25 A. He became disengaged with my vehicle.

1 Q. What do you mean by that? Was he able to break free of
2 your vehicle?

3 A. Yeah, he was speeding up, or again, you know, pressing on
4 the gas to try to get loose to escape.

5 Q. Okay. He was able to do that?

6 A. Yes.

7 Q. What happened?

8 A. At that point he crossed Dexter Ave., that intersection,
9 and just kept going down Laurel Street. And that's the last I
01:25 10 saw of him.

11 Q. At that point in time are you -- did you attempt to shoot
12 the car?

13 A. Negative.

14 Q. Did other officers on the scene attempt to?

15 A. Yes.

16 Q. Okay. He was able to get away?

17 A. Yes.

18 Q. What did you do?

19 A. At that point I ran back to where Tamerlan was. He was
01:26 20 with Sergeant Pugliese. And he was still wrestling with
21 Sergeant Pugliese.

22 Q. What did you do?

23 A. I attempted to gain control. Sergeant Pugliese was
24 yelling if I had handcuffs. I pulled my handcuffs off my belt,
25 Sergeant Pugliese was able to gain control of his right arm, I

1 was able to gain control of his left arm, and I placed the
2 handcuffs on Tamerlan.

3 Q. After the handcuffs were placed on him, what happened to
4 him?

5 A. Sergeant Pugliese radioed for an ambulance.

6 Q. Okay. What did you do?

7 A. At that point I could hear, "Officer down, officer down."
8 I was in close proximity of my cruiser, so I grabbed my medic
9 back and my valve mask, my oxygen bag.

01:27 10 Q. Hold on a second. So you go back to your car at that
11 point?

12 A. Yes.

13 Q. And you say you get a medic back? What's in your medic
14 bag?

15 A. Just basic necessities in case of an injury.

16 Q. Had you had CPR training before?

17 A. Yes.

18 Q. Okay. So what did you take with you?

19 A. I took my medic back and my oxygen tank bag which contains
01:27 20 my bag valve mask.

21 Q. You grabbed all of that. Where did you go?

22 A. I ran over to where I could hear "Officer down, officer
23 down." Someone kept screaming -- I'm not sure who -- at which
24 point we located Officer Dic Donohue in one of the driveways on
25 Dexter Ave.

1 Q. How did Officer Donohue appear to you as you were coming
2 up on him?

3 A. He was still talking at that point. You could -- there
4 was a lot of blood around our knees, but he was alive at that
5 time.

6 Q. What did you do?

7 A. At that point one officer was performing CPR on him, and
8 that's when I -- I said, "What do you need me to do? What do
9 you need me to do?" And he said, "Get the bag valve mask."

01:28 10 Q. What is that used for?

11 A. To perform rescue breaths.

12 Q. And what is a rescue breath?

13 A. Just to pump oxygen into a person's lungs.

14 Q. Was he having trouble breathing at that point in time?

15 A. Yes.

16 Q. Where are you located relative to him at that point in
17 time?

18 A. I was -- if he was laying down, I was to the left of his
19 head.

01:28 20 Q. And sitting down by his head, what did you do?

21 A. I was leaning over on top of him -- well, not on top of
22 him, but leaning over him -- performing rescue breaths.

23 Q. And how is it that you did that?

24 A. Just by -- if I could show you. It's a bag valve mask.
25 You just squeeze it and it blows out the air.

1 Q. At that point in time, is Officer Donohue talking?

2 A. At that time he had stopped talking.

3 Q. And how did he appear?

4 A. He appeared that he was dying.

5 Q. Did you look at him?

6 A. Yes, I kept -- I was directly over him, so I was looking
7 into him, and I kept telling him, "You're going to be fine.
8 You're going to be fine."

9 Q. And was he looking at you?

01:29 10 A. He was.

11 Q. What happened?

12 A. At this point Officer Donohue started -- he could kind of
13 just look right through you, you know, and you could tell that
14 he was probably going to die soon.

15 Q. So what did you do?

16 A. We radioed for an ambulance. I remember I kept screaming,
17 "Please get me an ambulance quick, fast. We need it now," at
18 which time we continued with CPR, rescue breaths, until an
19 ambulance arrived.

01:29 20 Q. When the ambulance arrived, what did you do with Officer
21 Donohue?

22 A. There was four other officers there at that time. I
23 grabbed his right shoulder, another officer grabbed his right
24 leg, another officer grabbed his left leg and another officer
25 grabbed his left shoulder -- yes. I'm sorry. Left shoulder.

1 We all lifted him up and we all ran him over -- ran him into
2 the ambulance and placed him on the gurney.

3 Q. How did he appear at that point?

4 A. Dead.

5 Q. What did you do?

6 A. At that point I jumped out of the ambulance and awaited
7 further instruction per Sergeant MacLellan.

8 MR. MELLIN: Thank you, your Honor.

9 THE COURT: Mr. Watkins?

01:30 10 CROSS-EXAMINATION

11 BY MR. WATKINS:

12 Q. Good morning, Officer Reynolds.

13 A. Good morning.

14 Q. All right. You've since learned that Officer Donohue
15 recovered?

16 A. Thankfully, yes.

17 Q. And is, indeed, alive. He did not die that evening.

18 A. No, sir.

19 Q. When you heard "officer down" and went to the driveway,
01:31 20 that's a driveway next to a house on Dexter?

21 A. Correct.

22 Q. And that house is 144 Dexter?

23 A. I believe so, yes.

24 Q. And the driveway is right next to 144 Dexter?

25 A. Yes.

1 Q. When you heard "officer down," the gun battle had stopped
2 at that point; the Mercedes was gone?

3 A. Yes, sir.

4 Q. Officer Reynolds, when you stopped the vehicles on Laurel,
5 Tamerlan got out of the Mercedes, correct?

6 A. Yes.

7 Q. And Tamerlan had the gun when he got out of the Mercedes,
8 right?

9 A. Yes.

01:31 10 Q. And when Tamerlan got out of the Mercedes with the gun, he
11 started shooting at you, right?

12 A. Yes.

13 Q. Turning now to the end, where you saw him come out to
14 approach Officer Pugliese, that was Tamerlan with the gun then?

15 A. I couldn't tell. Like I said, it's a dimly lit street.
16 At that point I couldn't see who was shooting.

17 Q. But you did ultimately know it was Tamerlan that engaged
18 with sergeant -- Officer Pugliese?

19 A. Because he started running towards us, yes.

01:32 20 Q. And so it was Tamerlan with the gun at that point. Is
21 that correct?

22 A. At that point, yes.

23 Q. And it was Tamerlan then that after engaging with Officer
24 Pugliese then ran towards you?

25 A. Yes.

1 MR. WATKINS: That's all I have.

2 REDIRECT EXAMINATION

3 BY MR. MELLIN:

4 Q. Officer Reynolds, do you know who had the gun or who was
5 firing during this entire exchange of gunfire?

6 A. No, sir.

7 Q. Okay. Could it have been either one of the suspects?

8 A. Yes.

9 MR. MELLIN: Thank you.

01:32 10 THE COURT: All right, Officer. Thank you. You may
11 step down.

12 THE WITNESS: Thank you, sir.

13 (The witness is excused.)

14 MR. WEINREB: Good morning, your Honor. The United
15 States calls Sergeant John MacLellan.

16 JOHN MACLELLAN, duly sworn

17 THE CLERK: State your name, spell your last name for
18 the record, keep your voice up and speak into the mic.

19 THE WITNESS: My name is Sergeant John MacLellan,
01:34 20 M-A-C-L-E-L-L-A-N.

21 DIRECT EXAMINATION

22 BY MR. WEINREB:

23 Q. Good morning.

24 A. Good morning.

25 Q. Where do you work?

1 A. Watertown Police Department.

2 Q. How long have you worked there?

3 A. 23 years.

4 Q. What are your job responsibilities there?

5 A. I'm a night patrol supervisor, sergeant.

6 Q. And how long have you been a supervisor?

7 A. Six years.

8 Q. What's your rank there?

9 A. Sergeant.

01:34 10 Q. What are your responsibilities as the night patrol
11 supervisor?

12 A. On the street in full uniform in a marked cruiser. I'm
13 a -- I'm out there patrolling with the other patrolmen, and I'm
14 the street supervisor.

15 Q. On a typical night in Watertown, how many patrolmen are
16 out there patrolling?

17 A. Anywhere from five to nine.

18 Q. You supervise all of them?

19 A. Yes.

01:34 20 Q. How big a town is Watertown?

21 A. Just a little over four square miles.

22 Q. And what's it like policing Watertown?

23 A. It's a good job. It's a -- you know, we're fairly busy
24 right outside of the city of Boston. It's a good job.

25 Q. What kind of crimes do you usually encounter there?

1 A. The majority of the crimes are everything from shoplifting
2 to domestics and -- all types of crimes.

3 Q. Before April 2013, how often did you have to pull out your
4 gun in the course of your duties?

5 A. Not very often. A handful. A handful of times.

6 Q. Did you ever have to use it?

7 A. No.

8 Q. Were you on duty the night of April 18, 2013, around
9 midnight?

01:35 10 A. Yes, I was.

11 Q. Were you the night supervisor that night?

12 A. Yes, I was.

13 Q. Were you wearing a uniform?

14 A. Yes, sir.

15 Q. What were you driving?

16 A. A fully marked SUV, Ford Explorer.

17 Q. Were you the only one in it?

18 A. Yes.

19 Q. Were any special issues raised at roll call that night?

01:36 20 A. Yes, sir.

21 Q. What were they?

22 A. We were told that there was a -- that there was an officer
23 shot and killed in Cambridge. At the time we were told, I
24 believe, that it happened during a robbery.

25 Q. When you went out on patrol, was there anything unusual on

1 the streets at first?

2 A. No, it was just a regular night. Just out, patrol.

3 Q. Did there come a time shortly after midnight you got a
4 call on the radio?

5 A. Yes.

6 Q. What was that all about?

7 A. We got a BOLO, it's a be-on-the-lookout, for a vehicle, it
8 was a Mercedes, that was carjacked, and to be on the lookout
9 for it. They gave us the plate number of the vehicle.

01:37 10 Q. What did you do when you got that information?

11 A. I believe I wrote it on my hand. I might not. I wrote it
12 somewhere in the vehicle. And I just kept it in my head,
13 looking for the vehicle. I tried to put in my head what that
14 vehicle would look like.

15 Q. And after that, did you get some more information about
16 the Mercedes over the radio?

17 A. Yes.

18 Q. What was that?

19 A. We were told that the vehicle was now in Watertown at a
01:37 20 particular number on Dexter Street and that it was stopped.
21 They were not sure if it was -- if it was parked or if it was
22 just not rolling at the time.

23 Q. I'm going to show you what's been marked as Exhibit 771
24 for identification. Take a minute and look at that. That's a
25 map, and it's an overhead -- almost like a satellite image, but

1 the streets are marked. Do they appear to be marked correctly?

2 A. It's very small. Yes. Okay. Yup.

3 Q. And is that a fair and accurate map of that area?

4 A. Yes. Yes. Okay.

5 MR. WEINREB: The government offers 771.

6 MR. WATKINS: No objection.

7 THE COURT: Okay.

8 (Government Exhibit No. 771 received into evidence.)

9 BY MR. WEINREB:

01:39 10 Q. Sergeant MacLellan, the screen in front of you, it's a
11 touch-sensitive screen, and if you press firmly on it with the
12 pad of your finger, you're going to be able to draw lines and
13 circles and -- can you just draw a line along Dexter Avenue?

14 A. Just Dexter Ave. itself?

15 Q. Yeah, just Dexter Avenue itself for now.

16 A. (Witness complies.)

17 Q. And can you also draw a line along Laurel Street?

18 A. (Witness complies.)

19 Q. That neighborhood right there, what's it like?

01:39 20 A. It's very tight, as you can see, with houses. I believe
21 they're 50-foot lots, many two-family houses.

22 Q. Is it primarily residential or commercial?

23 A. I'd say 95 percent residential.

24 Q. When you were driving that night, it was -- when you got
25 the BOLO, was it after midnight?

1 A. Yes, it was.

2 Q. Okay. Was there a lot of activity on the streets?

3 A. No, there wasn't.

4 Q. Was it noisy, quiet?

5 A. It was a pretty quiet night, yes.

6 Q. When you heard that the Mercedes had been pinged on Dexter
7 Avenue, what did you do?

8 A. I immediately started heading that way.

9 Q. Can you show us maybe by drawing an arrow just which way
01:40 10 you headed?

11 A. I was coming down Hazel. Yeah, I was coming from up here
12 in this direction.

13 Q. Did you hear anything -- after you heard that the Mercedes
14 had been pinged on Dexter Ave., did anything come over the
15 radio from any fellow officer?

16 A. Yes; Officer Reynolds.

17 Q. What did he say?

18 A. He stated he was -- I'm not sure if he said he was on
19 Dexter Ave. or close to Dexter Ave. He said, "I'm heading in
01:41 20 that location."

21 Q. And then what?

22 A. I got on the air immediately and told him that we were
23 told that there was a gun in the vehicle, he was taken at
24 gunpoint. And I said, "I believe there's a gun in that
25 vehicle. Please wait for backup before you take any action or

1 pull it over."

2 Q. So you said that you started driving -- it looks like the
3 arrow is pointing south on Dexter?

4 A. Yes.

5 Q. Okay. And did you eventually see the Mercedes that had
6 been described?

7 A. Yes, I did. Officer Reynolds -- I saw Officer Reynolds'
8 cruiser and I saw the vehicle in question in front of him.

9 Q. Okay. And did you see a third car in front of it at that
01:42 10 time?

11 A. I did not.

12 Q. Okay. Were you aware there was even another car involved?

13 A. No.

14 Q. What did you see happen next?

15 A. The vehicles in tandem, I saw the black Mercedes take a
16 left-hand turn onto Laurel. Officer Reynolds was actually
17 making the corner -- or right before making the corner, and I
18 said, "Okay, Joe. I'm right behind you. Light them up."

19 Q. What does that mean, "light them up"?

01:42 20 A. What I meant in that was to turn on your lights, let them
21 know we're behind you, and let them know, you know, we want to
22 talk to you. Pull the vehicle to the side of the road.

23 Q. All right. So "light them up," that's police lingo for
24 activate your flashing blue lights?

25 A. That's what I used that night, yeah.

1 Q. Okay. Now, when you see the vehicles turn left onto
2 Laurel, can you draw an arrow to show which way they turned?

3 A. Sure. (Indicating)

4 Q. Did Officer Reynolds ever have time to turn on his lights?

5 A. He did not.

6 Q. I'm going to enlarge that little section there. So this
7 section of Laurel Street that's now highlighted in the middle
8 of the map, there are houses on both sides of the street?

9 A. Yes, there is.

01:43 10 Q. And are those just homes where people live?

11 A. Yes.

12 Q. Do you know some of the people who live on that street?

13 A. Excuse me?

14 Q. Have you come to know in the course of investigating this
15 case some of the people who live on the two sides of that
16 street?

17 A. Yes.

18 Q. What happened after you saw the cars turn onto Laurel?

19 A. When I came around the corner, Officer Reynolds either was
01:44 20 already in reverse or was putting his vehicle into reverse,
21 backing up. And I looked further down in front of him and I
22 saw someone firing a weapon at him.

23 Q. How far away was the car that was -- well, you say -- so
24 you saw Officer Reynolds. His car was stopped or he was still
25 backing up?

1 A. I can't be positive. I can't be positive about it.

2 Q. And did you see the Mercedes?

3 A. I did.

4 Q. Where was it?

5 A. It was -- it wasn't pulled over totally to the side of the
6 street; it was a little further out, and the driver's side door
7 was open.

8 Q. And using your -- can you show us again, just so we're all
9 clear, which way you turned onto Laurel?

01:44 10 A. (Witness indicates.)

11 Q. And which way was the Mercedes pointing?

12 A. The Mercedes was pointing this way.

13 Q. Okay. And do you know roughly where on this street the
14 Mercedes had stopped?

15 A. I want to say right about here.

16 Q. So you drew -- you drew a point that appears to be about
17 halfway between 61 Laurel and 55 Laurel. Is that accurate?

18 A. Yeah. I could probably do a little better if I had
19 another view of it, but that's about the area it was.

01:45 20 Q. So its headlights were pointing east. Is that right?

21 A. Right. Away from Dexter Ave. Yeah, east. Yes.

22 Q. And the shooter -- or shooters, were they --

23 MR. WATKINS: Objection.

24 THE COURT: Overruled. It may stand.

25 Go ahead.

1 BY MR. WEINREB:

2 Q. On which side of the Mercedes were they positioned?

3 MR. WATKINS: Objection to the "they," your Honor.

4 THE COURT: Yeah. Rephrase that.

5 MR. WEINREB: All right.

6 BY MR. WEINREB:

7 Q. How many people did you see?

8 A. At this time I saw one.

9 Q. All right. And as time went on did you see more than one?

01:46 10 A. Yes.

11 Q. And on which side of the vehicle were they positioned?

12 MR. WATKINS: Objection again to the "they."

13 THE COURT: Overruled.

14 Go ahead.

15 THE WITNESS: At different times they were in
16 different positions. They moved around a lot. They were in
17 front of the car, to the side of the car, depending on what
18 they were doing. They were moving around.

19 BY MR. WEINREB:

01:46 20 Q. When you say "they were in front of the car," does that
21 mean in front of the Mercedes is -- facing the front of the
22 Mercedes?

23 A. Yes. They were on the east side of the vehicle. The car
24 was facing east and they were furthest away from us because the
25 car was -- they were in the front of it, but behind it as we're

1 looking at it.

2 Q. Were the headlights of the Mercedes on?

3 A. Yes.

4 Q. Was it shining on them?

5 A. Yes.

6 Q. Your car -- when you turned onto Laurel, Sergeant, where
7 was Officer Reynolds' car?

8 A. When I turned onto Laurel?

9 Q. Well, did his car eventually come to a stop?

01:47 10 A. It did.

11 Q. And where did it come to a stop?

12 A. I believe right about here.

13 Q. Okay. Which direction was it pointing?

14 A. Still facing east. He put it in reverse and shot back.

15 Q. Were his headlights on?

16 A. Yes.

17 Q. Were they pointing down at the suspects?

18 A. Yes.

19 MR. WEINREB: Can I have Exhibit 772 for

01:47 20 identification, please?

21 Q. Sergeant MacLellan, do you recognize this?

22 A. Yes, I do.

23 Q. What is this?

24 A. This is also a version of the overhead, Dexter at Laurel.

25 Q. Does it appear to be a fair and accurate diagram of that

1 area?

2 A. Yes.

3 MR. WEINREB: The government offers 772.

4 MR. WATKINS: No objection.

5 (Government Exhibit No. 772 received into evidence.)

6 BY MR. WEINREB:

7 Q. So I'm going to highlight a portion of this. So is this
8 that same street we were just looking at, only this time it's a
9 graphic representation instead of the photograph?

01:48 10 A. Yes, it is.

11 Q. All right. What did you do after turning onto Laurel
12 Street?

13 A. As I turned onto Laurel Street, I was a little past the
14 stop sign, probably right about here.

15 Q. You're indicating just right by the -- you're showing
16 through a marking that you turned from Dexter onto Laurel and
17 stopped just beyond the stop sign right at the beginning of the
18 street?

19 A. Right.

01:49 20 Q. Laurel Street?

21 A. Yes.

22 Q. Yes. Then what?

23 A. Officer Reynolds was in reverse, and I believe as he was
24 in reverse he yelled into the mic, "Shots fired." We had --
25 the dispatcher said, "Sergeant, can you repeat that?" And I

1 repeated it three times: "Shots fired. Shots fired. Shots
2 fired."

3 Q. Could you hear shots being fired?

4 A. Yes.

5 Q. Then what happened?

6 A. I went to put my vehicle in park and I took a round
7 through the windshield, got sprayed with glass. And I knew,
8 okay. We're being fired upon.

9 Q. So a bullet came through your windshield?

01:50 10 A. Yes.

11 Q. Did it hit you?

12 A. No.

13 Q. What did you do then?

14 A. I was -- I took -- I opened my driver's side door, using
15 it for cover, and I tried to get down under -- as low as I
16 could under the motor part of the vehicle to try to shield
17 myself as much as possible, and I was trying to retrieve my
18 rifle.

19 Q. Were you able to get your rifle?

01:50 20 A. No, I wasn't.

21 Q. What did you do then?

22 A. I made a decision I could -- I heard the bullets hitting
23 my vehicle. I had no line of sight towards the suspects. I
24 wasn't sure if they were advancing. I made the decision to
25 jump up in the seat and put it in drive, and my thinking at the

1 time was to let the vehicle go, cause a diversion. Maybe I
2 could gain some time, try to figure out how many suspects we
3 had. And I let the vehicle go, and I stepped to the side of it
4 and used it as cover as it was rolling, and I tried to throw
5 some rounds down range.

6 Q. And "throw some rounds down range," is that police talk
7 for shoot your gun towards the suspects?

8 A. Yes, I was. Yes.

9 Q. What did Officer Reynolds do?

01:51 10 A. At this time I'm not sure exactly what he was doing. I
11 believe he was a little behind me. The vehicle was traveling.
12 I believe he was behind my vehicle. The vehicle rolled a
13 little, and I was following it down the street.

14 Q. As your cruiser was rolling down the street and you were
15 taking cover behind it, were shots being fired?

16 A. Yes.

17 Q. At you?

18 A. Yes.

19 Q. And were you firing back?

01:51 20 A. Yes.

21 Q. Using your finger, can you show us the path that your car
22 took as it moved down the street?

23 A. (Witness complies.)

24 Q. That's fine.

25 A. Right down the gutter line, and I believe it stopped

1 right -- I believe that -- I'm not sure if it's this house or
2 this house now, but right across from where the -- it landed
3 straight across from where the suspect vehicle was.

4 Q. So that final arrow that you drew -- can you now just make
5 an X or a dot where the Mercedes was?

6 A. (Witness complies.)

7 Q. I'm going to clear this so we have a little better view.
8 How far down the street did you make it behind your car
9 before you took other cover?

01:53 10 A. If you could see this driveway right here, and there's a
11 tree, I -- that's where I fired most of my rounds from. It was
12 my only cover at the time. There was plenty of concealment,
13 there was a plastic fence there and whatnot, but I figured that
14 tree might be able to stop some rounds, so I got behind that.

15 Q. Okay. So looking at the north side of the street, at the
16 time you took cover behind that tree, how many house lengths
17 were you away from the Mercedes where the shots were being
18 fired?

19 A. On my side of the street, it looks like two, and on the
01:53 20 suspect's side, it looks like three.

21 Q. In addition to taking fire from -- having shots fired at
22 you, did anything else come your way?

23 A. Yes.

24 Q. What?

25 A. Throwing explosives.

1 Q. So can you describe that? What was the first thing of
2 that nature that occurred?

3 A. The first one landed on the other side of my cruiser. As
4 I said, I had an SUV. It did explode. It really wasn't that
5 impressive. I actually think I said over the air that I think
6 they're throwing M-80s at us. I think that was my first
7 thought.

8 Q. How far away from you did that one explode?

9 A. I can't be sure. I know it was -- the vehicle was in
01:54 10 front of me. I'm thinking it was probably right about here
11 when it went off, and the device was in front of that.

12 Q. Could you see which of the two suspects threw that bomb at
13 you?

14 A. I didn't that time, no. I didn't -- I didn't -- it went
15 off without me even seeing anyone throw it.

16 Q. Was there another bomb?

17 A. Yes.

18 Q. Okay. Tell us about the second bomb.

19 A. There was -- once the Mercedes went down the street, I'm
01:55 20 trying to look down and see how many suspects we have. I saw
21 two and what I thought was -- they were both engaged in the
22 vehicle.

23 Q. So the two suspects who you saw down the street, could
24 you -- what differences in their size or shape or clothing or
25 anything else did you notice between them?

1 A. I noticed one was bigger than the other and they had
2 different styles of when they were throwing the devices. And
3 that's how I tried to keep them straight in my head.

4 Q. All right. What were their different styles of throwing
5 devices?

6 A. One was -- if you don't mind me standing.

7 Q. Not at all. Go ahead.

8 A. One was throwing like a baseball (indicating).

9 MR. WATKINS: Objection. If he could identify which
01:56 10 one.

11 THE COURT: No, go ahead. You may get to that, but go
12 ahead.

13 THE WITNESS: And the other ones were being thrown
14 like a hook shot, over the head (indicating).

15 BY MR. WEINREB:

16 Q. Okay. Could you tell -- did each one have a distinctive
17 style of throwing?

18 A. Yes, I believe so.

19 Q. Well, which one was throwing and in which way, which
01:56 20 manner?

21 A. The bigger of the two gentlemen was throwing like a
22 baseball and the skinnier of the two was throwing the hook
23 shot.

24 Q. Who threw the second bomb at you?

25 A. I believe it was the smaller of the two.

1 Q. Did that one explode?

2 A. I don't think that one went off. Again, I've got a little
3 trouble with this from the beginning with the number of them
4 that were thrown. Either the second one was the dud or the
5 third one was the dud. But either the second or the third one,
6 the one that did go off, was thrown by the same people, second
7 and third. Second, same person. One went off, one didn't.

8 Q. Okay. So the one you identified as the skinnier one, he
9 threw both the second and the third bombs?

01:57 10 A. Yes.

11 Q. Do you see that person in the courtroom today?

12 A. I do.

13 Q. Where is he?

14 A. The gentleman in the black blazer with the tan.

15 MR. WEINREB: Let the record reflect the
16 identification of the defendant.

17 THE COURT: All right.

18 BY MR. WEINREB:

19 Q. When the third one -- the third bomb exploded, how far
01:57 20 away from you was it?

21 A. A little over 20 feet. Twenty to 22 feet away.

22 Q. How loud was it?

23 A. It was incredible. It was horrendous. Very loud. I had
24 to re-holster my weapon to be able to straighten my head to be
25 able to see.

1 Q. What else did you notice?

2 A. A lot of debris -- debris raining down. For some reason I
3 thought shingles were coming off houses, but it was just stuff
4 landing all around us, smoke, car alarms going off, people
5 screaming.

6 Q. I want to show you some photos to get a better sense of
7 the defendant's location.

8 MR. WEINREB: Can we have Exhibit 1522 for
9 identification, please.

01:58 10 Q. Do you recognize this photo?

11 A. Yes, I do.

12 Q. What -- is it -- what do you see in that photo?

13 A. What I believe are the two suspects crouched
14 behind -- well, in front of the Mercedes but from my view,
15 behind the Mercedes.

16 Q. And based on your observations that night, is this a fair
17 and accurate photo?

18 A. Yes, that would be.

19 MR. WEINREB: The government offers 1522.

01:59 20 MR. WATKINS: No objection.

21 THE COURT: Okay.

22 (Government Exhibit No. 1522 received into evidence.)

23 BY MR. WEINREB:

24 Q. Sergeant MacLellan, the house that is directly behind
25 where the suspects are standing, do you see that in the photo?

1 A. Not in this.

2 Q. Well, I'll circle -- I'm talking about this house right
3 here.

4 A. Yeah. It's very dark but I can see the windows.

5 Q. Do you know what the material is on the front of that
6 house? Is it wood, is it brick?

7 A. It's definitely not brick. I would say it's either wood
8 or vinyl.

9 Q. Okay. And then here in between the house, that house and
02:00 10 the house to its right --

11 A. Do you mind if I stand? I can't see it sitting down.

12 Okay. Yeah, I do see that.

13 Q. That's like a white fence?

14 A. Yeah, it looks like a plastic --

15 THE COURT: You may also be able to move the tilt of
16 the monitor if that helps you.

17 THE WITNESS: There you go. Thank you, sir.

18 BY MR. WEINREB:

19 Q. So what's that inside the circle I've just drawn just to
02:01 20 the right of the house?

21 A. It looks like a fence and maybe a gate, but definitely a
22 fence.

23 Q. Okay. All right. And the house that's next over to the
24 house, what's the facing of this house?

25 A. It looks like brick. Brick on the bottom with either wood

1 or, again, vinyl on the top.

2 MR. WEINREB: Can we have Exhibit 1532 for
3 identification.

4 Q. Do you recognize this?

5 A. Yes, I do.

6 Q. What is that a picture of?

7 A. That's a picture of Laurel Street facing -- as I look at
8 it, facing east, towards Boston.

9 Q. Is this the same direction that, when you turned onto
02:01 10 Laurel Street, the direction you were facing?

11 A. Yes.

12 Q. Does it appear to be a fair and accurate photo of Laurel
13 Street during the daytime?

14 A. Yes.

15 MR. WEINREB: The government offers 1532.

16 MR. WATKINS: No objection.

17 THE COURT: All right.

18 (Government Exhibit No. 1532 received into evidence.)

19 BY MR. WEINREB:

02:02 20 Q. Sergeant MacLellan, do you see the white piece of fence
21 I've just circled?

22 A. Yes, sir, I do.

23 Q. Is that the same fence that you just identified in the
24 previous photo?

25 A. Yes, it is.

1 Q. And this house that I just circled, if you were facing
2 that fence, would be just to the left?

3 A. Yes, sir.

4 Q. Is that the house with the wooden front that you just
5 circled?

6 A. Yes.

7 Q. You just identified. Okay.

8 And you see the streetlight that I just circled?

9 A. Yes, I do.

02:03 10 Q. Was that on that night?

11 A. Yes.

12 Q. Was it illuminating the two individuals who were standing
13 in front of the Mercedes?

14 A. Yes, it would be lighting up the area. Yes.

15 Q. I'm going to show you three photos now, Exhibits 1530,
16 1531 and 1533 just for identification.

17 So that's 1530. Do you recognize that?

18 A. Yes.

19 Q. And then 1531, do you recognize that?

02:03 20 A. Yes, I do.

21 Q. 1533.

22 Are these all fair and accurate representations of Laurel
23 Street as you were just sort of driving down it in the
24 direction that we were just looking down it?

25 A. Yes.

1 MR. WEINREB: The government offers those exhibits.

2 MR. WATKINS: I'd object on relevance grounds.

3 THE COURT: Overruled. They may be admitted.

4 (Government Exhibit Nos. 1530, 1531 and 1533 received
5 into evidence.)

6 MR. WEINREB: If we could go back to 1530, please.

7 BY MR. WEINREB:

8 Q. What is this a picture of?

9 A. This is the corner that the suspects, then my -- Officer
02:04 10 Joe Reynolds and myself took the left from Dexter onto Laurel.
11 That's the corner.

12 Q. You mentioned earlier that you -- when you got out of your
13 car and let it roll, you were just past a stop sign. Is that
14 correct?

15 A. Yeah, I believe somewhere -- somewhere in that area, yes.

16 Q. Okay, sir. Do you see the stop sign?

17 A. Yes.

18 Q. Can you circle it, please?

19 A. (Witness complies.)

02:04 20 Q. Okay. So that's the stop sign that we see almost in the
21 center of the photo?

22 A. Yes.

23 Q. Towards the bottom?

24 Later on you said you took cover behind a tree. Do you
25 see that tree?

1 A. I do.

2 Q. Could you circle that, please?

3 A. (Witness complies.)

4 Q. Okay. If, instead of tapping the screen, you just put
5 your finger down on it firmly and then make a circle, you'll be
6 able to circle.

7 A. (Witness complies.)

8 Q. There you go.

9 MR. WEINREB: Could we have 1531, please?

02:05 10 Q. Where's the tree now?

11 A. (Witness indicates.)

12 Q. And where's the house that the Mercedes was in front of?

13 A. Right about here, but on the street, obviously.

14 MR. WEINREB: If we could have 1533, please.

15 Q. Okay. The tree we see on our left, is that the tree?

16 A. That's the tree, yes.

17 Q. Okay. And this streetlight that I'm circling, is that
18 where the Mercedes was?

19 A. Yes. I believe a little past that, but right in that
02:06 20 area, yes.

21 MR. WEINREB: Exhibit 775 for identification, please.

22 Q. This diagram is a little different from the one I showed
23 you earlier because there's some cars pictured in it. Do you
24 see that?

25 A. Yes, I do, sir.

1 Q. I'm going to highlight that.

2 Do you see Officer Reynolds' car?

3 A. Yes, I do.

4 Q. Do you see the -- do you see your cruiser, where it
5 stopped?

6 A. Yes.

7 Q. All right. The -- do you see the Mercedes in this photo,
8 in this diagram?

9 A. No, I don't.

02:07 10 Q. All right. But was there another car on the street in
11 addition to the Mercedes?

12 A. Yes.

13 Q. What was that?

14 A. That was a Honda.

15 Q. Are these -- and do you see the Honda, the green Honda?

16 A. I do.

17 Q. All right. Are these cars positioned in the places that
18 they were in when they were all at rest on that evening?

19 A. Yes. It looks almost exactly but without the Mercedes
02:07 20 being there.

21 MR. WEINREB: The government offers 775.

22 MR. WATKINS: I'm going to object as an exhibit. I
23 think it does -- it's fine to show it to the viewer as a chalk,
24 but we would object to it as being admitted.

25 THE COURT: I think it can be admitted.

1 Would you get the appropriate time frame for this?

2 (Government Exhibit No. 775 received into evidence.)

3 BY MR. WEINREB:

4 Q. So you testified earlier that your cruiser came to rest
5 almost directly across from the Mercedes. Is that right?

6 A. Yes.

7 Q. And did there come a time when the Mercedes left the
8 scene?

9 A. Yes.

02:08 10 Q. Did the Honda leave the scene?

11 A. No.

12 Q. Did your cruiser stay where it had stopped?

13 A. Yes.

14 Q. At that time, is this a fair and accurate representation
15 of where all the cars were?

16 A. Yes.

17 Q. Please circle Officer Reynolds' cruiser.

18 A. (Witness complies.)

19 Q. All right. And please circle your cruiser.

02:08 20 A. (Witness complies.)

21 Q. All right. So for Officer Reynolds' cruiser, you've
22 circled the one alongside the right hand of this street in
23 front of three cars that are parked all facing it, and for
24 yours, it's on the left-hand side of the street as you look
25 eastward, and there are a bunch of cars in a driveway facing

1 it. Is that correct?

2 A. That is correct.

3 Q. And please circle the green Honda.

4 A. (Witness complies.)

5 Q. Now, you've circled a green car that's in the middle of
6 the street. And then again, please circle the tree that you
7 were taking cover behind.

8 A. (Witness complies.)

9 Q. So you've circled the tree that is just to the right of a
02:09 10 blue car that's parked in a driveway towards the entrance of
11 Laurel Street?

12 A. Yes, sir.

13 Q. I'm going to erase these circles now.

14 Can you point out where you believe the first bomb
15 exploded that was thrown at you?

16 A. Circle it or just point to it?

17 Q. Sorry?

18 A. Circle it or just point to it?

19 Q. If you would just point to it.

02:10 20 A. Right about there (indicating).

21 Q. And then you said the defendant threw a second bomb at
22 you. Where did that one land?

23 A. They're all in a very tight, uh...

24 Q. And you said the defendant threw a third bomb. Where did
25 that one land?

1 A. (Witness indicates.)

2 Q. Okay. So you've indicated all those bombs landed more or
3 less in the street just south of the tree that you were taking
4 cover behind?

5 A. Yes.

6 Q. During the time that these bombs were being thrown at you,
7 were shots also being fired at you at the same time?

8 A. Yes.

9 Q. Could you tell if Tamerlan Tsarnaev was shooting at you
02:11 10 and Officer Reynolds?

11 A. I believe so. To me, there were simultaneous flashes
12 coming towards us.

13 Q. Explain what you mean by that.

14 A. Like, we were told not to talk to anyone until we did our
15 interview, and I said in my interview -- they said --

16 Q. I don't want to hear what you said before in your
17 interview. Just tell us what you remember now.

18 A. I remember that there was two handguns being shot at me.

19 Q. What made you believe there were two handguns being shot
02:11 20 at you?

21 A. Because I saw simultaneously two flashes or two -- what I
22 thought were muzzle flashes -- at the same time.

23 Q. Okay. Is it possible that one of the muzzle flashes you
24 saw was something else?

25 A. It is possible.

1 Q. What else could it have been?

2 A. A lighter lighting the --

3 MR. WATKINS: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: A lighter.

6 BY MR. WEINREB:

7 Q. Please continue.

8 A. A lighter lighting the explosives.

9 Q. Do you have any idea how many rounds were fired at you?

02:12 10 A. At me?

11 Q. Or at -- by the suspects towards you.

12 A. I don't know that, no.

13 Q. Dozens?

14 MR. WATKINS: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: That night I thought it was hundreds
17 but, yeah, dozens, absolutely.

18 BY MR. WEINREB:

19 Q. Did there come a time when Sergeant Pugliese arrived on
02:12 20 the scene?

21 A. Yes.

22 Q. Actually, before I ask you about Sergeant Pugliese, the
23 bomb you said that went off that created the gigantic boom,
24 were additional bombs thrown after that?

25 A. Yes.

1 Q. Did they explode?

2 A. Some -- two did not explode, the rest did.

3 Q. So of all the bombs that were thrown, a total of two did
4 not explode and all the rest exploded?

5 A. Correct.

6 Q. When Sergeant Pugliese arrived on the scene, what
7 happened?

8 A. Again, I was facing the suspects. I heard him call out
9 over the radio.

02:13 10 Q. Who's "him"?

11 A. Sergeant Pugliese. I heard him call out. The next time I
12 saw him, he was coming up the middle of the street behind one
13 of our suspects.

14 Q. Which one?

15 A. The older brother.

16 Q. What happened?

17 A. I was standing in the middle of the street. I had an
18 empty weapon at the time but the suspect didn't know that. I
19 was giving him commands, "Get on the ground." He had nothing
02:14 20 in his hands. My thought was he was strapped with explosives.

21 I was telling him to get on the ground; I didn't want him to
22 get near me. He was coming closer. Sergeant Pugliese put his
23 hand on his shoulder, and he collapsed in the middle of the
24 ground -- in the middle of the street.

25 Q. What did you do?

1 A. Well, I immediately told him, "Get off him. Bombs. Get
2 off him. Get off him. Get off him. Get off him." He said,
3 "No, we have got to cuff him. We have got to cuff him." And I
4 jumped on top and tried to help him.

5 Q. Did he turn out to be strapped with any explosives?

6 A. No, he did not.

7 Q. Did you cuff him at that time?

8 A. We attempted to.

9 Q. Did something else happen?

02:14 10 A. Yes.

11 Q. What happened to prevent you from cuffing him?

12 A. I was yelling out commands. As we were trying to
13 ascertain if he had anything on him and trying to get his
14 hands, I was yelling out, "You still got someone down range.
15 Watch down range. Watch down range." And almost immediately I
16 heard, "Sarge, here he comes. Here he comes."

17 Q. Who are you referring to?

18 A. The defendant.

19 Q. What was he doing?

02:15 20 A. He was in the Mercedes now. You could hear the grinding
21 of gears. You could hear that the vehicle was turning around.
22 I looked up and it was coming towards us.

23 Q. How fast was it coming?

24 A. Very fast. My guess is 35, 40 miles an hour.

25 Q. What happened?

1 A. I told Sergeant Pugliese to disengage. I told him, "Get
2 off him. Get off him. Here he comes." I pushed off and the
3 vehicle struck the suspect and what I thought struck Sergeant
4 Pugliese. It was a very violent -- the car was jumping back
5 and forth. The body got stuck up under the wheels. And as it
6 passed, I saw Sergeant Pugliese there, I asked him, "Are you
7 all right?" He said, "I'm okay." The vehicle continued on.
8 As I said, it was bouncing back and forth. It struck the front
9 quarter-panel of the -- Officer Reynolds' vehicle, 465.

02:16 10 Q. What happened to -- the suspect who was caught up under
11 the Mercedes, was that Tamerlan Tsarnaev?

12 A. Yes, it was.

13 Q. What happened to him when the defendant struck Officer
14 Reynolds' car?

15 A. He was -- the body was pushed out from underneath the car.
16 It released the body from underneath the car.

17 Q. What happened to the Mercedes -- what did the defendant do
18 at that point?

19 A. Continued on past Laurel Street through the intersection
02:16 20 and just straight -- straight -- down Laurel, crossing, there's
21 another intersection. And it was just gone.

22 Q. Can you show us here which direction the Mercedes went
23 after it drove past Officer Reynolds' car?

24 A. (Witness complies.)

25 Q. So just continued going straight?

1 A. Yes, sir.

2 Q. What happened after the defendant escaped in the Mercedes?

3 A. I was told -- there was a lot of commotion. As I said,
4 there was people screaming, there was car alarms going off. It
5 was very hectic. And I heard, "Sarge, one of ours is down.
6 One of ours is down. We need help."

7 Q. What did you do?

8 A. I ran to where they said the officer was down, which I
9 believe is right here in this -- right here in this driveway
02:18 10 (indicating).

11 Q. All right. So you're -- you've indicated the driveway on
12 the southwest corner of Laurel and Dexter?

13 A. Correct.

14 Q. What did you see when you got there?

15 A. I saw one of my officers, Officer Menton, holding, I
16 guess, a wound. He said, "Sarge, I can't get a tourniquet on
17 it. I can't stop the bleeding." As he moved his hand, you
18 could see the blood squirting out. I said, "Timmy,
19 concentrate. Get your hand on that. Do the best you can," and
02:18 20 I called for an ambulance.

21 Q. And "Timmy" is Timothy Menton, the officer?

22 A. Officer Menton.

23 Q. Did the ambulance arrive?

24 A. It did.

25 MR. WEINREB: Can we have Exhibit 1525 for

1 identification.

2 Q. Do you recognize this photo?

3 A. Yeah. Yes, I do.

4 Q. All right. What does it appear to be?

5 A. I believe that's the Mercedes now facing west. And that
6 dark -- right here, that dark spot in the middle, I believe, is
7 myself, Sergeant Pugliese, and the older brother on the ground.
8 I was trying to effect the arrest.

9 Q. I'm going to circle -- is this the street lamp you
02:19 10 mentioned earlier that I just circled in red?

11 A. Yes, it is.

12 Q. And these cars here at the end of the street facing the
13 Mercedes, what are those cars?

14 A. The first one I would believe, I would think, is Officer
15 Reynolds' car, the first two headlights, here and here. And
16 the one behind that I would believe would be another cruiser
17 that's further out into the intersection. It might have been
18 an MBTA cruiser.

19 MR. WEINREB: The government offers 1525.

02:20 20 MR. WATKINS: Your Honor, I'm going to object to it
21 getting in through this witness. He did not take it. I think
22 what he said was "I believe" certain aspects to it.

23 THE COURT: I think it's sufficient. I'll admit it.

24 (Government Exhibit No. 1525 received into evidence.)

25 BY MR. WEINREB:

1 Q. So please circle again the -- you said what appears to be
2 the -- you and the other officers with Tamerlan Tsarnaev.

3 A. (Witness complies.)

4 THE COURT: Just to avoid confusion, could you move
5 the cursor? Thank you.

6 Q. So you've drawn a circle in the middle -- roughly in the
7 middle of the photograph closer to the top than to the bottom.

8 And then circle what appears to be Officer Reynolds'
9 cruiser.

02:21 10 A. (Witness complies.)

11 Q. So you've circled a cruiser with its headlights pointed
12 straight at that clump of people?

13 A. Yes.

14 MR. WEINREB: Can we have Exhibit 1527 for
15 identification, please.

16 Q. Do you recognize that?

17 A. Yes, I do.

18 Q. What is that?

19 A. That's Officer Reynolds' vehicle, 465.

02:22 20 Q. Is that a fair and accurate representation of how it
21 looked that night?

22 A. Yes.

23 MR. WEINREB: The government offers 1527.

24 MR. WATKINS: No objection.

25 THE COURT: Okay.

1 (Government Exhibit No. 1527 received into evidence.)

2 BY MR. WEINREB:

3 Q. The front door of that cruiser is open, correct?

4 A. Yes, it is.

5 Q. Which portion of that car was struck by the defendant when
6 he hit it with the Mercedes?

7 A. It would be right behind that door. I believe the door is
8 open. To open the latch -- he had to get at his oxygen bag and
9 his medical kit to help. He went right from the gun

02:22 10 fight -- Officer Reynolds went right from the gun fight to over
11 to where Officer Dic Donohue was to help render aid.

12 Q. There's some apparent fluid here on the street. Do you
13 know what that is?

14 A. I believe that would be the suspect's blood.

15 Q. Which suspect?

16 A. The older brother.

17 MR. WEINREB: Go back.

18 Q. The cruiser, where is it parked in relation to the -- this
19 sidewalk?

02:23 20 A. It looks like it might be up on the sidewalk a bit. There
21 is no curbing in that -- on that section of that street. When
22 Officer Reynolds was coming back, he had his head down and he
23 just was trying to get back as far as he could. And I believe
24 he came up on the sidewalk of it.

25 Q. Okay. Do you see in this photo the street lamp that we

1 referred to earlier that was over the Mercedes?

2 A. Yes.

3 Q. Can you circle it, please?

4 A. Sure (indicating).

5 Q. So you've circled the street lamp that's almost up against
6 the left-hand side of the photo.

7 And can you circle for us where the struggle took place
8 with -- where Sergeant Pugliese -- you said he put his hand on
9 Tamerlan Tsarnaev and he collapsed. Where did that happen?

02:24 10 A. You can almost -- you can see the drag marks, so wherever
11 it stops. I believe it's right here, is where I believe it was
12 (indicating).

13 Q. So is that also nearly by the sidewalk?

14 A. Yeah, to me it looks like it comes to an angle, more out
15 to the middle of the street but to the -- we weren't in the
16 middle of the street but we were -- it looks like -- I feel
17 that we were closer out to the middle than that far over to the
18 side.

19 Q. When the Mercedes drove at you and Sergeant Pugliese and
02:25 20 Officer Reynolds, could the defendant have avoided you just by
21 driving to the right?

22 A. Yes.

23 MR. WATKINS: Objection.

24 THE COURT: Overruled.

25 BY MR. WEINREB:

1 Q. Could you repeat your answer?

2 A. Yes.

3 Q. So there was -- was there ample room for him to get by
4 you?

5 MR. WATKINS: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 MR. WEINREB: Exhibit 776 for the witness, please.

9 BY MR. WEINREB:

02:25 10 Q. Do you recognize that?

11 A. Yes.

12 Q. What's that?

13 A. That's one of the explosives that were thrown at me that
14 did not explode.

15 Q. Is that a fair and accurate picture of what it looked like
16 that night on the street?

17 A. Yeah. Yeah. Yes, it is.

18 MR. WEINREB: The government offers 776.

19 MR. WATKINS: No objection.

02:26 20 THE COURT: Okay.

21 (Government Exhibit No. 776 received into evidence.)

22 MR. WEINREB: Could we have 777 for identification,
23 please.

24 BY MR. WEINREB:

25 Q. Do you recognize that?

1 A. Yeah.

2 Q. What is it?

3 A. That's the other one that did not go off.

4 Q. The other pipe bomb that didn't explode?

5 A. Yes.

6 Q. Is that a fair and accurate picture of what it looked like
7 on the street that night?

8 A. Yes, it is.

9 MR. WEINREB: The government offers 777.

02:27 10 MR. WATKINS: No objection.

11 (Government Exhibit No. 777 received into evidence.)

12 MR. WEINREB: 845 for identification, please.

13 BY MR. WEINREB:

14 Q. Do you recognize that?

15 A. Yes.

16 Q. What is that?

17 A. That's a better picture of the one that was -- the pipe
18 bomb that was just in the middle of the street.

19 MR. WEINREB: The government offers 845 -- I'm sorry.

02:27 20 That's 845 for identification. The government offers it.

21 MR. WATKINS: No objection.

22 (Government Exhibit No. 845 received into evidence.)

23 MR. WEINREB: Mr. Bruemmer, can I please have Exhibit
24 948-7 for identification.

25 BY MR. WEINREB:

1 Q. Do you recognize that photo?

2 A. Yes.

3 Q. What's that?

4 A. That's my cruiser. That's my -- that's my cruiser.

5 Q. It might help if you talked a little more into the
6 microphone.

7 A. I'm sorry. That's my cruiser.

8 Q. Where is it?

9 A. That's in its final resting place across from where the
02:28 10 suspect's vehicle would be.

11 Q. This photo, was this taken the following day?

12 A. I believe so.

13 Q. Is it a fair and accurate representation of where your
14 cruiser landed?

15 A. Yes.

16 MR. WEINREB: The government offers 948-7.

17 MR. WATKINS: No objection.

18 THE COURT: All right.

19 (Government Exhibit No. 948-7 received into evidence.)

02:29 20 MR. WEINREB: 948-8 for identification, please.

21 BY MR. WEINREB:

22 Q. Do you recognize that?

23 A. Yes.

24 Q. What is that?

25 A. That's a picture of my cruiser and the area where the

1 Watertown police were shooting from, looking back, the tree
2 from where I was shooting from with the white flowers on it.

3 MR. WEINREB: The government offers 948-8.

4 MR. WATKINS: No objection.

5 (Government Exhibit No. 948-8 received into evidence.)

6 THE COURT: You don't have it?

7 MR. WEINREB: No.

8 THE COURT: For some reason there's a delay.

9 BY MR. WEINREB:

02:30 10 Q. So the tree you just mentioned that you were taking cover
11 behind, can you circle it?

12 A. Yes, sir.

13 Q. Okay. And you've circled a tree on the right-hand side of
14 this street, the only one we see. In April of 2013, did that
15 tree have any leaves on it?

16 A. Flowers. I don't believe it had -- I don't believe it has
17 leaves, no.

18 MR. WEINREB: Exhibit 948-285 for identification,
19 please.

02:31 20 Q. What's that a picture of?

21 A. That's still a picture of my cruiser.

22 Q. Is that a fair and accurate picture?

23 A. Yes, it would be.

24 MR. WEINREB: The government offers 948-285.

25 MR. WATKINS: No objection.

1 THE COURT: Okay.

2 (Government Exhibit No. 948-285 received into
3 evidence.)

4 BY MR. WEINREB:

5 Q. Sergeant MacLellan, I'm circling what appears to be a
6 bullet hole towards the left-hand side of the picture. Do you
7 see that?

8 A. Yes, I do, sir.

9 Q. And I'm also circling a smashed window that's right
02:32 10 directly in the center of the picture. Did that occur that
11 night during the gun battle?

12 A. Yes.

13 MR. WEINREB: 948-174 for identification, please.

14 Q. Do you recognize that?

15 A. Yes, I do.

16 Q. What is that a picture of?

17 A. That's the round I took as I was putting my vehicle in
18 park.

19 MR. WEINREB: The government offers 948-174.

02:32 20 MR. WATKINS: No objection.

21 (Government Exhibit No. 948-174 received into
22 evidence.)

23 BY MR. WEINREB:

24 Q. Can you please circle the bullet hole that you just
25 referred to and that you took as you put your vehicle in park?

1 A. (Witness complies.)

2 Q. You've circled what appears to be the only bullet hole in
3 the windshield of that car.

4 MR. WEINREB: 948-187 for identification, please, and
5 948-178 and 948-179.

6 Q. Do you recognize what that series of pictures shows?

7 A. I believe it looks like a bullet that's in the
8 back -- backseat of our 468 vehicle.

9 Q. And that's your car?

02:33 10 A. Yes.

11 MR. WEINREB: The government offers those three
12 exhibits.

13 MR. WATKINS: No objection.

14 (Government Exhibit Nos. 948-187, 948-178 and 948-179
15 received into evidence.)

16 MR. WEINREB: Can we publish 948-177.

17 BY MR. WEINREB:

18 Q. And I'm going to circle an item towards the backseat
19 there. Do you see that?

02:34 20 A. Yes.

21 Q. Is that the bullet you were referring to?

22 A. Yes.

23 MR. WEINREB: Can we have 948-178. And then 948-179.

24 Excuse me a moment.

25 (Counsel confer off the record.)

1 BY MR. WEINREB:

2 Q. Sergeant MacLellan, during the time that you were taking
3 fire, could you tell whether it was Tamerlan Tsarnaev firing
4 the gun, Jahar Tsarnaev firing the gun, or them taking turns or
5 alternating?

6 A. I could not.

7 Q. You said that the first bomb that exploded sounded
8 something like an M-80. What is an M-80?

9 A. I believe it's like a quarter stick of dynamite or an
02:35 10 eighth of a stick of dynamite. I'm not sure of the exact size.
11 It's a very loud explosion, but fireworks. It's fireworks,
12 not -- I believe it was just behind the vehicle. And I didn't
13 get -- the full vehicle just absorbed most of the -- most of
14 the percussion, I imagine.

15 Q. Now, the explosion -- you said there was -- the second
16 bomb that you saw the defendant throw that caused you to
17 re-holster. Why did you re-holster?

18 A. My eyes were shaking violently in my head. I couldn't
19 see. I couldn't see straight. And I was still being shot at
02:36 20 and I was behind a plastic fence, and I was afraid I was going
21 to get killed. I had to -- tactically it was a pretty poor
22 decision to re-holster during a gun fight, but I couldn't see.

23 Q. And was that because of the force of the bomb that had
24 just gone off near you?

25 A. Yeah.

1 MR. WEINREB: No further questions.

2 THE COURT: Are you going to be using your cart
3 computer?

4 MR. WATKINS: I would like to, your Honor, yes.

5 CROSS-EXAMINATION

6 BY MR. WATKINS:

7 Q. Good afternoon, Sergeant MacLellan.

8 A. Good afternoon, sir.

9 Q. I'm going to show you Government's Exhibit 775, which was
02:39 10 that map that we looked at.

11 A. All right.

12 Q. When you were pointing out on this map, of course, the
13 Mercedes was not on this map. Is that correct?

14 A. I don't have a picture.

15 THE COURT: Everybody should have it.

16 Q. Is it up there now?

17 A. I do have a picture, yes.

18 THE COURT: No?

19 MS. PELLEGRINI: No.

02:39 20 BY MR. WATKINS:

21 Q. So on this map, we see the Civic and we see your
22 cruiser --

23 MR. MELLIN: I don't believe the jury has it.

24 THE COURT: The jurors still aren't getting it.

25 THE JURORS: We've got it.

1 THE COURT: Okay. Go ahead.

2 BY MR. WATKINS:

3 Q. Sergeant MacLellan, you have it up?

4 A. Yes, I do, sir.

5 Q. And now the audience does too, so we're good to go.

6 So now you see where you've marked the Civic and your
7 cruiser?

8 A. Yes, I do.

9 Q. And the Mercedes during this period of time that you were
02:40 10 testifying was back here also. Is that correct?

11 A. Yes, sir.

12 Q. It just wasn't shown on this particular map. Is that fair
13 to say?

14 A. Yup. Yes.

15 Q. Also on this same map, I want to direct your attention
16 over to this side where you talked about what happened after
17 you heard "officer down." First, you heard "officer down"
18 after the Mercedes had gone up Laurel Street on towards Spruce
19 Street. Is that correct?

02:41 20 A. I can't be positive exactly when. I'm sorry. I can't be
21 positive exactly when it happened.

22 Q. Well, you were out on the street with Tamerlan Tsarnaev,
23 correct, having cuffed him?

24 A. Yes. Yes.

25 Q. And the Mercedes had gone by -- there were lots of

1 gunshots as the Mercedes went by Laurel and Dexter, right?

2 A. Yes.

3 Q. And it's after that that you heard the "officer down"
4 signal?

5 A. Again, I can't be positive, but I believe that's when it
6 was, yes.

7 Q. Now, did you actually, yourself, go over to where Officer
8 Donohue was?

9 A. Yes.

02:41 10 Q. And that was in the driveway, right?

11 A. That's where they were working on him, yes.

12 Q. Right. And the driveway we see here, we see 144 Dexter
13 Avenue. Can you point that out?

14 A. Do you want me to circle it?

15 Q. Yeah.

16 A. Okay (indicating).

17 Q. And there is a driveway right next to 144 Dexter Avenue?

18 A. Yes.

19 Q. Right?

02:42 20 And was it that driveway that you were working on Officer
21 Donohue or where you saw people working on Officer Donohue?

22 A. That's possible. It's one of these two. Either one of
23 those. I can't be positive. Looking at this picture, it does
24 look like it's that one, yes.

25 Q. When you say "looks like that one" --

1 A. The smaller one of the two.

2 Q. All right. So where you said it was up here, now probably
3 down here is more likely?

4 A. No. Originally I thought it was here, but I'm saying I
5 can't be positive which one it is, which spot it is. I'd have
6 to see it -- a real-time picture of it to be able to figure it
7 out.

8 Q. You were shown Government's Exhibit 1522, which was this
9 photo here?

02:43 10 MR. WATKINS: Could I now have the monitor just for
11 the witness, please?

12 Q. I'm showing you what's marked for ID Defendant's Exhibit
13 3005. Do you see that photograph?

14 A. I do, sir.

15 Q. Does that fairly and accurately depict another moment of
16 time?

17 A. That's fair to say, yes.

18 MR. WATKINS: Your Honor, I would seek to admit
19 Defendant's Exhibit 3005.

02:44 20 MR. WEINREB: No objection.

21 THE COURT: Okay.

22 (Defense Exhibit No. 3005 received into evidence.)

23 BY MR. WATKINS:

24 Q. And you told us about the two figures there, one larger
25 than the other, right?

1 A. Yes, I did say that.

2 Q. And in this particular photograph, the larger one is to
3 the left?

4 A. I can't be sure from that photo. They're both pushed
5 down. I can't say.

6 Q. Eventually you helped in apprehending Tamerlan Tsarnaev
7 further on down Laurel Street, right?

8 A. Yes.

9 Q. Tamerlan Tsarnaev, when you tackled him, had a dark jacket
02:45 10 on?

11 A. I can't remember. I can't remember what he was wearing
12 exactly.

13 Q. Did you become aware that a weapon was recovered from the
14 scene, a firearm?

15 A. When? When, sir?

16 Q. After the shootout a Ruger pistol was --

17 A. Yes. Yes.

18 Q. And you were also aware that a BB gun was recovered after?

19 MR. WEINREB: Objection, your Honor. This is all
02:46 20 based on hearsay with this witness.

21 THE COURT: Go ahead.

22 BY MR. WATKINS:

23 Q. Did you become aware that a BB gun had been found at the
24 scene?

25 A. I heard that, yes.

1 Q. And you would agree that a BB gun doesn't have a muzzle
2 flash?

3 A. No, it does not.

4 MR. WATKINS: I have nothing further, your Honor.

5 MR. WEINREB: No further questions.

6 THE COURT: All right, Sergeant. Thank you. You may
7 step down.

8 THE WITNESS: Thank you, sir.

9 (The witness is excused.)

02:46 10 THE COURT: Jurors, because of our schedule a little
11 bit today we didn't take the midmorning break. Is everybody
12 okay to keep going until about one o'clock? Do you need a
13 break now? No? Okay. Good.

14 MR. CHAKRAVARTY: The government calls Sergeant
15 Jeffrey Pugliese.

16 JEFFREY PUGLIESE, duly sworn

17 THE CLERK: State your name and spell your last name
18 for the record and speak into the mic.

19 THE WITNESS: My name is Jeffrey Pugliese; last name
02:47 20 is spelled P-U-G-L-I-E-S-E.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. CHAKRAVARTY:

24 Q. Good afternoon. Sergeant Pugliese, are you with the
25 Watertown Police Department?

1 A. Yes, I am.

2 Q. And what's your rank?

3 A. Sergeant.

4 Q. How long have you been with the Watertown Police
5 Department?

6 A. 35 years.

7 Q. And are you from Watertown?

8 A. Yes, I am.

9 Q. Grew up there?

02:48 10 A. Yes.

11 Q. Before you became a police officer in Watertown, what did
12 you do?

13 A. I was in the U.S. Army.

14 Q. And what was your role there?

15 A. I was a military police officer.

16 Q. And when did you become a sergeant?

17 A. 1993, I believe.

18 Q. And in addition to your role as a sergeant, do you have
19 collateral duties on the Watertown P.D.?

02:48 20 A. Yes, I do.

21 Q. What are they?

22 A. I'm a firearms instructor.

23 Q. Back in April of 2013, what was your assignment as a
24 sergeant?

25 A. I was assigned to the night patrol division, patrol

1 supervisor, uniform.

2 Q. And what does that entail?

3 A. You're out driving around the town, supervising, making
4 sure the officers are doing what they need to do, or you're
5 available to assist the officers in any critical incidents.

6 Q. And about how many other police officers do you supervise
7 when you're on shift?

8 A. It varies depending on the night of the week. It can be
9 upwards of ten, it could be a minimum of four.

02:49 10 Q. Do you recall the week of the Marathon bombings, April 15,
11 2013?

12 A. Yes, I do.

13 Q. During the day, what were you doing that week?

14 A. That particular day of the bombings?

15 Q. On the day of the bombings.

16 A. Yes. I was actually in Lowell, Massachusetts, at our
17 annual in-service training.

18 Q. And how did you hear about the bombing?

19 A. The class had let out somewhere around two o'clock. I was
02:49 20 getting in my vehicle, and I turned on the radio, WBZ radio,
21 and I heard that there was just an explosion at the Boston
22 Marathon finish line.

23 Q. Do you listen to a lot of news when you're in your
24 cruiser?

25 A. Yes, I do.

1 Q. Later that week, did you continue to attend that
2 in-service up in Lowell?

3 A. Yes. It's a Monday through Thursday, four-day class. And
4 so I was going Monday, Tuesday, Wednesday, Thursday that week.

5 Q. Now, on Thursday, April 18th of that week, were you
6 scheduled to work after your in-service?

7 A. Yes, I was.

8 Q. And what was your shift that night?

9 A. Three-thirty to midnight.

02:50 10 Q. And did you head back to the Watertown area from Lowell
11 that afternoon?

12 A. Yes, I did.

13 Q. And did you go along with your shift duties without
14 incident until the evening?

15 A. Yes.

16 Q. What happened around 10 p.m. that evening?

17 A. I was in the police station writing a report on an
18 incident that had occurred at a licensed establishment in town,
19 and I heard on my portable radio that Cambridge -- or an MIT
02:51 20 police officer had been shot.

21 Q. And so what did you do after you heard that?

22 A. I continued to finish my report. I was actually in the
23 police station until just about the end of my shift. About
24 11:30, 11:35, I finished the report and sent it off to the
25 lieutenant for approval -- or his review and approval. And

1 then I went out, took my cruiser over to my personal vehicle,
2 put my gear in the back and went back into the building.

3 Q. So you were transitioning from your cruiser to your
4 personal vehicle?

5 A. Yes.

6 Q. And when you went back into the station, was there any
7 further conversation?

8 A. Yes. The lieutenant was looking for me. He had told me
9 that he thought he had inadvertently deleted the report that I
02:52 10 had written, asked me if I could see if I could pull it back
11 up. And I subsequently spent about, I don't know, 40, 45
12 minutes or so trying to find the report, to no avail.

13 Q. While all that was happening, did a call come in?

14 A. Yes.

15 Q. Explain that.

16 A. Well, let me just back up just a -- not while that was
17 going on. I had left the building at this point, figured I
18 would let the computer people try to figure that report out in
19 the morning. And I was actually out in my own vehicle when I
02:52 20 learned about a carjacking.

21 Q. Okay. So you gave up on the report issue and went back
22 out to your car?

23 A. Yes. Yes.

24 Q. Okay. So, now, were you still in uniform?

25 A. Yes, I was.

1 Q. And you were sitting in your car?

2 A. Yes, I was.

3 Q. But did you still have your police radio?

4 A. Yes, I did.

5 Q. All right. So what did you hear?

6 A. I heard that there was a vehicle that had been carjacked
7 in Cambridge and that it was being -- I believe our dispatcher
8 said the cell phone was being pinged, but it ultimately -- I
9 believe turned out to be the GPS system on the vehicle. But
02:53 10 that it was being pinged, and it was on Dexter Avenue in
11 Watertown.

12 Q. And you were at the Watertown police headquarters?

13 A. Yes.

14 Q. Which is on Main Street?

15 A. Yes, it is.

16 Q. So how far is that from Dexter Avenue?

17 A. Mile and a half to two miles.

18 Q. So what did you do after you got that?

19 A. So I was sitting, listening to the radio, and the vehicle
02:53 20 was being pinged in Watertown. And I then heard Officer
21 Reynolds say that he had located the vehicle. And at that
22 point -- I knew that there had been four officers working the
23 midnight shift plus the patrol supervisor -- I decided that I
24 would take a ride in that direction in case there was a vehicle
25 pursuit, and if anybody driving the vehicle bailed out of the

1 car and there would be a foot pursuit, I figured in my own
2 vehicle I would be an extra set of eyes.

3 Q. And at the time you were heading over towards Dexter
4 Street -- Dexter Ave. -- excuse me -- did you know who the
5 suspects were?

6 A. No.

7 Q. Okay. Incidentally, you mentioned earlier that the
8 Watertown P.D. is on Main Street?

9 A. Yes.

02:54 10 Q. Is there a Bank of America very close by, right across the
11 street?

12 A. It's probably -- maybe a half mile away down in the
13 Watertown Square area.

14 Q. And that's also on Main Street?

15 A. Yes, it is.

16 Q. So did you head towards Dexter Ave.?

17 A. Yes, I did.

18 Q. Was this your personal vehicle or in the cruiser?

19 A. My personal vehicle.

02:54 20 Q. How long did it take you to get there?

21 A. Initially I was probably doing the speed limit, you know,
22 driving along, and then eventually I heard the radio broadcast
23 from the officers on-scene that they're being fired upon,
24 they're taking gunshots at them. And at that point I was
25 probably anywhere between Main and Waverley Avenue and Main and

1 Whites Ave. And from there to the scene, it probably took me a
2 minute, if that. I was doing probably 70, 80 miles an hour
3 up -- down through Watertown Square, up Arsenal Street.
4 Traffic was very light at that time.

5 Q. And could you tell who was talking through the microphone
6 that they said that shots were being fired?

7 A. Yes; it was Officer Reynolds and Sergeant MacLellan.

8 Q. And was Sergeant MacLellan the shift supervisor who took
9 over for you?

02:55 10 A. Yes. Yes.

11 Q. What was their tone when they were saying that?

12 A. A little bit excited.

13 Q. Did you get down there pretty quickly?

14 A. Pardon me?

15 Q. Did you get down to the scene pretty quickly?

16 A. Very, very quickly.

17 Q. And where did you park your car?

18 A. I parked my vehicle on Dexter Avenue just prior to Laurel.
19 Yeah, just prior to Laurel.

02:55 20 Q. And what did you do when you got there?

21 A. I opened the -- I drive a Chrysler minivan. I opened the
22 sliding door, put my vest back on because I had taken it off at
23 the end of my shift, and I started approaching Dexter Avenue to
24 where the gunshots were coming from.

25 Q. Okay. And when you say "vest," you mean a bulletproof

1 vest?

2 A. Yes.

3 Q. That's a standard issue that when you're on duty you wear?

4 A. Yes. Yes.

5 MR. CHAKRAVARTY: Can we call up Exhibit 775, which is
6 in evidence.

7 Q. Do you recognize this diagram, Sergeant Pugliese? I can
8 zoom in.

9 A. Yes, I do.

02:56 10 Q. Okay. And is this Dexter Street -- Dexter Ave. over here?

11 A. That would be Dexter Avenue, yes.

12 Q. And then this is Laurel Street?

13 A. Yes.

14 Q. And on this diagram, can you just make a notation -- or
15 just touch the screen in the general vicinity of where you
16 parked your car?

17 A. Okay.

18 Q. And you've motioned close -- right in front of 144 Dexter
19 Ave. Is that right?

02:57 20 A. I don't know what the number is, but that is the location.
21 As a matter of fact, I was just about in front of that
22 residence's driveway.

23 Q. Okay. And was this cruiser there already?

24 A. I don't believe so. I don't recall that cruiser being
25 there.

1 Q. Okay. So could that be your cruiser?

2 A. Pardon me?

3 Q. No, you weren't in your cruiser.

4 A. No, I was in my personal vehicle.

5 Q. Okay. And where did you go on this diagram?

6 A. I -- do you want me to touch and --

7 Q. If you can.

8 A. I exited my vehicle about here, I walked along this hedge
9 line here, along the sidewalk. And then when I was about where
02:58 10 my finger is stopped right now, I could hear the gunshots, and
11 I heard an explosion at this point. I continued on, and I cut
12 into this walkway here leading into this residence, and I saw
13 two officers. And I recognized one as Officer Reynolds. The
14 other one I didn't recognize immediately, which turned out to
15 be ultimately one of our Watertown officers, Officer Miguel
16 Colon.

17 As I stepped in behind them, they turned around to me and
18 said, "Sarge, Sarge, get down. They're shooting at us." I
19 took a position of cover. We had the vehicles -- if you look
02:58 20 there, in the driveways there were vehicles. We were able to
21 use those for cover.

22 Q. And then did you assess the situation from there?

23 A. Yes, I did. I kind of looked around, and I saw Sergeant
24 MacLellan behind a tree down on my left, and he was returning
25 fire to the suspects and verbalizing to them, "Give it up.

1 Give it up," you know, among other things. I don't really -- I
2 just remember, "Give it up. Give it up."

3 Q. And there's only one tree on that side of the street?

4 A. That would have been this tree there, yes.

5 Q. Where could you tell that the -- could you tell from which
6 direction the gunfire was coming?

7 A. The gunfire was coming from the east end of Laurel Street.

8 Q. Okay. Is that in this direction?

9 A. Correct.

02:59 10 Q. So -- sorry. They were shooting at you?

11 A. Right. Right. But it was coming from -- correct.

12 Q. Could you see anything from where the gunfire was coming?

13 A. Yeah, there was -- I could actually see a couple of
14 vehicles down in the street. One of them was a police cruiser
15 off to the left; another one was a black, you know, SUV; and
16 there was another vehicle in front of that. And I could see
17 what I thought to be -- I could hear the gunshots and I saw
18 muzzle flashes -- what I thought to be muzzle flashes coming
19 from both sides of the vehicle.

03:00 20 Q. When you say "the vehicle," is it the black SUV?

21 A. Yes.

22 Q. Was this where Sergeant MacLellan's cruiser ultimately
23 came to rest?

24 A. Yes.

25 Q. And was it there when you first came upon the scene?

1 A. Yes.

2 Q. Where was the black SUV in relation to that cruiser, if
3 you could just touch the screen?

4 A. Right about there (indicating). Did it take?

5 Q. It didn't take. If you could use the pad of your finger?

6 A. Yes, I am. Right about --

7 Q. I'm sorry. Do it again.

8 A. Right about -- right in this area here.

9 Q. After you assessed where the gunfire was coming from, what
03:01 10 did you do?

11 A. I made a determination that Sergeant MacLellan, Officer
12 Reynolds and Officer Colon were pinned down, and so I decided
13 that I was going to try to work my way through some backyards
14 and try to flank the individuals that were firing at the other
15 officers.

16 Q. Why did you decide to flank the individuals?

17 A. It was -- I wanted to protect the other officers on the
18 scene. I wanted to help save their lives in case they were
19 going to get shot.

03:01 20 Q. Could you see a direct route?

21 A. If I had gone directly straight down the street I would
22 have been exposing myself to the gunfire, so I decided to cut
23 through backyards and flank them that way.

24 Q. Okay. So again, using your finger, if you could just
25 trace, as you did earlier, your path?

1 A. Okay. I was in this front yard here. I went up alongside
2 of this house like this. I went over a chain-link fence there,
3 through this backyard, over another fence here (indicating).

4 Q. Let me stop you there. Right where you had -- your
5 path -- you stopped, did you see -- notice anything happen
6 behind the houses?

7 A. Yes. That second house that I was going behind, after I
8 went over the fence I was kind of watching my feet to see where
9 I landed. It was dark out. I focused my attention to get
03:02 10 ahead of me and I saw an individual at the bottom of the set of
11 stairs there and he started to flee, I guess that would be
12 southerly, towards Cypress Street.

13 Q. So can you describe the individual?

14 A. Yeah, it was a white male. He had dark hair and he was
15 wearing a white T-shirt.

16 Q. Did you know whether he was one of the suspects?

17 A. At that time I did not.

18 Q. What did you do?

19 A. I aimed my pistol at him, I ordered him to stop. He
03:03 20 didn't stop; he just kept going. He went over a chain-link
21 fence in the backyard. And what I did then is I radioed into
22 Watertown Control, our dispatch, that there was an individual
23 that was fleeing from the area, gave a description, and advised
24 that I didn't know if he was a suspect or a resident just
25 fleeing for his own safety, and told them to keep an eye out

1 for him, any other units responding.

2 Q. Did you later learn who he was?

3 A. Yes, I did. He was a resident of that house right there
4 where I saw him at the back -- the bottom of the stairs.

5 Q. Why didn't you chase him?

6 A. He was fleeing and I did not think he was a threat to the
7 officers that were on-scene because there was still gunshots
8 going off. And I figured if he's running, you know, he's not
9 going to hurt the officers, he's going to be gone, and we could
03:03 10 always try to hunt him down later.

11 Q. What did you do?

12 A. Then I continued through the backyards.

13 Q. Please continue to describe your path, if you can.

14 A. I continued through here. And I was cutting through the
15 backyards here, I believe it is. And when I got about to this
16 point here, I heard a loud explosion (indicating). I saw a big
17 flash, huge, huge plume of smoke. Something actually came by
18 and hit me in the cheek -- fortunately, I didn't get any
19 injuries -- and then stuff started raining down on me. It kind
03:04 20 of stunned me for a moment, you know. I kind of stopped for a
21 moment, kind of gathered my wits again and continued up to
22 about this point here. And I was looking to my right and I
23 could see the black SUV and I could see a couple of individuals
24 in front of it.

25 The headlights to the vehicle were on, and it was casting

1 the light onto the two individuals that were in front of the
2 vehicle, illuminating their bodies to a certain degree. And I
3 could see activity going back and forth. I could see muzzle
4 flashes once again and hear gunshots.

5 MR. CHAKRAVARTY: Mr. Bruemmer, can I call up Exhibit
6 1522, please.

7 Q. Sergeant Pugliese, is this the SUV with the headlights
8 facing easterly on Laurel Street?

9 A. Yes.

03:05 10 Q. And is that the position of the two individuals that you
11 saw in front of the SUV?

12 A. For the most part, yes.

13 Q. Now, in relation to this photograph -- in relation to
14 those individuals in this photograph, approximately where were
15 you?

16 A. This house here -- is that going to touch -- this house
17 here, a little bit beyond that doorway there, there's a
18 driveway to the right of that house, then there's -- there were
19 two vehicles in that driveway, then there's a chain-link fence.
03:05 20 And I was on the other side of that chain-link fence. So I was
21 probably maybe 25 feet from that location roughly.

22 Q. Okay. And were the individuals who were in front of the
23 car which I just circled, were they stationary or were they
24 moving?

25 A. They were moving around back and forth. I don't know

1 exactly what they were doing back there, but there was
2 movement.

3 Q. So what did you do?

4 A. I saw the muzzle flashes -- I could still hear Sergeant
5 MacLellan tell them to give it up, give it up, they don't have
6 a chance, and they continued to fire. And what I did is I drew
7 my service pistol, I took aim at the one individual -- I guess
8 I'll call him Suspect 1. If you want, I can identify who it
9 ultimately turned out to be.

03:06 10 Q. Is it somebody you later had a personal encounter with?

11 A. Yes.

12 Q. And who was that?

13 A. That was Tamerlan Tsarnaev.

14 Q. Okay. And did you see him when you were behind that
15 chain-link fence?

16 A. Yes, I did.

17 Q. Okay. So explain what happened.

18 A. I drew my pistol, I took careful aim, and I fired three or
19 four shots at the individual. I thought I was hitting him but
03:07 20 I didn't know whether or not I did. I just -- you know, I
21 wasn't rushing my shots so I thought I was probably, you know,
22 hitting my target, but it didn't seem to be having any effect.

23 Q. So what happened next?

24 A. Then I decided -- I could see their feet and ankles from
25 underneath the vehicle. As I said, if you look at the picture,

1 you can see how the headlights have illuminated their bodies.
2 So that light was being cast down off of their bodies, kind of
3 like reflecting it downward, and I could see their ankles and
4 their feet.

5 And what I decided to do was take a few skip shots, and
6 that's you aim at the ground in front of your target and you
7 kind of bounce the bullets -- the trajectory of the bullets,
8 you'll come down, and the bullets will hit the ground and then
9 bounce up and they'll reach a plane of about six to eight
03:07 10 inches and then continue on on that plane. They don't come
11 down like on this angle and bounce back up again like many
12 people think they would; they kind of just pick up and get that
13 trajectory.

14 And I thought if I could, once again, take my time, aim,
15 and get these bullets to count, maybe I could take their ankles
16 out and get them to, you know, stop with the aggressive
17 behavior they were doing.

18 Q. So that skip shot, the ricochet shot, is that a special
19 shot that you learned --

03:08 20 A. I've learned -- I've learned it -- I've been a firearms
21 instructor for the department for probably 30 years of my 35
22 years on the job. And I know somewhere in those 30 years that
23 I've been trained in that at one of the firearms instructor
24 schools, whether it be one or two classes over the years or
25 several, but I know I've been trained in that.

1 Q. And what effect did that have after you shot --

2 A. When I was doing that, that's when Suspect 1 noticed where
3 I was. I saw him kind of look at me. And he came charging up
4 the street firing his firearm at me, and I returned fire as he
5 was approaching.

6 Q. So you made eye contact with him?

7 A. Yes. Yes.

8 Q. Did you see what the other person was doing?

9 A. At this point now -- I now focused on the one that was
03:09 10 charging me and shooting at me.

11 Q. Was he shooting at you as he was coming at you?

12 A. Yes, he was.

13 Q. All right. How many times do you think he shot at you?

14 A. I'm guessing four to six. Somewhere in there. I don't
15 know. I wasn't really counting.

16 Q. Did he get to that driveway that you described earlier?

17 A. Yes, he did.

18 Q. And what did he do?

19 A. There was about a three-foot gap between the chain-link
03:09 20 fence and one of the vehicles that was parked there. He ran up
21 that driveway about five feet or so and continued to fire at
22 me.

23 Q. Okay. On this diagram, can you just draw the general path
24 in which he took to get to you?

25 A. Just right up the sidewalk. And the picture stops shy of

1 where his destination was there.

2 MR. CHAKRAVARTY: Mr. Bruemmer, if we could go back to
3 755, please? I'm sorry. Did I read that wrong? 775. Excuse
4 me. Thank you.

5 Q. So, Sergeant Pugliese, I think you earlier indicated that
6 the Mercedes was in this area and that you were in this area.
7 Is that right?

8 A. Correct.

9 Q. Okay. And so on this diagram, can you draw where Tamerlan
03:10 10 Tsarnaev was shooting at you?

11 A. As I say, he left his position of cover here, ran up the
12 sidewalk here, and came in -- there's a chain-link fence. I
13 don't see it depicted on this map. But he stopped about there,
14 and once again, I was right about there (indicating).

15 Q. So you're -- right face-to-face with each other?

16 A. We're about six feet, maybe eight feet at the most apart
17 from each other.

18 Q. And did you continue to shoot at him?

19 A. As he was advancing towards me and firing, I was returning
03:11 20 fire, yes.

21 Q. How many times do you think you shot at him?

22 A. I'm guessing five or six only because magazines hold 13
23 rounds of ammunition. I had one in the chamber of my pistol,
24 gave me 14 rounds, and I had run out of ammunition at a certain
25 point there. So I'm guessing while he was standing there and I

1 was standing there, he was continuing to fire. My pistol ran
2 out of ammunition and I had to reload in the middle of this
3 battle.

4 Q. And did you do that? You dropped your magazine?

5 A. Yes, I did. I reloaded, dropped the magazine right by my
6 feet, threw another magazine into the pistol, and continued to
7 exchange fire with him.

8 Q. And what did he do?

9 A. He continued to fire at me. Ultimately, he had a problem
03:12 10 with his pistol. I don't know if it jammed or he ran out of
11 ammunition. He kind of just looked at his gun, he looked at
12 me, we looked at each other, and I think out of frustration he
13 threw his gun at me. It hit me in my left bicep and the gun
14 fell. And then he turned -- do you want me to --

15 Q. Yes, please. What did he do after that?

16 A. After he threw the firearm at me, he turned, ran down the
17 sidewalk -- the driveway, out into the street, turned left, and
18 started running in this direction here. I, in turn -- there
19 was a picket fence along this property line here, there was a
03:12 20 gate right here (indicating). I holstered up and I started
21 chasing after him myself, and I tackled him right about in this
22 area here.

23 Q. When you went to go chase down Tamerlan Tsarnaev, do you
24 know what the other person was doing?

25 A. I really don't know what he was doing at that time. My

1 focus was on the older brother, or Tamerlan.

2 Q. Did you catch up with him?

3 A. Yes, I did.

4 Q. And what happened?

5 A. I tackled him, brought him to the ground.

6 Q. When you brought him to the ground, was he wounded?

7 A. Yes, he was.

8 Q. What kind of wounds, in your estimation?

9 A. He was bleeding. I don't know exactly what the extent of
03:13 10 the wounds were at that point. I didn't know. But I did know
11 that he was bleeding.

12 Q. Okay. And so what happened when you brought him down?

13 A. He was continuing to resist Sergeant MacLellan. He was
14 still in this position, under cover over here by this tree. He
15 came out, came over to assist. Officer Reynolds, I don't know
16 if he was still in that front yard or not or if he had advanced
17 forward, but he came down and he was trying to assist, and the
18 three of us were trying to get handcuffs on Tamerlan.

19 Q. So there were three of you in this area right here?

03:13 20 A. Yes.

21 Q. And was -- were you able to handcuff Tamerlan at that
22 point?

23 A. No. He was face down. We were able to get his right hand
24 behind his back, and his left hand -- at one point he had it
25 underneath him, then it was flailing around a little bit, and

1 then he got it underneath him again, and we were trying to get
2 him. I know my own personal thought is I didn't want him to
3 roll over because we didn't know what he had on him, so we
4 wanted to keep him face down. That was my thought.

5 And while we're trying to get control of his arms, Officer
6 Reynolds said, "Sarge, Sarge, look out. The other guy's in the
7 car. He's coming at us."

8 Q. So, now, were you paying attention to what was happening
9 behind you?

03:14 10 A. At that point, no, I was still focused. I gave a quick
11 glance to my right and I saw some headlights down the road and
12 then I turned my attention back to Tamerlan.

13 Q. And what did Sergeant MacLellan and Officer Reynolds do?

14 A. They withdrew from that position. Officer Reynolds
15 disappeared to my left, which would have been -- he headed to a
16 westerly position, and Sergeant MacLellan withdrew back to the
17 safety of the tree area there.

18 Q. Okay. Did you look behind you at that point?

19 A. I looked to my right, and I could hear an engine racing,
03:15 20 and I saw the headlights moving towards me from the SUV.

21 Q. Okay. On the diagram, could you just in your best
22 estimation mark where you first saw the SUV coming towards you?

23 A. I would venture to say right about here maybe
24 (indicating).

25 Q. And so when you first came on the scene, the headlights

1 were facing away from you?

2 A. Correct.

3 Q. Is that fair to say?

4 A. Yes.

5 Q. And now they're facing towards you?

6 A. Yes, they were.

7 Q. Now, you had described when you came on the scene that
8 there were cruisers at this end of Laurel Ave. [sic]. Is that
9 right?

03:16 10 A. Correct.

11 Q. Were there any police cars down at this end?

12 A. None that I can recall.

13 Q. And you were one of the first people on-scene. Is that
14 fair to say?

15 A. Yeah, I think I was probably the fourth officer on-scene.
16 As I said -- yeah, fourth officer on-scene. There was Sergeant
17 MacLellan, Officer Reynolds, Officer Colon, and then myself.

18 Q. And these roads all connect. And does this go back
19 towards Arsenal Street?

03:16 20 A. Yes, that would -- Cypress Street? Let me think.

21 Q. I can zoom in on it for you.

22 A. I believe that's -- yeah, Cypress Street. Cypress Street,
23 it will actually come down and it hooks around to the right,
24 brings you back out to Dexter Avenue. And then if you take a
25 left, it would bring you back to School Street, or if you went

1 straight, it would take you to School Street.

2 Q. Now, when the SUV was coming in your direction, were you
3 closer to the southerly side of Laurel Ave. or the northerly
4 side?

5 A. I was close to the sidewalk on the southerly side of the
6 roadway.

7 Q. And was there anything in the middle of the road that
8 would prevent travel?

9 A. No, not in that area.

03:17 10 MR. CHAKRAVARTY: Can we go to Exhibit 1525, which is
11 in evidence.

12 Q. Do you recognize that picture?

13 A. Yes, I do.

14 Q. What is that?

15 A. That's a picture of Laurel Street looking westbound. And
16 it looks like it may be the Mercedes SUV going up the roadway,
17 and it looks like it may actually -- the picture's a little
18 fuzzy, but I'm guessing that may be me standing in the middle
19 of the road there, or on the side of the road.

03:18 20 Q. We'll zoom in now. And can you just circle the mass that
21 you think may include you?

22 A. (Witness complies.)

23 Q. How quickly did that car come up on you?

24 A. Very, very rapidly. It was accelerating at a very high
25 rate of speed.

1 Q. And so once Officer Reynolds and Sergeant MacLellan
2 withdrew, what did you do?

3 A. I saw that the vehicle was on the wrong side of the road
4 heading directly at me, and Tamerlan -- what I did is I reached
5 down and I grabbed Tamerlan by the back of the belt, and I was
6 trying to drag him out of the street to prevent him from
7 getting struck.

8 Q. Was the car coming straight at you?

9 A. Yes, it was.

03:19 10 Q. Were you successful in dragging him off?

11 A. I was able to pull him about a foot towards the sidewalk,
12 and then the black SUV just -- it was right in my face. Like I
13 kind of looked to the right, and the headlight was just like
14 almost there, and I kind of rolled back onto my back. And as I
15 did so, I could feel the breeze of the vehicle go by my face.
16 I looked down and I saw Tamerlan -- the front wheels were over
17 Tamerlan. He kind of bounced up and underneath the
18 undercarriage a couple times. He got hung up in the rear
19 wheels of the vehicle. The vehicle dragged him about 25 or 30
03:19 20 feet, and it struck one of our police cars that was off to the
21 left side of the roadway there on the south side of the street.

22 MR. CHAKRAVARTY: With the Court's permission, I would
23 like to ask the witness to get off the stand and demonstrate
24 how he rolled off of Tamerlan.

25 THE COURT: All right.

1 (The witness steps off the witness stand.)

2 BY MR. CHAKRAVARTY:

3 Q. Sergeant Pugliese, if you wouldn't mind demonstrating in
4 the well.

5 A. Where would you like me to go?

6 Q. In the well of the court.

7 A. Right here?

8 Q. Yes.

9 So can you just -- if you wouldn't mind, get in a position
03:20 10 that you were over Tamerlan Tsarnaev as you were trying to pull
11 him to safety.

12 A. Yeah, I was in a position like this. I grabbed him by the
13 back of the belt, and I was trying to pull him towards the
14 sidewalk, which the southerly side would have been behind me
15 here.

16 Q. And then when the SUV was right upon you, can you
17 demonstrate how you got out of the way?

18 A. Well, like I said, I kind of looked like this. I saw the
19 headlights. They were like right here in front of --
03:20 20 approaching my face, and I just kind of rolled back like that,
21 and I was watching the SUV go by me.

22 (Demonstrating.)

23 Q. How close -- please. Thank you. Resume the stand.

24 (The witness resumes the witness stand.)

25 Q. How close did the wheels come of the SUV to you?

1 A. Oh, they were within inches of my feet as it went by me.

2 Q. And what happened to the vehicle when it ran over
3 Tamerlan?

4 A. It continued to travel for, like I said, 25 or 30 feet.
5 Tamerlan was hung up in the rear wheels. And it crashed into
6 our car 465, which was parked on the south side of Laurel
7 Street.

8 Q. And did the -- did the SUV ultimately get loose of that
9 vehicle?

03:21 10 A. Yes, it did.

11 Q. And did it continue down Laurel Street?

12 A. Yes, it did. It continued down Laurel Street across
13 Dexter Ave. And again, continuing down Laurel Street, that's
14 the last time I saw the taillights. I got back up and
15 refocused my attention back onto Tamerlan. Officer Reynolds
16 came back down. We got him handcuffed. He was still moving
17 around. Once again, we didn't know if he had any other
18 explosive devices on him or anything else, so what I did is I
19 literally stood up and put my foot in the small of his back and
03:22 20 held him down, got on the radio and called for an ambulance.

21 Q. As you were doing that, did you check to see if you were
22 injured?

23 A. No, I was focused on keeping Tamerlan from rolling over.
24 Like I said, I didn't know if he had any explosive devices or
25 anything else on him.

1 Q. And were you able to get him handcuffed?

2 A. Yes, with Officer Reynolds' handcuffs. He handed them to
3 me, and the two of us got him handcuffed.

4 Q. And did an ambulance come?

5 A. Yes, it did.

6 Q. And did you get him into the ambulance?

7 A. Yes. He was -- Boston EMS arrived. They cut his clothes
8 off him. And as they were cutting his clothes off, rolled him
9 over a little bit at a time, saw that there were no other
03:23 10 devices with him or anything like that, put him on a stretcher,
11 put him in the back of an ambulance, and I believe off to Beth
12 Israel Hospital. I may be mistaken on the hospital they took
13 him to.

14 (Counsel confer off the record.)

15 Q. Sergeant MacLellan, I --

16 MR. CHAKRAVARTY: Excuse me. Can we have 775 again?

17 Q. I asked you those questions about Cypress Street and
18 getting back onto Dexter Ave. and then off to Arsenal. To the
19 best of your knowledge, as long as you were on-scene, was there
03:23 20 anything from preventing the Mercedes from continuing in this
21 direction?

22 A. No, there was nothing -- no police cars were down there.
23 And the two vehicles, the green -- I believe it's a Honda,
24 which was in front of the black SUV was more over to the south
25 side of the street. And I believe the SUV did a three-point

1 turn when he turned to come back in our direction. He could
2 have just as easily gone around the Honda.

3 MR. CHAKRAVARTY: That's all I have, your Honor.

4 CROSS-EXAMINATION

5 BY MR. WATKINS:

6 Q. Good afternoon, Sergeant Pugliese.

7 MR. WATKINS: May I have the screen just for the
8 witness?

9 Q. The government showed you Exhibit 1522. And you
03:25 10 identified the two suspects there?

11 A. Yes.

12 Q. Do you recall that?

13 I want to show you what I'm marking for identification,
14 Defendant's Exhibit 3006 from that same series. Is that the
15 same two suspects there?

16 A. It appears to be.

17 Q. And is that a fair and accurate representation of what was
18 going on that night?

19 A. I would say yes.

03:25 20 MR. WATKINS: I would move into evidence Defense
21 Exhibit 3006.

22 MR. CHAKRAVARTY: No objection.

23 THE COURT: All right.

24 (Defense Exhibit No. 3006 received into evidence.)

25 BY MR. WATKINS:

1 Q. Now I'm going to blow up a portion of that. And you can
2 see two figures?

3 A. Yes, sir.

4 Q. There is one to the left in darker clothing?

5 A. Yes.

6 Q. Do you recognize that as Tamerlan Tsarnaev?

7 A. No, I don't.

8 Q. There's a person to the right in what appears to be
9 lighter or illuminated clothing. Do you recognize that as
03:26 10 Tamerlan Tsarnaev?

11 A. I believe that one was Tamerlan.

12 Q. And what makes you believe that that is Tamerlan rather
13 than Jahar?

14 A. Tamerlan was wearing light-colored clothing when he
15 advanced towards me.

16 Q. He was wearing a jacket that night?

17 A. I don't recall if he had a jacket on or not.

18 Q. A dark blue or even black jacket? You don't recall?

19 A. I don't. I thought it was light clothing he was wearing.

03:26 20 Q. I'm showing you now what's been marked as Government's
21 Exhibit 1525.

22 A. Yes.

23 Q. We talked about that portion of it where I've blown it up.

24 A. Uh-huh.

25 Q. Now, here one can see two headlights on the left side and

1 two headlights on the right side?

2 A. That's what it appears to be, yes.

3 Q. And I think you also already testified this is the
4 Mercedes as it was coming towards you?

5 A. That's what I believe it is, yes.

6 Q. I'm going to show you Exhibit 775, which is in evidence,
7 and also, if I can, Exhibit 1525. Now I'll do 775.

8 So looking at these two maps -- I'll blow that up again --
9 it appears to be two pairs of headlights pointed down towards
03:28 10 the Mercedes in that picture?

11 A. Yeah, I guess it does appear to be.

12 Q. And were those -- the set of headlights closer to us, it
13 looks like you're right next to that in this picture?

14 A. Yeah, that's what it looks like.

15 Q. I think you've told us that that was a fair and accurate
16 representation of the Mercedes going towards you?

17 A. Yup.

18 Q. So it's fair to say from what you've seen there, there
19 actually is another car parked there next to where you are
03:29 20 tackling Tamerlan?

21 A. I would say yes.

22 Q. It sounds like you're a truly excellent marksman to be
23 able to do those skip shots and hit Tamerlan Tsarnaev.

24 A. I'm a fairly good shot, yes.

25 Q. And Tamerlan Tsarnaev, with a gun, started walking towards

1 you, where you were?

2 A. Running towards me.

3 Q. Running towards you?

4 A. Yes.

5 Q. And the two of you exchanging shots?

6 A. Yes.

7 Q. You hit him; fair to say?

8 A. I would think I was hitting him. I don't know if I was.

9 Q. When you saw him down -- when you tackled him, he was
03:30 10 injured at that point, correct?

11 A. Yes.

12 Q. You could see the visible wounds that he had on him?

13 A. Not at that point, I could not. He had clothing on. I
14 could see blood on him.

15 Q. Right. And you are aware that, in fact, he was shot
16 several times?

17 A. Yes, I learned that later on.

18 Q. And you've trained Sergeant MacLellan and Officer Reynolds
19 in marksmanship?

03:30 20 A. Yes, I have.

21 Q. And you are really the expert of the department, right?

22 A. I don't know if I'm the expert, but I am a firearms
23 instructor for the department.

24 Q. Take credit. You're the best shot in the department,
25 right?

1 A. I don't know about that.

2 Q. So you hit him and he threw the gun or threw -- right,
3 threw the gun and hit you in the arm?

4 A. Yes.

5 Q. And then he continued to run towards the other folks that
6 were shooting, right?

7 A. Yes.

8 Q. And it was only after you tackled him -- and he went down
9 right away when you tackled him?

03:31 10 A. Yeah. I leapt up, and I know I probably came down from
11 about waist high on his shoulders.

12 Q. And that took him down?

13 A. Yes, it did.

14 Q. During that period of time when he was marching down
15 towards Officer Reynolds and Sergeant MacLellan, there's a
16 little lull in the shooting? There's no more shooting going
17 on?

18 A. To tell you the truth, I don't know. I was so focused on
19 chasing him, running after him as he was running towards the
03:31 20 other officers, that I really don't know if there was other --
21 if there were rounds being fired by anybody at that point.

22 Q. When you tackled Tamerlan down on the ground, he continued
23 to be combative towards you?

24 A. Correct; he continued to resist.

25 MR. WATKINS: That's all I have, your Honor.

1 MR. CHAKRAVARTY: Just one question.

2 REDIRECT EXAMINATION

3 BY MR. CHAKRAVARTY:

4 Q. Did you get hit at all by gunfire?

5 A. No, I did not.

6 MR. CHAKRAVARTY: That's all I have.

7 THE COURT: Thank you, Sergeant. You may step down.

8 THE WITNESS: Thank you.

9 (The witness is excused.)

03:32 10 THE COURT: We'll take the luncheon recess at this
11 point.

12 THE CLERK: All rise for the Court and the jury. The
13 Court will take the lunch recess.

14 (The Court exits the courtroom and there is a recess
15 in the proceedings at 12:58 p.m.)

16 THE CLERK: All rise for the Court and the jury.

17 (The Court and jury enter the courtroom at 2:05 p.m.)

18 THE CLERK: Be seated.

19 THE COURT: Ms. Pellegrini?

04:42 20 MS. PELLEGRINI: Good afternoon, your Honor. The
21 government calls James Floyd.

22 JAMES FLOYD, duly sworn

23 THE CLERK: Please state your name, spell your last
24 name for the record, keep your voice up and speak into the mic.

25 THE WITNESS: My name is James Floyd, F-L-O-Y D.

1 DIRECT EXAMINATION

2 BY MS. PELLEGRINI:

3 Q. Good afternoon, Mr. Floyd.

4 A. Hi.

5 Q. Where were you born?

6 A. I was born in Florence, South Carolina.

7 Q. And at some point did you move to Massachusetts?

8 A. About five years ago.

9 Q. And in April of 2013, where were you living?

04:43 10 A. I was living at 56 Laurel Street in Watertown.

11 Q. And who was living there with you?

12 A. My wife and my three-week-old son.

13 Q. And on the night of April the 18th going into the
14 early-morning hours of April 19th, what do you recall
15 happening?

16 A. I was sleeping on the couch. My son was downstairs, as
17 was our routine. Sometime after midnight or so I heard, you
18 know, some loud banging outside. I hopped up, peeked out the
19 window, saw some gunfire, which was -- and then went and
04:44 20 scooped up my son and took him up to the second floor, to the
21 back of the house.

22 When I got to the top of the stairs, my wife stopped and,
23 you know, she was frantically asking what was going on. I told
24 her I didn't know. I went and set the baby down and went out
25 to our bedroom window, which was on the second floor, and

1 started looked out the window at what was going on.

2 Q. Mr. Floyd, let's go back a little bit. The house at 56
3 Laurel, single-family, two-family?

4 A. It's a single-family.

5 Q. And the front yard, what's that like?

6 A. It kind of has more of a side yard. And we have a vinyl
7 fence mostly around -- you know, that completely encloses the
8 side of the yard. There's a pear tree in the yard, which is in
9 the back, and then a big plum tree at the front of the yard,
04:45 10 you know, the corner of the yard.

11 Q. All right. And how would you describe the neighborhood in
12 which you live?

13 A. It's a mixed neighborhood, very quiet neighborhood.
14 Mixture of older, young people, mixture of single families and
15 renters. It's pretty diverse.

16 Q. And with respect to the closest -- or the side of the
17 yard, how would you describe the houses on Laurel Street?

18 A. I think we have a pretty decent-size yard for the area.
19 You know, I have a whole yard, which is one of the reasons we
04:45 20 moved there. I want to say we're a fifth of an acre, is the
21 size of our plot. You know, a nice size for this area, I
22 think.

23 Q. All right. So I'd like to show you what's in evidence
24 already as Exhibit 772.

25 MS. PELLEGRINI: Mr. Bruemmer, if you would bring that

1 up, please.

2 Q. And do you see this diagram in front of you, Mr. Floyd?

3 A. Yes.

4 Q. All right. And I'm going to enlarge this part right about
5 here. Can you point out -- your screen is a touch screen in
6 front of you. If you touch it with the pad of your finger, you
7 can make a circle, you can have an arrow. Can you point out to
8 the jury where you were living in April of 2013?

9 A. Right here (indicating).

04:46 10 Q. All right. So you've made a little yellow mark on the
11 second house in. I actually think it is marked as 56 Laurel
12 Street. And what I'm going to point to right here, is that the
13 tree you were talking about, or one of them?

14 A. Yes; that's the plum tree.

15 Q. All right. And so this part looks out onto Laurel Street.
16 Is that correct?

17 A. Yes.

18 Q. All right. Now, so when you said that you were downstairs
19 and you said that had been part of your routine, whose routine
04:47 20 when you're sleeping downstairs?

21 A. Our family routine. We had a three-week-old. We tried to
22 get through the nights as best we could with as much sleep as
23 possible. So she would feed the baby, go upstairs, try to get
24 as much sleep as she could. I'd give the baby a bottle
25 whenever it woke up and then go upstairs, and hopefully one of

1 us got a decent night's sleep.

2 Q. And the living room area in which you said you were
3 resting on the couch -- is that right?

4 A. Yes.

5 Q. -- is that front -- the front part of your house, does
6 that come up to the front?

7 A. The actual room extends from the front to the back. Front
8 to the back. The couch was probably right -- sort of in the
9 middle of the room.

04:48 10 Q. And the noises that you heard that woke you up, how would
11 you describe those?

12 A. Well, at first I thought it could have just been some
13 fireworks going off. It was -- you know, it woke me up out of
14 a sleep, so I didn't really have any bearings about me at
15 first. And so I looked outside and I could see -- you know, I
16 could see, you know, guns firing. I could mostly -- at that
17 point I could see people to my right, which would have been to
18 the west and sort of underneath where the tree is. But I
19 didn't look for long. I saw that it was, you know, pretty
04:48 20 serious, and I wanted to get my kid back to the back of the
21 house upstairs in his crib.

22 Q. All right. And so once you looked out and you saw what
23 you saw, you took the baby and went upstairs?

24 A. Right. Put the baby in the crib in the back of the house.
25 And then my wife and I went and couldn't help but look out of

1 the second-floor window in our bedroom.

2 Q. All right. Now, from the second floor, is there any
3 obstruction of your view by the -- it's a plum tree, right?

4 A. It's a plum tree. At the time it was pretty -- it was
5 blooming pretty good and so I couldn't really see a lot
6 of -- so, yes, there was some obstruction to the view as I
7 looked down and to the right. Once I was downstairs, I could
8 kind of see -- I didn't have to look through the tree. But
9 once I was on the second floor, it was kind of hard to see
04:49 10 through the trees at exactly what was going on down there.

11 Q. All right. So when you first looked out, and you
12 said -- well, tell me what you saw.

13 A. When I was downstairs and I looked out, I saw guns firing
14 and people screaming. And this was to my right. And then I
15 basically stopped and got the kid and I ran upstairs. So I
16 didn't see much at that time. Then when we got upstairs, we
17 looked for a more extended period.

18 Q. All right. But when you were downstairs, could you tell
19 if anybody was in uniform at that time that you saw outside?

04:49 20 A. The only thing I could say for sure is I saw blue lights.

21 Q. Blue lights?

22 A. So there was that assumption, that someone was in uniform.
23 But which one, who was firing, no, I couldn't see any of that.

24 Q. When you got upstairs and you were able to look out the
25 second-floor window, what did you see?

1 A. So out of the second-floor window, I could see a lot
2 better and it -- to my left and -- which I guess would be
3 facing east, so --

4 Q. If you can mark that on the map which is still in front of
5 you, 772?

6 A. So somewhere around this area --

7 Q. Okay.

8 A. -- I could see there was two cars, both facing this
9 direction, I guess which would have been east. I could see two
04:50 10 cars and I could see two individuals firing back to the west.

11 Q. Can you --

12 A. Firing.

13 Q. Can you tell what kind of car was involved here?

14 A. I saw there was a sedan, and it was easy for me to see one
15 of them was a black Mercedes SUV just because of the
16 pretty -- it has a pretty distinctive shape to it.

17 Q. And where were these two individuals in regard to the
18 location of the Mercedes?

19 A. Between them. Between them taking cover. They would pop
04:51 20 up and out from time to time, and then go back. Seemingly,
21 they had things with them and they kept going back to the
22 ground to grab things.

23 Q. What do you mean?

24 A. It seemed like maybe they had a bag of things that they
25 were going to to either -- I don't know whether it was

1 ammunition. I know at several points I saw a fuse being lit
2 and, you know, what I then found out were bombs being thrown.
3 When actually they threw them, you know, you could hear -- sort
4 of throwing them like a baseball, you'd hear the clink, clink,
5 clink and then an explosion. I definitely saw four of those
6 things happen, but only two I remember actually exploding.

7 Q. And with respect to the two individuals, was there any way
8 that you could differentiate between the two?

9 A. No.

04:52 10 Q. Were both individuals doing the same type of thing or was
11 one doing one? What happened?

12 A. Well, while they were taking cover between the vehicles,
13 it was really tough to see what was going on. It was just kind
14 of a barrage of gunfire in both directions. And also, you
15 know, they would pop up from time to time and, you know, come
16 out. And, you know, I saw them throw the bombs. Sort of --
17 that kind of went on for an extended period of time. And at
18 some point one of them came out from that cover and started
19 moving forward, which would be west. And once he kind of came
04:52 20 out from the car, he kind of seemed to get into some sort of
21 really close-range gunfight. I didn't see who he was doing
22 that with, but he was obviously shooting -- exchanging fire
23 with someone. And I'm not sure, you know, the exact, you know,
24 sequence of things, but at some point the --

25 MR. WATKINS: I'm going to object, your Honor.

1 THE COURT: New question?

2 MR. WATKINS: Yes.

3 THE COURT: Let's have a new question.

4 BY MS. PELLEGRINI:

5 Q. What's the next thing you saw after you saw the person
6 start down the street?

7 A. The next thing I saw was -- I looked back and I could see
8 the individual that was still behind the car pull out something
9 larger. It seemed to me that it was in a bookbag. It seemed
04:53 10 to be -- light a fuse. And where the other -- and then he kind
11 of took the bookbag like this, and it seemed like it was heavy
12 just by the way he was throwing it. And he seemed to throw it
13 out this way. Actually --

14 Q. Let me just stop you right there, Mr. Floyd. So for the
15 record, you're indicating with your arm outstretched and
16 starting down low?

17 A. Yes. He was standing up or -- from what I could remember,
18 and he grabbed the bookbag by the -- you know, one of the
19 bookbag straps and seemed to launch it as far as he could,
04:54 20 which wasn't, you know, very far, from what I could tell. The
21 bomb did not make it very far -- or the thing did not make it
22 very far before it blew up.

23 Q. All right. And when it blew up, what happened?

24 A. It was far and away much bigger explosions than the other
25 ones, than the other smaller explosions that happened, and it

1 was a very, very bright light. Blinding light. We ducked
2 down. A couple of pictures came off of our wall. And we
3 looked back out and the scene was very smokey. And at that
4 point we saw the person that was still by the cars get into his
5 car and make a -- somewhat of a three-point turn and turn his
6 car, the Mercedes, heading east, and floored it. I mean, just
7 really floored it.

8 Q. What could you hear?

9 A. Well, just heard the engine roar loudly and then it seemed
04:55 10 like he was heading straight toward where everyone was
11 gathered, including the other person who had been tackled to
12 the ground at that point. My wife made a shriek because it
13 looked to her and us that he was going straight for, you know,
14 the whole crowd of police officers there. And we heard
15 a -- you know, it was kind of like a thud and we saw the
16 headlights -- the taillights, excuse me -- raise up off the
17 ground. He had obviously -- obviously hit something and run
18 over it. Then lots of gunfire. But he somehow made it -- the
19 vehicle somehow made it down through Dexter and up the street.

04:55 20 Q. Mr. Floyd, let's go back just a little bit. You said that
21 when you first looked back and you heard gunfire. Could you
22 see the exchange of gunfire?

23 A. Yes.

24 Q. All right. I'm talking now about the two individuals who
25 were by the Mercedes. What, if anything, could you see either

1 one doing?

2 A. Just, I mean, other than firing, not much. There was just
3 a lot of activity, you know, so there wasn't constant firing.
4 There would be firing followed by a brief delay where it seemed
5 like they would be digging back into whatever they had at their
6 feet.

7 MR. WATKINS: Objection to "seems like."

8 THE COURT: I'm sorry. I didn't hear you.

9 MR. WATKINS: I'm saying -- could we have another
04:56 10 question?

11 THE COURT: I think he's still answering the same
12 question. Go ahead.

13 THE WITNESS: So I just saw, you know, these two
14 individuals were firing and launching -- well, when I was
15 downstairs I didn't see any of the things thrown, only saw the
16 gunfire at that point. And I was not --

17 BY MS. PELLEGRINI:

18 Q. Let me stop you there. When you said you only saw
19 gunfire, with respect to the Mercedes, where did you see the
04:56 20 gunfire?

21 A. It was coming from behind the Mercedes.

22 Q. Could you tell who was firing the -- any weapon from
23 behind the Mercedes?

24 A. I couldn't distinguish one from the other at that point,
25 no.

1 Q. And then when the individual came out from behind the
2 Mercedes, let me -- so this person walked down Laurel Street?

3 A. Right. Walked down Laurel Street to about -- you know, I
4 would say about right here (indicating). You know, somewhere
5 in this area. And stood there for a while and exchanged
6 gunfire with something that I could not see.

7 Q. All right. So you could not see whether or not there were
8 police officers in this location at that time from your --

9 A. I couldn't tell.

04:57 10 Q. You could not tell?

11 A. I couldn't tell. Right.

12 Q. And the other individual remained where, if you saw?

13 A. Behind the Mercedes.

14 Q. By the way, how could you differentiate between the
15 gunfire and -- when you talked about being -- fuses being lit?

16 A. Well, you know, I've shot guns in my life. I've been
17 around guns, so I know what that's like. And then, you know,
18 I've seen fuses being lit at least on, you know, fireworks.
19 It's very distinguished -- it's a very easy thing to see what a
04:58 20 fuse going looks like: It's slow and has sparks flying off it
21 versus a gunfire, which is, you know, muzzle blast.

22 Q. Now, when you indicated that the Mercedes was heading in
23 the direction of people who were down the street, were you able
24 to see at that point who was down the street?

25 A. No. What I saw was the suspect who wasn't -- or the

1 individual that wasn't by the car. He started to just
2 seemingly just walk in this direction, just oddly, just not
3 firing, just walking, almost maybe walking fast, straight
4 towards where, you know, kind of all the police activity was
5 down here. Well, that doesn't --

6 Q. That's okay. So you've made an arrow a little past your
7 house and a line?

8 A. I probably should change that. That's --

9 Q. I can do that. Go ahead.

04:59 10 A. So there was -- most of the police cars seemed to be
11 around here.

12 Q. All right.

13 A. And then someone started walking from -- he started
14 walking from this way, that way. And at that point I did see a
15 shadow come out from behind this yard, through the gate, tackle
16 him to the ground.

17 Q. All right. When you say "come out from behind this yard,"
18 you made no indication on the map. Can you tell us where
19 you're speaking --

04:59 20 A. This yard right here.

21 Q. Okay. So a shadow comes out, intercepts a person walking
22 down the street?

23 A. Tackles him to the ground. I saw other figures jump on
24 top and looked back and saw someone, the other guy, get in the
25 car and do some sort of three-point turn and --

1 Q. Can I stop you there, Mr. Floyd? What do you mean by a
2 three-point turn?

3 A. Well, the car was pointing east. So he had to turn the
4 car around in the middle of the road to make it back so it was
5 going west. So I don't remember if he pulled forward first and
6 then backward first, but basically he did that kind of turn
7 that you have to do in the middle of a street when you're going
8 to turn around.

9 Q. All right. And what's the next thing that you remember?

05:00 10 A. He just went very, very fast, seemingly as fast as he
11 could go, straight to where it seemed like the people had been
12 tackled to the ground. So there was also police vehicles in
13 the street or other vehicles in the street, so that also
14 happened to be the same area where, you know, he had gotten
15 tackled.

16 Q. All right. And once the vehicle made contact with
17 the -- well, did you know who the vehicle made contact with,
18 from your vantage point?

19 A. No, we didn't know. Our assumption was it made contact
05:00 20 with everyone and that it was bad. We didn't think there was
21 any way anyone could have gotten up and moved.

22 Q. All right. And tell me, what did you see the vehicle do
23 specifically?

24 A. It -- well, you could distinctly see the headlights raise
25 up like it had hit something and bounced over it, and you could

1 hear a thud, like a ka-koo (indicating), and then just lots and
2 lots of gunfire.

3 Q. Now, Mr. Floyd, as you sit here today, is it your memory
4 that, in fact, the person you saw do the underhand movement and
5 throw the container that made the big blast was the same person
6 who drove the Mercedes back down the street toward the police
7 officer?

8 A. Absolutely without question.

9 Q. I'm sorry. Say it again.

05:01 10 A. Without question it was the same person.

11 MS. PELLEGRINI: Thank you. I have no further
12 questions.

13 MR. WATKINS: No questions.

14 THE COURT: No questions? All right, Mr. Floyd.
15 Thank you. You may step down.

16 (The witness is excused.)

17 MR. MELLIN: The United States calls Andrew
18 Kitzenberg.

19 ANDREW KITZENBERG, duly sworn

05:02 20 THE CLERK: State your name, spell your last name for
21 the record, keep your voice up and speak into the mic so
22 everyone can hear you.

23 THE WITNESS: Andrew Kitzenberg. That's
24 K-I-T-Z-E-N-B-E-R-G.

25 DIRECT EXAMINATION

1 BY MR. MELLIN:

2 Q. Good afternoon, sir. Where did you grow up?

3 A. I grew up in Minneapolis, Minnesota, just outside the
4 city.

5 Q. At some point did you come to the Boston area?

6 A. Yes; I came here for college.

7 Q. Okay. And after college, did you stay in this area?

8 A. Yeah, I -- after I graduated, I moved into Watertown.

9 Q. Okay. When did you move into Watertown?

05:03 10 A. In 2010. August of 2010.

11 Q. What was the address?

12 A. 62 Laurel Street.

13 Q. How long did you live on Laurel Street?

14 A. About two and a half years.

15 Q. In April of 2013, were you living on Laurel Street?

16 A. Yes, I was.

17 Q. And on April the 18th of 2013, what were you doing late in
18 the evening?

19 A. I was up late working and watching a hockey game.

05:03 20 Q. In the early morning hours of April the 19th, did anything
21 happen outside your residence?

22 A. Yes.

23 Q. What happened?

24 A. There was gunfire and a shootout outside of my apartment.

25 Q. When you heard the gunfire, what did you do?

1 A. I first ran to the window to see what was happening out on
2 the street, and when I saw an exchange of gunfire, I ran up to
3 my bedroom on the third floor of my apartment, ran onto my bed
4 and right under the window sill, and started taking pictures.

5 Q. If I could have you look first at Exhibit 775. If you
6 would look at that, Mr. Kitzenberg. If I could zoom in on one
7 little area here, do you recognize what I zoomed in on on
8 Exhibit 775?

9 A. Yes, I do.

05:04 10 Q. And what is that?

11 A. That is Laurel Street and a diagram of cars and my -- the
12 apartment I was living in.

13 MR. MELLIN: Your Honor, this is already in evidence.
14 If I may have that published.

15 THE COURT: Do you have it? No? Now?

16 THE JURORS: Yup.

17 THE COURT: Okay.

18 BY MR. MELLIN:

19 Q. Mr. Kitzenberg, if you would touch the screen where it was
05:05 20 you were living on April 18th and the 19th, 2013.

21 A. (Witness complies.)

22 Q. And for the record, you circled 60 Laurel Street?

23 A. Yup. 60 and 62 Laurel Street.

24 Q. You said you went upstairs at some point and began taking
25 photographs. Is that right?

1 A. That's correct.

2 Q. Now, from the time that you were living on Laurel
3 Street --

4 MR. MELLIN: If we could actually just go back to
5 Exhibit 775 for a minute, not zoomed in.

6 Q. And as you look at this exhibit, do you see the streets
7 that are depicted on this map, this diagram?

8 A. Yes, I do.

9 Q. And what street is running diagonal through Exhibit 775?

05:06 10 A. That would be Dexter Avenue.

11 Q. Okay. And then you have Laurel Street right in front of
12 where you were residing, correct?

13 A. Correct.

14 Q. And as you look at Laurel Street, if you go to the -- as
15 you're looking at this, if you go to the right down Laurel
16 Street, where does that lead?

17 A. When I look at it going to the right?

18 Q. Correct.

19 A. There's Cypress Street.

05:06 20 Q. Okay. And then where does Cypress Street lead?

21 A. That leads into a corner, and it's a corner that then
22 turns left and goes north.

23 Q. So is either Laurel Street or Cypress Street a dead-end at
24 that point?

25 A. Laurel Street becomes a dead-end. Like I said, it

1 turns -- bends left and then goes north.

2 Q. Okay. Now, when you said you went upstairs to the third
3 floor, what did you see?

4 A. That's where I saw two vehicles outside directly in front
5 of my window and two men standing behind the vehicle, the black
6 SUV. And that was right in front of the apartment. When I
7 first got into the apartment, I also -- when I first got into
8 the third-floor bedroom, I could also see down towards the
9 sidewalk right in front of the apartment and could see the
05:07 10 SUV -- the police SUV down on the sidewalk.

11 Q. Okay. The one that had crashed into the other cars?

12 A. Correct.

13 Q. Okay. When you -- at some point did you attempt to take a
14 video of what you saw?

15 A. I did. When I first got in front of the window I tried to
16 take a video, and it was too dark to recognize anything, so I
17 started to take pictures.

18 Q. If I could have you look at Exhibit 1522, which is already
19 in evidence. Mr. Kitzenberg, do you recognize Exhibit 1522?

05:08 20 A. Yes, I do.

21 Q. How do you recognize that?

22 A. This is a photo that I took from my bedroom window.

23 Q. And you took a number of photos from your bedroom window?

24 A. Yes, I did.

25 Q. Okay. And as you look at 1522 --

1 MR. MELLIN: That may be published as well, your
2 Honor.

3 THE COURT: It's supposed to be. No?

4 THE JURORS: Yes.

5 THE COURT: Okay.

6 BY MR. MELLIN:

7 Q. As you look at Exhibit 1522, is that a fair and accurate
8 photo of -- or copy of the photograph that you took?

9 A. Yes, it is.

05:08 10 Q. So as you were looking down at these individuals, what did
11 you see them do?

12 A. I could see gunfire, I could see them crouching behind the
13 car, also going into bags or backpacks at their feet, as well
14 as going into the green sedan that was behind them. The green
15 sedan had its doors open, and I could see them going back to
16 that car and back in front of the SUV.

17 Q. If I may have you look at Exhibit 1523, please, which is
18 not in evidence yet. Do you recognize Exhibit 1523?

19 A. Yes, I do.

05:09 20 Q. What is that?

21 A. That's another picture I took from my bedroom.

22 Q. Is that a fair and accurate photograph?

23 A. Yes, it is.

24 MR. MELLIN: Your Honor, I would move into evidence
25 Exhibit 1523.

1 THE COURT: Any objection?

2 MR. WATKINS: No objection.

3 (Government Exhibit No. 1523 received into evidence.)

4 MR. MELLIN: Ask to publish it, please.

5 BY MR. MELLIN:

6 Q. You said the individuals were crouching down, they were
7 going through a backpack, and then also going to a green sedan.
8 Is that right?

9 A. That's correct.

05:10 10 Q. And do you see that car in this photograph?

11 A. Yes.

12 Q. And if you could just circle it for the record?

13 A. This is the green sedan (indicating).

14 Q. Okay. In Exhibit 1523, it's the car on the left. Is that
15 right?

16 A. That's right.

17 Q. Okay. And what did you see these individuals doing with
18 that car?

19 A. They were going back to that car and grabbing bags out of
05:10 20 that car.

21 Q. Okay. When you say they were going there, were both of
22 them at various times going to that car?

23 A. Yes.

24 Q. And once they were behind the SUV, what did you see those
25 individuals doing?

1 A. I could see them there -- they dropped the bag at their
2 feet, and I could see them going in and out of that bag,
3 grabbing objects.

4 Q. Could you tell what the objects were?

5 A. I couldn't. I couldn't make out what the objects were.

6 Q. Could you see gunfire?

7 A. Yes, I could.

8 Q. Could you tell if both individuals were shooting or was
9 one shooting or what could you see?

05:11 10 A. I couldn't see -- I really couldn't make out who was
11 shooting. I couldn't make out any individuals and didn't know
12 kind of who was doing what, but I could see both of them going
13 into the backpacks and crouching and kind of taking cover
14 behind the SUV.

15 Q. If I could have you also look at Exhibit 1524, I believe
16 it is.

17 MR. MELLIN: And just for the witness, your Honor.

18 Q. Do you recognize Exhibit 1524?

19 A. Yes, I do.

05:12 20 Q. Again, is that one of the photographs you took?

21 A. Yes, it is.

22 MR. MELLIN: Your Honor, I would move into evidence
23 Exhibit 1524 and ask to publish.

24 MR. WATKINS: Your Honor, it's actually in as
25 Defendant's 3006, so I don't mind entering it in a second time

1 if the government needs it.

2 THE COURT: Do you want to enter it in under your own
3 number?

4 MR. MELLIN: Yes, thank you.

5 (Government Exhibit No. 1524 received into evidence.)

6 MR. MELLIN: And again, your Honor, if we may publish
7 that.

8 BY MR. MELLIN:

9 Q. And, Mr. Kitzenberg, is this a fair photograph of what you
05:12 10 saw these individuals doing?

11 A. Yes, it is.

12 Q. Okay. Now, they appear to be crouched down, the two of
13 them in this photo. Is that right?

14 A. Yes.

15 Q. You mentioned that they were going through backpacks or
16 into backpacks. Where were those located?

17 A. At their feet.

18 Q. At some point did you hear or see bombs being thrown or
19 hear them explode?

05:13 20 A. I could hear them and feel them.

21 Q. What can you tell us about that?

22 A. I first -- there was a first bomb that went off and I
23 could -- I didn't see it. I didn't see where it was but I
24 could sort of feel that it was -- went off eastward, I guess to
25 my right down Laurel Street. From my room I could actually

1 feel my room shake with those explosives. And so I
2 felt -- felt and heard two explosions that were similar, and
3 then a third that was much larger and shook the room.

4 Q. Could you tell who it was that threw any of those
5 explosive devices?

6 A. I couldn't, no.

7 Q. Now, when you said the third one was much larger, can you
8 describe that?

9 A. That one I actually could see the spark of it being lit.
05:14 10 And when I saw that, I laid down on the floor of my bedroom,
11 and then I could actually feel it go off. And it really
12 shook -- shook my bedroom. And then I popped my head up up to
13 the window and I could see the cloud of smoke rise up from that
14 one.

15 Q. Shortly after that, did you see the Mercedes turn around
16 and go back down the street?

17 A. Yes, I did.

18 Q. Now, as you look at Exhibit 1524, is there room to the
19 right of that green Honda to just continue straight down Laurel
05:14 20 Street if you were driving that SUV?

21 A. Yes, I think so.

22 Q. And even to the left of that green Honda, is there room to
23 continue driving straight down Laurel Street?

24 A. Yes.

25 Q. Is that what that Mercedes did?

1 A. No.

2 Q. What did you see the Mercedes do?

3 A. I saw it do a U-turn and kind of drive through the
4 sidewalk and turn back in the opposite direction down Laurel
5 Street and accelerate down the street.

6 Q. And when you said accelerated down the street, can you
7 describe how it sounded or what you saw?

8 A. It seemed like the vehicle was being floored and, like,
9 accelerating as quickly as it could.

05:15 10 Q. If I could have you please look at Exhibit 1532, which is
11 already in evidence.

12 Now, do you recognize Exhibit 1532?

13 A. Yes, that is my apartment.

14 Q. Okay. And when you say "that is my apartment," can you
15 just circle where you're indicating is your apartment on
16 Exhibit 1532?

17 A. (Witness complies.)

18 Q. And for the record, you circled the top floors of the
19 building on the left?

05:16 20 A. Yes, the second and third floor.

21 Q. Now, you said at some point you're looking out the window
22 on the third floor looking down on what's happening. Is that
23 right?

24 A. That's correct.

25 Q. Which window is that?

1 A. It would be that window looking straight down to the
2 street.

3 Q. Okay. And for the record, that's the third-floor window
4 that faces on Laurel Street on the building on the left? Is
5 that right?

6 A. Yes.

7 Q. All right. Now, at some point when the SUV turned around
8 and began going down the street away from you, did you take
9 photographs?

05:16 10 A. Yes, I did.

11 Q. And out of what window did you take photographs?

12 A. This window here (indicating).

13 Q. And for the record, again, it's the building on the left,
14 the third floor, and now it's the window that essentially is
15 straight ahead in the photo?

16 A. Yes, it is.

17 Q. Okay. If I could have you then look at Exhibit 1525,
18 which is already in evidence as well. Do you recognize Exhibit
19 1525?

05:17 20 A. Yes, I do.

21 Q. Is that the photograph that you took of the SUV going down
22 Laurel Street?

23 A. Yes, it is.

24 Q. And then finally, if I could have you look at Exhibit
25 1526?

1 MR. MELLIN: And that's not in evidence yet, your
2 Honor.

3 Q. And what is 1526?

4 A. That is a picture after the SUV had taken off and what was
5 left on Laurel Street with a green sedan and backpacks on -- in
6 the street.

7 Q. And is that a fair and accurate photograph of Laurel
8 Street?

9 A. Yes, it is.

05:18 10 MR. MELLIN: Your Honor, we would move into evidence
11 Exhibit 1526.

12 MR. WATKINS: No objection.

13 (Government Exhibit No. 1526 received into evidence.)

14 MR. MELLIN: Ask to publish it.

15 BY MR. MELLIN:

16 Q. And again, for the record, Mr. Kitzenberg, this is after
17 the SUV has turned around and gone down the street?

18 A. Yes, it is.

19 MR. MELLIN: With the Court's indulgence.

05:18 20 (Counsel confer off the record.)

21 MR. MELLIN: Thank you. Nothing further, your Honor.

22 MR. WATKINS: No questions. Thank you.

23 THE COURT: All right, sir. Thank you. You may step
24 down.

25 (The witness is excused.)

1 MR. WEINREB: Your Honor, the government calls
2 Dr. Heather Studley.

3 HEATHER STUDLEY, duly sworn

4 THE CLERK: State your name and spell your last name
5 for the record.

6 THE WITNESS: It's Heather Studley, S-T-U-D-L-E-Y.

7 DIRECT EXAMINATION

8 BY MR. WEINREB:

9 Q. Good afternoon.

05:19 10 A. Good afternoon.

11 Q. Doctor, where do you work?

12 A. I work at South Shore Hospital.

13 Q. For how long?

14 A. I've been at South Shore Hospital for about -- almost two
15 years now.

16 Q. What do you do there?

17 A. I'm an emergency medicine physician.

18 Q. Please tell us where you went to school and what degrees
19 you earned.

05:20 20 A. I went -- for undergraduate I went to Wesleyan University
21 and I have a Bachelor of Arts. I went to Tufts Medical
22 School -- School of Medicine, and I have an M.D.

23 Q. When did you get your M.D. from Tufts?

24 A. 2006.

25 Q. After that, did you train in any specialty?

1 A. I did. I trained at the Harvard-affiliated emergency
2 medicine residency at the Brigham and Mass. General program,
3 and finished in 2010.

4 Q. What is emergency medicine?

5 A. It is a staff physician who is in the emergency department
6 trained to deal with a broad spectrum of trauma that comes in,
7 and also non-traumatic illness.

8 Q. So typically you work in the emergency room?

9 A. I only work in the emergency, yup. I'm board-certified in
05:20 10 emergency medicine.

11 Q. What kinds of trauma do you see in the emergency room?

12 A. Everything from minor trauma, stubbed toes, to traumatic
13 arrests.

14 Q. I'm sorry?

15 A. Everything from minor trauma to traumatic arrests. So
16 from shootings, car accidents. The whole gamut. Everything
17 comes through us.

18 Q. Were you working on April 19th, 2013, at approximately one
19 in the morning?

05:21 20 A. I was.

21 Q. Did you treat an MBTA officer who had been shot in
22 Watertown that night?

23 A. I did.

24 Q. What was his name?

25 A. Dic Donohue. Richard Donohue.

1 Q. What was Officer Donohue's medical condition when he was
2 brought into the emergency room?

3 A. When he arrived he was unresponsive, not breathing, and
4 his heart was not beating. He was essentially dead.

5 Q. How did he look?

6 A. He looked dead. Pale, like you would expect.

7 Q. Like a corpse?

8 A. Yeah.

9 Q. Do you know how much earlier in the evening he had lost
05:22 10 his life?

11 A. It's hard to say. I wasn't on the scene, but I would say
12 based on what we saw when he arrived, it would had to have been
13 at least, I would say, a minimum of ten to 15 minutes but
14 probably not too much more than that. But I'm not entirely
15 sure because I wasn't at the scene.

16 Q. Could you tell what had happened to him?

17 A. When we first examined him -- we always hear the story
18 from -- when we first examined him we did see the gunshot wound
19 to the groin, and when we first looked there was no bleeding
05:22 20 there.

21 Q. What could explain the fact that there was no bleeding?

22 A. That he had bled out almost his entire blood volume on the
23 street in Watertown, and that because his heart wasn't beating,
24 there's no blood forward flow to cause any bleeding there.

25 Q. How much blood is in the human body?

1 A. There's about five to six liters of blood in the human
2 body.

3 Q. Is a liter the same as a quart, a little less?

4 A. A liter -- well, when you think about blood units, usually
5 people think about pints because that's what you donate. And I
6 think that it's about a half of a pint in one liter so -- or
7 the other way around. Sorry. So one liter is -- one pint is
8 half a liter, so it's ten pints of blood.

9 Q. So ten pints of blood, approximately five quarts of blood
05:23 10 in the human body?

11 A. Sounds about right.

12 Q. And all that was gone?

13 A. I mean, there's always going to be some residual, but,
14 yes, for the purposes of life, that was gone.

15 Q. Were you able to bring Officer Donohue back to life?

16 A. We were.

17 Q. How did you do that?

18 A. He had continuous CPR from the pre-hospital providers and
19 also from us when he arrived in the emergency department. We
05:23 20 were able to put a breathing tube down to help him breathe, and
21 we also had a large IV that we were able to place to give him
22 lots of blood very quickly to help bring him back. And
23 ultimately, used a medication called epinephrine which helps
24 the heart to start to beat again.

25 Q. How long was he essentially dead?

1 A. In the emergency department, approximately 30 minutes, I
2 would say, and then add on the pre-hospital time, anywhere --
3 you know, like I said, ten to fifteen minutes.

4 Q. On top of that?

5 A. On top of that, yeah.

6 Q. What happened when you got his heart beating again?

7 A. So when he started -- when he had his heart start to beat
8 again, he started to again hemorrhage through the initial
9 gunshot wound.

05:24 10 Q. Were you able to repair that wound in the ER?

11 A. No, we weren't able to repair; we tried to stop the
12 bleeding with direct pressure and ultimately had to -- I had to
13 get up on the stretcher to put my knee into the wound to get
14 enough pressure on there because it was such a significant
15 wound that there was no other way to stop the bleeding before
16 he went to the operating room.

17 Q. Did he then go to the operating room?

18 A. He did then go to the operating room.

19 Q. And were surgeons able to repair his wound?

05:25 20 A. They were -- I think -- he was in the operating room for
21 quite a while, and they were ultimately able to, I think over a
22 couple of surgeries, repair the wound.

23 Q. Do you know what happened to the bullet that wounded him?

24 A. I believe it's still in Dic's leg.

25 Q. Is that normal, if somebody's been shot and the bullet

1 didn't exit the body, to just leave it there?

2 A. It is. Unless they come across it in the operating room
3 and it needs to be removed, they will often leave it, because
4 sometimes removing the bullet can do more harm than good.

5 Q. Do you know how much blood had to be given to Officer
6 Donohue to save him that night?

7 A. I believe he received a total of 28 units of blood.

8 Q. Twenty-eight units? That's 28 pints of blood?

9 A. Uh-huh.

05:25 10 Q. And in addition to blood, did he have to receive other
11 constituents --

12 A. He did. He received something called fresh frozen plasma
13 which is another blood product, which is basically the plasma
14 of the blood minus the red cells. And I have to double-check
15 but I think it was -- he received about -- somewhere between
16 eight and 11 units of fresh frozen plasma as well as platelets.

17 Q. Platelets are what help blood clot?

18 A. Correct.

19 Q. How many units of platelets did he need to survive?

05:26 20 A. I believe it was six. I would have to double-check the
21 medical record on that but I believe it was six.

22 Q. After Officer Donohue emerged from the operating room,
23 what happened next?

24 A. He went to the intensive care unit and spent quite a lot
25 of time in the intensive care unit initially in a

1 medically-induced coma. He was cooled to try to preserve
2 neurologic function. And I think he spent about a month in the
3 intensive care unit at Mass. General -- I mean, at Mount
4 Auburn.

5 Q. Did you follow his case after the surgery?

6 A. I did. I went -- would go up and visit him. I also was
7 in contact with the surgeons and the other staff taking care of
8 him.

9 Q. So after he spent a month in the intensive care unit, do
05:27 10 you know what happened to him next?

11 A. I believe he went to Spaulding Rehab.

12 Q. What's Spaulding Rehab?

13 A. It's a high -- acute rehabilitation hospital in Boston.

14 Q. What kinds of things do they do at Spaulding Rehab?

15 A. They do everything from -- you know, all ranges of both
16 physical rehab and people who are not quite hospital level of
17 care but aren't ready to go home yet. I'm assuming in Dic's
18 case it was a lot of physical rehab to get him moving. When
19 you don't spend -- when you're in the intensive care unit,
05:27 20 you're not moving, you're not getting up out of bed. It's very
21 hard. It takes a long time to regain that sort of function.

22 Q. Do you know how long Officer Donohue had to remain at
23 Spaulding Rehab before he could go home?

24 A. I do not know how long he was there.

25 MR. WEINREB: Thank you, Doctor. I have no further

1 questions.

2 MR. WATKINS: Thank you. No questions.

3 THE COURT: All right, Doctor. Thank you. You may
4 step down.

5 THE WITNESS: Thank you.

6 (The witness is excused.)

7 MR. CHAKRAVARTY: The government calls Major Frank
8 Hughes.

9 FRANCIS HUGHES, duly sworn

05:29 10 THE CLERK: State your name, spell your last name for
11 the record, keep your voice up and speak into the mic so
12 everyone can hear you.

13 THE WITNESS: Good afternoon. My name is Francis
14 Hughes, H-U-G-H-E-S.

15 DIRECT EXAMINATION

16 BY MR. CHAKRAVARTY:

17 Q. Good afternoon. Are you a Massachusetts State Police
18 trooper?

19 A. Yes, I am.

05:29 20 Q. And what is your rank?

21 A. I'm a major.

22 Q. And how long have you been with the Massachusetts State
23 Police?

24 A. I'm in my 29th year.

25 Q. I assume you've had many different roles over that 29

1 years. What is your role now?

2 A. Currently I'm the deputy division commander for the
3 Division of Investigative Services.

4 Q. And explain what that is.

5 A. Basically, in my role right now I have nine investigative
6 units that I have operational control over: four homicide
7 units, the Organized Crime Unit, Violent Fugitive Arrest Squad,
8 Special Operations Investigations, and the newly formed Gaming
9 Enforcement Unit.

05:30 10 Q. And when did you first have -- get this role of Director
11 of Investigative Services?

12 A. It's been about two and a half years now.

13 Q. I draw your attention back to April 19th -- the evening of
14 the 18th and the early morning hours of April 19th. Was that
15 your position at that time?

16 A. Yes, sir, it was.

17 Q. And after 10 p.m., around 10:30, did you get some
18 information?

19 A. I did.

05:30 20 Q. What did you learn?

21 A. I was called by my boss, Lieutenant Colonel Frank
22 Matthews. He advised me to head over to MIT. He advised me
23 that an MIT police officer had been shot and he was in grave
24 condition.

25 Q. Okay. And did you respond there?

1 A. Yes, I did.

2 Q. And while you were there, were they processing the scene
3 and preparing to secure that?

4 A. Yes, they were.

5 Q. Then later that evening, in the early morning hours,
6 around midnight, did you get more information?

7 A. I did.

8 Q. What information was that?

9 A. Approximately 20 past twelve information came to my
05:31 10 attention that there was a carjacking in the City of Cambridge.
11 The victim of the carjacking had provided information that he
12 had been kidnapped by two parties who claimed to be involved in
13 the Boston bombing and had also made statements that he had
14 been responsible for --

15 MR. WATKINS: Objection, your Honor.

16 MR. CHAKRAVARTY: It's not for the truth, your Honor.

17 THE COURT: I think that's a sufficient answer. You
18 can ask another question.

19 MR. WATKINS: Can we move to strike what was told to
05:31 20 him?

21 THE COURT: All right. I'll strike the answer.

22 The jury will disregard the answer.

23 Ask another question.

24 BY MR. CHAKRAVARTY:

25 Q. So you received some information. In response to that

1 information, what did you do?

2 A. I ensured that a trooper had been assigned to go speak
3 with the party involved.

4 Q. And did that trooper ultimately report back to you in the
5 chain of command as to what happened?

6 A. Yes, they did.

7 Q. And then did you go somewhere?

8 A. Later in the night I did, yes.

9 Q. And where did you go?

05:32 10 A. I headed to Watertown.

11 Q. Now, were you monitoring the radio traffic when you were
12 on your way to Watertown?

13 A. Yes, I did.

14 Q. What did you hear?

15 A. Initially I heard there were numerous shots fired in the
16 area of Laurel and Dexter Street. As I continued in that
17 direction, I received information that explosive devices were
18 being deployed at police officers. At one point in time I
19 heard that there was a very large explosion, described as a
05:32 20 massive explosion. Officers were being told over the
21 radio to --

22 MR. WATKINS: I would object at this point, your
23 Honor.

24 MR. CHAKRAVARTY: I'll ask another question.

25 BY MR. CHAKRAVARTY:

1 Q. Once you responded to Watertown, where did you go?

2 A. I went to the area of -- originally Arsenal Street.

3 Q. And what was at Arsenal Street?

4 A. Roads were being shut down to protect the area, to shut
5 down the area due to items in the roadway that they thought may
6 have been explosives.

7 Q. And the area where all of the shooting and the devices
8 that you described earlier, where was that?

9 A. That was the area of Laurel and Dexter Street.

05:33 10 Q. How far away was that from where you were on Arsenal
11 Street?

12 A. Approximately a block, two blocks.

13 Q. And did you come up with a security plan at that point?

14 A. There was one, yes.

15 Q. Okay. And what was that?

16 A. Originally, hasty teams were being deployed in the area.

17 What I mean by "hasty teams," these are quickly formed search
18 teams consisting of a K-9 officer and his K-9 unit, officers
19 with rifles, generally two rifles, and two other officers.

05:34 20 These teams were being comprised of officers from different
21 agencies in order that communication could be consistent back
22 and forth. So there was generally a couple of troopers, maybe
23 a Boston police officer, Watertown officer, MBTA officer. It
24 was different.

25 Q. And what was their mission?

1 A. To search the area of -- originally it was to search the
2 area of Spruce and Lincoln Street.

3 Q. And what was at Spruce and Lincoln Street?

4 A. A black SUV Mercedes was located abandoned at that
5 location.

6 Q. Was that a short distance away from Laurel and Dexter
7 Street?

8 A. Probably two blocks.

9 Q. And, in fact, Laurel Street turns into Spruce Street?

05:34 10 A. Yes, it does.

11 Q. And is that one of the areas that was being searched?

12 A. That's correct.

13 Q. What was happening back at Laurel and Dexter Street from
14 the Massachusetts State Police personnel?

15 A. The area had been cordoned off, crime scene tape had been
16 put up. The Crime Scene Service Section, which consisted of
17 people assigned to the chemist, photograph people,
18 video-tographers were coming in to start processing the scene,
19 along with ballisticians.

05:35 20 Q. Now, as time continued that evening, did you establish a
21 security perimeter?

22 A. There was one, yes.

23 Q. Okay. And what steps did you take to ensure the security
24 of the public at that point?

25 A. Generally officers were assigned in the area to take up

1 stationary locations, all the streets surrounding Dexter and
2 Laurel, streets surrounding Spruce Street, Lincoln Street, all
3 the way down to Arsenal Street.

4 Q. As the morning wore on, were additional security steps
5 taken?

6 A. These hasty searches lasted approximately about an hour
7 and a half to about 2:30 in the morning. At that point in time
8 a decision was made to stop the searches with the K-9s. There
9 was a concern that the K-9s that were being used were not
05:36 10 trained to properly deal with explosives. Explosive dogs act
11 in a certain manner, utility dogs act in a different manner.
12 So they were afraid that the utility dogs may -- if they came
13 across an explosive device, may activate it by touching it. So
14 the decision was made to stop using the utility dogs and just
15 stand by until tactical teams could be brought into the area.

16 Q. Were tactical teams brought in?

17 A. Originally a plan was set up. There was a command post
18 set up in the Arsenal Mall; specifically, a tactical team
19 command post. The tactical teams from the state police, Boston
05:37 20 police, NEMLEC and MetroLEC formed up at that point in time and
21 they began to develop a plan on how they were going to begin
22 searching the area.

23 Q. Okay. When we say tactical teams, is that like a SWAT
24 team?

25 A. Correct.

1 Q. And so those organizations that you mentioned are
2 different -- collaboratives of different law enforcement
3 agencies?

4 A. That's correct, sir.

5 Q. And so were those SWAT teams or tactical teams ultimately
6 deployed to do a search of the area?

7 A. Yes. What happened was the area was cordoned off into
8 four quadrants. Each one of these teams was given a specific
9 quadrant to begin searching. And they began searching at that
05:37 10 point -- this was maybe an hour before daylight -- going house
11 to house.

12 Q. So when you say "house to house," this is just searching
13 the exterior of the property or were they going in as well?

14 A. No, they were actually -- this is when they began to start
15 going house to house, inside, knocking on people's doors,
16 asking if they could be allowed in to look through their
17 residences.

18 Q. And it may sound obvious, but what were you looking for?

19 A. There was one suspect -- looking for -- that had fled the
05:38 20 scene in a black SUV.

21 Q. As the tactical teams were continuing to search these
22 different quadrants, at the management level and with the
23 management of the state police which you were a part, did you
24 discuss other protective measures for the area?

25 A. The secretary of EOPS -- executive officer of Public

1 Safety and Security, Kurt Schwartz, had been on the phone
2 shortly after the kidnapping took place with the governor. He
3 had been maintaining a constant contact with the governor every
4 half-hour to an hour. Discussions had been made during the
5 course of the night on different operational decisions on how
6 to handle things. At some time prior to five o'clock there was
7 a meeting at an MBTA command post with several agency heads.
8 That would include MBTA Chief Bob Macmillan, Watertown Chief
9 Deveau, Colonel Alben, I believe -- I believe -- Kurt Schwartz
05:39 10 was there also.

11 Q. Let me just interrupt you. Was there a decision made at
12 that meeting?

13 A. Yes, there was.

14 Q. All right. And earlier you said kidnapping. Did you mean
15 after the carjacking?

16 A. Correct; yes.

17 Q. What was the decision that came out of that meeting?

18 A. The decision from that meeting basically was they were
19 planning on shutting down public transit. The MBTA began at 5
05:39 20 p.m.

21 MR. WATKINS: I'd object at this point.

22 THE COURT: Well, yeah. I think we have a personal
23 knowledge issue here.

24 BY MR. CHAKRAVARTY:

25 Q. Major Hughes, do you know what security steps were taken

1 as a result of the manhunt?

2 A. Yes, I do.

3 Q. Okay. And you were part of the conversation and part of
4 the radio traffic as to what those decisions were?

5 A. Yes, I was.

6 Q. So can you explain what those security cautions were?

7 MR. WATKINS: Again, I'm going to object on 403
8 grounds. I'm not sure what this has to do with anything.

9 THE COURT: Overruled. Go ahead.

05:40 10 THE WITNESS: There were several security steps taking
11 place. Troopers were being assigned to assist the MBTA police
12 at bus and train stations throughout the Greater Boston area;
13 troopers at the state police, Logan had initiated roadblocks on
14 all traffic coming into the airport.

15 MR. WATKINS: Judge, again, I object.

16 THE COURT: Okay. Overruled. We'll take it.

17 THE WITNESS: Troopers at the airport were assigned
18 with automatic weapons to be curbside; undercover officers were
19 in the airport assigned as -- we call them behavioral detection
05:41 20 officers, BDOs; plainclothes looking for hostile activity or
21 any kind of hostile behavior. The --

22 THE COURT: Let's have another question,
23 Mr. Chakravarty.

24 BY MR. CHAKRAVARTY:

25 Q. So you described restrictions on various transportation.

1 Were there other restrictions that were imposed?

2 A. Yes, there was.

3 Q. What else?

4 A. The governor had requested that a shelter-in-place take
5 place in six different communities.

6 Q. And what does that mean?

7 A. Basically what -- a shelter-in-place was a request to the
8 public that they remain within their residences and they avoid
9 any motor vehicle traffic outside in their area, stay inside
05:41 10 until further notice.

11 Q. Were there other public functions cancelled that day?

12 A. Yes, there was.

13 Q. At some point during that Friday was the shelter-in-place
14 lifted?

15 A. Yes, it was. It was sometime shortly after 6 p.m. that
16 night.

17 Q. And was the manhunt over?

18 A. No, it was not.

19 Q. So explain what happened after 6 p.m., after the
05:42 20 shelter-in-place had been lifted.

21 A. After the shelter-in-place had been lifted, yeah, the
22 State Police Air Wing No. 3 helicopter had returned back to the
23 area, had been on a refueling mission. They refueled and came
24 back in the area, was taking up a position above the Watertown
25 area. Officers continued to search house to house, yard to

1 yard, looking for people until a certain -- a specific event
2 happened.

3 Q. Okay. And though the shelter-in-place had been lifted,
4 had the public been notified through press conferences or other
5 means as to what the status of the manhunt was?

6 A. Yes, they had.

7 Q. And so what was the event that next changed your focus?

8 A. Well, the Watertown police received a 9-1-1 call from a
9 subject stating that --

05:43 10 MR. WATKINS: Objection.

11 THE COURT: No. I'll admit it not for the truth but
12 for the fact that it's a communication.

13 BY MR. CHAKRAVARTY:

14 Q. Please continue.

15 A. They received a call from a gentleman at 67 Franklin
16 Street in Watertown who advised them that he believed there was
17 a party within his boat in his backyard.

18 Q. And so how did you and the other units respond?

19 A. Air 3 took up a position above the location, provided
05:43 20 information to us that they had reason to believe there was a
21 party in the boat. Officers were deployed to the scene, the
22 street was shut down, and the perimeter was taken up around the
23 house.

24 Q. Now, in addition to that location, did you still have
25 personnel at the other locations in Watertown that day?

1 A. Yes, we did.

2 MR. CHAKRAVARTY: For the witness, your Honor, Exhibit
3 1455.

4 Q. Do you recognize this?

5 A. Yes, I do.

6 Q. What is it?

7 A. This is a map of the Dexter and Laurel Street neighborhood
8 of Watertown.

9 Q. Does it also depict the Spruce and Lincoln Street area and
05:44 10 the Franklin Street area?

11 A. Yes, sir, it does. And that would be to my left on the
12 screen.

13 Q. Does this appear to be like a Google Maps type of overhead
14 satellite view?

15 A. It does, sir.

16 Q. And with the particular areas that you've discussed,
17 they're in diagram -- kind of cartoonized into a diagram form.
18 Is that right?

19 A. Correct.

05:44 20 Q. Is this a fair and accurate depiction of that area of
21 Watertown?

22 A. Yes, it is.

23 MR. CHAKRAVARTY: I'd move into evidence Exhibit 1455
24 and ask to publish.

25 MR. WATKINS: No objection.

1 (Government Exhibit No. 1455 received into evidence.)

2 BY MR. CHAKRAVARTY:

3 Q. So Dexter and Laurel was -- let's start with that scene.
4 What types of state police personnel were working this scene
5 when you got -- when that 9-1-1 call came in?

6 A. You had chemists from the State Police Crime Lab; you had
7 troopers assigned to the Massachusetts State Police Services
8 Section who -- basically they were involved in fingerprinting
9 and photographing the scene, documenting the scene; you also
05:46 10 had troopers from the Fire and Explosion Unit there along with
11 FBI officials from their bomb unit.

12 Q. And Fire and Explosion, that's basically the bomb squad?

13 A. That's correct.

14 Q. At the Spruce and Lincoln Street area, what kind of units
15 did you have there?

16 A. Again, you had members from the Crime Scene Services
17 Section there at a certain point in time, you also had troopers
18 assigned to the Fire and Explosion Unit. That area had been
19 cordoned off earlier in the evening after the events had taken
05:46 20 place.

21 Q. Now, is this a bit on a hill as compared to down here by
22 Franklin Street?

23 A. Yes, it is.

24 Q. And what kind of units deployed to Franklin Street after
25 that 9-1-1 call?

1 A. I believe every type of law enforcement agency in the area
2 was there.

3 Q. And the area depicted is the 67 Laurel -- 67 Franklin
4 Street property, the one I just circled?

5 A. That's correct, sir.

6 Q. Now, while -- did you respond as well?

7 A. Yes, I did. Yes.

8 Q. Now, at some point while you were on-scene, was the
9 individual you were searching for located?

05:47 10 A. He was, yes.

11 Q. And was that person ultimately taken out of a boat?

12 A. Yes, he was.

13 Q. And was he arrested?

14 A. That's correct.

15 Q. Did you see him that day?

16 A. Yes, I did.

17 Q. Do you see him in the courtroom?

18 A. Yes, I do.

19 Q. Would you please point to him and identify him?

05:48 20 A. The subject seated at the first table before the Court in
21 the black shirt.

22 MR. CHAKRAVARTY: I'd ask the record so reflect, your
23 Honor.

24 THE COURT: Okay.

25 MR. CHAKRAVARTY: Just one moment.

1 (Counsel confer off the record.)

2 MR. CHAKRAVARTY: Thank you, your Honor. That's all I
3 have.

4 CROSS-EXAMINATION

5 BY MR. WATKINS:

6 Q. Good afternoon.

7 A. Good afternoon, sir.

8 Q. So after you got the 9-1-1 call and every law enforcement
9 agency reported down there, there was some period of time
05:49 10 before Mr. Tsarnaev was arrested?

11 A. Yes, there was.

12 Q. How long a time was that?

13 A. It may have been an hour and a half.

14 Q. And during that time law enforcement continued to arrive,
15 law enforcement agencies all through that time?

16 A. Some officers, yes.

17 Q. And most were self-deployed, weren't requested to be
18 there; they just came of their own accord.

19 A. I don't know who requested them, if they were requested or
05:50 20 they weren't requested.

21 Q. But there were also some who just came to volunteer?

22 A. I don't know that.

23 Q. You were there during the entire time from that 9-1-1
24 call, or shortly after the 9-1-1 call, until Mr. Tsarnaev's
25 arrest?

1 A. I believe I arrived probably ten minutes after the 9-1-1
2 call and I was there till the end, yes.

3 Q. And during that point there was a large amount of gunfire
4 directed at the boat?

5 A. There was no gunfire when I arrived.

6 Q. After you arrived, at some time there was gunfire?

7 A. No, sir.

8 Q. You arrived after the gunfire?

9 A. That's correct.

05:51 10 Q. You saw all of the bullet holes in the shrink wrap and in
11 the boat when you arrived, correct?

12 A. That is not correct.

13 Q. You did not see any of that. You did not see the boat?

14 A. No.

15 Q. You did see Mr. Tsarnaev actually arrested at some point?

16 A. I saw him travel by me on a stretcher.

17 Q. Now, during the course of that hour and a half, flash
18 bangs were deployed inside of the boat?

19 A. Yes, sir, there were.

05:51 20 Q. And that's something you were aware of?

21 A. That's correct.

22 Q. There were several flash bangs thrown into the boat?

23 A. Yes, sir.

24 Q. Those flash bangs are -- they produce a bright flash of
25 light. Is that right?

1 A. Yes, sir.

2 Q. They're intended to temporarily blind somebody?

3 MR. CHAKRAVARTY: Objection. Intention.

4 THE COURT: Rephrase it.

5 BY MR. WATKINS:

6 Q. Are you familiar with flash bang grenades?

7 A. I am somewhat.

8 Q. And there's a use for them, right, in law enforcement?

9 A. There is.

05:52 10 Q. And one of the uses is that they produce a bright flash of
11 light that blinds somebody temporarily?

12 A. They're used to disorientate a person, yes.

13 Q. There's two ways they do that: One is the bright flash of
14 light which temporarily blinds them, right?

15 A. That's correct.

16 Q. The other way is a loud sound, about 170 decibels?

17 A. I don't know what the decibel level is.

18 Q. But it's loud.

19 A. It is loud. I concede to that.

05:52 20 Q. And the one reason to make it loud -- one reason to make
21 it loud is it also makes somebody dizzy?

22 A. Disoriented.

23 Q. And it's also to produce a reaction to have somebody get
24 out from wherever those are thrown in, right?

25 A. Yes.

1 Q. And there were several of those thrown into the boat.
2 There's no reaction immediately from Mr. Tsarnaev, correct?

3 A. They were thrown over a period of time. It wasn't one
4 after another; it was over a significant period of time in
5 between them.

6 Q. But after each one and a significant period of time there
7 was not a reaction from Mr. Tsarnaev, correct?

8 A. Not that I know of, no.

9 MR. WATKINS: May I have it just for the witness, your
05:53 10 Honor?

11 Q. Showing you on your monitor a picture, do you recognize
12 that picture?

13 A. I do.

14 Q. And that is a -- well, that's a picture of Mr. Tsarnaev
15 being arrested?

16 A. It appears to be a picture of him on the boat prior to
17 being arrested.

18 MR. WATKINS: Your Honor, I'd ask to admit this as
19 Defendant's Exhibit 3034.

05:54 20 MR. CHAKRAVARTY: Your Honor, I would just ask for a
21 little more foundation. I don't know that the witness said
22 that he was there when this was taken.

23 BY MR. WATKINS:

24 Q. Have you previously seen this photograph?

25 A. I have.

1 Q. And you've seen this photograph as part of your role as
2 commander?

3 A. Yes.

4 Q. And this is the kind of photograph you would see in the
5 course of a large investigation like this, correct?

6 A. One of many; yes, sir.

7 MR. WATKINS: Your Honor, I'd ask that it be admitted.

8 MR. CHAKRAVARTY: I'd still object, your Honor.

9 THE COURT: Overruled. I'll admit it.

05:54 10 (Defense Exhibit No. 3034 received into evidence.)

11 MR. WATKINS: May we publish it?

12 BY MR. WATKINS:

13 Q. And do you recognize that to be Mr. Tsarnaev?

14 A. Yes.

15 Q. And what are the position of his hands?

16 A. They're in front of his torso.

17 Q. What kind of sweatshirt does he have on?

18 A. A gray, blue and yellow sweatshirt.

19 MR. WATKINS: Your Honor, may I have just for the
05:55 20 witness again?

21 BY MR. WATKINS:

22 Q. Do you see the photograph that's up on your screen?

23 A. Yes.

24 Q. You've seen that photograph as part of your participation
25 with the investigation of this matter?

1 A. I've seen a photo but I don't believe it was during the
2 course of the investigation.

3 Q. But you have seen this photograph?

4 A. Yes, sir.

5 Q. You've just identified Mr. Tsarnaev in a sweatshirt with
6 yellow Adidas -- yellow writing across the top. Is that what's
7 shown in this photograph?

8 A. The color of the sweatshirt's consistent from the other
9 one.

05:56 10 Q. And what we see in this photograph is a person from the
11 ATF -- you're aware that they were at the scene at that time?

12 MR. CHAKRAVARTY: Objection, your Honor. The witness
13 doesn't know because he wasn't there.

14 THE COURT: Yeah, I think that's right. I mean, he
15 can describe, I guess, the picture and his own personal
16 knowledge, but if he's going to describe it as a scene that he
17 didn't observe, I think the objection is sustained.

18 BY MR. WATKINS:

19 Q. So did you ever observe -- you said you saw Mr. Tsarnaev
05:57 20 going by. What were the circumstances of that?

21 A. He was on Franklin Street, he was on a stretcher, and he
22 went directly by me.

23 Q. And was he in similar condition to what is shown in the
24 photograph that's before you?

25 A. No, he had a blanket on him.

1 Q. Other than that, did he have the blood that you see on
2 here and the other attributes?

3 A. I did not see that, no.

4 MR. WATKINS: I have no further questions, your Honor.

5 MR. CHAKRAVARTY: Just very briefly.

6 REDIRECT EXAMINATION

7 BY MR. CHAKRAVARTY:

8 Q. Agent Hughes, what's the purpose of using devices like
9 flash bangs?

05:57 10 A. They're generally used to disorientate a person and to --
11 also to encourage them to surrender.

12 Q. And had the defendant surrendered in the time that police
13 officers were calling to him?

14 A. No. Numerous requests were made; they were ignored.

15 Q. Was there a concern that the defendant was armed?

16 A. Absolutely.

17 Q. How did law enforcement accommodate for that during the
18 standoff?

19 A. How did we form that opinion?

05:58 20 Q. Yeah.

21 A. By that point in time, the investigation had shown
22 numerous reasons --

23 MR. WATKINS: I'm going to object, your Honor.

24 THE COURT: Yeah. Sustained.

25 BY MR. CHAKRAVARTY:

1 Q. Aside from the basis for why you felt that, what did you
2 do, what precautions did you take as you were in the standoff
3 that ultimately resulted in you throwing the flash bangs in?

4 MR. WATKINS: I'm going to object.

5 THE COURT: Overruled.

6 You may answer that.

7 THE WITNESS: Houses in the general area were
8 evacuated on both sides of 67 Franklin Street, on the street
9 itself. A perimeter had been set up and a tactical team had
05:59 10 moved in to take care of the inner perimeter of the scene.
11 Police officers formed a second perimeter on the outside of the
12 scene around it.

13 BY MR. CHAKRAVARTY:

14 Q. Was the Air Wing still up in the air?

15 A. Yes, it was.

16 Q. And did you know whether he had any weapons?

17 A. We did not know.

18 Q. Did you know whether there were any explosives there?

19 A. We did not know, no.

05:59 20 Q. Was there a bomb squad nearby?

21 A. Yes, there was.

22 MR. CHAKRAVARTY: That's all I have, your Honor.

23 THE COURT: Mr. Watkins?

24 MR. WATKINS: Your Honor, just to be clear, I thought
25 I had mentioned the exhibit with the hands up, is Defendant's

1 Exhibit 3034. That did come in?

2 THE COURT: Yes.

3 Wait a minute, Major. I want to make sure they're
4 done.

5 MR. CHAKRAVARTY: Yes.

6 THE COURT: Okay, sir. Thank you.

7 (The witness is excused.)

8 MR. WEINREB: The United States calls David
9 Henneberry.

06:00 10 (Pause.)

11 MR. WEINREB: Your Honor, may we approach for a
12 minute?

13 THE COURT: All right.

14 (Discussion at sidebar and out of the hearing of the
15 jury:)

16 MR. WEINREB: Evidently there was some confusion on
17 our part and Mr. Henneberry was told he would be starting first
18 thing tomorrow morning. After him we're done with the
19 narrative and we're going off into many different places. So
06:01 20 we would ask to end now and start with him tomorrow morning.

21 THE COURT: Okay. Could we just caucus about 8:45
22 tomorrow morning to go over various things?

23 MR. WEINREB: Sure.

24 MR. WATKINS: Before then, your Honor, can I ask, the
25 government has pared down, at least significantly, the witness

1 list they gave me. I want to find out how much more it's going
2 to be pared down in the next couple of days so we can be ready.

3 THE COURT: That's one of the things I want to discuss
4 in the morning.

5 MR. WATKINS: But we have to prepare
6 cross-examination.

7 THE COURT: You're okay till tomorrow, right?

8 MR. WATKINS: They've been bouncing around here quite
9 a bit.

06:02 10 MS. PELLEGRINI: I gave you a list of 21 witnesses.

11 MR. WATKINS: Correct. But also numerical where
12 you're bouncing around so we don't know exactly when to
13 cross-examine. We're all working very hard --

14 MS. PELLEGRINI: We only changed the order of Floyd
15 and Kitzenberg today.

16 THE COURT: Well, perhaps you can review what you
17 expect tomorrow to be.

18 MR. WEINREB: Just so your Honor knows, some of these
19 calls are made at the last minute. If we manage to establish
06:02 20 something with one witness, we don't waste time. We're trying
21 not to have a duplicative witness.

22 MR. WATKINS: There's also issues with the exhibits.
23 There's a lot of -- as you heard during this trial, there's
24 exhibits that seem to get a couple of different numbers just
25 from the government, and the exhibits are getting added at the

1 last minute. And it makes it very difficult. Again, I
2 understand we're all working very hard, but this puts quite a
3 strain on those of us who have to defend.

4 MR. WEINREB: And I would just say so the record is
5 clear we've been adding a very small number of exhibits. In
6 many cases it's a Google street image or something, and in
7 other cases it's something that's been in discovery long ago
8 and we're breaking it out into a separate exhibit.

9 I'm not disputing what Mr. Watkins is saying --

06:03 10 (Laughter.)

11 MR. WEINREB: -- except to that extent, that the
12 problem shouldn't be overstated.

13 THE COURT: Okay.

14 MR. CHAKRAVARTY: As to the scheduling, Mr. Silva
15 could be reached as early as tomorrow.

16 THE COURT: I think he was on the second list you gave
17 us.

18 MR. CHAKRAVARTY: I want to make sure you --

19 MS. PELLEGRINI: I couldn't hear the name.

06:03 20 THE COURT: Silva.

21 MS. PELLEGRINI: No, he's on the list.

22 THE COURT: You think you'll hit him?

23 MR. CHAKRAVARTY: I think he'll be tomorrow. But we
24 did file a motion in limine this morning with regard to one
25 issue that affects the scope of his testimony, and so we're

1 hoping for a resolution of that before he takes the stand.

2 THE COURT: Okay. That's something we can do in the
3 morning.

4 (In open court:)

5 THE COURT: Jurors, the good news, I guess, is that
6 we're making progress rather expeditiously; the bad news is
7 that sometimes we run out of witnesses, and that has happened
8 again for today. So we're going to end the day a little early.
9 We started a little early so we'll end it a little early.

06:04 10 We'll recess and see you tomorrow and continue with the
11 evidence in the case.

12 I remind you again of no discussion, no investigation.
13 It occurred to me during today's presentation, sometimes people
14 are interested in seeing the physical locations of events that
15 they've heard. Please don't go to Watertown and look at any of
16 these places, okay?

17 Enjoy the rest of the day and the evening and we'll
18 see you tomorrow morning.

19 THE CLERK: All rise for the Court and the jury.
06:05 20 Court will be in recess.

21 (The Court and jury exit the courtroom and the
22 proceedings adjourned at 3:31 p.m.)

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C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso
MARCIA G. PATRISSO, RMR, CRR
Official Court Reporter

Date: 9/8/15