

INTERVIEW OF SERGEANT ROBERT J. FISKE  
TISBURY POLICE DEPARTMENT  
32 WATER STREET  
VINEYARD HAVEN, MASSACHUSETTS  
FRIDAY, AUGUST 5, 2011  
10:17 A.M.

APPEARANCES:

BRIAN M. MASER, ESQ., of Kopelman & Paige, P.C.,  
101 Arch Street, Boston, Massachusetts, 02110, on behalf  
of the Town of Tisbury.

JOHN M. BECKER, ESQ., of Sandulli Grace, P.C., 44  
School Street, Suite 1100, Boston, Massachusetts, 02108,  
on behalf of Sergeant Robert Fiske.

ALSO PRESENT: John R. Bugbee, Town Administrator  
Daniel Hanavan, Police Chief

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PROCEEDINGS

(Witness identified and sworn)

ROBERT J. FISKE, having been identified by his  
Massachusetts driver's license and duly sworn, testified  
as follows in answer to direct interrogatories by Mr.  
Maser:

Q. Good morning, Sergeant Fiske. My name is Brian  
Maser. We have met before. I'm town counsel to the Town  
of Tisbury. With me this morning are the Town  
Administrator, John Bugbee, and the Chief of Police,  
Daniel Hanavan. We're here today pursuant to an order  
issued to you by the Chief. Is that correct?

A. As far as I know, yes, sir.

Q. And I'm going to be asking you some questions  
regarding your police duties and an incident that  
occurred in the late evening hours of July 23rd and  
spilled over into the early morning hours of July 24,  
2011. You understand that you're obligated and required  
to answer the questions that I ask you truthfully?

A. Yes.

Q. You understand that the Chief's investigation  
or the town's investigation of this matter is purely  
administrative and that there's no accusations of

anything that would violate any criminal statutes? You  
understand that?

A. Yes.

Q. Sergeant, have you taken any drugs or  
medication that would prohibit you from answering my  
questions truthfully this morning?

A. None whatsoever.

Q. And before we get into my questions, just a  
couple of instructions I normally like to give  
individuals I'm asking questions of right now. Have you  
ever been deposed before?

A. No, sir.

Q. So just a couple of quick ground rules. As you  
can see, there's a court reporter here taking down  
everything that we say. And, obviously, it's difficult  
for her to record two voices at once, so if you could  
wait until I finish my question before you provide an  
answer, I would appreciate that. Is that understood?

A. Yes.

Q. You know the court reporter cannot take  
anything but verbal responses, so shaking of the head yes  
or no won't do it. You would have to provide a verbal  
response. Is that understood?

1 A. Yes, sir.

2 Q. If you don't understand a question as I have  
3 asked it, please let me know of that and I'll do my best  
4 to rephrase the question. But if you answer a question  
5 as I posed it, I'm going to assume you understood it. Is  
6 that understood?

7 A. Yes, sir.

8 Q. If you need to take a break at any point, all  
9 you need to do is ask. Okay?

10 A. Yes, sir.

11 Q. I notice that Mr. Becker is here with you this  
12 morning?

13 A. Yes, sir.

14 Q. He's authorized to be here with you this  
15 morning?

16 A. Yes.

17 Q. Sergeant Fiske, could you state your name and  
18 spell your last, please?

19 A. Robert Fiske. F I S K E.

20 Q. You're currently a Sergeant with the Tisbury  
21 Police Department?

22 A. That is correct.

23 Q. How long have you been with the Town of

1 Tisbury?

2 A. Totally, beginning in June of 1988; full time,  
3 April of 1995.

4 Q. So from June of '88 until April of '95, what  
5 was part-time employment?

6 A. Seasonal for '88-'89, year-round special from  
7 there on until hired full time in 1995.

8 Q. So you have been employed in some capacity with  
9 the police department since 1988?

10 A. Correct.

11 Q. So that is?

12 A. 23 years.

13 Q. You're currently a Sergeant?

14 A. Correct.

15 Q. When were you promoted to Sergeant?

16 A. August 3, 2001.

17 Q. What did that promotional process involve?

18 A. There was an independent hiring board.  
19 Candidates were issued a list of recommended reading  
20 materials several weeks prior to the written test  
21 followed by a four-person oral board interview, as I  
22 stated, independent of -- I believe the town  
23 administrator at the time was involved, but he was the

1 only town representative. The --

2 Q. I didn't mean to step on your answer.  
3 Continue.

4 A. And the combination of the performance on the  
5 written exam portion and the oral exam portion, I was  
6 then offered the promotion which I accepted.

7 Q. How many other people were participating in  
8 that process to become a sergeant?

9 A. In addition to myself, there were three.

10 Q. How old are you, sir?

11 A. 44 years old.

12 Q. Any special certifications or licenses that you  
13 possess that are related in any way to your employment?

14 A. I'm a certified rape investigator.

15 Q. Anything else?

16 A. I have received, well, numerous trainings and  
17 certifications common to my position, attended sergeant  
18 school in the fall of 2001, attended two sergeants  
19 leadership programs this year, both this year. At least  
20 one this year.

21 Q. When were you certified to be a rape  
22 investigator?

23 A. Prior to becoming or being promoted to

1 sergeant, so probably '98, '97, '98. It was prior to  
2 when I got married, so it was prior to 1998.

3 Q. What did that training involve, if you recall?

4 A. That was either a 40-hour or 80-hour classroom  
5 instruction with a variety of presenters and instructors.

6 Q. How to respond to a rape scene, what to do when  
7 you arrive on a scene where a victim is alleging rape?

8 A. Yeah. It was rape and sexual assault and had  
9 elements of child pornography, but essentially what those  
10 type of cases entail and how best to manage them.

11 Q. So you arrive on the scene, someone alleges  
12 they have been raped. What did the training teach you to  
13 do?

14 A. In this particular instance or in a  
15 hypothetical instance?

16 Q. In a hypothetical. What did you learn at that  
17 point in time when you went back in training back in '97  
18 or '98?

19 A. There's a variety of emotions that the victim  
20 would be feeling dealing with, one, first ensuring them  
21 that they're in a safe environment, that the police are  
22 there to help, switching from a police action oriented  
23 mode to a concerned individual, building a rapport with

1 the victim, and eliciting whatever details were offered  
2 as to the nature of the incident or event.

3 Q. Is it sometimes difficult to extract details  
4 from a victim who's claiming rape?

5 A. Yes.

6 Q. I would imagine there's a certain level of  
7 uncomfortableness that an individual who alleges rape  
8 feels and has a difficult time communicating that to  
9 somebody else? Just in your experience.

10 A. Yeah. In my experience, yes, they're reluctant  
11 to, as anyone would be, to detail sensitive information  
12 to a stranger.

13 Q. So it wouldn't be an uncommon situation for  
14 someone maybe not to say too much when they're initially  
15 inquired or when someone initially asks them questions  
16 about what happened?

17 A. No, it would not.

18 Q. Now, you were certified as a rape investigator  
19 in 1997 or 1998, right?

20 A. Yes.

21 Q. Have you operated as the department's rape  
22 investigator since that time?

23 A. Not directly. When the department created the

1 detective position, the detective was primarily  
2 responsible for investigating any and all serious crimes,  
3 sexual assaults, rapes included, and initially the senior  
4 sergeant acted as the secondary investigator for any such  
5 sexual assault investigations. My involvement was  
6 limited to if the other two were unavailable or doing  
7 preliminary investigations prior to the detective or the  
8 senior sergeant taking control of the investigation.

9 Q. Okay. Now, what would be your normal response  
10 or what would be your normal, I guess, actions or conduct  
11 that you would undertake if someone reports to you that  
12 they were the victim of a rape or a sexual assault?  
13 You're on the scene of a crime or you're at the scene of  
14 a residence, excuse me, someone has been raped, what do  
15 you do?

16 A. As I said, getting, ensuring that they're safe  
17 or attempting to convince them that they are safe, that,  
18 you know, the police are there to help them, we are there  
19 now, and getting them away from any other distractions  
20 and asking them open-ended questions as to what happened  
21 in their own words so I can better understand the nature  
22 of the incident that we're dealing with.

23 Q. How do you assure or ensure someone that

1 they're safe from the individual who allegedly raped  
2 them? What do you do? What can you do?

3 A. Well, it's not ensuring them that they're --  
4 Just letting them know that the police are there and that  
5 they are at that particular moment in time safe to --  
6 nothing else bad is going to happen to them at that  
7 particular moment in time that we are talking, reassure  
8 them that the police are there, we're handling the matter  
9 and they can relax, for lack of a better term.

10 Q. In your experience with the Tisbury Police  
11 Department, have you ever been involved in a situation  
12 where an individual has alleged rape and you have  
13 operated some type of protective custody to the alleged  
14 rape victim, removed them from the scene, taken them  
15 someplace, provided them shelter, anything like that?

16 A. Other than to a medical facility, no.

17 Q. Is that standard practice if someone alleges a  
18 rape, to transport them to a medical facility for, say,  
19 an examination or a rape kit? Would that be standard  
20 policy?

21 A. Depending on the details of the incident, if  
22 they are injured or there is reason to believe that the  
23 rape occurred based on statements, evidence available,

1 physical or otherwise, then you would contact an  
2 ambulance and have them transport her to a medical  
3 facility.

4 Q. You currently work the four to twelve shift?

5 A. Yes.

6 Q. And that is a four on two schedule or five on  
7 two?

8 A. Five on two.

9 Q. Normally on your shift how many officers in  
10 addition to yourself are on?

11 A. There are typically two officers assigned to  
12 the same four p.m. to midnight. There may be seasonal or  
13 special officers that carry over at the beginning of the  
14 shift, and there are traffic personnel that are dealing  
15 with traffic situations or boat traffic until late  
16 evening or 9:30 I believe is the time that they go home  
17 now.

18 Q. On the four to twelve shift, is it fair to say  
19 that you're the ranking officer on that shift?

20 A. I'm the officer in charge, yes.

21 Q. What does that entail when you say officer in  
22 charge, what do you mean by that?

23 A. Well, I am responsible for the shift, what

1 takes place on that shift, assigning officers to  
2 particular tasks and ensuring that those tasks are  
3 completed, and ensuring that whatever task the officers  
4 are handling, whether it's a call for service or another  
5 task, ensuring that that was completed and documented in  
6 accordance with normal departmental procedures.

7 Q. So you make command decisions for the men that  
8 are beneath you?

9 A. I do.

10 Q. And you direct them in the performance of their  
11 work?

12 A. When necessary, yes.

13 Q. The Town of Tisbury, do you know, did the town  
14 have any type of mutual aid agreements with any other  
15 towns? Do you have mutual aid agreements with, say, Oak  
16 Bluffs or West Tisbury or Edgartown?

17 A. There's a mutual response pact among all the  
18 towns on the Island that we've incorporated in a variety  
19 of circumstances, whether they be police, fire or  
20 medical.

21 Q. As the Sergeant on the shift, is it your call  
22 to request mutual aid?

23 A. Yes.

1 Q. When you're the officer in charge, there's not,  
2 like, a lieutenant or a captain who are above you, right?

3 A. Not physically on shift.

4 Q. The Chief is not on the four to midnight shift.  
5 Correct?

6 A. He is not.

7 Q. Do you have the ability to order in officers in  
8 the event of, say, an emergency or based upon your  
9 subjective opinion the need for additional bodies? Do  
10 you have that ability to call in officers?

11 A. With the approval of the Chief of police, yes.

12 Q. Does the department have promulgated rules and  
13 regulations?

14 A. There are a limited number of policies and  
15 procedures that have been approved by the board of  
16 selectmen. We're in the process of developing a full set  
17 of policies and procedures.

18 Q. Is my understanding correct you're involved in  
19 some respect in developing those policies and procedures?

20 A. I was provided with the MPI, Municipal Police  
21 Institute, policies and procedures and have been tasked  
22 with the responsibility of authoring them or paring them  
23 down to fit with the needs of Tisbury.

1 Q. What type of policies and procedures have you  
2 been involved in developing?

3 A. Well, many have been created. As I said, only  
4 a partial list has been approved. But the policies and  
5 procedures cover everything from police encounters with  
6 individuals through investigations, arrests, off-duty  
7 conduct, vehicle pursuits, the entire myriad of  
8 standards.

9 Q. What you would see on the job?

10 A. Typically, yes.

11 Q. So responding to a crime scene, how to deal  
12 with potential victims, handling witnesses, taking  
13 statements, things such as that?

14 A. Yes.

15 Q. Securing a crime scene?

16 A. Yeah. General guidelines.

17 Q. Rape investigations?

18 A. Sexual assault investigations is one of the --

19 Q. Domestic abuse incidents?

20 A. Domestic abuse is one of the policies.

21 Q. That's in production or that is --

22 A. That has been, to my knowledge, approved.

23 Q. Do you recall on or about when that policy may

1 have been approved?

2 A. Those policies were, I believe, submitted to  
3 the board of selectmen maybe January of 2011, and I'm not  
4 certain whether the board of selectmen took specific  
5 action or if they allowed their 30-day review period to  
6 expire to put those policies then being.

7 Q. Was that a policy that you again helped  
8 develop, that domestic abuse policy?

9 A. Yes.

10 Q. And fair to say that you have gone through  
11 domestic abuse training as an officer?

12 A. I teach domestic abuse training.

13 Q. You do?

14 A. Yes.

15 Q. What does that involve, your teaching?

16 A. I teach teen dating violence or what is deemed  
17 teen dating violence, domestic violence training for  
18 teenagers. I teach it to the 8th grade students at the  
19 Tisbury school annually. At the outset we taught the  
20 class to both the 7th grade and 8th grade in the first  
21 couple of years. Since then we have taught it  
22 exclusively to the 8th grade.

23 Q. What does that teaching involve? What does it

1 impart?

2 A. It is designed to give the students an  
3 understanding of healthy relationships, definitions, what  
4 the police do, what constitutes abuse, what constitutes  
5 sexual contact. It covers pretty much anything related  
6 to relationship issues, healthy relationships versus  
7 unhealthy relationships, whether it involves violence or  
8 sex or coercion or control.

9 Q. Okay. I would imagine part of that training as  
10 well as part of your being a certified rape investigator,  
11 that, obviously, involves taking allegations of potential  
12 rape seriously, looking into them, reviewing them?

13 A. Absolutely.

14 Q. And taking allegations of domestic abuse that  
15 don't reach the level of rape seriously. Fair to say?

16 A. Absolutely.

17 Q. Beyond your being certified as a rape  
18 investigator -- Is there any annual refresher training  
19 that goes into being certified as a rape investigator?

20 A. None that I'm aware of or that I have attended.

21 Q. Do you have any general training that you  
22 participate in on an annual basis here in the Tisbury  
23 Police Department?

1 A. There's annual in-service training recommended  
2 by the state which covers a myriad of topics, legal  
3 updates, motor vehicle updates, fresh state, whatever the  
4 municipal police training committee or training  
5 department decides is on the agenda for that year.

6 Q. But it could involve again, like, responding to  
7 crime scenes, dealing with potential victims, things such  
8 as that?

9 A. In part, yes.

10 Q. I think you mentioned, Sergeant, you're  
11 married?

12 A. Yes.

13 Q. Do you have any kids?

14 A. Three daughters.

15 Q. What are their ages?

16 A. 21, 11 and 9.

17 MR. MASER: Off the record for a minute.  
18 (Discussion off the record.)

19 MR. MASER: We can go back on the record.

20 Q. All right, Sergeant, so let's talk about  
21 July 23, 2011. You got a call for service or a dropped  
22 call came into dispatch around 10:41 that night, right?

23 A. Correct.

1 Q. And you learned from dispatch that the call  
2 involves an address on, was it MV Times Redaction?

3 A. Correct.

4 Q. And you respond?

5 A. Correct.

6 Q. Who responds with you?

7 A. Officer Michael Gately and Officer Scott Ogden.

8 Q. Do you notify dispatch when you arrive?

9 A. One of us did. I'm not sure.

10 Q. Is that standard procedure, to say, okay -- Do  
11 you have, like, a unit number --

12 A. Yes.

13 Q. -- or badge number? Is that how you would call  
14 out?

15 A. Yes.

16 Q. It would be standard procedure for you to  
17 notify dispatch when someone arrives on scene?

18 A. In most cases, yes, either the individual  
19 officer himself or one officer will state I'm off with  
20 this unit and that unit at such and such a location.

21 Q. What's your unit number?

22 A. Tango 13.

23 Q. So you arrive contemporaneously or at the same

1 time as Officers Gately and Ogden?

2 A. The three of us arrived simultaneously.

3 Q. When you arrive, is it a single family  
4 structure?

5 A. It is.

6 Q. It's surrounded by some type of a yard?

7 A. There's actually two separate residences on the  
8 same property.

9 Q. Okay.

10 A. There is a, it's a larger lot than typical for  
11 that neighborhood, well manicured, and some open area  
12 around the house, grass, large trees.

13 Q. Do you think you can draw, you know, a simple  
14 diagram for me right now that lays out kind of the lot  
15 itself?

16 A. Absolutely.

17 Q. The two houses?

18 A. Absolutely.

19 Q. That's not a problem?

20 A. Not a problem.

21 Q. Here's a sheet of paper and here's a pen. Do  
22 the best that you can.

23 A. Do I need to narrate this while I'm --

1 Q. Write it up, and we'll ask questions off of it  
2 in a minute.

3 (A pause)

4 Q. Thank you, Sergeant. So you have drawn a  
5 diagram, and I can see at the bottom of the drawing  
6 that's [MV Times Redaction]. Correct?

7 A. Correct.

8 Q. Then there looks to be the drawings of three  
9 separate buildings. Is that fair to say?

10 A. Correct.

11 Q. And the building that is closest to [MV Times Redaction]  
12 [MV Times Redaction], is that the house you responded to?

13 A. No, it's not.

14 Q. Which of the three is the residence that you  
15 responded to?

16 A. The rear building on the property, rectangular  
17 structure facing north.

18 Q. It's the one that's furthest away from the  
19 street?

20 A. Correct.

21 Q. And the drive that you have written that leads  
22 to both of the larger structures, is that the driveway?

23 A. Correct.

1 Q. And to your right of the driveway, what is this  
2 parcel of property?

3 A. That is part of the same property, trees,  
4 grass, contained by a split rail fence.

5 Q. The split rail fence, does it run along the  
6 street that's running vertically here?

7 A. I believe it runs, it definitely runs along the  
8 face of [MV Times Redaction] I'm not sure if it runs the  
9 full length from, of along the adjacent roadway.

10 Q. What's that adjacent roadway's name?

11 A. [MV Times Redaction]

12 Q. To the left of the two structures, excuse me,  
13 three structures that you have drawn on this diagram,  
14 what's generally over in this vicinity of the lot?

15 A. There is, I'm not sure if there's another  
16 property between that and the high tension wires access  
17 road, dirt road that leads to it.

18 Q. Off on the left hand margin of this drawing  
19 there's some kind of access road that leads to high  
20 tension lines?

21 A. Yes.

22 Q. How far would you say or how much open space is  
23 over here to the left of these three structures? I mean,

1 is it the size of a football field? Is it something  
2 smaller than that? Can you give any type of frame of  
3 reference?

4 A. There's some distance of manicured lawn to the  
5 left of the buildings, maybe 20, 25 feet.

6 Q. Okay.

7 A. Then there's a distance of probably 25 more  
8 feet of thick, heavy brush, bramble. It's anywhere from  
9 maybe as much as 40 feet before there's a clearing where  
10 the access road.

11 Q. So your best estimate now, as we sit here  
12 today, is probably 25 feet of manicured lawn and then you  
13 would say a 40-foot wide path of trees, brush, bushes,  
14 things like that, and then the access road?

15 A. Yes. It's thick, dense bramble that covers  
16 that 40 feet. There is no separation in it that allows  
17 easy access from the property to the --

18 Q. Okay. What about behind this top structure  
19 that's along the top margin of your drawing, what's  
20 behind that?

21 A. There's a swing set nearby the house, there is  
22 a section of open manicured lawn, you know, large, mature  
23 trees. Behind that is another residence off of [MV Times Redaction]

1 [MV Times Redaction]

2 Q. So [MV Times Redaction] is running parallel to this parcel  
3 of property, and then there's a house off of [MV Times Redaction]  
4 behind this top structure?

5 A. Correct.

6 Q. Generally in this area of town or this area of  
7 [MV Times Redaction] are the houses, are they separated by  
8 large distances? Are they tightly compacted in a densely  
9 populated neighborhood? What does it look like?

10 A. Further -- Closer to town the houses are on  
11 smaller lots. In this particular area, there is some  
12 separation between the houses, except at the south end of  
13 [MV Times Redaction] where there's a couple of structures that are  
14 close in proximity to each other.

15 Q. So you, Officers Ogden and Gately arrive at [MV Times Redaction]  
16 [MV Times Redaction] shortly after you get the call for  
17 service at 10:41. Fair to say?

18 A. Correct.

19 Q. From what direction on this diagram do you  
20 travel up [MV Times Redaction] and enter the property?

21 A. We, each of us entered traveling east to west  
22 on [MV Times Redaction]

23 Q. From the left hand side of your drawing to the

1 right?

2 A. Correct.

3 Q. And you travel up this driveway here that you

4 have drawn?

5 A. No.

6 Q. Where do you proceed?

7 A. As I proceeded up [MV Times Redaction], Officer

8 Gately's cruiser was in, near the intersection of [MV Times Redaction]

9 [MV Times Redaction], being unsure of where the

10 particular property was because most of the houses lack

11 accurate numbers.

12 Q. Signage?

13 A. Numbering or signage. Officer Gately then

14 backed his cruiser up. I stopped in the roadway some

15 distance back. Officer Gately backed his cruiser up,

16 proceeded into the driveway. I positioned my cruiser at

17 the edge of the driveway on [MV Times Redaction], and

18 Officer Ogden, operating the police motorcycle,

19 positioned his motorcycle at the driveway's edge where it

20 meets [MV Times Redaction]

21 Q. Okay. You arrive on scene. First of all, what

22 type of a night is it? It's 10:45 at night. Is it a

23 moonlit night? Is it very dark? If you recall.

1 A. To the best of my recollection, it was mostly a

2 clear night.

3 Q. Okay.

4 A. I mean, it wasn't raining or overcast. It was

5 -- Or exceedingly overcast. It was a mostly clear night.

6 Whether or not it was moonlit, I can't say for sure.

7 Q. Hot that weekend, as I recall, right?

8 A. Yes, it was.

9 Q. You arrive on scene, and do you observe a male

10 subject running through the property in some way?

11 A. I do not.

12 Q. You don't see it?

13 A. Correct.

14 Q. Is it reported to you that a male subject is

15 seen running through the property?

16 A. Officer Ogden informed me at some point that he

17 saw a shirtless male --

18 Q. Continue.

19 A. -- running around the back of the building or

20 from the back of the building.

21 Q. From the back of which building?

22 A. The residence where the incident occurred.

23 Q. The topmost on your drawing?

1 A. Topmost on the picture.

2 Q. Officer Ogden sees the male subject running

3 from the rear of the building?

4 A. Correct.

5 Q. In which direction?

6 A. Towards the residence further east, east of the

7 residence. Not depicted in the picture. Further up

8 [MV Times Redaction]

9 Q. So he's running, essentially, away from [MV Times Redaction]

10 [MV Times Redaction]

11 A. Correct.

12 Q. Okay. And officer Ogden said he was shirtless?

13 A. Yes.

14 Q. And Officer Ogden reports this to you prior to

15 your leaving the scene the first time, right?

16 A. Correct.

17 Q. At that point in time when he reported this to

18 you, did you have any understanding as to who the male

19 subject was?

20 A. No, I did not.

21 Q. Did you come to have an understanding of who

22 that subject may have been while you were at that

23 location?

1 A. Yes, I did.

2 Q. When you came to learn the identity of the

3 individual who may have been running away from the

4 property, do you have any history with that individual in

5 any form or fashion?

6 A. No prior contact or knowledge of him.

7 Q. So you don't know him at all?

8 A. No, I do not.

9 Q. At that point in time do you know where he's

10 from?

11 A. Prior to leaving the scene, I know where he's

12 from. At the outset, none whatsoever.

13 Q. Prior to your leaving the scene, how do you

14 learn where he's from?

15 A. His spouse and his children and his wife's

16 cousin advised.

17 Q. They advised you of what?

18 A. That him and the family are from [redacted]

19 Q. They're not year-round Island residents, right?

20 A. They recently relocated to the Island.

21 Q. They recently moved to the Island?

22 A. That was my understanding, yes.

23 Q. Were they vacationing?

1 A. No, sir, they were not.  
 2 Q. But you don't know him personally?  
 3 A. Never met him before.  
 4 Q. And you don't know or have any type of a  
 5 personal relationship with anybody that may know him at  
 6 that point in time. Is that fair to say?  
 7 A. I'm unclear on what your question is.  
 8 Q. I'm asking if you knew if he knew anybody on  
 9 the Island.  
 10 A. It later became or I later became aware of who  
 11 he was employed by.  
 12 Q. When did you learn of that?  
 13 A. I believe just prior to [REDACTED] being transported  
 14 to the hospital.  
 15 Q. So before you left the first time?  
 16 A. Before we left the first time, yes.  
 17 Q. So before you left the first time you learned  
 18 of his employer?  
 19 A. Correct.  
 20 Q. But you didn't have an understanding if he had  
 21 any other place to go on the Island or had family there  
 22 or anything like that?  
 23 A. Me personally, no.

1 Q. When you say "me personally, no," are you  
 2 saying that other people at the scene had different  
 3 information?  
 4 A. Officer Gately developed information at some  
 5 point that David's mother resided in the Town of Oak  
 6 Bluffs.  
 7 Q. Do you know if you learned of that information  
 8 before you left the scene the first time?  
 9 A. I did not. I did not have that information  
 10 prior to leaving.  
 11 Q. Prior to leaving --  
 12 A. We were at the scene for approximately two  
 13 hours. I cannot recall whether I knew specifically -- I  
 14 know when the GBC was issued special attention was given  
 15 to Oak Bluffs, and I believe when Officer Gately and I  
 16 spoke after the fact he mentioned he had contacted the  
 17 defendant's mother by phone, but I don't recall  
 18 specifically when I had that information.  
 19 Q. What did the GBC involve? Was that something  
 20 that Officer Gately communicated over, say the  
 21 department's radio frequency?  
 22 A. Officer Gately provided the information to the  
 23 sheriff's dispatch that we were seeking the defendant for

1 domestic abuse in violation of the 209A law.  
 2 Q. At that time you're aware from the GBC at least  
 3 there's one outstanding 209A out against this guy?  
 4 A. We were not aware of that until we obtained the  
 5 emergency order or until Officer Gately obtained the  
 6 order.  
 7 Q. At that point in time you were still at the  
 8 scene? You hadn't left yet?  
 9 A. Correct.  
 10 Q. If you could, would you mark on the diagram,  
 11 Sergeant, again where you were positioned, where Officer  
 12 Ogden was positioned, and where Officer Gately was  
 13 positioned, please?  
 14 A. Absolutely.  
 15 Q. Thank you.  
 16 Off the record for a minute.  
 17 (Discussion off the record.)  
 18 MR. MASER: Back on.  
 19 Q. Sergeant, thank you very much. I see that you  
 20 have drawn three boxes on the diagram where Officer  
 21 Gately, Officer Ogden and yourself were positioned. Now,  
 22 you arrive on scene. When did you learn that Officer  
 23 Ogden had seen a male leaving the scene?

1 A. As we approached the residence.  
 2 Q. So pretty much right when you get there you  
 3 learn a guy takes off away from the property when the  
 4 police arrive?  
 5 A. Yes.  
 6 Q. You understand at that time that the individual  
 7 is shirtless, right?  
 8 A. That's the information I received, yes.  
 9 Q. Did that strike you as odd in any way or did  
 10 that pique your curiosity? Is it normal to see somebody  
 11 running from a scene?  
 12 A. I don't know whether it can be classified as  
 13 normal. It's not atypical. It happens in some  
 14 circumstances, it doesn't in others.  
 15 Q. And would it be fair to say as a police officer  
 16 in your experience generally when you see somebody  
 17 fleeing a scene when police officers arrive there's  
 18 generally a proposition to believe that individual has  
 19 engaged in some wrongdoing, he doesn't want to deal with  
 20 the police that has arrived?  
 21 A. Either that that individual may be involved or  
 22 may want to avoid contact with the police, yes.  
 23 Q. And when you learn he's fled, at any point

1 prior to your departure do you have an understanding if  
2 he has any place to go, any place where he can run to,  
3 any place where he has friends?

4 A. Prior to?

5 Q. Your initial departure, your first leaving the  
6 scene.

7 A. My first leaving the scene which was some  
8 two hours later.

9 Q. We're aware of that.

10 A. By then I was aware that his mother resided in  
11 the Town of Oak Bluffs.

12 Q. And is it fair to say she had been contacted by  
13 Officer Gately directly?

14 A. That is my understanding.

15 Q. And is it your understanding that she was asked  
16 to contact the police department in the event this -- is  
17 it Thrift?

18 A. Thrift.

19 Q. -- Mr. Thrift showed up?

20 A. Showed up or called, I believe.

21 Q. So you arrive. What happens next?

22 A. Officer Gately went to the front of the  
23 residence, attempting to make contact with the people

1 inside. I went around the left side of the residence,  
2 and Officer Ogden went around the right side of the  
3 residence, and began actively searching for this male  
4 that may have fled.

5 Q. Okay. So you proceed around the left hand  
6 side, in this open area on the left hand side of your  
7 diagram?

8 A. Correct.

9 Q. And Officer Ogden proceeds around the rear of  
10 this top structure?

11 A. Correct.

12 Q. And how do you conduct a canvas of the area?  
13 Is it by flashlight?

14 A. Yes. We are both with flashlights checking the  
15 area, buildings, any structures nearby, bushes, seeing if  
16 there's any path or pathway that leads from the property  
17 to anywhere else.

18 Q. Do you physically go into the wooded area  
19 either to the left of the house or behind the structure  
20 to canvas that area or do you just stay along the  
21 manicured lawn and look in?

22 A. I physically entered as much as was permissible  
23 or without injuring myself or where allowed into the

1 brush area alongside the property.

2 Q. And during this time do you have a shoulder  
3 mike on your uniform?

4 A. I do.

5 Q. Are you in contact with Officers Gately and  
6 Ogden during this time?

7 A. Not by radio, I don't believe.

8 Q. Just by what? Voice?

9 A. May have been both. Because the Island police  
10 departments all share the same communication frequency,  
11 if we are within earshot of one another, we're more  
12 inclined to speak directly or as opposed to contacting  
13 one another by radio, unless we're greater distances  
14 apart.

15 Q. So officers in Edgartown or Oak Bluffs can hear  
16 what's going on in the Town of Tisbury and vice-versa?

17 A. They would be aware of the response.

18 Typically, portable radio communication is not overheard  
19 by the other towns. There are sometimes you hear it,  
20 sometimes you don't.

21 Q. Why would that be the case?

22 A. The strength of the signal.

23 Q. But your shoulder mike, by the way, say, if the

1 situation warranted it, would that be the way you would  
2 contact Oak Bluffs or Edgartown for mutual aid?

3 A. I would contact the Center, the Communications  
4 Center, who has the ability to hear me most of the time,  
5 and then they would send out the additional.

6 Q. So when you say Communications Center, you're  
7 talking about your dispatcher here at the station?

8 A. No. The Island is serviced by the Dukes County  
9 sheriff's office dispatch.

10 Q. You have regional dispatch?

11 A. Correct.

12 Q. Okay. All right. So all calls go to the  
13 regional, and then that individual would request units  
14 from other municipalities to respond?

15 A. Correct.

16 Q. How long are you on the left hand side of the  
17 property canvassing that area looking for the subjects?

18 A. Initially, a minute or two. Officer Gately was  
19 not met by the occupants of the house, they didn't come  
20 to the door. He radioed to the Communications Center  
21 asking them to, asking the dispatcher to call the house  
22 back and advise the people inside to come to the door,  
23 the police were outside. So I had moved back towards him

1 at that time, and then he gained, he was welcomed into  
2 the house by the occupants, and then I returned back to  
3 searching the area.

4 Q. So when Officer Gately enters the residence for  
5 the first time, you then proceed around to the left and  
6 rear of the residence again and continue your canvassing  
7 of that area?

8 A. Correct.

9 Q. For how long?

10 A. There was a period of times where I was walking  
11 the property checking or the nearby property and  
12 buildings, had walked out onto [MV Times Redaction] at one  
13 point. From there I then entered my cruiser and drove on  
14 the back side of the brush area with the cruiser  
15 spotlight because the brush was impenetrable to me from  
16 the property to the access road. And then returned the  
17 cruiser to its original position.

18 Q. On [MV Times Redaction]

19 A. On [MV Times Redaction]. And then, I don't know  
20 if I met up with Officer Ogden during that time or after  
21 that time, then proceeded for a minute with Officer  
22 Gately.

23 Q. So, all told, you canvassing that area and

1 getting in your cruiser and doing the search with the  
2 cruiser, and there's, obviously, some type of light on  
3 the outside of the --

4 A. On the A-pillar of the cruiser I was in there  
5 is a multi-directional spotlight.

6 Q. How long were you canvassing the area after  
7 Officer Gately went in not only on foot but in your  
8 cruiser?

9 A. 20 minutes, 25 minutes.

10 Q. Is Officer Ogden doing the same portion or  
11 another portion of the property while you're canvassing  
12 over here?

13 A. Officer Ogden was on foot the entire time. To  
14 the best of my knowledge, he was checking the area behind  
15 the house, along [MV Times Redaction] as well.

16 Q. Now, during this 20-minute period, obviously,  
17 Officer Gately is in the residence, to the best of your  
18 understanding, during this period of time?

19 A. Yes.

20 Q. Officer Ogden is present during this period of  
21 time?

22 A. With Officer Gately?

23 Q. Not with Officer Gately. But he's on the

1 property?

2 A. He's on the property, yes, sir.

3 Q. Any type of technological devices that you  
4 could have availed yourself of that would have assisted  
5 you in your search beyond your handheld flashlight or  
6 canvassing the area in your cruiser with the flashlight?  
7 Anything that the department has that you have access to  
8 as a Sergeant?

9 A. There is night vision binoculars or equipment  
10 which is kept in a locked filing cabinet within the  
11 station.

12 Q. Did it ever occur during that 20-minute period,  
13 given the fact that Officer Gately and Officer Ogden were  
14 present, to get back to the station, grab that night  
15 vision equipment, and return to the scene and use that in  
16 your search?

17 A. No.

18 Q. So you arrive back at your original location on  
19 [MV Times Redaction] And are you making your way on foot  
20 towards this residence in the back of the property?

21 A. Yes.

22 Q. Does Officer Gately meet you somewhere along  
23 this driveway?

1 A. I believe he met me outside the front of the  
2 residence. Not in the driveway, but near the front door  
3 outside.

4 Q. In approximate feet do you have any  
5 understanding as to how far this driveway is or how long  
6 the driveway is? Excuse me.

7 A. Maybe a hundred feet.

8 Q. And backing up a little bit, if I could. While  
9 you're in the cruiser doing your canvassing of the area  
10 in your car, do you have occasion to contact the  
11 Communication Center?

12 A. I don't recall that there was any -- There was  
13 one phone call while I was still on the property just  
14 prior to 23:00.

15 Q. I'm looking at your supplemental report that  
16 you provided to Chief Hanavan. I'm looking at the first  
17 page of the report. Based upon your recollection, you  
18 provide the following narrative. You said, "At  
19 approximately 22:55 hours" --

20 MR. BECKER: Do you mind if I show him the  
21 document?

22 MR. MASER: Go right ahead.

23 Q. -- "I contacted the Communication Center,"

1 about mid way down the report.

2 A. Yes.

3 Q. "I contacted the Communication Center by phone  
4 at their request and spoke to Dispatcher Mercier." M E R  
5 C I E R. "Dispatcher Mercier advised me MSP  
6 Middleborough," is that the Mass. State Police?

7 A. Yes.

8 Q. "Mass. State Police Middleborough Dispatcher  
9 Harrison reported receiving a 911 call from

10 later confirmed to be juvenile female cell  
11 phone number, where female caller reported her cousin's  
12 husband tried to rape her." So at 22:55 hours, is this  
13 the first time you learned that there's a potential rape  
14 of a female on the property?

15 A. A potential rape, yes.

16 Q. And are you in the cruiser canvassing the area  
17 at that time or is this subsequent to your exiting the  
18 cruiser and meeting up with Officer Gately?

19 A. I'm -- I don't specifically recall whether it  
20 was before I was in the cruiser, while I was in the  
21 cruiser, after I got out of the cruiser. Most likely  
22 prior to my being in the cruiser.

23 Q. So prior to your being in the cruiser, your

1 initial canvas of the area after Officer Gately enters  
2 the residence for the first time?

3 A. Correct.

4 Q. So at that point in time, at 22:55, you  
5 understand that there's an allegation of a potential  
6 rape?

7 A. I understand that's what the dispatcher is,  
8 State Police dispatcher is reporting to our dispatcher,  
9 that there was an allegation of attempted rape.

10 Q. Then when you meet up with Officer Gately,  
11 either maybe on the steps of the residence or somewhere  
12 in this driveway, what do you learn at that point in  
13 time? You learn there's been a domestic assault, right?

14 A. Correct.

15 Q. You also learn that or Officer Gately reports  
16 to you that there may have been a sexual assault of a  
17 minor female?

18 A. Correct.

19 Q. So at this point in time when you learn that  
20 information, at that point had you identified the male  
21 subject who had been seen fleeing the property?

22 A. Myself specifically, no.

23 Q. So when you first meet up or when you meet up

1 with Officer Gately in the driveway, does he then report  
2 to you, hey, this guy's name is David Thrift?

3 A. I believe he told me the victim's husband, the  
4 victim of the domestic violence.

5 Q. So at that point you understood there's been a  
6 victim of domestic violence, right?

7 A. Correct.

8 Q. There's been a potential sexual assault, right?

9 A. Correct.

10 Q. You know that the male subject leaving the  
11 property was the potential offender?

12 A. Correct.

13 Q. Do you know whether or not he's been consuming  
14 any alcohol?

15 A. Not at that time.

16 Q. Did you know the circumstances surrounding the  
17 domestic assault? Did you know what the allegation was,  
18 what he did?

19 A. Not at that time.

20 Q. When did you learn about what he did?

21 A. After the, around the same time the ambulance  
22 was dispatched, it was requested either by myself or  
23 Officer Gately, I'm not sure which one of us did, and

1 that was mentioned in the request for the ambulance for  
2 domestic and possible sexual assault.

3 Q. Okay.

4 A. I became aware of the details either while the  
5 wife was being prepared for transport or shortly  
6 thereafter.

7 Q. Okay. Before you left the property the first  
8 time?

9 A. Correct.

10 Q. What was your understanding of the details of  
11 the assault?

12 A. Which assault?

13 Q. The assault on the wife.

14 A. That my understanding was the wife entered the  
15 bedroom of the nanny, babysitter.

16 Q. The minor female?

17 A. The nanny, the babysitter. And the husband was  
18 in the room with the babysitter, and a physical  
19 altercation took place between the husband and wife which  
20 went from the bedroom out into the common area.

21 Q. Spilled out into the common area?

22 A. Correct.

23 Q. What type of clothing did the minor female have

1 on at the time that the wife observed her husband in the  
 2 room?  
 3 A. It was not the -- The wife stated at one point  
 4 to Officer Gately that [MV Times Redaction]  
 5 [MV Times Redaction]  
 6 Q. In what form or fashion did the husband assault  
 7 his wife? What did he do? Did he punch her in her face?  
 8 Did he put her in a headlock? What was your  
 9 understanding at that time?  
 10 A. [MV Times Redaction] [MV Times Redaction]  
 11 [MV Times Redaction]  
 12 Q. Okay.  
 13 A. Yeah, that's.  
 14 Q. Did you have an understanding at that time as  
 15 to whether or not he had strangled her and punched her in  
 16 front of his children?  
 17 A. [MV Times Redaction] [MV Times Redaction]  
 18 [MV Times Redaction]  
 19 Q. Okay. And you learn of this information in and  
 20 around the time that the wife, I think her name is [MV Times Redaction]  
 21 --  
 22 A. Yes.  
 23 Q. -- was being prepared for transport by the

1 ambulance?  
 2 A. Correct.  
 3 Q. So at this point in time you understand that  
 4 the male subject fleeing the scene is the husband?  
 5 A. Correct.  
 6 Q. And did you have an understanding at that time  
 7 as to whether or not he had been drinking?  
 8 A. That information was provided in a subsequent  
 9 conversation.  
 10 Q. Prior to or after you left the scene the first  
 11 time?  
 12 A. After -- When we returned -- During the  
 13 follow-up or the investigation following the rape.  
 14 Q. So during the second call for service?  
 15 A. Correct.  
 16 Q. And during the initial, during this initial  
 17 time, in and around the time [redacted] was being prepped for  
 18 transport, did you have an understanding as to whether or  
 19 not the male subject fleeing the property had any shirt  
 20 or shoes or what type of clothing he was wearing?  
 21 A. The only description provided to me was that he  
 22 was shirtless.  
 23 Q. It wasn't reported to you he fled the house

1 wearing only a pair of shorts and no shoes?  
 2 A. It may have been.  
 3 Q. Because I think -- I'm looking from your  
 4 narrative, Sergeant, in the third paragraph down. If you  
 5 see here, it says, "David was reported to have fled the  
 6 house wearing only a pair of shorts and no shoes or  
 7 shirt." Do you see that?  
 8 A. I do.  
 9 Q. You would intend for this narrative to be  
 10 truthful and accurate, to the best of your ability. Is  
 11 that right?  
 12 A. Yes.  
 13 Q. So we have a shirtless, from your narrative, a  
 14 shoeless male fleeing the property, right?  
 15 A. As described to me, yes.  
 16 Q. And he, obviously, has a propensity for  
 17 violence because he just [MV Times Redaction] right?  
 18 A. He had a physical altercation with his wife.  
 19 Does that -- Whether or not that gives him a propensity  
 20 for violence relies on a number of other factors.  
 21 Q. [MV Times Redaction] Fair to say?  
 22 A. Absolutely.  
 23 Q. And then, coupled with that, you have an

1 allegation of potential rape, and Officer Gately reports  
 2 to you that there's a potential sexual assault of a  
 3 female, of a minor female, right?  
 4 A. Correct.  
 5 Q. So you learn of this information in and around  
 6 the time that [redacted] is being prepped for transport via  
 7 ambulance, right?  
 8 A. Correct.  
 9 Q. What do you do with this information while  
 10 you're at the scene? Strike that. What do you then do  
 11 after you learn of this information as [redacted] is being  
 12 transported? As the Sergeant at the scene, what's your  
 13 next move?  
 14 A. Prior to [redacted] being transported I had  
 15 conversation with the babysitter.  
 16 Q. Okay. This is prior to the transport?  
 17 A. Correct.  
 18 Q. When you say babysitter, nanny, minor female,  
 19 we're talking about the same subject?  
 20 A. Correct. She was hired by the family, moved to  
 21 the Island to live with the family to provide childcare  
 22 for the family while both parents worked.  
 23 Q. The babysitter, minor female, this is the

1 individual who was potentially raped or the victim of a  
2 sexual assault at that point in time? That's your  
3 understanding, right?

4 A. Correct.

5 Q. I think you provided information to me earlier  
6 that these victims of rape, of a sexual assault,  
7 sometimes they have difficulty reporting to somebody what  
8 essentially occurred, right?

9 A. Correct.

10 Q. Did you experience that when you spoke with  
11 this babysitter?

12 A. She was reluctant to provide any information.

13 Q. Okay. What information did she provide, if  
14 anything, at that point in time?

15 A. She provided information either to Officer  
16 Ogden or to myself or to both of us that [MV Times Redaction]

17 [MV Times Redaction]  
18 [MV Times Redaction]  
19 [MV Times Redaction]

20 Q. [MV Times Redaction]

21 [MV Times Redaction]  
22 [MV Times Redaction]

23 A. She reported to us that she had gone to bed

1 [MV Times Redaction]

2 Q. Do you recall at what time of night you spoke  
3 with the babysitter, the minor female? Was it close to  
4 the end of your four to twelve shift? Was it at 11:15?  
5 Was it before 11:15?

6 A. It was sometime prior to [redacted] being  
7 transported which I believe was on or about 23:30, 23:39  
8 perhaps.

9 Q. What else do you learn from the babysitter, the  
10 minor female, in addition to what you have told me?

11 A. Not sure.

12 Q. She tells you that she awakes, she's awoken or  
13 wakes up in the room, David is standing, what, over her?

14 A. She used the term or [redacted] had used the term  
15 hovering.

16 Q. Okay. He's hovering over her, she doesn't have  
17 [MV Times Redaction], the domestic incident ensues between  
18 David and his wife. What did she tell you what happens  
19 next?

20 A. She said at some point she intervened in the  
21 physical confrontation between [redacted] and David and which  
22 allowed [redacted] to run to the opposite end of the house.

23 Q. Okay.

1 A. And then she gathered the children and brought  
2 them into the bedroom where she remained until after the  
3 police arrived.

4 Q. Okay. So at that point you have -- I think you  
5 would agree with me at that point you're at a crime  
6 scene?

7 A. Correct.

8 Q. What, if anything, do you do to secure that  
9 crime scene? Is there any type of procedure you would  
10 normally undertake? Would you take photographs? Would  
11 you get witness statements? Would you rope the area off?  
12 Anything like that?

13 A. It was a fluid situation. Well, we were caring  
14 for [redacted] we were present and essentially interviewing  
15 the babysitter.

16 Q. [redacted] is being prepped for transport, so at  
17 that point, other than the 15-year old, there's no other  
18 adults beside the police officers at the residence. Fair  
19 to say?

20 A. Correct.

21 Q. And you have this male subject who flees the  
22 scene, and at this point you have an understanding that  
23 he's engaged in domestic violence and potentially a

1 sexual assault of this minor female?

2 A. Correct.

3 Q. You're right around, right near the end of your  
4 scheduled four to twelve shift at this point. Fair to  
5 say?

6 A. Within an hour.

7 Q. When do you form the intention to, I guess for  
8 lack of a better term, leave the residence and leave the  
9 15-year old there by herself?

10 A. That's a mischaracterization. We spoke to the  
11 -- I spoke to the female.

12 Q. The minor female?

13 A. The babysitter, yes.

14 Q. Okay.

15 A. About seeking to obtain information specific to  
16 any alleged sexual assault.

17 Q. Right.

18 A. With her reluctance to provide any information,  
19 I suggested to her that I would be reporting the incident  
20 to the departmental detective for follow-up with her.

21 Q. Okay. The departmental detective, when would  
22 you have reported that to the departmental detective?

23 A. Immediately upon being cleared of the scene, I

1 would attempt to reach him as soon as clear of the scene.

2 Q. Would that departmental detective then come on  
3 duty and respond to the residence?

4 A. If he was available to do so, he may. Other  
5 incidences he has recommended that information be  
6 gathered and left for him and he would follow up the  
7 following day.

8 Q. And you said it again, this minor female, she  
9 was reluctant to provide information?

10 A. Reluctant is not the best word.

11 Q. What's the best word?

12 A. If I knew that, I wouldn't use reluctant. I  
13 can't say what was in her mindset, whether she was  
14 ashamed, embarrassed, hesitant, concerned. Sum it up,  
15 she was asked a series of open-ended questions as to what  
16 happened, what happened next, you know, what occurred,  
17 and her answers were I woke up, he was in my room, [REDACTED]  
18 came in, they fought. Basic information without detail.

19 Q. I think you said that can occur with someone  
20 who has just been a victim of a rape, there's reluctance  
21 to provide information?

22 A. Correct.

23 Q. That doesn't diminish the fact that a rape or

1 sexual assault may have occurred?

2 A. It does not.

3 Q. So she's reluctant to provide information, you  
4 say you're going to report to the detective what  
5 transpired. What happens next?

6 A. There was discussion as to her being  
7 comfortable continuing to care for the children in  
8 [REDACTED] absence. That was also discussed with [REDACTED]  
9 And the babysitter stated that she was comfortable in  
10 remaining caring for the children while [REDACTED] was treated  
11 at the hospital provided that [REDACTED] be given a ride back  
12 to the house because there was no other way for [REDACTED] to  
13 get home.

14 Q. So I think you stated in your report that, or  
15 at least in your supplemental narrative, that you  
16 deferred to [REDACTED] judgment and opinion of David's  
17 diminished likelihood of continued violence, and you  
18 stated the juvenile female did not express or imply any  
19 fear or apprehension that David would use violence  
20 against her or the three Thrift children.

21 A. Correct.

22 Q. Is it fair to say, or am I mischaracterizing  
23 your statement, you essentially asked the battered wife

1 and the potential sexual assault victim what they wanted  
2 to do?

3 A. That's a mischaracterization.

4 Q. Okay. Why don't you clear that up for me then?

5 A. The conversation that took place between myself  
6 and the, and she's referred to in the report as a  
7 juvenile female so as not to identify her by name.

8 Q. Okay.

9 A. Between myself and her and myself and [REDACTED] MV Times Redaction  
10 conversation as to what they felt was the likelihood  
11 that, you know, David was, would continue to be a threat  
12 towards them, himself or others, in the event that the  
13 police encountered him, what can we expect, has he been  
14 violent to the police, has he exhibited violence towards  
15 others? Based on their responses to that questioning,  
16 that conversation, there was no indication that David  
17 represented a threat to anyone other than [REDACTED] We factor his  
18 wife.

19 Q. Despite the fact that you had a call from the  
20 minor female herself she may have been raped?

21 A. Despite -- That information was reported to  
22 another dispatcher.

23 Q. But you learned of it?

1 A. I learned of it, yes.

2 Q. So that didn't play into your thought process  
3 at all?

4 A. It did, but my actual knowledge of speaking  
5 with the female and assessing her demeanor, her maturity,  
6 her emotional state, and there being no indication that  
7 during the reported or alleged sexual assault that there  
8 was any violence or threat of violence, and, in addition  
9 to that, [REDACTED] had indicated that she had some belief  
10 that the babysitter was somehow [REDACTED] MV Times Redaction

11 [REDACTED] MV Times Redaction  
12 Q. Okay. So fair to say that the minor female's  
13 demeanor, or, excuse me, her demeanor or her emotional  
14 state could have been impacted by undergoing a rape or a  
15 sexual assault. Is that fair to say?

16 A. Absolutely.

17 Q. And you said there wasn't any evidence of  
18 violence at that point in time. You used words to that  
19 effect just a moment ago. Do you recall stating that?

20 A. I stated there was no violence or threat of  
21 violence towards the babysitter.

22 Q. I mean, I'm not a police officer, obviously,  
23 but, I mean, isn't a sexual assault, isn't that an act of

1 violence?

2 A. It would be, providing there was information to  
3 corroborate it.

4 Q. The only person who could potentially  
5 corroborate the minor female's story is David, and he's  
6 off somewhere, not on the property, right?

7 A. Other than her providing details -- At no time  
8 did she indicate there was any threat of violence towards  
9 her or that she was afraid or placed in fear, because she  
10 was reluctant to provide details. So, based on my  
11 experience and my knowledge of the subject matter, and my  
12 interaction with all parties involved, I then make a  
13 determination as to what took place or what we can  
14 reasonably say may have taken place.

15 Q. Okay. And you learned this information from  
16 [W/Times Redaction] as to whether or not this minor female may have  
17 [M/Times Redaction], but [W/Times Redaction] isn't in the room, she enters  
18 the room and she just sees her husband hovering over this  
19 minor female. Fair to say?

20 A. That's what she reported to us.

21 Q. Beyond that, she has no personal information  
22 other than speculation, conjecture?

23 A. As a family member and having lived with [W/Times Redaction]

1 I mean --

2 Q. She's speculating, Sergeant, at that point?

3 A. Her speculation is coming from a greater basis  
4 of knowledge.

5 Q. But speculation nonetheless?

6 A. Her opinion. Whether or not it's speculation  
7 is undetermined.

8 Q. Now, so at this point in time, what time are we  
9 talking about? Is it midnight?

10 A. No.

11 Q. Still prior to?

12 A. Correct.

13 Q. How close to midnight?

14 A. [REDACTED] I believe was transported sometime around  
15 23:30. 23:39 is what sticks out in my mind.

16 Q. Your report states 23:29. Fair enough?

17 A. In that time frame.

18 Q. What time would the midnight officers on the  
19 twelve to eight shift report for duty?

20 A. Depending on which officers were coming in,  
21 which day of the week, they are normally in the building  
22 some more so than others, some may be here 15 minutes  
23 inside the building, getting dressed downstairs, others

1 arrive within two minutes of midnight.

2 Q. Who was on that night? Officer Marathas?

3 A. Officer Marathas and Officer Ballotte.

4 Q. Do Officer Marathas and Officer Ballotte  
5 routinely relieve you on the changeover from the four to  
6 the twelve to the twelve to eight? Are they on the same  
7 five and two?

8 A. Days off differ, so there's, there are days  
9 when both of them relieve us. There are days when one of  
10 them relieve us in addition to another officer.

11 Q. So you have a pretty good understanding of when  
12 Officer Marathas normally arrives at the station, when  
13 Officer Ballotte normally arrives at the station?

14 A. Arrival times fluctuate for all of us.

15 Q. Sure. I mean, I understand, obviously, there's  
16 a human element that plays a part. But in the course of  
17 your employment, I'm assuming there are times when you're  
18 at the station at the end of your four to twelve shift  
19 and you happen to see Officer Marathas is continually  
20 getting here, say, 15 or 20 minutes, 10 minutes before  
21 the start of his shift? You see that, right?

22 A. There are times when that occurs. There are  
23 times when it doesn't occur. There's no pattern.

1 Q. Is there a rollcall before the start of the  
2 shift?

3 A. No, there is not.

4 Q. So Officer Marathas is on duty at midnight?

5 A. Correct.

6 Q. Okay. Now, your report goes on to state, "At  
7 23:29 hours [REDACTED] was transported from the scene by an  
8 ambulance. Officer Ogden and I positioned our police  
9 vehicles away from the property but remained in the area  
10 and searched the neighboring properties and roadways for  
11 David."

12 A. Correct.

13 Q. After [REDACTED] leaves in the ambulance, you then  
14 leave the minor female in the home by herself and you  
15 position yourselves away from the property in your  
16 cruiser?

17 A. We -- For some period of time after [REDACTED] was,  
18 the time where there was more conversation with the  
19 babysitter, and we informed her, we provided her with the  
20 -- I don't know if I qualified it as a non-emergency  
21 number, it's the [REDACTED] number for the dispatch center.  
22 As she informed us she had a cell phone from her home  
23 state of [REDACTED] here on the Island. Other than

1 specific cell phone carriers, if you dial 911, that phone  
2 call will be received by Middleborough State Police and  
3 then transferred here. So I specifically provided her  
4 with that phone number, had her enter it into her cell  
5 phone contacts list, and instructed her that should the  
6 need arise for any reason that was the best way to  
7 contact the police.

8 Q. Okay.

9 A. I further informed her that we would be in the  
10 area for a period of time, we would provide the  
11 appearance that we left the area, but we would still be  
12 present in the area.

13 Q. Okay. At the time that you're preparing to do  
14 this, the appearance that you have left the area but  
15 remained in the area, you don't know David's whereabouts,  
16 right?

17 A. Correct.

18 Q. You don't know if he had any place to go,  
19 right?

20 A. Correct.

21 Q. You knew that he had become violent with his  
22 wife, right?

23 A. Correct.

1 Q. In front of at least one child, right?

2 A. Correct.

3 Q. And at this point did you not believe that a  
4 potential sexual assault occurred or a rape occurred?

5 A. Absolutely not. I believed her story was,  
6 story is not the correct word, but her report to be valid  
7 and to be pursued.

8 Q. Okay. So you believed a potential rape  
9 occurred in the house as well?

10 A. A potential sexual assault.

11 Q. Okay. I don't mean to mince word. Potential  
12 sexual assault of a minor female occurred, you believed  
13 that at that time?

14 A. I believed it was certainly within the realm of  
15 possibility.

16 Q. And it was your command decision to leave the  
17 minor female by herself in that residence in spite of, I  
18 guess, the universe of facts that you understood at that  
19 point in time?

20 A. It was my decision to leave her in the family  
21 home in her capacity as the child's nanny and live-in  
22 babysitter after consulting or consultation with the  
23 children's parent.

1 Q. The mother?

2 A. Yes.

3 Q. [REDACTED]

4 A. Correct.

5 Q. The battered wife?

6 A. Victim of domestic assault.

7 Q. So after you spoke to the victim of domestic  
8 assault, that's when you made your decision to or that  
9 was a part of your decision-making process in deciding to  
10 leave the minor female in the residence by herself?

11 A. It was part of the decision-making process,  
12 their comfort level, their request, their desire to have  
13 her watch, continue to watch the children in [REDACTED]  
14 absence.

15 Q. In your opinion, they were capable of making an  
16 informed decision despite being the victims of a crime?

17 A. Yes.

18 Q. Did it ever occur to you to notify an officer  
19 on the incoming twelve to eight shift to respond to the  
20 property and provide a police presence at the property  
21 until the mother returned from the hospital or David was  
22 apprehended?

23 A. That was being -- That was undertaken or in the

1 process of being undertaken at approximately 40 minutes  
2 after midnight.

3 Q. When you returned to the station?

4 A. Immediately upon my return to the station.

5 Q. But you vacated that residence in that general  
6 area, you left in your cruiser, and you reported to the  
7 station, and that's when you commenced the process of  
8 maybe having somebody work back over to that direction of  
9 town to provide some type of a police presence? Is that  
10 fair to say?

11 A. Reasonably accurate, yes.

12 Q. You didn't notify or contact Officer Ballotte  
13 or Officer Marathas on your two-way radio or shoulder  
14 mike and say, hey, I think one of you should come out  
15 here and canvass this area and maintain a police presence  
16 until we find this guy or until the mother returns from  
17 the hospital?

18 A. I did not.

19 Q. Is that standard operating procedure to vacate  
20 a premises like that?

21 A. We are not required to remain on scene. It is  
22 recommended that the police remain for a reasonable  
23 period of time, and I was unsure of what the midnight

1 shift, the two officers assigned to the midnight shift,  
2 what they were engaged in that I may be unaware of.

3 Q. You could have contacted them via your two-way  
4 radio or shoulder mike and inquired of that at the scene,  
5 right?

6 A. I could have, yes.

7 Q. Would it have been possible or within your  
8 discretion as the Sergeant on the shift to contact the  
9 Communication Center and request mutual aid from Oak  
10 Bluffs or Edgartown to have a marked vehicle at that  
11 location until either you apprehended David or the mother  
12 returned?

13 A. I could make that request. Whether those  
14 departments had the ability to provide that service is up  
15 to the departments themselves.

16 Q. Did you make the request?

17 A. I did not.

18 Q. Did you make a request of the State Police to  
19 provide mutual aid?

20 A. State Police is typically not available for,  
21 they do not have a -- I do not know -- Let me rephrase  
22 that. I do not know nor did I know at the time whether  
23 or not they had an officer on duty.

1 Q. Did you inquire?

2 A. I did not.

3 Q. You have friends, obviously, on other  
4 departments here in town, right, Oak Bluffs and other  
5 municipalities, Edgartown? You associate with these  
6 other officers and these other municipalities?

7 A. I have, yes. I have working relationships with  
8 officers from other towns, yes, sir.

9 Q. We previously went over there are night vision  
10 goggles here at the station you could have used in your  
11 canvass of the area. You didn't return to the station at  
12 any point to get those, right?

13 A. Those were, are a recent addition to the  
14 department, and it did not occur to me that they were  
15 here, that it was an option.

16 Q. But you didn't think of the fact that that  
17 technology was here to assist you. Is that fair to say?

18 A. Correct.

19 Q. Do you know if any marked units or unmarked  
20 units in either Edgartown or Oak Bluffs have that type of  
21 technology to assist in a search?

22 A. Not that I'm aware of.

23 Q. Fair to say when you left the premises to

1 return to the police department that was after midnight,  
2 right?

3 A. Correct.

4 Q. So you could have contacted a midnight officer,  
5 right?

6 A. Correct.

7 Q. You didn't do that, right?

8 A. Correct.

9 Q. At that point in time you didn't have any idea  
10 where David was?

11 A. Correct.

12 Q. So it's just as likely he could have been very  
13 close to the residence and seen you leave as compared to  
14 him being far away from the property?

15 A. Correct.

16 Q. Once he sees you leave, the coast is clear,  
17 right?

18 A. Essentially, yes.

19 Q. You go back to the station and you don't tell  
20 anybody on the twelve to eight shift to go to the  
21 property until you're actually physically inside the  
22 station, right?

23 A. Correct.

1 Q. And it's possible that David is viewing this  
2 entire, I guess, sequence of events from somewhere, he  
3 maybe even sees [REDACTED] leave in the ambulance. Fair to  
4 say?

5 A. I can't begin to speculate on what he.

6 Q. But possible?

7 A. Within the realm of possibility, yes.

8 Q. So he sees [REDACTED] takes off -- Excuse me. He  
9 sees the police leave, and now he knows there's a house  
10 with his three kids all under the age of 10 and the  
11 15-year old nanny inside, right?

12 A. Correct.

13 Q. I know I'm putting you, obviously, in his state  
14 of mind. I'm just asking you some questions about that.  
15 And this is the nanny that, based upon your understanding  
16 and you believe her report to be true, that may have been  
17 the victim of a sexual assault, potentially a rape?

18 A. Correct.

19 Q. And, Sergeant, do you still think that the  
20 department's investigation of this incident is a  
21 "manufactured crisis"?

22 A. That was a communication I had with one of the  
23 selectmen.

1 Q. I'm aware of that.

2 A. The perception -- That was my perception based  
3 on the information that was available to me Monday  
4 morning, prior to the 10:00 a.m.

5 Q. I mean, you stated at the beginning or  
6 somewhere during the pendency of this interview you have  
7 three daughters, one who is 21, one who is 11 and one who  
8 is 9?

9 A. That's correct.

10 Q. If one of your daughters had been in this  
11 similar type of a situation, would you look at that as a  
12 manufactured crisis?

13 A. I don't understand the question.

14 Q. Well, do you think it's appropriate, or if your  
15 daughter was the victim of a sexual assault and then  
16 subsequently raped in a similar situation such as this,  
17 do you look at that as a manufactured crisis? Would you  
18 have a problem with the police response?

19 A. That's a mischaracterization of the statement.

20 MR. BUGBEE: Can I just explain quickly the  
21 comment when I conveyed the situation to the chairman?  
22 Because I'm the one that passed on that information.

23 The chairman of the board of selectmen had

1 concerns with, quite frankly, the town's position, and  
2 that's how he said to me that he had a conversation with  
3 you and you felt, you felt, and he used your words, but  
4 he wanted to let me know that he thought there were  
5 issues there that should be addressed and you should have  
6 the chance to be able to explain it. And that was the  
7 context of that comment. That was the only comment that  
8 I was given out of that e-mail. So he wanted me to know  
9 that you had concerns about the way the information and  
10 the way the case had been viewed. And so that's how that  
11 comment came to me. That's all. I wanted to explain  
12 that.

13 MR. FISKE: I appreciate that. And, I mean, I  
14 can certainly explain the nature of that communication.

15 MR. BUGBEE: I don't have the e-mail. I don't  
16 -- He just wanted me to know you had concerns and one of  
17 the concerns you had said to him was that. And that's  
18 all. I just wanted to explain that. That's all.

19 MR. FISKE: That was the first time that I was  
20 made aware that there was any concern on behalf of the  
21 department or the town relative to this particular  
22 incident.

23 Q. I guess, Sergeant, I'll sum up. And I asked I

1 think a poorly worded question before. But you have a  
2 situation here where a 15-year old minor female claims  
3 she's the victim of a sexual assault, she subsequently is  
4 the victim of an alleged rape in the interim period  
5 there, police are at the residence, --

6 A. Correct.

7 Q. -- they then vacate the residence, the offender  
8 returns and engages in the subsequent act of the alleged  
9 rape on the same victim. Right?

10 A. Correct.

11 Q. It's a personal question, but I think it's a  
12 question that I'm required to ask. If one of your three  
13 daughters had been that 15-year old female, do you  
14 believe that the police responded and handled the  
15 situation appropriately?

16 A. Given the same set of circumstances, completely  
17 the same set of circumstances, that there was no  
18 indication, information, implication or suspicion that  
19 David would conduct himself in that manner based on the  
20 information that we had by first searching the area  
21 openly with flashlights and, you know, banging through  
22 the brush looking, and then subsequently tactically  
23 positioning our cruisers or police vehicles some distance

1 away from the property and returning, giving the  
2 appearance that we had left, was a tactical decision that  
3 in the event that David was somewhere watching everything  
4 transpire that would encourage him to come out from  
5 hiding. When that did not occur after approximately 40  
6 additional minutes of covertly watching the property, I  
7 then left the area some two hours after initial response.

8 Q. Okay. Again, when you left, you had no idea  
9 where he was?

10 A. Correct.

11 Q. When you left, it was your understanding that  
12 he had beat his wife, right?

13 A. Correct.

14 Q. And that there was a potential sexual assault  
15 of a minor female?

16 A. There was a potential sexual assault either  
17 statutorily or otherwise.

18 Q. A crime nonetheless?

19 A. A crime, yes, sir.

20 MR. MASER: Off the record for a minute.  
21 (Discussion off the record.)

22 Q. Just a couple of quick concluding questions.

23 We talked, Sergeant, a couple of times about those night

1 vision goggles that the department has?

2 A. Correct.

3 Q. When did the department come into possession of  
4 those goggles?

5 A. I'm not clear as to when that, when they  
6 actually obtained them. That was something that one of  
7 the other sergeants had handled and in obtaining them,  
8 and for a period of time they were not available for use  
9 to department members. It's only been recently that they  
10 were placed in a locked filing cabinet which I have one  
11 of the keys to.

12 Q. So you answered my next question. They were  
13 maintained in a locked file cabinet, right?

14 A. Correct.

15 Q. In, what, the sergeants' office?

16 A. Correct.

17 Q. And yourself and another sergeant has keys to  
18 that filing cabinet?

19 A. I believe myself, the other sergeant, and the  
20 detective have keys to that specific filing cabinet.

21 Q. And they had been available for use for some  
22 time before this incidence, but just you're not sure of  
23 exactly how long?

1 A. It's, perhaps, the beginning of the summer.

2 Q. But you knew they were available for use?

3 A. I was aware they were available for use, yes.

4 Q. And during this changeover from the four to  
5 twelve to the twelve to eight shift, obviously, you know,  
6 you have stated a number of times you stayed beyond the  
7 conclusion of your normally scheduled shift, four to  
8 twelve, right?

9 A. Yes.

10 Q. I would imagine you received overtime  
11 compensation for those hours worked, right?

12 A. I did.

13 Q. You did?

14 A. I did, yes, sir. Well, I believe so. There's  
15 my check. If I haven't, they'll be --

16 Q. You'll let people know, I'm sure. Would it  
17 have been within your sergeant's authority to order  
18 either Officer Gately or Officer Ogden to stay on beyond  
19 the conclusion of their four to twelve shift to canvass  
20 the property until the mother returned or David was  
21 apprehended?

22 A. Both officers stayed on well beyond the  
23 conclusion of their shifts. It's common practice and

1 understood that just because a particular time of day  
2 occurs and that's the time you're supposed to go home,  
3 you just don't, you know, clock out and you're out of  
4 there.

5 Q. I wouldn't expect that.

6 A. Especially in the summertime, you know, we're  
7 here to whatever time. Officer Gately was engaged in the  
8 restraining order and --

9 Q. Dealing with [REDACTED]

10 A. -- dealing with [REDACTED] at the hospital. Then he  
11 returned to the house when we got the call and then had  
12 gone back and collected [REDACTED] So he was here for a  
13 period of time.

14 Q. Forget Officer Gately. Officer Ogden, could  
15 you have said, "Hey," -- is it Scott?

16 A. Yes.

17 Q. -- "Scott, stay here until we either find the  
18 guy or [REDACTED] comes back"? You could have told him that,  
19 right?

20 A. Could have. However, given the amount of time  
21 that had elapsed and the approach in which we took to  
22 flush him out or become aware of his location, if he was  
23 near the residence, it seemed unlikely at the time that

1 he remained in that area.

2 Q. Likewise, would it have been within your  
3 discretion to say to one of the twelve to eight guys, you  
4 know, Officer Marathas or Officer Ballotte, report to [REDACTED]  
5 [REDACTED] and provide a police presence until  
6 otherwise notified?

7 A. I could have reached out to them. One of them  
8 drove by the scene at some point while we were covertly  
9 watching the property, and I can guess that they were  
10 aware of -- I didn't specifically have communication with  
11 them, so I can't say what they knew and didn't know. But  
12 common practice, they would know based on the information  
13 that was available to them when they started their shift,  
14 much the same as me, when I started on the four to twelve  
15 shift, know what has transpired prior to me coming on  
16 shift and being available to assist. So I can't say what  
17 they knew or did not know. But they would have been  
18 aware of where we were and why we were there.

19 Q. But just so the record is clear and just to  
20 answer my question, you could have certainly ordered one  
21 of them to stay at the residence?

22 A. I could have.

23 Q. Okay. I don't have anything else.

1 MR. BECKER: I have a couple of questions. Do  
2 you mind if I ask some?

3 MR. MASER: For the Sergeant?

4 MR. BECKER: Yes. Flush things out a bit.

5 MR. MASER: By all means.

6 EXAMINATION BY MR. BECKER:

7 Q. Sergeant, the call that you eventually found  
8 out about, the 911 call from the babysitter's cell phone,  
9 according to your supplemental report, it indicates that  
10 she said that her cousin's husband tried to rape her.

11 A. Correct.

12 Q. Now, according to just that piece of  
13 information, does that indicate to you that she was  
14 making an allegation that she was raped?

15 A. No, it does not.

16 Q. Now, when she described to you the  
17 circumstances of David being in her room

18 MV Times Redaction

19 , did she indicate to you any  
20 sexual contact between her and David?

21 A. She did not.

22 Q. Did she indicate any physical contact between  
23 her and David?

24 A. She did not.

1 Q. Now, when you were talking with [REDACTED] or when  
2 Officers Gately or Ogden report to you that [REDACTED] said  
3 anything to them or you about David's prior criminal  
4 history?

5 A. [REDACTED] didn't tell any one of us, myself,  
6 Officer Gately or Officer Ogden, of any prior criminal  
7 conduct of David or violent conduct of David.

8 Q. What was the practice of the department with  
9 regard to doing a background check or board of probation  
10 check on a suspect in a situation like this?

11 A. The dispatcher would -- The Dukes County  
12 sheriff's dispatcher would be, would typically do a  
13 history of the address, if there are any prior incidents  
14 at the address and the nature of those incidents or if  
15 any weapons were displayed or threatened or available.  
16 And if the defendant or suspects were known and could be  
17 positively identified, they would, the dispatcher would  
18 check that person for any prior crimes of violence or  
19 threats, weapons complaints.

20 An officer of this department when seeking an  
21 emergency 209A would physically have to return to the  
22 station to or request through the Communications Center a  
23 board of probation check of that individual, which would

1 only provide information concerning that individual's  
2 prior criminal acts in the Commonwealth of Massachusetts.

3 Q. So was that background check done in this case  
4 with David Thrift, to your knowledge?

5 A. It was done by Officer Gately prior to or at  
6 the same time of obtaining the or putting out the GBC for  
7 every Island department.

8 Q. That was before or after you left the residence  
9 the first time?

10 A. That was approximately 40 minutes before I left  
11 the residence.

12 Q. What did you learn about David Thrift's  
13 criminal history?

14 A. I learned he had one prior incident of domestic  
15 violence, not through that but from Officer Gately  
16 himself, which occurred in, I believe, July 4th at the  
17 same location.

18 Q. Any sexual assault or rape charges?

19 A. None.

20 Q. There was a lot of discussion of while [REDACTED]  
21 was being prepped. What exactly does that mean? What  
22 prep was going on?

23 A. Because [REDACTED] complained of head and neck pain

1 and suffered physical trauma, she was or it is the  
2 protocol of the ambulance service to use a backboard and  
3 straps and a cervical collar whenever there's an  
4 unwitnessed fall or complaints of neck pain.

5 Q. At any point was there any -- Who made the  
6 decision, I should say, for [REDACTED] to go to the hospital?

7 A. [REDACTED] made the decision. It was offered to  
8 her. We summonsed the ambulance. Upon observing minor  
9 visible injury and [REDACTED] complaints of pain, the  
10 ambulance was brought to the scene, the EMTs checked her  
11 out. [REDACTED] made the decision to go to the hospital.

12 Q. What is DCF? Am I saying that right?

13 A. It's the Department of Children and Families,  
14 formerly DSS, Department of Social Services.

15 Q. Was there any possibility of getting them  
16 involved with the kids in this case?

17 A. There is a DCF hotline that is available to us.  
18 That number was contacted after the event, and two DCF  
19 case workers were dispatched to the Island from Hyannis  
20 the following afternoon.

21 Q. Are there any DCF personnel on the Island?

22 A. Not that I'm aware of that are available to us.

23 Q. And how many children were there? I believe in

1 your report you said that [REDACTED] and David have three  
2 children.

3 A. Correct. Three children.

4 Q. Do you know what their ages are?

5 A. I believe ages two, three and eight.

6 Q. You mentioned the eight-year old may have  
7 observed some part of the domestic violence incident.  
8 What about the two- and the three-year old?

9 A. They were sleeping prior to the incident. I  
10 had no contact with them directly. And they were  
11 sleeping after -- They were put to bed in the  
12 babysitter's bed while we were there or just prior to us  
13 arriving there, where they remained. Because the three  
14 children had been sleeping on the fold-out sofa in the  
15 common room of the house. The room only had two  
16 bedrooms. The three children slept on the pull-out sofa  
17 in the common room between the two bedrooms.

18 Q. Now, there was a mention of a comment that you  
19 made in an e-mail to a selectman describing a  
20 manufactured crisis, and there was some confusion  
21 possibly about what you were actually referring to as a  
22 manufactured crisis. What was it that you were referring  
23 to as a manufactured crisis?

1 A. As I stated, the e-mail communication with  
2 myself and the chairman of the board of selectman was on  
3 a personal note where he had canceled or I contacted him,  
4 we were supposed to get together for a social engagement  
5 Tuesday, I had contacted him to confirm a time for that.  
6 He responded by e-mail that in light of everything that  
7 was going on, it probably wasn't a good idea. And that  
8 was the first time that I became aware, and that was  
9 Monday morning that there was any concern or comments or  
10 there was any issue whatsoever, despite having numerous  
11 conversations with the chief of police, the district  
12 attorney, the magistrate, spending ten hours with the  
13 family themselves on the previous Tuesday. That was the  
14 first I became aware of it. And that was my response to  
15 him, my belief that it was as described.

16 MR. BUGBEE: If I could say something.

17 MR. MASER: Hold on.

18 MR. BUGBEE: I want to explain that when I  
19 approached the chairman of the board to explain to him  
20 what was going on, I just asked him do you know, are you  
21 aware of what's going on, are you familiar with the  
22 issue. And he just said to me just simply that, yes, I'm  
23 aware, Bob and I were planning to go golfing, I got an

1 e-mail back from him and he's concerned. In fact, he  
2 made a comment there, he went so far as to say he thought  
3 it was this, and he said I don't know anything about the  
4 issue, I'm not involved, but I want you to know that this  
5 is his position, and that was it. That was the end of  
6 the conversation. That's how the issue came up. I was  
7 asked about what your position was. I explained to our  
8 counsel that --

9 MR. MASER: Hold it. Stop right there as to  
10 conversations you and I have had.

11 MR. BUGBEE: That's where the comment came from  
12 is what I'm saying. I explained to him you had other  
13 concerns.

14 Q. I want to follow up by asking, when you refer  
15 to the term manufactured crisis, were you saying that the  
16 crimes committed by David Thrift, including rape of a  
17 child, were a manufactured crisis?

18 A. Absolutely not. My reference was to, one, that  
19 I was unaware of any concern that was raised about the  
20 handling of this issue, although I directly asked the  
21 chief of police on several occasions the prior Friday,  
22 and I felt it was a situation where, from the comfort of  
23 sitting back several days later and having to review all

1 of the information, didn't reflect the fluid situation of  
2 decision-making process based on the information coming  
3 and going during that incident.

4 MR. BECKER: I don't have anything else.

5 MR. MASER: I just have a couple of quick  
6 follow-up questions.

7 EXAMINATION BY MR. MASER:

8 Q. You mentioned that there was a 209A that was  
9 issued. When a 209A is issued, that's a restraining  
10 order?

11 A. Correct.

12 Q. So if it's issued, is it issued to the victim  
13 or is it issued to the offender?

14 A. It's issued to both.

15 Q. So both?

16 A. One applies for it and receives it, both  
17 receive notice that it exists.

18 Q. So there was a 209A that was issued for an  
19 incidence that occurred earlier in the month?

20 A. That I was unaware of, yes.

21 Q. When did you become aware of it?

22 A. After midnight.

23 Q. Before or after you left the residence for the

1 first time?

2 A. Before.

3 Q. So before you left again the minor female you  
4 knew of an earlier 209A that had been taken out against  
5 Mr. Thrift, and then you had this universe of facts you  
6 were dealing with at the scene at that point in time,  
7 right?

8 A. Right. Which that earlier order we later  
9 learned was modified to no abuse only to allow David back  
10 into the home, back into the marital home with his three  
11 children.

12 Q. Right.

13 A. And the juvenile female was subsequently hired  
14 as the nanny/live-in babysitter after that incident and  
15 brought to the Island to live in the family home.

16 Q. Okay. All right. And just the last question I  
17 have. The wife, she was backboarded and she was  
18 immobilized by the ambulance?

19 A. Yes.

20 Q. She was complaining of head and neck pain?

21 A. Correct.

22 Q. Potential for a concussion possibly?

23 A. I'm not a doctor. I'm an EMT.

1 Q. I'm sorry?

2 A. I said I'm an EMT.

3 Q. But someone is complaining of head pain,  
4 they've just been assaulted, potential concussion  
5 subject?

6 A. In the realm of possibilities.

7 Q. And this same individual was an individual you  
8 relied on in deciding that David was no longer a threat  
9 or wasn't a threat to the female, the minor female? Is  
10 that fair to say? Yes or no?

11 A. It is fair to say.

12 MR. MASER: That is all I have. I'm all set.  
13 (Diagram marked as Exhibit No. 1 for Id.)

14 (Whereupon, at 12:43 p.m., the interview was  
15 adjourned.)

1 I, , do hereby certify that I have  
2 read the foregoing transcript of my interview, and  
3 further certify that said transcript is a true and  
4 accurate record of said interview.

7 ROBERT FISKE

9 COMMONWEALTH OF MASSACHUSETTS)  
10 COUNTY OF )

11 I, , a Notary Public  
12 within and for the Commonwealth of Massachusetts, do  
13 hereby certify that on the day of ,  
14 2011, there personally appeared before me the within  
15 named deponent who read and subscribed the foregoing  
16 deposition and made such corrections, if any, recorded  
17 herein before me.

19 NOTARY PUBLIC

20 My Commission Expires:

1 COMMONWEALTH OF MASSACHUSETTS  
2 PLYMOUTH, SS.

3 I, Ruth E. Hulke, a Notary Public in and for the  
4 Commonwealth of Massachusetts, do hereby certify there  
5 came before me on the 5th of August, 2011, the person  
6 hereinbefore named and that he was duly sworn to testify  
7 to her knowledge concerning the matters in this case;  
8 that he was thereupon examined under oath, and that the  
9 foregoing transcript is a true record of the interview  
10 given.

11 I further certify that I am neither attorney nor  
12 counsel for, nor related to or employed by any of the  
13 parties to the action in which this deposition was taken;  
14 and, further, that I am not a relative or employee of any  
15 attorney or counsel employed in this case, nor am I  
16 financially interested in this action.

17 IN WITNESS THEREOF, I have hereunto set my hand and  
18 affixed my seal this day of ,  
19 2011.

20 RUTH E. HULKE, NOTARY PUBLIC  
21 Certified Shorthand Reporter No. 114893  
22 My Commission Expires: October 24, 2014

23 PLEASE NOTE:

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES  
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