

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN SECTION

Daniel Bradley)
) 18cv30039-MGM
vs)
) February 18, 2020
Christian Cicero,)
Joseph Dunn, and)
Daniel Moynahan)
_____)

Jury Trial, Day 2, Held Before
The Honorable Mark G. Mastroianni
United States District Judge.

APPEARANCES:

See the following page.

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On behalf of the defendant Christian Cicero: Kevin B. Coyle, 935 Main Street, Springfield, MA 01103.

On behalf of the defendant Joseph Dunn: Jeremy Saint Laurent, 36 Court Street, Springfield, MA 01103.

On behalf of the defendant Joseph Dunn: Cary L. Szafranski, City of Springfield, Law Department, 1600 E. Columbus Avenue.

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1 **(Court commenced at 9:09.)**

2 THE CLERK: The matter before the court is
3 18cv30039, Bradley versus Cicero, et al.

4 Judge, the attorneys are out in the conference room.
5 We'll grab them.

6 THE COURT: Okay.

7 THE CLERK: Counsel, will you please identify
8 yourselves for the record starting on my right.

9 MR. SLEPCHUK, JR: Peter Slepchuk for the
10 plaintiff.

11 MR. SLEPCHUK: Peter Alexander Slepchuk for the
12 plaintiff Daniel Bradley.

13 MR. COYLE: Kevin Coyle for the defendant
14 Christian Cicero.

15 MR. SCHMIDT: Robert Schmidt for defendant
16 Daniel Moynahan.

17 MS. SZAFRANSKI: Cary Szafranski for defendant
18 Joseph Dunn.

19 MR. SAINT LAURENT: Jeremy Saint Laurent for the
20 defendant Joseph Dunn.

21 THE COURT: Okay. Very good. Good morning.

22 So you received the rulings on unavailability,
23 correct?

24 MR. SLEPCHUK: Yes, Your Honor.

25 THE COURT: We just didn't get to docket the

1 other ruling on the deposition. The deposition is
2 docketed right now if you access it electronically or it
3 will be soon.

4 The docket entry allows, in part and denies in part,
5 the defendants' objections from Dr. Eli Silverman's video
6 deposition. The defendants' objections are overruled
7 except for their third objection. The third objection
8 objects to the testimony at page 54, line 9 through page
9 54, line 18 as misrepresentative. That objection is
10 sustained. That portion of Dr. Silverman's testimony must
11 be redacted. That had to do with plaintiff's
12 characterization of what Officer Dunn's testimony was at a
13 prior trial. The objection was the testimony was
14 misrepresented. I agreed. It's your objection 3 so that
15 can be taken care of.

16 All right. Other than that, ready to go?

17 MR. SCHMIDT: Yes, Your Honor.

18 MR. SLEPCHUK: Yes, Your Honor.

19 THE COURT: All right.

20 (The jury entered.)

21 THE COURT: Everyone can be seated.

22 Okay. Good morning, everyone. Hope you had a nice
23 weekend.

24 I have to ask you if you followed my instructions?
25 Did you follow my instructions not to talk to anyone about

1 the case? Not to talk to each other about the case and
2 also not try to research or access the case through the
3 internet? No Google searches? No posting on social media
4 about the case? Did everyone follow the instructions?

5 All right. Based upon the response of the jury, the
6 jury remains fair and impartial.

7 All right. So we'll start this morning with me
8 giving you the final part of your preliminary instructions
9 and then we will move right into the trial.

10 All right. So as I told you last time, we're going
11 to get you lunch during the days that you're here for
12 trial but you can bring whatever you want. You can bring
13 your snacks and you can bring lunches.

14 You can also bring your cell phones to the jury
15 deliberation room. Did they let you bring them up today?
16 They didn't. All right. We'll have someone from the
17 clerk's office go gather your cell phones. The order is
18 issued.

19 So before trial, but I'm issuing it right now, I'm
20 telling the clerk I issued an order to allow cell phones
21 to be brought up so the clerk will bring up your cell
22 phones.

23 The cell phones can be used in the jury deliberation
24 room. You can't bring them in the courtroom, but during
25 any break you can check your cell phone and do whatever

1 you need with your cell phone.

2 During deliberations you will not be able to have
3 your cell phones during deliberations. During
4 deliberations they will be collected and locked in the
5 room next door. If you want to take a break to use it,
6 then deliberations will stop because jury deliberations
7 can only take place if all of you are together at the same
8 time talking. That's the jury deliberations. So that's
9 the cell phone deal.

10 Now it's important that you not communicate about
11 this case or expose yourself to information about this
12 case from any source outside those presented to you in the
13 courtroom. That means not using any media technology,
14 cell phones, internet, and social media to comment or even
15 post something on this case or to research the trial.

16 These restrictions are applicable for the duration of
17 the trial while you are here at the courthouse. When the
18 trial is done, if you choose, you can talk to whoever you
19 would like to talk to about the case.

20 Now the court recognizes the difficulty some jurors
21 may experience complying with the cell phone instructions,
22 especially since technology is so part of people's lives.
23 However, failure to follow the instructions regarding cell
24 phones could jeopardize the integrity of the trial.

25 Frankly, most judges, or many judges, don't allow

1 cell phones to even be in the jury room at all. They just
2 leave them locked up downstairs with the guards because
3 there have been several instances where trials have been
4 interfered with because jurors post something on social
5 media during the middle of a trial or during
6 deliberations.

7 Since you have it right there, they access something.
8 If they don't understand something in court, they do a
9 quick Google search and that interferes with the integrity
10 of the trial and so that's why -- my view of it is if I
11 give you the appropriate cautionary instructions and tell
12 you how we're going to monitor the cell phone use, we
13 haven't had a problem with it so until we do, I'll keep my
14 fingers crossed and that will be the cell phone policy.

15 Now it is your duty to decide from the evidence what
16 the facts are. You, and you alone, are the judges of the
17 facts. You will hear the evidence, decide what the facts
18 are, and then apply those facts to the law as I give it to
19 you.

20 In doing so, you must follow the law as I explain it.
21 Whether you agree with it or not, you have to follow the
22 law as I explain it. You must decide this case on the
23 evidence before you and the law as I give it to you.

24 Now sometimes jurors are curious about what I think
25 whether I think, for example, a particular witness is

1 believable or how I think a case should come out. You
2 need to know that my opinion, if I have one and I don't,
3 but if you thought that I had one, it is not relevant. It
4 is your opinion that is the most important. It is your
5 role, not mine, to decide the issues in this case.

6 You should not interpret anything I say or do during
7 this trial as indicating what I think about a witness or
8 what I think about this case or what I think about the
9 verdict.

10 Now as I mentioned before, this is a civil case. The
11 plaintiff has the burden of proving his case by what is
12 called a preponderance of the evidence. That means, the
13 plaintiff has to produce evidence which, considered in
14 light of all the facts, leads you to believe that what he
15 claims is more likely true than not.

16 To put it differently, if you were to put the
17 plaintiff's and defendants' evidence on opposite sides of
18 the scale, a plaintiff would have to make the scales tip
19 just somewhat to their side.

20 If the scale is even or obviously if the defendants'
21 scale is tipping just somewhat to the defense side, then
22 the plaintiff would not have satisfied his burden.

23 Now I think I previously gave you a summary of the
24 case. I'll repeat it. As I explained, there is one
25 plaintiff in this case and there are three defendants.

1 The three defendant police officers are Christian Cicero,
2 Joseph Dunn, and Daniel Moynahan in this case.

3 The plaintiff alleges that on August 26, 2015 the
4 defendants, all on duty as Springfield police officers,
5 unlawfully seized him, assaulted him, arrested him, and
6 filed false criminal charges against him in violation of
7 the law. The defendants all deny these allegations and
8 assert that any force they used was necessary and lawful.

9 So the plaintiff in this case has brought claims
10 against public officials for alleged violations of the
11 United States Constitutional Rights and the Massachusetts
12 Declaration of Rights based on the rights guaranteed by
13 the Fourth Amendment of the Constitution and Article 14 of
14 the Massachusetts Declaration of Rights.

15 The plaintiff alleges unreasonable search and
16 seizure, unlawful arrest, and excessive force. He also
17 claims assault and battery, false arrest, false
18 imprisonment, malicious prosecution, abuse of process, and
19 intentional infliction of emotional distress.

20 Now at the end of the trial you will get detailed
21 instructions about the law and what the elements are for
22 plaintiff establishing each of the plaintiff's claims.

23 You will also get a verdict form that lays it out for
24 each claim what the elements are and there will be
25 checkboxes where you check the appropriate answers to

1 questions that guide you through each particular claim
2 going through each element.

3 I will instruct you in detail at the closing of the
4 case as to what each particular claim means as a matter of
5 law and how you apply the elements and assess the
6 elements, and then I will also give you a copy of the jury
7 instructions that I read to you so you will have it as a
8 resource in the jury room to consult when you're going
9 through the claims.

10 Now I have mentioned the word evidence. I expect the
11 evidence in this case will include testimony of witnesses,
12 documents, and other things received as exhibits, and any
13 facts on which the parties have agreed.

14 There are rules that control what you may consider as
15 evidence. When a lawyer asks a question or offers
16 something as evidence and the lawyer on the other side
17 thinks that is not permitted by the rules of evidence,
18 that lawyer may object. This simply means that the lawyer
19 is requesting that I make a decision based upon a
20 particular evidentiary rule.

21 It may be necessary for me to discuss the issue with
22 the lawyers out of the hearing of the jury, either by
23 having a conference over at sidebar where I met with each
24 of you. The court and counsel will do this to try to keep
25 this at a minimum so we don't unnecessarily have you

1 sitting here with nothing going on. But the purpose of
2 these conferences is not to keep anything from you, but to
3 make sure that what you do hear is pursuant to the rules
4 that we have that governs these trials and the rules of
5 procedures and rules of evidence.

6 Certain things are not evidence. The statements and
7 the arguments by lawyers are not evidence. The lawyers
8 are not witnesses.

9 Questions by the lawyers, standing alone, are not
10 evidence. Again, the lawyers are not the witnesses. It's
11 the question and the answer taken together that becomes
12 the evidence.

13 Objections are not evidence. Lawyers have a duty to
14 their client to object when they believe something is
15 improper under the rules.

16 If I sustain an objection -- in other words, I agree
17 with the lawyer who's making the objection -- you must
18 ignore that question and strike it from your memory. So
19 the first few objections I'll go through and tell you by
20 whether or not I sustained the objection or overruled the
21 objection, I'll tell you that you should strike it or it's
22 okay you can consider it. I assure you that you will pick
23 up on the objection thing quickly.

24 Anything that I tell you to disregard is not evidence
25 and must not be considered. So when I sustain an

1 objection, when I agree with an objection, I will
2 sometimes say disregard it or strike it, or at least the
3 first few times I will. That means it's like it never
4 happened.

5 Anything you see or hear about this case outside the
6 courtroom is not evidence. You must base this case on
7 what you see and hear in court only.

8 Sometimes a particular piece of evidence may be
9 received for a limited purpose only. That is, you can use
10 it for a particular purpose and not for any other purpose.
11 If that happens in this case, I will explain to you at the
12 time we're taking the evidence what it is you can and
13 cannot consider that evidence for.

14 Now, in deciding what the facts are you have to
15 decide what testimony you believe and what testimony you
16 do not believe. You may believe everything a witness says
17 or only part of it or none of it. It's entirely up to
18 you. I'll give you suggestions at the end of the trial
19 for helping you determine and assess the credibility of
20 witnesses.

21 Now, as to the conduct among the jury, first, do not
22 talk between yourselves about this case or about anyone
23 involved with it until the end of the case when you go to
24 the jury room to decide on your verdict. You should feel
25 free to get to know one another and talk about anything

1 you want, your families, your jobs, etc. You can talk
2 about anything but don't talk about this case.

3 Second, do not make your mind up about what the
4 verdict should be until after you have gone to the jury
5 room to decide the case and you and your fellow jurors
6 have discussed the evidence.

7 It's very important that you keep an open mind.
8 Frankly, it's just human nature for people to hear
9 something or meet someone and make a decision
10 automatically about what you feel about that person or
11 what you feel about that person is saying, but you have to
12 resist that temptation in the setting that you are now
13 jurors because I'm instructing you that you cannot make
14 your mind up until your deliberations begin.

15 You have to keep an open mind throughout this entire
16 trial. The whole purpose of jury deliberations is that
17 you decide and talk about the evidence as a group. So
18 while you may hold your own personal thoughts and beliefs
19 about this case, it is not until you get involved in the
20 process of jury deliberations that you start sharing your
21 beliefs and feelings with your other jury members and that
22 becomes the deliberations.

23 So for you to make up your mind early before this
24 case is over or just have your mind made up and think
25 that's it, I know what I'm going to do. That wouldn't be

1 the correct way to participate in the deliberations. So
2 try your best to keep an open mind throughout the trial,
3 and do not make your mind up about what the verdict should
4 be until you are involved in your deliberations.

5 Now don't talk to anyone about this case. I've
6 already told you this includes members of your families
7 and friends. You can tell them that you're a juror and
8 the basic kind of case this is, but nothing else. Don't
9 mention or discuss this case in any electronic form or
10 email or text messages. Again, you can say I'm a juror in
11 a case but nothing else.

12 Do not post anything about the case. Don't let
13 anyone talk to you about the case. If you see any of the
14 participants in the hallway or out on the sidewalk, they
15 have been instructed not to talk to you and they're not
16 being rude. They just cannot talk to you about this case.

17 If there's any media coverage about this case, I
18 don't know that there will be, but just avoid it.

19 So finally during the course of the trial if you have
20 a problem of some kind, just raise your hand to let me
21 know. Talk to one of our staff, get their attention, and
22 they will make me aware of it and we will meet and talk
23 about whatever the particular issue is and try to deal
24 with it.

25 If you can't hear a witness, just raise your hand.

1 We will adjust the microphones. If a lawyer is blocking
2 your view or something blocks your view of a particular
3 witness, just raise your hand. It usually happens during
4 the trial because that podium is movable. Lawyers move it
5 in different spots and ask questions from different spots
6 and they sometimes block the view of jurors so just let us
7 know.

8 If you need a break at any time, just raise your
9 hand. No problem. We can take a five-minute break to use
10 the restroom whenever you want.

11 If you want to stand up during the testimony, feel
12 free to stand up. I often stand up. Sometimes I stand up
13 and stand here at the standing desk for most of the trial
14 just because I don't like sitting and my back gets sore
15 from sitting for too long. Just feel free to stand up and
16 listen to as much testimony as you want while you're
17 standing.

18 Now I'm going to permit you to take notes in this
19 case. You should already have your notebooks. You're not
20 required to take notes. It's your decision completely.
21 It's a personal preference. Some people rely upon notes
22 and think they're useful. Some people are distracted
23 because they think they have to write down everything
24 that's said including punctuation and they get all wrapped
25 up in taking their notes and not paying attention to

1 what's being said.

2 So you have to decide how much you want to rely upon
3 your notes, but please remember that not everything you
4 write down is necessarily what was said. Thus, when you
5 return to the jury room to discuss the case, don't assume
6 that simply because something appears in someone's notes
7 that it necessarily took place in court.

8 Jury deliberations are a group effort and you all
9 have to talk about your collective memories, your
10 collective notes to make decisions about the facts in this
11 case.

12 Take your notes with you to the jury room at every
13 recess. You cannot take your notes home or anywhere else
14 outside the courtroom or the jury trial. At the end of
15 each day, the clerk will secure the notes. No one will
16 look at them and they will be returned to you the next
17 morning. When the case is over, your notes will simply be
18 destroyed and no one will look at them.

19 Now we have a court reporter here. You have seen our
20 court reporter but there is no transcript that's going to
21 be available for this trial. Sometimes jurors think they
22 will be able to have a transcript and read it back to them
23 in the jury room. This is not going to be able to happen.

24 Creating a transcript is a time-intensive effort and
25 what the stenographer in court is doing is creating a raw

1 record. That raw record then needs to be taken back by
2 the stenographer and worked on to become actual words on a
3 page that makes sense. If you were to look at the
4 stenographer's raw record, it likely wouldn't make no
5 sense to you at all. That's a time-consuming process so
6 you're not going to have in this case the transcript so
7 don't think you would. That means you're paying close
8 attention and taking your notes if you decide to do that.

9 The first step in the trial is the opening
10 statements. In the opening statements each side tells you
11 about the evidence that they intend to put before you or
12 what they believe the evidence will show. It will provide
13 something of a roadmap for the trial and the evidence that
14 that side expects you to hear. The purpose is only to
15 help you understand what the evidence will be and what the
16 parties will try to present.

17 In the openings the attorneys may reference what they
18 believe the applicable law is. It is, however, for the
19 court to instruct you fully on the applicable law as I
20 mentioned before at the end of the case. But it's part of
21 good lawyering and being a good advocate to try to talk
22 about the law and the facts when the attorneys are
23 presenting you with their case.

24 But just remember, the instructions I give at the end
25 of the case are what the controls. So if you think you

1 remember one of the lawyers referring to the law as
2 something in somewhat of a different way than I instruct
3 you about, it's my instructions that control.

4 What happens next is the plaintiff then offers
5 evidence that they say will support their claim. They
6 will put witnesses on the stand and the defendants will
7 have an opportunity to put on their own evidence if they
8 would like. Each side will have an opportunity to
9 cross-examine the other side's witnesses.

10 After you have heard all the evidence on both sides,
11 both sides will each have time for their closing
12 arguments. The lawyers for each side will attempt to
13 summarize and help you understand the evidence that was
14 presented and advocate for their side.

15 Again, the closing arguments, just like the opening
16 statements, are not evidence. It is lawyers making
17 presentations to you.

18 The final part of the trial occurs when I instruct
19 you about the rules of law and after hearing my
20 instructions you leave the courtroom to begin your
21 deliberations.

22 As I said, we will go to about 4:30 today. Depending
23 on how the day is going, it could be between 4:00 and
24 4:30. We usually take a break somewhere around between
25 11:00 and 11:30. We will take a lunch break at one

1 o'clock and the lunch will be from one to two. All right.

2 Are the parties prepared?

3 MR. SLEPCHUK: Yes, Your Honor.

4 THE COURT: All right. Very well.

5 MR. SLEPCHUK: May I proceed, Your Honor?

6 THE COURT: Absolutely.

7 MR. SLEPCHUK: Thank you.

8 **OPENING STATEMENT BY MR. SLEPCHUK**

9 MR. SLEPCHUK: Good morning, ladies and
10 gentlemen.

11 THE JURY: (Good morning.)

12 MR. SLEPCHUK: We live in a society of rules and
13 laws. Some of our nation's most important rules and laws
14 can be found in our Federal and State Constitutions. One
15 of our most important rights under the Constitution is the
16 right to be free from unreasonable search and seizure by
17 law enforcement. This sacred right is enshrined in the
18 Fourth Amendment to the United States Constitution and
19 Article 14 of the Massachusetts Constitution, often
20 referred to as the Massachusetts Declaration of Rights.

21 Under both the Fourth Amendment and Article 14, the
22 police cannot pull over a car -- cannot stop a car unless
23 they have reasonable suspicion based upon specific
24 articulable facts that the occupants of that car have
25 committed some sort of crime or have committed a civil

1 traffic violation.

2 Under Article 14 the police may not question the
3 passengers of a stopped motor vehicle or ask them to
4 produce identification again unless the police have
5 reasonable suspicion that that passenger has committed
6 some sort of crime.

7 Under Article 14 the police may not issue an exit
8 order; they may not pull somebody out of a car, a
9 passenger out of a car unless they have reasonable
10 suspicion that that passenger poses some sort of safety
11 threat to the officers.

12 Under both the Fourth Amendment and Article 14 the
13 police cannot search a passenger in a stopped motor
14 vehicle, cannot pat them down unless the police have
15 reasonable suspicion that that passenger is armed with a
16 weapon.

17 Under both the Fourth Amendment and Article 14 the
18 police cannot arrest an individual unless they have
19 probable cause to believe that that person has committed a
20 crime. And when the officers do decide to place somebody
21 under arrest, they must use a reasonable force when doing
22 so.

23 And finally under both the Fourth Amendment and
24 Article 14 when the police do decide to bring criminal
25 charges against an individual, those charges must be based

1 upon probable cause. They cannot be based solely upon
2 some ulterior motive or improper purpose.

3 The purpose of these constitutional rights and rules
4 is to prevent abuse of power by the police and to protect
5 the community from unlawful detention and physical harm by
6 law enforcement.

7 Now with these important constitutional rights and
8 rules in mind, let me now tell you the story of this case.

9 It's August 26, 2015. It's a little after 2 a.m.
10 Daniel Bradley is a passenger in a car. There were three
11 other people in the car. Daniel is seated in the back
12 seat on the passenger side. To his left in the back seat
13 is a young woman by the name of Savon Tucker.

14 Directly in front of Daniel in the front passenger
15 seat is a young woman named Barbara Murphy, and behind the
16 wheel in the driver's seat is a young woman named
17 Daeshavana Robinson. The car is a rental; it had been
18 rented by Daniel's mother.

19 The four are traveling south on Northampton Avenue in
20 the city of Springfield. As they're driving on
21 Northampton Avenue, a fully marked police cruiser occupied
22 by two of the defendants in this case, Christian Cicero
23 and Joseph Dunn, pulls up behind them.

24 When they approach the intersection of King Street,
25 which is a T-type intersection, Ms. Robinson puts on her

1 right directional blinker and brings the vehicle to a full
2 and complete stop for the stop sign and proceeds to make a
3 right-hand turn onto King Street.

4 The cruiser follows their vehicle onto King Street
5 and shortly thereafter activates its blue emergency lights
6 signaling a traffic stop.

7 Ms. Robinson puts on her blinker and immediately
8 pulls over without any issue. The officers notify
9 dispatch that they've stopped a car. Dispatch then alerts
10 other officers to go in support as backup. One of those
11 support officers is the defendant Daniel Moynahan.

12 The defendants approach the car. Officer Cicero
13 goes to the driver's window. Officers Dunn and Moynahan
14 go to the passenger side. Officer Cicero asks Ms.
15 Robinson for license and registration. She provides a
16 valid driver's license and she provides him with the
17 rental agreement for the car.

18 She asks Officer Cicero why they had been pulled
19 over. He says it's because you ran a red light. She says
20 we haven't even gone through any traffic light. He says,
21 oh, well, it's because you ran a stop sign.

22 The officers goes back to their cruiser to run the
23 information that Ms. Robinson had provided. A few minutes
24 later they come back to the car.

25 Officer Cicero explains to Ms. Robinson that they're

1 going to have to tow the car and issue her a citation
2 because her name is not on the rental agreement. While
3 Officer Cicero is communicating this to Ms. Robinson,
4 Officers Dunn and Moynahan ask Daniel for his
5 identification. He provides them with his ID and they go
6 back to their cruiser.

7 A few moments later they return to the passenger side
8 of the car, they open the rear passenger door, and Officer
9 Moynahan reaches in and grabs Daniel by the arm and he
10 pulls him out of the back seat.

11 Officers Dunn and Moynahan immediately place Daniel
12 in handcuffs with his hands behind his back and Officer
13 Moynahan begins searching him, patting him down. As this
14 is happening, Daniel is objecting. He's asking why are
15 you doing this? What have I done? They don't answer.
16 They tell him to shut up and they shove him up against the
17 side of the car.

18 During the patfrisk as Officer Moynahan is going up
19 the inside of Daniel's leg, he reaches the groin area and
20 with his hand he firmly grabs, manipulates Daniel's
21 private part. Daniel cries out in protest. He feels
22 humiliated. He feels violated. He objects to how he's
23 being treated; how they're violating his rights. Again,
24 they tell him to shut up and they shove him against the
25 car.

1 The officers then lead Daniel back behind the car
2 towards one of their cruisers. Daniel is still verbally
3 protesting. Officer Moynahan opens one of the rear doors
4 of the cruiser and Officer Dunn with a closed fist strikes
5 Daniel in the face. The blow causes him to fall face down
6 into the rear floorboard area of the cruiser.

7 As he's trying to get up, the officers, Officers Dunn
8 and Moynahan, began to kick him in the back. When they're
9 done kicking him, they throw the rest of his body into the
10 cruiser. They close the door and they transport him to
11 the Springfield Police Station for booking, all the while
12 on that ride Daniel is handcuffed face down in the rear
13 floorboard area.

14 When they get to the police station they go into the
15 booking room. The booking officer that night is Sergeant
16 Philip McBride. Daniel immediately states to him that he
17 wants to speak to a captain to report that he's been
18 assaulted. He makes this request multiple times. Each
19 time Sergeant McBride ignores him and just asks the
20 routine booking questions.

21 During booking the defendant Christian Cicero is
22 present. At one point Daniel looks over to him and he
23 implores Officer Cicero to man up. He tells him, you saw
24 what happened. Tell the truth. Man up. Officer Cicero,
25 he does nothing. He puts his head down when he says this.

1 That night the defendants draft paperwork falsely and
2 maliciously accusing Daniel of crimes, assault and battery
3 on a police officer and resisting arrest.

4 Later that morning he's brought to court, to
5 Springfield District court and he was arraigned on those
6 criminal charges. The court sets bail in the amount of
7 \$10,000, an amount that Daniel cannot afford and so he's
8 not released. He's held at the Hampden County House of
9 Correction in Ludlow, Massachusetts.

10 When he gets to the jail, there's a medical intake
11 that's done. He's evaluated and the medical personnel who
12 evaluate him document a laceration to his lip from the
13 punch inflicted upon him by Officer Dunn. They note
14 injuries to his back from the stomping and the kicking.
15 They prescribe him pain medication for his back and they
16 assign him to a lower bunk.

17 Additionally while Daniel is at the House of
18 Correction, he suffers emotionally from this incident. In
19 fact, on one occasion he has to meet with a mental health
20 professional counselor to discuss his emotional problems
21 as a result of this incident.

22 Daniel is held at the House of Correction for a total
23 of 30 days, one month, until September 25, 2015, the day
24 that the court reduces Daniel's bail down to \$1,000 and
25 he's able to post.

1 Almost a year later, in early August of 2016, the
2 criminal case goes to trial and on August 3, 2016 a
3 Hampden County jury unanimously finds Daniel not guilty of
4 the charges brought against him by the defendants in this
5 case.

6 Daniel Bradley is suing the defendants because they
7 chose to violate his constitutionally protected right to
8 be free from unreasonable search and seizure under the
9 Fourth Amendment and Article 14.

10 They violated those rights the first time when they
11 pulled over that car without reasonable suspicion that a
12 traffic violation had occurred or that anybody had
13 committed a crime.

14 They violated his rights a second time when they
15 demanded that he produce identification without reasonable
16 suspicion that he had committed a crime.

17 They violated his rights a third time when they
18 pulled him out of that car without reasonable suspicion
19 that he posed a safety threat.

20 They violated his rights a fourth time when they
21 searched him without reasonable suspicion that he was
22 armed with a weapon.

23 They violated his rights a fifth time when they
24 placed him under arrest without probable cause that he had
25 committed a crime.

1 They violated his rights a sixth time when in the
2 course of conducting that arrest they used excessive,
3 unreasonable force when he was handcuffed and defenseless.

4 And finally, they violated his rights a seventh time
5 when they brought those criminal charges against Daniel
6 knowing full well that he had committed no crime.

7 Now I expect that the defendants are going to say
8 they had every right to pull that car over; that it didn't
9 come to a full stop at the intersection of King Street.

10 You're going to hear the prior sworn testimony of two
11 of the girls who were in the car that night. Daeshavana
12 Robinson, the driver, and Savon Tucker, the girl who was
13 sitting right next to Daniel in the back seat.

14 Both of those young ladies testified at the criminal
15 trial that happened in August of 2016. They testified
16 under oath and both of them testified that that car came
17 to a full and complete stop at that intersection.

18 I expect that the defendants are going to tell you
19 that they had every right to pull Daniel out of the car
20 and search him because they saw him shifting from side to
21 side in his seat and even reaching towards the doorjamb.
22 But again the prior testimony, the prior sworn testimony
23 of those two girls is that Daniel didn't make any such
24 movements; that he was just sitting there.

25 More importantly the evidence is going to show that

1 when the officers searched Daniel, they didn't find any
2 weapons on him. They didn't find any contraband on him.
3 When they searched the area where he was sitting, when
4 they searched particularly that doorjamb area, they didn't
5 find a weapon. They didn't find any contraband.

6 I expect that the defendants are going to tell you
7 that they had every right to arrest Daniel because he
8 kicked Officer Dunn during the course of the patfrisk.
9 Now Daniel is going to tell you that he never kicked
10 Officer Dunn. But, more importantly, the evidence is
11 going to show that Officer Dunn wasn't injured in any way,
12 shape, or form, not even the slightest bruising or
13 swelling to his leg from this supposed kick.

14 I expect the defendants are going to tell you that
15 they never punched Daniel in the face; they didn't kick
16 him in the back, but you're going to see photographs that
17 were taken shortly after this incident. In fact a booking
18 photograph taken at the police station right after this
19 event as soon as he was brought there, and you're going to
20 see that Daniel had a busted lip with blood coming from
21 that punch.

22 You're also going to see the medical records from the
23 House of Correction which document that laceration to the
24 lip, which document the injuries to his back and the other
25 emotional injuries that he suffered.

1 The defendants in this case chose, intentionally
2 chose to violate Daniel's constitutionally protected
3 rights. As a result, he suffered. He suffered not only
4 the indignity, the embarrassment, the shame of having to
5 go through that entire ordeal. He suffered physically.
6 He suffered emotionally, and, most importantly, he
7 suffered a loss of liberty, 30 days, one month in jail for
8 a crime he did not commit. And because the defendants
9 chose to violate those important constitutional rights and
10 rules at the end of this trial, at the close of all of the
11 evidence, I'm going to ask you to hold the defendants
12 accountable for their actions by rendering a verdict in
13 favor of Daniel Bradley. Thank you.

14 **OPENING STATEMENT BY MR. SAINT LAURENT**

15 MR. SAINT LAURENT: Good morning, ladies and
16 gentlemen. My name is Jeremy Saint Laurent. I represent
17 the defendant Joseph Dunn in this matter. On behalf of
18 Mr. Dunn and myself, I'd like to thank you for taking the
19 time out of your busy work schedules to serve on this jury
20 here. Your service is an important part of the judicial
21 system.

22 This is my chance to give you a quick overview of
23 what we expect the evidence to show over the next two
24 days. This matter arises from a traffic stop on August
25 26, 2015 in the Gunn Square area of Springfield at about 2

1 a.m.

2 The evidence will show that my client, Officer Dunn,
3 and his then-partner Officer Cicero noticed a car speeding
4 down Northampton Avenue in Springfield. The officers
5 pulled the car over after observing the car run through a
6 stop sign. The driver, who was later identified to be a
7 young woman named Daeshavana Robinson, willingly turned
8 over her license and what then was determined to be an
9 expired rental agreement.

10 Well, it turns out that rental agreement was expired
11 for a little bit over -- a little bit under a month. At
12 that point the officers informed Ms. Robinson that because
13 neither her nor any of the other occupants of the vehicle
14 were listed on the leasing agreement as authorized
15 drivers, and because the agreement had been expired for
16 such a lengthy time, they were going to have to tow the
17 vehicle.

18 It was at this time that my client's attention was
19 drawn to the plaintiff in this case, Mr. Bradley. Joseph
20 Dunn will testify that he observed Mr. Bradley shuffling
21 around in his seat and, more importantly, he observed Mr.
22 Bradley removing his hand from his waist area and reaching
23 it toward the right doorjamb area out of Officer Dunn's
24 view.

25 At this time Officer Dunn's role was to illuminate

1 the inside of the vehicle and act as almost a watch-out
2 while the other officer, Officer Cicero, interacted with
3 the driver.

4 Officer Dunn will testify that the movements he
5 observed from Mr. Bradley are those consistent with
6 someone either trying to hide a firearm or narcotics
7 during a traffic stop or worse retrieve a firearm during a
8 traffic stop. This raised Officer Dunn's suspicion.

9 At this time Officer Dunn asked Mr. Bradley to step
10 out of the vehicle. Mr. Bradley refused. At this point
11 Officer Dunn had no choice but to physically remove Mr.
12 Bradley from the vehicle. By this time other cruisers had
13 responded to the scene. One of the newly arriving
14 officers, Officer Daniel Moynahan, came over to assist
15 Officer Dunn in what is known as a patfrisk.

16 A patfrisk, as some of you may know, is a type of
17 search where an officer runs his hands over a person's
18 clothing and body searching for weapons concealed under
19 the person's clothing.

20 One of the areas searched during a patfrisk is the
21 groin area. Knowing the intrusiveness of this type of a
22 search, both Officer Moynahan and Officer Dunn instructed
23 Mr. Bradley in what they were about to perform.

24 The evidence will show that when Officer Moynahan
25 attempted to search Mr. Bradley's groin area, Mr. Bradley

1 pushed his hips forward trapping Officer Moynahan's hand
2 between his body and the car and then pushed his body
3 backwards pressing his back against Officer Moynahan's
4 body.

5 You will hear from Officer Dunn that he will tell you
6 that the waistband and groin area are a commonplace for
7 weapons during a traffic stop or other encounters with a
8 civilian. This is commonplace for people to hide
9 contraband and weapons in their waist area and it's
10 essential that that area is searched prior to interacting
11 with a civilian.

12 The officers at the scene attempting to deescalate
13 the situation by speaking to Mr. Bradley, telling him that
14 they were again going to attempt to perform the patfrisk.
15 At this point Mr. Bradley continued to resist. It was at
16 that point that my client, Officer Dunn, attempted to
17 place handcuffs on Mr. Bradley to perform a legal
18 patfrisk. Instead of complying, Mr. Bradley stiffened his
19 arms, clinched his fist in a ball, and kicked back at
20 Officer Dunn striking him in the shin.

21 That kick, ladies and gentlemen, was an assault.
22 There does not need to be any bruising, bleeding,
23 laceration on Officer Dunn. That strike to his shin is an
24 assault on an officer attempting to perform his duties.

25 Officer Dunn will tell you that he informed Mr.

1 Bradley that at that time he was under arrest and Mr.
2 Bradley continued to resist. You will hear how Mr.
3 Bradley continued to try to pull away while the officers
4 attempted to handcuff him; while the officers attempted to
5 escort him to the vehicle; and, most importantly, while
6 the officers were attempting to place him in the back of
7 the marked police cruiser.

8 Mr. Bradley refused to enter the back of the cruiser
9 and at that point the officers had no choice but to
10 forcibly push Mr. Bradley into the back of the cruiser.
11 Mr. Bradley laid on the seat of the back of the cruiser
12 and was transported to the police department for booking.

13 You will also have the opportunity to hear from Dr.
14 Eli Silverman. His video deposition -- since he will not
15 be able to be with us at this trial -- will be played on
16 the monitors in front of you. Dr. Silverman is a
17 world-renowned police expert on policies, practices, and
18 procedure.

19 Dr. Silverman will explain why each action my client
20 and the defendant officers took during their interaction
21 with Mr. Bradley were acceptable police practices.

22 He will explain how the officers' decision to
23 escalate the interaction from a standard patfrisk to a
24 detention with handcuffs to an eventual arrest were all
25 the result of Mr. Bradley's escalation of a basic traffic

1 stop.

2 As you listen to the testimony of the three
3 defendants and Mr. Silverman, I ask that you use common
4 sense and every day reasoning; evaluate the facts
5 logically and the testimony to its fullest. Pay attention
6 to each witness re-tell the story from their perspective.
7 If you do, I trust that at the conclusion of this trial
8 you will find that my client Mr. Dunn and the other
9 defendants acted in a constitutional manner. At no time
10 did they strike or kick Mr. Bradley.

11 I trust that you will realize that this was a routine
12 traffic stop that was escalated to this point by the
13 actions of one man, the plaintiff Mr. Bradley, and upon
14 this realization I trust you will return a verdict in the
15 defendants' favor. Thank you.

16 **OPENING STATEMENT BY MR. COYLE**

17 MR. COYLE: Good mooring, ladies and gentlemen.
18 I'm Attorney Kevin Coyle. I represent Christian Cicero
19 who, as you heard, was the operator of the police vehicle
20 which was involved in this traffic stop.

21 Before I get into the facts of the case, I would just
22 like to ask you to keep an open mind in this case until
23 you have heard all of the evidence.

24 The plaintiff -- the burden is on the plaintiff. The
25 plaintiff will present evidence which he will argue to you

1 is incriminating and proves his case, and after that
2 happens the defendants have the opportunity to present
3 their side of the case.

4 Please do not form any opinions upon hearing only one
5 side of the case. Please keep your mind open. Understand
6 that there is a conflicting, a varying scenario that is
7 going to be presented by the officers in terms of why they
8 did exactly what they did.

9 In this case Officer Cicero was the operator of the
10 police vehicle and he's going to testify that they saw
11 this car on Northampton Avenue and it appeared to be going
12 at an excessive rate of speed. They got behind the car
13 and when it reached the corner of King Street and it made
14 a turn, it failed to stop, come to a complete stop where
15 there was a stop sign.

16 The officers then approached the vehicle. Officer
17 Cicero went to the driver's side and interacted with the
18 driver Ms. Robinson through the window as you're familiar
19 with normally happens in a traffic stop.

20 As Attorney Saint Laurent indicated to you, it turned
21 out that she did have a valid licence but there was no
22 registration for this car. Instead there was a rental
23 agreement that was expired by 20 something days, and the
24 renter of the vehicle was listed as a Lynette Broxton who
25 none of the people in the car were Lynette Broxton.

1 The conversation ensued about who she was and why
2 were these people in the car, what right do they have to
3 be in this car with a 20-day or a 20-odd day expired
4 rental agreement. The conversation developed that Lynette
5 Broxton is the mother of the plaintiff, Mr. Bradley in
6 this case.

7 Now at this point in time these officers had four
8 people in a vehicle, and one other point Ms. Robinson was
9 not listed as an appropriate driver or a listed driver on
10 the expired rental agreement.

11 So there were four people in the vehicle, none of
12 whom had any authority to operate the vehicle under the
13 rental agreement and someone claiming that the person who
14 signed the expired rental agreement was his mother but
15 there were different last names.

16 So certainly at this point in time the officers had
17 the right to make further inquiries, including the
18 identity of the person claiming to be the son of the name
19 on the rental agreement. Certainly they had the right to
20 make these inquiries and make a determination as to
21 whether or not this vehicle was being used without
22 authority, which is a violation.

23 They went further. Officer Cicero throughout this is
24 either at the driver's window or behind the vehicle, at
25 one point running licenses and verifying the driver while

1 Mr. Bradley who's the passenger -- is the passenger
2 behind -- in the rear seat behind the passenger of the
3 vehicle. Officer Dunn later joined by Officer Moynahan
4 ended up dealing with him.

5 Officer Cicero had no direct contact with or
6 involvement in the process of Mr. Bradley being taken from
7 the vehicle or the events which happened afterwards, but
8 he did observe them from the other side of the car.

9 He will tell you that he observed the interaction.
10 He saw the officers have to forcefully or at least have to
11 against Mr. Bradley's cooperation remove him from the car
12 and conduct the pat search. And apparently at some point
13 Mr. Bradley became angered by the fact that they had
14 conducted this pat search. I guess he felt offended
15 because the pat search does include some intrusive
16 inspections and he saw Mr. Bradley resisting. He saw the
17 officers having to use some level of force to take Mr.
18 Bradley into custody ultimately and bring him back to the
19 cruiser.

20 Officer Bradley (sic) didn't have any hands-on
21 involvement -- I'm sorry, Officer Cicero did not have any
22 hands-on involvement with Mr. Bradley.

23 The evidence, when you've heard all the evidence in
24 this case, you will see that Officer Cicero was not
25 involved in the arrest of Mr. Bradley.

1 The charges against Mr. Bradley were not based on
2 Officer Cicero's observations. They were based on the
3 observations of the other officers, and they all signed --
4 or they were all listed as arresting officers because this
5 was initially Officer Cicero's traffic stop. He was the
6 driver of the vehicle that stopped the car, and you will
7 hear the evidence of the various witnesses.

8 The driver of the car will actually acknowledge that
9 she doesn't know if she stopped at the stop sign or not,
10 which was the original basis for stopping the vehicle.

11 When the evidence is in and you have heard all of the
12 evidence, not just the plaintiff's case, I will ask you
13 and I'm confident that you will find that Officer Cicero,
14 and the other officers, did not violate the rights of Mr.
15 Bradley. That they did their job at two-something in the
16 morning. They were out there protecting all of us doing
17 their job, enforcing the law, and that's why Mr. Bradley
18 was arrested that night. Thank you.

19 **OPENING STATEMENT BY MR. SCHMIDT**

20 MR. SCHMIDT: Good morning. Again, my name is
21 Robert Schmidt and I represent the defendant Daniel
22 Moynahan. Officer Moynahan was a supporting officer. He
23 came in a second cruiser on the night with Officer Cicero
24 and Dunn.

25 As Officers Dunn and Moynahan were watching the motor

1 vehicle during the stop, they observed furtive movements.
2 As a result of observing those furtive movements, it was
3 necessary to issue an exit order.

4 Again, this is a situation where officers -- yes, Mr.
5 Bradley has rights. Yes, the Constitution protects him,
6 but these officers have rights too. They have a right to
7 protect themselves and they have a right to get home to
8 their families and that's what they're doing.

9 Stopping a car, they don't know who's in it. They
10 don't know what's going on. They see someone moving
11 around in a car. What are they supposed to do? The law
12 allows them to issue an exit order and to look for ID.

13 Remember, as Attorney Coyle said, this car is getting
14 towed and so Mr. Bradley is going to have to exit the car
15 at some point one way or another.

16 Now, as Attorney Saint Laurent said, these are Mr.
17 Bradley's actions. These are Mr. Bradley's decisions.
18 They have to get him out of the car. They have to tow it.
19 He commits furtive movements. Officer Moynahan has to be
20 concerned for his own safety. What does he do? To get
21 him away from the car, he presses his front mid-section
22 crouch area into the back of the cruiser actually crushing
23 Officer Moynahan's hands up against the car.

24 Well, what's that behavior consistent of? I would
25 suggest to you, and Officer Moynahan will testify, that

1 that is consistent with trying to conceal some sort of
2 weapon in that area and that's what drew Officer
3 Moynahan's attention to the groin area because of Mr.
4 Bradley's actions.

5 Officer Moynahan isn't someone who's out there hoping
6 to patfrisk someone's crotch area. This is a part of his
7 job trying to protect himself and protect the other
8 officers.

9 Now this case is really about credibility. You're
10 going to hear testimony about police procedure. You're
11 going to hear testimony about, you know, what's right and
12 which step can you do the exit order, when can you do a
13 patfrisk. It all may seem very technical but boiled down
14 to its essence, if you believe the police officers in this
15 case, then I expect you will find they did nothing wrong.
16 If you believe Mr. Bradley, I think you will find that
17 they did do something wrong.

18 So what's really important here is to assess the
19 credibility of those witnesses. Focus on Mr. Bradley's
20 injuries, are they consistent with his testimony? Pay
21 attention to the body language of the witnesses, their
22 tone, the consistency with prior testimony that they've
23 given.

24 In particular, I want you to pay attention in this
25 case to exaggeration. Who's exaggerating and who isn't?

1 I suggest to you right there on that witness stand that's
2 where all the answers will be in this case. It's not
3 going to be about the videos or any videos you might see
4 or any kind of lab testing like from a TV show.

5 It's who sitting in that box do you believe, the
6 defendant (sic) or the three officers? I'd suggest that
7 after you do that, using your common sense and hearing all
8 the evidence, applying your life experience, you will find
9 that the defendants, the police officers here, were simply
10 doing their jobs, responding to actions by Mr. Bradley.
11 He's the one who made this contentious. He's the one who
12 made this difficult.

13 Think about whether or not there's any benefit to the
14 officers to behave in the way that Mr. Bradley is
15 alleging. What do they get out of this? Why would they
16 do this?

17 In the end, I'll be back before you at my closing, as
18 will my co-counsel, and I suggest that based on all the
19 evidence you will find that the officers acted
20 appropriately and that Mr. Bradley was the problem in this
21 situation, and I think you will find that they're not
22 liable as alleged. Thank you.

23 THE COURT: Ms. Szafranski?

24 MS. SZAFRANSKI: I'm not doing an opening, Your
25 Honor.

1 THE COURT: All right. At this point I would
2 just remind you that all attorneys did a very professional
3 job giving their openings, but I just you remind their
4 openings are not evidence. Of course, they were referring
5 to the law but, as I said, the law will be given to you by
6 me at the end of the case.

7 All right. We're ready for your first witness?

8 MR. SLEPCHUK: Yes, Your Honor. At this time we
9 would call Daniel Bradley to the stand.

10 THE COURT: Very good.

11 THE CLERK: Raise your right hand.

12 **Daniel Bradley (sworn)**

13 MR. SLEPCHUK: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 Q. (By Mr. Slepchuk) Could you please introduce yourself
16 to the jury?

17 A. Good morning. Daniel Bradley.

18 Q. Mr. Bradley, how old are you?

19 A. Thirty-three years old.

20 Q. Where do you live?

21 A. Springfield.

22 Q. Do you have any children?

23 A. Yes. I have three children.

24 Q. And how old are they?

25 A. I have a seven month old, a four year old, and a six

1 year old.

2 Q. Mr. Bradley, I want to turn your attention to August
3 26th of 2015. Do you remember that day?

4 A. Yes.

5 Q. Around two in the morning were you traveling in a car
6 with anybody?

7 A. Yes. As you heard earlier, Daeshavana Robinson,
8 Savon Tucker, and Barbara Murphy.

9 Q. And can you tell the jury who was driving the car
10 that night?

11 A. Daeshavana Robinson.

12 Q. And where was Barbara Murphy seated?

13 A. In the front passenger seat.

14 Q. How about Ms. Tucker, Savon Tucker? Where was she
15 seated in the car?

16 A. In the rear passenger seat behind the driver.

17 Q. And where were you seated?

18 A. In the rear compartment next to her behind Barbara.

19 Q. Who did the car belong to?

20 A. It was a rental rented to my mother.

21 Q. What's your mother's name?

22 A. Lynette Broxton.

23 THE COURT: Can everyone hear okay? Do you want
24 us to turn it up? You're fine. A little bit?

25 Can you amplify that one?

1 THE CLERK: Certainly, judge.

2 THE COURT: Thanks.

3 Q. (By Mr. Slepchuk) Mr. Bradley, can you tell us where
4 you were coming from that night?

5 A. I was actually coming from my brother's father's
6 house on Aster Street.

7 Q. Okay. And what was going on at your brother's
8 father's house on Aster Street?

9 A. They were -- my brother, his younger brother and one
10 of his friends was sitting there drinking and smoking and
11 stuff.

12 Q. And were the three girls also with you at your
13 brother's house?

14 A. Yeah, they were there prior to me getting there.

15 Q. And how do you know those three girls?

16 A. Just from my brother that day.

17 Q. Were you familiar with them prior to that evening?

18 A. No.

19 Q. While you're at your brother's house did you have any
20 alcohol to drink that night?

21 A. Yes.

22 Q. How much did you have to drink?

23 A. I had like two shots of Hennessy.

24 Q. Okay. And did you consume any drugs or anything like
25 that?

1 A. Yes. I smoked marijuana.

2 Q. Now, was there any alcohol or marijuana in the car
3 after you left your brother's house?

4 A. Yes. There was a bottle of Hennessy that Savon had I
5 think.

6 Q. Were there any weapons in the car?

7 A. No.

8 Q. Where were you headed?

9 A. We were heading to drop -- Daeshavana asked me to
10 drop her off but the way she explained to me I didn't know
11 so I just told her to drop herself off. It was easier.
12 It was like in East Longmeadow or something.

13 Q. So you were going to be giving the girls a ride home;
14 is that right?

15 A. Correct.

16 Q. And you didn't know how to get to where they lived so
17 they were just going to drive themselves; is that what
18 you're telling us?

19 A. Correct.

20 Q. At some point did you drive down Northampton Avenue
21 in Springfield?

22 A. Yes.

23 Q. As you were driving down Northampton Avenue did you
24 notice anything?

25 A. Yeah. It's pretty -- Northampton Avenue is a pretty

1 long street. So as we were like halfway down the street,
2 you could see the headlights of a car speeding down the
3 street behind us. So as we come -- as we came and
4 approached the stop sign and stopped, they're like,
5 they're like already almost on us like right behind us.
6 So she stops and then puts the blinker on, takes a right,
7 and then shortly after there was the cops putting on their
8 lights.

9 Q. So you said that you came to an interaction; is that
10 right?

11 A. Yeah, at the end of Northampton and King.

12 Q. Do you know remember what street intersects
13 Northampton at that point?

14 A. King Street.

15 Q. Okay. And you said -- now, when she got to the stop
16 sign, what happened?

17 A. She stopped; came to a complete stop like a normal
18 person would, put the blinker on, and proceeded to take a
19 right.

20 Q. Okay. What happened after she made the right-hand
21 turn?

22 A. She turned on to King Street and shortly after you
23 can see that the car that was speeding behind was a police
24 cruiser and they activated their police lights.

25 Q. What happened when the lights went on?

1 A. She put her blinker on and pulled over.

2 MR. SLEPCHUK: Just one moment, Your Honor?

3 THE COURT: Sure.

4 MR. SLEPCHUK: Thank you, madam clerk.

5 Bear with me one moment as I try to zoom in on this.

6 THE COURT: Are all the jurors' screens working?

7 Every one is working. Those screens pull out so you can

8 pull them closer to you if want to and move them around.

9 Q. (By Mr. Slepchuk) Mr. Bradley, do you see anything
10 on your screen there?

11 A. Yes.

12 Q. Can you tell us what you're looking at or what we're
13 looking at?

14 A. It's a map of the intersection of King and
15 Northampton Ave., the place where we traveled that night.

16 Q. Does this map fairly and accuratcy represent the
17 layout of the streets Northampton Avenue and King Street?

18 A. Yes.

19 Q. Now, Mr. Bradley, I'm going to ask you and hopefully
20 this works -- I'm going to ask to you -- this is a touch
21 screen. I'm going to ask you with your finger to trace
22 the route of your vehicle on Northampton Avenue where it
23 went on King Street and just mark with like an X or a
24 circle the location of where Ms. Robinson pulled over.

25 A. (Indicating.)

1 MR. SLEPCHUK: Madam clerk, could we take a
2 screenshot, save a screenshot of this image please?

3 THE CLERK: Yes.

4 MR. SLEPCHUK: Thank you.

5 Q. (By Mr. Slepchuk) Mr. Bradley, after Daeshavana had
6 pulled the car over, did the officers come up to the car
7 at some point?

8 A. Yes.

9 Q. Do you remember how many officers approached the car?

10 A. Originally I think it was just the one cruiser but as
11 they got out of the car, I think a second cruiser was
12 actually pulling up.

13 Q. Did any of the officers go to the driver window to
14 speak with Ms. Robinson?

15 A. Yes.

16 Q. Do you remember who that was?

17 A. Officer Cicero.

18 Q. Do you see Officer Cicero seated in the courtroom
19 here today?

20 A. Yes.

21 Q. Can you please point him out and identify an article
22 of clothing that he's wearing?

23 A. A black suit. I can't really see directly.

24 Q. Can you speak up?

25 A. His lawyer is kind of in the way, but the officer

1 behind the lawyer right there in a striped tie, blue
2 shirt.

3 MR. SLEPCHUK: Your Honor, if the record can
4 reflect identification of Mr. Cicero?

5 THE COURT: I'm not quite sure. Could you --

6 MR. COYLE: Raise your hand.

7 THE COURT: All right. Is that Officer Cicero
8 who just raised his hand?

9 THE WITNESS: Yes.

10 THE COURT: Thank you, Officer Cicero.

11 That identification will be of Officer Cicero.

12 MR. SLEPCHUK: Thank you.

13 Q. (By Mr. Slepchuk) Did any of the officers come to
14 the passenger side of the car?

15 A. Yes.

16 Q. Who were those officers?

17 A. There was Officer Moynahan and Officer Dunn.

18 Q. Do you see Officer Moynahan seated in the courtroom
19 here today?

20 MR. SCHMIDT: We will stipulate to
21 identification of Officer Moynahan.

22 THE COURT: All right. Officer Moynahan, could
23 you raise your hand for one second?

24 Thank you very much, sir.

25 MR. MOYNAHAN: Thank you.

1 THE COURT: Stipulated as to the identity of
2 Officer Moynahan.

3 MR. SLEPCHUK: Thank you.

4 Q. (By Mr. Slepchuk) Mr. Bradley, do you see Officer
5 Dunn here in the courtroom here today?

6 A. Yes.

7 Q. Can you please point him out and identify an article
8 of clothing he's wearing?

9 A. The blue suit.

10 THE COURT: All right. Raising your hand now,
11 thank you, sir. All right.

12 The stipulation is that's the identity of Officer
13 Dunn. All right.

14 MR. SLEPCHUK: Thank you.

15 Q. (By Mr. Slepchuk) Now, did Officer Cicero speak with
16 Ms. Robinson?

17 A. Yes.

18 Q. Can you tell us what did Officer Cicero initially say
19 to Ms. Robinson?

20 A. He asked why did she run a stop light at the end of
21 the street or something and she said we didn't go through
22 a stop light. We came from off the other way and came on
23 to Northampton Ave. He's like, well, a stop, the stop
24 sign right there, you ran through it. She's like no.

25 THE COURT: Sir, I'm going to ask you if you can

1 pull the microphone a little closer to you. Don't get
2 right up on it but a little closer.

3 THE WITNESS: All right.

4 THE COURT: Thank you.

5 Q. (By Mr. Slepchuk) Mr. Bradley, I'm just going to ask
6 you that again because I don't know if it was audible for
7 everybody.

8 Can you repeat your answer again about the
9 conversation between Officer Cicero and Ms. Robinson?

10 A. So originally he had stated that she had ran a stop
11 light, like an actual light at the end of the street, but
12 she told him that we didn't even come from off that way to
13 turn onto Northampton Ave. because that would be like by
14 the motorcycle building. I think it's Rutland where the
15 stop light is but we didn't come off that street. We came
16 from -- like I said, we was coming from Aster Street so we
17 came through like Montrose, that way, no stop lights on to
18 Northampton Ave. and she actually stopped at the stop sign
19 that was there on Northampton and King.

20 Q. Okay. So initially he said that it was a stop light?

21 A. Correct.

22 Q. And then when she corrected him and said that we
23 didn't go through a stop light, he said it was a stop
24 sign; is that right?

25 A. Correct.

1 Q. Was there any conversation about license or
2 registration or anything of that nature?

3 A. Yes. He asked for the license and registration. She
4 passed him her license and the rental agreement.

5 Q. After that conversation took place and she provided
6 the license and the rental agreement, what did the
7 officers do? Where did they go? What happened next?

8 A. So as I stated earlier, when we first got pulled over
9 it was Officer Cicero at the front talking to her and at
10 the back Officer Dunn. They took the license and went
11 back. The other cruiser at sometime in between there had
12 pulled up. So by the time the license was returned, there
13 was two cops now on this side, Officer Dunn and Officer
14 Moynahan. So they're sitting there with their lights
15 flashing into the car.

16 We were all sitting there not moving or anything like
17 they're stating. So when he comes back, Officer Cicero
18 that is, comes back to the car, he informs her that the
19 rental agreement has expired and that they will be towing
20 the car, so.

21 Q. Did any of the officers say anything to you at that
22 point?

23 A. At that point when they actually came back with her
24 license, the officer like knocked on my window or
25 something and asked me for my ID so I went in my pocket

1 and grabbed it.

2 Q. Do you remember who asked you for the ID?

3 A. I can't remember exactly what officer, but it was two
4 officers there. One of them, either Moynahan or Dunn. It
5 was those two officers.

6 Q. One of those two asked you for the ID?

7 A. Right.

8 Q. How did you respond when they asked you for the ID?

9 A. I reached into my pocket and handed them my ID.

10 Q. How did the other occupants of the car, Ms. Tucker,
11 Ms. Murphy, Ms. Robinson, how did they react to them
12 asking you for the ID?

13 A. They were a little skeptical seeing how, one, they
14 already indicated that we ran a stop light and we didn't
15 go through a stop light; and then, two, that they were
16 basically singling me out asking me for my ID. We're all
17 in the car. It was four occupants, the same situation but
18 yet you're singling me out.

19 Q. Did they ask -- did the officers ask Ms. Tucker or
20 Ms. Murphy for their IDs?

21 A. No.

22 Q. What happened after you provided the officers with
23 your ID?

24 A. They proceeded back to the crustier that was behind
25 us for several minutes and then returned, opened my door,

1 and yanked me right out.

2 Q. Did they say anything to you as they were opening the
3 door and pulling you out?

4 A. Step out of the car but not even a chance to get out;
5 just grabbed me like step out of the car and grabbed me by
6 my arm right out of the car.

7 Q. And what happened when you got out of the car?

8 A. They placed me immediately in handcuffs.

9 Q. Now, prior to them removing you from the car, were
10 you shifting from side to side in your seat at any point
11 in time?

12 A. No. I had no reason to be shifting.

13 Q. Did you reach towards the doorjamb with your arm at
14 any point in time?

15 A. No. Again, no reason to be shifting.

16 Q. After they pulled you out of the car, what happened?

17 A. Like I said they immediately placed me into handcuffs
18 and the back of the, sorry, the back of the police cruiser
19 -- I mean not the police cruiser, sorry the back of the
20 car I was in, like basically right after you come out of
21 the door right towards the trunk area on the passenger
22 side, they like set me right there in that area and began
23 searching me.

24 MR. SLEPCHUK: If I can have one moment, Your
25 Honor?

1 THE COURT: Yes.

2 MR. SLEPCHUK: If I may, I'd like to ask the
3 witness to step down and draw a diagram of the location of
4 the cars and the parties, if I may?

5 THE COURT: Go right ahead.

6 Q. (By Mr. Slepchuk) Mr. Bradley, I'm going to ask you
7 to step down from the witness stand.

8 MR. COYLE: Your Honor, can he move that far
9 enough away so that counsel can see that as well?

10 THE COURT: Yeah, let's try to move that to a
11 spot so that everyone can see.

12 Any of the parties can move and come over here if you
13 want to see it.

14 MR. SLEPCHUK: Let me just grab a marker. Give
15 me one moment.

16 Q. (By Mr. Slepchuk) Mr. Bradley, I'd like you to, if
17 you can, draw for us the location of your car, the
18 location of the police cruiser and the positioning of
19 yourself when you were removed from the car, Officers Dunn
20 and Moynahan and Officer Cicero if you can?

21 A. Okay.

22 Q. Maybe you can for the cruiser you can write PC for
23 police cruiser, something to that effect.

24 A. (Indicating.)

25 Q. Okay. And RC, is that the rental car?

1 A. Yes.

2 Q. Could you then also for us please draw where you were
3 positioned when they brought you out of the car? Make a
4 stick figure or something like that.

5 A. (Indicating.)

6 Q. Okay. You've drawn three or four stick figures.
7 Would you mind just maybe with initials for Officer Cicero
8 maybe just write a C next to his name?

9 A. (Indicating.)

10 Q. Okay. And Officer Dunn perhaps just with a D.

11 A. (Indicating.)

12 Q. And Officer Moynahan with an M.

13 A. (Indicating.)

14 Q. Okay. And the last individual that would be you?

15 A. Correct.

16 Q. Okay. Thank you very much. You can return to the
17 witness stand.

18 Mr. Bradley, you had testified that they removed you
19 from the car and you were in that position near the rear
20 of the car and they placed you in handcuffs.

21 Were you handcuffed with your hands in front or
22 behind your back?

23 A. Behind my back.

24 Q. And after they placed you in handcuffs behind your
25 back, what happened? What did they do?

1 A. They began to search me like a patfrisk of like my
2 outer clothing.

3 Q. Who was doing that?

4 A. Umm, at the moment, sorry, I'm a little -- I can't
5 recall exactly but I want to say Officer Moynahan. I was
6 facing towards the car so I don't know exactly which one
7 of them it was.

8 Q. Now, what was your reaction to being pulled out of
9 the car, handcuffed, and searched?

10 A. I was just asking questions like "What's going on?
11 Why am I being put in handcuffs?"

12 Q. Can you speak up a little bit and say that one more
13 time?

14 A. I was just asking like "Why was I being put in
15 handcuffs? What was going on?"

16 Q. Okay. And did they answer you?

17 A. No.

18 Q. Did they say anything to you?

19 A. No. They just told me like "shut up," and they just
20 kind of like roughed me up against the car a little bit.

21 Q. Now you said they roughed you up against the car.
22 Can you tell us what that means?

23 A. They basically shoved me. Like I had my hands behind
24 my back in handcuffs and they like shoved me up against
25 the car so they can like further search me.

1 Q. Okay. And what, if anything, happened while Officer
2 Moynahan was searching you?

3 A. As he was searching me he came like up my leg like
4 patfrisked both sides and when he got like to my like
5 midsection, he kind of like, like grabbed my genitals like
6 a little. (Indicating)

7 Q. Okay. You say he grabbed your genitals. How did
8 that make you feel?

9 A. Like, like violated; just molested; like the most
10 uncomfortable feeling you can feel.

11 Q. How did you respond when he touched your genitals in
12 that manner?

13 A. The way anybody else would respond. Like, what's
14 going on? Like, hey, what was that?

15 Q. Did you shove your body up against the car at that
16 point?

17 A. No.

18 Q. Did you push back against the officers?

19 A. No.

20 Q. Did you try to run away?

21 A. No.

22 Q. Did you kick either of the officers?

23 A. No.

24 Q. What happened after that?

25 A. After basically I was asking like, hey, what was that

1 about? They basically told me to shut up. They grabbed
2 me by the arm and took me like behind the rental car and
3 in between the police cruiser to the other side of the
4 cruiser and they opened the rear door and Officer Dunn
5 closed his fist and punched me in my mouth and I like fell
6 into the rear compartment of the cruiser.

7 Q. Okay. Did you -- when you fell, did you fall on your
8 back? Face first? How were you positioned?

9 A. I was like face first and like half my -- like my
10 lower torso was still out of the car and my top half was
11 in the car like on the floor.

12 Q. Were you on the seat or were you on the floorboard?
13 Where were you in the car?

14 A. The floor.

15 Q. Were you still handcuffed at this point in time?

16 A. Yes.

17 Q. When you landed with your torso into the rear
18 floorboard facing down, what happened next?

19 A. So as I stated prior, my lower half was still hanging
20 out of the cruiser so I tried to sit up and position
21 myself more comfortably. Like basically I had my face on
22 the ground. As I went to lean up, I could see two
23 officers standing over me. One of them kicked me. I fell
24 down and the other one kicked me again. I don't how many
25 kicks it was but several kicks, and I went back down to

1 the floorboard and they like kind of took my feet and just
2 pushed me in.

3 Q. When they kicked you, what part of your body was
4 being kicked?

5 A. Like between like neck and back area right here
6 (Indicating.)

7 Then like the first ones -- I don't know how to
8 explain it, a few of them like toward the top and then a
9 few towards the bottom like toward my lower back.

10 Q. You said after they were done kicking you, they were
11 able to get the rest of your body into the rear of the
12 cruiser and close the door?

13 A. Yeah.

14 Q. And where were you brought?

15 A. To the Springfield Police Department.

16 Q. Okay. And what happened when you got to the police
17 station?

18 A. I immediately asked to speak to a captain or somebody
19 so I could report the assault.

20 Q. And were you ever given the opportunity to speak to a
21 captain about being assaulted?

22 A. No.

23 Q. Were you ever offered any medical attention?

24 A. No.

25 MR. SLEPCHUK: Your Honor, could I be heard

1 briefly at sidebar?

2 (Sidebar conference.)

3 THE COURT: Okay. What's up?

4 MR. SLEPCHUK: So at this point, Your Honor, I
5 would like to play the booking video for the jury. I know
6 that there was one redaction that defense counsel had
7 wanted to make because they wanted to offer it as an
8 exhibit. So I just wanted to inquire, do you have the
9 redacted tape?

10 MR. SCHMIDT: We'll have it today.

11 MR. SLEPCHUK: Okay. In that case I'm just
12 going to play the video and I'll just fast forward over
13 the part that's to be redacted.

14 THE COURT: Okay. Is it redacted pursuant to
15 one of my rulings?

16 MR. SLEPCHUK: Yes.

17 THE COURT: Okay. What was the redaction?

18 MR. SLEPCHUK: It's just a portion where they
19 asked if he's ever been arrested before and he says yes.
20 It's like two seconds.

21 THE COURT: So you'll manage that on your end?

22 MR. SLEPCHUK: Yes.

23 THE COURT: If you're satisfied you can do that,
24 sure.

25 MR. SCHMIDT: I should have the educated one

1 tonight and then you can put that in as an exhibit after
2 the fact. Does that make sense?

3 MR. SLEPCHUK: Yes.

4 THE COURT: Okay.

5 MR. SLEPCHUK: Have it offered *de bene* or
6 something.

7 THE COURT: Sure. Okay.

8 (End of sidebar conference.)

9 THE COURT: Just tell us if one of your screens
10 isn't working. If you see me staring down at the floor,
11 don't think I'm kind of having one of my moments. My
12 screen is down here. All right. It's underneath here.

13 Q. (By Mr. Slepchuk) Mr. Bradley, do you see on your
14 screen a video?

15 A. Yes.

16 MR. SLEPCHUK: Does everybody?

17 THE COURT: Okay. Go ahead.

18 Q. (By Mr. Slepchuk) Mr. Bradley, I'm going to play the
19 video and just ask that you pay attention and watch.

20 Okay?

21 (Booking video playing.)

22 Q. (By Mr. Slepchuk) I'll pause it for a brief moment.

23 Mr. Bradley, do you recognize the individual in the
24 white T-shirt in that video?

25 A. Yes.

1 Q. And who is that?

2 A. That's me.

3 Q. I'm sorry?

4 A. That's myself.

5 (Booking video playing.)

6 MR. SLEPCHUK: Madam Clerk, is there any way we
7 can increase the volume on this little bit?

8 Thank you.

9 I'll back it up a little bit.

10 (Booking video playing.)

11 Q. (By Mr. Slepchuk) Mr. Bradley, the officer that you
12 were just speaking to in that video who you asked to man
13 up and throw down his badge if he's not going to man up
14 and say what happened, who was that officer?

15 A. Officer Cicero.

16 Q. I'm all set with the video for now.

17 Mr. Bradley, was your photograph taken at the police
18 station during that booking process?

19 A. Yes.

20 MR. SLEPCHUK: Your Honor, if I may, I'd like to
21 offer this Google map as an exhibit.

22 THE COURT: Any objection?

23 MR. SCHMIDT: No, Your Honor.

24 THE COURT: All right. No objection by the
25 defense that will be allowed as an exhibit. Plaintiff's

1 Exhibit 1?

2 THE CLERK: Exhibit 1, judge.

3 THE COURT: Okay. Thank you.

4 **(Plaintiff's Exhibit 1 admitted.)**

5 MR. SLEPCHUK: Additionally, Your Honor, the
6 video that we just played, I'd like to offer as
7 Plaintiff's Exhibit No. 2.

8 THE COURT: All right. Any objection?

9 MR. SCHMIDT: Subject to what was discussed at
10 sidebar.

11 THE COURT: All right. The version -- the disk
12 will be prepared and ready to introduce as an exhibit off
13 of your computer by the end of the day.

14 MR. SCHMIDT: I should have it tonight, Your
15 Honor.

16 THE COURT: That's fine. All right. So that
17 will be offered as an exhibit as well. Just both parties
18 inspect it before you hand it up. It will be a compact
19 disk form?

20 MR. SCHMIDT: I believe so.

21 THE COURT: All right. Very good. Thank you.

22 **(Plaintiff's Exhibit 2 admitted.)**

23 THE COURT: Ladies and gentlemen, when something
24 is introduced as an exhibit, that means you will have it
25 when it's time to deliberate. So you will have this

1 picture and if there's a video disk that's going to be
2 going back to you, you will be given the disk and the
3 ability, either a laptop or a machine in the jury
4 deliberation room, to watch it. All right?

5 Q. (By Mr. Slepchuk) Mr. Bradley, do you see the
6 photograph that's depicted on your screen?

7 A. Yes.

8 Q. Can you tell us what we're looking at?

9 A. A photo of me after that process that you had seen in
10 the video, them booking me.

11 Q. Does this photograph fairly and accurately depict
12 what your face looked like at the police station that
13 night?

14 A. Yes.

15 Q. Can you see in this photograph any injury to your
16 face?

17 MR. SLEPCHUK, JR: Judge, the jury is not seeing
18 the photo.

19 THE COURT: Did you -- let's have it introduced
20 first. If it's introduced, then it will be shown to the
21 jury.

22 MR. SLEPCHUK: Absolutely. I'd like to offer
23 this as Plaintiff's Exhibit No. 3.

24 THE COURT: Any objection?

25 MR. SCHMIDT: None.

1 THE COURT: That will be introduced.
2 Plaintiff's 3 can now be published to the jury.

3 **(Plaintiff's Exhibit 3 admitted.)**

4 Q. (By Mr. Slepchuk) Mr. Bradley, I'm going to show you
5 what's been marked as Exhibit No. 3. Do you see --

6 MR. SLEPCHUK: Can everybody see it?

7 Q. (By Mr. Slepchuk) Can you point out in this
8 photograph any injury that you suffered as a result of
9 being struck by Officer Dunn?

10 A. Towards my lip right here. (Indicating)

11 Q. Okay. You indicated in the corner of your lip, what
12 do we see there?

13 A. Dried blood.

14 Q. And again how was that dry blood caused?

15 A. From being struck by the officer earlier.

16 Q. Can you repeat that a little bit louder?

17 A. By being struck by Officer Dunn prior to me being
18 transported to the station.

19 Q. Were you brought anywhere from the police station?

20 A. To court the next morning.

21 Q. And when you got to court, were any other photographs
22 taken of your face?

23 A. Yes. My attorney took I think two photos.

24 MR. SCHMIDT: No objection, Your Honor.

25 Q. (By Mr. Slepchuk) I'm now going to show you a

1 photograph.

2 THE COURT: Are you offering this?

3 MR. SLEPCHUK: I'm going to ask the witness a
4 few questions first.

5 THE COURT: All right.

6 Q. (By Mr. Slepchuk) Do you recognize who this is a
7 photograph of?

8 A. Yes. This is a photo my lawyer took in the holding
9 pen.

10 Q. Does it fairly and accurately depict the condition of
11 your lip that morning at court?

12 A. Yes.

13 MR. SLEPCHUK: Your Honor, I'd like to offer
14 this as the plaintiff's next exhibit.

15 THE COURT: The defendants indicated no
16 objection, that will be allowed as a plaintiff's exhibit.

17 THE CLERK: Exhibit 4.

18 **(Plaintiff's Exhibit 4 admitted.)**

19 THE COURT: Was 4 published to the jury?

20 MR. SLEPCHUK: Your Honor, I'm going to ask
21 after I introduce this exhibit that they be physically
22 published. It's a little bit dark and it's not really
23 coming up very well on the screen.

24 THE COURT: I see.

25 Q. (By Mr. Slepchuk) Mr. Bradley, I'm going to show you

1 another photograph. Do you recognize what that's a
2 photograph of?

3 A. Yes. My lawyer asked me to like show the inner
4 workings of basically the bleeding from the night before.

5 Q. Does this photograph fairly and accurately depict the
6 cut to your lip that you sustained that night?

7 A. Yes.

8 MR. SLEPCHUK: Your Honor, I'd ask that this be
9 marked as Plaintiff's Exhibit 5.

10 MR. SCHMIDT: No objection.

11 THE COURT: No objection; that will be allowed.

12 **(Plaintiff's Exhibit 5 admitted.)**

13 MR. SLEPCHUK: Your Honor, I would ask that
14 Exhibits 4 and 5 be published to the jury.

15 THE COURT: Okay. We can do that.

16 (Photograph being shown to the jury.)

17 Q. (By Mr. Slepchuk) Mr. Bradley, when you got before
18 the judge, were you arraigned?

19 A. Yes.

20 Q. Do you remember what the charges were against you?

21 A. I believe resisting arrest and assault and battery on
22 a police officer.

23 Q. Were you released from court that day?

24 A. No.

25 Q. Why not?

1 A. Because they set my bail at \$10,000 and I couldn't
2 post it.

3 Q. If you could speak up a little bit or sit a little
4 closer to the microphone. It's a little bit hard to hear
5 you. Can you repeat that again?

6 A. They set my bail at \$10,000 and I couldn't post it.

7 Q. As a result where did you go from court?

8 A. Ludlow jail.

9 Q. What happened when you got to the jail?

10 A. Basically during the intake process they was asking
11 like if I had any bruises or anything and I reported my
12 injuries.

13 Q. Okay.

14 MR. SLEPCHUK: Your Honor, at this time I'd like
15 to offer Mr. Bradley's medical records from the house of
16 correction as an exhibit.

17 THE COURT: Any objection?

18 MR. SCHMIDT: None, Your Honor.

19 THE COURT: No objection; that will be admitted.

20 THE CLERK: Plaintiff's Exhibit 6.

21 MR. SLEPCHUK: Thank you.

22 **(Plaintiff's Exhibit 6 admitted.)**

23 MR. SLEPCHUK: Madam Clerk, can I ask that the
24 jury be allowed to view these pages?

25 Q. (By Mr. Slepchuk) Now, Mr. Bradley, I want to show

1 you a couple of portions of what's been marked as
2 Plaintiff's Exhibit No. 6.

3 I want to direct your attention up here by this pink
4 tab. Do you see where it says "subjective problems," and
5 again the date at the top is August 26, 2015. Was that
6 the date of your arrest?

7 A. Yes.

8 Q. Okay. And it says, "Subjective problems:
9 Integumentary system, small laceration inner lip; start
10 date 8-26-2015." Do you see that?

11 A. Yes.

12 Q. Is that consistent with the lip laceration that you
13 suffered that night?

14 A. Yes.

15 Q. And below that again "Subjective problems:
16 Musculoskeletal system, bruising left flank/upper back;
17 start date again 8-26-2015." Do you see that?

18 A. Yes.

19 Q. And again is that consistent with the inquiry that
20 you suffered to your back that night?

21 A. Correct.

22 Q. And below that again "Subjective problems:
23 Musculoskeletal system, pain, low back; question spasm;
24 start date 8-26-2015."

25 And below that "Subjective medical musculoskeletal

1 system, sore wrists/red, swollen tight cuffs; start date
2 8-26-2015."

3 Are those two injuries also consistent with your
4 physical condition when you got to the jail that day?

5 A. Yes.

6 Q. And then directing your attention further down do you
7 see it says by the pink tab "Do you have any problems with
8 musculoskeletal system? Yes, laceration to right side
9 upper lip; bruising to left flank and upper left side
10 back; question back spasm; sore wrists from tight cuffs."
11 Do you see that?

12 A. Yes.

13 Q. Again, is that consistent with your injuries suffered
14 as a result of this arrest?

15 A. Yes.

16 Q. I'm going to show you another entry here by this
17 green tab. Do you see where it says "Patient reports" --
18 I'm skipping to the next line or at the end -- "has minor
19 injuries and low back pain related to arrest. On Robaxin
20 and Motrin." Do you see that?

21 A. Yes.

22 Q. Are Robaxin and Motrin were those medicines that were
23 given to you at the jail?

24 A. Yes.

25 Q. And then further down see by this blue tab, do you

1 see where it says "Plan: Special needs, lower bunk
2 ordered for one week ending 9-2-15 for acute low back
3 pain." Do you see that?

4 A. Yes.

5 Q. Were you assigned to a lower bunk because of your
6 back pain?

7 A. Yes.

8 Q. I'll show you another entry here. Do you see right
9 here the date September 3, 2015?

10 A. Yes.

11 Q. And were you still incarcerated at that point in
12 time?

13 A. Correct.

14 Q. And do you see down here "Subjective notes. My back
15 is in pain and has been since I got incarcerated. It is
16 not a constant pain but it comes and goes. Last night I
17 woke up at 3 a.m. and I was in pain but the CO told me he
18 would sign me up for a sick call." Do you see that entry?

19 A. Yes.

20 Q. So is it fair to say that still by September 3rd that
21 you were still suffering from back pain as a result of
22 this?

23 A. Yes.

24 Q. Then a little bit further down, again for the same
25 date of service, September 3, 2015, do you see here that

1 "Motrin 400 milligrams four times a days for shoulder
2 pain?" Do you see that?

3 A. Yes.

4 Q. Again, is that medication that you were still
5 receiving as a result of your injuries as of September 3,
6 2015?

7 A. Yes.

8 Q. I'm going to show you another page. Do you see here
9 by the blue tab for date of service September 15, 2015?
10 It says "Subjective notes: Low back pain and I've had it
11 and warm showers aren't enough only. Objective notes:
12 Patient said range of motion can be within normal limits
13 but 'hurts' doing activities of daily living, 7 to 8 out
14 of ten." Do you see that?

15 A. Yes.

16 Q. Okay. And is it fair to say that by September 15, a
17 few weeks after this incident, that you were still dealing
18 with back pain?

19 A. Correct.

20 Q. Mr. Bradley, when were you released from jail?

21 A. About 30 days after the incident.

22 Q. Okay. How did you come to be released?

23 A. I had court and they lowered my bail to a thousand
24 dollars.

25 Q. I want to take one step back actually.

1 While you were at the jail, aside from the injuries
2 to your back and to your lip, how were you doing
3 emotionally?

4 A. Umm, I was depressed. I had anxiety. It's a lot of
5 things being I was locked up for no reason like falsely.
6 There was a lot of things going through my head.

7 Q. Was there anything in particular that happened during
8 your time at the jail that affected you emotionally?

9 A. Yes. A guy tried to commit suicide while I was in
10 there and it like spun me off. Like made me thinking
11 about my life more and like things, just being trapped. I
12 felt like being trapped and just a lot of depression and
13 anxiety.

14 Q. And after you saw that suicide attempt, did you tell
15 anybody at the jail about that? Did you speak to anybody?

16 A. Yes.

17 Q. Who did you speak to?

18 A. I signed up for a sick call to speak to a
19 psychiatrist or a counselor or something like that.

20 Q. Okay. And did -- so you had a meeting with a
21 psychiatrist at the jail?

22 A. Yes.

23 Q. Was that psychiatrist -- did they prescribe you any
24 medication or give you any treatment for what you were
25 going through?

1 A. No.

2 Q. Okay. Again, you said that you were released about
3 30 days or about a month after you had been locked up.
4 Again, tell us how did that come to be? How did you come
5 to be released?

6 A. My bail was released to a thousand dollars and I
7 posted bail.

8 Q. Did your criminal case ultimately going to trial?

9 A. Yes.

10 Q. Do you remember if it was a trial before a judge or
11 in front of a jury?

12 A. A jury.

13 Q. Do you remember who testified at the trial?

14 A. I believe myself, Daeshavana Robinson, Savon Tucker,
15 and the officers.

16 Q. When you say the officers, the three officers that
17 are part of this case?

18 A. Correct. Yes.

19 Q. And do you remember what the jury's verdict was in
20 that case?

21 A. Yes, not guilty on all counts.

22 MR. SLEPCHUK: Your Honor, I'd like to offer as
23 the plaintiff's next exhibit a certified record of the
24 court docket in the criminal case.

25 MR. SCHMIDT: No objection.

1 THE COURT: With no objection that will be
2 allowed.

3 THE CLERK: That's Exhibit 7.

4 **(Plaintiff's Exhibit 7 admitted.)**

5 Q. (By Mr. Slepchuk) Mr. Bradley, can you tell the jury
6 why you brought this lawsuit?

7 A. More so not like -- of course, I got injured in it
8 but from the moment it happened, it was like my rights
9 were ripped from me from the time that -- not so much as
10 the stop because sometimes that happens but from them
11 stopping, directing me to get out of the car, singling me
12 out, taking my ID.

13 Like I said the passenger, I did nothing wrong,
14 absolutely nothing wrong, and you just see it happening
15 too often nowadays. They're not -- there's all this gray
16 area and it's starting to come out to light and I just
17 want to be the one who stops this cycle that's going on.

18 Q. Can you tell the jury what it's like to be held in
19 jail for a month for something that you didn't do?

20 A. It's humiliating; it's degrading; it's the worst
21 feeling in the world. I had -- like it's not a good
22 feeling to go through. You feel powerless like you have
23 no rights, no voice, no -- like you're not human.

24 MR. SLEPCHUK: Just one moment, Your Honor?

25 I have no further questions at this time.

1 THE COURT: All right. Thank you. All right.

2 So we can start cross-examine. We'll take our
3 morning break and we'll pick up the cross-examine right
4 after the break.

5 So, ladies and gentlemen, during the break please do
6 not discuss the case with each other or anyone else.
7 Don't begin deliberations in any way. Don't try to access
8 the case on the internet. Don't get your cell phones and
9 Google anything or post anything about the case. All my
10 instructions apply during this break. All right?

11 **(The jury left at 11:15.)**

12 THE COURT: About 20 minutes.

13 **(A recess was taken at 11:16 until 11:38)**

14 THE COURT: Mr. Bradley, you can get back on the
15 witness stand.

16 **(The jury entered at 11:39.)**

17 THE COURT: You can be seated. All right.

18 Ladies and gentlemen, during that short break were
19 you able to follow all of my instructions regarding not
20 talking about the case or accessing the case or posting
21 anything on the case on the internet or through your cell
22 phones?

23 Okay. Responses of all jurors are affirmative. The
24 jury remains fair and impartial. All right.

25 Go right ahead.

1 MR. COYLE: Thank you, Your Honor.

2 **CROSS-EXAMINATION**

3 Q. (By Mr. Coyle) Mr. Bradley, I just briefly have a few
4 questions.

5 Do you recall the conversation between Officer Cicero
6 and Ms. Robinson when he approached the car and asked for
7 documentation?

8 A. Excuse me, what was the question?

9 Q. Do you recall the conversation that took place
10 between Officer Cicero and Ms. Robinson when he approached
11 the car?

12 A. Yes.

13 Q. And I think your testimony was that he requested her
14 license and he gave her his license did he not -- or she
15 gave him her license?

16 A. Yes.

17 Q. Correct?

18 A. Correct.

19 Q. Then there was also this rental agreement. Do you
20 recall the discussion about the rental agreement?

21 A. Yes.

22 Q. And the rental agreement in fact was expired by
23 20-odd days; is that correct?

24 A. That's correct, but it was --

25 Q. Just answer my question, Mr. Bradley.

1 A. Correct.

2 Q. The document which she handed to him indicated that
3 it was expired by 20-odd days; is that correct?

4 A. Correct.

5 Q. And it was in the name of Lynette Broxton; is that
6 correct?

7 A. Correct.

8 Q. And it was made clear that there was no Lynette
9 Broxton in the car; is that correct?

10 A. Correct.

11 Q. And at some point was it you who said that's my
12 mother or indicated that Lynette Broxton was your mother?

13 A. No.

14 Q. Who was that?

15 A. They indicated that it was my rental car and once
16 they asked me my name wasn't on the agreement, that's when
17 I told them it was actually my mother's rental car.

18 Q. At that time did they ask you your name?

19 A. No.

20 Q. They never asked you your name?

21 A. After -- again after they ran her license and seen
22 that the agreement was over, they came back and then asked
23 me for my ID.

24 MR. COYLE: I have nothing else, Your Honor.

25 THE COURT: All right.

CROSS-EXAMINATION

Q. (By Mr. Schmidt) Good morning, Mr. Bradley.

A. Good morning.

Q. So, Mr. Bradley, on August 26, 2015 you were at a get-together at your brother's house. There were a few family members there and then the three women that were in the car with you later on, correct?

A. No. It wasn't a family get-together. My brother had some friends over. He was drinking and I just happened to stop by.

Q. So your brother is there, right? There were a few family members there?

A. Yeah, a few of his family members. We have different fathers.

Q. About what time did you get to your brother's house that night?

A. I want to say about maybe eleven, 11:30, somewhere around there.

Q. And how long did you stay there?

A. For about hour.

Q. About an hour?

A. Yeah.

Q. Well, do you remember testifying at your deposition that you were there until about 1:40 a.m.?

A. About an hour.

1 Q. That's an hour between eleven and 1:40?

2 A. Roughly an hour, 11:40, 12:40, a short period of
3 time. I wasn't there that long.

4 Q. If I were to tell you that you testified at your
5 deposition that you were there from between ten and eleven
6 and you stayed until about 1:40, would that be accurate?

7 A. If that's what it has in your paper that I testified,
8 yes.

9 Q. And you said you had two shots of Hennessy that
10 night?

11 A. Correct.

12 Q. So between say -- giving it the benefit of the doubt
13 that you got there at eleven, between eleven and 1:40 you
14 only had two shots of Hennessy?

15 A. Yeah. I'm not a drinker. I smoke.

16 Q. Well, let's talk about that.

17 You testified today on the stand that you had
18 marijuana that night?

19 A. Correct.

20 Q. You watched the booking video today in court today,
21 right?

22 A. Correct.

23 Q. And you didn't mention that you had smoked marijuana
24 in the booking video, didn't you?

25 A. Again, the details of that I'm being questioned by

1 police. I'm not worried about whether I smoked or not.
2 I'm worried about me being assaulted.

3 Q. I see.

4 Well, did you prepare answers to interrogatories in
5 this case?

6 A. Excuse me, what was that?

7 MR. SCHMIDT: May I approach the witness, Your
8 Honor?

9 THE COURT: Yes.

10 Q. (By Mr. Schmidt) Mr. Bradley, I'm showing you a
11 document. Are those the interrogatories that you prepared
12 in this case in response to requests from defendants?

13 A. Correct.

14 Q. Okay. And going to the last page, is that your
15 signature?

16 A. Correct.

17 Q. And that's your attorney's signature?

18 A. Correct.

19 Q. And this is dated September 6, 2016?

20 A. Correct.

21 Q. Now, looking at Question 15, "Please state whether or
22 not you had consumed any alcohol or drugs, prescription or
23 otherwise, within the 24 hours prior to the time of the
24 incident alleged in your complaint. If so, please state
25 exactly what you consumed and for what each item, include

1 how much you consumed, the time you consumed it, and where
2 you consumed it."

3 Do you see that question?

4 A. Correct.

5 Q. Now, this is your answer and tell me if I'm wrong:

6 "I had one to two drinks of brandy at a get-together at my
7 brother's residence on Astor Street early that night."

8 A. Correct.

9 Q. Okay. So you agree with me that's your answer?

10 A. Yeah.

11 Q. Did you say anything in your response about having
12 smoked marijuana?

13 A. No.

14 Q. Did you smoke marijuana that night?

15 A. Yes.

16 Q. Why isn't that included in your answers to
17 interrogatories?

18 A. Because the question -- the subject is not whether I
19 was smoking marijuana, it's the assault. That's why. I
20 wasn't paying attention whether I was high or not. I was
21 paying attention to the incident that happened that night.

22 Q. Okay. But this is -- this document is on September
23 6, 2016. So it's almost a year later, right?

24 A. Right.

25 Q. And you filed a lawsuit at this point seeking

1 financial damages for what happened, right?

2 A. Right.

3 Q. Okay. And you signed this document under the pains
4 and penalties of perjury, right?

5 A. Right.

6 Q. And you left out that you smoked marijuana that
7 night, didn't you?

8 A. No, not left out, probably overlooked it. It wasn't
9 that important to the subject at hand. There's assault
10 and whether he smoked marijuana, two different scales.

11 Q. Would you agree with me that smoking marijuana might
12 affect your memory of what happened?

13 A. No. I wouldn't agree with you, no.

14 Q. Well, so then moving on, do you remember you had your
15 criminal trial that you testified to?

16 A. Yes.

17 Q. And do you remember whether at the criminal trial you
18 mentioned smoking marijuana?

19 A. No, I can't recall or not.

20 Q. Showing you page 11 of your trial testimony, be fair
21 to say you agree with me that you had one or two drinks
22 and then it doesn't say anything about marijuana?

23 A. Correct. What's the relevance of that? Again, it's
24 assault. You're talking about marijuana.

25 Q. And then during this case you gave a deposition,

1 didn't you?

2 A. Yes, sir.

3 Q. You sat down and you were interviewed by the
4 attorneys for the city?

5 A. Yes.

6 Q. Okay. And showing you page 14 looking at -- "What
7 time did you leave?

8 "About 1:40.

9 "Did you consume any alcohol?

10 "Yeah. I had two shots, two shots of Hennessy.

11 "Over what period of time?

12 "The whole time.

13 "Did you have any -- did you smoke any marijuana
14 while at your brother's house?"

15 What did you answer?

16 A. What lines? "Yes."

17 Q. Okay. So today you testified that you smoked
18 marijuana that day. At your deposition you testified that
19 you smoked marijuana, but the two prior -- the criminal
20 trial and the answers to interrogatories you didn't
21 mention it; do you agree with me?

22 A. I agree with you, but I'm not getting the relevance
23 of it.

24 Q. So any chance you saw your medical records in between
25 the answers to interrogatories and giving your deposition?

1 A. Yes.

2 Q. Okay. And so when you looked at your medical
3 records, you saw that you had in fact previously testified
4 that you had had marijuana, right?

5 A. Yeah.

6 Q. Okay. Now, when you left your brother's house,
7 people were being dropped off, correct?

8 A. Not prior to the stop, but, yeah, we were on our way
9 to drop people off.

10 Q. I'm talking prior to the stop.

11 A. Yes.

12 Q. And so who was getting dropped off?

13 A. Starting with Daeshavana. She lived the farthest so
14 she was going to drive herself. I think she lived in like
15 East Longmeadow or something.

16 Q. Who else?

17 A. And then Barbara Murphy and Savon Tucker. I already
18 knew kind of like what area they lived in. They lived in
19 town I was familiar with but Daeshavana lived in like East
20 Longmeadow or something so I had her drive herself.

21 Q. Why didn't you drive the car?

22 A. She was trying to explain to me how to get to her
23 house and I really couldn't understand it so I just told
24 her to take the keys and drive.

25 Q. It didn't have anything do with the fact you had

1 alcohol and marijuana?

2 A. No.

3 Q. Would you have driven the car had you not been pulled
4 over?

5 A. Yes.

6 Q. Now you're driving down Northampton Avenue and you
7 agree with me there is a stop sign at the end of King
8 Street?

9 A. Correct.

10 Q. And what did you see happening as you're approaching
11 the stop sign?

12 A. Far before we came to the stop sign, like I said
13 halfway down the street you could see a car. We didn't
14 know it was a cruiser at the time but some car speeding
15 full speed down the street behind us. And by the time we
16 approached the intersection at King and Northampton Ave.,
17 they were like pretty -- not right directly behind us but
18 pretty close. So she stopped, put her blinker on to the
19 right. She turned to the right and shortly after they
20 activated their lights.

21 Q. Well, you're a backseat passenger, right?

22 A. Yes.

23 Q. And the police cruiser you say came up behind you?

24 A. Behind the car.

25 Q. Okay. Why were you looking behind the car?

1 A. I was not looking. You could see the blue lights in
2 the rear view mirrors. If you get pulled over, you can
3 see the lights behind you. That's how you know to pull
4 over.

5 Q. Well, they put the blue lights on before they pulled
6 you over?

7 A. You're not making sense. They pulled us over and put
8 the lights on.

9 Q. Your testimony was that the lights went on after the
10 stop sign, correct?

11 A. Right.

12 Q. Okay. So why are you looking behind you?

13 A. Again, I didn't look behind me. If you get pulled
14 over, you can clearly see the lights from the cruiser in
15 the rear mirrors.

16 Q. Well, Mr. Bradley, I'm showing you your testimony at
17 the criminal trial in this case, and we're on page 13
18 approximately line 7. You can follow with me.

19 "What happened on Northampton Avenue?"

20 You responded, "We were driving down Northampton
21 Avenue and as we came to the stop sign, you can see a
22 cruiser flying down the street behind us. She put on her
23 signal, took a right, and by the time we turned right on
24 to King Street, they just threw the lights on."

25 Is that correct. Is that what you said?

1 A. Yeah.

2 Q. Okay. So you're telling me now that you were aware
3 of the cruiser because of blue lights but your prior
4 testimony is the lights weren't on until you had taken the
5 turn?

6 A. They pulled us over. We turned off the corner and
7 they pulled us over. All the terminology you're trying to
8 get into, a simple pullover. We turned the corner; they
9 put their lights on and pulled us over.

10 Q. But you testified that you saw the cruiser flying up
11 behind you?

12 A. No, I didn't know if it was a cruiser or not. I saw
13 lights flying behind us. I believe that's what I
14 testified to, like headlights from a car.

15 Q. Oh, headlights. Didn't you just say blue lights?

16 A. That's when we got pulled over after the turn.

17 Q. I see.

18 How do you know that you came to a complete stop at
19 the stop sign?

20 A. Because I was in the car.

21 Q. Well, you're a backseat passenger, right?

22 A. Yeah. You can physically feel a car come to a stop
23 like you're supposed to and turn. I was in the car.

24 Q. Did you know where it was in relation to the sign
25 stop?

1 A. Excuse me?

2 Q. You said you can physically feel if it came to a
3 stop. Do you know if it was at the stop sign?

4 A. Yeah. I'm in the car.

5 Q. You're watching?

6 A. Yeah.

7 Q. You'd agree with me that Officer Cicero asked
8 Daeshavana for her ID, right?

9 A. Correct.

10 Q. Okay. Who asked for your ID?

11 A. It was either Officer Moynahan or Dunn. They both
12 were at the rear compartment. Like I said, when they
13 pulled us over, a second cruiser had arrived. So by the
14 time they asked her for her license, went back to the
15 cruiser and then came back and asked for mine, it was two
16 officers there. I don't know exactly which one received
17 the ID but it was Officer Dunn and Officer Moynahan, one
18 of the two.

19 Q. Well, you'd agree with me they don't actually look
20 alike, do they?

21 A. No.

22 Q. Showing you again your answers to interrogatories and
23 this is interrogatory number 5, do you see right here
24 where it said "Officer Dunn asked me for my
25 identification. I provided my identification to Officer

1 Dunn."

2 A. Yeah. That was several years ago so fresh off my
3 head. I wouldn't know whether it was Dunn or whatnot.

4 Q. Then you knew it was Officer Dunn but now you don't?

5 A. Yes. It was closer to the date, fresher in my head.

6 Q. Did you review these before testifying today?

7 A. No.

8 Q. Did you review any of your prior testimony?

9 A. No.

10 Q. What did you do to prepare to testify today?

11 A. I don't need much preparation. It's in my memory.

12 Q. And you gave your ID to Officer Dunn, right?

13 A. Correct.

14 Q. And you didn't object to that at the time?

15 A. Are you going to object to a police officer asking
16 for ID? No.

17 Q. And then they told you at some point that the car was
18 going to be towed, right?

19 A. No.

20 Q. They never told you that?

21 A. That all came after I was already in the police
22 cruiser. They made them walk home and all types of weird
23 stuff.

24 Q. But later on they did tell you the car was going to
25 be towed?

1 A. I was taking before a tow truck came or anything. I
2 was already off the scene.

3 Q. This is my question. Did they or did they not --

4 A. I was not there to tell you the answer. I was in the
5 cruiser and they drove me to the police station. I don't
6 know if the car got towed or anything. I wasn't there for
7 that part.

8 Q. Okay. Mr. Bradley, showing you your trial testimony
9 and we're on page 26, line 22, do you see the question:
10 "You were informed that the car was going to be towed,
11 correct."

12 Do you see that question?

13 A. Yes.

14 Q. Flipping to the first line of page 27, you say "yes,"
15 don't you?

16 A. Yes. Again what does the car being towed have to do
17 with an assault?

18 Q. I think it's sort of relevant that there might be an
19 issue with your memory or things sound a little different
20 today than they did before.

21 A. It was about four or five years ago. The details,
22 the who and all that is not fresh in my mind. The actual
23 details, the important details are.

24 Q. And your testimony is that after they took your
25 identification back to the cruiser, that's when they came

1 out and just immediately pulled you out of the car and put
2 you in handcuffs, correct?

3 A. Correct.

4 Q. And who did that?

5 A. Again Officer Dunn and Moynahan. I believe it was
6 Officer Moynahan at this time came and actually put me in
7 the cuffs. But, again, it's two strangers so you're going
8 to say what officer it was. Two officers came to my door,
9 pulled me out. I don't know them so I'm not going to say
10 which one. I can't identify them then. I found out later
11 who they were but I'm not going to recollect to that
12 moment, oh, it was this officer or this officer.

13 Two officers pulled me out of a car. They said, can
14 you step out as they're pulling me out. Turned me around
15 so I'm not facing them so I can't identify either one of
16 them at the moment and placed me -- like I said, put me
17 immediately in cuffs.

18 I'm facing the car now so I, at that point, I don't
19 know which one pulled me out and which one I gave my ID
20 to. But, like I said, following the incident I learned
21 which officer was which and I know which roles they
22 played.

23 Q. And when they asked you out of the car, when they
24 pulled you out of the car, what did you say?

25 A. I didn't say anything. I was placed in handcuffs.

1 Q. You didn't say anything at that time?

2 A. Nope.

3 Q. Now, showing you again the trial testimony from the
4 criminal case. We're on page 23, and if you can follow
5 with me.

6 "Did you see where they went when they stepped away
7 from the vehicle?"

8 "No. I was facing forward but I assumed they went to
9 the cruiser to run my ID."

10 Then you were asked, "At any point did they return
11 back to the passenger door?"

12 You said "Yes, they did."

13 "Did they say anything to you at this time?"

14 "No. They opened the door, said step out but at the
15 same time grabbed me out."

16 And you were asked, "Did you say anything to the
17 officers at that time?"

18 And what you testified at trial -- and tell me if
19 this is wrong -- "I said, what's going on? Did I come
20 back with a warrant or anything like that?"

21 Did you say that?

22 A. Possibly, yes, if it's in the transcript. Again,
23 it's three years ago. I don't recollect everything I said
24 three years ago. I don't think anybody can.

25 Q. So they pull you out of the car and immediately put

1 you in cuffs, right?

2 A. (Indicating.)

3 Q. What happened after that?

4 A. So they put me in the cuffs. So they closed -- I
5 don't know if the door was closed when I came out of it or
6 not, but towards like the rear compartment as I drew on
7 the poster over there, they began to like patfrisk me.
8 Like basically touching my outer clothing up; feeling
9 basically if I have anything on me or anything.

10 So after he like does the top half of me or whatever,
11 he comes and starts going up my legs or whatever and again
12 it's like, leg, leg, arm, and then he just goes like that
13 towards my genitals. (Indicating).

14 Q. Well, you pressed your body up against the back of
15 the car, didn't you?

16 A. I didn't press anything up there. As you can see in
17 the criminal case, that proved to be not true.

18 Q. Do you understand the difference between a criminal
19 case and a civil case?

20 A. I understand the truth of what happened that night.
21 I don't understand the terminology.

22 Q. But the other case was about whether or not you were
23 guilty beyond a reasonable doubt.

24 A. Correct.

25 Q. Okay. This is a very different case. You'd agree

1 with me, wouldn't you?

2 A. To me it's the same incident. It's playing the same
3 incident since it happened so it's one thing for me. It's
4 --

5 Q. So your testimony --

6 THE COURT: Ladies and gentlemen, that last
7 several questions and answers should be stricken entirely
8 from your consideration. All right.

9 There will not be any more dialogue between the
10 attorney and the witness, and the witness is instructed to
11 answer the question, not to offer any responses beyond
12 what the question asked for. All right?

13 Any reference to any other case and talk back and
14 forth between the attorneys about differences between
15 other cases is stricken entirely from your memory and
16 consideration as if it never occurred. All right. Pick
17 up with the next question.

18 MR. SCHMIDT: Thank you, Your Honor.

19 Q. (By Mr. Schmidt) So your testimony is that you
20 weren't pressing your body up against the car and that a
21 police officer just grabbed your genitals for no reason?

22 A. Correct.

23 Q. Now, do you remember saying -- actually I think you
24 said this a few times. You felt like you got molested,
25 right?

1 A. Correct.

2 Q. Did you seek any criminal charges based on that?

3 A. No.

4 Q. Did you file any kind of complaint based on that?

5 A. Yeah, the lawsuit was the complaint that I filed.

6 Q. But you didn't make any complaint to the Springfield
7 Police Department?

8 A. Of course I didn't.

9 Q. You just sued?

10 A. Of course I did.

11 Q. Do you have that complaint?

12 A. I complained at the booking video. You can see the
13 complaint.

14 Q. And while that's going on -- so he's, as you say,
15 grabbing your genitals and you're feeling violated. What
16 did you do? What did you say? How did you feel?

17 A. I think what upset him because I was like, like what
18 was that? What are you -- I asked him if he was like
19 homosexual or something and he got mad and pushed me up
20 against the car and started like roughing me up after
21 that. But it wasn't like a disrespectful question. I was
22 shocked. You know what I mean? That never happened to me
23 before. It was nothing physical or anything like that.
24 Everything was --

25 Q. Were you angry at that point?

1 A. More like confused than anger. Like trying to --
2 like what's going on? But then eventually like, of
3 course, you'd be irritated. Not angry. I'll say I was
4 more irritated. As you can see through the whole video in
5 the process I was irritated. But angry? No.

6 Q. Okay. So after this allegedly happens, what
7 happened? Sorry, that was a terrible question.

8 After he allegedly grabbed you, what happened?

9 A. So like I said, I was, like, hey, what's going on?
10 What was that? He just told me to shut up. He pushed me
11 up against the car further. I mean like more, pushed me
12 up further against the car and then they like dragged me
13 to the police cruiser. The rental car was like here and
14 they like took me in between the two cars and around to
15 the other side of the cruiser. (Indicating)

16 Q. And you're cuffed this entire time?

17 A. Correct.

18 Q. Once they get you in between the two cruisers, what
19 happens?

20 A. Once I get to the back of the cruiser, I see -- like
21 basically they opened the door and then I see Officer Dunn
22 close his fist and socked me right in my mouth and I fell
23 over into the cruiser.

24 Q. Now, Mr. Bradley, I'm showing you page 29 of your
25 deposition.

1 Do you see this: "Officer Moynahan passed me to
2 Officer Dunn. He was closer to that cruiser so he brought
3 me to the back rear door, and I was asking him, like, what
4 am I being arrested for? What's going on? He opened up
5 his fist and punched me right in the face."

6 Is that what you said in your deposition?

7 A. Yes.

8 Q. Okay. So you just testified that he closed his fist
9 and punched you right in the face. Which is it?

10 A. Sorry. What was the question?

11 Q. You just testified here today in this courtroom that
12 Officer Dunn closed his fist and punched you in the face,
13 but at your deposition you said he opened his fist and hit
14 you in the face. Did he slap you? Did he punch you?

15 A. It was a punch.

16 Q. Which is it? Then why did you say he opened his
17 hand?

18 A. I don't know that was back when we did the
19 deposition. Maybe the wording was wrong. It was
20 definitely a punch, not a slap as you can see.

21 Q. Okay. Then so then turning to your trial testimony,
22 top of page 19, "They have me in cuffs, and then they
23 punched me open fist right in my face."

24 Is that what you said at trial?

25 A. Yes.

1 Q. So that's wrong too?

2 A. You're trying to cause confusion. It was --

3 Q. I'm not trying to --

4 A. You can't punch somebody with an open --

5 COURT REPORTER: One at a time.

6 THE COURT: All right. Step back. The jury
7 should disregard those comments and I will again instruct
8 the witness to listen to the question and to answer only
9 the question. This is not a debate between you and the
10 attorney. Answer the question. All right?

11 THE WITNESS: I don't know how to.

12 THE COURT: If you can't answer the question,
13 indicate that you can't answer the question. All right?
14 Then the attorney will rephrase it.

15 Q. (By Mr. Schmidt) Mr. Bradley, if you don't
16 understand what I'm asking you, just tell me. I'll be
17 happy to rephrase it for you.

18 A. I don't know what you're asking.

19 Q. So what we have here, okay, is we have two prior
20 instances where you say it's an open fist and you're
21 saying today it was a closed fist. So I'm just trying to
22 understand the difference. What was the truth?

23 A. All right. So open fist, I don't know like how --
24 you can't punch somebody with an open fist so I don't know
25 what happened with the terminology but I was struck.

1 Q. You remember testifying earlier today that your
2 memory was better early on when you were testifying then
3 than when you were filling out the interrogatories, right?

4 A. Yes, closer to the incident is probably a little
5 fresher in my mind.

6 Q. So closer to the date of the incident you said it was
7 with an open fist?

8 A. If that's what you have on it. Like I said, you
9 can't punch somebody with an open fist so it was a minor
10 mistake wording.

11 Q. And you testified previously they never gave you any
12 Miranda rights, right?

13 A. Right.

14 Q. Now, how many police officers were there?

15 A. I think there was a total of six by the time I got to
16 the police car.

17 Q. Okay. Now showing you page 31 of your trial
18 testimony.

19 Do you see where you testified "They had nine cop
20 cars there -- I mean, nine cops there, all surrounded
21 trying to team me up."

22 And you were asked, "Nine cops?"

23 You said, "Yeah, like nine, seven, whatever. It
24 looked like a whole shift of cops was there."

25 A. Correct.

1 Q. Well, was it six or was it a whole shift?

2 A. As you can see from my testimony, I didn't know for
3 sure. So roughly I was guessing how many cops was there.

4 Q. And, Mr. Bradley, your testimony is that when you
5 were punched, you fell into the cruiser?

6 A. Correct.

7 Q. And you fell face down?

8 A. Like towards the side. Like if I'm standing up this
9 way facing the cruiser, he hits me from the side. So like
10 laying down. My face like sort of like this type of
11 motion on the side but, yeah, on my face. (INdicating)

12 Q. How much of your body went into the cruiser?

13 A. Probably just like my top half.

14 Q. Just your top half?

15 A. Yeah.

16 Q. Showing you your deposition testimony. This was on
17 September 19, 2018.

18 You were asked, "Was the entirety of your body inside
19 the police cruiser?"

20 "At first no, my legs were like hanging out a little
21 bit. Not my legs, like my feet."

22 So which is it? Was it just your feet hanging out or
23 were you about half way in?

24 A. No. You're trying to misconstrue two different
25 incidents. When I first got hit, the top half was in.

1 That testimony which you're seeing is after -- I think I'm
2 pretty sure that's what parts you're at -- after they
3 kicked me in my back, my legs or whatever was hanging out
4 and then they pushed the rest of my body in.

5 Q. Now, we're talking about -- the police cruiser at
6 issue is that a Ford Explorer?

7 A. I don't know what kind of car it is.

8 Q. Was it an SUV?

9 A. Correct.

10 Q. So you're face down in the cruiser, right?

11 A. At what point? Yeah. After?

12 Q. We will be getting on to when you say you were
13 stomped on. So that's the time period we're at.

14 A. All right.

15 Q. So you're facing down in the cruiser?

16 A. More so to the side. I got struck. I fell down like
17 on the side. I'm in handcuffs so it's like this.

18 (Indicating)

19 Q. And you're not on the seat. You're in between the --
20 on the floor in between the front seat and the back seat,
21 right?

22 A. Correct.

23 Q. And your testimony is that two of these police
24 officers were able to stomp you in a car in that position?

25 A. Like I said, the top half of my body fell in when

1 they first struck me and I tried to sit myself back up and
2 that's when they kicked me.

3 Q. Now showing you your trial testimony again. We're on
4 page 32. "Oh, so they punched you and shoved you into the
5 car on your face?"

6 And you responded, "Punched me, fell into the car,
7 and then stomped me and closed the door."

8 A. Exactly what I just told you.

9 Q. So you're in the cruiser while they're stomping on
10 you?

11 A. Again, I got punched, fell in the cruiser. The top
12 half of my body is in there. I tried to reposition myself
13 up; kicked; kicked again; pushed in the cruiser.

14 Q. And you're laying face down?

15 A. On my side.

16 Q. So how do you? --

17 A. Like my shoulder. Basically I'm in cuffs. It's a
18 small space between the floor right there.

19 Q. So if you're laying down in the cruiser, how do you
20 know who stomped on you?

21 A. Again, as I tried to reposition myself up after being
22 punched, I can see two different officers kick me in my
23 back.

24 Q. Did you see their faces?

25 A. To what extent do you mean see their faces like?

1 Q. Could you identify them?

2 A. Like did I see the two officers that brung me to the
3 back of the police cruiser before I got punched? Yes.

4 Q. Well, so you're assuming the one --

5 A. No, I'm not assuming. The two officers --

6 COURT REPORTER: One at a time.

7 Q. (By Mr. Schmidt) Let me ask my question.

8 A. I'm sorry. All right.

9 Q. But you got it right so keep going.

10 A. So I'm not assuming the two officers that were at the
11 back door were the two officers at the back of the cruiser
12 assaulted me. There's no assumption. I looked them in
13 their eye before he struck me.

14 Q. And so if I understand you, your testimony today is
15 that the majority -- well, about half your body was
16 hanging out of the car when they were stomping on you; is
17 that fair?

18 A. Yeah.

19 Q. Okay. And after they stomped you, what happened?

20 A. Probably like I think the last part of the testimony
21 you put where my feet were hanging out, they like pushed
22 my feet in while I was on the floor and closed the door.

23 Q. They pushed your feet in and then closed the door?

24 A. Yeah.

25 Q. So this is again your deposition testimony and we're

1 on page 64 again.

2 "Were your feet hanging out at the time that you
3 claim the officers stepped on you or kicked you?"

4 You said, "When they stomped my back, yes."

5 Do you agree with that? Do you see that?

6 A. Yes.

7 Q. And then you were asked, "Your legs were hanging out
8 of the car at that time?"

9 And you responded, "Yes."

10 Then you were asked, "At what point did the officers
11 move the entirety of your body into the vehicle?"

12 You responded, "They tried to actually like close the
13 door on my feet and I kind of like pulled them out."

14 Is that what you said?

15 A. Yes.

16 Q. Wasn't that a little different than what you just
17 said?

18 A. No.

19 Q. Didn't you say they pushed you in?

20 A. Push in with the door, I don't recall. I got --
21 yeah, I was laying down with my head in the bottom of the
22 floorboard and they forced my feet in. I don't know
23 whether it's a door or I don't recall that far back, but,
24 yes.

25 Q. Well, did they or did they not try to close the door

1 on you?

2 A. Again, I don't recall that far back exactly what they
3 did. I was forced in, stomped on, and feet shoved into
4 the cruiser.

5 Q. Mr. Bradley, I'm showing you Exhibit 5. Do you have
6 that up on your screen?

7 A. Yes.

8 Q. And this is what you testified was the damage to your
9 lip?

10 A. Correct.

11 Q. When did you take this particular picture? I'm
12 sorry, who?

13 A. The following morning my lawyer took it.

14 Q. Okay. And that was Attorney Joseph Lavelle?

15 A. Correct.

16 Q. So your testimony is that you were handcuffed behind
17 your back, right?

18 A. Correct.

19 Q. You were punched in the face with a closed fist?

20 A. Correct.

21 Q. So you'd agreed with me there was no way for you to
22 protect yourself?

23 A. Correct.

24 Q. Did the officer hit you pretty hard?

25 A. Yeah, enough to knock me into the cruiser.

1 Q. And so the officer hit you hard enough to knock you
2 to the ground and that's the entirety of the damage to
3 your lip?

4 A. It was -- actually you can't see the full thing. My
5 bottom lip actually punctured through the lip and that's
6 just blood, dried up blood.

7 Q. Well, you'd agree with me that you did fall into the
8 back of the cruiser, right?

9 A. Correct.

10 Q. Couldn't you have bit your lip when that happened?

11 A. No. When I got struck in my lip, my bottom row teeth
12 pierced my lip. That's just dried blood. You can't even
13 see the like -- it's like a laceration inside. No, not
14 from the floor.

15 Q. Did you need any stitches?

16 A. No.

17 Q. Now you testified you were depressed. I'm sorry to
18 hear you had to witness what you had to witness in the
19 house of correction. You had nightmares and anxiety;
20 that's all correct?

21 A. Correct.

22 Q. Okay. But you were never actually diagnosed with
23 depression, correct?

24 A. No.

25 Q. Okay. You weren't actually diagnosed with anxiety?

1 A. No.

2 Q. And you never took any medication for those?

3 A. No.

4 Q. And you didn't have any out-of-pocket expenses
5 relative to those?

6 A. No.

7 Q. You'd agree with me that your lip healed in a week or
8 two?

9 A. I don't know what the time frame is but eventually,
10 yeah, it healed.

11 Q. Well, did you testify in the past that it healed in
12 about a few weeks? Does that sound about right?

13 A. Sounds about right.

14 Q. Now, in your answers to interrogatories do you
15 remember saying that you conditioned to have intermittent
16 back pain on a daily basis. At it's worse the pain is a
17 nine on a scale of ten?

18 A. Yes.

19 Q. Okay. Do you still have that back pain now?

20 A. Umm, not the extreme. Like it comes and goes. It's
21 like --

22 Q. Did you ever see a medical specialist, a
23 chiropractor?

24 A. At the time that the incident happened, no. Like I
25 said, I tried to get treatment in jail and tried to get

1 like a chiropractor set up. They only gave me the
2 medication for a few weeks right before I got out of
3 there. When I was depressed, I went to one chiropractor
4 but they didn't take my insurance.

5 Q. Did you ever see an orthopedic surgeon?

6 A. No.

7 Q. Were you ever diagnosed with any sort of spinal
8 damage?

9 A. No.

10 Q. Do you ever play basketball?

11 A. Of course.

12 Q. How often do you play basketball?

13 A. Not any more.

14 Q. When did you stop playing basketball?

15 A. I don't recall.

16 Q. Well, at the time of your interrogatories, which was
17 September 6, 2016, you just agreed with me that you had
18 back pain at times that was a nine on a scale of ten,
19 correct?

20 A. Correct.

21 Q. And at your deposition, which was September 19, 2018,
22 do you remember saying that you played basketball once or
23 twice a month?

24 A. No, I don't recall.

25 Q. We're on page 42. "How frequently do you play

1 basketball?"

2 And you responded, "Not that often. Probably once or
3 twice a month," correct?

4 A. Correct.

5 Q. Okay. And you also made statements at that time that
6 you had severe back pain, didn't you?

7 A. Yeah.

8 Q. But you were able to play basketball?

9 A. How I participate in the activity varies. Like a
10 back injury you can shoot a ball. You don't have to --

11 Q. Yes or no, could you play basketball?

12 A. Like I said, no. Well, repeat the question again.
13 I'm sorry.

14 Q. Yes or no were you able to play basketball?

15 A. Play basketball when?

16 Q. At the time of your deposition?

17 A. Oh, yes.

18 Q. Mr. Bradley, I want to turn to your medical records
19 at the house of correction, which had been marked as
20 Exhibit 6.

21 So looking at this note here where on September 15,
22 2015 do you see where it says here "A nurse checked my
23 back before last week. She said no bruises seen then,"
24 correct?

25 A. Yes.

1 Q. So a few weeks after you didn't have any bruising?

2 A. No.

3 Q. Did you ever have any bruising on your back?

4 A. In the beginning there was like light bruising.

5 Q. Light bruising?

6 A. Yes.

7 Q. So two Springfield police officers stomped on your
8 back and you only had light bruising; that's your
9 testimony?

10 A. Yes.

11 Q. Now, do you recall -- well, looking at this document,
12 is this part of your medical records where they did an
13 assessment of you with regard to alcohol use and drug use?

14 A. Yes.

15 Q. Okay. And you'd agree with me with regard to
16 drinking, that you sort of report being a social drinker?

17 A. Correct.

18 Q. And then moving on to marijuana use, okay, you were
19 asked "Have people annoyed you by criticizing your drug
20 use?"

21 And you responded "Yes," correct?

22 A. Uh-huh.

23 Q. What did you mean by that?

24 A. Well, just like your mom telling you that you need to
25 stop.

1 Q. Well, did you use a fair amount of marijuana?

2 A. What do you mean? Compared to?

3 Q. How much do you use?

4 A. Oh, yes.

5 Q. So you smoke like every day?

6 A. Yeah.

7 Q. Okay. And what you reported then was that you smoked
8 marijuana about two to three times a day?

9 A. Correct.

10 Q. But you'd agreed with me that in the booking video
11 and in the interrogatories you denied marijuana use?

12 A. No.

13 Q. Well, didn't we already go over that?

14 A. Like I said, I might have missed -- left it out.

15 But, no, I didn't say I didn't use marijuana.

16 Q. Now, Mr. Bradley, turning to your report of injury.

17 Do you see how it says "subjective problems, laceration
18 inner lip?"

19 A. Yes.

20 Q. You agree with me that subjective means that that's
21 something that you're reporting, correct?

22 A. Correct.

23 Q. Okay. So then you report bruising to your left upper
24 flank upper back, correct?

25 A. Correct.

1 Q. Okay. And then you reported lower back pain and then
2 spasms, right?

3 A. Correct.

4 Q. And sore wrists from the cuffs?

5 Now, they didn't do any MRIs, right?

6 A. No. That's not the procedure. That's why I told
7 them --

8 Q. Did they do any x-rays?

9 A. No, that's not the procedure. There has to be
10 something else in place to get you there.

11 Q. Were you ever diagnosed with any broken bones?

12 A. No.

13 Q. Okay. So essentially the injuries you report of are
14 light bruising to your back and a split lip, right?

15 A. Correct.

16 Q. Mr. Bradley, the three women in the car are they all
17 African-American?

18 A. Yes.

19 Q. When you were in the booking room with the police
20 officers, did they tell you that you were being
21 videotaped?

22 A. Yes.

23 Q. So you knew you were being videotaped?

24 A. Of course.

25 Q. Your attorney Mr. Slepchuck asked you why you brought

1 this lawsuit. Fair to say you're hoping for monetary
2 gains from this lawsuit, right?

3 A. Yes.

4 MR. SCHMIDT: Just a moment, Your Honor.

5 Q. (By Mr. Schmidt) Mr. Bradley, again I want to go
6 back. Who asked you for your ID?

7 A. Again, I don't know which one. I told you that.

8 Q. You don't know?

9 A. No.

10 Q. So we're looking at your deposition transcript on
11 page 22.

12 "Which of those two officers asked you for your ID?"

13 You said, "Moynahan was I believe," right?

14 A. I believe. That means I'm not sure.

15 Q. Okay. And then in your answer to interrogatory No.

16 5, and I think we've sort of covered this but do you see

17 right here, "Officer Dunn asked me for my identification?"

18 A. Again, I don't know which one it was. As I stated in
19 the first one, I believe.

20 Q. Right here where you say "Officer Dunn asked me for

21 ID," does it say I believe anywhere?

22 A. No.

23 Q. Mr. Bradley, you said you had two shots of Hennessy,
24 correct?

25 A. Correct.

1 Q. All right. Your testimony is you weren't really
2 affected by alcohol?

3 A. Correct.

4 Q. Okay. What about marijuana? How much marijuana did
5 you smoke that night?

6 A. Probably like two or three cigarettes.

7 Q. Two or three joints?

8 A. Yes.

9 Q. How close in time to -- was this at your brother's
10 house?

11 A. Yeah.

12 Q. So you had -- did you have all three joints at your
13 brother's house?

14 A. No, probably like two of them I think.

15 Q. Okay. So how close to getting pulled over did you
16 smoke marijuana?

17 A. I don't know. I wasn't going to say like when is the
18 last time I smoked from the time the cops messed with me.

19 Q. Okay. This might refresh your recollection looking
20 at page 75 of your deposition testimony.

21 "You indicated that you had smoked some marijuana
22 that evening?"

23 You said, "Yes."

24 "What time was it that you smoked marijuana?"

25 You said, "Probably a half hour prior to."

1 Does that sound about right?

2 A. Right.

3 Q. But you don't -- so I believe you testified earlier
4 that the marijuana wasn't affecting your memory at all?

5 A. Correct.

6 Q. Would it affect your ability to drive a car?

7 A. No.

8 Q. Now do your eyes turn red when you smoke marijuana?

9 A. No. My eyes were red from crying.

10 Q. Okay. So the redness in your eyes has nothing to do
11 with the marijuana?

12 A. No. It was from crying and pleading.

13 Q. Okay.

14 MR. SCHMIDT: Nothing further.

15 THE COURT: Thank you.

16 Attorney Saint Laurent?

17 MR. SAINT LAURENT: I have no questions, Your
18 Honor.

19 THE COURT: Redirect?

20 MR. SLEPCHUK: Yes.

21 **REDIRECT EXAMINATION**

22 Q. (By Mr. Slepchuk) Mr. Bradley, you were asked some
23 questions about the punch that was inflicted upon you by
24 Officer Dunn. Do you remember being asked those
25 questions?

1 A. Yes.

2 Q. There was some discussion about the fist, whether it
3 was an open fist or a closed fist. Do you remember those
4 questions?

5 A. Yes.

6 Q. Okay. When you've used the word fist both today and
7 previous times when you had spoken about this case, what
8 did you mean by the word fist?

9 A. A balled up hand like a fist.

10 Q. Can you show us what you mean by the word fist?

11 A. Like this. (Indicating)

12 Q. Would this be a fist in your mind? (Indicating)

13 A. No.

14 Q. What would be this? (Indicating)

15 A. Five fingers saying high five, a slap.

16 Q. A slap.

17 So if somebody hit you like this with five fingers,
18 would you characterize that as being punched with a fist?

19 A. No.

20 Q. And, Mr. Bradley, you were asked some questions about
21 previous times you've discussed this case about whether or
22 not you had consumed marijuana prior to being pulled over.
23 Do you remember being asked those questions?

24 A. Yes.

25 Q. And specifically at the prior trial I want to show

1 you a portion of your testimony on page 5. I direct your
2 attention -- you were asked, "Did you have anything to
3 drink that night at that get together?"

4 And you answered, "I had like maybe one or two
5 drinks. I don't really drink like that but, yes, I had
6 one or two drinks."

7 The next question was, "Were you with anyone that
8 night?"

9 Do you see that?

10 A. Yes.

11 Q. Did anybody ask you here if you had smoked marijuana?

12 A. No.

13 MR. SLEPCHUK: I have no further questions.

14 THE COURT: Recross?

15 MR. COYLE: I have nothing, Your Honor.

16 MR. SCHMIDT: No, Your Honor.

17 MR. SAINT LAURENT: Nothing, Your Honor.

18 THE COURT: All right. Very good. Thank you,
19 sir. You can step down.

20 Attorney Slepchuk.

21 MR. SLEPCHUK: Your Honor, at this time I'd like
22 to read into the record some prior testimony.

23 THE COURT: All right. Which is this?

24 MR. SLEPCHUK: I'll begin with Daeshavana
25 Robinson.

1 MR. SAINT LAURENT: Could we be heard at
2 sidebar?

3 THE COURT: Sure.
4 (Sidebar conference)

5 MR. SAINT LAURENT: Your Honor, I just want to
6 note for the record that Attorney Slepchuk brought a
7 reader for the reading in of the trial testimony and we'd
8 just request an instruction to the reader that there be no
9 exaggeration or acting to go along with the text on the
10 page.

11 THE COURT: Sure.

12 How do you want to handle the objections that were
13 made during the -- I mean, we could let the objections
14 come in and I instruct the jury that the rulings on
15 objections are the same here. They should disregard if an
16 objection is sustained or you can just skip over it.

17 MR. SLEPCHUK: I was going to just skip over
18 it.

19 THE COURT: Okay.

20 MR. COYLE: I have nothing.

21 Your Honor, just for the record, the defendants would
22 like on the record our objection to your ruling on the
23 unavailability of the witnesses.

24 THE COURT: Absolutely. Yes. Each defendant
25 objects to my ruling. I'll let you make a record.

1 MR. SAINT LAURENT: The same objection as
2 Attorney Coyle.

3 MR. SCHMIDT: Correct, Your Honor.

4 THE COURT: Attorney Schmidt also objects to the
5 ruling. Fine. I want to make sure that's preserved.

6 Okay. So we'll do the reading and I'll give an
7 instruction. I'm sure you talked to your reader as well
8 that there's no dramatization.

9 MR. COYLE: Just one thing on the way you
10 handled that. I guess I was assuming that an objection by
11 one defendant was an objection for all. Is that the case
12 in this court, Your Honor?

13 THE COURT: That is generally the case. This is
14 a pretty important issue. I wanted to make sure the
15 record was very clear.

16 MR. COYLE: Okay.

17 THE COURT: Okay.

18 MR. COYLE: Thank you.

19 MR. SCHMIDT: Thank you, Your Honor.

20 MR. SAINT LAURENT: Thank you.

21 (End of sidebar conference.)

22 THE COURT: Can I see the parties at sidebar one
23 more time?

24 (Sidebar conference.)

25 THE COURT: Now I put on the record on my ruling

1 on the unavailability. I will entertain a request to
2 instruct the jury regarding that unavailability. That is,
3 these witnesses have failed to appear and that it is
4 unlikely the parties could get the witnesses to appear
5 here in court.

6 Did the defense want me to give that instruction to
7 the jury and if so, when?

8 I don't know if you have a copy of my ruling on that?

9 MR. SAINT LAURENT: I do not, Your Honor.

10 MR. COYLE: No.

11 THE COURT: Do you have the ruling here?

12 THE CLERK: The printer is working. We can
13 print copies if you need it.

14 THE COURT: I'll print you out the ruling. It
15 doesn't have verbatim the language that I would give, but
16 would you like me to give an instruction along those
17 lines?

18 MR. SCHMIDT: I think we would like it done
19 now.

20 THE COURT: Now. Okay.

21 MR. COYLE: Would you also give that when you
22 give the instructions?

23 THE COURT: If it's requested, yes. If you want
24 something specific, you should put it in writing to make
25 sure it gets put in.

1 MR. SCHMIDT: Okay.

2 THE COURT: Thank you.

3 THE CLERK: Let me get one for plaintiff.

4 MR. SLEPCHUK: No, I have one.

5 THE COURT: It says at the bottom of the ruling
6 "The court will entertain an instruction to the jury that
7 these witnesses have willfully evaded appearing in court
8 to give live testimony in spite of several attempts to
9 have them served with a subpoena." Is that agreeable?

10 MR. SCHMIDT: It is.

11 MR. SAINT LAURENT: Yes.

12 THE COURT: All sides?

13 MR. SCHMIDT: Yes.

14 THE COURT: All right.

15 MR. SLEPCHUK: Yes.

16 (End sidebar conference.)

17 THE COURT: Ladies and gentlemen, there is going
18 to be the admission of the prior testimony under oath of
19 two witnesses. Now those two witnesses are not here.
20 Those two witnesses' prior testimony is going to be read.
21 Attorney Slepchuk will ask questions. He has brought
22 someone to answer reading the transcript. So this person
23 on the witness stand is going to be reading the transcript
24 of these witnesses' prior testimony.

25 Now I just tell you that because the person reading

1 the transcript is obviously not the witness. So you
2 should not draw anything from the affect or any type of
3 dramatization you hear from the reading, any special
4 emphasis on certain words.

5 This is the reader of the transcript. This is not
6 the person giving the testimony. So I don't want you to
7 try to draw or think because it's human nature to draw
8 inferences by how someone emphasizes certain words and
9 then doesn't emphasize others. This witness is reading a
10 cold transcript. All right.

11 I would instruct the witness to avoid overemphasizing
12 or dramatization of any phrases or words to the best that
13 you can. All right?

14 THE READER: Yes, Your Honor.

15 THE COURT: Very good.

16 Now, admission of this prior testimony is a legal
17 issue that I have made a determination about after hearing
18 from the attorneys because you have heard that these two
19 witnesses did testify in a prior court proceeding, a state
20 court proceeding but under oath.

21 The court has made a determination that the witnesses
22 are unavailable to appear today and you should know that
23 these two witnesses have willfully evaded appearing in
24 court to give live testimony in this case despite several
25 attempts to have them served with a subpoena.

1 Now, you may consider that or you may disregard it.
2 It is completely up to you how you factor and consider
3 that in your determination of what you believe, what you
4 credit, or what you don't credit.

5 It's no one else's business how you accept and treat
6 that except for yours, but I wanted to give you that
7 explanation as the background before we hear the testimony
8 of these two witnesses read into the record. All right.

9 Go right ahead.

10 MR. SLEPCHUK: Thank you, Your Honor.

11 **DIRECT EXAMINATION OF MS. ROBINSON'S TRIAL TESTIMONY**

12 Q. Good morning, Ms. Robinson.

13 A. Good morning.

14 Q. Can you please spell your name for the jury?

15 A. D-a-e-s-h-a-v-a-n-a Robinson, R-o-b-i-n-s-o-n.

16 THE COURT: Attorney Slepchuck, could you just
17 make a record of the date this testimony was given and
18 where?

19 MR. SLEPCHUK: Yes, Your Honor. This testimony
20 was given on August 3, 2016 before the Springfield
21 District Court.

22 THE COURT: All right. At a trial by jury?

23 MR. SLEPCHUK: At a criminal jury trial in case
24 Docket No. 1523cr5954, the Commonwealth versus Daniel
25 Bradley.

1 THE COURT: Thank you.

2 Q. (By Mr. Slepchuk) How old are you?

3 A. I'm 22.

4 Q. Okay. Do you work?

5 A. Yes, I do.

6 Q. Where do you work?

7 A. Care One at Redstone, East Longmeadow.

8 Q. And what do you do over there?

9 A. I'm a CNA.

10 Q. Can you just explain to the jury they might -- they
11 might know, not know what that is.

12 A. Certified nursing assistant. I help people in their
13 personal care.

14 Q. Okay. Thank you.

15 Do you remember -- do you remember August of the
16 night of the 26th? Do you remember that night?

17 A. Yes, I do.

18 Q. What were you doing that night?

19 A. I was coming back from a little, you know, a little
20 get together thing here. It was just me, my friends,
21 Daniel. We left her car there.

22 Q. Who are your friends? Let me just slow you down.
23 Who were your friends?

24 A. Savon Tucker, Daniel Bradley, Barbara Murphy.

25 Q. And?

1 A. And myself.

2 Q. Were you driving a car when you left the get
3 together?

4 A. Yep.

5 Q. What kind of car was that?

6 A. It was a -- it was a nice car. It was a rental car.
7 I'm not sure exactly what kind of a car it was, but it was
8 a nice car.

9 Q. Were you authorized to drive the rental car?

10 A. No.

11 Q. Okay. At some point were you pulled -- where were
12 you at -- at some point were you pulled over by police
13 officers?

14 A. Yep.

15 Q. Where were you at the time? Where were you driving?

16 A. King Street.

17 Q. Okay. But where were you before you're on King
18 Street?

19 A. Aldon Street coming off Wilbraham Avenue coming down.

20 Q. Were you ever on Northampton Ave.?

21 A. Coming down Aldon; came up Wilbraham Ave.; came down
22 Northampton, and going onto King.

23 Q. Okay. And at some point did you see a cruiser?

24 A. Uh-huh.

25 Q. Can you describe -- you seen the cruiser on the night

1 of the 26th.

2 A. There were a couple cruisers.

3 Q. No, at first like the first cruiser you saw.

4 A. Okay. They just pulled us over.

5 Q. Okay.

6 A. When they pulled us over, they approached my side.

7 One of the guys approached my side.

8 Q. Was it a younger guy?

9 A. Yeah.

10 Q. Okay. And what did he say? What did he ask you, if
11 anything?

12 A. He asked me for my license and registration.

13 Q. Did he tell you why he pulled you over?

14 A. He said because I ran a stop light, a stop light.

15 Q. Okay.

16 A. A stop sign.

17 Q. Did you explain that you -- that there wasn't a stop
18 light --

19 A. Yep.

20 Q. -- that you went through?

21 A. Uh-huh.

22 Q. Okay. And then he told you that you ran a stop sign?

23 A. Uh-huh.

24 Q. To your knowledge do you remember if you ran a stop
25 sign?

1 A. I don't.

2 Q. Okay. Is it -- do you remember did you stop for the
3 stop sign?

4 A. I would have to if there was a stop sign.

5 Q. Yeah. And then you just testified that you gave your
6 license -- he asked for the license and registration. Did
7 you give him your license?

8 A. Gave him my license.

9 Q. And what about the -- and what about for the
10 registration?

11 A. Not the registration because --

12 Q. Did you give him a rental agreement?

13 A. Yep.

14 Q. Okay. Did he ask any -- let me just back up a
15 second. You're driving, correct?

16 A. Yes.

17 Q. And who's sitting in the passenger seat?

18 A. Barbara Murphy.

19 Q. Who was sitting in the back behind you?

20 A. Savon Tucker.

21 Q. And who was sitting behind the passenger seat?

22 A. Daniel Bradley.

23 Q. Okay. And he asked you -- you just testified that he
24 asked you for your license. Did he ask anyone else for
25 their license?

1 A. No.

2 Q. Okay. Can you tell the jury what happened after
3 that?

4 A. Briefly we were just -- we got pulled over. He asked
5 for my licence and registration. They walked away from
6 the vehicle. As they walked, the guy that was on my side
7 asked -- the guy that one, the one that asked me for my
8 license as he walked away. There were other police
9 officers on the side flashing their lights inside the
10 vehicle. Shortly thereafter he was pulled out of the car.

11 Q. When you say he, who are you talking about?

12 A. Daniel Bradley.

13 Q. And you said he was pulled, can you just describe how
14 he was pulled out of the car?

15 A. Aggressively.

16 Q. Did they grab -- what did they grab?

17 A. His upper shoulder, arm out of the car.

18 Q. And then what happened after that?

19 A. I took my phone out. I started to try to record and
20 in the background you can hear us like saying, you know.

21 Q. Ms. Robinson, without saying who you can hear us say,
22 can you just describe where were you when Mr. Bradley was
23 pulled out of the vehicle?

24 A. I was still in the front seat.

25 Q. You were in the --

1 A. The driver seat.

2 Q. -- front seat in the driver's side where -- was your
3 attention drawn to what was happening to Mr. Bradley?

4 A. Yes.

5 Q. Let me ask you this. Were you guys -- when the
6 police were running -- were talking to you, where -- what
7 direction were you facing?

8 A. At what? At what point? When they were asking me
9 for my license?

10 Q. Yeah. Were you just looking out the window?

11 A. Looking at him, yeah.

12 Q. Okay. And then where were you looking after that?

13 A. Right after he walked away from my vehicle, shortly I
14 turned back this way cause all the commotion and stood
15 back this way. I grabbed my phone and --

16 Q. Did you see Mr. Bradley make a -- when you were
17 looking back, did you see Mr. Bradley reach for the center
18 console?

19 A. No.

20 Q. Did you see him reach towards his waistband?

21 A. No.

22 Q. Did you see his shoulders slump forward?

23 A. No.

24 Q. Did you see him reach towards the door?

25 A. No.

1 Q. Okay. And let me take you back to when he was pulled
2 out of the car. What happened after that?

3 A. They threw him up against the rear part of the right
4 side of the car in the back and beat him up.

5 Q. When you say beat him up, like what happened? Like
6 specifically what did they do?

7 A. I'm leaning out like this and we're telling him --
8 telling them like why are you guys arresting him?

9 Q. Ms. Robinson, I don't want to know what anyone else
10 said. I just want to know what you said.

11 What did you say when you saw the beating happen?

12 A. For them to stop. Why are they arresting him? Why
13 are they arresting him? Why are they arresting him?

14 Q. Okay. Did you have a pretty good view of the whole
15 situation when they put him up against the car?

16 A. Yeah.

17 Q. Could you see -- did you see him kick any officer at
18 any time?

19 A. No.

20 Q. Okay. Did you hear any of the officers say I've been
21 kicked?

22 A. No.

23 Q. Okay. And after they told you they were going to tow
24 the vehicle; is that right?

25 A. Uh-huh.

1 Q. Okay. And this is Gunn Square, correct?

2 A. Area, yeah.

3 Q. Yeah. Is that a dangerous neighborhood?

4 A. Yeah.

5 Q. And what time is it at night?

6 A. It's about 2:30 almost 3 o'clock in the morning.

7 Q. Okay. And you testified -- did you testify earlier
8 that you're 22?

9 A. Yeah.

10 Q. Okay. Did any of the police officers try to arrange
11 any transportation for you ladies?

12 A. No.

13 MR. SLEPCHUK: Okay. I have nothing further,
14 judge. This brings us to cross-examination.

15 THE COURT: You're now going to read the
16 cross-examination?

17 MR. SLEPCHUK: Yes.

18 THE COURT: All right.

19 **CROSS-EXAMINATION READING OF MS. ROBINSON'S TESTIMONY**

20 Q. So this was the early hours of the 26th of August?

21 A. Uh-huh.

22 Q. And you had been out the late night of the -- and you
23 had been out the late night of the 25th?

24 A. Uh-huh.

25 Q. Had you been drinking that night at this get

1 together?

2 A. I was.

3 Q. Now, so you were driving this vehicle, yes?

4 A. Yep.

5 Q. And your name was not on the rental agreement?

6 A. Nope.

7 Q. And the cop found this out when they pulled you over,
8 yes?

9 A. Yep.

10 Q. Now, you said that the cop told you you had run a
11 stop light?

12 A. Yes.

13 Q. But then you said that the cop told you you ran a
14 stop sign?

15 A. But after, after I told him that there's no stop
16 light. He said, well, the stop sign.

17 Q. So he told you he (sic) ran a stop sign then?

18 A. Yes.

19 Q. And there was a stop sign that you had passed that
20 you remember?

21 A. Yes.

22 Q. And you don't remember whether you stopped for it or
23 not?

24 A. I wouldn't say I remem -- I wouldn't remember. I
25 believe I would have had to because there's a big bush on

1 the left side so you would have to stop in order to see
2 oncoming traffic.

3 Q. But you don't remember specifically stopping before
4 you actually turned?

5 A. No.

6 Q. How long have you been driving for?

7 A. Three years.

8 Q. So your testimony is that initially they only asked
9 you for your license?

10 A. Yes.

11 Q. They didn't ask anyone else for their license?

12 A. Nope.

13 Q. Now you said that you didn't see the defendant moving
14 around at all in the back seat of the car?

15 A. No.

16 Q. But you were talking to the cop, weren't you?

17 A. I explained earlier that after the cop asked me for
18 my license, he left from my vehicle. They're flashing the
19 lights inside of the vehicle so I'm looking around at this
20 point. The cop is already gone.

21 Q. But initially when the cop was talking to you, you
22 were talking to the cop. You were looking at the cop.
23 You weren't looking in the back seat, correct?

24 A. Absolutely.

25 Q. Now in the back seat there was a bottle of alcohol,

1 yes?

2 A. Uh-huh.

3 Q. And it was opened, yes?

4 A. Yes.

5 Q. In fact, you got a citation for having an open
6 container of alcohol in your car?

7 A. Yes.

8 Q. So you were -- initially you're sitting, you're
9 talking to the cop. You weren't looking in the back seat,
10 correct?

11 A. Yes.

12 Q. And then you noticed them open the door and pull the
13 defendant out and you turned and you watched, yes?

14 A. No. They flashed the lights first.

15 Q. Oh, so you turned to look at the lights?

16 A. That's when I turned and looked.

17 Q. And then you saw them pull the defendant out of the
18 car?

19 A. Open the door and pulled him out of the car.

20 Q. Did they ask him to step out first?

21 A. No, they did not.

22 Q. How did he react when they pulled him out of the car?
23 Did he comply or did he argue with them?

24 A. Well, I mean he didn't ar -- I wouldn't say that. I
25 would say that he complied.

1 Q. Did he object in any way to being pulled out of the
2 car, asked them why they were doing it?

3 A. No.

4 Q. So then they brought him out of the car. Did they
5 close the door?

6 A. I don't remember them closing the door, no.

7 Q. But he -- so you remained seated in the rear -- you
8 remained seated in the car and you're just looking over
9 your shoulder, right?

10 No audible response.

11 So and he was outside the car, on the other side of
12 the car.

13 A. No. He was outside of the car on the right-hand side
14 in the rear of the vehicle.

15 Q. The rear passenger side out --

16 A. Uh-huh.

17 Q. -- back near the trunk?

18 A. No. On the side of the trunk.

19 Q. Oh. And you were still sitting in the driver seat?

20 A. Yep.

21 Q. Could you see his legs clearly?

22 A. I could see his legs.

23 Q. Did he move them at all?

24 A. No.

25 Q. No? And so your testimony is that he never kicked

1 anyone?

2 A. Yes.

3 Q. So then you say they beat him up?

4 A. Yes.

5 Q. Was that at the site of the car there?

6 A. Yes.

7 Q. And so then what, they took him back to the cruiser?

8 A. Sort of.

9 Q. So eventually he got put in the cruiser?

10 A. Yes.

11 Q. Now, the cops towed the car, yes?

12 A. Yes.

13 Q. And they told you they were going to tow the car,
14 correct?

15 A. Yes.

16 Q. They gave you the opportunity to call a cab?

17 A. They did.

18 Q. Did you?

19 A. No.

20 Q. Now, Ms. Tucker and Ms Murphy, they got a ride with
21 somebody else, correct?

22 A. Uh-huh.

23 Q. Who was that? Do you know that person?

24 A. No.

25 Q. Could you have asked for a ride from them?

1 A. I was already gone by then walking home.

2 Q. So you decided to walk home rather than take a cab?

3 A. Well, I didn't have any money for a cab that's why I
4 walked home.

5 MR. SLEPCHUK: That concludes the testimony of
6 Ms. Robinson.

7 THE COURT: All right. Thank you.

8 MR. SLEPCHUK: At this time, Your Honor, we're
9 going to be reading in the testimony of Savon Tucker.
10 This was the same case, Commonwealth versus Daniel Bradley
11 in the Springfield District Court, Docket No. 1523cr5954.
12 This testimony was given on August 2, 2016.

13 THE COURT: Thank you.

14 **DIRECT EXAMINATION OF MS. TUCKER'S TRIAL TESTIMONY**

15 Q. Hello, Ms. Robinson. I'm sorry. Hello, Ms. Tucker.

16 A. Hi.

17 Q. Can you please spell your name for the jury?

18 A. S-a-v-o-n T-u-c-k-e-r.

19 Q. Okay. And how old are you?

20 A. Twenty-three.

21 Q. And where do you work?

22 A. Indira.

23 Q. What do you do over there?

24 A. I'm a residential staff.

25 Q. And do you remember the night of August 26th of last

1 year?

2 A. Yes.

3 Q. Okay. Where -- what were you doing that night?

4 A. We were riding around about to go home.

5 Q. Okay. What were you doing before you got -- you were
6 driving around?

7 A. We were at a get-together at his brother's house.

8 Q. At who brother's house?

9 A. At Daniel's brother's house.

10 Q. Okay. And where were you seated in the car?

11 A. In the back seat behind the driver.

12 Q. Okay. Were you sitting next to anyone?

13 A. Daniel was in the back with me.

14 Q. Okay. And could you see Daniel?

15 A. Yes.

16 Q. Okay. And at some point were you -- was the car
17 pulled over by police officers?

18 A. Yes.

19 Q. Okay. And do you remember about what time that was?

20 A. Maybe like 2:30.

21 Q. Okay. And why did they tell you -- why did they
22 tell -- who was driving the car?

23 A. Daeshavana.

24 Q. And what's her last name?

25 A. Robinson.

1 Q. Okay. And you remember -- who was the front seat
2 passenger?

3 A. Barbara Murphy.

4 Q. Okay. And did the police officer approach Ms.
5 Robinson?

6 A. Yes.

7 Q. Okay. Did he ask her for anything?

8 A. Her license.

9 Q. Okay. And did he tell her why she was being pulled
10 over?

11 A. Yes.

12 Q. What did he say?

13 A. He said that she failed to stop at a red light and a
14 stop sign.

15 Q. So where was this red light supposed to be?

16 A. I guess the red light was supposed to be on
17 Northampton Avenue.

18 Q. Do you recall her going through any red traffic
19 light?

20 A. No.

21 Q. Okay. What about the stop sign, did she go through a
22 stop sign?

23 A. No.

24 Q. Where did the car get pulled over?

25 A. On King Street.

1 Q. Was it before the stop sign or after the stop sign?

2 A. There wasn't a stop sign on King Street.

3 Q. Okay. So at some point did they determine that the
4 vehicle was a rental?

5 A. Yes.

6 Q. Okay. And what did they say about that? What were
7 they going to have to do?

8 A. They were going to have to tow the car because she
9 wasn't a driver on the rental lease.

10 Q. Okay. Now were they shining their flashlights in the
11 car?

12 A. Yes.

13 Q. And can you describe Mr. Bradley's demeanor while
14 they're shining the flashlights in the car?

15 A. He was calm.

16 Q. Was he moving around?

17 A. No.

18 Q. At any point did you see him reach for the center
19 console?

20 A. No.

21 Q. Do you see him reach for his waistband?

22 A. No.

23 Q. Did you see him put -- reach towards the little
24 compartment in the side of the door?

25 A. No.

1 Q. Okay. At some point did the police talk to Mr.
2 Bradley?

3 A. They had asked him for his ID after they asked Daesh
4 for hers.

5 Q. Do you remember if they went back to their car to
6 check it?

7 A. I can't remember.

8 Q. Okay. Did -- at some point did the officers open Mr.
9 Bradley's car door?

10 A. Yes.

11 Q. Then what happened?

12 A. They like frantically -- excuse me -- forcefully
13 grabbed him out the car.

14 Q. And then what happened?

15 A. They slammed him against the car and they emptied his
16 pockets into the back seat.

17 Q. Okay. And were you watching the whole time?

18 A. Well, I didn't get up and look out the car but I
19 seen.

20 Q. Through the win -- did you see through the window?

21 A. Yes.

22 Q. Okay. And what was Mr. Bradley -- was Mr. Bradley
23 saying anything?

24 A. All he said is "what did I do?"

25 Q. Okay. Did you see a bigger officer at any time?

1 A. There were about five cop cars. There were a lot of
2 officers out there.

3 Q. There were a lot of officers there?

4 A. Yes.

5 Q. Definitely more than one but was there more than one
6 squad car?

7 A. Yes.

8 Q. How many do you think there were?

9 A. Police officers?

10 Q. No, cars.

11 A. Cars.

12 Q. Cars?

13 A. Cars like police cars?

14 Q. Yes.

15 A. There were like four or five cars.

16 Q. Okay. How many officers do you remember there being?

17 A. Maybe like eight or nine.

18 Q. Did they have guns; they all have guns?

19 A. Yes.

20 Q. Okay. Did you see Mr. Bradley kick any of the
21 officers?

22 A. No.

23 Q. Okay. And what happened after that? What happened
24 after he said "what did I do?"

25 A. They handcuffed him and they put him in the car.

1 Q. Okay. Do you remember anything else that you saw?

2 No audible response there.

3 Okay. And you said this was at 2:30?

4 A. In the morning, yes.

5 Q. Okay. And they towed the car. Did they tow the car?

6 A. Yes.

7 Q. Okay. How did you get home that night?

8 A. I had to call a ride.

9 MR. SLEPCHUK: Okay. That concludes direct
10 examination and now on to cross-examination.

11 **CROSS-EXAMINATION OF MS. TUCKER'S TRIAL TESTIMONY**

12 Q. Ma'am, you were in the back seat with Mr. Bradley?

13 A. Yes.

14 Q. And this was on the way home from you said a
15 get-together?

16 A. Yes.

17 Q. Would it be fair to classify that as a party --

18 A. No.

19 Q. -- this get-together?

20 How many people would you say were at this
21 get-together?

22 A. Maybe seven or eight.

23 Q. Had people been drinking?

24 A. Yeah.

25 Q. Had Mr. Bradley been drinking?

1 A. Not when I was there.

2 Q. Not that you observed?

3 No audible response.

4 When did you go to this get-together?

5 A. Maybe around ten o'clock.

6 Q. And were people there when you got there already?

7 A. Yes.

8 Q. Was Mr. Bradley already there?

9 A. Yes.

10 Q. All right. Was there any alcohol in the car?

11 A. Yes.

12 Q. An open bottle of alcohol?

13 A. Yes.

14 Q. Was Mr. Bradley drinking any of it?

15 A. No.

16 Q. Were you?

17 A. Yes.

18 Q. Now this vehicle was pulled over. You weren't
19 driving the vehicle?

20 A. No.

21 Q. You were just in the back seat?

22 A. Yes.

23 Q. What kind of vehicle is it?

24 A. It's like a Chrysler 300 I think.

25 Q. Is that a small sedan?

1 A. No, it's big.

2 Q. A big sedan.

3 How low is the back seat? Is it kind of low in the
4 vehicle and kind of recline or is it more upright so you
5 can see out all the windows?

6 A. You can see out all the windows.

7 Q. Now you said that they asked for Mr. Bradley's ID.
8 Did they ask for yours?

9 A. No.

10 Q. So just the driver's and the defendant's, yes?

11 A. Yes.

12 Q. All right. Now you said they pulled him out of the
13 vehicle. Did they ask him to get out first?

14 A. No.

15 Q. No. And so they just reached in and grabbed him and
16 yanked him out?

17 No audible response.

18 Where did they grab him? Did they grab him by the
19 arms or?

20 A. By his arm.

21 Q. By his arm.

22 And did they trip getting out of the vehicle -- and
23 did he trip getting out of the vehicle?

24 A. No.

25 Q. Did he fall over?

1 A. No.

2 Q. Did you ever see him fall over that night?

3 A. No.

4 Q. So they pulled him out of the vehicle but you stayed
5 in it, didn't you?

6 A. Yes.

7 Q. You were in the vehicle when Mr. Bradley was out
8 having his interaction with the cops, yes?

9 A. Yes.

10 Q. And, in fact, by the time you got out of the vehicle
11 he was already in the back seat of the cruiser, wasn't he?

12 A. Yes.

13 Q. All right. So you say you didn't see him kick
14 anybody, right?

15 A. Yes.

16 Q. But you couldn't see below the waist level, right?

17 A. Right. The door was opened.

18 Q. So just to go back.

19 But you couldn't see him below the waist level,
20 right?

21 A. The door was open.

22 Q. But he was outside the vehicle and kind of around the
23 side, wasn't he?

24 A. Yes.

25 Q. So you didn't really have a clear view of the

1 officers' legs necessarily?

2 A. No.

3 Q. So you saw them handcuffed him and put him in the
4 car, in the cruiser, yes?

5 A. Yes.

6 Q. And did you ever see the officers punch him?

7 A. No.

8 Q. Did you ever see them throw him to the ground?

9 A. No.

10 Q. Did they shove him up against the car?

11 A. Yes.

12 Q. All right. Did he shove back?

13 A. No.

14 Q. Did he struggle with them at all when they tried to
15 put handcuffs on him?

16 A. No.

17 Q. Did he try to run when they put handcuffs on him?

18 A. No.

19 Q. All right. Now, who was this -- you stated there
20 were four people in the car. There was the driver; there
21 was you; there was the defendant, and then there was a
22 fourth person. What was her name?

23 A. Barbara Murphy.

24 Q. Where does she live?

25 A. Cranberry Hill.

1 Q. Are you acquainted with her, well acquainted with
2 her?

3 A. Yes.

4 Q. And do you know where she is today?

5 A. Work.

6 Q. All right. Is she available to be here today?

7 A. She's at work.

8 Q. If not for work, would she be available? So if -- be
9 available to come in?

10 A. Okay.

11 MR. SLEPCHUK: Down to line 15.

12 A. If she had a subpoena.

13 Q. Do you know how to contact her?

14 A. Yes.

15 Q. So you would be able to provide information to Mr.
16 Lavelle for example about how to contact her?

17 A. Yes.

18 Q. All right. And she saw what happened that night,
19 didn't she?

20 A. I can't speak for Barb.

21 Q. Well, she was there at least. She was sitting in the
22 front seat?

23 A. Yes.

24 Q. And it would be fair to say that you all noticed Mr.
25 Bradley getting out of the vehicle, yes?

1 A. Being snatched out of the vehicle.

2 Q. That's a -- you were all aware that the door was
3 opened and --

4 A. Uh-huh.

5 Q. Now, you said you had to wait for a ride. Did you
6 get a ride from that location when the vehicle was towed?

7 No audible response.

8 Did everybody get a ride?

9 A. Yes.

10 Q. And who gave you that ride? Was it -- did you get a
11 cab or did a friend pick you up?

12 A. My uncle picked me and Barbara up and Daesh walked
13 home.

14 MR. SLEPCHUK: All right. Now we're moving on
15 to redirect examination.

16 **REDIRECT EXAMINATION OF MS. TUCKER'S TRIAL TESTIMONY**

17 Q. I just have one more question. At any time did you
18 hear the police say he kicked me?

19 A. No.

20 MR. SLEPCHUK: That concludes the testimony of
21 Ms. Tucker.

22 THE COURT: Thank you, ma'am.

23 MR. SCHMIDT: May we approach?

24 THE COURT: Excuse me?

25 MR. SAINT LAURENT: I think he asked if we can

1 approach sidebar.

2 THE COURT: Oh, sure.

3 (Sidebar conference.)

4 MR. COYLE: Apparently we have different
5 transcripts, Your Honor. There were a number of
6 differences between what was being read in my transcript
7 which was prepared by Accurate and one of them was quite
8 significant.

9 THE COURT: Who provided the transcript? They
10 were from different steno services?

11 MR. SLEPCHUK: I ordered the audio. I had it
12 transcribed.

13 MR. SAINT LAURENT: We did the same thing. We
14 ordered it from the district court and had it
15 transcribed.

16 THE COURT: Can I let the jury go for lunch?

17 MR. COYLE: Yes.

18 (End of sidebar conference.)

19 THE COURT: Ladies and gentlemen, we're going to
20 break for lunch. All right. So during the lunch break do
21 not begin your deliberations in any way. Don't talk to
22 each other about the case or anything about the case.
23 Don't access the case on the internet; try to research the
24 case, or post anything on the case. All right? I'll let
25 you go.

1 THE CLERK: All rise.

2 **(The jury left at 1:18.)**

3 THE COURT: Are we talking about both witnesses'
4 testimony or just one of the witnesses?

5 MR. COYLE: There's many very insignificant
6 difference but one significant difference, Your Honor.

7 THE COURT: All right.

8 MR. COYLE: I don't know how to cite it for your
9 transcript but on my transcript it's on page 168.

10 MR. SLEPCHUK: Of which witness?

11 MR. COYLE: I'm sorry. Ms. Tucker, the last
12 witness.

13 THE COURT: Okay.

14 MR. SLEPCHUK: Is it during the direct, cross,
15 or redirect?

16 MR. COYLE: It's direct examination and in my
17 transcript it is six or seven pages into -- the seventh
18 page from the beginning of her recorded testimony.

19 MR. SCHMIDT: Peter, you're looking for the
20 pages where they're talking about how many cruisers there
21 were.

22 MR. SLEPCHUK: Just give me a second to get
23 there.

24 MR. COYLE: If you start with when she said
25 there were eight or nine cruisers, not long after that.

1 MR. SLEPCHUK: Let me just look on the index.

2 Okay. I'm with you.

3 MR. COYLE: So if you go down, I'll read several
4 lines. You see the line that says, "And did you see Mr.
5 Bradley kick any of the officers?"

6 THE COURT: I have the transcript myself. I
7 know exactly where you are. Go ahead.

8 MR. COYLE: "Any of the officers?"

9 Answer: "No."

10 "Okay. And what happened after he said what did I
11 do?"

12 Answer: "They handcuffed him and put him in the
13 car."

14 "Okay. Do you remember anything else that you saw?"

15 What was read was "No audible response," whereas my
16 transcript says she answered the question "no." Meaning
17 she didn't see anything else. That's an important
18 distinction because she claims to have seen him being put
19 in the car without any further beating or kicking or
20 punching or anything.

21 THE COURT: Who did your stenos? Who was the
22 respective stenos?

23 MR. SLEPCHUK: Mine was Pamela Borges DosSantos
24 out of New Bedford.

25 MR. COYLE: And this was Accurate Reporting on

1 Main Street, Your Honor, our transcript.

2 MR. SAINT LAURENT: Your Honor, if it helps, I'm
3 pretty sure I still have the audio that was provided to
4 the steno.

5 THE COURT: Well, what are the suggestions for
6 handling this? Let me hear your suggestions.

7 MR. COYLE: I'm not sure. Perhaps the court
8 could listen to it. It's going to be hard to put it in
9 context for the jury, but perhaps the court could listen
10 to that very small bit of the recording and make a
11 decision as to whether you believe there was no audible
12 response or she answered that she saw nothing further.

13 THE COURT: Even if you have -- both of these
14 stenos I'm assuming there's a stipulation that both are
15 certified stenographers; is that correct?

16 MR. COYLE: Well, ours is. I assume their's
17 are.

18 MR. SLEPCHUK: Mine as well. I haven't seen
19 yours but, yeah.

20 THE COURT: Well, before I make any other
21 comment, I'll listen to the tape.

22 MR. COYLE: I guess I'm raising the issue, Your
23 Honor, because, you know, I want to be able to argue that
24 this witness said she saw nothing improper happen after he
25 was removed.

1 THE COURT: I get it. Believe me. Let me
2 listen to the recording first and I'll tell you what I
3 want to do. All right. We're taking a lunch break. Can
4 I have it now?

5 MR. SAINT LAURENT: I don't have a laptop but I
6 do have it on my hard drive so it would have to be on
7 plaintiff's counsel's laptop or the court.

8 THE COURT: What time is our status?

9 THE CLERK: At 1:30.

10 THE COURT: Let's have the plaintiffs play it
11 right now and we'll take an extended lunch because I have
12 a status coming. Let's cue it up right now if you can.

13 Are you able to get it?

14 MR. SLEPCHUK: We've got it here. The only
15 thing is for whatever reason when we got the recording
16 from the trial court, it wasn't just one file. It gave us
17 a couple dozen files so we're just trying to figure out
18 which particular file we need to play for this portion.

19 THE COURT: Okay.

20 Can you get the parties for the next case in?

21 (A pause in the proceeding.)

22 THE COURT: Okay. The question is should I go
23 to lunch and let you guys keep working?

24 MR. SAINT LAURENT: I think you should probably
25 go to lunch.

1 THE COURT: Thank you.

2 MR. SAINT LAURENT: It's taking a while.

3 THE COURT: I mean, you guys are going to need
4 to grab something too.

5 MR. SAINT LAURENT: Yeah.

6 THE COURT: See what you can do. Even if you
7 can play it, if you have to just record it on one of your
8 cell phones and I'll listen on your cell phone. Make
9 something happen so I can hear it. It's a small piece.

10 THE COURT: All right.

11 MR. SCHMIDT: Your Honor, so the court is aware,
12 Officers Moynahan and Dunn technically start shifts at
13 four o'clock today.

14 THE COURT: So they -- well, I mean what time
15 are you asking?

16 MR. SCHMIDT: I mean, they're pretty much at
17 work so if we broke at 3:55 I think that would be good
18 enough for them. Thank you, Your Honor.

19 THE COURT: Okay. But they're not -- they have
20 uniforms and they're going to change into their uniforms
21 here?

22 MR. SCHMIDT: I presume they will change when
23 they get there.

24 THE COURT: When they get there. Okay.

25 MR. SCHMIDT: I'll tell them they can't change

1 here.

2 THE COURT: I don't care if they change in the
3 public, you know. I just didn't want someone wearing a
4 uniform back in for this. I figured you knew that.

5 MR. SCHMIDT: Correct.

6 THE COURT: Good. What time did we break? At
7 1:15, so 2:15.

8 **(A recess was taken at 1:35 until 2:19.)**

9 THE COURT: I'll see the parties at sidebar.
10 (Sidebar conference.)

11 THE COURT: All right. We are back from the
12 lunch break. We are at sidebar. Just to continue the
13 record just -- well, I'd like the parties to make a record
14 as to what happened during the lunch break. I'm trying to
15 figure if there was a problem with the transcripts of the
16 state court proceeding or not.

17 MR. SLEPCHUK: Your Honor, we did locate the
18 audio portion that's relevant. We listened to it. I
19 don't hear any response. I don't want to speak for
20 defense counsel. I didn't hear anything so.

21 THE COURT: Defense?

22 MR. SAINT LAURENT: The defense also listened to
23 the audio and we were unable to hear a response from Savon
24 Tucker to the question.

25 THE COURT: So do you agree that Attorney

1 Slepchuk's transcript that says it's inaudible, do you
2 agree with the accuracy of that transcript?

3 MR. SAINT LAURENT: Yes, Your Honor.

4 MR. COYLE: Yes.

5 MR. SLEPCHUK: The only other thing while we're
6 at sidebar, with that issue being taken care of, I'm about
7 to rest my case.

8 The only thing is I would intend -- in the event that
9 some of the defendants do not intend to testify during the
10 defendant's case, I would read into the record some of
11 their admissions that have been made during requests for
12 admissions during discovery. So I'm prepared to do that
13 now but --

14 THE COURT: You're prepared to do that now but
15 you're anticipating them testifying.

16 MR. SLEPCHUK: But if defense counsel are on
17 record that they are going to be testifying, then I don't
18 need to take that step at this point to read their
19 admissions.

20 THE COURT: So I either need counsel to let me
21 know if you plan to have them testify or if you don't want
22 to answer that, it's fine. If you don't want to tell me
23 your tactical decision as to whether or not you object if
24 after you rest, Attorney Slepchuk, could then put on a
25 case by introducing the prior testimony of your clients if

1 he is so inclined.

2 MR. SCHMIDT: I would agree with that. I do
3 intend to call my client.

4 MR. COYLE: The only complication, Your Honor,
5 is I'm going to be moving for a judgment as a matter of
6 law on behalf of Officer Cicero. I don't believe there's
7 been any evidence that he committed any violations. So he
8 would not be testifying -- I certainly would not be
9 calling him if you would see fit to allow that motion.

10 THE COURT: All right. Well, but if the motion
11 was denied, would you object if Attorney Slepchuk after
12 you rested your case, him putting on the transcript?

13 MR. COYLE: Well, requests for admission?

14 THE COURT: Yes, requests for admission.

15 MR. COYLE: No, I would have no objection.

16 MR. SAINT LAURENT: Likewise, I do intend to
17 call my client.

18 THE COURT: Okay. So let's rest on the record
19 then and then we will deal with the motions. All right.
20 (End of sidebar conference.)

21 **(The jury entered at 2:26.)**

22 THE COURT: Ladies and gentlemen, was everyone
23 able to follow my instructions during the lunch break not
24 to begin deliberations? Not to talk to each other about
25 the case? Not to access the case on the internet or in

1 any way research it? Read any media report or post,
2 anything about the case?

3 Okay. Affirmative answer of all jurors, they remain
4 fair and impartial.

5 All right. We can continue. Go ahead, Attorney
6 Slepchuk.

7 MR. SLEPCHUK: Your Honor, at this time the
8 plaintiff rests.

9 THE COURT: All right. Ladies and gentlemen,
10 that simply means the plaintiff has completed all of their
11 witnesses.

12 All right. Defense?

13 MR. COYLE: Your Honor, I would have a motion.

14 THE COURT: All right. Sidebar.

15 (Sidebar conference.)

16 THE COURT: All right. Go ahead.

17 MR. COYLE: Your Honor, I would move under Rule
18 50 for judgment as a matter of law. The plaintiff has
19 failed to introduce any evidence that the defendant Cicero
20 violated any rights or is a tortfeasor in any of the
21 claims that were made.

22 All of the claims was to the complaint involved
23 excessive force. There's a federal, state, and common law
24 action based on excessive force. There are actions --

25 THE COURT: Starting with what, Count 2 or 3?

1 MR. COYLE: I don't -- I can't recall.

2 THE COURT: So Count 1 is the seizure and
3 arrest.

4 MR. COYLE: That's the other thing, the false
5 arrest and false imprisonment are derivative tort claims
6 relating to them and intentional infliction of emotional
7 distress also based on the same actions which are involved
8 in those there.

9 Obviously there's no evidence that he had any
10 physical interaction with Mr. Bradley and so I would
11 submit that he cannot be a party to anything that's based
12 on assault and battery.

13 Similarly, he is not the person who has brought
14 charges against Mr. Bradley for any of the false arrests
15 or false imprisonment. Those charges were all brought by
16 other defendants here.

17 In fact, I think if he would testify, he would --
18 Officer Cicero would say that he didn't even see him get
19 kicked. He saw nothing. He was on the other side of the
20 car when all of this took place, the assault and battery
21 on Officer Dunn. He is not -- that was an issue that was
22 made by Officer Dunn.

23 THE COURT: But none of that is in the record
24 right now.

25 MR. COYLE: Well, there's nothing on the record

1 that would indicate that he did initiate or had any role
2 in initiating that charge.

3 THE COURT: What's on the record right now about
4 his involvement in stop of the car?

5 MR. COYLE: Simply that he observed a traffic
6 violation, a failure to stop at the stop sign and, you
7 know, he initiated a traffic stop.

8 THE COURT: Okay. What do you say?

9 MR. SLEPCHUK: Well, I'll start with the first
10 claim, unlawful seizer. He was the operator of the car.
11 He pulled the car over and there's ample evidence from our
12 perspective on that.

13 THE COURT: Okay. Next one.

14 MR. SLEPCHUK: So then with respect to unlawful
15 arrest, clearly he was an arresting officer in conjunction
16 with the other defendants.

17 With respect to the excessive use of force, although
18 there's no allegation that he actually laid his hands upon
19 Mr. Bradley, officers have a duty to intervene when they
20 see other officers using excessive force. That's clearly
21 established case law.

22 THE COURT: What's the evidence that he knew or
23 saw or was even near that? You drew your diagram. What's
24 the diagram show where he was?

25 MR. SLEPCHUK: It shows that he's at the car and

1 the other officer --

2 THE COURT: Which side of the car?

3 MR. SLEPCHUK: The driver's side. The testimony
4 was that Officers Dunn and Moynahan led him behind the
5 car, again on the driver's side of the cruiser which is
6 behind the car so it would be right in his line of sight
7 and then they struck him and kicked him. So I think that
8 certainly there's sufficient evidence to show that he was
9 aware of what was going on at the time.

10 Moreover, when he's in the booking room, there's an
11 admission by silence. I would posit that Daniel looks
12 over to Officer Cicero and he says you know what happened.
13 You saw everything. Man up. If you don't man up and tell
14 the truth, then you might as well take that badge off your
15 uniform and throw it on the ground.

16 THE COURT: Was that the subject of a motion in
17 limine?

18 MR. SAINT LAURENT: Yes.

19 MR. COYLE: Yes.

20 THE COURT: Had I ruled on the motion in limine?

21 THE CLERK: I don't remember.

22 MR. SLEPCHUK: You allowed it in. It was played
23 for the jury.

24 THE COURT. No. No. I know on the tape, but as
25 to the evidentiary finding of an admission.

1 MR. SLEPCHUK: I don't believe that that was
2 ruled on.

3 THE COURT: Was that subject to the motion in
4 limine?

5 MR. SLEPCHUK: No, just the video itself.

6 THE COURT: Clearly the video was allowed in.

7 MR. SLEPCHUK: I'm arguing that a police officer
8 confronted with the statement that you saw what happened,
9 you know what really happened, if you're going to let them
10 lie, if you don't man up you might as well throw your
11 badge on the ground, I think that a reasonable person in
12 that situation if the charge were not true would have said
13 something. He said nothing. So I think there's an
14 admission by Officer Cicero right there that he knew what
15 happened. He saw what happened and he took no steps to
16 intervene with respect to the excessive use of force. And
17 then clearly charges were brought and all of the officers
18 testified at this criminal trial.

19 THE COURT: Was there evidence as to who brought
20 the charges?

21 MR. SLEPCHUK: There was no particular evidence,
22 but again this is why I raise the issue about their
23 admissions because they admitted it. So if they're going
24 to stand here and say --

25 THE COURT: I'm lost. They?

1 MR. SLEPCHUK: All three of the defendants
2 admitted they brought the charges. So if any of the
3 defendants are going to argue that they weren't the ones
4 who brought the complaint, who initiated the criminal
5 proceeding, I would have to put that in the record because
6 that's why I asked if there was going to be an issue.

7 THE COURT: I see. You're saying at a previous
8 trial they all testified that each of them, each of the
9 three said we all brought them?

10 MR. SLEPCHUK: In my request for admissions, I
11 asked that question and they admitted it.

12 MR. COYLE: If I can be heard, Your Honor?

13 THE COURT: Yes.

14 MR. COYLE: On the issue of failure to
15 intervene, there's no mention of that anywhere in the
16 complaint. It's not on the table in the case. It's a
17 straight assault and battery. There's no claim to be
18 construed as one for failure to intervene.

19 As far as suggesting that what happened in the
20 booking area is an admission, police officers don't --

21 THE COURT: I thought we dealt with this issue.
22 Can you step back for a moment? I want to talk to my
23 clerk about a review of this.

24 (Short pause in the proceeding.)

25 THE COURT: Can you please bring the board that

1 you draw on over here so I can see it?

2 (Short pause in the proceeding.)

3 THE COURT: Okay. We are still at sidebar and
4 I'm looking at the drawing that was made by the plaintiff
5 when he was testified.

6 Attorney Slepchuk, there's a C. It looks to be on
7 the driver's side of the car.

8 MR. SLEPCHUK: Yes.

9 THE COURT: Then there's a D and an M for each
10 of the defendants and a stick figure which is the
11 plaintiff on the opposite side, on the passenger's side of
12 the car, correct?

13 MR. SLEPCHUK: Correct.

14 THE COURT: Okay. So do you want to explain the
15 drawing any further?

16 MR. SLEPCHUK: Well, although I didn't have him
17 draw this, but he later explained that they led him
18 between the cars over to this side and that's where the
19 assault occurred. (Indicating)

20 THE COURT: Okay. So what I was referring to
21 was the car, the civilian car that the plaintiff was in,
22 not the police cruiser?

23 MR. SLEPCHUK: This is the rental car, yes.

24 THE COURT: Okay. All right. You're saying the
25 testimony after that was they lead him over to where?

1 MR. SLEPCHUK: Yes. Mr. Bradley testified he
2 was led behind this car, in between over here to the
3 driver's side and that's where the assault took place.
4 (Indicating).

5 THE COURT: Okay.

6 MR. COYLE: Certainly the testimony was not that
7 they lead him over to the driver's side. He was just led
8 to the car. He was not specific as to which side he was
9 led to.

10 THE COURT: Okay. Thank you.

11 Attorney Coyle, what do you want to say about Count 1
12 and Count 2 that had to do with pulling the car over for a
13 stop sign or stop light violation?

14 MR. COYLE: Honestly, Your Honor, I'm not sure
15 what right -- if Mr. Bradley has a right to assert rights
16 relating to the traffic stop as opposed to the driver.
17 But even assuming he did, the driver's testimony was that
18 she didn't remember if she stopped at this stop sign, and
19 there's other evidence that she did not stop and so I
20 would submit that --

21 THE COURT: Well, Counts 1 and 2 are directly
22 relating to the stopping of the motor vehicle; is that
23 correct? That's how I read it.

24 MR. SLEPCHUK: Yes. Well, I would say it's more
25 than just the stop. It's a seizure in general; it's the

1 stop; it's the removing from the car; it's the patfrisk
2 that's all encompassed in it.

3 MR. COYLE: I read it as the patfrisk and being
4 removed from the car, Your Honor. I may be wrong but I
5 don't think the complaint mentions the traffic stop as the
6 basis for any of these claims.

7 MR. SLEPCHUK: It does, Your Honor. I would be
8 happy to point it out.

9 THE COURT: All right. I'm going to step off
10 for five minutes. The jury can stay either in the room,
11 stand up, relax so we won't have to go through this whole
12 thing. I'll step out for five minutes. Tell them they
13 can relax, stand up, okay.

14 THE CLERK: Certainly.

15 THE COURT: I'll be back in five minutes.

16 **(A recess was taken at 2:36 until 2:42.)**

17 (Sidebar conference.)

18 THE COURT: All right. I've taken a moment to
19 look at some of my notes and looked back at the complaint
20 at the specific charges after hearing your arguments.

21 Count 5, excessive force, Count 6, excessive force,
22 Count 7, assault and battery, motion for required finding
23 is allowed. Judgment as a matter of law is allowed on
24 those three. The remaining -- some of which I might note
25 are surviving by the slightest of threads -- are subject

1 to renewal. All right?

2 MR. COYLE: Thank you.

3 MR. SCHMIDT: Thank you, Your Honor.

4 (End of sidebar conference.)

5 THE COURT: I apologize for that delay.

6 Are we ready to keep moving?

7 MR. COYLE: I'm sorry?

8 THE COURT: Are you ready?

9 MR. COYLE: Yes, Your Honor. Officer Cicero.

10 THE CLERK: Please raise your right hand.

11 **Christian Cicero (sworn)**

12 **DIRECT EXAMINATION**

13 Q. (By Mr. Coyle) Please identify yourself for the
14 court?

15 A. Christian Cicero.

16 Q. How do you spell your last name?

17 A. C-i-c-e-r-o.

18 Q. And how old are you?

19 A. I'm 29.

20 Q. And where are you employed?

21 A. Springfield Police Department.

22 Q. And are you married?

23 A. I am.

24 Q. Do you have any children?

25 A. I have two.

1 Q. Do you own your home?

2 A. I do.

3 Q. And where did you go to high school?

4 A. Springfield Central High School.

5 Q. Did you have any education beyond high school?

6 A. I have an associate's degree from Springfield
7 Technical Community College.

8 Q. And what subject matter is that associate degree in?

9 A. Criminal justice.

10 Q. Do you have any military experience?

11 A. I do. I did eight years in the Army National Guard.

12 Q. And where were you assigned as a member of the
13 National Guard?

14 A. The 101st Field Artillery in Fall River.

15 Q. Now, directing your attention to your employment,
16 when did you become a Springfield police officer?

17 A. 2014.

18 Q. And did you attend a recruit training academy --

19 A. I did.

20 Q. -- upon being appointed?

21 On August 26th of 2015, what was your assignment on
22 that date?

23 A. I was a patrol officer.

24 Q. And what were the general duties you exercised as a
25 patrol officer at that time?

1 A. I was assigned to the Mason Square area patrol
2 responding to 911 calls, conduct traffic stops.

3 Q. You're assigned to a cruiser; is that fair to say?

4 A. Yes.

5 Q. Did you have a partner working with you that night?

6 A. I did.

7 Q. Who was that?

8 A. Joseph Dunn.

9 Q. Is that someone you worked with at other times?

10 A. Yes.

11 Q. And was he a regular partner of yours?

12 A. Yes.

13 Q. And what were the hours of work for that shift,
14 Officer Cicero?

15 A. Midnight to eight.

16 Q. Now directing your attention to the matter at hand,
17 at some point in time did a car in the vicinity of
18 Northampton Street attract your attention?

19 A. Yes.

20 Q. And what was it about that vehicle that attracted
21 your attention?

22 A. It was traveling at a higher rate of speed than
23 normal in a residential area.

24 Q. You might need to get a little closer to the
25 microphone.

1 A. I'm sorry.

2 Q. What did you do, if any, in response to seeing that?

3 A. We got behind the vehicle on Northampton.

4 Q. And so what happened after that?

5 A. Then we observed it came up to -- it approached King
6 Street and continued to observe it and then it took a
7 right onto King Street from Northampton.

8 Q. Now is there a stop sign at the intersection of
9 Northampton Avenue and King Street?

10 A. There is.

11 Q. Does that face on this chart that you're speaking of
12 as it reached King Street?

13 A. Yes.

14 Q. Did the car stop for that?

15 A. No, it did not.

16 Q. What, if anything, did you do in response to seeing
17 that?

18 A. We activated our overhead emergency lights and
19 conducted a traffic stop on the vehicle.

20 Q. Was that the vehicle that we've heard testimony about
21 operated by Ms. Robinson in which Mr. Bradley was a
22 passenger?

23 A. Yes, it is.

24 Q. So at the time that you stopped the vehicle, what was
25 your intention?

1 A. The intention was to further investigate the
2 violation of the stop sign violation.

3 Q. When you made the decision to pull this car over, did
4 you know any of the occupants?

5 A. No.

6 Q. Had you been able to see the occupants?

7 A. No.

8 Q. Did you know how many people were in the car when you
9 made the decision to pull it over?

10 A. When we made the decision, no.

11 Q. At some point did you become aware of the number of
12 occupants?

13 A. Yes.

14 Q. And is there a reason that you take note of that?

15 A. Yes.

16 Q. What's that?

17 A. Safety reasons. If there's multiple occupants in a
18 vehicle, we may need backup, more help. That's pretty
19 much it.

20 Q. Did you make some sort of radio transmission to
21 police headquarters as a result of making this stop?

22 A. My partner did, yes.

23 Q. And do you recall the content of that radio
24 transmission?

25 A. Not exactly, no.

1 Q. Do you know if you reported the number of -- at that
2 point did you know the number of occupants in the car?

3 A. Yes.

4 Q. You could see from where you were behind the car?

5 A. Right. When we activated our overhead lights, we
6 also have brighter white lights that shine into the
7 vehicles from the front of the cruiser.

8 Q. Is there some practice in the Springfield Police
9 Department about traffic stops where there are multiple
10 occupants in a vehicle stop?

11 A. I guess it's pretty much situational. There's
12 multiple times that we pull over cars with multiple
13 occupants. Whether we call for backup or not kind of
14 depends on -- most of the time it's after our approach to
15 the vehicle.

16 Q. Do you recall if you or your partner requested backup
17 on this occasion?

18 A. Not that I can remember.

19 Q. Okay. So what happened after you had made this radio
20 transmission? At that point what happened?

21 A. I then approached the vehicle and spoke to the
22 operator.

23 Q. Do you know where your partner Officer Dunn went?

24 A. He was on the passenger's side of the vehicle.

25 Q. And what happened, if anything, between you and the

1 operator of the vehicle?

2 A. She provided her license, her driver's licence to me,
3 and then also a rental agreement for the vehicle.

4 Q. And do you recall the name of the operator?

5 A. Daeshavana Robinson.

6 Q. And did you make any note of her license? Did you do
7 anything with her license?

8 A. Yes, we would have ran her through the RMV to make
9 sure that it was active.

10 Q. And do you recall how you did that, whether it was by
11 radio or by going back to your cruiser and running it
12 through your mobile data terminal?

13 A. I do not remember which it was at this time.

14 Q. But you're sure that you did verify her license?

15 A. I mean, we do it with every other traffic stop so I
16 can't imagine that I didn't do it. I don't remember
17 specifically doing it, but.

18 Q. Okay. You had no reason to believe that her license
19 was not valid; is that fair to say?

20 A. Correct.

21 Q. Now, this other document that you were given, can you
22 describe that to the court?

23 A. It's a rental agreement from Thrifty Auto, I think
24 it's Auto Sales for the vehicle.

25 Q. Okay. Did that -- who did that agreement indicate

1 was the person who had rented the vehicle?

2 A. It was Lynette --

3 MR. SLEPCHUK: Objection; best evidence rule.

4 THE COURT: Overruled, but the question is
5 stricken. Rephrase the question. It does call for a
6 hearsay response.

7 MR. COYLE: Okay.

8 Q. (By Mr. Coyle) Based on reading the rental
9 agreement, did you have an understanding or a belief as to
10 who was the person who had rented the vehicle?

11 A. Yes.

12 Q. Who was that?

13 A. Lynette Broxton.

14 Q. And did you make an inquiry as to where she was or if
15 she was one of the people in the car?

16 A. We gathered that she was not in the vehicle, yes.

17 Q. Do you recall how that took place? Was there a
18 conversation with multiple occupants or did somebody say
19 something?

20 A. From what I can remember the only conversation I had
21 was with the operator and so I can't recall exactly if I
22 had asked her directly or if she offered that up herself.

23 Q. Was there any explanation offered as to what right
24 the people in the car had to be using that vehicle at that
25 time?

1 MR. SLEPCHUK: Objection.

2 THE COURT: Calls for a yes or no. You can
3 answer yes or no. Do you need the question asked again?

4 THE WITNESS: I can't exactly remember so.

5 THE COURT: Okay. You can't remember. Next
6 question.

7 Q. (By Mr. Coyle) What did you -- at some point you had
8 an operator whose name was not the same as the person on
9 the rental agreement; is that fair to say?

10 A. Yes.

11 Q. Did that have any significance to you?

12 A. It did.

13 Q. And was there anything else about the rental
14 agreement that had significance to you?

15 A. Yes.

16 Q. What was that?

17 A. That it was expired.

18 Q. Do you recall how long it had been and how long over
19 the time limit was this possession of the vehicle?

20 MR. SLEPCHUK: Objection.

21 THE COURT: Basis?

22 MR. SLEPCHUK: Again it's questions about a
23 document not in evidence.

24 THE COURT: It goes to the officer's state of
25 mind. Go ahead. You may answer.

1 THE WITNESS: I can answer, judge?

2 THE COURT: Yes.

3 THE WITNESS: It was about 20 days.

4 Q. (By Mr. Coyle) Did this have significance to you?

5 A. It did.

6 Q. What significance did that have?

7 A. At that time it's essentially no longer the renter's
8 property. It's the property of the company that rented
9 the vehicle and it should be returned or renewed.

10 Q. And what, if anything, did you do upon learning this?

11 A. At that time I attempted to call the rental company
12 to verify if it was in fact expired.

13 Q. And were you successful in doing that?

14 A. No.

15 Q. And was there a reason for that?

16 A. Just I believe they were closed.

17 Q. Just the time of day no one answered?

18 A. Right.

19 Q. Did you make a decision to take some particular
20 action based on what you knew at that time?

21 A. Yes.

22 Q. What was that?

23 A. To tow the vehicle.

24 Q. Now, were you aware of Officer Dunn's actions as you
25 were engaged with the driver?

1 A. Not really.

2 Q. Now, at some point in time were you aware of other
3 officers arriving on the scene?

4 A. Yes.

5 Q. Do you know the names of the other officers who
6 arrived on the scene?

7 A. Officer Moynahan. I believe Officer Ellison was
8 there, Officer Lariviere, and Officer Bienvenue.

9 Q. At some point in time did you observe some
10 interaction between Mr. Bradley and Officer Dunn and
11 another officer?

12 A. Yes.

13 Q. What was it that you observed?

14 A. I observed that he was out of the vehicle.

15 Q. And do you -- did you observe any of the interaction
16 that led to him being removed from the vehicle?

17 A. No.

18 Q. Did you hear any conversation? Were you aware of any
19 conversation at that time?

20 A. No, not specifically.

21 Q. Now at this point in time is it fair to say that you
22 were standing at the driver's window?

23 A. Yes.

24 Q. So you were looking across the top -- strike that.

25 The rental vehicle, the vehicle that you stopped, was

1 that basically a sedan?

2 A. It was.

3 Q. A hood and a trunk?

4 A. Yes.

5 Q. So at this point in time would it be fair to say that
6 you were looking over the roof of the car at Officer Dunn
7 and the other officer?

8 A. Yes.

9 Q. Be fair to say that probably below mid-chest height
10 you couldn't see what was going on? You could only see
11 them above the roof of the car?

12 MR. SLEPCHUK: Objection.

13 THE COURT: Leading?

14 MR. SLEPCHUK: Yes.

15 THE COURT: Yes. Sustained. The question will
16 be stricken. You can rephrase in a non-leading way.

17 Q. (By Mr. Coyle) What portion of the bodies of those
18 officers could you see at that time you were at the
19 driver's door?

20 A. Probably mid-stomach up.

21 Q. And what, if anything, did you see occur at that
22 time?

23 A. I saw a brief minor struggle between them to get him
24 into handcuffs. That's about all I saw.

25 Q. Can you describe that struggle with any more

1 specificity?

2 A. From what I could see, it was essentially them
3 attempting to overpower him and put him in handcuffs
4 because he was not wanting to.

5 Q. You said "they," who was they at that point in time?

6 A. Officer Dunn and Moynahan.

7 Q. Did you feel the need to run over and give them
8 assistance at that point in time?

9 A. No.

10 Q. Why was that?

11 A. It wasn't anywhere near out of control or anything
12 like that where they needed assistance. There's plenty of
13 other officers there also and there's still the people in
14 the car so I didn't want to completely take my attention
15 off of the rest of the occupants.

16 Q. Now you've since learned, have you not, Officer
17 Cicero, the reason that Officer Dunn removed Mr. Bradley
18 from the car; is that fair to say?

19 A. Yes.

20 Q. But is it also fair to say that you did not make
21 observations? You didn't see what he saw as the basis for
22 removing him?

23 A. Correct.

24 Q. Now, at some point he was in handcuffs; is that fair
25 to say?

1 A. Yes.

2 Q. And what happened from that point on?

3 A. They brought him to the cruiser. I don't know if it
4 was both of them or not or which one of them, but he was
5 brought to my police cruiser.

6 Q. And what happened there?

7 A. I don't know.

8 Q. Let me ask you this. Did you see any further
9 conflict, physical conflict between the officers and Mr.
10 Bradley after he was handcuffed and brought to the car?

11 A. I did not.

12 Q. You heard Mr. Bradley's testimony in this court and
13 did you see him being thrown to the ground or beaten or
14 kicked or anything of that nature?

15 A. No.

16 Q. Did you have any interaction directly with Mr.
17 Bradley out on the street that night?

18 A. Not until I got back into the car at the end of the
19 traffic stop.

20 Q. And so what happened after you got back in the car in
21 relation to Mr. Bradley?

22 A. One of the other pairs of officers on scene said
23 they'd wait for the tow so we transported him to the
24 station.

25 Q. When you say "we," you're talking about yourself and

1 Officer Dunn?

2 A. Correct.

3 Q. And do you recall anything significant happening on
4 the ride to the police station?

5 A. No.

6 Q. And after you arrived at the police station, what did
7 you do?

8 A. Began with the booking procedure so we would have
9 been on the booking dock. There's a series of questions
10 that we go through prior to entering the actual booking
11 area.

12 Q. When you use the term "booking dock," would it be
13 fair to say that that's not the area which we saw on that
14 police video?

15 A. Correct. It's right outside of that door that slides
16 open in the video.

17 Q. Is that the place where you get some preliminary
18 information before you bring the prisoner in before the
19 booking sergeant?

20 A. Yes.

21 Q. Now I believe that was you on the video who
22 accompanied Mr. Bradley to the actual booking dock?

23 A. Yes.

24 Q. And at some point in time Mr. Bradley challenged you,
25 made some statements to you; is that fair to say?

1 A. Yes.

2 Q. And did you respond to him?

3 A. No.

4 Q. Why is that?

5 A. During those procedures the sergeant is kind of
6 running the show. He's trying to ask questions and trying
7 to get through that process so I didn't feel the need to
8 have a back and forth, I'll put it that way, with him.

9 Q. Is it fair to say you're not going to get into an
10 argument with a prisoner at that point in time?

11 A. Right.

12 MR. SLEPCHUK: Objection.

13 THE COURT: Sustained. The answer will be
14 stricken and so will the question. Next question.

15 Q. (By Mr. Coyle) Would it be appropriate to get into an
16 argument with a prisoner at that point in time?

17 MR. SLEPCHUK: Objection.

18 THE COURT: Sustained.

19 Q. (By Mr. Coyle) Did you respond in any way to Mr.
20 Bradley at that point in time?

21 A. No.

22 Q. Did you understand that he was challenging you to a
23 fight?

24 MR. SLEPCHUK: Objection.

25 THE COURT: Sustained. The question is

1 stricken.

2 Q. (By Mr. Coyle) The charges that were brought against
3 Mr. Bradley for assault and battery and resisting arrest,
4 whose observations was that based on?

5 A. They would have been based off Officer Dunn and
6 Officer Moynahan's observations.

7 Q. Now your name is on the arrest report; is that fair
8 to say?

9 A. Yes.

10 Q. Why would your name have been on the arrest report?

11 A. Because I initiated the traffic stop and I was
12 Officer Dunn's partner.

13 Q. It was your stop; is that fair to say?

14 A. Yes.

15 Q. The narrative of that police report, who wrote that?

16 A. Officer Dunn.

17 Q. And did that contain the elements of the crimes for
18 which Mr. Bradley was charged?

19 A. Yes.

20 MR. COYLE: Thank you.

21 I have nothing further, Your Honor.

22 THE COURT: All right. Thank you.

23 Cross-exam.

24 MR. SLEPCHUK: Yes.

25

1 **CROSS-EXAMINATION**

2 Q. (By Mr. Slepchuk) Good afternoon, Officer Cicero.

3 A. Good afternoon.

4 Q. So you'd agree with me that back on the date August
5 26, 2015 you were fully employed as a police officer at
6 the city of Springfield?

7 A. Yes.

8 Q. And you mentioned you're working the midnight to 8
9 a.m. shift that night?

10 A. Correct.

11 Q. Were you wearing a police body camera at all during
12 your shift?

13 A. No.

14 Q. Does your cruiser come with a dash cam to record
15 anything that night?

16 A. No.

17 Q. You were operating a fully marked cruiser, correct?

18 A. Yes.

19 Q. And your partner you said was Officer Dunn sitting
20 next to you in the front passenger seat; is that right?

21 A. Yes.

22 Q. Now, you testified that your attention was drawn to
23 this vehicle you said because it was traveling at a high
24 rate of speed; is that your testimony?

25 A. Yes.

1 Q. Did you ever issue Ms. Robinson a ticket for
2 speeding?

3 A. No.

4 Q. And did you have an opportunity -- I know you didn't
5 author the report, but did you have an opportunity to
6 review Officer Dunn's report of this incident?

7 A. Yes.

8 Q. Would you agree with me that nowhere in that report
9 does he say the car was speeding?

10 A. Not that I can remember. I'd have to read it again,
11 but.

12 MR. SLEPCHUK: May I approach?

13 THE COURT: Yes.

14 Q. (By Mr. Slepchuk) I'm going to show you. Do you
15 recognize that as Officer Dunn's report?

16 A. Yes.

17 Q. And you've had an opportunity to review that report,
18 haven't you?

19 A. Correct.

20 Q. And do you agree with me that nowhere in that report
21 is there talk about the car speeding?

22 A. Correct.

23 Q. Now when you activated the cruiser lights on King
24 Street, the car pulled over without any problems, correct?

25 A. Yeah.

1 Q. And prior to pulling the car over you hadn't received
2 a report from dispatch or anywhere else that this car was
3 involved in any criminal activity, correct?

4 A. Correct.

5 Q. You didn't have any information when you pulled this
6 car over that there might be weapons or contraband in the
7 car?

8 A. Correct.

9 Q. Now, you radio dispatched or your partner radio
10 dispatched that they stopped the car, right?

11 A. Correct.

12 Q. And dispatch then sent some other officers to assist
13 you; is that correct?

14 A. That I can't remember. Sometimes we just listen to
15 the radio for surrounding cars if they call in stops and
16 there's multiple occupants, if we feel like they might
17 need a little bit of backup, then we just float over there
18 and if they don't then we don't, but.

19 Q. Well, is it fair to say in this particular instance
20 at least two other cruisers showed up to assist?

21 A. Yes.

22 Q. And you said those were Officer Moynahan, right?

23 A. Yes.

24 Q. Officer Ellison, right?

25 A. Yes.

1 Q. Bienvenue?

2 A. Correct.

3 Q. And Lariviere? I'm not sure I'm pronouncing that
4 right.

5 A. Yes.

6 Q. So in total there were six of you?

7 A. Yes.

8 Q. And the vehicle that you had stopped had four
9 occupants, right?

10 A. Yes.

11 Q. Daniel Bradley was seated in the back seat, correct?

12 A. Correct.

13 Q. And there were three other females in the car?

14 A. Yes.

15 Q. Now when you got out of your cruiser and you
16 approached the car, you didn't see any of the occupants
17 make any movements that made you concerned for your
18 safety, correct?

19 A. Correct.

20 Q. And they didn't make any movements that made you
21 suspicious of any sort of criminal activity, correct?

22 A. Correct.

23 Q. So you went to the driver's side to speak with Ms.
24 Robinson and Officer Dunn positioned himself on the
25 passenger side?

1 A. Correct.

2 Q. And you asked her for her license and registration
3 and she provided you a license and a rental agreement; is
4 that right?

5 A. Yes.

6 Q. And did you go back to your cruiser to run that, to
7 run her information?

8 A. I don't remember if it was through records, through
9 radio or a phone call, or if I did it in the cruiser or
10 not. But it was checked in some way, shape, or form.

11 Q. Did you have your flashlight out at this point in
12 time while you were at the car?

13 A. While I was at the vehicle, yes.

14 Q. So you were able to shine it inside the windows and
15 see what was going on inside?

16 A. Yes.

17 Q. There weren't any issues with the tint to these
18 windows that made it hard for you to see?

19 A. Not that I remember, no.

20 Q. Did your partner Officer Dunn have his flashlight out
21 too?

22 A. I believe so.

23 Q. He was looking inside illuminating the interior of
24 the car as well?

25 A. I would assume. I don't know for sure.

1 Q. Do you remember at what point in time Officer
2 Moynahan positioned himself on the passenger side with
3 Officer Dunn?

4 A. Not chronologically, no.

5 Q. Do you remember how much time -- can you estimate how
6 much it was?

7 A. I can't. I don't know.

8 Q. Do you remember if you waited for Officer Dunn -- for
9 Officer Moynahan to get there before you approached the
10 car?

11 A. No. No, I don't believe we waited.

12 Q. Okay. So it's your memory that you and Officer Dunn
13 went up, the two of you, and at some point later when the
14 other cars arrived the officers joined you at the car?

15 A. Yes, I believe so.

16 Q. When you were at the car and you said you were
17 shining your flashlight and Officer Dunn had his light
18 out, you didn't see any weapons in the car, did you?

19 A. No.

20 Q. You didn't see any drugs or anything like that in the
21 car?

22 A. No.

23 Q. Do you remember where the other three officers were
24 positioned?

25 A. The other three?

1 Q. So we talked about where you were standing and
2 Officers Dunn and Moynahan but what about Officers
3 Ellison, Bienvenue, and Lariviere? Do you remember where
4 they were positioned around the car?

5 A. Not specifically. I would assume that one of them
6 was probably behind me somewhere and then maybe the two
7 were around the back of the vehicle.

8 Q. Were all six of you armed with your service pistols?

9 A. I believe so. I mean I was.

10 Q. Is it a standard thing to have your pistol on you at
11 a traffic stop?

12 A. Yes.

13 Q. And officers -- so while you were speaking to -- you
14 ultimately determined that the car would have to be towed;
15 is that right?

16 A. Yes.

17 Q. There was an issue with the rental agreement?

18 A. Correct.

19 Q. And as you were informing Ms. Robinson of that,
20 Officers Dunn and Moynahan asked Mr. Bradley for his ID;
21 isn't that right?

22 A. Not that I remember, no.

23 Q. Now at some point Officers Dunn and Moynahan opened
24 the rear passenger door, correct?

25 A. I don't know if they opened it or if Mr. Bradley

1 opened it, but the door was opened.

2 Q. Did you see them remove him from the car?

3 A. No.

4 Q. Did you see how he got out of the car, came to be out
5 of the car?

6 A. No.

7 Q. But it's fair to say that prior to him getting out of
8 the car, you didn't see Mr. Bradley making any movements
9 that made you concerned for your safety, correct?

10 A. Correct.

11 Q. You didn't see him reaching towards the doorjamb or
12 the center console or anything like that, correct?

13 A. No.

14 Q. You didn't see him shuffling in his seat back and
15 forth, correct?

16 A. No.

17 Q. You're standing right there at this driver's window,
18 right?

19 A. Yes. Speaking to the operator, yes.

20 Q. And you never saw Mr. Bradley holding a weapon at any
21 point in time, correct?

22 A. Correct.

23 Q. He never threatened anybody with a weapon, correct?

24 A. Not that I know of, no.

25 Q. He never pointed a knife or a gun at anybody, right?

1 A. No.

2 Q. Now you testified that you saw a brief struggle
3 between Mr. Bradley and Officers Dunn and Moynahan on the
4 other side of the car; is that right?

5 A. Yes.

6 Q. You didn't see what precipitated or caused that
7 struggle?

8 A. No.

9 Q. You didn't see Mr. Bradley kick Officer Dunn,
10 correct?

11 A. Correct.

12 Q. Did you see Officers Dunn and Moynahan shove Mr.
13 Bradley to the side of the car?

14 A. Into the side of the car?

15 Q. Yeah.

16 A. No.

17 Q. Do you remember or?

18 A. No, I did not see that.

19 MR. SLEPCHUK: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes.

22 Q. (By Mr. Slepchuk) Officer Cicero, I'm going to show
23 you your admissions to the plaintiff's requests for
24 admission. I'll show you this last page. Is that your
25 signature right there?

1 A. Yes.

2 Q. This was signed under the pains and penalties of
3 perjury back on September 21, 2018?

4 A. Yes.

5 Q. I direct your attention to number 40 where it states
6 "The defendants Joseph Dunn and Daniel Moynahan slammed
7 the plaintiff against the side of the vehicle."

8 Your response was, "I lack knowledge sufficient to
9 admit or deny this assertion;" is that right?

10 A. Yes.

11 Q. Okay. So today you stated that they didn't do it but
12 back on September --

13 A. I believe I said I did not see that happen.

14 Q. Okay. So you didn't see it?

15 A. Not that it didn't happen. I did not see it happen.

16 Q. But it could have happened?

17 A. I did not see it happen.

18 Q. Now Officers Dunn and Moynahan then led Mr. Bradley
19 over to your cruiser, correct?

20 A. Like I said, I don't know if both of them did or
21 which one of them did, but one of them did.

22 Q. Did you see them leading him to the cruiser?

23 A. I don't believe so.

24 Q. Did you see him being placed in the cruiser?

25 A. I don't believe so.

1 Q. Do you remember what side of the cruiser he was put
2 into?

3 A. No.

4 Q. So you didn't see anything, any interaction at all as
5 to how Mr. Bradley got placed into that cruiser, correct?

6 A. Correct.

7 Q. You would agree that when he was placed in the
8 cruiser he was under arrest, formal arrest at that point?

9 A. Yes.

10 Q. And you were one of the arresting officers in this
11 case, correct?

12 A. Correct.

13 Q. Now the three girls that were in the car, did you
14 take any witness statements from either of those three
15 girls?

16 A. No.

17 Q. In fact, none of the officers there that night took
18 any statements from any of those three girls, correct?

19 A. Not that I know of, correct.

20 Q. Now, as part of when an arrest happens there's a
21 search that's conducted, correct, of the subject being
22 arrested?

23 A. Yes.

24 Q. We call that a search incident to arrest?

25 A. Yes.

1 Q. And in this case Mr. Bradley was searched, correct?

2 A. Eventually, yes.

3 Q. And no weapons or contraband were found on Mr.
4 Bradley's person, correct?

5 A. Yes, I believe so.

6 Q. And because the car was towed, there was a search
7 that was conducted of the car, correct?

8 A. Yes.

9 Q. That happens every time a car gets towed, an
10 inventory search that happens?

11 A. Yes.

12 Q. And no weapons were found in that vehicle, correct?

13 A. Correct.

14 Q. The only item of interest that was found in that car
15 was a bottle of Hennessy where Ms. Tucker was seated in
16 the back on the driver's side, correct?

17 A. I don't remember exactly where it was found on the
18 floor but it was in the back seat on the floor, yes.

19 Q. And you transported Mr. Bradley back to the station
20 for booking, correct?

21 A. Yes.

22 Q. You didn't sustain any injuries as a result of this
23 incident, correct?

24 A. Correct.

25 Q. And as far as you know, none of the other officers

1 were injured, correct?

2 A. Correct.

3 Q. Did you offer Mr. Bradley any medical treatment when
4 you got back to the station?

5 A. No.

6 Q. Did you author an injured prisoner report after this
7 incident?

8 A. No.

9 Q. Now that's something that you're required to do any
10 time a prisoner sustains an injury; isn't that correct?

11 A. Yes.

12 Q. And you had reason to know that Mr. Bradley had
13 sustained an injury as a result of this arrest, didn't
14 you?

15 A. No.

16 Q. Officer Cicero, I'm showing you what's been marked as
17 Plaintiff's Exhibit 3. Do you see that?

18 A. I do.

19 Q. Would you agree with me that that is the booking
20 photograph taken of Mr. Bradley during the booking
21 procedure that night?

22 A. Yes.

23 Q. And do you see the blood coming from the left side or
24 I guess his right side of his lip?

25 A. Yes.

1 Q. And you were present in the booking dock. You were
2 right standing next to Mr. Bradley as he was being booked,
3 correct?

4 A. I was standing next to him?

5 Q. You were standing next to him at the desk when he was
6 being booked, correct?

7 A. I wouldn't say I was next to him. But, yes, I was at
8 the desk around the corner of the desk.

9 Q. You're the one who took him out of the car, correct,
10 when you got into the garage?

11 A. One of us did, yes.

12 Q. You walked him in through the dock to the desk, did
13 you not?

14 A. One of us or both of us did, yes.

15 Q. Do you remember watching the video?

16 A. Are you talking about from the booking dock into the
17 booking area?

18 Q. Yes.

19 A. Yes, I did.

20 Q. You physically escorted Mr. Bradley up to the desk?

21 A. Correct.

22 Q. And you were standing right next to him at that point
23 in time?

24 A. Around the corner of the desk, yes.

25 Q. Right. I understand that you positioned yourself

1 around the corner once the questioning began, but you
2 physically walked with him shoulder to shoulder, more or
3 less, from the dock to the desk, correct?

4 A. Yeah, pretty much. I was a little bit behind him
5 but, yes.

6 Q. You had a chance to observe his face, didn't you?

7 A. I guess so, yeah.

8 Q. And you also heard on that video that Mr. Bradley was
9 telling Sergeant McBride and you that he had been
10 assaulted? You heard that, right?

11 A. I did.

12 Q. Okay. And yet you didn't author an injured prisoner
13 report, correct?

14 A. Correct.

15 Q. And you didn't offer any medical attention, correct?

16 A. Correct.

17 Q. And after the booking was complete, after the arrest
18 was completed, you, along with Officers Dunn and Moynahan,
19 applied for a criminal complaint charging Mr. Bradley with
20 assault and battery on a police officer and resisting
21 arrest, correct?

22 A. Correct.

23 MR. SLEPCHUK: I have no further questions.

24 THE COURT: Anything?

25 MR. COYLE: Just a couple.

1 **REDIRECT EXAMINATION**

2 Q. (By Mr. Coyle) Officer Cicero, did Mr. Bradley ever
3 complain of any injury at any time he was in your
4 presence?

5 A. No, not that I can remember.

6 Q. And did you observe a cut to his lip? Were you aware
7 that he had a slight cut to his lip --

8 A. No.

9 Q. -- at any time?

10 A. No, I was not.

11 MR. COYLE: Thank you. I have nothing else,
12 Your Honor.

13 THE COURT: Any other attorney, any questions?

14 MR. SAINT LAURENT: No questions, Your Honor.

15 MR. SCHMIDT: No, Your Honor.

16 THE COURT: All right. You can step down.
17 Thank you.

18 THE WITNESS: Thank you.

19 MR. SAINT LAURENT: Your Honor, we call
20 Lieutenant Joseph Dunn to the stand.

21 THE COURT: All right.

22 THE CLERK: Would you please raise your right
23 hand?

24

25

1 **Joseph Dunn (sworn)**

2 **DIRECT EXAMINATION**

3 Q. (By Mr. Saint Laurent) Good afternoon, Lieutenant.

4 Could you state your name for the record please?

5 A. My name is Joseph Dunn.

6 Q. Lieutenant Joseph Dunn, are you currently employed?

7 A. I am.

8 Q. Could you just state where you're employed, please?

9 A. I'm employed at the Springfield Police Department.

10 Q. Are you assigned to a particular squad with the
11 Springfield Police Department?

12 A. I am with the Uniformed Division of Squad A.

13 Q. Could you just explain to the jury what your role in
14 Squad A is?

15 A. My role as a lieutenant for the Uniformed Division of
16 Squad A is overseeing the central division officers which
17 typically consists of 15 officers, two sergeants. When my
18 captain is off duty, I run the entire shift myself. I am
19 also an assistant commander of an emergency services unit
20 which is the SWAT team. I am the sniper team leader as
21 well.

22 Q. Thank you.

23 Prior to your role as a lieutenant in Squad A and a
24 co-commander of the unit you just described, were you a
25 sergeant with the Springfield Police Department?

1 A. I was.

2 Q. Can you describe your role as a sergeant?

3 A. When I was first made sergeant for a year and a half,
4 I was in Squad A uniformed patrol division. For a year
5 and a half after that I was in the records department
6 dealing with uniformed crime reporting with the FBI.

7 Q. Thank you.

8 Prior to that time were you at one point a uniformed
9 officer?

10 A. I was.

11 Q. And could you just describe what sector of the city
12 you patrolled as an officer?

13 A. For my last four and a half years as a patrolman it
14 was the foxtrot two sector which is six corner Mason
15 Square area.

16 Q. And that's the same area that is also known as or
17 also encompasses the Gunn Square area?

18 A. It is.

19 Q. Lieutenant Dunn, could you just start with your high
20 school education and go to your highest degree?

21 A. My high school was a diploma I received from Utica,
22 New York. I attended Springfield College for four years
23 and graduated with a bachelor's degree in criminal
24 justice, high honors, and I went right into the
25 Springfield Police Academy right after graduation.

1 Q. At the time that you were enrolled in the Springfield
2 Police Academy, how long was the academy?

3 A. Approximately 22 weeks.

4 Q. And during your time at the academy you received
5 courses on different types of police work; is that
6 correct?

7 A. Correct.

8 Q. Can you just describe some of the coursework that you
9 encompassed during your time with the police academy?

10 A. Sure. Criminal law, motor vehicle law, narcotics,
11 firearms, emergency vehicle driving, defensive tactics.

12 Q. As part of your course curriculum with the
13 Springfield Police Academy, do you learn -- did you
14 receive coursework on report writing?

15 A. Yes.

16 Q. Did you receive coursework on motor vehicle stops?

17 A. I did.

18 Q. And arrest procedure?

19 A. Yes.

20 Q. Did you receive coursework on the levels of force
21 necessary for effecting an arrest?

22 A. Yes.

23 Q. I'm going to bring your attention to August 26th of
24 2015. Were you employed with the Springfield Police
25 Department at that time?

1 A. I was.

2 Q. And do you recall what your role was on August 26,
3 2015 with the Springfield Police Department?

4 A. I was the passenger working the midnight to 8 a.m.
5 shift in the foxtrot two sector with Officer Cicero.

6 Q. And you said at that time it was the foxtrot two
7 sector?

8 A. Yes.

9 Q. Is there a more common name for that area of
10 Springfield?

11 A. The six corners Mason Square.

12 Q. At some point during your patrol around 2 a.m. was
13 your attention drawn to a car that was traveling north on
14 Northampton Avenue?

15 A. It was traveling south on Northampton.

16 Q. Sorry. I misspoke. South on Northampton Avenue?

17 A. Yes.

18 Q. And what drew your attention to that car?

19 A. It appeared that the vehicle might have been
20 traveling at a higher rate of speed but without the
21 necessary equipment or the odometer clocking, there was no
22 way to determine it necessarily.

23 Q. And what, if anything, did you do at that point?

24 A. We attempted to catch up to the vehicle.

25 Q. And were you successful in catching up to the

1 vehicle?

2 A. We were.

3 Q. And what, if anything, further did you observe at
4 that time?

5 A. As we were catching up to the vehicle we saw it fail
6 to come to a complete stop at the stop sign on Northampton
7 Avenue and King Street and then turned right.

8 Q. What further action, if any, did you take at that
9 point?

10 A. We activated our emergency overhead equipment to
11 effect a traffic stop after the turn.

12 Q. And did the vehicle in fact stop?

13 A. It did.

14 Q. What did you do next?

15 A. We radioed to dispatch the location, the vehicle, the
16 plate, and the number of occupants.

17 Q. At that time did you and your partner exit the
18 vehicle?

19 A. We exited our cruiser, yes.

20 Q. Who was your partner on that day?

21 A. Officer Cicero.

22 Q. And which side of the vehicle did you approach?

23 A. I approached the passenger's side.

24 Q. And did you -- were you able to see which side of the
25 vehicle Officer Cicero approached?

1 A. He approached the driver's side.

2 Q. And what, if anything, did you do after approaching
3 the vehicle?

4 A. I positioned myself kind of back towards the rear
5 passenger door area. Looking through that window gives me
6 kind of an encompassing view of the interior and all the
7 immediate reach areas, say the front passenger which was
8 kind of covered by Officer Cicero. I basically watched
9 anything going on while Officer Cicero has the interaction
10 with the driver.

11 Q. When you say you basically watch anything going on,
12 what specifically was your role during that traffic stop?

13 A. It's to kind of look around to see if there's any
14 contraband or weapons in the vehicle or see if anybody is,
15 you know, moving or giving any cause for concern or
16 creating any safety precautions.

17 Q. Did you have your flashlight out at that time?

18 A. I did.

19 Q. In addition to the inside of the vehicle being
20 illuminated by your flashlight, did you have floodlights
21 on the cruiser?

22 A. Yes. We had the -- it's called the takedown lights
23 on the top of the light bar and then the cruiser
24 spotlights on the driver's side.

25 Q. That was a marked cruiser, correct?

1 A. Yes.

2 Q. And while you were illuminating the inside of the
3 vehicle, did you see anything that caused alarm?

4 A. Not at that time, no.

5 Q. At some point Officer Cicero ascertained the driver's
6 license and the rental agreement from the driver of the
7 car; is that correct?

8 A. Correct.

9 Q. What, if anything, did you learn after inspecting
10 those documents?

11 A. When we went back to our cruiser and further looked
12 into the rental agreement, we learned that it was
13 authorized only to one person, Lynette Broxton, with no
14 additional drivers. We also tried to investigate the
15 rental agreement being expired.

16 Q. And were you successful in investigating the rental
17 agreement?

18 A. Only what the RMV gave us.

19 Q. What information did you receive from the RMV?

20 A. That it had expired early August.

21 Q. After learning that information what, if anything,
22 did you do?

23 A. I was still messing with the information on the RMV
24 while Officer Cicero was trying to contact the rental
25 company.

1 Q. And at some point did you re-approach the vehicle?

2 A. We did.

3 Q. And at that point what, if anything, happened?

4 A. Officer Moynahan and Nelson had arrived as we were
5 about to approach the vehicle. When we approached,
6 Officer Cicero went on the driver's side. I took my
7 position that I originally had kind of at the rear door
8 window area with Officer Moynahan and that was when I saw
9 the rear right passenger kind of moving from his left to
10 his right down to the doorjamb area and then back towards
11 his waistband area.

12 Q. Did that move cause some sort of alarm?

13 A. It did.

14 Q. And what is the reason for that?

15 A. That area is notoriously known for shots fired,
16 firearms, violent crimes, narcotic sales, and given the
17 actions of the occupant it appeared that he could have
18 been trying to conceal or retrieve something.

19 Q. At some point during your interaction with the
20 occupants of the vehicle did backup arrive or additional
21 units arrive on the scene?

22 A. Oh, yes.

23 Q. How many additional units arrived?

24 A. With Officers Moynahan and Ellison on scene, there
25 was one more unit behind them that arrived while we were

1 dealing with the vehicle on the second approach.

2 Q. In response to seeing Mr. Bradley's movements --
3 strike that.

4 At some point did you learn the identity of the
5 occupant that you saw shifting around?

6 A. Only once he was in the back of our police cruiser.

7 Q. Did you learn that person to be the plaintiff in this
8 case Daniel Bradley?

9 A. Yes.

10 Q. After the point that you saw Mr. Bradley moving
11 around in the back seat, what, if anything, did you do?

12 A. I opened his door.

13 Q. Did you give him any directives?

14 A. I did. I asked him to step out.

15 Q. Did he comply with your order?

16 A. No. He was passive-aggressive about it kind of
17 asking why? What's going on? I asked him again to step
18 out. He again refused so then I took him by the upper
19 left arm in what's called the escort position. I took him
20 by that and when I removed him from the car, I grabbed his
21 wrist in a complete escort position. I turned him around
22 to Officer Moynahan who conducted a patfrisk kind of at
23 the rear passenger tire just to the left of that, kind of
24 where the gas tank would occasionally be.

25 Q. Who was the primary officer conducting the patfrisk?

1 Was it you or Officer Moynahan?

2 A. Officer Moynahan.

3 Q. What was your role in the patfrisk?

4 A. Just being a support officer there and trying to
5 cover Officer Moynahan.

6 Q. Did Mr. Bradley comply with the patfrisk?

7 A. No.

8 Q. What, if anything, did he do to -- did he resist the
9 patfrisk physically?

10 A. Yes.

11 Q. What, if anything, did he do to resist the patfrisk?

12 A. At the initial onset of the patfrisk while Moynahan
13 began to conduct it, he pushed his hips back into
14 Moynahan, kind of like thrust his hips into our back in
15 our direction, kind of verbally protesting and still
16 saying what's going on. Those kind of gestures and
17 comments.

18 Q. Did you provide Mr. Bradley with additional
19 directives?

20 A. We did. We tried to tell him to calm down, relax.
21 We're just trying to pat you down. We'll be done with
22 this in a minute. We just want to make sure there's
23 nothing on you.

24 Q. Did Mr. Bradley's actions and physically resisting
25 the patfrisk cause any additional alarm to you?

1 A. It heightened our safety awareness a little bit, yes.

2 Q. For what reason did it heighten your safety
3 awareness?

4 A. The waistband area that Officer Moynahan went to
5 conduct the patfrisk on is a common area for concealing
6 weapons and narcotics as to have quick concealment or
7 quick removal, or oftentimes it's also just an awkward
8 area to patfrisk so they don't think that we will pat that
9 area.

10 Q. Where exactly were you conducting this patfrisk?

11 A. It was kind of to the side of the trunk. So you have
12 the tire, the trunk lid, that area there. So it was just
13 kind of toward the left rear end of the passenger's side
14 of the vehicle I guess. It's a little difficult to
15 explain.

16 Q. What, if anything, did you do after Mr. Bradley
17 refused the initial patfrisk?

18 A. Just tried to get him to calm down and relax and
19 Officer Moynahan went to initiate the patfrisk a second
20 time.

21 Q. What happened when Officer Moynahan tried to initiate
22 the additional patfrisk?

23 A. At that time Mr. Bradley had thrust his hips forward
24 trapping Officer Moynahan's hand between the car and his
25 body.

1 Q. And what did you do, if anything, in response to Mr.
2 Bradley trapping Officer Moynahan's hand?

3 A. I had removed my handcuffs from my duty belt and
4 attempted to grab his right arm and I was going to detain
5 him in handcuffs until the patfrisk was completed and we
6 knew the situation was a little bit safer.

7 Q. Were you successful in handcuffing Mr. Bradley at
8 that time?

9 A. No.

10 Q. For what reason were you unsuccessful in handcuffing
11 Mr. Bradley?

12 A. At that time he had kicked out with his right foot
13 into my right shin. I was kind of positioned up against
14 his five o'clock kind of area and he began to turn his
15 body and pull his arms into his chest area.

16 Q. Did his foot make contact with your shin?

17 A. It did.

18 Q. Did it leave a mark?

19 A. No.

20 Q. What, if anything, happened after Mr. Bradley kicked
21 you in the shin?

22 A. As he was turning his body, I was saying that he was
23 under arrest and letting the other officers know that we
24 needed to get him in handcuffs and giving him multiple
25 directives to stop resisting. You're under arrest.

1 Q. At some point were you able to get Mr. Bradley into
2 handcuffs?

3 A. We were. I was able to get a handcuff on his left
4 hand and we eventually had him turn back around where we
5 could effectuate handcuffing with his hands behind his
6 back.

7 Q. During this handcuff procedure, were you giving Mr.
8 Bradley additional directives?

9 A. We were.

10 Q. And during the patfrisk procedure were you giving Mr.
11 Bradley directives?

12 A. We were.

13 Q. And prior to the patfrisk did you alert Mr. Bradley
14 that the patfrisk was going to be conducted?

15 A. Yes.

16 Q. Did you give him additional instructions as to what
17 the patfrisk was -- what areas of the patfrisk would be
18 searched?

19 A. Yes.

20 Q. And included in your instructions was the groin area?

21 A. It was.

22 Q. At the point that you had Mr. Bradley in handcuffs,
23 did you do anything else?

24 A. Once we had him in handcuffs I was trying to move him
25 to our cruiser, which was the first cruiser in line.

1 Q. And were you successful in that?

2 A. Eventually we were but he was pulling to the left and
3 to the right kind of playing dead weight, refusing to
4 move, and also pulling forward at times.

5 Q. At some point you eventually got Mr. Bradley to the
6 marked cruiser parked behind the car that he was just
7 removed from, correct?

8 A. Correct.

9 Q. What, if anything, occurred at that time?

10 A. I positioned him chest up against our cruiser because
11 the rear passenger door was locked so Officer Moynahan had
12 to unlock the driver door, unlock the passenger door and
13 open it so that I could put Mr. Bradley or attempt to put
14 Mr. Bradley in back of the car.

15 Q. Was Mr. Bradley compliant in your attempts to place
16 him in the back of the cruiser?

17 A. No.

18 Q. Was he actively resisting?

19 A. Yes.

20 Q. Was he physically resisting?

21 A. Yes.

22 Q. In what ways was he physically resisting?

23 A. When Officer Moynahan opened the door, he continued
24 to I guess kind of shuffle his elbows and push his elbows
25 back and forth and that was when I lost my grip on Mr.

1 Bradley and he fell face first into the doorjamb area
2 where his entire body was outside the cruiser.

3 I picked him up. I tried to pick him up quick
4 without skipping a beat. He was still yelling and
5 swearing at me and Officer Moynahan. I tried to get him
6 to sit in the cruiser. He wouldn't do it so at that point
7 I had to -- you have to dip the head to get him to go into
8 the car, so I had to shove his head down and shove him by
9 the chest to get him into the car.

10 Q. So backing you up to the point that you said Mr.
11 Bradley slipped out of your grip, did you observe any
12 injuries when you picked him up?

13 A. I did not.

14 Q. Did you observe any blood or bruising?

15 A. No.

16 Q. Did Mr. Bradley voice any concerns that he had just
17 been injured from his fall?

18 A. No.

19 Q. Going back to -- you stated you had placed him into
20 the cruiser. You had to shove his head. What, if
21 anything, happened after that?

22 A. After he was shoved into the car, we closed the door
23 and I went around to the passenger side of my cruiser
24 because once you have a person in the back seat, you're
25 not supposed to leave them unguarded. I hopped into the

1 passenger seat to obtain his information, write my
2 citation for Ms. Robinson, and try to get the tow started
3 for the vehicle.

4 Q. Lieutenant Dunn, can you just describe the back of
5 the police cruiser that you were driving or that your
6 partner was driving that day?

7 A. Sure. It's a Ford Explorer. The partition between
8 the front and the rear seat and the back seat kind of
9 really cuts down on the space of the floorboard. It's
10 real tight in there. The seat is hard plastic kind of
11 elevated in height. It's real tight quarters and part of
12 it is to prevent things being kicked underneath the driver
13 and the passenger seat which people still try to attempt
14 to do but it makes it more difficult and more visible for
15 us to see. I guess it's kind of tight in there. The
16 partition is there and the seat is tight.

17 Q. Is there much of a gap between the floor and the
18 seat?

19 A. What do you mean between the partition and the seat?

20 Q. Between the floor, the floorboard of the cruiser and
21 the seat where the detainee would be sitting, is there
22 much of a drop from the seat to the floor?

23 A. Not necessarily. It's pretty shallow and pretty
24 tight in there.

25 Q. So if someone was sitting on the back seat of a

1 cruiser, would it be fair to say that they would be very
2 close to the floor of the cruiser?

3 A. Yeah, you could say that.

4 Q. And if someone were laying down on the back seat of
5 the cruiser, would it be fair to say that either their
6 head or feet would be very close to the floor?

7 A. Yes.

8 Q. At any point while you were attempting to place Mr.
9 Bradley into the back seat of the cruiser, did you punch
10 Mr. Bradley?

11 A. No.

12 Q. Did you kick Mr. Bradley?

13 A. No.

14 Q. Did you swing your foot into the car and hit Mr.
15 Bradley in the back?

16 A. No.

17 Q. At some point you transported Mr. Bradley to the
18 Springfield Police Department; is that right?

19 A. Correct.

20 Q. And could you just describe what that transport
21 entails?

22 A. You notify dispatch of your mileage; you depart from
23 wherever the location is; you bring them to the station;
24 you give your mileage again. The person is removed from
25 the back of the cruiser and transported to the booking

1 dock area where the preliminary arrest information is
2 entered.

3 Q. Did you escort Mr. Bradley to the preliminary booking
4 dock?

5 A. I believe myself and Officer Cicero did, yes.

6 Q. And what exactly is done at the preliminary booking
7 dock?

8 A. You enter the person's vital information, name, date
9 of birth, social security number. You try to do their
10 clothing description and you try to ask or access a little
11 more additional information that is dealt with inside the
12 booking area.

13 Q. Did you escort Mr. Bradley further into the police
14 department to the booking desk?

15 A. I did not.

16 Q. What, if anything, did you do after entering his
17 vital information at the booking dock?

18 A. I went into the report room and started the narrative
19 for the arrest.

20 Q. And did you author a report in response to this
21 incident?

22 A. I did.

23 Q. What is the purpose of that report?

24 A. It's to justify the means of the arrest, the
25 elements, and the event that took place.

1 Q. Lieutenant Dunn, you stated that the rental agreement
2 had been expired for quite some time at the time that the
3 stop occurred; is that correct?

4 A. Correct.

5 Q. What is the standard protocol for towing a vehicle
6 when a rental agreement is expired?

7 A. In regards to just like overall process?

8 Q. As far as the passengers in the vehicle, what would
9 normally occur with passengers in the vehicle?

10 A. When we assess that we're going to tow the vehicle,
11 we give the passengers an allotted amount of time to find
12 a ride. So on the second approach Officer Cicero notified
13 them the vehicle was going to be towed. That would have
14 been the time to say, hey, you guys got to get a ride.
15 You got about 15, 20 minutes before CJ's gets here. The
16 vehicle is being towed.

17 Q. Is it fair to say that all the passengers in the
18 vehicle would have to be removed at some point?

19 A. Yes.

20 MR. SAINT LAURENT: One moment, Your Honor?

21 THE COURT: Yes.

22 MR. SAINT LAURENT: I have nothing further, Your
23 Honor.

24 THE COURT: Thank you.

25 Attorney Slepchuk.

1 **CROSS-EXAMINATION**

2 Q. (By Mr. Slepchuk) Good afternoon, Lieutenant Dunn.

3 A. Good afternoon.

4 Q. So back on August 26, 2015 you were a fully employed
5 officer at the Springfield Police Department, correct?

6 A. Correct.

7 Q. Working with Officer Cicero on the midnight to 8 a.m.
8 shift?

9 A. Yes.

10 Q. Did you have any police body cameras on you?

11 A. No.

12 Q. Any dash cam --

13 A. No.

14 Q. -- on the cruiser?

15 A. No.

16 Q. Now you testified that when you're on Northampton
17 Street you saw this vehicle ahead of you that was
18 traveling you said at a high rate of speed; is that right?

19 A. Correct.

20 Q. You didn't issue Ms. Robinson a speeding ticket,
21 correct?

22 A. Correct.

23 Q. And you authored the report in this incident,
24 correct?

25 A. Yes.

1 Q. You didn't write in your report about the car
2 speeding, correct?

3 A. Correct.

4 Q. And prior to initiating the stop you hadn't received
5 any information like dispatch or any other report that
6 this car was engaged in criminal activity, correct?

7 A. Correct.

8 Q. No reports that this car might have any contraband or
9 weapons inside of it?

10 A. Correct.

11 Q. So you radio dispatch that you had pulled a car over
12 and at some point other support officers came to assist?

13 A. Yes.

14 Q. So in total there were six officers at some point at
15 the scene, correct?

16 A. Correct.

17 Q. And on your initial approach to the car you went to
18 the passenger's side and Officer Cicero went to speak with
19 the driver, correct?

20 A. Yes.

21 Q. You had the floodlights on in the car from your
22 cruiser, correct?

23 A. Uh-huh.

24 Q. So there is -- and those are pretty bright lights
25 you'd agree?

1 A. Yes.

2 Q. So the car is illuminated with the spotlight and then
3 you and Officer Cicero had your flashlights out, correct?

4 A. Correct.

5 Q. And so you're also up at the car shining your lights
6 in to see what's going on inside?

7 A. Correct.

8 Q. And while that initial approach when Officer Cicero
9 is asking Ms. Robinson for the rental agreement, the
10 license and so forth, you didn't see anybody in the car
11 make any movements that made you fearful of your safety,
12 correct?

13 A. Correct.

14 Q. You didn't see any weapons in the car, correct?

15 A. No.

16 Q. Essentially at this point you're dealing with a
17 routine traffic stop and four occupants just sitting
18 there, correct?

19 A. Correct.

20 Q. So you then went back to the cruiser to run the
21 information that Ms. Robinson had provided; is that right?

22 A. Yes.

23 Q. You do that on your cruiser's mobile data terminal, a
24 little computer you have?

25 A. We do.

1 Q. And then after you had run that and you realize that
2 there was an issue with the rental agreement, you went
3 back up to the car, correct?

4 A. Yes.

5 Q. And by this point in time Officer Moynahan had
6 arrived on the scene?

7 A. He had, yes.

8 Q. And he accompanied you to the passenger side at this
9 point in time?

10 A. Correct.

11 Q. Now, I think you just testified that at this point in
12 time because the car was going to be towed, right --

13 A. Yes.

14 Q. -- that you were going to ask everybody to get out of
15 the car and they would have to be on their own to make
16 transportation arrangements, correct?

17 A. Yes.

18 Q. But that's not what ended up happening, right?

19 A. Right.

20 Q. So you didn't -- when you got back up to the car you
21 didn't say to the occupants, hey, sorry, guys, car's
22 getting towed. Everybody get out, correct?

23 A. I didn't have that part of the conversation with
24 them.

25 Q. Okay. Officer Cicero didn't say that, correct?

1 A. He was the one talking to the driver, but I don't
2 know how far he got into that with her before the events
3 took place.

4 Q. So at that point in time what could have happened,
5 because we already know that this car had to be towed, was
6 that you and/or Officer Cicero could have said to all of
7 those occupants time to get out of the car. This car is
8 being towed, correct?

9 MR. SAINT LAURENT: Objection.

10 THE COURT: Sustained.

11 Q. (By Mr. Slepchuk) Instead of telling everybody to get
12 out of the car, you only told Daniel to get out of the
13 car; is that correct?

14 A. I told Daniel to get out of the car after I saw the
15 movements.

16 Q. Now, where were you positioned when you saw the
17 movement?

18 A. As previously stated, I was kind of back towards the
19 rear passenger door so that I can look into the windows.
20 Every vehicle is different but that support beam kind of
21 comes up into the roof of the vehicle of that area.

22 Q. So you didn't see this movement when you were walking
23 towards the car, correct?

24 A. Correct.

25 Q. You had already positioned yourself in that spot and

1 were illuminating the car with your flashlight again?

2 A. I had just gotten to my position when I saw the
3 movements.

4 Q. Now, at this point in time you'd agree that there are
5 six officers around the car at this point, correct, when
6 you asked Mr. Bradley to get out of the car?

7 A. I am unsure if Conrad Lariviere and Officer Bienvenue
8 were on scene at that time or not. Officer Moynahan was
9 behind me and my attention was drawn to Mr. Bradley.

10 Q. Now prior to removing Mr. Bradley from the car, you
11 asked him for his ID, didn't you?

12 A. No.

13 Q. Did you ask him for his ID at any point in time?

14 A. When he was in the rear of my cruiser.

15 Q. In the rear of your cruiser.

16 Now at that point in time he was handcuffed with his
17 hands behind his back?

18 A. Uh-huh.

19 Q. He was lying face down, correct?

20 A. He was in the rear passenger seat of the cruiser.

21 Q. Face down, correct?

22 A. I don't know about face down but he was in the rear
23 seat of the cruiser.

24 Q. Now, when he's in the back of the cruiser, you
25 described a partition that's between where you're seating

1 and where the prisoner sits?

2 A. Yes.

3 Q. Okay. And that's what, glass?

4 A. It's like a plexiglas and kind of like a metal caging
5 but plexiglas, yes.

6 Q. And can you put your hand through it?

7 A. No.

8 Q. Can you pass an ID through it?

9 A. No.

10 Q. Okay. So you've put Mr. Bradley in the rear of the
11 cruiser. He's handcuffed. You're not sure what position
12 he is in exactly, and this is the time that you asked him
13 for his identification?

14 A. Yes.

15 Q. How was he supposed to provide identification?

16 A. Gives it to me verbally or in the case of this he
17 could say it's in my wallet; it's in my pocket. It can be
18 verbal given if anything.

19 Q. Okay. Now, there's a difference between asking
20 somebody for identification and asking them for their name
21 would you agree, correct?

22 A. Yes.

23 Q. So did you ask him for his name or did you ask him
24 for his identification?

25 A. Asked him for his ID.

1 Q. Did he provide an ID?

2 A. It was in his wallet I believe.

3 Q. And when did you get the wallet?

4 A. When he was positioned at the rear of my cruiser,
5 Moynahan was opening the door. We have to do a search of
6 the person right before they get into the car. That's
7 when we were bringing the wallet.

8 Q. So you already had the wallet before you asked him
9 for the ID; is that what you're saying?

10 A. I had asked him where his ID was and he said it was
11 in his wallet.

12 Q. Now aside from yourself, Officer Cicero, Officer
13 Ellison, Officer Bienvenue, and Officer Lariviere, so the
14 six of you, was there anyone else there? Were there any
15 other officers there at the time?

16 A. No.

17 Q. Was there an Officer Torsha at the scene?

18 A. No.

19 MR. SLEPCHUK: May I approach the witness, Your
20 Honor?

21 THE COURT: Sure. Yes.

22 Q. (By Mr. Slepchuk) Lieutenant, I'm going to direct you
23 -- these are your interrogatory answers. I'll direct you
24 to the last page, second to last page.

25 Is that your signature?

1 A. It is.

2 Q. And I want to direct your attention to Question
3 Number 11 and your answer. You make mention here of an
4 Officer Torsha.

5 A. I believe that's a typo. It's supposed to be Tasha
6 Ellison. Her name is Tasha.

7 Q. That's just a typo?

8 A. Yes.

9 Q. Now at the time you removed Mr. Bradley from the car,
10 there was six of you there?

11 A. Yes.

12 Q. And you all had your service pistols, correct?

13 A. Yes.

14 Q. You never saw Mr. Bradley holding a weapon; is that
15 right?

16 A. Correct.

17 Q. He never threatened you or anybody else with the
18 weapon, correct?

19 A. No.

20 Q. Now, after you removed him from the car, you searched
21 that doorjamb area that you claim he reached towards,
22 correct?

23 A. I tried to look into it real quick, yes.

24 Q. And you didn't see anything in there, correct?

25 A. Correct.

1 Q. And the reason you went there immediately was because
2 you never saw Mr. Bradley shoving anything his pants,
3 correct?

4 A. Correct.

5 Q. You saw what you thought was him reaching over this
6 way, correct? (Indicating)

7 A. Yes, to like the left and right and his waistband
8 area but not shoving anything in his crotch or anything.

9 Q. So it appeared to you more that he was placing
10 something rather in the doorjamb rather than his pants; is
11 that right?

12 A. He could have been placing it, concealing it, or
13 retrieving it. It could have been just placed in his
14 waistband area and he was just trying to manipulate it
15 further. He could have tucked it into the cubby area,
16 kind of like the rain guard area.

17 Q. But fair to say your primary -- the first place that
18 you looked was the doorjamb area?

19 A. Once he was removed out of the car, yes.

20 Q. But you didn't see anything in the doorjamb?

21 A. Correct.

22 Q. You didn't see anything on the floorboard, correct?

23 A. Correct.

24 Q. You didn't see anything under the seat, correct?

25 A. I wasn't able to really look under the seat like

1 that. I'm not going to stick my head in there with three
2 other occupants. I don't know what they're going to do
3 while I'm doing that so I looked real quick. I shined the
4 flashlight and looked at an angle, but that space was long
5 all the way up the front passenger seat.

6 Q. Now, you were standing next to Officer Moynahan when
7 he conducted the frisk, correct?

8 A. Yes.

9 Q. And you observed him during the frisk as part of the
10 frisk touch Mr. Bradley's groin area, correct?

11 A. Patfrisking his waistband area, yes.

12 Q. And by that we would mean the pelvis area, correct?

13 A. Yes.

14 Q. But again you never saw Mr. Bradley place anything in
15 his waistband area, correct?

16 A. Correct.

17 Q. Now, when you were observing Officer Moynahan conduct
18 this patfrisk specifically of the groin area, the pelvic
19 area, he was using the palm of his hand, not the back of
20 his hand?

21 A. The palm of his hand.

22 Q. And have you received any training on conducting a
23 patfrisk?

24 A. Yes.

25 Q. And like the name suggests, you're trained to just

1 basically pat the exterior of someone's clothing?

2 A. For the most part, yes.

3 Q. And what you're patting for is anything sharp like a
4 knife or something that might feel like a gun, correct?

5 A. Yes.

6 Q. Now, patting down would you agree with me does not
7 involve manipulating with your fingers somebody's private
8 parts, correct?

9 A. Not the private parts but the clothing area.
10 Depending on the material and the consistency, yes, you
11 would manipulate the area.

12 Q. Okay. So it's your testimony it's appropriate to
13 manipulate somebody's genitals instead of just patting
14 them down?

15 MR. SAINT LAURENT: Objection.

16 THE COURT: Sustained. The question will be
17 stricken. Disregard it.

18 Q. (By Mr. Slepchuk) Now you actually observed Officer
19 Moynahan manipulate Daniel's genital area, correct?

20 MR. SAINT LAURENT: Objection.

21 THE COURT: Overruled. He can answer that.

22 THE WITNESS: Given my positioning of Officer
23 Moynahan and Daniel Bradley, I didn't directly see him and
24 how he was conducting the patfrisk of that groin/pelvic/
25 girdle area.

1 MR. SLEPCHUK: Can I approach the witness?

2 THE COURT: Yes.

3 Q. (By Mr. Slepchuk) Lieutenant, I'm going to show you
4 your former testimony in the criminal trial. Let me
5 direct your attention. We're on page 79 starting at line
6 19 going down to 25. Take a look at that.

7 A. Okay.

8 Q. Would you agree with me that when you asked about the
9 frisk of the groin area, or this refers to the crotch
10 area, that you observed Officer Moynahan manipulate that
11 area with his hand. You can turn to the next page. It's
12 probably on the next page.

13 A. "It appeared he manipulated it slightly but not
14 overly. I mean, that in a sense that he's not spending
15 any lengthy amount of time trying to pat down that area or
16 really pulling on any material in that sense of meaning
17 overly" --

18 Q. But he manipulated it?

19 A. Fair enough.

20 Q. Now you testified that when this happened, when
21 Officer Moynahan manipulated Mr. Bradley's groin area,
22 that he thrust forward, is that right?

23 A. On the first patfrisk he thrust back, and on the
24 second attempt he thrust forward.

25 Q. And at that point you decided to detain him; is that

1 right?

2 A. Yes.

3 Q. Place him in handcuffs?

4 A. Attempted to.

5 Q. He wasn't under arrest at this point, right?

6 A. Not at that point, no.

7 Q. Now you claimed that as you were attempting to place
8 him in handcuffs that he kicked you in the shin?

9 A. Correct.

10 Q. Do you remember which shin it was?

11 A. My right shin.

12 Q. And he kicked you hard; isn't that right?

13 A. Yes.

14 Q. He was wearing shoes when he kicked you, correct?

15 A. Yes.

16 Q. When you say that he kicked you, he was wearing shoes
17 at the time?

18 A. Correct.

19 Q. So it's your testimony that Mr. Bradley kicked you
20 hard in the shin with a shod foot; is that right?

21 A. Yes.

22 Q. And a shod foot is considered a dangerous weapon, is
23 it not?

24 A. Yes.

25 Q. And you sustained no injury whatsoever as a result of

1 this supposed kick with a shot food to your shin, correct?

2 A. Correct.

3 Q. No bruising?

4 A. No.

5 Q. No swelling?

6 A. No.

7 Q. You didn't miss any time from work, correct?

8 A. Correct.

9 Q. You never sought any medical treatment, correct?

10 A. Correct.

11 Q. Now you transported -- you and Officer Cicero
12 transported Mr. Bradley to the station, correct?

13 A. Yes.

14 Q. And you stated that you helped or you escorted him
15 from the cruiser into the booking dock, so to speak?

16 A. Correct.

17 Q. And at any point in time did you offer Mr. Bradley
18 any medical treatment?

19 A. No.

20 Q. Did you author a -- in addition to the report that we
21 were talking about, did you author an injured prisoner
22 report?

23 A. That determination was made by Sergeant McBride.

24 Q. Okay. Did anyone ask you to write an injured
25 prisoner report?

1 A. No.

2 Q. Now at this point in time you had reason to know that
3 Mr. Bradley had sustained an injury as a result of this,
4 correct?

5 A. No.

6 Q. Lieutenant, I'm going to ask you to take a look at
7 what's been marked as Exhibit No. 3. Can you see that on
8 your screen?

9 A. Yes.

10 Q. Would you agree with me that that is the booking
11 photo taken at the police station that night of Mr.
12 Bradley?

13 A. Correct.

14 Q. And do you see the blood coming from his lip?

15 A. Yes.

16 Q. Okay. So would you agree with me that that's
17 consistent with an injury to his mouth?

18 A. I suppose so, yes.

19 Q. And you didn't make any mention of that in your
20 report, correct?

21 A. No.

22 Q. And did you take any witness statements from any of
23 the three girls in the car that night?

24 A. No.

25 Q. You mentioned that you had gone to a police academy

1 for training prior to becoming a police officer; is that
2 right?

3 A. Correct.

4 Q. And did you receive any training on writing incident
5 reports or arrest reports?

6 A. Yes.

7 Q. Okay. And you'd agree with me that listing witnesses
8 is an important piece of information that you're taught to
9 include in a report?

10 A. It can be, yes.

11 Q. Would you agree with me that nowhere in your report
12 did you list Barbara Murphy or Savon Tucker?

13 A. Yes.

14 Q. And you would agree with me that no weapons or
15 contraband were found on Mr. Bradley's person when he was
16 searched, correct?

17 A. Correct.

18 Q. And no weapons were found in the car, correct?

19 A. Correct.

20 Q. The only thing found in the car was a bottle of
21 Hennessy, correct?

22 A. Yes.

23 Q. Now when I was asking a few minutes ago about an
24 injured prisoner report, you testified that that's solely
25 up to the booking sergeant?

1 A. Yes.

2 MR. SLEPCHUK: May I approach the witness, Your
3 Honor?

4 THE COURT: Yes.

5 Q. (By Mr. Slepchuk) Lieutenant, I'm going to show you
6 again a portion of your former testimony at the criminal
7 trial.

8 You were asked, "Is it normal policy to write a
9 report to the police commissioner regarding injuries that
10 an arrestee may have?"

11 Your answered: "It is."

12 It can be -- the question was, "It can very, very
13 small, right?"

14 You said, "Yes."

15 And the question was, "It can be any breaking of the
16 skin, right?"

17 Your answer: "It could be, yes."

18 Question: "Any bruising?"

19 You answered, "Yes."

20 Correct?

21 A. Yes.

22 Q. After the booking was complete, you and Officer
23 Cicero and Officer Moynahan applied for a criminal
24 complaint against Mr. Bradley alleging assault and battery
25 on a police officer and resisting arrest, correct?

1 A. No.

2 Q. No. Who made that application?

3 A. No idea. The only criminal complaint that we wrote
4 was for the operator Ms. Robinson. When we completed the
5 arrest of Mr. Bradley, there was no need to do a criminal
6 complaint.

7 Q. Okay. Well, you're aware that a criminal complaint
8 issued, correct?

9 A. That might be part of the court procedure down at 50
10 State Street. We're not -- we don't deal with that. I'm
11 not familiar with that, but we ourselves did not file a
12 complaint.

13 Q. Well, you're the arresting officer in this case,
14 right?

15 A. Yes.

16 Q. And so you're the one who brings the charges, are you
17 not?

18 A. Correct.

19 Q. Had it not been for you making this arrest and
20 authoring your arrest report, this case would never have
21 gone to criminal court, correct?

22 A. Correct.

23 Q. And you appeared and you testified at the criminal
24 trial, correct?

25 A. Yes.

1 Q. And although you may not have been the person to sign
2 whatever particular document was necessary to open the
3 case officially you would agree with me that you were part
4 of the process to bring this criminal charge?

5 A. Yes.

6 MR. SLEPCHUK: Just a moment?

7 THE COURT: Yes.

8 MR. SLEPCHUK: I have no further questions at
9 this time.

10 THE COURT: Thank you.

11 Anything?

12 MR. SAINT LAURENT: Yes, very briefly, Your
13 Honor.

14 **REDIRECT EXAMINATION**

15 Q. (By Mr. Saint Laurent) Lieutenant Dunn, from the time
16 that you saw Mr. Bradley making movements in the back of
17 the car to the time that he was actually detained in the
18 back of a police cruiser, approximately how much time was
19 that?

20 A. From the time I saw movements until the time of him
21 being in a cruiser?

22 Q. Yes.

23 A. A couple of minutes.

24 Q. So it's fair to say that the entire event happened
25 rather quickly?

1 A. Yes.

2 Q. And while you were -- you stated earlier that you
3 were re-approaching the vehicle just getting to your
4 position with the flashlight when you saw Mr. Bradley's
5 movements?

6 A. Correct.

7 Q. So but for Mr. Bradley's movements and your
8 heightened awareness at that point were you and Officer
9 Cicero intending on releasing the occupants from the
10 vehicle?

11 A. No, the vehicle -- the vehicle was going to be towed.
12 They were going to arrange their own transportation, yes.

13 Q. You testified to Attorney Slepchuk's questions about
14 the term "manipulation." Could you just elaborate a
15 little bit more on what you mean by that, what the
16 appropriate amount of manipulation is during a patfrisk?

17 A. Yes. It would depend on the type of material that
18 they're wearing. Some things, if it's a thick article of
19 clothing, you do have to manipulate it. If it's a thick
20 jacket and it has a bunch of interior pockets, you have
21 manipulate the pockets.

22 Depending on the clothing, the person, and the
23 material, just doing a quick flat hand pat isn't
24 sufficient. At times you do have to manipulate the
25 material, the clothing, to successfully properly complete

1 the patfrisk.

2 Q. It's not your testimony that's it's appropriate to
3 grope someone?

4 A. No.

5 Q. Lieutenant Dunn, do you recall what type of shoes Mr.
6 Bradley was wearing on the day of his arrest?

7 A. I think just basketball sneakers.

8 Q. So it's fair to say that they had a rubber sole?

9 A. Yes.

10 Q. And you were wearing your standard-issued police
11 uniform at that time?

12 A. Yes.

13 Q. Which includes a pair of pants?

14 A. Yes.

15 Q. Which is a rather thick material?

16 A. Yes.

17 MR. SLEPCHUK: Objection.

18 THE COURT: Sustained. The question should be
19 stricken. Just rephrase.

20 Q. (By Mr. Saint Laurent) Do the pants that you're
21 issued by the Springfield Police Department, are they
22 composed by a thick material?

23 A. Yes.

24 Q. When you were transporting Mr. Bradley to the booking
25 dock, did you notice any blood on his lower lip?

1 A. No.

2 Q. When you stated that it's in the sole discretion of
3 the sergeant to request an injured prisoner report, by
4 that did you mean that if the sergeant noticed injuries
5 himself would have the authority to demand that you author
6 an injured prisoner report?

7 A. Correct.

8 MR. SAINT LAURENT: I have no further questions,
9 Your Honor.

10 THE COURT: Thank you.

11 Anything on that, Attorney Slepchuk?

12 MR. SLEPCHUK: Yes, Your Honor.

13 THE COURT: Okay.

14 **RECROSS-EXAMINATION**

15 Q. (By Mr. Slepchuk) Lieutenant, you weren't wearing any
16 shin pads, like hockey shin pads or lacrosse shin pads
17 when this incident happened, correct?

18 A. Just my boots, socks, and pants.

19 Q. The pants, they're a fabric, correct?

20 A. Correct.

21 Q. Like the suit that you're wearing today?

22 A. Yes.

23 Q. And when you got back up to the car after you had
24 made the determination that everybody was going have to
25 leave because the car had to be towed, you could have just

1 let them all leave, couldn't you?

2 A. Yes.

3 Q. But you chose to patfrisk Daniel Bradley, correct?

4 A. Upon his movements, yes.

5 Q. He wasn't going to get back into the car, correct?

6 A. It would have depended on the situation. He could
7 have either sat on the curb at the completion or he could
8 have sat back in the car to assist in aiding
9 transportation for himself also until we were done with
10 the stop.

11 Q. And at that time he would have been under the
12 watchful eyes of six armed police officers, correct?

13 A. Correct.

14 Q. And if you had any concern that he had put something
15 in that doorjamb area, that would have been discovered
16 during an inventory search of the vehicle, would it not?

17 A. Yes.

18 MR. SLEPCHUK: I have nothing further.

19 THE COURT: Thank you. Anything?

20 MR. SAINT LAURENT: I have nothing further.

21 THE COURT: You can step down.

22 THE WITNESS: Thank you.

23 THE COURT: Thank you.

24 All right. We will wrap up for the day.

25 Okay. Ladies and gentlemen, we're finished for the

1 day. We'll see you tomorrow morning at nine o'clock.

2 During the tonight's break, please do not discuss the case
3 with anyone or with each other.

4 Don't look up the case. Don't look for any media
5 reports if there are any or anything on the internet about
6 the case. Don't look on Facebook. Don't post anything on
7 social media. The same instructions as always given
8 apply. See you in the morning.

9 THE CLERK: All rise.

10 **(The jury left at 4:13.)**

11 THE COURT: Anything?

12 MR. SLEPCHUK: No, Your Honor.

13 MR. SAINT LAURENT: Just briefly, Your Honor.

14 The defense plans on resting after the video of Eli
15 Silverman our expert. I just got the designations today
16 or the rulings on the objections and so when I go back to
17 the office, I will be sending them to the stenographer and
18 the videographer. I'm not a hundred percent sure I will
19 have it by the end of the day tomorrow. I would do my
20 best to rush them but it's really out of my hands.

21 THE COURT: So the ruling was to recognize one
22 of your objections and so there's a very small part that
23 needs to be redacted.

24 MR. SAINT LAURENT: In addition to that small
25 segment, we would be removing any time that there was an

1 objection so the word objection and any dialog after it.

2 THE COURT: I see. That's a good point. So
3 because you have -- how many more witnesses do you have?

4 MR. SAINT LAURENT: That video, Officer
5 Moynahan, and potentially one other.

6 THE COURT: Which means other than the video,
7 other than -- what's his name, Silverman?

8 MR. SAINT LAURENT: Yes, Your Honor.

9 THE COURT: Other than the Silverman video,
10 you're going to be done in an hour and a half, two hours
11 tops tomorrow.

12 MR. SAINT LAURENT: Yes, Your Honor.

13 THE COURT: So you want to do an hour and a
14 half, two hours tomorrow and then end the day and come
15 back the next day to do the read in? That's not the
16 greatest plan.

17 MR. SAINT LAURENT: I just don't have any other
18 choice at this time. The expert was secured for the
19 previous trial date.

20 THE COURT: Right.

21 MR. SAINT LAURENT: The report was written, fees
22 are paid, and the trial was moved to this week.

23 THE COURT: So you have to send this somewhere?

24 MR. SAINT LAURENT: I have to mark the
25 transcript, send it to the videographer who will make

1 edits based on the transcript.

2 MR. SLEPCHUK: I have a suggestion. This isn't
3 something that's going in as an exhibit. It's just going
4 to be played for the jury. Perhaps we can just do
5 something similar to when I played the booking video and
6 just skip over that part.

7 THE COURT: This is not an exhibit; is that
8 correct?

9 MR. SAINT LAURENT: It is not.

10 THE COURT: So if this was read as Attorney
11 Slepchuk just suggested just like the other witnesses, and
12 then so you're verbally reading and as you're reading
13 you're deleting parts that shouldn't be read; would that
14 be acceptable? Or are you saying you want to do this on
15 video so you see the person?

16 MR. SAINT LAURENT: Your Honor, I think his
17 professionalism on the video is part of his credibility.
18 He's an expert, not me. It's less credible coming from
19 me.

20 MR. SLEPCHUK: I think we can still play the
21 video and just when we get to that -- well, again if
22 you're dealing with every objection.

23 MR. SAINT LAURENT: It's a lot.

24 MR. SLEPCHUK: I don't know if that needs to be
25 taken out. When he gets to one part, skip over.

1 THE COURT: Why does it matter about each
2 objection?

3 MR. SAINT LAURENT: That's just the way I've
4 been instructed to do it in the past.

5 THE COURT: I understand that. I understand
6 that. I mean, is there a way you can control the audio?
7 You're going to be controlling this from your laptop?

8 MR. SAINT LAURENT: Correct.

9 THE COURT: I don't know if you've done this in
10 the past and how confident you are with your ability to
11 control it from a laptop quickly with volume up, volume
12 down, things like that.

13 MR. SAINT LAURENT: I think if the court is
14 inclined to not allow us to play it on Thursday, I think
15 that --

16 THE COURT: Well, I want to be as fair as
17 possible. You're asking me to just for basically a
18 six-hour trial day tomorrow tell the jury we have nothing
19 for you. Come back the next day.

20 MR. COYLE: If I might add, if we -- were you
21 planning on giving this to the jury tomorrow afternoon --

22 THE COURT: Yeah, that's right.

23 MR. COYLE: -- if we got this together?

24 THE COURT: I think by tomorrow afternoon I
25 think this should be done by lunch and so I think you

1 would be closing probably after lunch. It depends how
2 quick it goes, but probably after lunch from what you're
3 telling me.

4 MR. COYLE: I think one of the problems with the
5 objections is you know where to stop it when you hear
6 objection but you don't know how long it goes. There
7 might be discussion about the objection which we would not
8 want the jury to hear so I don't know how that would play
9 out.

10 THE COURT: All right. Right now I'm not
11 inclined to allow you to do that, to do the extra day.
12 That just seems like an enormous waste of the jury's time
13 to come in tomorrow for a couple of hours because of this
14 video.

15 I'll hear you again tomorrow morning on it but
16 tonight try to come up with some alternative that's
17 workable. Like I said, I'll hear you again in the morning
18 on this if there's no other way around this, but it seems
19 to me there's probably a way around it.

20 MR. SAINT LAURENT: I'll do my best.

21 THE COURT: Including instructing the jury to
22 disregard objections and things like that, similar to as I
23 would tell them if the witness was here and what we've
24 been doing all along with objections. Do your best to
25 come up with an alternative. I want to be as fair as I

1 can to each side. Tell me what you come up with in the
2 morning.

3 MR. SLEPCHUK: One last question. In terms of
4 the booking video that's going to be introduced as an
5 exhibit with that one redaction, my question was in terms
6 of the jury wanting to view that during deliberations,
7 what format -- does the court provide them with a
8 computer?

9 THE COURT: We have a system. Talk to the clerk
10 about it. There's a way we can put the video into our
11 system and then they watch it. They have a screen on the
12 wall in there where they can then watch it or pull up
13 things on the video that we input into our system.

14 MR. SLEPCHUK: I'll speak to Madam Clerk about
15 the best format.

16 THE COURT: Okay. Check and if it doesn't work,
17 we will bring them back a laptop or if they want to watch
18 it, bring them back into court and have them watch it
19 here.

20 MR. SLEPCHUK: Okay.

21 THE COURT: We do have a portable unit where we
22 can plug it in to a TV. There's multiple ways to do it.

23 MR. SLEPCHUK: Okay.

24 THE COURT: I mean, the best use of technology
25 is that we put it into our system and then they will be

1 able to access it. Talk to the clerk about that. If the
2 best technology takes too long, then we will go old
3 school.

4 MR. SLEPCHUK: Okay.

5 THE COURT: All right. See you in the morning.

6 THE CLERK: All rise.

7 **(Court concluded at 4:18.)**

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10 I certify that the foregoing is a correct
11 transcript of the record of proceedings in the
12 above-entitled matter to the best of my skill and ability.

13
14
15
16 /s/ Alice Moran

March 20, 2020

17 Alice Moran, RMR, RPR

18 Federal Official Court Reporter
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