

STATE OF WISCONSIN
CIRCUIT COURT
DANE COUNTY

- - - - - x
:
LEONARD POZNER,
:
Plaintiff,
:
vs. Case No. 18CV3122
:
JAMES FETZER; MIKE PALECEK;
WRONGS WITHOUT WREMEDIES, LLC;, :
Defendants. :
- - - - - x

Videotaped deposition of H. WAYNE CARVER,
II, M.D., taken pursuant to Rule 30 of the
Federal Rules of Civil Procedure, at the
Acton Public Library, 60 Old Boston Post Road,
Old Saybrook, Connecticut, before Janet C.
Phillips, CSR No. 124, a Registered
Professional Reporter and Notary Public in and
for the State of Connecticut, on Tuesday,
May 21, 2019, at 11:17 a.m.

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A P P E A R A N C E S

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A L S O P R E S E N T

CHAD ROY - Geomatrix Productions

THE VIDEOGRAPHER: On the record at
11:17 a.m.

MS. BERLINGER: This is the deposition of
Dr. Wayne Carver recorded on May 21st, 2019,
in Old Saybrook, Connecticut.

This deposition is being taken in the
case of Leonard Pozner versus James Fetzer,
et al., and was noticed by Attorney Marisa
Berlinger for the plaintiff.

The videotape operator is Chad Roy of
Geomatrix Productions, 270 Amity Road,
Woodbridge, Connecticut.

And I don't believe there are any
stipulations, but I will say up front that,
Mr. Fetzer, I don't consent to you recording
this conversation. If you are, Connecticut
prohibits recording a telephone call unless
both parties consent under Connecticut General
Statute 52-570(d).

A video recording is being made of the
deposition, and all parties will be able to
order a transcript and the video from the
court reporter and the videographer after
we're finished today.

I am Marisa Berlinger, and I represent

1 the plaintiff, Leonard Pozner.

2 Mr. Fetzner, you can go ahead and
3 introduce yourself.

4 MR. FETZER: Yes. I am James Fetzner. I
5 am a defendant in this case. I'm a former
6 Marine Corps officer, retired university
7 professor, and the editor of Nobody Died in
8 Sandy Hook.

9 H. W A Y N E C A R V E R, I I, M. D.,
10 called as a witness, having first been duly sworn
11 by Janet C. Phillips, a Notary Public in and for
12 the State of Connecticut, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BERLINGER:

16 Q. Good morning, Dr. Carver.

17 A. Good morning.

18 Q. Could you spell your name for the court
19 reporter, please?

20 A. My name is Harold, H-a-r-o-l-d, Wayne,
21 W-a-y-n-e, Carver, C-a-r-v-e-r, and stylized II, as it
22 is also my grandfather's name.

23 Q. Have you been deposed before?

24 A. Yes, ma'am.

25 Q. Okay. I'll still go over some ground rules

1 for you. You're under oath as you were just sworn in as
2 if you're sitting before a judge.

3 Please give audible answers for the sake of
4 the court reporter. No uh-uh, uh-huh or nodding your
5 head, and also for Mr. Fetzer's sake.

6 Also for the sake of the record, I will try
7 not to talk over you or interrupt you, and if you could
8 do the same for me, that would be great.

9 Let me know whenever you need to take a break,
10 or if I need to take a break, I will also let you know.

11 MS. BERLINGER: Mr. Fetzer, if you need
12 to take a break as well, please feel free to
13 let me know.

14 MR. FETZER: Fine.

15 Q. I'll just ask that any pending questions be
16 answered before we move to break.

17 And if you have any concerns about
18 understanding a question, just ask me to rephrase and
19 clarify and I will try and do so.

20 Is there anything that would prevent you from
21 giving full and honest testimony today, such as any
22 medications or illness?

23 A. No, ma'am.

24 Q. Okay. So please describe your education for
25 me.

1 A. I have a bachelor of science degree in human
2 biology and a doctorate of medicine both from Brown
3 University in a program that I finished in 1977.

4 I then served one year residency training in
5 general surgery at the University of Chicago. I then
6 served two years residency training in anatomic
7 pathology at the Presbyterian St. Luke's Medical Center
8 in Chicago, and then two years fellowship training in
9 forensic pathology at the Office of the Medical Examiner
10 officially known as County of Cook, which is Chicago and
11 a large hunk of the surrounding suburbs. That finished
12 in the late spring of 1982, at which time I took the
13 American Board of Pathology certification examinations
14 in both anatomic and forensic pathology and passed them
15 both.

16 Shortly thereafter, I began work at the Office
17 of the Chief Medical Examiner here in Connecticut, and
18 remained there until my retirement.

19 Q. Do you hold any licenses? I'm sorry if I
20 missed that.

21 A. Yes. I formerly had a license to practice
22 medicine and surgery in Illinois. When my professional
23 responsibilities ran their course and I no longer was
24 appearing in Illinois, I let that lapse.

25 And I currently have a license to practice

1 medicine and surgery in the State of Connecticut. And I
2 still -- it's still valid.

3 Q. And are you currently employed?

4 A. No, I am not. I am retired.

5 Q. Retired from where?

6 A. The Office of the Chief Medical Examiner here
7 in Connecticut.

8 Q. What were your responsibilities for the Office
9 of the Chief Medical Examiner?

10 A. For the majority of my time there, I was the
11 Chief Medical Examiner, for 26 of the 30 years that I
12 was fully employed.

13 My responsibilities were twofold. One, I was
14 an administrative head of the agency. And I was also
15 one of the, depending on time, six to four doctors who
16 supervised the individual investigations of sudden
17 unexpected and violent death, and performed the
18 autopsies if they were included in that investigation.

19 Q. And did your responsibilities include working
20 with death certificates?

21 A. Yes, ma'am.

22 Q. And specifically, Connecticut death
23 certificates?

24 A. Yes. Although I signed several hundred of
25 them in Illinois as well.

1 Q. Okay. So let's move on to the specifics -- or
2 the generals of this case.

3 What do you know about the case you're being
4 deposed for today, Pozner versus Fetzner, et al.?

5 A. I know that Noah Pozner was one of the
6 deceased children at the Sandy Hook.

7 MS. BERLINGER: I'm sorry, Mr. Fetzner, is
8 that coming from your end?

9 Q. Please continue.

10 A. The mass shooting at the grade school.

11 MS. BERLINGER: Mr. Fetzner, is there
12 someone else on the line?

13 MR. FETZNER: I was called. I should have
14 put it on no call, do not disturb. I'll do
15 that now.

16 MS. BERLINGER: Please do. Thank you.

17 Q. I'm sorry. You were saying what you knew
18 about the case today.

19 A. Yes. That the plaintiff's son was one of the
20 decedents at the Sandy Hook massacre. And in general
21 terms, the Pozner family is very displeased with certain
22 people's subsequent actions and things they've said and
23 published. And the suit involves that displeasure.

24 Q. What do you know about the plaintiff, Leonard
25 Pozner?

1 A. I know him to be the father of the decedent.
2 I also know him to be an observant Jew. I know this
3 because strictly observant Jewish families have an
4 aversion to a postmortem altering of the body, including
5 autopsies.

6 And I have encountered this numerous times in
7 my career. I actually made a bit of a dedicated study
8 of trying to learn what various people needed in terms
9 of their religious and spiritual needs involving violent
10 death. And so in accordance with their wishes, we
11 behaved ourselves accordingly.

12 Q. Have you ever communicated with Leonard Pozner
13 since December 2012?

14 A. I may have relatively close to that time. I
15 have no direct recollection of having talked to him
16 personally in a long time.

17 Q. Do you know the defendant James Fetzer?

18 A. No, I do not.

19 Q. Do you know the defendant Mike Palecek?

20 A. No, I do not.

21 Q. Do you know anything about the defendant
22 Wrongs Without Wremedies, LLC?

23 A. Only that something they published got them
24 involved in this. But I know -- that's it.

25 Q. Okay. And are you familiar with a child named

1 Noah Pozner?

2 A. Yes, I am.

3 Q. How?

4 A. He was my patient, that is, I performed -- I
5 was in charge of the individual examination of his body,
6 which included examining the body, collecting
7 appropriate specimens, directing appropriate records,
8 both photographic and written, be created, and issuing
9 his death certificate.

10 Q. Okay. Why don't you walk me through that and
11 tell me how you came to be involved.

12 A. I was not only the chief on that day, but it
13 was also my weekend on call, which means you would be
14 the first physician in the office who was contacted to
15 make decisions about how to handle a case that was
16 reportable to the office.

17 By way of aside, many more cases are
18 reportable than are actually accepted. The greatest
19 example is if you die at home outside of a hospital,
20 you're reportable. Most of those people are natural
21 deaths. We don't accept them.

22 But I was informed at the beginning of the
23 business day that the shootings at Sandy Hook had
24 occurred. And it was obvious from the very early
25 information that we would be heavily involved in this

1 situation.

2 Q. And so what role specifically did you play?
3 What were the steps that you took?

4 A. Okay. Well, first, being both the chief and
5 the doctor on call, I was in charge of organizing our
6 response. And so the first thing I did was enlist the
7 services of one of our investigators and went to the
8 scene.

9 One of the first things you do in a
10 complicated situation involving many people is assess
11 the situation so you can have some idea of how many
12 people you're going to need, how many doctors, how many
13 technicians, how many vehicles, how many people on
14 overtime, what consultants, if any, you have to get and
15 call and establish your communications with the
16 appropriate police departments and state's attorney's
17 office. So that was the first thing.

18 It was very clear that we had at that scene 24
19 casualties that had to be brought into the office
20 eventually. There were two children who were taken to
21 the hospital and pronounced dead before the EMTs
22 finished their evaluation and determined that no one was
23 treatable. Everybody was dead.

24 The rest was a lot of telephone organization
25 with my own people and with the police. As a result, we

1 brought several investigators and me as the doctor to
2 the scene that evening. Also a photographer and several
3 autopsy technicians.

4 With the assistance of the health department
5 and I believe the Army, they put up a temporary building
6 right next to the school so we could transport the
7 bodies with only minimal public exposure, work on them.

8 And we spent the majority of the evening
9 coordinating with the identification records of the
10 police, assigning case numbers to each individual. Case
11 numbers in our office consist of two digits for the year
12 and then a consecutive number. And so on January 1st,
13 right after midnight, the first case that's reported in
14 this year would be 19-1 and the next one is 19-2 and so
15 forth.

16 We then took pictures of the faces, designed
17 to be able to identify the children, all the
18 individuals, with that case number prominently in the
19 picture. And then those records were hand-walked over
20 to the police van, where the pictures were printed.

21 And the police took them to family members for
22 official identification, the idea being to spare the
23 family a trip, God forbid to the scene, but also to our
24 office, which was about an hour away from where this
25 occurred.

1 Q. And did you identify Noah Pozner in that
2 manner?

3 A. Yes, yes. That was done. And that included
4 physical descriptions of the child and descriptions of
5 his clothing as provided to the police investigators and
6 then relayed to us.

7 Q. And then after the identification process,
8 what was the next part of your process?

9 A. Well, our personnel and our vehicles were used
10 to transport everybody to the Office of the Chief
11 Medical Examiner. The last of them left the scene at
12 about 10:30 p.m.

13 It was very obvious that all the deaths were
14 associated with gunshot wounds. X-ray examination of
15 the body is a very important, an essential, actually,
16 part of the postmortem examination of a gunshot wound.
17 It's pretty important in live people, too.

18 And we at the time had a working relationship
19 with Quinnipiac University's Department of Radiology
20 technicians' education. And so their number 2 professor
21 in the department and a bunch of their students came and
22 x-rayed bodies at our facility all night long. The
23 doctors, autopsy technicians, photographers -- we had
24 four doctors, 10 technicians, two photographers, and a
25 number of extra clerical people to do the paperwork.

1 And I don't know how many people we put on overtime for
2 that.

3 And we started doing the postmortem
4 examinations, which were all autopsies, except in Noah's
5 case, at eight o'clock that morning. By 1:30 in the
6 afternoon, the death certificates were signed on all the
7 children, and the funeral homes notified that they could
8 come and pick them up. They had a tremendous similar
9 mobilization of resources with the funeral homes.

10 The last of the adults from the school were
11 autopsied that afternoon. I was strongly encouraged to
12 attend a press conference. I couldn't get out of it.

13 And then the next morning, 'cause I'm still
14 the doctor on call, I did the autopsies of the assailant
15 and his mother.

16 Q. And so as part of this general process, you
17 performed a postmortem examination of Noah Pozner?

18 A. Yes, I did.

19 Q. And when Noah Pozner's body was transferred to
20 his respective funeral home, that's when it left your
21 possession?

22 A. Yes.

23 (Report of Investigation marked
24 Plaintiff's Exhibit 7 for identification.)

25 Q. So you've been handed a document marked

1 Exhibit 7, which in the top left corner says Report of
2 Investigation. Do you recognize this document?

3 A. Yes, I do.

4 Q. Can you walk me through each of the pages in
5 this document?

6 A. Okay. The first page is as labeled a Report
7 of Investigation. These documents are prepared either
8 by -- usually by one of our investigators, sometimes by
9 one of the doctors.

10 It contains demographic information about the
11 deceased. It is an official record of which case number
12 is assigned to the decedent, a history, a brief history
13 of the events leading to the death, a brief examination
14 of the body, the signature of the investigator who
15 prepared the report.

16 Q. And did you oversee the creation of this first
17 page?

18 A. Yes.

19 Q. So let's go on to page 2, which is marked at
20 the bottom Postmortem Report, page 1 of 3.

21 A. Yes. This is the report of my examination of
22 Noah Pozner's body. It consists of three pages, 2, 3
23 and 4 of Exhibit 7. And the last page is a report from
24 the toxicology department.

25 Toxicology is the study of bodily fluids and

1 tissues for drugs or poisonous chemicals. It is a
2 division of the office and under the supervision of the
3 Chief Medical Examiner and then a director of the
4 toxicology department.

5 It not only performs those examinations, but
6 also is responsible for storage of specimens other than
7 tissue for examination under the microscope that are
8 retained by the office.

9 This report indicates that I submitted and
10 they accepted samples of blood and samples of vitreous
11 humor. Vitreous humor is the fluid in the globe of the
12 eye. It is especially useful because it does not
13 contain a significant number of cells.

14 And the breakdown of cells after death
15 interferes with certain types of examinations, similar
16 to the ones you might receive in connection with a
17 doctor's visit, and very difficult to contaminate, and
18 so serves as a check on the qualitative nature of other
19 examinations and quantitative. So we get it on
20 everybody. It's very useful.

21 And this indicates that the then-acting
22 director, Kerry Slattery, received those specimens, and
23 they were then put into the storage system, that I did
24 not request any analysis at that time. And then there's
25 my initials, indicating that I reviewed this report.

1 Q. So the toxicology report, which is page 5,
2 which actually at the bottom states page 1 of 1 --

3 A. Yes.

4 Q. -- is that Kerry Slattery's signature you
5 mentioned?

6 A. Yes.

7 Q. But you oversaw the creation of the toxicology
8 report?

9 A. Well, I oversee Kerry, yes.

10 Q. Okay. And then going back to page 4, which is
11 marked at the bottom Postmortem Report, page 3 of 3, is
12 that your signature?

13 A. Yes.

14 Q. And then can you --

15 A. Well, the signature above my name is my
16 signature. There are two signatures on this document.

17 Q. Okay. And then the cause of death of Noah
18 Pozner was multiple gunshot wounds; is that right?

19 A. That's correct. And cause of death in this
20 report is automatically the same as that on the death
21 certificate. So when I create the death certificate in
22 the computer, it automatically drops into the written
23 report, later, but eventually.

24 Q. And the Report of Investigation, and the
25 external examination, evidence of injury, cause of

1 death, and toxicology report were all created around the
2 time that you performed Noah Pozner's postmortem
3 examination?

4 A. Yes. These documents are dictated in the
5 presence of the body, subsequently transcribed and
6 proofread.

7 And when all that process is finished, I sign
8 the final product. And the date under my signature on
9 the fourth page of Exhibit 7 is January 29th. And that
10 reflects the date that all the paperwork was done and I
11 signed it.

12 Q. When it's done and you sign all of these
13 documents, are they then filed with the Office of the
14 Chief Medical Examiner?

15 A. Yes. And certain -- the law governing the
16 Office of the Chief Medical Examiner states that if we
17 believe further investigation is warranted, that we
18 should forward the documents to the responsible state's
19 attorney. In Connecticut I think there's 13 state's
20 attorneys. I'm not quite sure.

21 And if the -- and we will use discretion on
22 that in some cases, but if the manner of death is
23 classified a homicide, it is automatically forwarded to
24 the state's attorney. And then by the time the
25 paperwork's done, we also routinely have a written

1 request from the investigating police department. And
2 that was fulfilled.

3 Q. Okay. So can you walk me through the process
4 that you used to conduct Noah Pozner's postmortem
5 examination in a little bit more detail?

6 A. Okay. Well, I examined the outside of the
7 body with its clothes on and examined the x-rays, which,
8 because of the nature of x-rays, they're taken inside a
9 relatively thin plastic body bag, so the x-ray process
10 doesn't involve any potential messing with physical
11 evidence.

12 Part of the postmortem examination is to
13 direct that photographs be taken. Some are routine.
14 Others are very specific at my direction for various
15 injuries, actually, in some cases, lack of injury as
16 well.

17 So we examine the body, do the x-rays and
18 examination of the body in clothing. There was a bullet
19 that was stuck in the clothing. Obviously had gone
20 through the body and lost enough of its energy that it
21 was stopped by the clothing. I retrieved that. I used
22 a scribing instrument to put the number 852 on it. It
23 simply reflects the fact that it was the 852nd bullet I
24 had recovered from a body in Connecticut. Chicago
25 police wouldn't let us scribe them.

1 I also dictated that in keeping with the
2 wishes of the family for spiritual reasons that I did
3 not cut into the body, and that I packaged all clothing
4 and contaminated -- disposable equipment that was
5 contaminated with blood and packaged it separately to be
6 transported to the funeral home in keeping with
7 observant Jewish tradition that all such material should
8 be buried with the body, or not be -- my understanding
9 of observant Jewish tradition.

10 I then specifically examined and dictated
11 documentation of the wounds. I then used a needle and
12 syringe to pull fluid from both chest cavities. This
13 allowed me to get a sample of blood and also confirm the
14 x-ray diagnosis that the cavities were full of fluid,
15 and specifically blood.

16 Q. And was that the cardiac blood mentioned in
17 that toxicology report in Exhibit 7?

18 A. Yes, yes. And then I used another needle to
19 obtain the vitreous humor.

20 And just as an aside, taking the fluid out of
21 the globe of the eye does not interfere with standard
22 funerary practices.

23 Q. And you mentioned earlier that you did not
24 conduct an autopsy of Noah Pozner; is that correct?

25 A. Well, no. I did not conduct the internal

1 examination, which is usually or colloquially synonymous
2 with the term "autopsy."

3 An internal examination is opening the body
4 with incisions, something like a surgeon would use but
5 considerably larger, examining the organs in place,
6 taking them out, examining each one in turn in a fashion
7 designed to examine that organ -- examining a heart is
8 different than examining a lung -- and recording your
9 findings and retaining tissue for possible examination
10 under the microscope.

11 I did not perform that portion of a typical
12 examination on Noah Pozner's body because the family
13 requested that I didn't because between the x-rays, the
14 external examination, and the use of a needle and
15 syringe, I felt I had more than enough information to
16 fulfill my statutory responsibilities in terms of
17 documentation and certification.

18 Q. Okay. So just to clarify, you performed an
19 autopsy in that you performed x-rays and --

20 A. We would call it -- a postmortem examination
21 is what we did.

22 Q. Okay.

23 A. An autopsy -- an internal examination is a
24 subset of a postmortem examination. So we perform a lot
25 of examinations of dead bodies where we feel we can

1 execute our responsibilities without opening them. We
2 do a lot where we have to open them to do them properly.

3 Q. Okay. So you did not perform an internal
4 examination?

5 A. I did not perform an internal examination.

6 Q. And did the decision not to perform an
7 internal examination affect your findings?

8 A. No.

9 Q. Why not?

10 A. Well, first of all, I have considerable --
11 it's obvious with the 852 or whatever -- considerable
12 experience with firearms injuries. This was obvious
13 that -- this and the x-rays are obvious that a very high
14 energy projectile had crossed the center of his chest
15 from one side to the other. Both chest cavities were
16 filled with blood.

17 And this particular kind of projectile, it's
18 got so much energy that it just breaks up. It's not --
19 it just does. And it leaves small fragments of metal on
20 the x-ray over a wide area. And so that would give me a
21 marker of how much -- what organs were destroyed and how
22 completely. So I had that information. And so I could
23 say that's what he died of, and other questions,
24 including -- it also gave me information that I felt I
25 could use to answer the types of questions that

1 frequently come up in these situations.

2 Q. Were you certain that Noah Pozner's gunshot
3 wounds were the cause of death?

4 A. Yes.

5 Q. And were you certain that Noah Pozner's
6 gunshot wounds were not survivable?

7 A. Yes. And, by the way, all of the cases were
8 reviewed specifically for that question by me and a
9 colleague who was a specialist in trauma care, including
10 supervision of pre-hospital care, and is a surgeon, so
11 he takes care of people who are injured.

12 We performed that review twice, and we came to
13 the conclusion that none of the 28 individuals had
14 survivable or even treatable injuries, including Noah.

15 Q. Okay. I'm going to back up a little bit and
16 go back to the identification of the bodies.

17 A. Yes.

18 Q. So you said you used photos to identify the
19 bodies instead of conducting in-person IDs; is that
20 right?

21 A. Well, yes. But having reviewed the entire
22 file of this child prior to coming here today, our file
23 contains a record that his mother viewed the body at the
24 funeral home and signed a document indicating that it
25 was Noah Pozner.

1 So the photographs were used to get the
2 presses going and get it completed, but Mrs. Pozner
3 elected to do this in person. And so that supersedes
4 anything we did with pictures.

5 And as an aside, it is not -- it's actually
6 quite common in my experience that even when we make
7 arrangements for family members to be excused from the
8 onerous duty of examining a body and forming
9 identification papers, there are many families who
10 believe that this is a function they must perform and
11 want to do. And you don't interfere with people like
12 that.

13 Q. So did your original practice of using a photo
14 to identify Noah Pozner's body produce accurate results?

15 A. Yes.

16 Q. And those results were later confirmed by his
17 mother --

18 A. Yes.

19 Q. -- Veronique Pozner?

20 A. Yes.

21 Q. And is the practice of using photos to
22 identify bodies acceptable in the medical field?

23 A. Yes.

24 Q. Okay. So we're going to switch gears a little
25 bit.

1 And in your role as Chief Medical Examiner, do
2 you have experience filling out death certificates?

3 A. Yes, I do.

4 Q. What sort of experience?

5 A. Well, over the course of my career, I've
6 performed about 6,000 autopsies, probably inspected
7 another 4,000 to 5,000 bodies for the purpose of issuing
8 a death certificate. So I issued death certificates on
9 all of them.

10 The office -- when I first became Chief
11 Medical Examiner, the office contracted a number of
12 autopsies to private pathologists in hospitals. And
13 prior to my assuming the Office of the -- the position
14 of chief, there was no formal mechanism to review those
15 records for completeness.

16 So when I first became chief, I undertook to
17 review all of the contract autopsies that had been
18 performed during my tenure as the non-chief, which was
19 about 5,000 autopsies, and I issued about 3,000 death
20 certificates.

21 It is also my responsibility -- or was my
22 responsibility to supervise the death certificates of
23 all issued by the office, including the fact that many
24 death certificates at the end of an examination do not
25 include the cause of death and the death certificate is

1 issued saying "Pending further study." This is usually
2 done when drug overdoses are suspected or may be
3 involved and you've got to wait for the toxicology to
4 get done, which takes time.

5 But you can't bury a body without a death
6 certificate, so we issue one without a completed cause
7 of death. The responsible physician would then later
8 get the information and issue an amended certificate or
9 a document amending the certificate.

10 And the Chief Medical Examiner and, during my
11 tenure as deputy chief, the Deputy Chief Medical
12 Examiner was responsible for reviewing that and signing
13 the back of the amended certificate, which is basically
14 a letter to the Registrar of Vital Statistics that says
15 take the information on the other side of this and put
16 it on the death certificate. So I had all those.

17 And I've also been called upon to teach
18 residents in other fields how to fill out death
19 certificates. I may not have been as successful in that
20 as I was in other things.

21 Q. So suffice it to say you have a lot of
22 experience completing and reviewing death certificates?

23 A. Yes, yes. And in fact, the residency in
24 forensic -- or fellowship in forensic pathology is the
25 only place in medical training where the recent medical

1 graduates receive formal training in how to do death
2 certificates.

3 Q. And just to clarify, Noah Pozner's death
4 certificate was not one that needed an amendment or some
5 sort of pending cause of death?

6 A. No, no.

7 Q. So I'm handing you what has previously been
8 marked Exhibit 4 --

9 A. So it's not going to be 8.

10 Q. -- which states VS-4ME in the top left corner
11 and has a handwritten "Blank Copy" on the top.

12 A. Yes.

13 Q. Is this the death certificate that you would
14 normally fill out in the ordinary course of business?

15 A. Yes, it is.

16 Q. And how do you know which portions you're
17 supposed to fill out?

18 A. The death certificate is a number of boxes,
19 each of which contains a piece of information, 59 in
20 this version, 59 boxes. Some of them are shaded gray.
21 These are the ones that are the responsibility of the
22 medical examiner's office.

23 Others are the responsibility of the funeral
24 home, including information that is identified as having
25 been obtained from next of kin or other informants.

1 Some of them are -- and I can't tell you which
2 ones off the top of my head -- but responsibility of the
3 cemetery or crematorium.

4 But the gray ones are our responsibility.

5 There are two -- actually, three kinds of
6 death certificates in the state of Connecticut. One is
7 for the use of the medical examiner's office, one is for
8 the use of other physicians, and one is to be used in
9 stillborn infants who are over 20 weeks gestation, but
10 not born alive.

11 The ones for the medical examiner's, doctor's
12 portion is shaded gray. The one for non-medical
13 examiner, liveborn individuals, the doctor's portions
14 are shaded pink. And I don't remember what the fetal
15 one is colored. The fetal one is very extensive and
16 there's a lot of stuff about the parents and mother that
17 get torn off and are never issued. So it's not
18 something we dealt with a lot.

19 Q. And so those are three different forms?

20 A. Yes.

21 Q. And this specific form in Exhibit 4, which of
22 the three is that?

23 A. This is the one for the medical examiner's
24 office. And that's the code -- every document in the
25 state has a code number.

1 Q. What is the code?

2 A. In this case it is VS-4ME. And it says 4/04.
3 That means Vital Statistics, subset Medical Examiner.
4 VS-4 is death certificate for adults.

5 Q. Okay.

6 A. The pink one would be VS-4, but not ME.

7 Q. Okay.

8 A. And then the date, that is the last time it
9 was revised. And that's a whole other government
10 process that goes on forever.

11 (Copy of Death Certificate marked
12 Plaintiff's Exhibit 8 for identification.)

13 Q. And you've been handed Exhibit 8, which I'll
14 represent to you has that VS-4ME designation. Do you
15 recognize in document?

16 A. Yes, I do.

17 Q. And what is it?

18 A. This is a copy of the death certificate that I
19 signed for Noah Pozner. Just for the record, Exhibit 4
20 is life-size. Exhibit 8 has been reduced to fit on the
21 paper with other information.

22 Q. And how do you know that this is Noah Pozner's
23 death certificate?

24 A. I signed it. I recognize it. Also, I
25 compared my copies of the original records in

1 preparation for coming here today.

2 Q. And you have mentioned that each case had a
3 case number assigned to it.

4 A. Yes.

5 Q. Which number was assigned to Noah Pozner?

6 A. 12-17604. It is a unique number indicating
7 that it is the 17,604'th death reported to the office in
8 the year 2012.

9 Q. And is that reflected in box 36?

10 A. Yes, it is.

11 Q. Okay. Can you walk me through the portions
12 that you filled out in Noah Pozner's death certificate?

13 A. Okay. In the copy in Exhibit 8, the grayness
14 of the boxes are not especially easily visible, probably
15 having something to do with the fact that these were
16 designed when -- long before the current copying
17 technology reached its maturity. However --

18 Q. And if you need a minute to review, feel free.

19 A. Yes. It basically reflects that the cause of
20 death is multiple gunshot wounds, that I classified the
21 manner of death as homicide, that I recorded that it
22 occurred -- the injury occurred on the 14th of December,
23 2012.

24 There is a box number 46, which says Time of
25 Injury. This is -- in our office, we routinely fill out

1 either a.m., p.m., or unknown, because it's so difficult
2 to get documentation otherwise.

3 Place of injury is listed as School, Primary
4 or Secondary. This is all done on a computer, so I
5 didn't have the opportunity to simply say grade school.
6 This is what somebody put in there.

7 Q. So it was like a fillable form?

8 A. It's a fillable form, right. In fact, I
9 actually do this on the computer in the autopsy room.
10 And then the clerical technicians -- and then I email
11 them or call them and tell them it's done. Then, given
12 my proclivity for misspelling almost everything in
13 English, they proofread it, make corrections as
14 necessary, sometimes asking me by telephone or not.
15 Then they print it.

16 And we have the template to do all of the
17 stuff in Exhibit 4. And it's printed on special
18 archival paper. And in both of these you can see little
19 circles along the left-hand side. That's because this
20 archival paper is filled with holes so it can go into
21 the hundred-year-old form of book that the Registrars of
22 Vital Statistics use.

23 And so the funeral director will take that
24 document with him/her when they pick up the body. They
25 will then fill out other stuff and file it with the

1 Registrar of Vital Statistics, who fills out other
2 stuff.

3 And then it's eventually filed with the State
4 Registrar of Vital Statistics, who fills out the last
5 box, which is the upper right-hand corner, that gives
6 the state code number. I also filled out the location,
7 which was the -- it's the address of the school.

8 There's a box 50 that says describe how injury
9 occurred. I just said "Shooting." It was my style to
10 keep that simple as possible. And then it fills in my
11 name and the date and stuff about me.

12 Q. Okay.

13 A. And then my signature is in box 52.

14 Q. Okay. So I'm just going to compare Exhibits 8
15 and 4 using the shaded portions --

16 A. Yes.

17 Q. -- in Exhibit 4, just to confirm the boxes
18 that you filled out. So did you fill out box 3 in
19 Exhibit 8?

20 A. Actually, yes. But that is information that
21 is put into the database about the case and is
22 distributed to a number of documents that are produced
23 from that database, including this one.

24 Q. Okay. But the Office of the Chief Medical
25 Examiner --

1 A. Yes. It's our responsibility to put that in
2 there. And it shows up on other documents, but it
3 automatically shows up here.

4 Q. Okay. Did you fill out box 4?

5 A. Yes, in the same fashion.

6 Q. So for both boxes 3 and 4, it's the autofill
7 based on the case number --

8 A. Yes.

9 Q. -- that the Office of the Chief Medical
10 Examiner assigns?

11 A. In fact, that probably is reflected in a
12 couple of places in Exhibit 7.

13 Q. Okay. Then it looks like the next shaded box
14 is 23. Did you fill that box out?

15 A. Well, 23 is only filled out if the death
16 occurred in a hospital. And this didn't, so 23 was left
17 blank.

18 Q. And box 24, did you fill that out?

19 A. Yes.

20 Q. Box 25?

21 A. Yes. That's the address of the school. 24
22 just indicates it's a school.

23 Q. Did you fill out box 26?

24 A. Yes. Well, I mean, they were filled out by
25 Office of the Chief Medical Examiner staff under my

1 direction.

2 Q. Okay. Did you fill out box 27?

3 A. Yes. Similarly.

4 Q. Did you fill out box 36? I think we mentioned
5 already that you had, but I'll ask you to confirm.

6 A. 26, yes.

7 Q. Box 37?

8 A. Hold on. Oh, yes.

9 Q. Did you fill out box 38?

10 A. Again, yes.

11 Q. Did you fill out box 39?

12 A. Yes.

13 Q. Did you fill out box 40?

14 A. Yes, I did.

15 Q. Did you fill out box 41?

16 A. Box 41 is "Other significant conditions" --
17 I'm going to have to go to the big copy to give you the
18 exact wording -- "contributing to death," but not
19 relating to that in box 40. I made a determination that
20 no such entry was necessary.

21 Q. And then box 42, is the Office of the Chief
22 Medical Examiner's office responsible for filling out
23 that box?

24 A. Yes.

25 Q. But you didn't fill out it out in this case?

1 A. No. That box is if female, were they pregnant
2 at the time of death or within the last year.

3 Q. And so for box 43, is the Office of the Chief
4 Medical Examiner responsible for filling out that box?

5 A. Yes.

6 Q. But it wasn't filled out in this case?

7 A. No. It was filled out. But 43 is did tobacco
8 contribute to the death. This is so hard to determine
9 even in clear-cut cases that I had the computer set to
10 default to unknown.

11 Q. And did you fill out box 44?

12 A. Yes, I did.

13 Q. Did you fill out box 45?

14 A. Yes, I did.

15 Q. Did you fill out box 46?

16 A. Yes, I did.

17 Q. Did you fill out box 47?

18 A. Yes, I did.

19 Q. Did you fill out box 48?

20 A. No, I did not, because it's -- I mean, I
21 should have, but the question in box 38 -- 48 is did the
22 injury occur at work, yes or no. It's kind of a
23 non sequitur in a 6-year-old.

24 Q. And did you fill out box 49?

25 A. Yes, I did.

1 Q. Box 50?

2 A. Yes.

3 Q. Did you fill out box 51?

4 A. It was not applicable. I did not fill it out.
5 Box 51 is if it's a transportation-related injury, is it
6 a driver, a pedestrian, a passenger, or other. It is
7 not applicable in this case, so I did not address that
8 issue.

9 Q. Did you fill out box 52?

10 A. Yes.

11 Q. Did you fill out box 53?

12 A. Yes.

13 Q. And then that's your signature?

14 A. Actually, box 53 is an autofill. If my name
15 is in 52, the address of the medical examiner's office
16 shows up in 53.

17 Q. Okay. So in Exhibit 8, does the information
18 in boxes 3, 4, 23 through 27, and 36 through 53
19 accurately reflect the information that you entered in
20 December of 2012?

21 A. Yes, it does.

22 Q. Has anything changed in the boxes that you
23 filled out?

24 A. No, it has not.

25 Q. Okay. And is the Office of the Chief Medical

1 Examiner the first entity to add information to a death
2 certificate?

3 A. Yes.

4 Q. Okay. And if you don't mind, I am going to
5 ask you to highlight the portions that you -- or the
6 boxes that you filled out in Exhibit 8.

7 A. For clarification, you want me to highlight
8 the boxes that were my responsibility I didn't fill out
9 or just the ones I did? Like the one about whether it's
10 a hospital, whether it's inpatient emergency room I
11 didn't fill it out because it's not applicable.

12 Q. I would fill out -- or please fill out the
13 boxes that the Office of the Chief Medical Examiner is
14 responsible for filling out. And I think whether or not
15 you completed that will be self-evident.

16 A. Thank you.

17 (Pause in the proceedings.)

18 Q. All set?

19 A. All set. I hope.

20 Q. Well, I'm now handing you what has previously
21 been marked as Exhibit 6, which I'll represent to you is
22 a duplicate copy of Exhibit 8, Noah Pozner's death
23 certificate, and which has been highlighted in green by
24 Samuel Green from Abraham L. Green and Son Funeral Home.

25 So if you would please -- I know it's

1 repetitive -- but please go ahead and highlight the
2 portions that the Office of the Chief Medical Examiner
3 is responsible for filling out in Exhibit 6.

4 (Pause in the proceedings.)

5 Q. In Exhibit 6, are there any portions of the
6 death certificate that remain unhighlighted?

7 A. Yes.

8 Q. Which portions are those?

9 A. It's actually the child's name, which is
10 filled out by us when we have documentation in hand.

11 In a homicide, some form of documentation is
12 in hand before the body leaves the office. But it's --
13 technically, that is supposed to represent other records
14 in our office that attach the case number to an
15 identification.

16 The other things that are not filled out here
17 are the part that says -- the part in which the
18 Registrar of Vital Statistics in the town where the
19 death occurred records that the registrar received and
20 registered or filed the certificate. That is box -- it
21 doesn't have a number.

22 Q. And when you say --

23 A. It's down on the bottom. I'm sorry. I
24 interrupted you.

25 Q. I was just going to clarify. And when you say

1 not filled out, do you mean the unhighlighted portions
2 of Exhibit 6?

3 A. Yes, not highlighted. And then at the upper
4 right there is a box labeled State File Number, which is
5 not highlighted. And that -- a copy of -- I'm not sure
6 of the process, but the death certificates are
7 permanently filed at the Registrar of Vital Statistics
8 in the individual town. There are 169 such offices for
9 the 169 towns in Connecticut.

10 It is also filed with the State Registrar of
11 Vital Statistics usually at -- well, always at a later
12 date because they are forwarded from the town registrar
13 to the state registrar. And then the state registrar
14 has a separate file number. And that is reflected in an
15 unnumbered box in the upper right-hand corner. And that
16 is not highlighted in Exhibit 6 either.

17 Q. In Exhibits 6 and 8, which I've represented
18 are duplicate copies, do you believe that the Office of
19 the Chief Medical Examiner completed all of its
20 responsibilities with regard to filling out a death
21 certificate for Noah Pozner?

22 A. Yes, I do.

23 Q. And I think you mentioned earlier that the
24 Office of the Chief Medical Examiner is the first entity
25 to add information to a death certificate?

1 A. Yes.

2 Q. So there's an incomplete copy once the Office
3 of the Chief Medical Examiner is finished filling out
4 its portions?

5 A. Yes. We are required by statute to keep a
6 copy of the part we fill out. The original document
7 goes with the funeral director. It's never easy in
8 state government. The funeral director must be a
9 licensed funeral director to transport the body.

10 He then files the death certificate -- he or
11 she files the death certificate with the Registrar of
12 Vital Statistics in the appropriate town and obtains a
13 transit and burial permit, which allows the funeral
14 director or a funeral -- I believe a funeral director's
15 employee to transport the body and allows the cemetery
16 to inter it.

17 If there is to be a cremation, there's a whole
18 other series of documents.

19 Q. And did you ever provide Leonard Pozner with a
20 copy of Noah Pozner's death certificate --

21 A. No.

22 Q. -- that only had your portion filled out?

23 A. I don't know.

24 Q. Do you have any reason to think he would have
25 a copy?

1 A. If Mr. Pozner or counsel representing him
2 requested a copy of the records, they would routinely be
3 sent the documents that comprise Plaintiff's Exhibit 7.

4 If during discussions with the office
5 personnel or me they became aware that other documents
6 not routinely sent out were available and they requested
7 them, we would make them -- we would forward them.

8 There are a couple of exceptions. We are not
9 allowed -- if we have police records in our files, we
10 are not allowed to forward those. They must come from
11 the police department. Similarly, if the police
12 department had copies of Exhibit 7, they would not be
13 allowed to transport it -- to send it to the family, the
14 lawyers, the insurance company. They would have to get
15 them from us. So that's -- yes.

16 Q. Do you have any reason to believe that you
17 provided Leonard Pozner with a copy of Noah Pozner's
18 death certificate with only the Office of the Chief
19 Medical Examiner's portions filled out shortly after
20 Noah Pozner's death?

21 A. We may have. I would not have any personal
22 recollection. And it would not be in records that were
23 made available to me at this time. If it existed, I
24 just don't have the records.

25 Q. But the original copy of Noah Pozner's death

1 certificate went to the funeral home; is that right?

2 A. The original document on the archival paper
3 went to the funeral home, and then obviously made it to
4 the Registrar of Vital Statistics and to the state.

5 Well, what routinely happens is the physical
6 piece of paper stays at the town registrar. A copy goes
7 to the state registrar.

8 Q. Do you have any reason to doubt that Noah
9 Pozner died at Sandy Hook Elementary School located at
10 12 Dickinson Drive in Sandy Hook, a community within
11 Newtown, Connecticut, on December 14th, 2012?

12 A. Absolutely not.

13 MS. BERLINGER: I think now is a good
14 time for a short break.

15 Mr. Fetzer, I am going to put you on mute
16 for now.

17 THE VIDEOGRAPHER: Off the record at
18 12:27 p.m.

19 (Recess taken.)

20 THE VIDEOGRAPHER: On the record at
21 12:40 p.m.

22 Q. Okay. So now we're going to switch gears a
23 little bit and talk about tissue storage technology.

24 What is an FTA card?

25 A. FTA card is about a 3-and-a-half- or

1 4-by-4-inch piece of paper that has been treated in such
2 a fashion that if you put liquid blood on it and let it
3 dry, then it can be stored at room temperature and be
4 usable for DNA analysis later. So it doesn't have to be
5 frozen. It doesn't have to be -- it just has to be dry.

6 And then FTA cards come with an envelope for
7 storing them. I think it's impregnated with foil. I
8 haven't looked at one in a long time. But they're
9 designed for long-term storage of blood samples to be
10 useful for DNA analysis.

11 The name FTA refers to Flinders Technology
12 Associates. The technology for doing this was developed
13 by scientists at Flinders University, New South Wales,
14 Australia. They patented it. They marketed it all over
15 the world. And the last time anybody told me anything
16 about this, they financed a great deal of the university
17 on the sale of this stuff.

18 Q. And so how do you know about FTA cards?

19 A. When I was chief, I talked to my technical
20 people that I wanted do long-term storage of DNA. One
21 of the things you're responsible for when you're in
22 charge of a laboratory of any type is called retention
23 policy. So how long do you keep each kind of specimen
24 before you dispose of it.

25 This is extremely important because -- well,

1 for a variety of reasons in different circumstances. In
2 our circumstances, there is always the possibility that
3 somebody wants to review or redo the examinations. And
4 they can redo a toxicology examination. They can redo
5 examination under the microscope or ask that an
6 examination under the microscope be done.

7 There are various storage methods for various
8 things. The blood and other samples for toxicology are
9 frozen after they're analyzed. But that only keeps them
10 good for so long. Tissues that are preserved in
11 formaldehyde can be saved for longer periods of time.

12 So, you know, I was interested in -- I was
13 developing these protocols. And it occurred to me that
14 this DNA thing was becoming more and more important and
15 that we should have DNA available for as long as
16 possible, 'cause one of my former mentors, when I asked
17 him "How long should you keep tissue specimens," he
18 said, "As long as you have storage space to do it."
19 Because you never know when the question is going to
20 come up.

21 So I believe it was my chief toxicologist who
22 said, "I've got just the thing for you." And they say
23 it's good for 10 years, but that's 'cause it was only
24 invented 10 years ago.

25 Q. And so they're useful, the FTA cards are

1 useful because they have a long shelf life?

2 A. They have a huge shelf life. And they don't
3 take up that much space. And as I said, DNA is -- it's
4 not always applicable, but when it's applicable, it's
5 valuable.

6 Q. And so you use these FTA cards in the Office
7 of the Chief Medical Examiner?

8 A. Anybody who has a liquid blood sample that's
9 examined for whatever reason, we create an FTA card, and
10 it's stored permanently. So even if somebody were to
11 come in for a cremation examination, had a death
12 certificate from, you know, a private doctor -- we have
13 to sign off on all cremations by law -- if the body gets
14 into the office, we grab a needle and syringe and get a
15 blood sample and keep it. 'Cause you never know what
16 you're going to be required to -- somebody's going to
17 ask a question and you're much better off having to
18 answer it.

19 Now, similarly, if we look at stuff under the
20 microscope, that comes out on a 3-by-1-inch piece of
21 glass which can be stored indefinitely. I mean,
22 researchers are still looking at glass slides that were
23 prepared in the 1840s.

24 So under my administration we kept them
25 indefinitely. And I think they still do. I just don't

1 have a lot of contact with the policy and the things
2 there anymore.

3 Q. And so you mentioned a needle and syringe.
4 Can you walk me through the process of collecting
5 samples for these FTA cards?

6 A. Okay. Well, if you do an internal
7 examination, during most of my tenure, you simply opened
8 the veins that led to the heart and collected the blood
9 from there. There's a great deal of research that
10 indicates a sample taken from a vein far away from the
11 heart may be a better reflection of what's going on
12 during life than a sample taken at autopsy from the
13 heart.

14 And so we started collecting a sample after we
15 opened the body from the femoral vein, which is down
16 near the groin. Actually, it's not called the femoral
17 vein until it gets out of the abdomen, but it's as far
18 away from the heart as you can get during an autopsy
19 conveniently and keeping that separately.

20 But it's a needle and syringe. It is the same
21 equipment that's used to give you an injection to put
22 medicine in your IV fluid or to draw a blood sample in
23 live people. Now, most people will be familiar with a
24 device that draws the blood out of your vein with a
25 vacuum and a tube. You can get more specimen easier at

1 autopsy with a regular syringe, where instead of pushing
2 on the plunger, pull back. And it's cheaper. Always an
3 issue in government work. So that's how that's done.

4 And then it would be put in a suitable
5 container and labeled. And it's put in a refrigerator
6 in the autopsy room. The autopsy room is either manned
7 or locked 24 hours a day. The technician from the
8 toxicology lab, which is on the third floor -- autopsy
9 room is on the first -- would have a key, come in, get
10 the material, the associated paperwork, take it back to
11 the toxicology lab, log it in, put it into the storage
12 facilities. And the toxicology lab is always locked.

13 And it would be in that environment that the
14 technician would take a sample of blood and drop it on
15 the card. Now, the card, as I said, is about 4 inches
16 in diameter -- or 4 inches square, maybe a little
17 smaller, and has printed four circles. And you drop
18 blood on it in the circle until it fills up the circle.
19 Kind of like a biologic SAT exam.

20 And then those are left to dry in a protected
21 environment. And then once they are dried, then they
22 are packaged, permanent labels are affixed, and then
23 they go into storage and we wait for somebody to ask.

24 Q. So it was the State of Connecticut Office of
25 the Chief Medical Examiner's practice to obtain these

1 samples from everybody?

2 A. Everybody who came in dead that we could get
3 them. Obviously there are people who have been dead a
4 long time whose DNA samples are only appropriately taken
5 from teeth or bones. Those teeth and bone samples would
6 go directly to the State Police Crime -- what's
7 colloquially called the crime lab. Because the way
8 things are divided up, they're the ones who did the DNA
9 analysis if we needed them for crime scene evidence or
10 identification of an otherwise destroyed body.

11 And the other thing these are used for is not
12 only -- the vast majority of the samples that get used
13 are used for paternity. Because a child whose parents
14 were not married, if the father died and was in the
15 Social Security system, the child can get benefits to
16 age 21. But you've got to prove that it's the biologic
17 father. And the mother saying so doesn't meet the
18 criteria of the Social Security Administration. But a
19 DNA test does.

20 So the vast majority of these FTA cards, a
21 quarter of it goes to a private -- we don't do those
22 tests, but the family of the child in question would pay
23 for it privately and we would ship the section of FTA
24 card to the laboratory of her choice directly so that it
25 wasn't -- it's chain of evidence thing. Keep it

1 documented.

2 Q. And so you mentioned how these samples and how
3 the FTA cards are stored. Could anyone access the
4 samples without authorization?

5 A. No. All of the rooms in the toxicology
6 laboratory at that time are locked, even now, are locked
7 24 hours a day. And you have to have a key to get in.

8 And eventually we went to the electronic key
9 so we had a record of who got in and, interestingly
10 enough, had a record of who tried to get in, but wasn't
11 authorized to do so. Pretty sophisticated system.

12 Q. Could anyone access the FTA cards without
13 authorization?

14 A. Only toxicology staff, me. And, you know, I
15 don't know if the other doctors' cards open the tox lab
16 or not. I mean, certainly I wouldn't object to it if
17 they did, but --

18 Q. But there were a limited number of people who
19 had access?

20 A. There were a limited number of people. In
21 other words, the clerical staff had access to the lock
22 on my office because they had to dump and pick up
23 paperwork there constantly. But they didn't have access
24 to the tox lab. And some of them didn't have access to
25 medical records, where other people did because they had

1 to get at them.

2 Q. And did you create an FTA card for Noah
3 Pozner?

4 A. Yes, I did. Well, I sent a sample and label
5 for it to be created under my direction.

6 Q. Can you tell me a little bit more about the
7 sample you collected from Noah Pozner?

8 A. It was blood. As I said, we did not do the
9 procedures where we went inside the body. So I took a
10 needle and syringe and inserted it into both of his
11 chest cavities. That is anything that's under your
12 ribs, although internally the diaphragm, which separates
13 the belly cavity from the chest cavity, is dome-shaped.
14 It goes upwards, which is why when you contract it, it
15 gets flat and pulls down on the lung to suck in air.

16 So somewhat high up in the chest cavity you'd
17 put a needle through the space between the ribs. Even
18 in somebody built like me, it's an inch. And then you'd
19 pull on the syringe. And that, 1, gets me the sample,
20 and, 2, told me that Noah had bled into both chest
21 cavities from his injuries.

22 Q. And so then you took steps to send the blood
23 sample to toxicology to create the FTA card?

24 A. Yes. We put it in a container. It's either a
25 3-ounce jar or a 7-ounce tube, depending on how much you

1 can get. The doctor puts the label on her or himself.
2 The fewer hands in the pudding, the less chance of a
3 mistake.

4 And then I think I went over that would be
5 placed in a refrigerator in the autopsy room, which is
6 either manned or locked. When the technician's work
7 shift ends, the doors lock automatically. And then a
8 technician from the tox lab would retrieve it from
9 there, as I said before.

10 Q. And is it the same blood sample that's
11 reflected in the toxicology report in Exhibit 7 on
12 page 5?

13 A. Yes. Even if a toxicology examination for
14 drugs, alcohol or poisonous chemicals is not performed,
15 a report is generated to document that the laboratory
16 got and has the specimens. And that's the type of
17 report that's generated in this case.

18 Q. And did you say that the FTA cards themselves
19 are stored in refrigeration?

20 A. No. That's the beauty of them. They're room
21 temperature.

22 Q. So how are they stored?

23 A. Ever increasingly large file cabinets. As I
24 said, they're not particularly big, so they're amenable
25 to a file cabinet that was designed for index cards,

1 which you can stack as high as you've got ceiling.

2 Q. And so you created these protocols in the
3 Office of the Chief Medical Examiner?

4 A. Yes. As I said, part of the administrative
5 head of any system that takes samples in, analyzes them,
6 and eventually has to get rid of them is responsible for
7 creating a retention schedule.

8 And then -- actually, if I may look at -- yes,
9 a retention schedule is actually printed on the bottom
10 of the toxicology report for those specimens.

11 Q. Can you point that to me?

12 A. This is the last document in Exhibit
13 Plaintiff's 7, at the bottom, under the boldface line,
14 it says "Unless OCME" -- Office of the Chief Medical
15 Examiner -- "is notified in writing, specimens and/or
16 evidence retained in this case will be destroyed one
17 year after the date of this report."

18 We may have modified that to reflect the fact
19 that DNA cards are kept forever. And we would
20 occasionally send this to the law journal, the complete
21 schedule of all the stuff we keep, paper records, check
22 receipts, all that stuff, okay, we would send a schedule
23 of all that to the law journal to publish at their
24 discretion, mainly because lawyers are the biggest users
25 of that kind of information.

1 Not to be pejorative about it, but forensic
2 pathology means the pathology is in the interest of the
3 law. So the law journal is a good way to talk to you
4 guys.

5 Q. Do you know if the samples taken from Noah
6 Pozner were retained?

7 A. They were retained. I don't know if they were
8 retained indefinitely. And with observant Jewish
9 families, sometimes the families request them to be
10 buried at the end of the year. I just don't have access
11 to any records on that.

12 Q. Okay. So there's one more clarification
13 question: Will you look at Exhibit 8? In box 39 --

14 A. Let me find 8.

15 Q. Sure.

16 A. Okay. 39. Yes.

17 Q. That asks: "Was an autopsy performed?" And
18 the box is checked "No."

19 A. Correct.

20 Q. Why is that?

21 A. That question refers to whether the body was
22 opened, the skin was incised, and organs examined in
23 place and/or removed. This was not done in Noah's case.
24 There are rare -- period. There's no need to get into
25 the details of gunshot wounds to the head in suicides.

1 Q. Okay.

2 MS. BERLINGER: Well, that concludes my
3 direct-examination.

4 Mr. Fetzer?

5 CROSS-EXAMINATION

6 BY MR. FETZER:

7 Q. Doctor, I'm grateful for the opportunity to
8 address a few questions to you. You've been very
9 thorough and comprehensive in relation to the death
10 certificate, and I hope that my questions aren't
11 redundant. Some may all have already been answered, but
12 I'm quite new to all of this, so I hope you can forgive
13 me.

14 A. Well, of course, sir, just to improve your
15 lawyering skills, the only time redundant questions are
16 a no-no is in front of a jury where somebody is going to
17 go to jail. So please feel free. I'll try to
18 accommodate you.

19 Q. Thank you very, very much.

20 Now, the medical examiner's report which
21 Marisa referred to as page 1 of 2, that's not actually
22 page 2. Was there not a cover page?

23 A. The document I think you're referring to is
24 Exhibit 7. And Exhibit 7 is three separate documents.

25 So the first one is the Report of

1 Investigation. The report of the postmortem examination
2 is labeled 1 of 3, 2 of 3 and 3 of 3, but for the
3 purposes of Exhibit 7, starts on page 2. Do you have a
4 copy of these with you?

5 Q. Well, Marisa sent me, let's see, about six
6 pages. Let's see. One, two, three, four, five pages
7 and then the blank death certificate. The other is the
8 state certified death certificate.

9 A. Yes.

10 Q. That's what I have, Dr. Carver.

11 When you talked about the circumstances of
12 death, the first notification that you received was at
13 11:15 hours by Sergeant James Thomas of the Connecticut
14 Central District Major Crimes Unit?

15 A. I may have received notification earlier. But
16 we didn't get around the creating case records and
17 assigning case numbers or reserving case numbers until
18 11 o'clock. So that's an official time that they
19 started creating documents.

20 Q. And the official time of your arrival to the
21 scene was 4:05?

22 A. No. That's Mr. -- it's Investigator Rinaldi's
23 official arrival at the scene. I was there much
24 earlier.

25 Q. Oh. Very good. Okay. Let me show you

1 Exhibit B, my first exhibit, and ask you if you can
2 identify what we see in that exhibit.

3 MS. BERLINGER: Mr. Fetzner, did you
4 provide copies of those to the court reporter
5 or have you emailed copies to me?

6 MR. FETZER: Yes. The court reporter has
7 them in her possession.

8 MS. BERLINGER: Do you mind if we go off
9 the record really quickly so you can email
10 those to me so I can be looking at them at the
11 same time?

12 MR. FETZER: Well, I wanted to provide
13 them to you one at a time. I may not use all
14 the particular exhibits from what you've
15 already covered, Marisa. So I wanted to make
16 them available as I submit my request to
17 Dr. Carver.

18 MS. BERLINGER: That's fine.

19 (Copy of photograph was previously marked
20 Defendants' Exhibit B for identification.)

21 MS. BERLINGER: Actually, if you don't
22 mind, can we take quick break and go off the
23 records.

24 THE VIDEOGRAPHER: Off the record at
25 1:07 p.m.

1 (Pause in the proceedings.)

2 THE VIDEOGRAPHER: On the record at
3 1:08 p.m.

4 Q. Do you have Exhibit B, Dr. Carver?

5 A. Yes, I do.

6 Q. Could you describe what it shows?

7 A. It is an aerial view of a building, a parking
8 lot with multiple cars.

9 Q. And is there a particularly distinctive
10 feature there? I'm sorry. I didn't mean to cut you
11 off.

12 A. I'm not quite sure what you're referring to.

13 Q. Isn't that the portable tent there in the
14 parking lot?

15 A. Yes. I believe so. You have to realize, I
16 never saw the thing in the daylight. I don't know what
17 color it was. But yes, that would be the approximate
18 location of where we set up the temporary building.

19 Q. Was this your first visit to the Sandy Hook
20 Elementary School?

21 A. Yes.

22 MS. BERLINGER: Objection to form.

23 Q. How were you summoned to the school? What got
24 you to the school? You mentioned, you know, in relation
25 to the report. Now 11:15, when Sergeant Thomas made the

1 contact with you, you were there well before.

2 MS. BERLINGER: Objection to form.

3 Q. How were you summoned and at what time to the
4 school?

5 A. I was -- we were informed of the situation by
6 telephone. I have no recollection of what time. I
7 probably drove myself, which would be my custom. But I
8 also have no direct written record.

9 Q. So your office does not have phone logs, for
10 example, for this event?

11 A. Those were created later and reflected at
12 11 -- the beginning of those creations were at
13 11 o'clock that day. And that was after my assessment,
14 scene assessment of what we were going to need to
15 create. I wanted --

16 Q. Go ahead.

17 A. I did not want -- I wanted -- I knew we were
18 going to have to have multiple case numbers. I wanted
19 them to be successive, in order, without gaps, which I
20 knew from experience would be of great assistance in
21 organizing things later. So we did not start creating
22 logs in the computer until I knew how many we needed.

23 Q. So at what time did you arrive at the scene?

24 A. I have a recollection of, a vague recollection
25 that it was about 9:30. But I could be wrong. But

1 somewhere early.

2 Q. 9:30 a.m.?

3 A. Yes.

4 Q. How long were you there on the 14th?

5 A. I don't have a direct recollection, but I'm
6 pretty sure I was there until 10:30 at night.

7 Q. Now, the purpose of the tent was to provide a
8 facility for the conduct of autopsies, correct?

9 A. It was -- well, not quite. It was to perform
10 initial cleaning, evaluation, and identification, and
11 documentation of the nature of photographic
12 identification. The formal --

13 Q. If I refer to the --

14 A. Go ahead, please.

15 Q. If I refer to the facility as the tent, who
16 ordered the tent?

17 A. I'm not sure. But it involved both the health
18 department and the Army. And it may have been the
19 Connecticut National Guard. But somehow in the
20 discussions of things, either I came up with the idea or
21 somebody else said, "Do you think you could use," and I
22 would have enthusiastically agreed.

23 And the next thing I knew, it was going up.
24 Because, among other things, there were media
25 helicopters overhead, and we felt that as much

1 discretion of handling of the bodies at the scene as
2 possible would be appropriate.

3 Q. Were you present when it was set up?

4 A. I was somewhere there. I may have been in the
5 building doing other stuff. But yes. I do
6 distinctly --

7 Q. About how long did -- go ahead.

8 A. I do distinctly remember that I was questioned
9 or asked to advise on whether we should use a portable
10 wooden floor or we should use the surface of the parking
11 lot as the floor. And my opinion was whatever is
12 easiest to clean.

13 Q. What equipment was inside the tent?

14 A. Almost nothing. We used our -- we have
15 portable devices for -- carts for transporting bodies.
16 They are designed so that you can have a body on it and
17 back it up or move it to the back of a transportation
18 vehicle, get the end of the device in the vehicle,
19 operate some levers, and then the legs collapse and you
20 can roll it into the vehicle. And then when you get
21 where you're going, you do those operations in reverse.
22 You have it out of the vehicle at waist height and on
23 wheels.

24 So we utilized those for the examinations.
25 Probably used some sort of portable backgrounds like

1 plastic sheets for backgrounds for the photography. I
2 don't remember. But we had pretty -- we always have had
3 pretty strict criteria for photographs to not have
4 extraneous stuff in the background of a picture.

5 Q. So was this tent a FEMA facility?

6 A. May have been. I just don't know. As I said,
7 I was just grateful it was there, and, quite frankly, as
8 a public administrator, grateful I didn't have to pay
9 for it. But I was very grateful it was there. I wasn't
10 going to ask any other questions about where it came
11 from.

12 Q. Who else was there in the tent with you?

13 A. My chief photographer, a number of my
14 technicians. And I think that's it. There may have
15 been police personnel assisting us with paperwork or
16 ferrying information in and out to us.

17 I only say that 'cause that would have been
18 normal -- well, as if anything in this situation is
19 normal. But if the police department -- police
20 personnel were undoubtedly involved. It was the police
21 department's responsibility for recording who.

22 Q. So what activities were taking place inside
23 the tent? Forgive me if you already addressed that.

24 A. We would assess each body and compare the
25 clothing and sex and race and physical characteristics

1 to records that had been gathered by the police, assign
2 a case number to that body. As I said, a number of --
3 you know, 28 case numbers had been reserved for this
4 incident.

5 But then we would assign one of them to that
6 body. Then take photographs with that case number
7 adjacent to the face. Sometimes the picture was on far,
8 sometimes on profile, depending on the nature of the
9 injuries, which can be quite deforming in this case.

10 We took the photographs suitable for
11 identification. Those were then transferred to state
12 police equipment. If you look at the tent in Exhibit B,
13 there is a white rectangle above as you look at the
14 picture. That's the state police van -- or actually the
15 white rectangle is an awning that hangs out the side of
16 the state police van. And they had the printing
17 facilities to print those pictures and get them on the
18 way to the families.

19 Q. So you have photographs of each of the
20 decedents both from the tent, I take it, but also inside
21 the school itself?

22 A. I believe we have pictures inside the school
23 itself. The majority of the pictures inside the school
24 itself were taken by the police. But I think we took
25 enough to say this body is associated with this case

1 number.

2 Q. Well, we have never had access. Could you
3 produce those photographs that were taken under suitable
4 conditions of confidentiality?

5 A. That would be the responsibility of the
6 current Chief Medical Examiner. And I can't answer that
7 question.

8 Q. What are the hoses coming out the back of the
9 tent?

10 A. The what? I'm sorry. I didn't understand
11 your question.

12 Q. Hoses.

13 A. It's the ventilation system. There's a truck
14 next to it -- it's in the shadow so you can't see it --
15 that pumps in air. You know those big things they put
16 over tennis courts? It's kind of like that. The
17 pressure inside is partially responsible for it standing
18 up.

19 Q. So you needed water insides the tent. What
20 was the source of the water?

21 A. I don't recall. But probably a hose. We
22 don't have facilities for bringing our own water.

23 Q. Turn to Exhibit C, if it might be provided to
24 you.

25 A. I'm going to have to wait until it's provided.

1 Q. Yes.

2 (Copy of YouTube screenshot was
3 previously marked Defendants' Exhibit C for
4 identification.)

5 A. Yes, sir. I now have the --

6 Q. Do you recognize this scene?

7 A. Yes, I do.

8 Q. When was that photograph taken?

9 A. I don't know. But I know the press conference
10 either started -- my portion of it either started or at
11 least encompassed 5 p.m. on that day.

12 Q. Do you recall saying "Our goal was to get the
13 kids out and to the funeral directors first"?

14 A. Yes.

15 Q. What did you mean by the word "out"?

16 A. Oh. To have the examinations completed and
17 the paperwork, specific paperwork, primarily the death
18 certificate, but there are also receipts, so that the
19 bodies could be in the possession of the funeral
20 directors, which technically means they're in the
21 possession of the families, because the funeral
22 directors are functioning for them.

23 And my experience is that delays in this
24 process can produce additional emotional distress to
25 people who are already pretty compromised in that

1 respect.

2 Q. Who declared the victims to be dead?

3 A. In Connecticut, that can be done by a
4 competent emergency medical technician. And that was
5 what was done.

6 Q. Do you have the name of that person or
7 persons?

8 A. I'm referring to a document to refresh my
9 recollection. And I do not have it with me. It was
10 obvious from the scene that a great deal of --

11 Q. Who brought the -- go ahead.

12 A. It was obvious from the scene there was more
13 than one.

14 Q. Who brought the bodies out?

15 A. My people.

16 Q. And they were brought into the tent?

17 A. Yes.

18 Q. And then they were transported to your office?

19 A. Yes. In our vehicles.

20 Q. Yes. When did that take place?

21 A. I'm not sure when it started. I know that the
22 last of them left the scene at approximately 10:30 p.m.

23 Q. And the bodies were identified, again, exactly
24 how? Meaning the identity.

25 A. At a bare minimum, a photograph that we

1 prepared with the case number was taken by police to
2 relatives or other people who had appropriate knowledge
3 of the children and the adults. And that was confirmed
4 to the police and included in their records.

5 In Noah Pozner's case, the family,
6 specifically his mother, elected to view the body at the
7 funeral home and sign a second document saying that she
8 had viewed the body and that was who it was.

9 An in-person identification by a parent and a
10 signature attesting to that supersedes a police officer
11 showing a photograph to a parent and filing a report on
12 it. And so that's the identification that was in the
13 official documents I reviewed before coming here today.

14 I would not have easy access to any of the
15 police documents. And I would be prohibited by law from
16 dispersing them to other people. I could write in a
17 report that I reviewed them, but it was not necessary in
18 this case.

19 Q. Did you see any ambulances riding wounded
20 persons to hospitals?

21 A. No. Only two -- my understanding is that only
22 two people were taken to hospital. That was done before
23 my arrival. I may be -- I know two dead children were
24 taken to hospital. I have a vague recollection that
25 somebody with minor non-lethal wounds was taken to

1 hospital, but I have no -- that's just a five-year-old
2 memory. And I would have no authority over that person.

3 Q. Did you see any bit of that chopper landing
4 and picking up a wounded person?

5 A. No, I did not.

6 Q. Triage tarps were laid down, but no bodies
7 were placed on them. What was the point, if you know?

8 MS. BERLINGER: Objection to foundation
9 and form.

10 A. I have no knowledge of that, period.

11 Q. Okay.

12 A. If the triage -- my understanding is triage is
13 used when there are -- you have to prioritize
14 distribution of medical services. And my understanding,
15 it would be appropriate to start that process. It would
16 also be appropriate to stop it once you determined
17 everybody was dead.

18 Q. During the press conference, you were asked
19 about this being -- having to deal with horrible things
20 at times. And you mentioned that you deal with
21 difficult things all the time, but this is over the top.
22 You've been at this for a third of a century. Do you
23 recall saying that in particular?

24 A. I have blanked out as much of that press
25 conference as possible, but it sure sounds like me. It

1 sounds like something -- yes.

2 Q. Let me read a bit for you.

3 "This is probably the worst I have seen or the
4 worst that I know of any of my colleagues having seen.
5 And that all the more makes me proud and grateful to our
6 staff who to a man have just behaved most professionally
7 and strongly. And I hope they and I hope the people of
8 Newtown don't have it crash on their head later."

9 What did you mean by that last sentence? What
10 did "it" refer to?

11 A. In the midst of a crisis, particularly a
12 trained individual will simply put their emotional
13 responses aside and do their job. And non-trained
14 individuals will put their emotional responses aside
15 either on purpose or inadvertently just to get through
16 it.

17 And those people commonly -- I won't say
18 commonly. It is not uncommon for those people to react
19 to the depth of the tragedy, the seriousness of the
20 event later. Some of my personnel had troubles with
21 that. Some of them simply said, "It's my job," and if
22 they had trouble with it, they didn't tell me.

23 And I knew from experience that the families,
24 some of them would experience the depth of the tragedy
25 immediately and others would act stoically and deal with

1 it and have pain from it later. So at that point in the
2 press conference, I was probably getting worn out and
3 less eloquent than I could be. But that's what I meant.

4 And I know from experience that it can take --
5 you know, people can either experience the full horror
6 of this sort of thing immediately or it can come and
7 they realize the personal reaction to it at a later
8 date.

9 And crashing down on you is a common
10 colloquialism for this phenomena. And in my assessment
11 of working with people like this, probably a very
12 appropriate colloquialism.

13 Q. Did any of you have to use the restrooms while
14 you were at the Sandy Hook Elementary School?

15 A. If I was there for that many hours and didn't
16 have to do it multiple times -- so yes. I can't account
17 for my other personnel.

18 Q. Did you use a restroom within the school?

19 A. I can't recall there being a portable facility
20 available. But I don't -- I just don't remember. I
21 just know my medical status and I had to use -- it's
22 impossible for me not to have used a restroom over that
23 course of time. I have no idea what I actually did. It
24 wasn't -- I'm sorry, sir, but it's not the sort of
25 detail that you file away.

1 Q. There was an Porta-Potty in the parking lot.
2 And I just wondered whether you knew of it or had used
3 it.

4 MS. BERLINGER: Objection, foundation.

5 A. I have no direct memory of that at all. I can
6 only tell you from experience and my medical conditions
7 at the time that I must have peed someplace.

8 Q. Dr. Carver, the law was changed about a year
9 before Sandy Hook to allow keeping the names of murdered
10 minors secret. Did you support that law?

11 A. First of all, that law was after Sandy Hook.
12 I did not support it because I felt that the Office of
13 the Chief Medical Examiner has a strong responsibility
14 to tell the public what's happened. We also have strong
15 responsibilities to keep certain private details
16 private.

17 Basically, I drew the line at saying anything
18 that was on a death certificate, which is public
19 information in the state of Connecticut, and in our
20 possession, we would release.

21 I felt that -- and children are vulnerable
22 because they're children. And then there's a group of
23 children who are compromised with various disabilities,
24 which makes them even more vulnerable. And society in
25 general has an obligation to protect them. And the

1 state in specific has very strong responsibilities to
2 protect them. And if the individuals who are killed or
3 injured are kept from the public, the public cannot hold
4 responsible individuals responsible.

5 And so I felt that while it would be
6 inappropriate for me to describe a child's individual
7 wounds in any situation other than a courtroom or
8 deposition, okay, where technically a judge or someone
9 with a judge's authority is telling me to release this
10 information, that would be unnecessary burden on the
11 privacy of the survivors. But the fact that the child
12 was murdered and how is information society needs to
13 conduct itself properly.

14 Obviously these are personal opinions, but I
15 think they're pretty good.

16 Q. Could you take a look at Exhibit E, which is
17 very much like Exhibit B, as the tent.

18 A. It's going to have to be produced here. Give
19 us a second.

20 (Discussion off the record.)

21 (Copy of photograph was previously marked
22 Defendants' Exhibit E for identification.)

23 A. Okay. I have Exhibit E in my hand as we
24 speak.

25 Q. You have Exhibit E in your hand?

1 A. Yes.

2 Q. It's also a view of Exhibit B. And I just
3 wondered if you noticed how the cars in the middle two
4 rows are all parked facing the school.

5 MS. BERLINGER: Objection, foundation,
6 form.

7 MR. FETZER: Well, Dr. Carver was there
8 in the parking lot.

9 I'm just asking whether he observed the
10 vehicles there in the middle two rows are
11 parked facing the school.

12 A. It is obvious in the picture. But I did not
13 take cognizance of it at the time.

14 Q. Did you notice at the time that there was no
15 handicapped parking in the school?

16 A. At the time I had not received my handicapped
17 parking permit from the state as of yet. And I'm
18 usually cognizant of handicapped parking both as a user
19 and an administrator, but I wasn't one and I wasn't
20 thinking like an administrator at the time.

21 Q. Sure. Now, you mentioned you were in and out
22 of the school. If you'd look at Exhibit G.

23 (Copy of photograph was previously marked
24 Defendants' Exhibit G for identification.)

25 A. Yes. I have Exhibit G in my hand.

1 Q. And what are you looking at?

2 A. It's a picture of the front of -- it's
3 Exhibit G. It's a picture of the front door of the
4 school.

5 Q. Yes.

6 A. It is sublabeled "Outside view of shattered
7 glass window."

8 Q. Did you observe that personally at the time?

9 A. Yes, I did.

10 Q. Take a look at Exhibit H.

11 (Copy of photograph was previously marked
12 Defendants' Exhibit H for identification.)

13 A. I have Exhibit H in my hand.

14 Q. Did you notice the furniture when you went
15 into the school?

16 A. I'm sorry. Purely a matter of the quality of
17 a small speaker. Could you repeat the question?

18 Q. Yes, yes. Did you notice the furniture there?

19 A. I vaguely remember it. Yes.

20 Q. Does it look as you remember it?

21 A. My memory is very vague. I cannot -- I can
22 give you only a partial answer is that my vague memory
23 includes no discrepancies.

24 Q. Exhibit I, Idaho.

25 (Copy of YouTube screenshot was

1 previously marked Defendants' Exhibit I for
2 identification.)

3 A. I have Exhibit I in my hand.

4 Q. Now, in relation to Exhibit H, there is
5 identified a magazine rack.

6 A. Yes.

7 Q. I is the back of the magazine rack. Do you
8 notice a defect there?

9 A. Yes.

10 Q. What caliber slug would you say caused that
11 defect?

12 MS. BERLINGER: Objection, foundation.

13 Q. Would that be consistent with the use of a
14 small caliber round?

15 A. It's consistent with a high energy round.
16 Caliber is merely one measure of a round. And small
17 caliber rounds are commercially and militarily available
18 in very low energy and extremely high energy.

19 So this picture would not give me any
20 information as to caliber, which is the diameter of a
21 bullet, but does tell me that if it is confirmed that
22 these are firearms defects, which they appear to be,
23 then it was a firearm capable of delivering a great deal
24 of energy.

25 Q. Well, please consider Exhibit F, F for Frank.

1 (Copy of photograph was previously marked
2 Defendants' Exhibit F for identification.)

3 A. Oh. And one addendum to my questions about
4 Exhibit I.

5 Q. Yes.

6 A. As a forensic pathologist, and given the
7 places I've worked and trained, I know a lot about
8 firearms that most physicians don't.

9 I also know enough to know that really
10 technical questions I'd have to study another five years
11 to be able to answer as an expert witness in a court,
12 and not studying dead people, studying firearms.

13 Okay. I have Exhibit F.

14 Q. Did you notice that Sandy Hook Elementary
15 School had entrances and exits that were not wheelchair
16 accessible?

17 A. This was not high on my mind at the time. I
18 have no recollection of that.

19 Q. Let's turn to Exhibit J.

20 (Copy of Death Certificate was previously
21 marked Defendants' Exhibit J for
22 identification.)

23 A. Yes.

24 Q. In the upper right-hand corner, for file
25 number, what do you see?

1 A. Oh. It's blank.

2 Q. And would a copy like this be public without a
3 file number?

4 A. If it was obtained from the Registrar of Vital
5 Statistics in Newtown, it would not have a file number.
6 That is a state file number. And is only on the copy
7 retained by the State Registrar of Vital Statistics, who
8 maintains copies from all 169 different town registrars.

9 So this Exhibit J has been signed by the town
10 registrar. So it has made that exhibit. But unlike
11 Plaintiff's 6, which was obtained from the State
12 Registrar of Vital Statistics and is so labeled, it does
13 not -- Exhibit J does not have the file number there,
14 nor would it normally be expected to.

15 Q. But would it also not normally be in the hands
16 of a private party?

17 A. Oh. Death certificates are public records.
18 Any private party can get a copy from any of the 169
19 Town Registrars of Vital Statistics or from the State
20 Registrar of Vital Statistics.

21 If you go to the State of Connecticut
22 Department of Public Health website, they make this very
23 clear. They also make it clear that there's about an
24 eight-week turnaround time for obtaining it from the
25 state. And in most instances, it's faster to get it

1 from the town.

2 Now, there are also towns that are over
3 burdened and have trauma center hospitals in them who
4 have death certificates -- they have a lot of them. So
5 those towns may be slower as opposed to towns which are
6 primarily residential and don't have the volume. But
7 where you get it is up to you.

8 Q. In box 4, Actual Or Presumed Time of Death, it
9 states 11 a.m. Is that correct?

10 A. That is the time we have records of competent
11 medical authority, in this case EMTs, making that
12 determination. It is -- I believe we used the same time
13 for every death in the school simply as a matter of when
14 somebody told us it had been completed.

15 Q. Even though -- have you read the official
16 report by Danbury State's Attorney Stephen Sedensky --

17 A. No, I have not.

18 Q. -- who put the time of the shooting from 9:30
19 to 9:40 a.m.?

20 A. Oh. The time in box 3 is an administrative
21 function. It is not in any way intended to be an
22 investigative function or a definitive statement of when
23 this actually occurred. This is not an uncommon
24 problem.

25 And one of the things a forensic pathologist

1 is expected to address is how soon after the person was
2 injured did they die. And that can range from minutes
3 before competent medical authority got to them to
4 decades.

5 So if Mr. Sedensky's report says that the
6 shootings occurred during that time limit -- or that
7 time frame, I have no reason to believe that the
8 information he was provided is not correct.

9 And in the case of Noah Pozner, he had three
10 gunshot wounds and stigmata of a fourth. But -- and the
11 nature of the wounds and their physical distribution on
12 the body made it impossible for me to tell which one
13 came first, second, third, and fourth. But if someone
14 were to ask me how long did he survive after being shot
15 within that time frame, it's an extremely short period
16 of time.

17 Q. And in box 38, again, it says Time Pronounced
18 at 11 a.m.

19 A. Yes.

20 Q. But that's not correct, is it? I mean, didn't
21 you suggest that they were pronounced dead by EMTs
22 earlier in the morning?

23 A. That is what the EMTs provided us as their --
24 that's what I was provided as the time. And given that
25 my responsibilities for fine-tuning that biologically

1 are as I have just described, I had no reason to not use
2 it.

3 Q. Exhibit K, please.

4 (Copy of Death Certificate was previously
5 marked Defendants' Exhibit K for
6 identification.)

7 A. Yes. I have Exhibit K.

8 Q. This is the same one as the one Marisa
9 previously presented. You were talking about the form
10 VS-4ME 4/04, that's from your office; is that correct?

11 A. No. That's from the state librarian who
12 assigns that number.

13 Q. Oh, no. I meant the number of the form.

14 A. Yes. The number of the form VS-4ME, revised
15 4/2004, that number is actually assigned by the state
16 librarian.

17 Q. You notice across the top it says "Boxes 12
18 and 22 corrected as per father 6/14/13 Leonard Pozner"?

19 A. Yes.

20 Q. Is that unusual? I mean --

21 A. No, it's not. And what those are -- that
22 would not be unusual at all. Death certificates are so
23 frequently amended by the Office of the Chief Medical
24 Examiner that we actually have a separate form to submit
25 those changes. But anybody else who's responsible for

1 other areas can request that they be changed.

2 And the procedure is to strike out the old
3 material, but to strike it out in such a fashion that
4 it's still legible, and enter the new material on the
5 original death certificate, annotate it such that it
6 reflects that it has been done.

7 And although I have never physically seen
8 this, it is my understanding that the individual Town
9 Registrar of Vital Statistics attaches a copy of the
10 document requesting the change to the original. I have
11 no idea what their criteria for releasing that original
12 document are.

13 Q. Notice box 12, Residence. I mean, isn't it
14 odd? I mean, surely the decedent didn't change his
15 residence after his death.

16 A. Mr. Fetzner, I have no idea why this was done.
17 All I know is that the Registrar of Vital Statistics in
18 the Town of Newtown felt that the reasons presented to
19 her were appropriate, and she acted accordingly. That's
20 absolutely all I know.

21 Q. Let's look at Exhibit L.

22 (Copy of Death Certificate was previously
23 marked Defendants' Exhibit L for
24 identification.)

25 A. Okay. I have Exhibit L in my hand.

1 Q. Comparing with Exhibit K, where the file
2 number is handwritten, here we have only a partial file
3 number, which appears to be either 0243 or perhaps 9243,
4 which is printed. This was obtained from the State of
5 Connecticut. Surely it should not have two file
6 numbers, should it?

7 A. Well, first of all, this was -- I have no idea
8 what it is.

9 Q. Okay. You find this puzzling, don't you?

10 A. I have no idea. I don't find it puzzling
11 because people write all sorts of stuff on documents,
12 but I have no knowledge or experience here.

13 Q. Okay. Please look at Exhibit M.

14 (Copy of Death Certificate was previously
15 marked Defendants' Exhibit M for
16 identification.)

17 A. Yes. I have it.

18 Q. This is a different form. It appears to have
19 been revised in 2009 in relation to the number in the
20 upper left. Am I correct?

21 A. Well, I can't read it, but I have no reason
22 to --

23 Q. Yes. I have reasons. It's hard to read.

24 A. Hang on. I have an opportunity to correct
25 that. Hold on.

1 MS. BERLINGER: For the record, can you
2 explain what you're doing?

3 THE WITNESS: I am taking a picture of it
4 with my cell phone which will allow me to use
5 my fingers to make it bigger.

6 A. It doesn't help.

7 Q. It appears to say VS-4 revision 11/09.

8 MS. BERLINGER: Objection, foundation.

9 A. Yes.

10 MR. FETZER: So we're talking about death
11 certificates, Marisa.

12 Q. This is one of a friend of mine who died in
13 Connecticut. I want it as a contrast, that it's a
14 different form than those used for Noah Pozner and other
15 Sandy Hook --

16 A. Yes. This is a death certificate for use in
17 natural disease by a physician who is not associated
18 with the Office of the Chief Medical Examiner.

19 A physician who is not appointed an assistant,
20 an associate, a deputy or Chief Medical Examiner would
21 not be allowed to fill in a death certificate such as
22 filed in Noah Pozner's death.

23 The death certificate in Exhibit M is a
24 different form which is reserved for the use by
25 physicians not associated with the medical examiner's

1 office and limited to deaths due to natural disease.

2 MS. BERLINGER: And I'd just like to
3 state for the record that I haven't been
4 provided a copy of the exhibits, so it hasn't
5 been brought to my attention until you
6 mentioned that this was a completely unrelated
7 certificate of your friend.

8 So I'd just like to make a blanket
9 relevancy objection due to the narrow scope of
10 this defamation claim that plaintiff has
11 brought and under the bifurcated counterclaim
12 as Judge Remington mentioned in the hearing on
13 April 18th, 2019.

14 Q. Dr. Carver, can you explain the number, the
15 file number? I take it that 2017 is the year. The
16 other numbers?

17 A. I'm sorry. I'm not quite sure what you're --

18 Q. The file number, the file number,
19 201707027410, I just wondered the meaning of those.
20 There's a similarity with Noah Pozner.

21 A. That is a creation of -- to the best of my
22 knowledge, that is a creation of the State Registrar of
23 Vital Statistics, who at the time was Elizabeth Frugale.
24 And you're going to have to ask her how the system is
25 set up. That's her number.

1 Q. Well, there are similarities.

2 A. I assume -- that's her number. Okay? And the
3 year and some serial number -- some unique identifier
4 after that is a common method of assigning
5 identification numbers in government.

6 Q. Let's turn to Exhibit N.

7 (Copy of photograph was previously marked
8 Defendants' Exhibit N for identification.)

9 A. Okay. I have Exhibit N in my hand.

10 Q. Go ahead.

11 A. I have Exhibit N --

12 Q. Are you in this photograph?

13 A. I have no idea.

14 Q. Well, we can move in closer if you like in
15 Exhibit O and Exhibit P.

16 (Copy of photograph was previously marked
17 Defendants' Exhibit O for identification.)

18 (Copy of photograph was previously marked
19 Defendants' Exhibit P for identification.)

20 Q. Would that be you, Dr. Carver?

21 A. It's a tall guy with a bald head and a lanyard
22 around his neck. Other than that, I can't tell you.

23 Q. You don't recognize that to be yourself?

24 A. The quality of these exhibits does not allow
25 me to say definitively.

1 Q. Do you recognize -- go back to Exhibit N. Do
2 you recognize the large vehicle in the middle of the
3 photograph?

4 A. Only that it's labeled.

5 Q. I'm sorry.

6 A. Only in that it's labeled. The times that I
7 dealt with that vehicle, what I presume that vehicle is,
8 I was always on the other side.

9 Q. If I gave you two different identifications,
10 one of them is a SWAT vehicle, the other one is a crime
11 scene investigation vehicle.

12 A. No. If that's my choice, it's the crime scene
13 vehicle.

14 Q. It's the crime scene vehicle?

15 A. Yes. SWAT teams don't have awnings.

16 Q. This was not you waiting for the arrival of a
17 portable mortuary tent?

18 MS. BERLINGER: Objection. Foundation
19 and form.

20 A. Heavens, no. If you look at the shadows, this
21 is in the morning. The tent didn't arrive until after
22 dark. Your picture of the tent is the next day.

23 Q. This is very interesting. Did you notice the
24 series of four windows in the classroom right above the
25 roof of the vehicle. Do you see those -- I'm sorry.

1 I'm not present, but there's a string of four windows.
2 You see them in Exhibit -- the next exhibit, which is Q,
3 Exhibit Q.

4 (Copy of photograph was previously marked
5 Defendants' Exhibit Q for identification.)

6 A. Well, I see a series of windows. The quality
7 of --

8 Q. I'm sorry. Go ahead.

9 A. The quality of Exhibit -- depending on the
10 question you ask me, the quality of Exhibit Q is
11 abysmal. And I don't know if I'll be able to --

12 Q. The quality of Exhibit Q?

13 A. Yes.

14 Q. Well, go back to Exhibit N. Do you know this
15 crime scene tape is up there?

16 A. Yes.

17 Q. If you look at Q, compare Q with Exhibit R.
18 Take a look at Q and R, if you would compare them.

19 (Copy of photograph was previously marked
20 Defendants' Exhibit R for identification.)

21 A. Okay.

22 Q. Okay. Looking at that string of windows above
23 the vehicle, does it look to you more like Exhibit Q or
24 more like Exhibit R?

25 A. The quality of these pictures are poor. And

1 my area of expertise does not extend to examining
2 buildings. I'm not going to answer that question.

3 Q. Okay. Take a look at Exhibit S. This is a
4 higher quality, and you may find it easier to identify
5 the party.

6 (Copy of Infowars screenshot was
7 previously marked Defendants' Exhibit S for
8 identification.)

9 Q. Does that make it easier to identify?

10 A. No. As I said, I do dead people. I don't do
11 things.

12 Q. Okay. Do you notice the image credit there --

13 A. Yes.

14 Q. -- to Connecticut State Police?

15 A. Yes.

16 Q. Did you have any contact with the Connecticut
17 State Police related to Sandy Hook prior to your arrival
18 on the scene on the 14th?

19 A. I assume there was some sort of telephone
20 contact. Whether it was conducted through me or through
21 people reporting to me, I do not know.

22 Q. You mean on the very same day?

23 A. Yes.

24 Q. I would have meant prior to that, to the 14th?

25 A. About Sandy Hook prior to the 14th? Wait.

1 Are you asking whether I had contact with the state
2 police concerning Sandy Hook prior to the day of the
3 shooting?

4 Q. Yes.

5 A. That's absurd. Of course not.

6 Q. Take a look at Exhibit T, Exhibit T.

7 (Copy of photograph was previously marked
8 Defendants' Exhibit T for identification.)

9 A. Yes.

10 Q. Do you notice the furniture shoved up against
11 the windows there?

12 A. Yes.

13 Q. Do you see where the second pane of those with
14 the paper candles is shot out or damaged?

15 A. No.

16 Q. Well, if you went back to Exhibit R, you'd see
17 the same thing there in Exhibit R. Maybe it's more
18 obvious. This is just a close-up from a different
19 angle?

20 A. Again, sir, in the evaluation of evidence,
21 there are those who do bodies and those who do other
22 things.

23 Q. Yes.

24 A. I may know more than most doctors about this
25 stuff, but I am thoroughly unqualified to express a

1 professional opinion.

2 Q. Okay. Please take a look at the next exhibit,
3 which is U, Exhibit U.

4 (Copy of photograph was previously marked
5 Defendants' Exhibit U for identification.)

6 A. Yes. I have it in my hand.

7 Q. Did you at any time notice the sign "Everyone
8 must check in"?

9 A. No. This is the first time I've seen this
10 picture.

11 Q. Please look at Exhibit V, Exhibit V.

12 (Copy of photograph was previously marked
13 Defendants' Exhibit V for identification.)

14 A. Okay.

15 Q. Did you notice Porta-Potties in the vicinity
16 on the day you were there?

17 A. No. And just as an aside, there is a press --
18 well, there is a vehicle which sports what appears to be
19 a satellite communication device, meaning belonging to
20 the press. So it would have been nowhere near the part
21 of the school I was near.

22 Q. Thank you. Exhibit W.

23 (Copy of photograph was previously marked
24 Defendants' Exhibit W for identification.)

25 A. Yes.

1 Q. Were you aware that pizza and bottled water
2 was available at the firehouse?

3 A. No.

4 Q. Exhibit X.

5 (Copy of photograph was previously marked
6 Defendants' Exhibit X for identification.)

7 A. Yes.

8 Q. Did you notice there were parties there with
9 name tags on lanyards?

10 A. Well, including me. But no, I did not
11 specifically -- I have no specific recollection of
12 anybody other than me wearing a name tag on a lanyard.

13 And the only reason I have a specific
14 recollection of my having it on is that during my time
15 of employment I wore it constantly, and have holes in
16 many of my shirts to prove it.

17 Q. There were quite a few, if you look at
18 Exhibit Y.

19 (Copy of photograph was previously marked
20 Defendants' Exhibit Y for identification.)

21 A. Yes.

22 Q. Another party with a name tag on a lanyard
23 that you did not observe?

24 A. No, I did not.

25 Q. Exhibit Z.

1 (Copy of photograph was previously marked
2 Defendants' Exhibit Z for identification.)

3 A. Yes.

4 Q. What do you see?

5 A. Well, there is a yellow box highlighting an
6 individual who is sporting both some tag on a lanyard
7 and a pair of sunglasses on his shirt.

8 Q. And also parents with a child?

9 A. Well, no. There's a man and a woman and a
10 child on the man's shoulders.

11 Q. Yes.

12 A. Their relationship is not -- other than --
13 there is no obvious explanation of their relationship.

14 Q. Okay. But would you think any parent would
15 bring a child to the scene of a child's shooting
16 massacre?

17 MS. BERLINGER: Objection, foundation.

18 A. I would have no ability to answer that other
19 than the time my father took me to the burning of
20 Allgauer's Fireside in Skokie, Illinois.

21 Q. I didn't hear that last part, Doctor.

22 A. Other than the fact that my father took me to
23 the arson fire of Allgauer's Fireside Restaurant in
24 Skokie, Illinois when I was four years old, I have no
25 personal experience in this kind of thing.

1 Q. Exhibit AA, please.

2 (Excerpt from FEMA manual was previously
3 marked Defendants' Exhibit AA for
4 identification.)

5 A. Okay. I have Exhibit AA in my hand.

6 Q. Are you aware that included in Appendix A in
7 the book Nobody Died at Sandy Hook, we have a FEMA
8 manual for mass casualty exercise involving children to
9 begin at 8 a.m. on the 13th and end at 11:59 on the
10 13th, and be evaluated as a real event on the 14th?

11 A. I am totally unaware of that.

12 Q. Exhibit BB.

13 (Report cover was previously marked
14 Defendants' Exhibit BB for identification.)

15 A. Yes.

16 Q. This is a cover from the report from State's
17 Attorney Stephen Sedensky about Sandy Hook, which I
18 believe you've already testified you have not read.

19 A. That's correct.

20 Q. Exhibit CC?

21 (Document was previously marked
22 Defendants' Exhibit CC for identification.)

23 A. Okay.

24 Q. Would it surprise you to learn that the
25 official report fails to establish a causal nexus

1 between the shooter, his victims, and the weapons he is
2 alleged to have used? In particular, there were no
3 fingerprints of Adam Lanza on the rifle he is alleged to
4 have used to shoot his mother, and that none of the over
5 150 slugs found in the classroom could be matched to the
6 weapon he is alleged to have used?

7 THE REPORTER: I didn't hear the
8 beginning of that question. I need you to
9 repeat it, please.

10 MR. FETZER: Do you want me to restate
11 the question?

12 THE REPORTER: Yes, I do. Thank you.

13 Q. Are you aware that the official report by
14 Stephen Sedensky on the Sandy Hook shooting does not
15 establish a causal nexus between the shooter, his
16 victims, and the weapons he is alleged to have used?

17 A. As I stated previously, I have not read the
18 report. A subsection of that is of course I am not
19 aware of that.

20 Q. So would you find that surprising to be the
21 case were you to read it?

22 A. Mr. Fetzer, after almost a half century of
23 dealing with bad people doing bad things, nothing
24 surprises me ever.

25 Q. Thank you, Dr. Carver. Exhibit DD -- and

1 we're very near to the end.

2 (Copy of crime report table was
3 previously marked Defendants' Exhibit DD for
4 identification.)

5 A. Yes.

6 Q. Are you aware that in the FBI's consolidated
7 crime report for 2012 for Connecticut, when you
8 intersect Newtown with the third column for murder and
9 non-negligent manslaughter, the number recorded is zero?

10 A. Well, that's what I see in Exhibit DD.

11 Q. Yes. Does that surprise you?

12 A. With the FBI? Of course not. And if we can
13 get the ladies out of the room, I'll give you an opinion
14 on the FBI.

15 You know what, without being -- if I may back
16 up and stop being facetious, it does not surprise me,
17 because I don't know when this was published. And I
18 don't know who approved the data.

19 I do know that the Office of the Chief Medical
20 Examiner at the time and actually through my entire
21 tenure had no ongoing relationship for providing data to
22 the FBI, with the possible exception of individual
23 requests on cases they were investigating. But we did
24 not report routine data dumps to the feds.

25 Q. Exhibit EE, this is the final exhibit, and

1 then I have just a few more questions to follow.

2 (Copy of crime report table was
3 previously marked Defendants' Exhibit EE for
4 identification.)

5 A. Yes.

6 Q. If you look at the intersection -- this is for
7 crime in Connecticut in 2012 in the FBI report. If you
8 look at Murder, the first column, and under 10 years
9 old, there is the numeral zero.

10 A. Ah. But this document, unlike the others,
11 provides a qualifier.

12 Q. I missed the word, Dr. Carver.

13 A. Provides a qualifier that this data represents
14 arrest statistics for the year 2012.

15 Q. Ah. Very good. Very good, Dr. Carver. Thank
16 you for that.

17 A. And when I was -- when I met Adam Lanza, he
18 was in no condition to be arrested.

19 Q. Very good. Very good. Actually, my questions
20 are not unrelated to Adam Lanza. These are the last
21 few.

22 Did a woman named Jean Henry work for your
23 office at the time of the Sandy Hook event?

24 A. Is this the lady we fired for showing Adam
25 Lanza's body to her husband? Is that where you're

1 going?

2 Q. Well, I'm only learning about this,
3 Dr. Carver. I'm sure you're in a much better position.
4 But what I have been told was she was fired, and I take
5 it for sharing the contents of a bag that was supposed
6 to be Adam Lanza's body.

7 A. My recollection is we dismissed her 'cause she
8 brought him into the refrigerator to look at his body.

9 Q. So she was acting improperly in relation to
10 procedures by doing that?

11 A. Yes.

12 Q. Is there a record of this incident available?
13 Did you make a formal report about it? Was it
14 forthcoming from your office? Could I have a copy of
15 that?

16 MS. BERLINGER: Objection. Foundation
17 and form.

18 A. My understanding is --

19 Q. Could you provide me --

20 A. My understanding is that disciplinary actions
21 on personnel are not available to the public. But it's
22 not my responsibility to make those decisions anymore.
23 Had you made that request during my tenure, I would have
24 referred it to the attorney general's office, who are --

25 Q. Dr. Carver, thanks very much.

1 A. I was going to say the reason the attorney
2 general's office is, among other things, they function
3 as my lawyer when I'm functioning as the Chief Medical
4 Examiner.

5 Q. Dr. Carver, thank you very much. You've been
6 very cooperative and I appreciate that. Thank you.

7 MR. FETZER: Marisa?

8 MS. BERLINGER: I might just have a
9 couple of follow-up questions, but I think
10 it's a good time for a break if that's okay.

11 MR. FETZER: Yes.

12 THE VIDEOGRAPHER: Off the record at
13 2:28 p.m.

14 (Recess taken.)

15 THE VIDEOGRAPHER: On the record at
16 2:37 p.m.

17 MS. BERLINGER: Dr. Carver, I actually
18 don't have any more questions for you. I
19 really appreciate you taking the time to
20 testify today.

21 But I wanted to say that this deposition
22 is being marked confidential until the parties
23 have had a chance to designate specific
24 portions of the testimony as confidential
25 under the protective order.

1 And in light of that, Mr. Fetzer, are you
2 aware of anyone that's been listening in to
3 the conference call line at all?

4 MR. FETZER: No. That call -- I'm
5 sorry -- I hadn't put it on do not disturb.
6 So no. The answer is no.

7 MS. BERLINGER: Okay. Great.

8 Well, thank you.

9 THE VIDEOGRAPHER: Off the record at
10 2:38 p.m.

11 (Time noted: 2:38 p.m.)

12 (Jurat follows on page 99, no omission.)

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STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

- - - - - x
 :
 LEONARD POZNER, :
 :
 Plaintiff, : Case No. 18CV3122
 :
 vs. :
 :
 JAMES FETZER; MIKE PALECEK; :
 WRONGS WITHOUT WREMEDIES, LLC;, :
 :
 Defendants. :

- - - - - x

With the addition of the changes, if any, indicated on the attached errata sheet, the foregoing is a true and accurate transcript of my testimony given in the above-entitled action on May 21, 2019.

H. WAYNE CARVER, II, M.D.

Subscribed and sworn to before me, the undersigned authority, on this the _____ day of _____, 2019.

Notary Public

My commission expires:

1

2

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22 (Exhibits retained by the Reporter, to be
23 attached to the Original transcript.)

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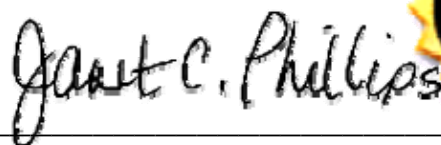
C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn, and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to typewriting under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor attorney to either of the parties to said suit, nor am I an employee of either party to said suit, nor of either counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public
this 28th day of May 2019.





Janet C. Phillips

Notary Public
CSR No. 124

My Commission expires:
October 31, 2021