

Resp. App. 1

EXHIBIT E

There is hereby created a Police Department for the City, which shall consist of one (1) Chief of Police and as many police officers as may from time to time be deemed necessary for the safety and good order of the City.

(Ord. 32 §1, 2011)

Sec. 2-5-40. - Duties of police officers.

All members of the Police Department shall have power an duties as follows:

- (1) They shall perform all duties required by the Chief of Police.
- (2) They shall be the enforcement officers of the City and shall see that the provisions of the ordinances of the City and the laws of the State are complied with.
- (3) They shall execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a City ordinance, and they may serve the same in any part of the County.

(Ord. 32 §1, 2011)

Resp. App. 2

EXHIBIT G

**GREENWOOD VILLAGE
POLICE DEPARTMENT**



Operations Manual

Effective: April 4, 2005	Revised & Effective: April 22, 2014
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[LOGO]

**GREENWOOD VILLAGE DEPARTMENT
EMERGENCY RESPONSE & CRISIS
NEGOTIATIONS TEAMS MANUAL**

GUIDING PRINCIPLE:

It is the mission of the Greenwood Village Police Department Emergency Response and Crisis Negotiations Teams to provide support on incidents that require a higher level of advanced training and skill and to provide citizens with a safe environment.

COURSE OF ACTION:

It is the policy of the Department to attempt to peacefully resolve critical incidents, to prevent serious injury or death to any involved parties, and to recognize the need for the expertise of a tactical team and special weapons, as well as, trained negotiators during critical incidents and situations in a manner that maximizes the safety of all involved. The Emergency Response and Crisis Negotiations Teams support the Greenwood Village Police Department and any other requesting law enforcement agency during critical incidents that include but are not limited to:

- **Barricade Situations:** The standoff created by an armed or potentially armed suspect in any location; whether fortified or not, who is refusing to comply with police demands for surrender.

Resp. App. 4

- **High Risk Situations:** The arrest or apprehension of an armed or potentially armed subject where the likelihood of armed resistance is high.
 - **High Risk Warrant:** The service of a search or arrest warrant where physical or armed resistance is expected or anticipated.
 - **Hostage Situations:** The holding of any person(s) against their will by an armed or potentially armed suspect, or if the persons safety has been threatened.
 - **Personal Protection:** The security of a person; such as dignitaries, witnesses, or suspects, based on threats or potential threats to the well-being of those persons.
 - **Sniper Situations:** The firing upon of citizens and/or police officers by an armed subject, either stationary or mobile.
 - **Warrant Service:** The service of search or arrest warrants where there is the likelihood of an armed or potentially armed suspect(s) and there is the potential of armed resistance.
 - **Special Assignments:** Any assignment, approved by the Chief of Police, based upon the level of threat or the need for special expertise.
- * * *
- Must not have any sustained complaints of excessive force;

Resp. App. 5

- Must have the recommendation of their current supervisor;
- Must not have excessive attendance issues;
- Participate and be selected from a formalized process including but not limited to a formal interview and handling a negotiation scenario.

TRAINING STANDARDS:

All newly selected ERT Operators must complete, at a minimum, a 40-hour basic SWAT School before becoming fully operational. At completion of training, fully operational status will be granted with the approval of the ERT Squad Sergeants and the Commander.

All Crisis Negotiators will receive formalized training in basic and advanced negotiation skills, techniques, and tactics from a recognized training institution.

The ERT and CNT Sergeants will ensure that there are appropriate training standards for all assignments and positions, which will consist of individual and team level skills. The ERT and CNT will conduct training a minimum of ten hours per month. Due to vacations, court appearances, and sickness, there may be training days that ERT and/or CNT members cannot attend. Any ERT/CNT member not able to attend training must notify their ERT or CNT Sergeant(s) prior to the training day.

Resp. App. 6

- The team will recertify once per year on all individual and team level skills. Failure to recertify, at either level, will result in an immediate focus on remedial training of basic skills. The member will be placed on inactive status until they are able to pass the skill in question.
- All training will be performance based and task specific. Team members will train annually with firearms, less-lethal, and Taser. Training will include elements of physical fitness, shooting, use of judgment and decision making as well as regular up-dates on legal issues facing ERT and CNT operations. ERT and CNT will train monthly on the operation of the SMART truck and the utilization/deployment of all tactical equipment contained therein. ERT Operators are required to check off biannually on the efficient operation of the SMART Truck and all tactical equipment utilized for deployment.
- CNT members will participate in training which includes negotiations and/or tactical training with the Emergency Response Team.
- All training will be documented and the records maintained in the control of the Training Coordinator. The training records will be kept on file per departmental retention guidelines.

RADIO PROCEDURES:

All ERT Operators will be equipped with one communications radio, a desk charger, spare battery.

Resp. App. 7

ERT Operators will be required to take their assigned radio home after each shift.

ACTIVATION PROCESS:

ERT and CNT activation takes precedence over all other assignments. When possible, ERT and CNT members will be relieved of any on-duty calls and will respond to the activation request.

Discovery Response

* * *

2. Please describe the actions you personally took in response to, during, and after the Incident concerning the Incident, including any actions taken at any time when you were at or near the Property.

RESPONSE: This Interrogatory is objected to on several grounds. First, it is overly broad and unduly burdensome as it seeks information spanning several days. Second, it contains multiple subparts. Third, it is vague and ambiguous as it does not define or specify “actions” or what information is specifically sought with respect to the actions taken. Without waiving these objections, Commander Varney responds as follows:

In response to this Incident, Commander Varney took command and control of the scene and situation. During the Incident, Commander Varney developed, planned and organized resources and approved tactical methods to resolve the Incident according to policy and procedure and to attempt to ensure the safety of all citizens, officers and the individuals involved. After the suspect was taken into custody, Commander Varney ordered that the scene be secured and turned over and released to the appropriate Greenwood Village Police Department personnel in Investigations for processing. Commander Varney also directed and assisted in collecting equipment and cleaning up the scene.

Resp. App. 9

The specific actions Commander Varney took with respect to the Incident were detailed in his Reports following the Incident, which have been disclosed and subsequently produced under protective order at GV DEFENDANTS 003515-3517, 3540 and 3559.

3. Please set forth all training you received concerning barricade situations and/or high risk situations, including a description of the written materials provided in connection thereto, including but not limited to: police manuals, procedure manuals, use of force guidelines, and tactical guidelines.

RESPONSE: This Interrogatory is objected to on several grounds. First, it is overly broad and unduly burdensome as it does not provide a timeframe for the information sought, and seeks a description of documents that are lengthy and detailed. Second, it contains multiple subparts. Without waiving these objections, Commander Varney responds as follows:

Commander Varney's training records were previously disclosed and produced at GV DEFENDANTS 000506-000527, and supplementary records are being produced herewith. Specifically, however, Commander Varney has received numerous trainings in such things as risk management, hostage negotiations, command and control training in SWAT and emergency responses, incident command, EOD, active shooter and barricade/hostage situations.

Moreover, at the time of the Incident, Commander Varney was the ERT Commander and facilitated and approved monthly training for ERT personnel in order

to maintain the proficiency in the ERT's negotiation and tactical knowledge and skills. For instance, trainings would include such things as negotiation scenarios with sole barricaded suspects, hostage takers and vehicle assaults, EOD and tactics with dynamic entries, breach and hold techniques, use of communication devices, flashbang training use of munitions and firearms etc. Further, the ERT would train with other agencies in responding to barricaded suspects or hostage rescues. Commander Varney was also responsible for developing and negotiating the Intergovernmental Agreement between the Greenwood Village Police Department and the Englewood Police Department on the use of negotiations and cross training, and developing the standard response protocols on active threat responses for the Cherry Creek School District.

Currently, Commander Varney oversees the active threat training for the GVPD and is an active shooter instructor.

4. Please set forth the names, position, and department of all law enforcement personnel under your command during the Incident.

RESPONSE: This Interrogatory is objected to as overly broad and unduly burdensome as it seeks information related to a number of individuals, some of whom were not employed with the City of Greenwood Village Police Department at the time of the Incident. Without waiving these objections, Commander Varney responds as follows:

Resp. App. 11

As Commander Varney was in command of the scene and situation at the time of the Incident, all law enforcement personnel were under his command. Pertinent information related to the law enforcement personnel that took any actions with respect to the Incident are memorialized in the Incident Report related to Case No: 15001198, which was disclosed and produced at GV DEFENDANTS 000590-000634.¹

5. Please describe all plans you made and implemented during the Incident in furtherance of apprehending suspect Robert Jonathan Seacat, including, but not limited to, plans for: negotiating with Robert Jonathan Seacat; the use of a throw phone; cutting service to Robert Jonathan Seacat's phone; the use of Devices, including when, where, and what type of Devices were to be used; and law enforcement entry into the Property.

RESPONSE: This Interrogatory is objected to on several grounds. First, it is overly broad and unduly burdensome. Second, it contains multiple subparts. Third, it seeks excessive evidentiary detail that can be found in documents disclosed and produced by Defendants. Without waiving these objections, Commander Varney responds as follows:

¹ To the best of Commander Varney's knowledge, the Incident Report contains the relevant information related to the pertinent law enforcement officers on scene. However, given the number of agencies involved, it is possible that some individuals may have not been included in the report.

Deposition of: Wesley Piwarczyk – April 17, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[64] A. No.

Q. Okay. The old house, it was a tri-level?

A. Yes.

Q. Built on a slab?

A. Yes.

Q. Didn't have a basement, correct?

A. Tri-level, you know, is tri-level. It is not a basement, but, you know, it's little bit in the ground.

Q. No, I – I know what a tri-level is.

A. Yes.

Q. But some tri-levels have yet a fourth level which is a basement where you can store stuff and that sort of thing.

A. This one was on slab, so it couldn't have.

Q. Right. Okay.

When you inspected the house, to the extent you did, did you determine what it would cost to repair the house?

A. At that time there was no reason to consider any options because we didn't know what the options would be.

Q. Did you ever consider options of repair?

A. No, because we were waiting for the – for the response from engineering and from insurance [65] company to determine if house is – can be repaired.

Q. Okay. So you did not make that determination?

A. No.

Q. You were just told to demolish it?

A. Yes.

Q. And having been to the house, you were aware that Greenwood Village did not condemn the house; is that correct?

A. I was not aware that they condemned the house in any way because they let us in without any protection from asbestos debris. At that time they didn't condemn it.

Q. Well, it's a true statement that houses that were built over 30 years ago may have asbestos in them, correct?

A. That's why, even when we do small repairs, we – when we are pulling permit, we are not allowed to touch anything unless we bring the asbestos – asbestos inspector who takes samples of asbestos and sends it to state agency where they determine if it has asbestos in it.

Q. Okay. So you said there was asbestos in the Alton Street house?

A. According to the asbestos inspector who

* * *

[67] you really have to have an asbestos inspector?

A. An asbestos certified – state-certified company to do the repairs or removal.

Q. Did anyone at the city indicate that you had to demolish the house?

A. I never participated in those discussions.

Q. When you observed the house, did you check to see if there was any damage to structural support beams?

A. We observed damages in the structural walls there were holes, but we did not disturb the walls. So you couldn't determine that – you couldn't determine from just basic observation, you would have to do a little bit – you would have to bring someone who understand – understands the issue.

Q You mean like an engineer?

A. Or insurance representative who is trained in that.

Q. Were you able to salvage anything from the demolition?

A. Personal items or the house demolition?

Q. I'll get to personal items in a little bit. I want to know about the house itself.

Resp. App. 15

A. The house – I was not instructed to salvage anything. And after we learned that house was

* * *

Greenwood Village Incident Review

Foreword

Greenwood Village Colorado is a peaceful, affluent community featuring a vibrant mix of modern business and upscale residential properties. On the afternoon of June 3, 2015, that peace was shattered for many residents when an armed criminal attempting to evade police officers from the nearby city of Aurora, ran into the city limits of Greenwood Village and barricaded himself in the residence of an uninvolved third party, where he then fired on responding officers.

The resulting barricaded suspect operation lasted approximately nineteen hours. When it concluded, the suspect had been taken into custody, alive and with very minimal injury sustained from police use of force. Neither were there any injuries sustained by law enforcement personnel or members of the public. Unfortunately, the residence in which the suspect took shelter sustained major damage as a result of the methods utilized by police in attempts to induce the suspect's surrender and ultimately achieve his arrest.

In the aftermath of the incident, the victim/owner of the home was understandably dismayed by the extensive damage to his residence. He met with members of the media, referring to the police tactical response as an "abomination and an atrocity." Command representatives of the Greenwood Village Police Department subsequently held their own press conference, stating that they had followed "textbook" procedures

resulting in a resolution of the incident in which no one was killed or seriously injured.

This is an unusual incident for the Greenwood Village area, although it is certainly not unprecedented on a national level. It comes during a period of time in which American law enforcement is under great scrutiny, particularly with respect to issues relating to use of force, and the “militarization” of police tactics. Citizens and representatives of the media in the Greenwood Village area are seeking answers to the questions posed by this event. Were the actions of the police an abomination or were they textbook? Accordingly, Greenwood Village Chief of Police John A. Jackson commissioned this independent review of the incident through the National Tactical Officer’s Association (NTOA).

The NTOA is the premier law enforcement professional organization with a specific focus on tactics and police response to critical incidents. The Association’s primary goal is the enhancement of public safety through the elevation of professional standards within law enforcement. The NTOA has earned a longstanding reputation for critical, objective review and analysis of law enforcement special operations teams and their response to critical incidents.

While many aspects of the Greenwood Village Police Department’s capability and response during this incident were reviewed, this document is not intended to serve as a comprehensive team review. Rather, the primary emphasis of this report will be on the police

decisions and actions, which led to the arrest of the suspect as well as the extensive damage to the home.

* * *

Conclusion

No tactical operation comes off without a hitch. Based upon our collective experience, we have endeavored to identify several aspects of the response to this incident that could be improved upon. Fortunately, most of these concerns are minor in nature.

Apart from the few issues referenced in this report, we believe that the personnel engaged in this operation acted in a highly commendable manner, and that the overall result of their performance was a resounding success. This remains true, notwithstanding the regrettable damage and loss of property that was incurred by the homeowner. While this blameless homeowner has our sincere sympathy for his loss and inconvenience, he can at least be compensated for and recover from his loss. In contrast, no amount of money can compensate family members and friends for the loss of a loved one.

A committed, armed and barricaded opponent is a serious force to be reckoned with. Jonathan Seacat was a heavily armed and assaultive adversary who chose to use an innocent homeowner's residence as a position of advantage to use against pursuing officers.

During the course of this event, the combined law enforcement personnel under the command of GVPD

acted in a professional manner, and in substantial accordance with best practice and standards. The performance of GVPD personnel was particularly impressive, given the minimal frequency of their actual SWAT activations. They patiently employed a measured escalation of tactical alternatives over the course of many hours, while continually attempting to re-establish contact with the suspect in hopes of resuming negotiations. In the final analysis, the law enforcement personnel engaged in this operation accomplished their mission safely, while demonstrating considerable restraint and a commendable reverence for human life.

LEO LECH vs CHIEF JOHN A. JACKSON
HANSEN, COMMANDER on 05/22/2017

[2] THE DEPOSITION OF COMMANDER PHIL-
LIP HANSEN WAS TAKEN AT MCDANIEL RE-
PORTING, 801 SOUTH MILLER STREET, SUITE
110, SANTA MARIA, CALIFORNIA, BEFORE
MELISSA PLOOY, A CERTIFIED SHORTHAND RE-
PORTER IN AND FOR THE STATE OF CALIFOR-
NIA, ON MONDAY, MAY 22, 2017, COMMENCING
AT THE HOUR OF 8:23 A.M.

APPEARANCES OF COUNSEL

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[3] INDEX

WITNESS	EXAMINATION	PAGE
COMMANDER PHIL HANSEN	MS. MAXAM	4

INDEX TO EXHIBITS

PLAINTIFFS'	DESCRIPTION	PAGE
EXHIBIT VV	DEFENDANTS' EXPERT DISCLOSURES	29

[4] COMMANDER PHIL HANSEN,
having been first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MS. MAXAM:

Q. Mr. Hansen, would you please state your name and business address for the record, please.

A. Certainly. My name is Phil, or the proper name is Phillip, P-H-I-L-L-I-P, Hansen, H-A-N-S-E-N, and my business address is 1111 West Betteravia Road, that's B as in boy, E-T-T-E-R-A-V-I-A, and that is in the City of Santa Maria, California, 93455.

Q. And what business is that address?

A. That is the Santa Maria Police Department.

Q. Okay. Have you ever been deposed before?

A. Yes, I have.

Q. How many times?

A. I would estimate a dozen to 15 times. I'm not really sure.

Q. I'm sure, at some point, attorneys have gone over with you, kind of, the rules for depositions about how to keep the record clear, but I'll go over some with you just in case and to refresh your memory.

So we need to keep the record clear for the [5] court reporter is taking down everything we say over there. So you need to try to say yes-no responses, not uh-huh or nodding because the court reporter can't take that kind of stuff down. I know we'll talk over each other at some point, particularly since we're over video and it's harder to communicate like this, but let's try to do our best, at least, to not talk over each other.

If you don't understand something or you can't hear me on the speakerphone, please say so and I'll ask the question again or I'll rephrase it. If you don't tell me that you don't understand a question, then I'll assume that you understand it. Is that fair?

A. That's fair.

Q. Okay. Of course, if you need a break, just let me know. Counsel over here, Andrew Nathan, may object to a question, but you can answer unless instructed otherwise.

Are you taking any medications today or have anything going on in your life that would affect your ability to testify truthfully and accurately?

A. No.

Q. What did you do to prepare for today?

A. I read my report that I wrote for the NTOA, that would be the review of the Greenwood Village incident that was submitted by the National Tactical [6] Officers Association, I read the statement for – the statement for this case that was given on my behalf, that Mr. Nathan submitted on my behalf, I read Mr. Corsentino's review of the incident and the rebuttals to those.

Q. Okay.

A. Rachael, may I ask you a question, please?

Q. Uh-huh.

A. Would it be too much to ask to maybe put the blinds down behind you a little bit or something? I can't see your face because of all the light in the background. That's great. I'm talking to a silhouette. That's better. I can see you now.

Q. Do you want me to close the other one?

A. I can at least see you now a little bit. Thank you. I was talking to a silhouette.

Q. Yeah.

A. That's much better. Thank you.

Q. Okay. So you said you reviewed the NTOA report and I know you reviewed a lot of documents for that report and we'll get into that later.

Have you reviewed any documents from law enforcement, like police reports, after you read that NTOA report?

A. No. The only time I went through actual [7] documents from the police department was in preparation for the report that I authored.

Q. And I assume Mr. Nathan has provided you with the expert – or his firm provided you with the expert disclosures in this case in the reports that you reviewed from Mr. Corsentino?

A. Yes.

Q. Did he provide you with any other documents?

A. No.

Q. What kind of communications have you had with Mr. Nathan or his firm about this case?

A. Really, very little. I want to say perhaps three or four phone calls, short phone calls, and about a dozen, perhaps, emails, short emails, just primarily sending these documents back and forth and whatnot.

Q. Did you have communications about what was going to go into the expert disclosures?

A. Uh, yes, because, basically, the most substantive phone call with Mr. Nathan was talking about – a little bit about my report and he was confirming my opinions that I had based in that report, or stated in that report, and then he prepared a summary of those

opinions and sent that to me for my review and I made some minor alterations and sent it back to him, and that was submitted as my statement in this case.

[8] Q. So when you wrote the NTOA report, Chief Jackson contacted you, correct?

A. I'm sorry. Would you repeat that, please? I couldn't hear it.

Q. I'm sorry. When you wrote the NTOA report, Chief Jackson contacted you, correct?

A. He did not contact me directly. He contacted the NTOA and the NTOA – the training director for the NTOA, Mr. Don Kester, I believe, spoke with Chief Jackson. They had communications among themselves, agreed on a proposal for NTOA to do this review and, actually, it was initially assigned for somebody else to do. I can't even remember who it was, but somebody had a personal emergency of some sort and I was asked kind of at the last minute if I would be willing to step in and do the review.

So I really had no contact with Chief Jackson at all until I actually flew out to the Denver area to conduct the review.

Q. And when did you first have contact with Mr. Nathan's firm regarding your report and the events that occurred?

A. I can – I brought some copies of emails. I can look that up, but I would say just in the last – certainly, in the last two months or so is all.

[9] Q. Okay. And Mr. Nathan and I have an understanding, because of the time crunch both of our experts are on with getting depositions done, that you don't necessarily have all the documents with you today, but you'll be providing them to me later. Is that your understanding, as well?

A. I don't know which documents you're referring – I made copies of everything – I got a list of documents that, apparently, you've requested and I made hard copies of all those documents and I have them here with me. So we can turn those over and have the court reporter send them to you or any way you want to handle it.

Q. That would be great if the court reporter could get started on sending those over to me.

The proposal you mentioned that NTOA developed when Chief Jackson first contacted NTOA, is that among these documents?

A. No, it is not.

Q. Okay. What is the propose – what is the subject matter of that proposal?

A. Well, it was just, basically, the terms of – the terms of the agreement. The City of Greenwood Village paid the NTOA a fee to have the NTOA conduct an independent review of the incident and so it just

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Deposition of: Leo Lech – February 10, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[128] A. I am not a chemical engineer. I honestly – I don't know.

Q. You never took a course in chemical engineering to graduate from your –

A. No, sir. No. I took just a chemistry 101, essentially, and then you work into electrical specialties, things like that.

Q. Were you ever in the military?

A. No.

Q. So did you receive insurance money to reimburse you for losses that you sustained in this?

A. I did.

Q. Okay. And is that the policy of insurance that you had through Safeco?

A. Yes, it is.

Q. You noted in the media that there was a question of whether or not you would be awarded or afforded coverage, correct?

A. Yes.

Q. But you were afforded coverage?

A. I was.

Q. How much coverage were you afforded?

A. The value of the policy, which was around \$345,000. I have not received all of that yet. They still owe me about \$10,000 or so. But – this needs to [129] go on record, by the way – the way this process works is that the first check that they issue is to pay off the mortgage. Okay. So they issued that check to the bank. And that was to the order of \$220,000. Okay. And then they give you what's left. Okay. So essentially \$120,000 to rebuild that house.

Q. And to take out a new mortgage?

A. And to take out a new mortgage, yes.

Q. Okay. So your policy afforded coverage for the dwelling structure at \$276,700?

A. Uh-huh. That's correct.

Q. That was a policy obtained in January of 2015, shortly before this – five months before this incident, correct?

A. Uh-huh. Yeah, that – yeah, that is correct.

Q. And you picked the figure of 276,700 as the value of the structure?

A. Yeah. That was – yeah, that was what we knew at the time, yes.

Q. Okay. And are you saying that that was too low?

A. Now, looking back at it, I would say it was. But, you know, it was a matter of what you can afford, too. So that seemed like a reasonable number

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[176] simply do the math, okay, you know, I was left with about \$120,000. That's the 345 minus the 220. Okay. So – and I have to – and then I have to build this house. And then there's – there's always – there's always unforeseen costs. There is always things, once you start building a house, well, this looks wrong and that looks wrong, and all that costs money. And there's – and it's endless. I went through that drain when I was building my house in '86.

Q. Okay. You borrowed 390,000. It's a construction loan to build your new house?

A. I did.

Q. You got 345,000 from the insurance company that was tax-free, correct?

A. Of which I had to pay 226 to the mortgage.

Q. Yeah. It's irrelevant to me because you'd have to pay that no matter what.

A. Well, eventually.

Q. Well, you could have kept that mortgage and put a second on it if you wanted to?

A. Yeah.

Q. Nonetheless, I just want to make sure. 390 for the new house, 345 for insurance proceeds, difference is \$45,000, and you're getting a house that is much bigger and much more valuable. Is that a fair [177] statement?

A. That's a fair statement.

Q. Okay. So the anguish, stress, fear, frustration and aggravation isn't because you were going to go bankrupt, was it?

A. Bankrupt, no.

Q. Okay.

A. Financially strapped, yes. I don't believe in bankruptcy.

Q. Okay. But you're not going to be financially strapped because your son is going to pay the new mortgage?

A. He is. And hopefully that – that is going to be something that – that he'll be able to afford. If not, then I guess I'll have to kick some in.

Q. Well, I know. But you kick in money all the time for your children. I do, you do, every parent does. I understand that. Forget about the fact that –

A. Every good parent does, yes, that's true.

Q. All right. We've got to stop talking over each other. Okay? I know, it's a stilted conversation, but we still have to do it.

A. Okay.

* * *

[197] MR. NATHAN: With bank records?

MS. MAXAM: Yes.

Q. (By Mr. Nathan) So you previously produced all of those records to your attorney?

A. Yes.

Q. Page 10 of your written discovery, top paragraph, last sentence. The insurance company, in effect, ordered the house to be demolished?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Do you have a document with the order to be demolished?

A. No.

Q. Okay. You're saying the insurance company declared the house a total loss?

A. Yes.

Q. And you deem that as the equivalent of an order to be demolished?

A. Yes.

Q. Okay. But you know legally they can't order you to demolish the house?

A. Well, yes. But when the guy says that it's a total loss, well, that – that's what I consider a total loss.

[198] **Q. Did you get a bid on rehabbing it?**

A. No. I don't think I – I don't think the insurance company would have paid for it.

Q. Well, if the insurance company declares it a total loss, they'll pay you all the money they owe you under the policy.

A. Yeah.

Q. Whether or not you decide to use that money –

A. Correct.

Q. – to rehab it or to build a new house is not any of their business.

So my question was did you see how much it would cost to rehab your house?

A. No. After the insurance company totaled it, we just assumed it – it was a total. It wouldn't be worth it to fix it. Same thing as if they total your car.

Q. All right. So in the new house you're building you have this construction loan, right?

A. Yes.

Q. And then you're going to convert that to a mortgage?

A. That is – that is correct.

Q. All right. And the new house, we've

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Deposition of: Ernie Ortiz – May 26, 2017
Leo Lech v. The City of Greenwood Village, et al.

[43] executed knock-and-announce warrants?

A. Yes.

Q. It's my understanding that knock-and-announce warrants are more typically used where the risk of resistance from the suspect is lower; is that correct?

A. Yes.

Q. But even with knock-and-announce warrants, you knock. If you don't hear any sort of response, then you break down the door and go take the suspect, correct?

A. Yes.

Q. And it's possible in this situation, whether based on prior information or surprise, that the suspect could be armed, correct?

A. Yes.

Q. Let's talk a little more about the facts and what happened during this incident specifically, June 3 and 4 of 2015.

What was your role during the incident?

A. I was the District 1 Commander, that the event that took place happened in my district at the

Walmart that precipitated the entire event that took place.

When I heard over the air that an officer [44] was nearly run over and that there were involvement in a foot chase, I left the meeting I was in and responded to the area to assist in locating the suspect.

Q. And when you say “an officer was nearly run over,” based on the facts that are available to you – that were available to you at the time of the incident, did you have reason to believe that Mr. Seacat was trying to run over an officer?

A. Based on the radio traffic, I believe that was my assumption, yes.

Q. And I don’t want to the put words in your mouth here, but I don’t know how else to describe it, but the call comes in from the officer at Walmart, does he say, This guy nearly ran me over? Or, This guy tried to run me down? What did he say?

A. I was in a meeting and had my radio lowered. I don’t remember the specifics, but it alerted me to the fact that it’s happening in my district. It could turn bad.

And I left that meeting and headed toward the scene. So it alerted me enough, not to be specific, that I thought, I need to get down there and find out what’s going on.

Q. So you just headed to the general area where the suspect was seen?

* * *

[47] drive up. You park in front of the Lech home driveway, correct?

A. Yes, ma'am. Well, near it.

Q. Near it. Describe what you mean by "near it."

A. It's a cul-de-sac area, if you've been to the location – I'm sure you have – the Lech home sits probably two to three houses to the outside of the circular drive.

The location of where I parked to meet and get briefed by the Aurora officers that were on scene – and more officers arriving – that they believe that Mr. Seacat was in the house.

It was a very brief conversation. And a shot rang out. We immediately withdrew even further south of the location. And begin to determine that it was Greenwood Village's jurisdiction; they took over incident command.

And we still had officers from the Aurora Police Department on the perimeter and maintaining control over the location.

Q. And when you say nearby the Lech home, were you on the street, like, immediately

in front of the Lech home, just not blocking the driveway?

A. No, it was south of that. From the [48] tactical perspective and law enforcement training, you try to limit your exposure to what we believe was an armed party, because there were reports that he was armed.

So we get there. Shots ring out. We immediately move further south. Officers take additional cover.

One of the tactical consistencies that we do, we do have a barricade to prevent movement. One of the tactical advantages we have is blocking the garage or any means of conveyance through a garage.

If there's vehicles in there, we immediately shot that option down from a tactical advantage to keep them from going mobile. And officers were in the process of doing that at the time the shot rang out.

Q. Was there other officers that had pulled into the driveway to block that –

A. Yes.

Q. – as an escape route?

A. Yes.

Q. And yourself, which – how the Lech home is positioned, if you're looking at the front of the Lech home, the furthest area south of that is the opposite side of the street?

* * *

[61] bullet-pointed opinion of that.

Q. When you say “the best SWAT practices were utilized in this incident,” how do you come to the determination that the SWAT practices that were used were “best practices”?

A. Okay. Specific to this case, we know that Mr. Seacat was armed. We knew that he had the ability to harm and shoot and kill law enforcement.

So that’s our first understanding. He used a level of violence that dictated and determined a lot of the tactics that were used.

So as it relates to best practices, my belief is that they created a perimeter; they established communication; repeated asking for Mr. Seacat to vacate the premise, all ignored.

They – Mr. Varney went as far as to call family members to try to entice Mr. Seacat from the residence.

Those were all tactical maneuvers that were consistent and appropriate. He increased the level of tactical force based on the lack of actions from Mr. Seacat. There was a lack of communication that resulted in the breakdown with the – I’m missing my terms here – the hostage negotiators.

At any point in the investigation or the [62] event, there was no communication whatsoever. Again, as far as best practices go from that tactical perspective, they increased the aggressiveness of the tactics to include

flashbangs, the introduction of gas, the breaking of windows. All of those were attempted and failed.

So, yes, I think from a scale of practices and efforts, all of the lesser means were tried and failed, resulting in the deployment of a tactical team, again met with gun fire, which failed.

And additional tactical options were decided upon and some destruction resulted in an additional team being deployed and entered into the home. And because of the destruction and the onslaught of sound gas and other distractions created an opportunity for the team to move in.

And the peeling back, or the opening of the home, was, in fact, an operational tactic that served its purpose, opening up the home in order to secrete and limit the suspect's movement, resulting in a confidence level for the second entry team to visually see inside the home, to the extent that they could, and capture movement.

So all of those things combined from the beginning to the end, the option was to peel some of [63] the home back as a tactical option, creating an advantage for entry and limiting the suspect's movement.

So given all of the circumstances of the event from start to finish, it was a tactical option that was used. And it turned to be successful. No injuries.

I believe that Mr. Seacat's life was saved as a result because post-event, we had found out that he had

ingested quantities of narcotics that could have killed him.

So life safety, as I said in the beginning, the objective of any incident when you deploy a tactical team, the objective was met and there were no human lives put in danger or killed as a result of the tactics used.

So best practices relates to this, although unconventional in the world of tactics, was successful.

Q. Why do you say they were “unconventional”?

A. I’ve never had the ability to move a portion of a house or peel back a house. Had that been an option for me, it could have been used as a tool in past barricades as a tactical advantage and tactical tool. So it worked.

* * *

Deposition of: Leo Lech – February 10, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[128] A. I am not a chemical engineer. I honestly – I don't know.

Q. You never took a course in chemical engineering to graduate from your –

A. No, sir. No. I took just a chemistry 101, essentially, and then you work into electrical specialties, things like that.

Q. Were you ever in the military?

A. No.

Q. So did you receive insurance money to reimburse you for losses that you sustained in this?

A. I did.

Q. Okay. And is that the policy of insurance that you had through Safeco?

A. Yes, it is.

Q. You noted in the media that there was a question of whether or not you would be awarded or afforded coverage, correct?

A. Yes.

Q. But you were afforded coverage?

A. I was.

Q. How much coverage were you afforded?

A. The value of the policy, which was around \$345,000. I have not received all of that yet. They still owe me about \$10,000 or so. But – this needs to [129] go on record, by the way – the way this process works is that the first check that they issue is to pay off the mortgage. Okay. So they issued that check to the bank. And that was to the order of \$220,000. Okay. And then they give you what's left. Okay. So essentially \$120,000 to rebuild that house.

Q. And to take out a new mortgage?

A. And to take out a new mortgage, yes.

Q. Okay. So your policy afforded coverage for the dwelling structure at \$276,700?

A. Uh-huh. That's correct.

Q. That was a policy obtained in January of 2015, shortly before this – five months before this incident, correct?

A. Uh-huh. Yeah, that – yeah, that is correct.

Q. And you picked the figure of 276,700 as the value of the structure?

A. Yeah. That was – yeah, that was what we knew at the time, yes.

Q. Okay. And are you saying that that was too low?

A. Now, looking back at it, I would say it was. But, you know, it was a matter of what you can afford too. So that seemed like a reasonable number

* * *

[176] simply do the math, okay, you know, I was left with about \$120,000. That's the 345 minus the 220. Okay. So – and I have to – and then I have to build this house. And then there's – there's always – there's always unforeseen costs. There is always things, once you start building a house, well, this looks wrong and that looks wrong, and all that costs money. And there's – and it's endless. I went through that drain when I was building my house in '86.

Q. Okay. You borrowed 390,000. It's a construction loan to build your new house?

A. I did.

Q. You got 345,000 from the insurance company that was tax-free, correct?

A. Of which I had to pay 226 to the mortgage

Q. Yeah. It's irrelevant to me because you'd have to pay that no matter what.

A. Well, eventually.

Q. Well, you could have kept that mortgage and put a second on it if you wanted to?

A. Yeah.

Q. Nonetheless, I just want to make sure. 390 for the new house, 345 for insurance proceeds, difference is \$45,000, and you're getting a house that is much bigger and much more valuable. Is that a fair [177] statement?

A. That's a fair statement.

Q. Okay. So the anguish, stress, fear, frustration and aggravation isn't because you were going to go bankrupt, was it?

A. Bankrupt, no.

Q. Okay.

A. Financially strapped, yes. I don't believe in bankruptcy.

Q. Okay. But you're not going to be financially strapped because your son is going to pay the new mortgage?

A. He is. And hopefully that – that is going to be something that – that he'll be able to afford. If not, then I guess I'll have to kick some in.

Q. Well, I know. But you kick in money all the time for your children. I do, you do, every parent does. I understand that. Forget about the fact that –

A. Every good parent does, yes, that's true.

Resp. App. 45

Q. All right. We've got to stop talking over each other. Okay? I know, it's a stilted conversation, but we still have to do it.

A. Okay.

* * *

Deposition of: Alfonsina Lech – January 16, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[72] MS. MAXAM: Objection.

A. I don't know.

Q. (By Ms. Schlagel) Do you know whether John told the police that those guns were in the house?

A. He probably did.

Q. If the guns weren't locked up, would they have been accessible to this individual?

A. I don't think so.

Q. And why don't you think so?

A. Probably the way he had them in, I don't know, in his closet somewhere. I don't know.

Q. But you don't know where he kept them?

A. No.

Q. So you can't say for sure?

A. Yeah.

Q. Do you have – do you and Leo keep guns?

A. Yeah, Leo has, because he hunts.

Q. What kind of guns does Leo have?

A. To be honest with you, I don't know. I don't know nothing about guns. I don't even understand where they are. Leo can tell you that.

Resp. App. 47

Q. Okay. Did it bother you at all that there were guns in the house when a child lived in the house as well?

A. No, because John is very safe about stuff

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Deposition of: John Lech – February 17, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[79] A. I received a call from an Aurora detective, I believe, and he just asked me if there were weapons in the house. And I said, Yes, there are.

Q. During the course of the standoff?

A. It was when I was still at work before I actually knew what was happening, I just received a random phone call.

Q. Okay. Did you ask what was going on or why he was asking that question?

A. Yes. And he wouldn't tell me. He just said, Please answer my question.

Q. Did he ask you what kind of weapons?

A. Yes.

Q. Did he ask you whether there was ammunition?

A. No, just what type of weapons and where they were.

Q. And what type of weapons were available?

A. I had a 20-gauge over/under shotgun and a 9 millimeter GLOCK.

Q. And where were they?

A. The over/under shotgun was in its case in a closet all the way in the back in a safe location, and my GLOCK was in its case in the master bedroom closet hidden in a safe location.

[80] Q. Okay. When you say “safe location,” what do you mean?

A. Not visible to anybody, other than me, because I knew where it was.

Q. Were you aware that David called his mother and said that Mr. Seacat appeared – while David was hiding in the house – to be searching the house?

A. Yes, I remember him saying that.

Q. Okay. And are you saying that a search of the house couldn't have disclosed these weapons?

A. No. Well, I mean, in a certain amount of time, if you're there for long enough, I'm sure if you search every nick (sic) and cranny you would be able to find it. But in a short period of time, no.

Q. Did you own a gun safe?

A. I did not own a gun safe.

Q. Did you have any safety lectures with David about the guns that were being hidden?

A. Absolutely. Yeah. I had taken him to the shooting range with us before as well, getting – wanting to

Resp. App. 50

get him his hunter safety, as I got it when I was his age. He showed interest in it, and I wanted to make sure he learned properly about gun safety.

Q. All right. So was there ammunition in the house?

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Deposition of: Chief John A. Jackson – March 20, 2017
Leo Lech, et al. v. The City of Greenwood Village, et al.

[13] situation, but certainly a critical incident by our definition as well.

Q. And that – you call it a critical incident as that’s defined in the policy manual as well?

A. If I could see the manual, I’d be able to tell you that.

Q. We’ll get to that a little later.

A. Okay.

Q. And you say it was close to a hostage situation. What do you mean by that?

A. There was a time when there was a 9-year-old that was in the home with the suspect, and I was wanting to make sure that that was out and there was nobody else in the home. So that was the first thing that crossed my mind.

Q. At the time of the incident did you have reason to believe the suspect, Robert Seacat, was going to take a hostage?

A. I didn’t know.

Q. Are there any other professional terms law enforcement would use to characterize the incident on June 3 and 4 of 2015?

A. Not to my knowledge.

Q. During the incident Commander Varney was [14] the incident commander, correct?

A. Yes.

Q. What is the incident commander?

A. The incident commander is responsible for the acute incident itself and handling the resources and managing what is happening directly from the incident.

Q. And this incident commander is assigned during a barricade or a high-risk situation?

A. Yes.

Q. How is the incident commander assigned?

A. The first thought would be to who is running the emergency response team at the time. Who is that commander? And if that person is on scene, they would more than likely take the incident command. There can be other pieces to that command, but he was the incident commander.

Q. So Commander Varney is the highest-ranking officer who initially showed up on the scene. Is it fair to say he became the incident commander because he was the highest-ranking officer present?

A. No.

Q. No? Why not?

A. Because he's in charge, in command, of the emergency response team. And there were other [15] commanders that showed up close to the same time. But the way the team is structured, it is Commander Varney who is in charge of the team.

Q. So whoever is the commander of the ERT team is the de facto incident commander?

A. That would be the first one we would look at.

Q. So I'm just trying to get a picture of how a given officer becomes the incident commander in a barricade or high-risk situation. So just give me a picture of how this goes down in a situation that someone becomes the incident commander.

A. In a critical incident like this, it's going to be quickly evolving. Commander Varney is in charge of the emergency response team. Now, he was there and he assumed the role himself because he's very good at what he does and he has respect of the team, so it was logically his to do. It isn't always going to be him because he may not be here for any or all incidents, so we have to have the ability to define an incident commander outside of just one person. So in this instance, when he showed up he appropriately took command of the incident, which takes then the responsibility for the situation and the resources that will be incoming.

[16] **Q. So during the incident he shows up and he basically just says, I'm the incident commander, do what I say?**

MR. NATHAN: Object to the form of the question. You may answer.

A. I don't recall what he said.

Q. (By Ms. Maxam) Okay. But as incident commander, when he shows up on the scene, he declares himself incident commander?

A. Yes.

Q. Did you give him any direction – when you found out what was going on at the Lech home, did you say, yes, take charge as incident commander, or something like that?

A. We had several discussions about what was rapidly evolving. He was clearly the incident commander and he was fine and I gave him no directions on what to do at that point. I gave him the latitude to set up the incident command, as he knew how to do.

Q. And the incident commander is in charge of the field command post, or CP for short?

A. Your question is a bit confusing, but there is a lot of resources coming in. He's in charge of command for the incident. I don't designate, nor does anyone else designate, who is responsible for any

* * *

[24] Q. And you would describe this incident as a barricade situation, correct?

MR. NATHAN: Objection. Asked and answered. You may answer.

A. I believe it's a lot of things. That's one of them, yes.

Q. (By Ms. Maxam) Were there any objects preventing doors or windows from being opened in the Lech home?

A. Define "objects."

Q. Any physical objects, couches, furniture.

A. Does that include locks?

Q. No.

A. Not to my knowledge.

Q. Were the doors and windows of the Lech home locked during the incident, to your knowledge?

A. I don't know.

Q. During the incident the suspect Robert Seacat had a handgun in his possession, correct?

A. More than one.

Q. Why do you say he had more than one in his possession?

A. Reports indicate that he had more than one.

Q. And how would you define a weapon being in [25] his possession?

A. Either in his hand, his waistband, or immediate access to.

Q. During the incident Robert Seacat brought a handgun with him to the Lech home; is that correct?

A. Yes.

Q. Just one handgun?

A. Yes.

Q. And that was a Glock 19, correct?

A. I don't know the numbers.

Q. So you say that Robert Seacat had other guns - access to other guns in the Lech home during the incident, correct?

A. Yes.

Q. When did you learn that there were other weapons in the Lech home other than the handgun that Seacat brought with him?

A. Soon into the situation when I first had my discussion with John Lech.

Q. And approximately what time was that?

A. Between 4 and 7.

Q. You had that conversation with John Lech about weapons in the home after he arrived on the scene?

A. Yes.

[26] Q. Did John Lech tell you where they were stored in the home?

A. No.

Q. Did you ask where they were stored in the Lech home?

A. No.

Q. And you had this conversation directly with John Lech, correct?

A. Yes.

Q. Was the information about the weapons in the Lech home during the incident conveyed to you by any other officer?

A. No.

Q. And what kind of weapons did John Lech say were stored in the Lech home during the incident?

A. He said there were a pistol and a hunting – I think he described it as a rifle.

Q. Did he volunteer information about where they were stored and whether they were loaded?

A. Not to me.

Q. And at what point during the incident did you learn that the suspect, Robert Seacat, was using drugs while he was in the Lech home?

A. Early on I knew that he had drugs in his possession.

* * *

[40] with them during the incident? Were there additional press conferences, press releases, phone, email? Tell me how you communicated with them.

A. There were no more press conferences that were formalized, but I would take calls and walk up to where it was safe and speak with individual news reporters.

Q. In person?

A. Yes.

Q. Any communications by phone or email during the incident with the press?

A. Only to where they would notify me that they were there, and then I would walk up and talk to them in person.

Q. Page 158 of your statement, the top paragraph there, you say charges were used to, quote - for the purpose of, quote, peeling with a purpose. And you - in your actual statement you put peeling with a purpose in quotes. Is there a reason for putting that phrase in quotes?

A. It was fairly new terminology that I think I said because I wanted it done with a purpose. And it wasn't done to just cause damage, it was only going to be done to allow us to see or protect movement. And that was where "peeling with a purpose" came for me.

[50] Do you know what police department policy they are referring to?

A. Use of force and our ERT/CNT manual.

Q. When you say "use of force," what are you referring to?

A. We have a use of force policy in the police department that governs all use of force by our police officers.

Q. Okay. So you're referring to the Greenwood Village Police Department policy manual?

A. Yes.

Q. Okay. On page 5, paragraph 4, on the last sentence of that paragraph Commander Varney is quoted as saying, Take as much of the building as needed without making the roof fall in.

Were you present when Commander Varney made this statement?

A. Yes.

Q. When did he make that statement?

A. It was on the command post. I don't have the exact time.

Q. And the statement that I just quoted by Commander Varney is accurate?

A. Yes.

Q. And at the time of the incident, did you [51] approve of Commander Varney's decision to issue the order to take as much of the building as needed without making the roof fall in?

A. This is the point where I asked for clarification of what that meant, and we stepped to the side and had a discussion about what the outcomes were going to be and what we wanted. And it gets back to where I talked to you about peeling with a purpose. And I asked that we do it for a purpose rather than simply taking apart the house.

Q. And as the taking apart – as Commander Varney's decision-making here to take as much of the building as needed, do you now approve of his command to take apart as much of the building as needed without making the roof fall in? Do you approve of how it was implemented?

A. Yes.

Q. Now, on page 7, paragraph 2 of the incident review, the authors note that "Attempts to be too inclusive can result in an overcrowded command post."

Are you aware of the facts underlying what the authors are referring to here?

A. Yes.

Q. What are those facts?

* * *

[62] Q. On page 8 in response to Interrogatory number 7, second paragraph about halfway down the page you state you gave authority to Commander Varney to command the scene as incident commander; is that correct?

A. Yes.

Q. And what do you mean when you said you gave authority to Commander Varney?

A. In the setting up of the incident command, he was given that position and that authority.

Q. Was this a verbal command?

A. No, I think he assumed it when he took over and got there before I did. But, again, having responsibility for everything, I am the one that looks into this and says, you know, You're the commander, go.

Q. So when you say that you gave authority to Commander Varney to command at the scene, this was a preexisting authority to do so?

A. He has command of the emergency response team, but with this incident, he took command. And the semantics are I gave him the command, yes, by putting him in that position and showing up and participating in what he was doing.

Resp. App. 62

**Q. So I'm just trying to get a – you state that
you gave him authority. How did you give him**

* * *

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Deposition of: Commander Dustin Varney –
March 15, 2017

Leo Lech, et al. v. The City of Greenwood Village, et al.

[9] Q. And you've been in law enforcement since 1992?

A. Yes, ma'am.

Q. What titles have you held in your career in law enforcement?

A. Deputy sheriff, police officer, field training officer, undercover narcotics investigator, detective, sergeant, FTO sergeant, traffic sergeant, commander, commander of special operations, commander of support services, commander of patrol.

Q. And when did you first become employed with the City of Greenwood Village?

A. 1994.

Q. So you've been with them with the titles you just described your entire career basically?

A. Yes, ma'am.

Q. And your current title is commander?

A. Yes, ma'am.

Q. How long have you held that position?

A. Going on five years.

Q. And what are your responsibilities as commander?

A. Currently, or back when the incident happened?

Q. Back when the incident happened. Let's [10] start there.

A. I was the special operations commander. So my responsibilities were to oversee the traffic unit division, school resource officer unit division, and the tactical team, which is known as the emergency response team and the crisis negotiation team.

Q. And since the incident, how have your duties changed?

A. I'm the patrol commander.

Q. Okay. And prior to the incident were your duties different?

A. I don't understand your question.

Q. So as commander prior to the incident, were your duties and responsibilities different? Did you, I guess, increase the amount of responsibility you had over the last five years?

A. I would say, yeah, to a degree, because the patrol division is the largest unit in the organization. So as far as the number of people I supervise, yes. The responsibilities, no, they're equal.

Q. I'm going to talk about barricade and high-risk situations as defined in the Greenwood Village policy manual. Are you familiar with these definitions?

* * *

[12] broad.

Q. So, for example, the policy manual has a hostage situation.

A. Uh-huh.

Q. It has, you know, different categories of situations involving suspects. Would you characterize the incident as being classified in any of these other situations?

A. I would characterize it as a high-risk situation.

Q. Okay. Are there any other professional terms that law enforcement used to characterize the incident?

A. I'm sure there are, but I go off what's in our policy.

Q. Okay. And what is an incident commander?

A. Incident commander is the person that's in charge of the scene, in charge of deploying resources, in charge of ordering resources, in charge of activating divisions within the incident command system. They're in charge of the overall incident.

Q. So they give all the orders in a given situation?

A. Every decision flows through the incident command officer or in the unified command command post.

[13] **Q. And these were your responsibilities during the incident on June 3 and 4 of 2015?**

A. Yes, ma'am.

Q. So I'm going to talk about the equipment that you use during the incident. And just for brevity, I'm going to talk - I'm going to refer to the equipment generally as "devices." You probably saw that in your discovery responses. Devices includes all tools, machinery, explosives, flashbang grenades, munitions, pepper balls, beanbags, any of the equipment that was used by law enforcement during the incident. Is it okay if I use that term?

A. Yes, ma'am.

Q. Okay. Is there some other term that would be more appropriate to describe this kind of equipment?

A. No, I think it's fair what you're saying.

Q. Okay.

MS. MAXAM: All right. I have an exhibit. (Deposition Exhibit EE was marked for identification.)

MS. MAXAM: All right.

MR. NATHAN: For the record, we're continuing on with exhibit numbers, just –

MS. MAXAM: Okay. Sure. No problem.

MR. NATHAN: Correct?

* * *

[44] **There was two, correct?**

A. Three.

Q. Three. And tell me about what happened with the robots. Why did you need to use three?

A. Well, on the first entry we took the robot in the bottom level. And when they were going up the stairs, the stairs are like this (indicating), very slick varnish, and the robots were having a hard time manipulating without sliding or falling down. At one point I think one became somewhat dislodged or disabled. So that was the difficulty for that one.

The second deployment of the robot we had ported a hole on the west side of the house, and so we had thrown a robot in – which has voice, audio and visual capabilities – to search, listen and see, as well we can see, as well that person in there can communicate to the robot and we can hear them and talk to them.

When it went in, it went in sideways and it hit and it broke the track off of it. And then the third robot was used by Douglas County, and that one was, I believe, successful.

The one that I'm talking about that we threw in, we managed to actually get that one operational again inside and we moved it down to the [45] hall and the officer went into one of the bedrooms. We believe, because of the way it was deployed, John Seacat came across the hall and closed the door behind the robot.

Q. And when you say you were able to get that second robot moving again, was that by remote controller?

A. Yeah, it's all remote control. We don't go in and try to manipulate it. The only time we manipulated it was in the first entry, the team was on the stairs. They positioned themselves tactically to move up to try to retrieve that robot and throw it up on the second landing to start moving it up on the second floor – and it's a bi-level or a tri-level – to try to see where we could locate Seacat. And when they did that, that's when they came under fire.

Q. And so you said the robot has, you know, listening device, video, and you can communicate through it?

A. Yeah.

Q. So you can play a recording or –

A. Could, if you had a recording. Mostly you talk to it. You have a control here, and your control are here. And you can actually push and you can sit and talk.

* * *

[54] turned over to the controller. Once we say, It's turned over to the controller, only one person speaks to the controller. It's not me. It's the sergeant that manages the team. And he says, Okay, detonating. once we go there it's, 3, 2, 1. It still gives us time to shut it down and say stop, hold on a sec, we're getting information; think he's coming out. That's how it works.

Q. Who was the sergeant in control of the detonations during the incident?

A. It would be – now he's a lieutenant – Rich En-salmie would have been in charge of the EOD team. And I think it's Sergeant Brad Zebowski that was in the actual stack. John Vaala. These are the breachers that I know that were there that I've trained with.

The sergeant that's in the command post with me would have been Captain Chris George, and I believe it's Lieutenant – I can't pronounce his last name. McKinsey. He would have been the one to be a part of that as well. But before they detonate anything, they get clearance through me. They get clearance through me to place it. The plans have to be ran through me to place it.

Q. And if you can spell some of those names

* * *

Q. Yes, please.

A. Yes.

Q. And also on page 441 there, there's some bullet points that indicate warrants that Seacat

had out at the time of the incident for possession with an intent to distribute, conspiracy to distribute, and motor vehicle theft.

When during the incident did you become aware of these warrants?

A. Early on in the process.

Q. How many hours, or approximately what time?

A. Probably within an hour, approximate.

Q. At the time you became aware of these warrants, did you have any information that Seacat was a violent offender?

A. Not that I recall, violent offender.

Q. All right. On page 449, in the paragraph that's marked, "At 5:49 p.m.," about the middle of that paragraph Seacat is quoted as saying, "I'm almost ready to come out," and also in this affidavit he had made statements indicating that he was willing to cooperate, correct?

A. Yes.

Q. And then so to clarify the use of the

* * *

[139] A. Define "everybody" for me.

Q. Everybody in your ERT team.

A. Oh, no. I thought you just meant patrol. The ERT gets called when it's warranted; it meets the matrix and it meets the policy. We often will get calls of wanted people that are held up and barricaded that don't want to come out that doesn't meet the matrix. We just had one two weeks ago where the chief and I conferred on the phone and I said, No, we don't need ERT; it doesn't meet the matrix. We're going to figure out another way to get the person out.

Completely different circumstances of what we're talking about happened on June 3rd and June 4th in comparison to what I dealt with two weeks ago. We get a lot of those that we don't necessarily activate the ERT team. The ERT team is when there is real high risk, shots are fired, they have explosive devices, they're holding somebody hostage, those type of things.

Q. Okay. All right. I understand better now.

So do other police departments, do they call it an ERT team, or do they have different terms for it?

A. Every department has got their own language for it.

[140] **Q. Okay. But they're all essentially - have the same purpose?**

A. I would think so, yeah. SWAT team, ERT, Emergency Response Team. There is different names for it.

Q. All of these teams are designed and trained to deal with high-risk situations that present a particular, I guess, overt danger to officers and the public?

A. I can't tell you all teams are because I don't work with all teams. I can tell you our team is, and I can tell you Aurora's team is, and Arapahoe County's team is, and Douglas is because we have co-trained with them. I can't tell you what Denver does to train –

Q. Okay.

A. – or Jefferson County.

Q. All of these incidents that you list on page 11 of your discovery responses, these are all with departments that you've regularly worked with?

A. Yes.

Q. So you're familiar with their ERT team or equivalent?

A. Yeah. The only exception would be Denver. We don't – we don't typically train with them a lot.

* * *

[147] BearCat there, I believe. I would have to check the reports to recall.

Q. So during the incident of June 3 and 4, 2015, in addition to the Greenwood Village Police Department, the other law enforcement agencies that were also there were Douglas County

Sheriff's Office, Arapahoe County Sheriff's Office, and the Aurora Police Department, correct?

A. Yes.

Q. So there were four different agencies there?

A. Yes.

Q. And you mentioned the use of a SMART truck in some other situations in your discovery responses. Tell me about what a SMART truck is.

A. South Metro Area Response Truck. It's a UASI-funded vehicle that was funded by UASI for this region, being the south region. It's an asset – when you acquire it and they fund it through federal funds, you come to an agreement you maintain it and be the hosting agency and house it and maintain it to specs and warranty and within the agreement of UASI.

With that said, in the agreement is if we're going to pay for this and give you this type of asset, it needs to be shared in the regional area for

* * *

Affidavit of Probable Cause for Arrest Warrant

* * *

between 06-03-15 at about 1:40 pm and 06-04-15 at about 08:51 am, within the City of Greenwood Village, County of Arapahoe, and State of Colorado, and as grounds therefore states as follows:

That your affiant, John J. Carr, a detective with the Greenwood Village Police Department, is aware of the following information as it is contained in Greenwood Village Police Report 15001198 which was written by numerous officers with the Greenwood Village Police Department (GVPD), numerous officers with the Aurora Police Department (APD) under case number 15-21173 and by personal knowledge of your affiant.

Your affiant is aware that a sequence of events took place involving this case over an extended period of time and, for the sake of clarification, a summary of a timeline is attached under attachment "A" of this affidavit.

Officer John Reiter was the original writing officer for APD under 15-21173 which read that:

On 06-03-15, at about 1:22 pm, Officer Reiter was dispatched to the Wal-Mart located at 9400 East Hampden Avenue in the City of Aurora, Arapahoe County, Colorado, on a report of a parking issue. While investigating the issue he was contacted by loss prevention officer Ray Chavez who advised that an unrelated shoplifting was taking place inside the store. Officer Reiter then began his investigation into this matter and was shown a video

where a white female was in the store's McDonalds restaurant with a full cart of merchandise that had been previously purchased and that a white male, who was in the parking lot, who was observed concealing two belts and a shirt in the shopping cart bags that were not paid for.

As the female exited the store she was contacted by Chavez and it was noted that the male had already exited the store with the receipt for the merchandise. The female then assisted by calling the male back who gave the female the receipt and left the store again. Officer Reiter then contacted the male who was later fully identified as Robert Jonathan Seacat, date of birth 05-06-82 while the female was identified as Ramona Vitalyevna Grabchenko, date of birth 08-24-91.

Upon contacting Seacat who was now by a gold colored Lexus in the parking lot, Reiter asked Seacat to come back into the store and upon being asked for identification Seacat advised that he did not have any. Reiter then escorted Seacat and Grabchenko back to the loss prevention office and as they approached the office Seacat ran out of the store towards his vehicle, unlocked his car door by remote key fob and entered the car. Reiter drew his Taser in an attempt to stop Seacat, but prior to being able to deploy the laser Seacat was able to close his door and start his vehicle.

Officer Reiter then stood in front of Seacat's Lexus and an unidentified citizen driving a large SUV offered to block the Lexus in. Seacat responded by pulling forward and Officer Reiter had to jump out of the way of the Lexus in order to avoid being hit.

Reiter, who had his service pistol drawn at the time and was reported to be in a full police uniform that included a police badge on his chest, duty belt and departmental shoulder patches, reported that he was so close to the Lexus that he struck the driver's window with the barrel of his pistol as the car narrowly missed him. Seacat, in the Lexus, then drove out of the Wal-Mart parking lot and proceeded south onto South Dallas Street at a reported high speed.

Officer Reiter then returned to his patrol vehicle and proceeded to check the area for the suspect/Seacat. Upon checking the area, Reiter located the Lexus now parked at the RTD Light Rail Station, located at 4050 South Dallas Street, and upon closer observation he noted that the vehicle was now abandoned, and could further describe the vehicle as having a Colorado temporary license of 88862M. Reiter then requested a tow for the vehicle as other officers were responding to the area to assist in locating Seacat.

Reiter then walked to the walkway (Dayton Street pedestrian bridge) that lead from the parking lot over 1-225. Upon arriving at this location Reiter was able to observe that Seacat was now wearing a red shirt and carrying a black backpack on his back and running to the east on the light rail tracks. Reiter noted that Seacat had changed out of the gray t-shirt that he was previously wearing. As Seacat ran he turned to look at him and at that point he could identify him as being the same person that ran from the Wal-Mart and fled in the Lexus.

Reiter wrote that he observed the Seacat climbing over the fence and onto the north shoulder of the NB 1-225. Reiter noted that traffic was present on the highway and traveling at highway speeds. He then observed Seacat crossing all of the lanes of traffic as he dodged vehicles and made attempts to get motorist to stop. Upon arriving at the south side of the highway Seacat again climbed the chain-link fence and fled in a southeast direction into the field (Village Greens Park). Reiter reported that as this took place he was in communication with other officers relaying this information.

Upon airing this information Reiter reported that an unidentified female approached him and advised that she was on the light rail platform and observed Seacat place a black compact semi-automatic pistol into the front of his pants. This female further relayed that she thought that it was a .380 caliber. This female then left on the light rail train.

Reiter noted that Seacat continued to a concrete bike trail and observed him contacting a white female walking on the trail. This female eventually continued to walk away from Seacat and later told Reiter that Seacat had asked her for a ride, but did not threaten her. As Seacat continued to travel west on the bike path where Reiter would lose and regain sight of him due to the hills and valleys of the terrain. Upon regaining sight of Seacat, Reiter noted that he again was in contact with someone but due to his distance Reiter could not identify this person any further.

Your affiant is aware that GVPD Detective Rob Parker later contacted Kim Robertson by phone and she told him that:

She had been contacted by the suspect/Seacat near the light rail at about 1:30 pm. Robertson said that she observed a white male in front of her approaching an elderly couple asking for a ride but they declined. The male then asked her if she had a ride and offered her \$1,000.00. This male never showed her the money, was in a hurry as he was talking to her. Upon being told she did not have a car he ran in the direction of Cherry Creek Village North subdivision (West side of Village Greens Park).

Robertson described the subject as being a white male approximately in his thirties, 6'5" with a muscular build, short blond hair, clean shaven and lots of tattoos on his arms and shoulders. Robertson said that she thought that this subject was wearing blue jean shorts and had a red backpack.

Your affiant further read Reiter's report as follows:

Upon officers arriving Reiter was aware that a perimeter was being set up for Seacat. Reiter then returned to the Lexus and waited for the tow company to tow the vehicle.

Upon inventorying the vehicle Reiter reported that the vehicle had a brown Samsung box. Upon opening the box he located four clear bags of marijuana, a bag of mushrooms, a blue pill, \$27.00 in cash, and a pair of brass knuckles that were in the console. Reiter later weighed the (psilocybin) mushrooms and determined that they had a

Resp. App. 79

weight of 12.5 grams (gross) while the marijuana weight was 45 grams (gross) and the blue bill was 2.9 grams (not identified).

Reiter also documented that the vehicle Seacat was driving was a gold colored 1999 Lexus GS300 4 door that had a Colorado temporary license affixed to it of 888622M. Reiter indicated that the vehicle was registered to David Seidle

At about 1:43 pm the Greenwood Village Police Department (GVPD) was advised of the aforementioned events to include the information that the suspect had attempted to run over an officer and was possibly aimed with a handgun. Numerous officers and detectives with both the GVPD and APD then responded to the area in an attempt to locate Seacat.

At about 1:54 pm GVPD received a report of a residential burglar alarm at 4219 South Alton Street which is in Greenwood Village, Arapahoe County, Colorado. Your affiant is aware that this is in close proximity of the Village Greens Park, that the residence backed up to 1-225 and this was the area that Seacat was last seen. Numerous officers and detectives responded to this area from GVPD and APD.

Sergeant Mark Stadterman responded and reported:

That upon arriving he was advised that the alarm was from the back door and that a second alarm trip was activated at the garage entry door at about 1:58 pm. Stadterman along with GVPD Rob Hasche began to check the residence. Stadterman reported that as he approached the home he was advised by Aurora Police officers that they had

been following the suspect in a westerly direction on the south side of 1-225. Stadterman noted that it was possible that the armed gunman had possibly entered this residence and tripped the alarm.

Stadterman wrote that upon approaching the home he could hear sounds coming from the garage area of the residence but did not know if the noise was the subject or a dog. Stadterman then cut the padlock leading to the back gate leading to the backyard of the residence and checked the backyard along with Hasche. Stadterman reported that they quickly checked the backyard they saw no obvious signs of forced entry. At about 2:03 pm Stadterman reported that dispatch had received a cancelation on the alarm.

* * *

it was not possible to see the shooter due to the garage door only being opened partially and that there were no windows on the garage doors. Woods said that the suspect did not make any statements but would have been able to estimate the location he was at due to the police vehicle making contact with the garage door.

Sergeant Stadterman also reported that he heard the single gunshot, at about 2:23 pm, and saw the bullet hole in the double garage door. It was of Stadterman's opinion that the person who shot was trying to shoot the police officers to move them away from the garage area so that the shooter could get away in a vehicle from the garage. It was also his opinion that the person shooting from inside the residence could have hit anyone in front of the house with the gunfire.

Your affiant, through reading various reports, noted that Sergeant Stadterman, Anna Munizhiyan, [REDACTED], Officer Hasche, Officer Woods, Sergeant Graham Dunne, and GVPD Commander Eric Schmitt were all located at the front of the home when this occurred while GVPD Detective Rob Parker, Officer Andy Wynder watched the rear of the residence. Hasche reported that he was approximately 50 feet from where the bullet exited the garage door when the shot was fired. Hasche also reported that he was in fear from this action and thought that someone was shooting at him. Your affiant was aware that Officer Woods and Detective Parker were both in plain clothes at the time, but the other mentioned officers were in full police uniform.

Commander Dustin Varney arrived on scene and gave assistance with the perimeter security. Varney then activated the incident command and started the process of notifying various command staff of the incident now involving a barricaded suspect. Varney indicated that notification was made to have the GVPD SWAT respond, and requests were made for various specialized equipment from other agencies to include APD, Arapahoe County Sheriff's Office, Douglas County Sheriff's Office.

GVPD Officer Mic Smith responded to the area to assist in the investigation. Smith, who is a negotiator for the GVPD SWAT team, met with APD Officer Hitchens. Smith was told that the suspect's name was possibly Geoff Sheehan and was given a phone number for

him. Smith indicated that she called this number and spoke with a male subject who said:

- That he was just really “freaked out right now”.
- That he wanted time to calm down and speak with several family members.
- That every time Smith called him by the name Geoff he answered.
- That upon asking what had happened he said that he had been shopping at Wal-Mart.
- That someone at Wal-Mart said he stole something when he did not.
- That today was his mother’s birthday.
- That Smith and Geoff’s conversation was calm and positive.
- That he said that he did not want to die.
- That he did not want to hurt anyone.
- That he would come out and that he just wanted time.
- That he wanted to speak with his uncle from Texas who is a Catholic priest.
- That he also wanted to talk with his stepdad, his mom, his wife and sister.
- That Smith told him that they were getting his sister so they could talk.
- That during their conversations he would get other calls and would hang up.

As other law enforcement agents and resources responded to the scene Smith continued talking with Geoff.

Detective Brian Schnicke (APD) arrived and began his investigation. Schnicke and Detective Heath Graw (APD) met with [REDACTED] and his mother Anna Mumzhiyan and Anna's boyfriend, John Lech. Your affiant is aware that John, Anna and [REDACTED] live at 4219 South Alton Street and that they rent the home from John's father, Leo Lech.

Lech, upon request by Schnicke, signed a written consent to search and seize form allowing officers to search his residence. [REDACTED] then told Schnicke that:

- He was home alone and watching YouTube in his bedroom.
- That his bedroom was located in the front part of the home.
- That he heard the home alarm being activated.
- That he called his mother about the alarm but she did not answer.
- That he stepped out of his bedroom into the hallway.
- That as he walked down the hall he saw a white male walking up the stairs towards him.

- That the male got to the top of the stairs and [REDACTED] saw that the male had a handgun in his right hand.
- That the male's arm was straight down at his side and did not point the gun at [REDACTED] or threaten him.
- That he did not see that the man had anything else with him.
- That the male told [REDACTED] that he did not want to hurt him but needed a vehicle to escape.
- That the male was wearing an unknown color of shorts and no shirt and he had spikey brown hair and had a red shirt draped over his right shoulder.
- That the male was young-looking but [REDACTED] was not able to recall anything else specific about him.
- That the male ripped the surveillance camera off of the wall.
- That [REDACTED] went back into his room and called his mother again.
- That he could hear the male opening and closing doors in the home as he moved through the home.
- That at one point [REDACTED] heard the male enter the room next to his bedroom which was designated as the home office.

- That he heard the male make a noise in that room that led him to believe the male was looking through shelves.
- That when his mother arrived he ran out of the front of the home and got away.
- That he did not see the male again and did not know where the male was in the home.

Detective Schnicke spoke with Anna who told him that she first received a phone call from [REDACTED] at about 1:52 pm and that [REDACTED] did not leave a message. Anna said that she then called back and upon speaking with [REDACTED] he told her about the man in the home. John Lech told Schnicke that according to his alarm company the alarm was activated at about 1:50 pm and according the company, the alarm was triggered at the basement door of the home.

APD Detective Craig Appel also spoke with John Lech. Lech told Appel that he had an unloaded 20 gauge shotgun and an unknown caliber pistol in his master bedroom closet. Lech continued to say that the pistol did not have a round in the chamber, but that the magazine was loaded. In addition to these firearms Lech indicated that ammunition for these firearms was kept in another room.

Your affiant later talked with John Lech who advised that his 2003 Nissan Xterra was kept in the garage and that the key was not in the ignition. Lech said that the key was kept in a key box located upstairs. Your affiant was aware that upon searching the home and the Xterra, that was located in the garage, had a key in the

ignition. Your affiant determined that the average price for a 2003 Xterra was, according to Kelly Blue Book, around \$4,400.00.

Officer Douglas Wilkinson (APD) arrived and met with Grabchenko who was escorted to the area of the incident. Upon meeting with Grabchenko, Grabchenko told Wilkinson that:

The person she was with at Wal-Mart was Geoffrey Sheehan and that he was unarmed. That upon being confronted about a shot being fired at officers she said that he possibly had a small pistol with five or so rounds in the magazine and that he got it on the street. Grabchenko then told Wilkinson that the person the officers were looking for was Robert Seecat, 05-06-82, and that he was her husband. Wilkinson reported that he was able to get a driver's license photograph of Seecat which he showed to Grabchenko and she confirmed the identification.

Grabchenko was later issued an Aurora City municipal summons for shoplifting and booked into jail on several unrelated warrants.

Officer Smith was informed of Geoff's true name as she continued to communicate with him. Smith wrote that:

- Seecat told her that he had eaten and complained that the home had nothing for him to drink.
- That he was told that if he came out and did what he was told that he would be safe and would not get hurt.

Resp. App. 87

- That they rehearsed what he was to do when he came out.
- That upon talking about his wife, and that she was called “Romy” by him, he became emotional.
- That he started crying and told her that he loved her very much.
- That Smith told Seacat that he would be able to talk to his wife once he came out.
- That after about a 15 minute break Smith could not get Seacat to answer her calls or text messages.
- Seacat eventually answered by text telling Smith to call him.
- That upon calling Seacat he sounded sleepy and drifted off several times in the conversation.
- That he told Smith that he was “buck ass naked” and had taken a shower.
- Smith then told Seacat to put on some clothes in preparation of coming out of the home.
- That he said that he would put on pants and was advised that his sister was now at the scene.
- That he wanted to see his sister before he came out but was advised that could not happen.
- That he then received a phone call and hung up on Smith.

Smith reported that they continued to try to contact Seacat after this point but he would not answer the phone. Smith indicated that she sent a text message to Seacat that they were going to place a “throw phone” at the residence in the back, told him how to use it and texted him the exit plans again. Smith said that she continued to try to reach Seacat advising him that his sister was there and that they had met their side of the agreement but received no response. Smith was then advised that the phone service was going to be cut off along with the utilities. Smith then continued the attempt at communication through the throw phone.

During the negotiations with Seacat, the negotiators, incident commanders and your affiant became aware that Seacat had several warrants for his arrest. These warrants were determined to be:

- Arapahoe County Sheriff’s Office. OCA# SM12-14 Date of Warrant 04-24-2015 for Controlled Substance Conspiracy Schedule I-IV 450 grams to 1 Kilograms-HIGH RISK ARREST. \$10,000 bond (MPO associated to this case with notes that state shall not possession controlled substances-condition of bond and is on Supervised Probation for this case)
- Denver Sheriff’s Office. OCA 13CR3914 Date of Warrant 05-05-2015. Original Charges Possession with Intent Sell/Dist Schedule II controlled substance. Bond \$10,000. (On probation for this charge)
- Larimer County Sheriff’s Office. OCA # 11-8239 Date of Warrant 05-14-2015. 1st. Degree

Aggravated Motor Vehicle Theft. Bond \$10,000.
(See Bottom of this statement for warrant information)

Your affiant is aware that GVPD Detective Rob Parker applied for and obtained a warrant for the use of the throw phone through Commander Dustin Varney and the 18th Judicial District, District Attorney.

Your affiant is aware, by reading various police reports from responding officers, that various police tactics were used through negotiators, SWAT team members and the use of chemical irritants so that communication with Seacat would start again. The timeline of these acts will be attached under attachment "A" of this affidavit. Your affiant is aware that communication with Seacat stopped at 6:08 pm on 06-03-15.

At about 10:38 pm distraction techniques were put in place for an entry into the home by two teams of GVPD SWAT members. Upon entering the residence, through the basement rear doors, several officers heard what sounded like a muffled single gunshot from an unknown location in the home. GVPD officers on the entry team consisted of Officers Mic Smith, Jeff Mulqueen, Austin Speer, Jared Arthur, Bryan Stuebinger, Juan Villalva, Andy Wynder, Anthony Costarella and Rob Hasche. Hasche reported that upon hearing this first gunshot he was in fear that he was being fired upon.

Smith reported that upon approaching the stairs to the second floor an attempt was made to have a remote control observation robot walk the stairs to the second

floor so that Seacat could be located. With the robot failing at this task a diversionary device, (flash bang) was used to distract and conceal the movement of the team from Seacat on the second floor. Upon deploying this device it also failed to land in its desired location and officers did not move to the second floor. Smith reported that shortly after this happened they fell back and heard a distinct sound of four or five gunshots that were accompanied by flying dust in the staircase. Smith said that she then heard a second volley of shots sounding like they were directly above their location.

* * *

GVPD Officer Steve Heil responded to the scene and rode in the ambulance with Seacat and remained with him. Your affiant later spoke with Heil who said that he had seen a DMV photograph of Seacat and had observed the subject transported to the hospital. Heil told your affiant that the person depicted in the DMV photograph as Robert Jonathan Seacat, date of birth 05-06-82, was the same person that was in custody and at Swedish Hospital. Heil added that upon Seacat being examined it was determined that due to his physical condition he would be admitted for further treatment and examination. Heil told your affiant that the injuries to Seacat, according to the doctors he spoke with, were not from what had happened by officers' hands but were possibly due to his medical condition and/or drug abuse. Officers with the GVPD have remained with him to date.

Resp. App. 91

Your affiant, with the assistance of GVPD criminalist Nikki Bray and Michelle Burkhalter, started to process the crime scene. Upon entering the residence your affiant noted that the residence had significant damage to all of the upper floor walls, basement back yard doors and front door. Your affiant also noted that all of the rooms in the home had damage and that the amount of debris both inside the home and outside the home was significant. Your affiant left the crime scene to be investigated by Bray, GVPD Sergeant Darrel Guadnola and criminalises from the DCSO.

Your affiant was later advised by Guadnola that they could not locate any bullet holes that would have originated from the kitchen area down into the basement where the SWAT team members reported to have heard and seen what they thought were gunshots being fired towards them. Guadnola reported that they had located a backpack in the home along with drugs and money. Guadnola told your affiant that they were able to locate a bullet hole in the second floor common bathroom door that appeared to originate inside the bathroom and a shell casing in the bathtub of the same bathroom. Upon checking the master bathroom Guadnola reported that they located a shell casing in the bath tub as well. Guadnola reported that they were stopping the search for the evening and would continue the next day.

Bray also told your affiant that a second handgun was located in the master bathroom that appeared to be a Glock 9mm (model #17) as well. Bray indicated that she was still in the process of booking the items into

evidence but that this gun was loaded as well and that there was an open case of 9 nun ammunition near this handgun. Bray added that a third weapon was recovered which was a shotgun, (over/under style) that was still in it's soft sided case which was unloaded but had shells available in an attached case. This

Officer Anthony Costarella later examined these items and inventoried them after completing a NIK field presumptive test on the suspected drugs. Costarella reported that he assisted in booking evidence that was found in the residence by crime scene investigators to include Nikki Bray. Costarella reported that he noted that numerous haggles of drugs were located in the master bathroom of the residence and on Seacat when he was arrested. Costarella indicated that he tested the suspected heroin and methamphetamine using a NIK test and that they all tested presumptive positive as being methamphetamine and heroin. Costarella reported that he booked the following drugs and noted the location where they were found:

- The baggie that was found in Seacat's left jeans pocket was a baggie that contained 6.68 grams (net) of suspected methamphetamine.

And that the following was located in the master bathroom:

- A baggie that contained 35.65 grams (net) of suspected methamphetamine.
- A baggie that contained 28.98 grams (net) of suspected methamphetamine.

Resp. App. 93

- A baggie that contained 193.67 grams (net) of suspected methamphetamine that had “450 net” written on the bag which was a gallon sized bag.
- A baggie that contained 47.79 grams (net) of suspected methamphetamine.
- A baggie that contained .59 grams (net) of suspected methamphetamine
- A baggie that contained 1.71 grams (net) of suspected methamphetamine.
- A baggie that contained 5.69 grams (net) of suspected methamphetamine.
- A baggie that contained 3.55 grams (net) of suspected methamphetamine.
- A baggie that contained 4.91 grams (net) of suspected methamphetamine.
- Two white pills with imprint of M5755 that, according to Drugs.com was Methadone (schedule II controlled substance) and had a weight of 1.75 grams.
- Eleven yellow pills with imprint C14 that was identified by Drugs.com as Clonazepam which is a schedule IV controlled substance and had a net weight of 1.75.
- Three blue pills with the imprint DAN5620 which were identified by Drugs.com as Diazepam which is a schedule IV controlled substance and had a net weight of .47 grams.

Resp. App. 94

- A baggie of suspected Heroin that had a net weight of 29.86 grams.
- 17.5 blue pills that had an imprint on them of SZ789 which was identified by Drugs.com as being Methylphenidate Hydrochloride which is a schedule II controlled substance.
- 4 white pills that had the imprint of MC15 which was identified as Clonazepam which is a schedule IV controlled substance and had a net weight of .69 grams.
- A baggie that contained 2.25 grams of suspected Marijuana.
- 61 packets of Suboxone that contained the ingredients of Buprenorphine/naloxone which is a schedule V controlled substance.

In the common/hallway bathroom Costarella reported that he helped process a baggie of suspected methamphetamine that had a net weight of 3.60 grams and which tested presumptive positive.

Costarella reported that he noted that several digital scales were collected from the master bathroom to include several dozen new and used single use baggies, used syringes and narcotic smoking pipes, cash, and several cell phones Costarella, who is a drug agent for GVPD, expressed his belief that based on what was found Seacat was involved in the distribution of controlled substances.

Resp. App. 95

Costarella researched Seacat's criminal history and determined that he had several previous felony convictions that are as follows:

- Arapahoe County Courts/South Metro Drug Task Force 2012CR186- Plea of Guilty- Felony 3-Controlled Substance Conspiracy Schedule II drugs-450 grams to I Kilogram. Disposition date 12-09-2014
- Larimer County Courts 2012CR59- Guilty Plea-Felony 4- Aggravated Motor Vehicle Theft. Disposition date 11-26-2014
- Chaffee County Sheriff's Office 2009CR2- Guilty Plea-Felony 6- Unlawful use of Schedule II Controlled Substance. Disposition date 03-04-2009
- Chaffee County Sheriff's Office 2008CR146- Plea of Guilty-Felony 4-Burglary. Disposition date 03-04-2009.

* * *

ATTACHMENT A

(Time Line Summary)

On 06-03-15, at about 1:22 pm

APD Officer Reiter was dispatched to the Wal-Mart located at 9400 East Hampden Avenue in the City of Aurora, Arapahoe County, Colorado, on a report of a parking issue. Upon arriving Reiter is contacted by Wal-Mart loss prevention and asked to assist in a shoplifting investigation.

Resp. App. 96

Reiter contacted subjects later identified as Robert Jonathan Seecat, date of birth 05-0682 and Ramona Vitalyevna Grabchenko, date of birth 08-24-91. Reiter then attempted to have Seecat and Grabchenko walk back to security and while walking back Seecat turned and ran away from Officer Reiter.

Reiter then gave chase, caught up to Seecat at his vehicle, which was described as a gold colored Lexus 300. Reiter drew his Taser in an attempt to stop Seecat but Seecat managed to close the door to the vehicle prior to Reiter stopping him.

Seecat then pulled forward in his vehicle as Officer Reiter drew his service pistol and attempted to stop him. Reiter, who was dressed in full police uniform, said that he was standing in front of Seecat's vehicle, felt that he was going to be struck by the vehicle so he stepped away from the car. Seecat then drove south through the parking lot and continued onto South Dallas Street.

Reiter then returned to his patrol vehicle and attempted to locate the vehicle. Upon arriving at the RTD light rail station, located south of the Wal-Mart, Reiter located the Lexus now abandoned.

Reiter, who advised responding officers of what had transpired, moved to the light rail station and began to look for Seecat. Upon arriving at this location Reiter observed Seecat running north on the light rail tracks, climbing the fence and then getting onto the NB lanes of 1-225. Seecat was then seen trying to flag down vehicles, dodging vehicles and then crossing to the shoulder of the highway.

Resp. App. 97

Upon exiting the highway Seacat was seen approaching pedestrians and was later discovered to have been asking for a ride out of the area and even offered to pay for a ride. Reiter loses sight of Seacat, returns to Seacat's vehicle and completes an impound of the car. Reiter reports that he located suspected psilocybin mushrooms in the car along with marijuana.

At about 1:43 pm:

The Greenwood Village Police Department (GVPD) was advised of the aforementioned events to include the information that the suspect had attempted to run over an officer and was possibly armed with a handgun. Numerous officers and detectives with the both the GVPD and the APD then responded to the area in an attempt to locate Seacat.

At about 1:54 pm:

GVPD received a report of a residential burglar alarm at 4219 South Alton Street which was the area that Seacat was last seen. Numerous officers and detectives responded to this area from GVPD and APD. Upon arriving officers determine that there was a 9 year old boy in the home (resident) and that the boy later described a unknown/uninvited man in the home.

The 9 year old, upon exiting the home advised that the male subject matched the description given of the subject seen fleeing the Wal-Mart and advised that the male had a gun in his hand. The 9 year old continued to say that the male suspect said that he wanted a car to get out of the area.

Resp. App. 98

Efforts were then made to secure the residence by placing officers from both GVPD and APD on the perimeter of the home. The garage doors are now seen opening (not fully) and then closing

At about 2:23 pm:

An Officer from APD placed a unmarked patrol vehicle up against the single car garage door and then a marked APD SUV against the two car garage door in an attempt to stop the suspect/Seacat, from leaving in a vehicle.

As this officer completed this task he bumped the garage door to prevent it from opening. The officer then turned off the car, exited the car and heard a gunshot that rang out from inside the garage. The officer then noted that there was a new hole in the garage door that was later determined to be a bullet hole that continued into the hood of the SUV, into the engine compartment and then into the firewall of the vehicle.

As this round was fired there were several officers and citizens in the area that were endangered.

At 2:37 pm:

Negotiations with the suspect inside the house via cell phone contact. Negotiations were off and on as the suspect would talk with us and then hang-up over the courses of speaking with him.

At 2:39 pm:

GVPD emergency response team began to arrive on scene. Additional resources were also requested due to the situation that presented itself to include

Resp. App. 99

members of the Aurora, Arapahoe County and later the Douglas County Sheriff's Office.

Reverse 911 call sent out to the neighborhood, shut off the water and gas, and restrict overhead airspace.

At about 3:36 pm

Resp. App. 100

Case No: 15001198

GREENWOOD VILLAGE POLICE DEPARTMENT

Incident # 15001198 (23)

VARNEY, D

On 06/03/2015 at 1343 hours, I responded to the area of Village Greens Park on a call of a suspect armed with a handgun running on foot. It was reported that the suspect was wanted by and being chased by Aurora Police Department just north of my location. Shortly thereafter it was reported that alarms were going off inside the home of 4219 S. Akron Street. Sergeant Stadterman arrived on scene at that location and investigated the situation to learn that the armed suspect had entered that home (not his residence) and attempted to question a young child that lived there (see Stadterman's report). The young child managed to leave the home and inform the officers outside that the suspect was inside the house. Upon hearing this I asked that the perimeter cars start shrinking down the perimeter to surround that house. Within minutes the suspect opened the garage door and upon noticing the police presence, he subsequently shut the garage. Shortly thereafter (1423 hrs.) the suspect fired a weapon (firearm) at the police officers through the garage door striking a patrol vehicle.

At 1423 hrs. I then responded to 4219 S. Akron Street and took command of the scene. Upon arrival (1424 hrs) I pulled a group of officers back away from the front of the home who were still in the line of deadly fire should the suspect actively start shooting again. I

set up the incident and tactical command posts about halfway up the block south of our location. At 1429 hrs. I had the scene incident secured and in our control. At 1436 hours I designated channel 3 as incident channel and channel two as talk channel. At 1438 hrs. fire was staged and needed for any medical emergency. At 1439 hrs. GVPD emergency response team arrived on scene and I deemed this an ERT (Emergency Response Team) scene and requested the appropriate and needed resources to deal with the situation (additional Aurora, and Arapahoe County Officers). As I waited for additional resources to arrive I made several necessary decisions to control and manage the incident. I had a reverse 911 call sent out to the neighborhood, shut off the water and gas, and restrict overhead airspace.

At 1437 hrs. we managed to start negotiations with the suspect inside the house via cell phone contact. Negotiations were off and on as the suspect would talk with us and then hangup over the courses of speaking with him (See Officer Mik Smith's Report). During negotiations (1536 hrs) the suspect made several demands, one of which I was willing to meet would be for the suspect to be able to speak with his sister. The condition of that demand would be met only if the suspect came out, surrendered and would be taken into custody. The suspect agreed, therefore we spent hours to retrieve his sister in Boulder and have her expedited to the scene. While waiting for the suspects sisters arrival we did have the suspects wife on the scene and we created a recording of her asking and pleading for the suspect to come out. At 1603 hrs. we played this recording out

in front of the home on our Beacon 8000 loud speaker looping the message over and over so the suspect could hear the message in an attempt to get him to come out. In addition, the tactical Bear Cat outside was ordering the suspect over loud speaker to come out on numerous occasions in between the prerecorded message playing.

The sister arrived on scene at 1749 hrs. and we made several attempts to get the suspect to surrender through intermittent negotiations as the suspect would continue to terminate conversations at times. Being that several hours had gone by and in fear of his cell phone going dead, the suspect hanging up on us, and that we maybe right to the point where the suspect was possibly going to be talked out, we wanted more control of the communications therefore we made the decisions to deliver our throw phone and have his cell phone shut off to control the conversations (1828 hrs.). During the conversations that were ongoing the suspect made statements to the negotiators "I'm almost ready to come out" but he would never commit to surrender and continue to hang up. With failed negotiations at 1841 hrs. we constructed a prerecorded message from his sister and played it over and over on our Beacon 8000 loud speaker out in front of the home. The officers on the backside of the house could clearly hear the recorded message. At this point negotiations of 4.5 hrs had completely failed and all contact with the suspect was dormant.

As of 1911 hrs. we had no visible sightings of the suspect in the home and the suspect failed to meet his obligations of coming out and cooperating with the police.

The suspect had remained inside and barricaded. With communications and negotiations with suspect being dormant we sent in two 40mm rounds through the window to try and get the suspects attention and there was no response from the suspect. At 1935 hrs. we breached the front doors using the bear cat with a ram on the front for a potential entry point and/or exit point. We conducted an EOD breach of the back bottom level doors on the west and east side of the home to allow a tactical entry team to have the ability to deliver a robot and throw phone. Even after breaching the three points on the building, there was still no response from the suspect. At 2030 hrs. we initiated and introduced gas into the home to try force the armed suspect out of the home. At 2038 hrs. the suspect was seen for the first time trying to open a window on the second floor in the bathroom (backside of the home). At this time 40mm rounds were fired into the bathroom window to drive the suspect out of that room and into an open area or out of the home (no success).

At 2218 hrs. it was decided to send in a robot and deliver a throw phone to try and relocate, isolate and/or communicate with the suspect in the house. The team was also assembled with the forward negotiator that was on the phone with him during negotiations. Gas was introduced into the attic 2231 hrs. and gas was placed into the second floor. At 2236 hrs. no movement had been seen therefore the GVPD tactical team entered the residence to deploy the robot. As the GVPD tactical team moved through and cleared areas in the home they came under gun fire from the suspect

between 2240 hrs. through 2249 hrs. While the officers were inside they had also reported and heard what appeared to be the suspect reloading and believed the suspect had acquired other firearms inside the home. We did have information that other firearms were in the home that belonged to the actual home owner. It was now believed the suspect had the homeowners firearms in his possession. Due to the suspects unknown location and firing on the officers through the upper level and down through the floor above them, I ordered all of GVPD officers to back down to a safer location to avoid a lethal confrontation. At 2250 hrs. all GVPD officers had move away and out from the threat of being shot inside the structure. At this same time it was reported by officers that the suspect appeared to have moved into the kitchen (west side of the structure). Being that the officers had been fired upon and the armed suspect was moving in and around the structure we moved to a plan to prepare to position the snipers for a lethal shot in the event the threat continued (2305 hrs.)

At 0131 hrs. we moved to the plan to get better visibility of the suspect since we had not seen him move in the structure for some time. At 0146 hrs. we opened up a hole on the 2nd floor west side of the building in the kitchen area using an EOD charge. This permitted us to have better visibility of the suspect. At 0207 hrs. the throw phone was also deployed in and around that same area to try again establish communications and negotiations with the suspect. The phone was ringing constantly and numerous announcements were made

via loud speaker for him to pick up the phone. At 0242 hrs. we also introduced another robot in an attempt to locate the suspect while the phone was ringing. At 0404 hrs. we sent in another robot in attempts to continue to locate the suspect (no success). At 0405 hrs. we turned the suspects cell phone back on and continued to attempt contact with him (no success). At 0455 hrs. we deployed another volley of gas to try and get the suspect out of the home and or initiate movement from him to locate his whereabouts and isolate him with a tactical plan if practical (no success). At 0514 hrs. with limited visibility of being able to see the suspect in the home we used another EOD charge on the east side of the home and opened up a hole on the structure (second level master bathroom) above the garage. At 0558 hrs. both initial tactical teams (GVPD and APD) had been on assignment for numerous hours and in preparation for another tactical entry into the structure both those teams were rotated out and replaced by Arapahoe County Swat (interior) and Douglas County Swat Exterior and sniper positions.

At 0720 hrs. there had been no success for numerous hours of the suspect showing any committed or sustained willingness to communicate, negotiate, or surrender. The suspects actions demonstrated he had no intentions of giving up and he was committed to not surrendering and/or leaving the home even despite me meeting his initial demands to talk with his sister. We had provided numerous communicative / negotiating efforts and ample opportunity for the suspect to surrender and peacefully being taken into custody for the

Resp. App. 106

crimes he committed (no success). Based on this we moved to a tactical entry plan to move a team through the home to locate, arrest, and remove the suspect from the home. This plan was initiated at 0720 hrs and consisted of using the bear cat and ram to open up holes in the backside of the home in each room to gain the tactical visibility advantage. It was also believed the suspect was barricaded in one of these rooms on the backside of the home. Once we had better

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Deposition of: Christopher George –
May 22, 20176 Leo Lech, et al. v. The City
of Greenwood Village, et al.

* * *

[48] summarize it as he asked to see his sister and was told that that couldn't happen. And then he received a phone call and hung up on negotiators.

To your knowledge of what was relayed to you during the incident, is this an accurate statement of how negotiations with Mr. Seacat ended?

A. It appears to be.

Q. You were given information presumably from the negotiators at that time about what the communications with Mr. Seacat were at the time?

A. Commander Varney was given the specifics, as I recall. I was thinking of either by him or by somebody else that was there when he was briefed on the details with the last conversation, a synopsis of it.

They didn't rehash word for word with me, just he wanted this, wasn't going to happen. Then the next . . .

Q. Sure. So you learned this information from the negotiators that's described on PL 440 there. What happens next?

A. Specifically, like in moments next or the next few hours? I'm trying to formulate an answer for you, just guide me a little more. What are you thinking? What would you like there?

Q. What was the next decision you made after [49] this? How did you decide to proceed after you learned this information?

A. Well, at some point in this time frame, we knew we had to get him off of his cell phone. Cell phones are the worse thing to negotiate on.

The whole premise as taught by the FBI negotiation school that trains just about every negotiator out there is, the negotiators have to control the communication. You don't control anything if they're in charge of their own phone.

They can call their friends to come ambush you. They can set off improvised explosive devices with the phones that they've pre-made or can be made with just household items.

They can download apps or have apps already downloaded that spy on police that our frequencies are out there, they're known. We can do it in this room. We can listen to Greenwood's channel and our channel.

We've done it a bunch in our agency to see how accurate they are and timely they are. The best of them are within about 3 seconds of live broadcast, right?

So you don't want any of this. It's very dangerous. It heightens the danger for everybody to [50] leave them in control of their own phone.

Prior to the proliferation of cell phones in our society, we would actually call the phone company. The first thing we did on the team is we'd kill their power,

their water, called back then, it was Qwest, I believe, or Mountain Bell, AT&T.

And we'd reroute their home phone when that's all they had, a "landline phone" that we used to call them. And have that phone company re-route that to only ring to the negotiator. We want control of the communications.

People that are thinking about the end of the world, and like the full-blown Wild West shootout, often ask to see a priest, like he did. You don't want them thinking about that. You don't want them thinking about a priest. You don't want them talking to them because they're trying to make peace.

So if you see where I'm going with this. Somewhere in the context of this time frame, we need to get a throw phone in there and have the surreptitious camera so we could try and see what he was armed with, see where he was moving, see if he was barricading anything.

At some point in time, Chief District Attorney Clinton Mckinzie showed up, because he's part [51] of the 18th Judicial District Shoot Team.

And we looked at him and said we need to get the surreptitious mic authorized, the eavesdropping, and contact District Attorney Brauchler, person protocols that Brauchler put in place. And he agreed.

So we needed that throw phone and we needed the transition of that. That was our next best step to try and mitigate the circumstance. So that's kind of where

we went after the cell phone as far as the negotiations go.

Q. And the policies that you describe and the reasons of cutting someone's cell phone, is that a policy that's – I believe you said it's something that the FBI promulgated for support; is that correct, at that period of time?

A. Pretty much everybody sends – when you put somebody on the negotiating team – the FBI is the one that puts on the negotiation schools to get them their basic certification as a hostage negotiator or crisis negotiator. There's – I was brief with it. There's a lot more to that. In fact, there's a 40-hour class.

If they're talking on their cell phone, and the negotiators get the sense that they're [52] developing a rapport, the trust is developing, there's a bond.

The person is considering surrender and it's headed the right way, then they may make the decision to stay on the cell phone.

If we know we're being lied to, they're making unreasonable demands, they're buying time, there – otherwise, negotiators can tell, they're trained to tell, right? If somebody is sincere – “sincere” may not be the right word.

They're trained to tell which way it's going, because they have to alert us. Especially if there's hostages, This is about to go south. You need to make a crisis entry and save the hostages. So they have an exuberant amount of training in this.

In this case, it was clear he was just wasting everybody's time on his cell phone. Leaving that cell phone, unfortunately, to run out opened us up to all those other dangers.

So the – we wanted to continue those negotiations, but we were going to do it under the throw phone.

Another advantage of the throw phone is it's got a metal shield around the cable, so when you throw it in, you can tie it off.

[53] So if we were to introduce it in this room, for instance, and you wanted – because of a sniper's view across the street, we wanted the person to stay right by these windows, we would tie it off so that they wouldn't walk or carry it the distance in the house and secrete themselves in a bathroom and negotiate with us. They'd have to stay right there. And then we just simply tell them, No, that's all the slack we have on the line.

So it's another tactic to try and resolve things peaceably. Keep them in view, see what weapons they have. See if the gas is affecting them. See if they're injured, you know, all kinds of things come into play. But that's why the throw phones are such a powerful tool. You have none of that with a cell phone.

Q. Keeping in mind, of course, all the different factors that are involved in when you want to use either a cell phone or a throw phone or when you want to use either one, is there any

reason you couldn't employ the use of both as an effective means to negotiate with a suspect?

A. Yes. Again, we want to control the communications. We don't want them calling their mom and dad to say good-bye and we don't want them calling

* * *

[89] approximately four hours?

A. Initially, that was the only communication we had with him. The Lech home did not have a home phone, as I understand it.

The mom and dad had left their child alone and took the cell phones with them. And we didn't have a throw phone on scene initially. That's why Arapahoe County's was brought up. I think Greenwood did. Ours was better because we have the cameras.

So that was the only method of communicating until we got the throw phone on scene. Once we had that, then that's the better tool to use versus allowing his cell phone to continue.

Q. So you said that previously, right, that the Arapahoe County Sheriff's Department was the only department with a throw phone?

A. Well, everybody owns them. I don't think – without going back and digging through reports, I couldn't say why Greenwood's wasn't broken out.

It might not have been functional. I don't know what the situation was, but they requested ours and we got ours to the scene.

Q. Also Page 6, bottom paragraph of the Rebuttal Disclosure, the Disclosure states that "Using [90] a throw phone has a number of advantages. It controls where the suspect can go and brings him to an area where he can be observed"; is this correct?

A. Correct.

Q. And when you say a throw phone can control where the suspect can go, you mean you can control his movement by use of that tether preventing him from going into other rooms, like you previously described?

A. Correct.

Q. During this incident, where was the throw phone deployed?

A. In the – it went through an upper window, whatever's attached to the front of the house off the kitchen. I'm not sure. I never went in the home.

I don't know what room that was, what they called it, if it was the family room or a living room over whatever that was, but it was the upper room, street facing, that it went through.

Q. To the left of the door if you're looking at the house from the street?

A. Yes. Yes.

Q. Were you aware of where Mr. Seacat was at this time when you threw the phone?

A. No.

Q. Was the use of the throw phone successful

* * *

[92] Q. After you throw the throw phone in, how do you make Mr. Seacat – how did you let him know where the phone is?

A. It rings, like a normal phone. And then they make announcements from the BearCat telling him to go answer the phone and talk to us.

Q. Did law enforcement tell him where the phone was?

A. I don't know if they did or not. It's a loud ring. You can't mistake the noise.

Q. Does it ring like an old-fashioned telephone?

A. Some do. I'm not sure if ours has that exact ring tone, but it's analog, so it's similar.

Q. I believe an attempt was later made to either introduce a second throw phone, or remove the existing throw phone; is that correct, to your understanding, of what happened there?

A. No, that's out of order. Initially, we were going to introduce the throw phone via robot into the

downstairs area. There was some type of trailer attachment to the robot.

We don't personally have one, so I'm not sure what Greenwood had with the throw phone's placement, so we were going to drive it in the back [93] door.

The robot either couldn't pull it or got hung up. There was some problem. So that was ineffective.

The team, then, made – time went on, that team had entered the basement. They did get a robot in, cleared visually with the robot as much as they could.

Then the team entered. Then the shots. And then the direction was, Okay, let's get the throw phone in the front of the house if we can't get in the downstairs. They had cleared that so they didn't think he was down there because the shots came through the floor.

So let's get the throw phone, since we went down in the basement, well, it was a known quantity up to the point they had to evacuate, but it was likely he was somewhere upstairs. So let's get the throw phone up to him, if that makes sense. So it was downstairs tried first, then get it upstairs.

Q. So the first throw phone that was used, you know, you had some kind of problem with it. Did you even, like, notify Mr. Seacat, like where you originally thought that phone was?

A. I don't think it even – if I recall [94] right, I don't think it even made it in the back door, because the robot just wasn't strong enough to pull the trailer

and the weight of the phone and the cord that it had to drag with it. I don't think they were successful in trying to drag – it was a smaller robot.

Q. So I just want to make sure I got the timeline of this right.

So the first throw phone didn't even make it into the building; Mr. Seacat couldn't access it, as far as you know?

A. As far as I know, yes.

Q. Then you send in the SWAT team, they back out. Then you tried the second throw phone upstairs?

A. Same phone, just different locations.

Q. Okay. I see. And when you threw in the second throw phone, how far into the incident are we now? What time of night is it?

A. I don't know. I would have to look it up.

Q. You mentioned previously that you can use applications on cell phones to eavesdrop on someone's communications. Have you had experience with that happening?

A. Yes.

Q. When was that?

A. In the last five years, I think our agency

* * *

[122] as well?

A. They served multiple purposes. One is psychological. The tactics of barricade suspects is you don't want them to feel secure; you want them to feel exposed to the entire world where there's no safe place for them to hide and secrete themselves.

So taking down doors and windows, opening up walls that were previously solid mentally creates that, "I'm exposed."

Again, as part of the psychology of the tactics of SWAT negotiations in this world where they come together of creating an environment where they don't feel comfortable, they can't become barricaded and offensive in the sense of creating, you know, that safe haven to fight from in their mind; you want them to feel completely disadvantaged.

In this case, law enforcement was disadvantaged because the area of the home he occupied was considerably elevated above the street level, above the ground level. Officers were at a disadvantage fighting up, in the sense of if they had to engage him, they were fighting up.

Q. Because the home was a bi-level and if he's at the top floor, he was up higher than everybody else?

[123] A. A lot higher, yes.

Q. In that bi-level, he's standing at the height of the garage?

A. Above the garage, I believe.

Q. How many feet?

A. I don't know. I would have to guess.

Q. What's the difference between opening up holes in a building for the purpose of gaining – seeing where the suspect is versus opening up holes for gun ports?

A. A gun port, depending on where you're at, could be much smaller. If we needed a gun port through this wall to the – whatever is on the other side of this wall – it can be small enough just to get a gun in the line of sight to line up your sight in that room.

They did this in the Platt Canyon hostage incident at Platt Canyon High School, where Emily – Emily Keys, that incident.

Much larger gun ports can be done so that snipers at a distance have a line of sight through – if they had take lethal action. So again, it's very incident driven on what size, where you place them – excuse me – why you place them.

Q. So the purpose of gun ports, if I'm

* * *

Discovery Responses

31. Admitted, with the exception that Mr. Seacat “shot at officers” because it implies a state a mind and is not fact, and that GVPD negotiated with Mr. Seacat for “nearly five hours.” Commander Varney states they negotiated for 5 hours. Defendants’ Motion Ex. J, Page
32. Admitted with the exception to the extent it is subjective opinion.
33. Admitted.
34. Admitted except to the extent that Defendants say explosives are the “safest,” because clearly there are other tactical options, like negotiation, that are safer than explosives. Ex. 1 – Corsentino Report, Pg. 2
35. Admitted. Plaintiffs deny this is a material fact.
36. Admitted, except to the extent it attributes a certain state of mind and intent to Mr. Seacat.
37. Admitted.
38. Admitted.
39. Admitted.
40. Admitted.
41. Admitted, except to the extent it attributes a certain state of mind and intent to Mr. Seacat.
42. Admitted.
43. Admitted.
44. Admitted.

45. Admitted. Plaintiffs deny that Defendants' intent is a material fact.

46. Admitted.

47. Admitted. Plaintiffs deny that the consent form constitutes material fact.

48. Admitted. Deny that this is a material fact.

49. Admitted. Deny that this is a material fact.

* * *

Response and Crisis Negotiation Teams. *Id.*, ¶ 2 He also shut off the gas and water to the home, restricted overhead airspace, and sent a reverse 911 call out to residents in the neighborhood informing them of safety protocols. *Id.*

For approximately four and a half hours, GVPD negotiators tried to get Seacat to surrender. *Id.* at 8, ¶ 30; Docket No. 54 at 4, ¶ 31; Docket No. 47-10 at GVPD negotiated with Seacat via his cellphone and, at Seacat's request, brought Seacat's sister to the scene. Docket No. 47 at 8, ¶¶ 29-3 GVPD also played messages from Seacat's family members over a loud-speaker. *Id.* Despite these efforts, Seacat did not surrender. *Id.*

At approximately 7:11 p.m., when there had been no sightings of Seacat for several hours, Commander Varney authorized the firing of two 40 mm rounds of cold gas munitions through a window for the purpose of getting Seacat out of the residence. *Id.*, ¶ 3 This tactic did not elicit a response. *Id.*

About the same time, Commander Varney authorized officers to shut off Seacat's cell phone and to deliver a "throw" phone and a robot into the home. *Id.*, ¶ 32; Docket No. 47-10 at 1-GVPD believed at this point that Seacat was barricaded on the top floor of the residence. Docket No. 47 at 9, ¶ 3 To enable delivery of a robot and the throw phone, officers breached the front and rear doors of the residence using a BearCat armored vehicle. *Id.* at 9, ¶¶ 34-35; Docket No. 47-10 at Over three hours later, at approximately 10:40 p.m., a tactical team for GVPD entered the residence to apprehend Seacat. Docket No. 47 at 9-10, ¶ 3 As the officers

Discovery Responses

* * *

timeframe for the information sought. Without waiving these objections, the City responds as follows:

Once the active tactical portion of the Incident was resolved and Mr. Seacat was in custody, the scene was swept, searched, secured, and considered a crime scene. Law enforcement then engaged in a coordinated process of organizing the equipment and systems at the scene for transport. This included ensuring that all external equipment was secured, as well as ensuring all equipment was safely taken offline. Once most personnel and equipment had been transported from the scene, Chief Jackson assisted law enforcement in cleaning up trash and debris from the scene, street and front yards of residences. All trash and debris collected was taken and disposed of off-site. Chief Jackson and his Management Analyst then contacted residents living in the neighborhood to explain to them that law enforcement was leaving the area and to help answer any questions presented.

On June 4, 2015, the City's Building Inspector, Steve Hinkley, was called by the Greenwood Village Police Department dispatch to 4219 S. Alton Street for a structural observation of the exterior of the residence located on the property. Based on exterior observations, Mr. Hinkley declared the residence unsafe to occupy at that time.

On June 8, 2015, after law enforcement completed the investigation of the crime scene, the Property was released to the Plaintiffs.

7. Please describe all communications with the Plaintiffs made during and after the Incident concerning the Incident.

RESPONSE: This Interrogatory is objected to for several reasons. First, it is overly broad and unduly burdensome as it does not provide a timeframe related to the information sought. Second, the City is not in a position to know all communications Plaintiffs had during and after the Incident as such information is not in its possession, custody or control. Third, it seeks information which is equally available to Plaintiffs. Without waiving these objections, the City responds as follows:

Chief Jackson had multiple conversations with John Lech on June 3-4, 2015. Those conversations included topics such as, John Lech's dogs, whether there were weapons in the residence, whether there were any other individuals in the residence and other general fact gathering information related to the scene. Chief Jackson also had a conversation with Leo Lech on either June 4 or 5, 2015 regarding entering the Property, which had been taped off as a crime scene. Chief Jackson personally assisted Plaintiffs in retrieving personal property from the Property, which actions included temporarily stopping the scene review being conducted by the District Attorney's office to accommodate Leo Lech's request. Additionally, Chief Jackson

had one written communication with Leo Lech by email following the Incident in July 2015.

The City Manager and City Risk Manager had communications with Leo Lech and John Lech regarding the City's offer to assist John Lech in acquiring temporary housing and to reimburse Leo Lech for his insurance deductible.

On June 11, 2015, the City received a letter from Plaintiffs' attorney, David K. Williams, Jr., asking that all further communications with the Plaintiffs be directed through him.

REQUESTS FOR PRODUCTION

1. Please produce all notes, memoranda, recordings, video, or transcripts of any interview identified in Interrogatory No. 1.

RESPONSE: This Request is objected to for several reasons. First, it is vague and ambiguous. Second, it contains multiple subparts. Third, it seeks information that may contain attorney-client, work product material that is not subject to disclosure. Fourth, it is overly broad and

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RESPONSE: The City objects to this Request as vague and ambiguous as it does not define the term “uninhabitable.” Without waiving this objection, the City responds as follows:

If uninhabitable is intended to mean people could not live in the home immediately following the Incident, then the City admits that following the Incident, the home was deemed uninhabitable by City officials. However, the City denies that the home was condemned, deemed permanently uninhabitable and/or ordered to be destroyed.

2. Please admit that Leo and Alfonsina’s real property was damaged as a result of Incident.

RESPONSE: Admit that Leo and Alfonsina Lech’s real property was damaged subject to the use of Defendants’ reasonable police powers as exercised pursuant to properly constituted authorities.

3. Please admit that John Lech’s personal property was damaged as a result of the Incident.

RESPONSE: Admit that John Lech’s personal property was damaged subject to the use of Defendants’ reasonable police powers as exercised pursuant to properly constituted authorities.

4. Please admit that no compensation for damages occurring as a result of the Incident was paid to Leo and Alfonsina Lech by the City.

RESPONSE: The City admits that Leo Lech refused the City's offers to compensate him for his insurance deductible.

5. Please admit that no compensation for damages occurring as a result of the Incident was paid to John Lech by the City.

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