Page 110	Page 111
1	1 testimony about that.
1 Q See the line the words "too many	
2 factors," the top line?	-land the third
a A Oh ves ves.	. 1/1-4 ama
So that would be the the blunt	
force trauma to the head and the chest	t to two factors there's
6 compression in the mechanical restraint,	6 which when I say the two factors, there's
7 correct?	7 multiple, multiple factors. 8 And even in my cause of death,
. 🕶	8 And even in the factors there
A TO A TO DIV. Got to talk	9 there's more than two factors there. 10 Q We've gone through that. We're not
1 -	10 Q We've gone through that. We've not
1 a 1 would have to say that the the	11 going to do it again.
The state of the s	12 A All right.
	13 Q I think we've had testimony.
	14 I'd like to go down 15 MR. MacLEISH: If we can just
	15 MR. MacLEISH: If we can just
* 1ttiple tectors	go to the point I think this is the part
I drow	that you objected to, the last third of that,
I but efatement voll	18 please, if we could highlight that, starting
I to the two that was my illy	19 with "Dr. Hull," line above.
	20 Q Again, this is the press release
	that was put out by the district attorney's
	22 office and sent to you in advance, correct?
And moire not going to go back	23 A No.
23 And we'll not going to go 24 over that, because I think we've already had	Q It was not sent to you?
Page 11	Page 113
t cout to main	1 statement.
1 A No, it was not sent to me in	2 Q It's not accurate?
2 advance, which is one of the reasons I was a	3 A I - my problem with that statement
3 little bit angry about the press release.	4 is it's not my issue. I'm the medical
Q Okay. The press release was put out,	5 examiner. It's not my it's not my issue
1 Ya and to you within	6 to determine who is at fault, and this places
6 you're correct. It was sent to you without	7 a blame, and that's not my role.
7 your consultation? 8 A It was sent to me as far as I	8 Q Doctor, this press release
1	9 recounts, supposedly, what happened in a
And then you see it states here	meeting in 2010 that we've already had
1 1 UD. Hall stated to ADA Flanagan that base	d 11 testimony about here today, correct?
1 2 on her observation of the video, her review	
1 2 of the witness statements regarding unc	13 Q Did you ever ten the district
1 4 incident and observations of the victim at	attorney's office, the state police or anybody else that it was Mr. Messier's
1 a system on the continuous it was the conduct	1
1 1 % of Tochyo Messier in fighting and maintain	
the etypogle against the guards that caused	dooth
18 his extremely agitated state and ultimately	The transfer of the transfer to the transfer t
10 his death."	1. i. that was evacuit
20 Do you see that statement?	have the second to the second
21 A Ido.	i o o O So the answer is no?
And you were upset about that	Q So the answer is no: A Those words were written by someone
23 statement: is that correct, Doctor?	24 else.
24 A I would not have written that	
	29 (Pages 110 to 113)

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Page 114

Are they consistent with your Collection of what you said at the meeting 2010, Doctor?

A They're not -- the statement by self is not -- it's not exactly inaccurate is just not phrased correctly.

It places blame where I wouldn't place blame.

Q In fact --

That's the problem that I have with it It's not -- it's not that there wasn't fighting and struggling or an agitated state and ultimately death.

The problem I have with that statement is the fact that it places blame on Joshua Messier, and I try -- that's not my pole, and I maintain it's not my role, and those words are not my words.

Q And they would not be a fair characterization of what you said, correct, Doctor?

A As far as I know, I didn't state it in that.

And, in fact, you determined

Page 116

And in particular, it's the placing blame on Mr. Messier piece of it that Idon't like. That's not my role. That's

Q And then you're aware that a series not my job. of articles came out in The Boston Globe in 2014 that quoted from this section of the press release and stated that you had changed your opinion.

Do you recall that, Doctor? MR. BRENNAN: Objection.

A 1-

THE COURT: Mr. Murphy? MR. MURPHY: Your Honor, I know it's within the court's discretion to decide what it views this as relevant.

THE COURT: I don't -- I still don't think this is relevant.

MR. MacLEISH: Well, I can

explain, your Honor. We had state police investigators come in here and testify that they did an investigation, and the result of the investigation was not to proceed.

homicide, which for a medical examiner determination, means death at the hands of another, correct?

Page 115

A It, again, without placing a blame. It's not my --

Q I understand that.

A Well, I mean, that's an important distinction, because it's not my role as medical examiner to decide who is to blame for a situation.

Q I think that's clear.

A And I draw a wall with that. And that's the reason I don't like the statement.

It's not particularly that, okay, this is not -- if this was said without stating me in it, you know, if this was, okay, in conclusion of everything, I don't

know. I mean, if somebody else concluded that, I don't know how much I would argue with each and every piece of it. There's pieces in this that -- that aren't directly inaccurate. It's just the way that it phrases it, I don't -- I don't like it.

Page 117

And now we have Dr. Hull stating that one of the key grounds on which they decided not to proceed was a statement by Dr. Hull that she never made about Joshua Messier contributing to the death, to his own 5 6

THE COURT: But that's -- if death. relevant at all, it has marginal relevance.

My job here today, as I tried to reiterate over and over again, is to gather the opinions of the medical experts today to determine if a crime has occurred, not -- not a coverup or anything else. 12 13

14

MR. MacLEISH: I understand It's --15 that, your Honor. THE COURT: So I'm interested 1.6

17 in her medical --MR. MacLEISH: Okay. I just 18 would like to state, your Honor, if I 19

20 could --21

THE COURT: Sure. MR. MacLEISH: I would take it 22 that the statements of the police, Captain 23 24

30 (Pages 114 to 117)

that language in it. Upon Murphy's review, there was no training of positional asphyxia in any of the training venues. So I would there was a the 505 has a sister policy, the 503. The 503 is entitled Forced Movement of Inmates. Q Correct. A Contained within that policy is anguage similar to that in the Standard Operating Procedure. In mot sure if that's what Superintendent Murphy is referencing there. Q Okay. But C A Because that language is in the Standard Operating Procedure. But he says there was no training in positional asphyxia, or naver? A Because that language is in the Standard Operating Procedure. But he says there was no training in positional asphyxia in any of the training venues. That's different question than what you' re answering? A I don't know how Superintendent Murphy would know that. He's he's the superintendent of one facility, so Q Now, you were asked when you interviewed the people that you interviewed, the staff, you asked all of them what their training was in positional asphyxia, correct? A Yes. Q And Leitenant Billadeau told you that the was trained not to pile on top of somebody who was face down on the ground, and that's what his training was in positional asphyxia, correct? A Yes. A Correct. Q And he had also seen a video on lie positional asphyxia, correct? A Yes. A Contained my out all how the student of you and training positional asphyxia, correct? A Yes. Q And he had also seen a video on lie positional asphyxia, correct? A Min-hmm. A Yes. Q So that's what be told you on the your interviewed, the staff, you asked all of them what their training was in positional asphyxia, correct? A Yes. Q Row, you were asked when you interviewed, the staff, you asked all of them what their training was in positional asphyxia, correct? A Yes. Q So that's what be told you that he knew it just because he had come across on the saw this video that Lieutenant Billadeau saw, correct? A Golary the force of the training in that area. Q Do you know how the Depar		Davis 226		D 200
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21 A No. 21 correct, as best he could?	20	Q And have you ever seen that video?	20	
22 Q But basically, his knowledge, it's 22 A Yes.	1	A No.	21	
	22	± 0,		•
23 always in the context of someone that's 23 Q He didn't assert his Article 12		•	1	
24 laying on ground, correct? 24 rights and refuse to answer like some of the	24	laying on ground, correct?	24	rights and refuse to answer like some of the

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HEARING - DAY 1 - 3/9/2015
                                                                                        Page 332
                                                         Q I'm not talking about the -- are
                                      Page 330
                                                      you referring to the cadres?
   correction officers did?
                                                          A Yes.
                                                   3
      Q In fact, Officers Barker, Soares
1
                                                                Set the cadres -- the cadres
                                                              Okay.
      A No.
                                                          Q
                                                    4
                                                       are people who wear uniforms who are
2
    and Foster all declined to answer any
                                                    5
    questions about using any force, correct?
3
                                                        prisoners who do the basic --
                                                    6
                                                                 They do the work at the
       A That's my recollection.
                                                     7
       Q But Derek Howard answered
                                                        Bridgewater State Hospital?
                                                     8
 6
                                                            A That's correct.
     everything you asked?
                                                     9
                                                               The cooking, cleaning, that stuff?
                                                     10
        Q And at the end of the interview,
        A He did.
 11 you thanked him for his cooperation; do you
                                                     11
                                                         Set them aside.
                                                                  The people who were on B1, B2,
                                                          that part of Bridgewater State Hospital, you
                                                     12
                                                          can't tell a patient from an inmate, correct?
                                                      13
  12 recall that?
         Q And similar to Derek Howard, John
                                                      14
         A I did.
                                                      15
                                                                 They both wear civilian clothing?
  13
   15 Raposo told you that he didn't recall any
   16 training on positional asphyxia or four-point
                                                      16
                                                                 I mean, I think they're all
   17 restraints, but he had the same understanding
                                                              Q.
                                                       17
                                                            classified as inmates. I'm sorry, as
                                                       18
   18 of if as Derek Howard did, correct?
                                                       19
           A As we sit here today, I don't
                                                            patients.
                                                       20
    20 remember that, but specifically -- but I have
                                                               Q Right.
                                                                     But there could be somebody
                                                             who got arrested, had a bad episode and gets
                                                        21
     21 a vague recollection of it.
                                                        22
                 MR. ANDERSON: If I could
                                                             sent to see if they're fit for trial,
                                                        23
     23 just -- for the record, it's on page 56 and
                                                                                                Page 333
                                                         24
                                                              competent for trial, and then there could be
      24 60 of the reports.
                                             Page 331
                                                              someone who is doing 20 to life at Walpole
                                                              who says they're going to kill themselves who
                    You don't need to go back
           through it, but I just want that on the
                                                               also gets sent there, correct?
                                                            4
        2
                                                                  A Yes.
                                                                  Q So there are people that are
           record.
                                                               serving sentences and there are people that
                                                            5
               Q And to your memory, do you recall
        3
                                                                just go there for competency evaluations and
            if Officer Raposo mentioned ever seeing this
                                                            6
        4
                                                            7
         5
                                                                legal issues correct?
                                                             8
         6
                A I'm not sure I even asked him that.
             video?
                                                             9
         7
                                                                   A Correct.
                                                                    Q And you can't tell the armed
                                                                 robber, the rapist from the poor person who's
                                                             10
                Q Now, in your time working for the
          8
             I don't recall.
              Department of Corrections, how much was
                                                             11
          9
                                                                 there for a competency evaluation?
              actually spent relating to Bridgewater State
                                                             12
         10
                                                             13
                                                                         And nothing is done to the staff to
                                                                     A Correct.
                                                                  let them know, you know, this person in
                                                              14
          12
                  A So I worked there for two years
          13 Hospital?
                                                                   yellow is here for armed robbery and is doing
                                                              15
          15 doing the commitment hearings. I --
                                                                   20 years and this person is here for 15 days
                                                              16
               certainly during those two years, I was -- I
                                                              17
                                                                   for evaluation, correct?
               was -- I was there.
           16
                                                                      A That's my understanding.
                                                                       Q And Bridgewater State Hospital
                                                               19
           17
                         And you agree that when you're
                   Q Okay.
            20 working there, walking around, you can't tell
                                                                    employees don't have any training at all
                                                               20
            18
                                                                21
                the difference between a patient and an
                                                                    related to mental health issues?
                                                                22
                                                                          I wouldn't -- I wouldn't say that,
                                                                23
             21
                 inmate, correct?
                                                                                    84 (Pages 330 to 333)
                    A That's not correct. They wear
                                                                 24
             22
                 different -- different uniforms.
             23
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