

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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FIRE ABOARD *GRANDE COSTA D'AVORIO* *

AT BERTH 16 IN THE PORT OF NEWARK IN *

Accident No.: DCA23FM039

NEWARK, NEW JERSEY ON JULY 5, 2023 *

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* * * * *

Union Township City Council Chambers
1976 Morris Avenue
Union, New Jersey 07083

Tuesday,
January 16, 2024

Hearing Day 4 of 6

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I N T E R V I E W

(8:31 a.m.)

CDR BARGER: Good morning, ladies and gentlemen. The time is now 8:31 a.m. local time in Union, New Jersey. We are back on the record in the formal hearing into the fire and subsequent fatalities on the Grande Costa D'Avorio that occurred on July 5th, 2023, while conducting cargo operations in the Port of Newark, New Jersey. I ask those attending in person to silence all cell phones at this time and please exit the hearing room to make or receive phone calls.

Today is Tuesday, January 16th, 2024. It is the fourth day of the formal hearing into the previously mentioned matter. I am Commander Christian Barger, the lead investigating officer for the First Coast Guard District formal investigation and the presiding officer over these proceedings. The Commander First Coast Guard District convened this investigation under the authority of Title 46 of United States Code Section 6301 and Title 46 Code of Federal Regulations Part 4, to investigate the facts and circumstances surrounding the fire and subsequent fatalities on the Grande Costa D'Avorio.

The original hearing schedule for today included testimony from Deputy Chief Carlucci of the Newark Fire Department, incident commander for the fire on July 5th, 2023. Due to unfortunate circumstances, he is unable to do so. Pending a change in these circumstances, we will elicit his testimony in a virtual follow up

1 session that will also be livestreamed publicly.

2 In light of this and to ensure continuity for the factual
3 record at these public proceedings, we have added a witness to
4 Thursday's scheduled, Battalion Chief Kupko of the Newark Fire
5 Department will now provide testimony that morning. The updated
6 hearing schedule has been posted to the hearing's newsroom.

7 As a reminder, my interest to preserve the decorum at these
8 proceedings in paramount. This extends from witnesses to PII
9 counsel and to the audience in attendance today. All testifying
10 witnesses shall be treated with dignity and the respect that they
11 deserve.

12 The investigation team members present today other than
13 myself are Lieutenant Commander Stephanie Moore, Mr. Willie
14 Pittman and Lieutenant Brandon Reed, who is also the recorder.
15 The legal advisor to this investigation is Lieutenant Commander
16 Katherine Ward. The National Transportation Safety Board is
17 participating in this hearing and represented by Mr. Bart Barnum
18 and Ms. Nancy McAtee. The Coast Guard has designated five parties
19 in interest to this investigation.

20 We will now take appearances from the parties from my left to
21 right. When I call the party, please state your name and spell
22 your last name for the record. City of Newark?

23 MR. LIPSHUTZ: Good morning. Gary Lipshutz, L-i-p-s-h-u-t-z,
24 First Assistant Corporation, counsel for the City of Newark, the
25 Department of Public Safety Division of Fire.

1 CDR BARGER: Thank you. Port Authority of New York, New
2 Jersey?

3 MR. REILLY: Good morning. John Reilly from the Law Firm of
4 Squire Patton Boggs. My last name is spelled R-e-i-l-l-y. We
5 represent the Port Authority.

6 CDR BARGER: Okay. Thank you. For Grimaldi Deep Sea?

7 MR. O'CONNOR: Good morning. Robert O'Connor, O-c-o-n-n-o-r,
8 from Montgomery McCracken for Grimaldi.

9 CDR BARGER: Okay. Thank you. And Ports America?

10 MR. ZONGHETTI: Good morning. Gino Zonghetti, Z-o-n-g-h-e-t-
11 t-i, from the Law Firm of Kaufman Dolowich on behalf of Ports
12 America.

13 CDR BARGER: Okay. Thank you. And American Maritime
14 Services?

15 MR. PALLAY: Good morning. Matthew Pallay, P-a-l-l-a-y, from
16 the Law Firm of Freehill Hogan & Mahar.

17 CDR BARGER: Okay. Thank you. Mr. Barnum, do you have any
18 opening remarks on behalf of the NTSB?

19 MR. BARNUM: Yeah, thank you, Commander. And good morning.
20 I am Bart Barnum, Investigator in Charge for the National
21 Transportation Safety Board for this investigation. The NTSB has
22 joined this hearing to avoid duplicating the development of facts.
23 Nevertheless, I do wish to point this does not preclude the NTSB
24 from developing additional information separately from this
25 proceeding if that becomes necessary.

At the conclusion of this hearing, the NTSB will analyze the facts of this casualty and determine the probable cause independent of the Coast Guard. We will issue a report of our findings and if appropriate, the NTSB will issue recommendations to correct safety problems discovered during this investigation. Thank you.

CDR BARGER: Thank you, Mr. Barnum. We will now take a ten minute recess to prepare the first witness, Battalion Chief Maresca. The time is now 8:37 a.m. We will reconvene at 8:50 a.m. Thank you.

(Off the record at 8:50 a.m.)

(On the record at 8:50 a.m.)

CDR BARGER: The time is now 8:50 a.m. local time in Union, New Jersey. The hearing is now reconvened and back on the record regarding the fire on board the Grande Costa D'Avorio. Our next witness is Battalion Chief Maresca. Lieutenant Reed, please swear the witness in.

(Whereupon,

AL MARESCA

was called as a witness and, having been first duly sworn, was examined and testified under oath, as follows:)

LT REED: Okay. Mr. Maresca, I'll now ask you a few preliminary questions. Will you please state your name and spell your last name for the record?

THE WITNESS: Al Maresca, M-a-r-e-s-c-a.

1 LT REED: Okay. And on July 5th, 2023, what was your
2 profession?

3 THE WITNESS: I was a Newark Firefighter Battalion Chief 4.

4 LT REED: And who were you employed by?

5 THE WITNESS: The City of Newark.

6 LT REED: Okay. What, if any, professional certificates or
7 certifications do you hold related to that position?

8 THE WITNESS: ISC 200, 300, 700. That's basically with the
9 fire department.

10 LT REED: Okay. And how long had you been employed in that
11 position at the time of the casualty on July 5th, 2023?

12 THE WITNESS: I had been since December of 2015.

13 LT REED: Okay. All right. Commander, the witness is ready
14 to proceed.

15 CDR BARGER: All right. Thank you.

16 DIRECT EXAMINATION

17 BY CDR BARGER:

18 Q. Good morning, Mr. Maresco.

19 A. Good morning.

20 Q. Okay. So we just -- Lieutenant Reed just ask you about your
21 position and time with the Newark Fire Department. And you said
22 you started with the Newark Fire Department December 2015?

23 A. No, that -- 2015 was when I was promoted to battalion chief.

24 Q. Okay.

25 A. I've been on the job for 36 years.

1 Q. Okay. And as a battalion chief, had you been Battalion 4
2 that entire time?

3 A. No, I was Battalion 4 for the last two years.

4 Q. Okay. And as Battalion 4, what were your duties related to
5 that position?

6 A. In charge of the fire incidents, controlling the Fourth
7 Battalion, any fires in the Fourth Battalion or anything, any
8 incident until the deputy assumes command.

9 Q. In times where there's not an incident, do you have any
10 leadership roles or managerial roles for companies that are within
11 your battalion?

12 A. Yes, I manage seven companies in my battalion. I have four
13 engines, two trucks and the rescue company.

14 Q. Okay.

15 A. And I take care of all the administration stuff for them too.

16 Q. How much day to day interaction as a battalion chief do you
17 have with the leadership in those companies?

18 A. I'm on a full day 24 hours with them, with the captains. And
19 I go to all the fire houses and sit in there for about an hour or
20 so with them. And then when we do training and incidents and
21 stuff.

22 Q. Okay. And then did you hold any other -- in, in the Coast
23 Guard, we would call that collateral duties, duties -- special
24 duties beyond just those inherent to being a battalion chief
25 within the department or responsibilities?

1 A. Yeah, I'm not really -- I'm the USAR chief in the Fourth
2 Battalion. The Fourth Battalion, my house is where the USR runs
3 out of.

4 Q. Okay. And what is USAR?

5 A. Urban Search and Rescue.

6 Q. And I know Lieutenant Reed asked a little bit about
7 certifications related to your positions, but what training have
8 you had as a firefighter and coming up through the ranks to
9 prepare you to be a battalion chief or any training specific to
10 when you became a battalion chief would be included there as well?

11 A. Well, we have ISC, incident command, 100, 200, 300, 700. But
12 just the daily training with the city that I've had and with the
13 experience, the lifetime experience on the job.

14 Q. Since you mention it, could you tell us a little bit about
15 the daily training that occurs?

16 A. Well, it, it varies with companies. I have engine companies,
17 I have truck companies. I have rescue, the -- the USAR company.
18 So, you know, they do drills. Usually the captain leads a lot of
19 the drills. I mean, I'll show up on some of them. But that's
20 usually a daily thing that they'll go out with each crew and to
21 their specific job on the city. Once in a while, you know, we'll
22 have a big drill together or walk through, like the Budweiser
23 plant. But it -- there's no -- it's every day.

24 Q. Okay. So is there any training that you, as the battalion
25 chief, prescribes to be done or is that all done -- decided at the

1 captain level?

2 A. We talk. When we go around, we'll talk to the companies and
3 see what they need work on or when we've had incidents, we'll do,
4 like, a roundtable. And if we need work on something, then we'll
5 address it and work on that in our battalion.

6 Q. Okay. Does -- and I'm not a firefighter. So does training
7 for an engine company, training for a ladder company, training for
8 the USAR, training for a rescue company, does that all relatively
9 look the same?

10 A. No.

11 Q. Could you tell us a little bit about differences or --

12 A. Well --

13 Q. -- specifics to each type of company?

14 A. The engines are concentrating more on stretching, maybe
15 hooking up to stand pipes, the high rise stuff, where the truck
16 companies are more forcible entry, ventilation, rescue and then
17 the USAR is more -- they might have cribbing, they might have high
18 angle rope stuff. They're a specialized unit. And the trucks
19 would do also with the -- using, like, the jaws and entrapments on
20 cars.

21 Q. And I think in your original description of what companies
22 you had within your battalion, you had said a rescue company. Is
23 that the same as the USAR or is that -- are they separate?

24 A. No, they're separate.

25 Q. Separate?

1 A. Yeah.

2 Q. So there is one company, if that's the correct terminology,
3 within your battalion, that is specific, the USAR company?

4 A. The USAR is made up of Engine 10 and Ladder 5.

5 Q. Okay. As part of the training program, daily training or any
6 other type of training, has there ever been a topic discussed with
7 regards to shipboard firefighting or maritime firefighting?

8 A. No.

9 Q. Prior to July 5th, 2023, when was the last time that you had
10 been down to the Port of Newark?

11 A. Yeah. I've only been to the port a few times in my 36 years.

12 Q. Okay.

13 A. Because I'm in the Fourth Battalion, so I'm -- and that's a
14 Fifth Battalion area. So when I've worked overtime and I'm have
15 -- if I've had a run, just responding to, like, an automatic alarm
16 or something. But I've never really had an incident there.

17 Q. Could you describe the USAR company or USAR unit to us a
18 little? Like, what is the makeup? You've already mentioned
19 Engine 10 and Ladder 5. But, you know, how many people does that
20 consist of on a shift? What kind of -- you mentioned there's
21 specialized functions, but do they have any specialized equipment
22 that they utilize?

23 A. The USAR is a whole -- they have the whole -- a lot of
24 equipment. I couldn't even name all the stuff that they have.
25 It's for rigging, for, like, if they have a collapse, structural

1 stuff. It could be anything. So they have -- it's all
2 specialized equipment that they have. It's a whole -- they have a
3 whole separate truck that they will -- go on their truck. You
4 know, they have a rope truck. They have also, you know, with all
5 the equipment. So it's too hard to really explain everything
6 right here.

7 Q. On July 5th, 2023, were you aware of any equipment within
8 your battalion that was out of commission or out of service?

9 A. Yes.

10 Q. Okay. What equipment was that?

11 A. Well, there --

12 Q. Or what resources?

13 A. The -- a lot of our first line rigs were out of service. So
14 that -- the engines -- we're using spare rigs. We had a lot --
15 there were quite a few. I'm not sure exactly which ones. I'm not
16 even sure which ladders were available in the city because we had
17 a couple of them that were out that -- down neck, which would be
18 the Fifth Battalion. I'm not sure if any of their aerials even
19 worked at that point.

20 Q. As far as the USAR and rescue functions, was there any
21 resources that were out of service for either of those, that you
22 know of?

23 A. Not that I know of. That would have been the captains and
24 the crew. They do that, inventory on that.

25 Q. Okay. All right. Since you are the first firefighter that

1 we're having the opportunity to receive testimony from in these
2 proceedings, I have a couple of kind of general fire department
3 questions for you so that we all can be aware of maybe some of the
4 terminology of other items that will come up throughout the
5 testimony.

6 So if you could please describe to us what is Newark Fire
7 Department's typical structure for responding units when an alarm
8 is called out?

9 A. Well, if it's a report of a fire, it would be a full
10 assignment Signal 10, which would be two -- four engines, three
11 trucks. The third truck being the fast team, the RIT team. It'd
12 be two chiefs, battalion chiefs. The second battalion chief would
13 be the -- safety officer. And then the deputy and also Rescue
14 would all respond.

15 If it was a minor, maybe, like, an MVA or a busted pipe, it
16 might be a Signal 8 or a Signal 9. Signal 8 would be one engine
17 and one truck and a battalion chief. The Signal 9 would be two
18 engines and a truck and a battalion chief. And a lot of times,
19 Rescue will be attached depending on the incident.

20 Q. And who is making those decisions as far as what gets
21 dispatched on an initial --

22 A. The dispatchers.

23 Q. Okay.

24 A. They're receiving the call, so, you know, what -- depending
25 on the information they're getting.

1 Q. If you're the first Battalion Chief, do you have any
2 discretion or input to what is getting dispatched?

3 A. If -- I would have a little -- as far as, like, if I wanted
4 to add rescue onto it or if I get on the scene and I think I need
5 more, then I'll request an additional or fill a box out.

6 Q. Okay.

7 A. Which would make it as bring all the engines and trucks.

8 Q. Okay. So to clarify, because that's a new term, right, for
9 -- so a box alarm or fill a box out, what does that mean?

10 A. Fill a box out would be taking it from a signal 8 to a signal
11 10. The signal 10 is when you have the three -- the four engines,
12 the three trucks and everybody come in. Once we have a fire, then
13 we would change it to a signal 11 and that's confirmed fire or
14 everyone's working.

15 Q. Okay. And when you change it to a signal 11, does that
16 change the resources that have been deployed at that point?

17 A. No, it's basically saying every -- that we have an incident
18 and that everyone is being held.

19 Q. And then if a second alarm is called, how does that work?

20 A. The deputy or battalion chief, depending on the incident,
21 would call for a second. I mean, then you'd get again four more
22 engines, two trucks, another chief. It's just you get more
23 resources.

24 Q. And so every alarm, if I'm understanding you correctly, every
25 alarm that is called then, there's a potential you?

1 A. I'm bringing more resources.

2 Q. Box alarm or, you know, fill the box so it's same resources
3 every time are coming with the additional alarm?

4 A. Yeah, it might get a little less as we get farther down
5 because just only so many resources in the city.

6 Q. Okay. You mentioned there would be some difference between a
7 signal eight, nine and ten that could be used for different types
8 of responses between a motor vehicle accident or a structure fire.
9 When it comes to a fire, does the type of fire or where the fire
10 is occurring impact the resources that are deployed?

11 A. Usually with the dispatches, I'm again, I'm not a dispatcher,
12 but anytime a report of a fire, they're going to send a full box
13 ten. They're going to send a ten. So in your better safe than
14 sorry.

15 Q. It's -- I'm sorry to cut you off.

16 A. That's it.

17 Q. So in your experience in Newark Fire Department, if it was a
18 house fire or a high rise fire or a ship fire, is going to be the
19 same resources that are --

20 A. For the initial, yes, yes.

21 Q. -- deployed on the -- you mentioned RIP team or I think you
22 said fast as well. Can you describe those two terms and are they
23 interchangeable?

24 A. Well, it's just two terminology for the same thing.

25 Q. Okay. So what is a fast team or a RIT team?

1 A. All right. That's a team that had a fire at an incident.
2 Their main job is they're staged out in front with the deputy, and
3 if something goes wrong, they go in immediately to do a rescue and
4 that's -- they have a specialized equipment. They'll have an
5 extra air pack and everything. And so they're staying. They're
6 not working the fire, putting it out. Their main job is to just
7 -- if needed to go rescue a down firefighter or whatever,
8 anything, they just an extra set of hands.

9 Q. And is that a specially designated team at all times or is it
10 just the sequence at which a team that arrives?

11 A. It's the third truck company and --

12 Q. On the scene?

13 A. You know, if it's a major incident and we call for additional
14 alarms, then you may activate. You may put them to work and
15 designate another truck company later on, but you always have one
16 on standby.

17 Q. Okay. So any truck company could potentially be your --

18 A. Yes, they're all.

19 Q. -- RIT or fast?

20 A. Right. They all have the same equipment all, the truck
21 companies.

22 Q. As far as communications on scene. Can you walk us through
23 those procedures of how communications amongst the responding
24 firefighters occur?

25 A. Via radio, you know, or if the radio's not working, face to

1 face is what we usually communicate.

2 Q. Who has radios?

3 A. Every firefighter in the city of Newark should have a radio.

4 Q. Is there a written policy that specifies that every
5 firefighter have or carry a radio?

6 A. Yes, I believe so. They're -- in the morning, they're signed
7 their radio, they sign off on it.

8 Q. Okay. And how did they sign off on it? Is that a --

9 A. We have a journal and the mask is assigned and the radio is
10 assigned and then they initialize it.

11 Q. I believe I've heard previously that there are multiple
12 different channels that the radios can use. So how is it
13 determined what channel is going to be used for the response?

14 A. Channel one is what's dispatched. Everything's dispatched
15 off to channel one, and the dispatchers will assign if it's a
16 single team where it's a full assignment that will go to channel
17 two. If it's just like a medical and MVA, most things will be on
18 channel three.

19 Q. And is that something that every firefighter physically has
20 to change on their radio over to a channel? We've also heard
21 about local channels. Can you describe those to us?

22 A. The local channel is usually -- it's not used that much, but
23 in an incident where you're in a high rise or where the
24 communication, it's not going through. It's almost like a walkie-
25 talkie where it's just we go to channel five. And for that

1 incident we tried channel five because we were having trouble
2 communicating. And so we tried to do five to see if we could just
3 communicate back and forth. It really wasn't helping me. I, you
4 know, the captain and engine Ladder 5 had tried it and I was
5 having -- it was no different than when I was doing the -- on
6 channel two at that incident.

7 Q. And how are firefighters notified that there's going to be a
8 change from channel three to channel five?

9 A. That was something that we didn't go to channel five.
10 Everybody -- he just was going to try that because he was inside
11 and he was having trouble communicating. So he said -- he advised
12 me that he was going to go to channel five, try channel five. So
13 I was scanning it. I was still on channel two, but I was scanning
14 channel five because the radios have scanning where you can pick
15 up --

16 Q. Okay.

17 A. -- all the channels, but it really didn't help me when he
18 went to channel five.

19 Q. And we'll get into some more details obviously on the
20 incident itself, but when you're referring to him in the case of
21 switching over to?

22 A. Oh, captain of Ladder 5.

23 Q. What is his last name just for --

24 A. Captain Barisano (ph.).

25 Q. So we talked about radios, our cell phones ever used between

1 fire department leadership or firefighters on the scene to
2 communicate?

3 A. Yes, but not like a fire incident usually. Like, if I was
4 doing maybe like a hazmat where we're standing around and you
5 might be cell phone calling for resource, you know, I might call
6 dispatch right on, you know, asking who's available or, you know,
7 if you have a maybe a hazmat chief, you might want to ask for
8 advice on something if you need resources.

9 But on a whole. Like, we -- I have -- I'm not using my radio
10 the cell phone. It's only when we're at, like, an incident where
11 we're standing around in a situation like this, trying to get
12 resources.

13 Q. So you wouldn't normally have the deputy trying to call the
14 battalion chief.

15 A. No, no, no, not a normal response on cell phone and in normal
16 response.

17 Q. For a larger fire incident, is there ever a communications
18 officer established?

19 A. Not that we've had, no.

20 Q. Earlier I asked you about shipboard fire training. As far as
21 your experience, when, if ever, have you responded to a shipboard
22 fire in your career?

23 A. That was the first time.

24 Q. When, if ever, had you responded to a fire at the Port Newark
25 in your experience?

1 A. That was the first time. I -- and I take that back. We did
2 have one earlier on one of the warehouses on the roof was on fire,
3 so that was -- and that was also last year. So that was the first
4 two times were this year after 36 years.

5 Q. And that was on port property or within the Port of Newark?

6 A. It was someplace down. I'm not even sure exactly where down
7 there, but it was on -- it was solar panels. It had burned a
8 little bit.

9 Q. So on July 5th, 2023, were you on shift that day, on 4th
10 Battalion that day?

11 A. I was the 4th Battalion, yes.

12 Q. Okay. And do you remember the incident took place at Port
13 Newark on July 5th, 2023?

14 A. Yes.

15 Q. When were you initially made aware of that incident.

16 A. I responded on the initial alarm, I was the second chief.

17 Q. And how were you notified about the incident?

18 A. Locution system.

19 Q. Can you explain that phrase to us?

20 A. It's a system that the city uses that. It notifies all the
21 firehouses that are on the box and we have a TV screen that will
22 tell you where it's at and the companies there. And then they'll
23 announce it on the radio.

24 Q. Okay. And what was your understanding of the incident that
25 you were responding to?

1 A. If I recall correctly, it was just a response of a possible
2 car fire on a ship. So that's -- so we didn't know what to
3 expect.

4 Q. Prior to arriving on scene, what, if any, communication do
5 you have with other responders or those who might already be on
6 scene?

7 A. Well, we're driving down, so I didn't have much. I was just
8 listening, trying to pick up if I could hear anything. But I
9 don't think they had really said anything because it was a long
10 walk up and everything by the time we were there and the thing --
11 I got there when Ladder 4 got there.

12 Q. When you arrived at the scene, what was your initial
13 impression of what was going on?

14 A. It looked like there were people up on the top deck. It was
15 a light smoke. It wasn't a dark burning smoke and I saw some
16 people with it, looked like they were shooting water. So I didn't
17 really know exactly what they had. I figured they had something
18 burning up on the top deck.

19 Q. And then when you arrived, what had been established as far
20 as the fire department response at that point?

21 A. They were still trying to determine what they had. I
22 initially was downstairs with Deputy Carlucci, on the deck,
23 waiting to hear from the companies up there.

24 Q. And so what time did you actually arrive on scene, do you
25 remember?

1 A. No, I'm not sure exactly when it was. Fairly quick, but
2 we're coming from the 4th Battalion to get down next so. I would
3 say probably ten minutes. You know, with traffic and everything.

4 Q. And so what you mentioned that you were waiting to hear you
5 arrived, they were waiting to hear what they had. Can you
6 describe how that was occurring?

7 A. Well, we were down at the bottom on the dock by that entrance
8 where the boat there. And we were basically waiting to hear what
9 they have. So I think 27 Engine, Ford Truck and Battalion 5 had
10 gone up, but I don't even know how much. They had, you know -- we
11 still didn't know what they had yet. And it's, you know -- I then
12 told Deputy Chief Carlucci, I'm going to go up and see if I can
13 assist him because we hadn't heard anything.

14 Q. And so when you arrived on scene, who was in charge of
15 the incident, who was the incident commander?

16 A. Well, technically, it's the deputy, but on the 12th floor was
17 Chief Kupka, Battalion 5. He was trying to find out what we had,
18 trying to communicate with the first mate. So -- or whoever was
19 in charge, if it wasn't the captain. It was. I'm not sure who
20 the guy was. He was in charge of the whatever the crew up there.

21 Q. Okay. So if I'm understanding correctly, just to confirm,
22 when you arrived, Deputy Chief Carlucci was there?

23 A. He was on the --

24 Q. In charge down below?

25 A. Yeah, he's in charge. Well, he's in charge of the incident.

1 The deputy's always in charge of the incident. Starts out the
2 battalion chief, but once the deputy gets there, he assumes
3 command.

4 Q. So by that point, the deputy had assumed command. And if I'm
5 following correctly, it sounds like Battalion Chief Kupko had
6 already gone up with Engine 27.

7 A. Engine 27, Ladder 4.

8 Q. At any point when you first arrived on the scene, did you
9 talk with a crew member from the ship?

10 A. Repeat that.

11 Q. When you first when you arrived first on scene or when you
12 first arrived on scene, did you speak with any crew members from
13 the ship?

14 A. No, the first crew member I spoke to was the one that
15 escorted me to the right side stairwell.

16 Q. Okay.

17 A. You know, all he did is just said go up the steps and follow
18 that up to the top deck.

19 Q. Whoever provided or made aware of any kind of plans or
20 diagrams of the ship?

21 A. Not -- no, I was not.

22 Q. Did you observe, I would call it the incident command post
23 wherever the incident commander is, did you observe a diagram or
24 plan of the ship at all in that area?

25 A. At that point we had no one. We had really no contact other

1 than there was a crew member down there that was going to take us
2 up to show us how to get to the stairwell to get up there. This
3 was very early in the incident and nobody was giving us anything,
4 hadn't given us at that point. We didn't even exactly know what
5 we had at that point.

6 Q. When, if ever, were you informed the carbon dioxide.
7 suppression system had been discharged?

8 A. I'm not sure when. No one ever said anything to me, but when
9 I did go up the steps, I opened up, I'm not sure what floor, one
10 of the floors just to see what they had. Like, if I could see
11 anything, trying to get a little layout. And as soon as I went in
12 there, I lost my breath and I knew that they had to try something
13 to deploy this.

14 And that was, you know, that's when I knew that they didn't
15 know when they did it or anything, but I knew they had tried to do
16 something because it took my breath. I would say that was about
17 the sixth floor because they weren't -- there wasn't a door on
18 every floor. So whatever, you know, I was just going by whatever
19 the sign said on the -- in the hallway or door.

20 Q. In your from what you can remember, was it the last door
21 before?

22 A. I don't know at that point he after he took my breath. I was
23 like, oh, you know, this is -- you know, but there was number,
24 sign of any fire.

25 Q. So when you started heading up the stairwell. What equipment

1 did you have with you?

2 A. I had my radio and a flashlight.

3 Q. Did you have turn out gear?

4 A. Yes, yes.

5 Q. What did you have?

6 A. SCBA. I had, I had it and then I had laid it down on the
7 dock. So I was just going up to see what they had and investigate
8 at that point.

9 Q. And would turn out gear include boots, helmets?

10 A. Yes. Yeah, PPE.

11 Q. Is that -- would you say that's standard as a battalion Chief
12 that you would wear that equipment when going to investigate what
13 you have at a fire scene?

14 A. No, usually if it was a house fire, I would have my tank on
15 too. But at this point, I was just going to just to see what they
16 really had to determine what we had here. So I should have had it
17 with me, but I didn't.

18 Q. And before we start heading up too far up, I believe you
19 mentioned when you arrived as the second battalion chief, you were
20 designated as a safety officer, is that correct?

21 A. Yes, that's the way the city works, is we don't have a per se
22 safety officer. So it's the second chief is designated, it's the
23 safety officer.

24 Q. And how does the function as safety officer normally -- how
25 does that normally function?

1 A. In the City of Newark, which usually the -- we usually go to
2 work, the safety officers. So you do a dual role.

3 Q. So from the safety officer perspective, what is your -- what
4 are your duties or what is the purpose of having that designated?

5 A. Ideally it's to to observe and look for things that -- like,
6 the ladder being too close to wires, something that could
7 alleviate the danger for guys.

8 Q. Newark, you're often working?

9 A. If you have a fire in the main building, like most of our
10 two-story -- two and a half story fires, so you might have one
11 officer in the main building and then the exposure on fire safety
12 officer, You know, the second officer may be in that building.
13 You might have a fire on multiple floors. SO11 will be on the
14 third floor, maybe another chief on the second floor. So you're
15 adapting or you could be safe. You might get there, and having a
16 water problem and, you know. So you may be trying to get water
17 for your companies. So it's whatever is needed.

18 Q. So if involved in working, how do you also then monitor for
19 the safety?

20 A. What we refer to as we're going to chaotic -- organized
21 chaotic thing. It's -- you got to just do what you have to do.
22 Fire department guys will do what you have to do most of the time
23 with the safety officer. I'll do the reports. If someone does
24 get hurt, I'll follow up and do the, the paperwork, make sure they
25 get that done.

1 Q. In positions like the safety officer or even the incident
2 commander on a on a fire scene, is there any visual designation
3 that you are the safety officer or that is the incident commander?

4 A. The leads and the command will have it. Usually they'll have
5 -- you know, he'll have the the tags there board sometimes,
6 depending on the incident where the safety officer, now there's no
7 destination.

8 Q. All right. So you mentioned you went up the stairs and got
9 to Deck 6. Can you walk us through where you went from there?

10 A. Yeah. From there, I went up to the top deck. And we were on
11 the right hand side of the ship about kind of, like, the middle
12 where the crane was. And I saw them on the left hands all the way
13 across with a ton of cars. And I'm not even sure how we got
14 across. I don't know if we -- I think we climbed.

15 I saw ever went on top of the cars, so I walked across I
16 believe on top of the cars. Because you couldn't. The cars were
17 all stacked there at that time. There was no fire or anything
18 showing, and I got over there to, like, where that doorway that we
19 eventually go down. There was kind of, like, a little opening.
20 There I guess where the ramp would come up and the cars to drive
21 the cars up. So that's where I saw Chief Kupka go, talking to
22 somebody there and I joined him.

23 Q. If I showed you a diagram of of that deck, do you think you
24 could show us on it? If we could bring up Coast Guard exhibit
25 7-E. And the page with Deck 12 on it.

1 A. Okay. We came up stairwell over here. I don't know if you
2 can see it.

3 CDR BARGER: Okay. Right there. And for the record, the
4 witness indicated a location that is marked with red hashes just
5 above where it says navigating bridge on the diagram in the
6 center.

7 THE WITNESS: And then they were over in this area here.

8 CDR BARGER: And for the record, the witnesses indicating
9 with the mouse a location in the upper left quadrant of the
10 diagram, around frame, on the port side.

11 THE WITNESS: And this was all filled with cars. This whole
12 thing here, the whole top deck.

13 CDR BARGER: And for the for the record, the witness
14 indicated roughly a square filling in the center of the Deck 12
15 diagram to both sides of the center line.

16 BY CDR BARGER:

17 Q. Okay. So from once you got over, like, when you first came
18 up and got to the top of the stairwell, were you met by anybody?

19 I don't think so. No, because like I said, they were --
20 there were people with a hose line on top of cars in this area
21 here and over here

22 Q. Okay.

23 A. They were just watering, wetting down everything. The --
24 that was the ship crew guys, but there was number fire -- it was
25 just, you know --

1 CDR BARGER: Okay. And for the record, the witness was
2 pointing to an area around frame 45 in between the centerline and
3 the port side and then also an area around frame 20 to the
4 starboard side of the centerline.

5 BY CDR BARGER:

6 Q So the ship crew that you observed find the fire, did they
7 appear to have sufficient water coming out of the hoses?

8 A. They just had, it looked like, about half lying they -- there
9 was no fire They were just wetting down everything.

10 Q. So no fire at the time that you arrived on deck 12. Did it
11 appear there had been any fire up there at any point?

12 A. I didn't really see it. You know, it was hard to with all
13 the cars. I didn't see anything that had been burning.

14 Q. And then from the staging point, that's just after behind the
15 car ramp that comes Deck 12, were you able to observe conditions
16 around that ramp?

17 A. Yeah, it looked like there was some smoke coming out. Like,
18 it wasn't a black, thick black smoke. It was a light haze type
19 thing. So I didn't know if it was just the smoke clearing out or
20 whatever, or if they had something burning down there. So we --
21 that's what we were trying to determine what they actually had.

22 And because I didn't see anything on the 12th floor, so I don't
23 know. You know, I'm not sure what they were actually doing. We
24 were trying to determine. It was all investigating at that point.

25 Q. Okay. And did -- what was the condition of the door at the

1 ramp?

2 A. It was open.

3 Q. And so you saw, you said, a light haze of smoke coming out.

4 What about heat?

5 A. We didn't get -- we weren't near it. We didn't really get
6 near it.

7 Q. And just to confirm, during your time on Deck 12, who, if
8 anybody from the crew, did you speak with?

9 A. It was, like, a foreman. The guy that was in charge of the
10 crew that was up there. It wasn't the captain. I didn't meet the
11 captain until when I was at the crane, Firefighter Acabou, which
12 was after midnight. That was first time I had met the captain, so
13 -- the captain.

14 Q. What dialogue did you have with the crew member that you did
15 speak with?

16 A. I don't know. We were trying to ask him, trying to ask him
17 what he had and --

18 Q. Well, what in general did you address?

19 A. If he had any electric cars. It was hard communicating with
20 them and trying to determine, you know, what's burning where. And
21 they -- it was very hard to understand what they were trying to
22 say it. They were kind of invasive, almost.

23 Q. What did you do next?

24 A. After that, you know, he has said we had fire, we put it out,
25 whatever. But they said something about the tenth and 11th floor

1 and we knew you could see a little haze coming up. So I said to
2 Chief Kupka, I said, you know, we got to find out what we have
3 because we still didn't know what we have, you know. At this
4 point, we still don't know. We don't. We're seeing no fire.
5 We're seeing smoke. We don't know exactly what had burned below
6 that.

7 So I saw there was a line on the ground that wasn't being
8 used. They had, like, going. They had another line there. So I
9 had said to one of my guys, said -- Engine 27, or the guys from
10 down neck, they said, do our hose fit on this hose. And then one
11 guy said, I think so. So I requested three more lengths because I
12 knew we were going too. If we're going to go try and investigate,
13 I'd like to have a line with me just for protection. It's for
14 safety, for just walking.

15 So I requested three lengths of hose to be sent up. And then
16 I talked to the ship, with the guy who was in charge there on that
17 on the top and said can you get me three lengths of your hose. Do
18 you have three -- extra three lengths of that? And he said yes.
19 And they went and got me three lengths. So after I got that I had
20 in 27, Captain Manning. They had him hook into that the the hose
21 that was on the ground there and they said we're going to go down
22 the stairwell. In the back right here.

23 CDR BARGER: Okay. Let the record show the witness is
24 indicating a location in the port left or port stern quadrant of
25 the diagram marked as a stairwell.

1 THE WITNESS: Alright. So I had Engine 27 and Ladder 4. I
2 said let's go down and let's investigate the 11th and tenth floor
3 to see if we see anything. And I had asked them is a -- the
4 reason we went down this stairwell is the guy said that the other
5 stairwell doesn't go down to those floors or something. We're
6 trying to, like -- hey said it doesn't go to every floor. We took
7 the line and we went down to the 11th floor.

8 First I cracked the door open about four to five inches, and
9 black smoke came out. So I closed it and I told him at that
10 point, I said this probably had fire in here. You know, we know
11 that. So then we proceeded down to -- they told them don't open
12 that door. Nobody opened that door. So then we went down to the
13 tenth floor. I opened it up and it was kind of almost as clear as
14 this. It was a light haze, but not too thick. So I had Lou
15 Manning -- I said, do me a favor, take one of your guys and take
16 two guys from the truck and they proceeded into the -- you could
17 see.

18 Q. Then, Chief, if we can put up a diagram of Deck 10.

19 A. Okay.

20 Q. And before we proceed on, I just have a couple of questions
21 for you for how you progress down. To your knowledge, were you
22 the first crew from the fire department that had gone down to look
23 at the condition index 11 and 10?

24 A. At that point, that was my -- yes, as far as I know, they
25 hadn't gone down this. No one had gone down this stairwell

1 because we had come up the far stairwell. Even when they came up
2 later on, I found out that they had looked in one of those doors
3 and hadn't seen anything or something. But that was that was
4 months later that I found that out just talking to guys.

5 They had come up, I guess, when they came up here, someone
6 had checked that over here. And I don't know sure what floor, but
7 no, we were the first ones to go down on this stairwell because we
8 hadn't -- the ship wasn't taking us. The mates were taking us up
9 on the right hand side.

10 Q. And when you cracked open the door on Deck 11, did you have
11 -- you had mentioned when you opened six it had taken your breath
12 away, right? Did you have a similar reaction when you open deck
13 11?

14 A. No, because I only opened a couple of inches. As soon as I
15 saw black smoke coming out, I closed it. I didn't want to open it
16 up there because, again, we're just investigating to see what --
17 trying to determine if this fire on these floors or not because
18 they weren't getting -- kind of it didn't feel like we were
19 getting an answers, what we really wanted, you know?

20 Do you have fire or not? No. We had fire. We don't, you
21 know, knock down well. So we're trying to just find out. We're
22 not trying to fight fire. We're just trying to determine what we
23 have at this point.

24 Q. And when you got then to deck the door, the stairwell door to
25 Deck 10, did you fully open it up?

1 A. I opened that fully and I stepped into it. You know, and it
2 was -- I could see probably to about here with the visibility, was
3 all, you know, was good 20 feet. Maybe a light haze. And that's
4 why I felt comfortable that that is not fire down here probably.
5 So I had Lou Manning take the line and go in there and investigate
6 again. We used the line. It was for, like, a rope safety line
7 here and water in case he needed it. So he went down.

8 Q. So just to clarify, did he have a hose going in?

9 A. He had the hose. Yeah, they took the hose that I had asked
10 for, the three lengths because we didn't know what were, you know
11 -- how far we were going to go. And he proceeded to come down.
12 There was a cars here, but there was about a three foot walkway
13 here. So they went down probably about two rows of cars. And
14 then he made a right, so he was in this area here.

15 He said that there were two cars burning, like, debris coming
16 down, so he put that out. So he came out, him and the two guys
17 from the Ladder 4. They came out and they said it was a little
18 bit of burning from the debris. It looks like there's fire above,
19 though. They could see fire above on the 11th. We had a good
20 feeling that there were -- there was -- he didn't see anything
21 else on the tenth.

22 So he came out and told me, you know, it looks good. So at
23 that point I had, In the stairwell over here, I had companies in
24 reserve. I had Dave Rogers (ph.) and his crew, and I had the
25 other members of Ladder 4. Or maybe he was Ladder 4 and 16, so

1 they had -- they were waiting in the stairwell. And then as more
2 companies come and have them in reserve groups of four. I was
3 trying to get ready.

4 So he came out and he said, you know, we knocked down. It
5 was too little, cars burning, the debris on the stuff. And so
6 Dave Rogers had a thermal image camera. So I said to Dave, I said
7 go in there with the next four guys. Go in there, follow the
8 line. Go in there and just verify that Lou knocked down on the
9 fire, so.

10 Q. So Captain Manning and his crew were the first to go in?

11 A. Yes. And they came out. And they said that there was little
12 debris burning and that we knocked it down. There was --

13 Q. And so when they came out, when they came out, did they leave
14 the hose line in?

15 A. But there is fire above. Or did they come out? They had
16 left the hose line right in this area here. They had followed it
17 out, so probably 20 feet in the hose.

18 CDR BARGER: And for the record, what the witness is
19 indicating is a location right along the dotted line at frame just
20 below the red box around the port of stairwell.

21 THE WITNESS: Alright. So then.

22 BY CDR BARGER:

23 Q. Chief, I'm sorry. Just for clarification, so when you opened
24 up Deck 10 and you stepped in --

25 A. Yeah, I'm in there. I was in there the whole time. I was in

1 this doorway. Right. Let's see -- I'm in this doorway here about
2 a foot or two in with a flashlight. Yeah, it would be a
3 flashlight the whole time. So they could see, you know. I'm
4 trying to watch them and and let them know. I'm actually standing
5 inside of where the entrance is or the exit is.

6 Q. Did at any point when you opened up Deck 10, did your breath
7 get taken away?

8 A. Now, I'm standing there and I had no SCBA on. I'm talking,
9 you know, to them there because it's clear it's pretty clear.
10 It's not -- there's no fire the first 20 feet. There's no smoke.

11 Q. And so in your function as the battalion chief, staying there
12 or are you -- or who is maintaining accountability of who's going
13 in and out of the space?

14 A. I was. I was.

15 Q. And how are you doing that?

16 A. I would have four guys go in and then on this landing here, I
17 had the next 4 ready to go. And I was breaking them down into
18 groups of four. I said, if anything happens, you guys are going
19 next. So like I said, Lou Manning came out, told me what he had.
20 And I said, Okay. Good.

21 So I talked to Dave Rogers and said, look, go in there,
22 follow the line, pick it up, he said -- said they had fire burning
23 on the two cars. You go down, make a right little, burning
24 debris, he said. He knocked it out. But he said it looks like
25 fire above. So Dave went in with the rest of the guys, the four

1 of them, and he used the thermal image camera and they observed no
2 fire.

3 Q. When you say the rest of the guys, do you remember who or how
4 many?

5 A. Yeah. It was Brooks, Acabou and Ozzy Robetto. So --

6 Q. So four?

7 A. Right. That was the next four to go. Yeah. And so they
8 went in. He observed that there was number fire that had been
9 extinguished and that. That there was burning, he said. It was
10 hot, the ceiling above and everything. He tried to communicate
11 with me and he said it wasn't going through the radio. So he gave
12 Firefighter Brooks the thermal image cameras, that I'm going to
13 follow the the line back out and tell the chief face to face
14 because he's not hearing, you know, that we can't communicate
15 they --

16 Q. Had they gone deep enough into the space that you could not
17 see him at that point?

18 A. Yes, they were. You could see to about here, in this area
19 here. And they were probably right here. They would come up to
20 about this line, little past this line and turn this way. And
21 they were in this area right here.

22 Q. So they you had mentioned that there were cars parked there
23 and they had to turn right around the cars. Had they gone beyond
24 there?

25 A. Yeah, there there was the car here, the car here. I'm not

1 sure if it was two or three rows of cars and then this was a big
2 open area to drive through. So they had come down here and then
3 made it right and they went two cars in from the rows. So, you
4 know, like I said, the row here and then a row here, they were in
5 the second car. That's where the debris was coming down.

6 So they went, like I said, Captain Rogers then left Captain
7 Robetto, Acabou, and Brooks on the line there and he said he's
8 going to let the chief know that the fire was out, whatever, but
9 it had burning there. So he came. He came to me at this point
10 here. And we're at the doorway here, and he explained it. And
11 that's when I said, okay. Come on out. We don't need the line.
12 We know because we're investigating. We're not fighting fire.
13 We're just investigating.

14 So he confirmed what I already knew, that Lou Manning had put
15 the fire out and that there was fire on the 11th floor. So at
16 that point, I told Captain Robetto, Engine 16, to bring the line
17 to the door because I knew no sense being in there. There was
18 number fire. And then he didn't answer. I requested a second
19 time. He did not answer and then dispatch called the third time
20 and they didn't answer. And then next thing you know, they call
21 for a mayday.

22 Q. The four man team that had gone into the space. What
23 equipment were they wearing?

24 A. Full SCBA'S and turn out gear.

25 Q. And were they on air? Did you apply the masks on?

1 A. Yes, they were. They were. They went in on there.

2 Q. Okay. You said there was some communication challenges.

3 What, if any, challenge did you firefighters experience with
4 trying to communicate? A mask on through a radio?

5 A. It's very hard usually to to talk and to hear it clear
6 clearly. And that's why I was talking, you know, I was in there
7 without one, and it was, like I said, there was no smoke. It
8 wasn't fire, so I was able to stay right here and communicate with
9 them the best I could and try and visualize.

10 Q. And at that point, Captain Rogers switched over to fire
11 frequency five?

12 A. No, we didn't go to five until much later. That's when
13 Captain Barisano was actually doing the rescue and was trying to
14 tell me what he needs. It was intermittent going through. So he
15 said I'm going to try, you know, that later on. This is much --
16 probably 30 minutes later that he tried. At that point, he said,
17 I'm going to try channel five.

18 Q. So at that point, to your knowledge, everybody was still
19 working on --

20 A. Channel two, yes.

21 CDR BARGER: If we could bring up Coast Guard Exhibit 17,
22 Page 3. Around 20, 22, 20.

23 BY CDR BARGER:

24 Q. So, Chief, this is a compiled timeline of New Newark Fire
25 Department radio transmissions compiled by NIOSH in coordination

1 with the Coast Guard. So when we look on this at 2220 and 2222.

2 Is that the radio transmissions you were describing?

3 Q. That's when -- yeah, Dave Rogers had told me that there was
4 no fire and that there was fire on the above, that the ceiling was
5 hot. So at that point I knew that we were done on the tenth
6 floor, so I told him to bring the line back. No sense being in
7 there. Let's bring it out. And, you know, my plan at that point
8 was going to be let Carlucci know that we're going to have fire on
9 the 11th floor, and now we're going to have to address that.

10 Right now we were just investigating, trying to determine what we
11 even had.

12 Q. At that point, was there any emergent situation that was
13 leading to your your decision to pull out of the space?

14 A. No, it was there was no reason for them to be in there at
15 that point. They had confirmed that what 27 had told me. And I
16 just wanted them out so we could just go on to the next stage and
17 let Carlucci know what we have, because at this point, we still
18 didn't know exactly what we have.

19 Q. At that time, were you hearing any type of explosions on the
20 ship?

21 A. No, I hadn't seen any fire. The only fire that they had was
22 that little dripping stop. And then we he told me that, like you
23 said, the 11th floor looked like it was on fire. They could see,
24 I guess, through the grates.

25 Q. And was it debris falling down or was it hot liquid? What

1 was it?

2 A. I'm not sure what would come down.

3 Q. At the point that you've made these two or three radio calls
4 to get them to bring the line out, were there any other methods or
5 attempts made to try to signal to them?

6 A. Now, because, like, it happened all pretty quick, it was, you
7 know -- I called on -- we called them, gave him time to respond or
8 see if they were coming out. Called him a second time, you know,
9 and again right after that. Then the dispatch called thinking
10 maybe they're not here and it -- and that they have a higher
11 quality radios or whatever. So they tried.

12 Q. Was there ever any attempt to give a little tug on the hose
13 line to give them the signal to come out? At any point did you
14 consider -- and I know you said happened quick, but did you
15 consider having Captain Rogers go back in to get him to notify him
16 to come out?

17 A. Well, that would have been the next thing is to have --
18 probably would have had the next crew that were on standby to go
19 in and, you know, to find out what's going on or just, you know.
20 I would have sent at least two. I wouldn't have sent one guy by
21 himself.

22 Q. Is it a standard procedure for one person to leave the team
23 And head out of the space?

24 A. No, they usually don't do that. But like I said, he was
25 trying to communicate just to confirm that they had no fire.

1 There was nothing. They were just standing there basically with
2 the line at that point in there, as far as I know at that point.

3 CDR BARGER: All right, Chief. We've been going for about an
4 hour. I think this is a natural breaking point in the testimony.
5 So we're going to take a five minute recess. And then we'll come
6 back to continue your testimony. So the time for the record is
7 now 9:52 a.m. We'll take a five minute recess. We'll come back
8 at 9:57.

9 (Off the record at 9:57 a.m.)

10 (On the record at 10:05 a.m.)

11 CDR BARGER: The time is now 10:05 a.m. And the hearing is
12 now reconvened and back on the record regarding the fire on board
13 Grande Costa D'Avorio. Our current witness is Battalion Chief
14 Maresca. This is a continuation of Battalion Chief Maresca's
15 testimony.

16 BY CDR BARGER:

17 Q. Chief, as a reminder, you are still under oath. So when we
18 broke for the recess, there were still three members of the team
19 in the space.

20 A. Right.

21 Q. Can you please reconfirm what the conditions were in this
22 space for us at that time?

23 A. It was still nothing. No concern. Light, just a light haze.
24 I'm still in there, able to see about 20 feet in. We are just
25 waiting for them to come out.

1 Q. What was obstructing your view of the team at that point?

2 A. About 20 feet in, the haze of the smoke I couldn't see past
3 that. It was pretty clear up until then, but then after that, you
4 kind of get, you know, you don't see.

5 Q. Was the ship's lighting working at that point?

6 A. I can't -- I don't really recall if, you know, how the
7 lighting was the whole time in there.

8 Q. Okay. So, sorry, we had to break your story. If you could
9 pick up. And what happened next?

10 A. Alright. So, you know, I had called him twice. Dispatch had
11 called them, and I'm saying, you know, now I'm thinking myself,
12 you know, are they not hearing me? What's going on? And I'm
13 wondering, I'll say -- I'll give him a little bit of time. And
14 then, you know, still thinking nothing at that point because, like
15 I said, it's not hearing anything from them.

16 We're not hearing, not seeing anything. And just saying, you
17 know, sometimes guys don't come right away. It takes time. It's
18 -- you know, they got to follow the line coming out and, you know.
19 We're waiting here. And then next thing you know, I heard they
20 said something about a mayday, that they they were lost.

21 Q. Do you remember anything related to the specific words that
22 you heard called at that point?

23 A. I thought I heard something about Ozzy saying that he was
24 lost. Sounded like Ozzy on the radio.

25 Q. Okay. And Ozzy is Captain Robetto?

1 A. The communications was, like, you know, it was really -- it
2 was weird. The communications, like, you know, sometimes you hear
3 something, sometimes you didn't. It was, I guess, because all the
4 metal just depending on where you stood. You know, if I moved one
5 foot to the right or left sometimes you hear anything.

6 Q. When you heard that transmission, what did you do?

7 A. When I heard there, that's when I looked around, you know,
8 for my next crew that was ready to come in and I saw some probe
9 shields. And I'm, like -- but Ladder 5 had come down the steps,
10 which would be the fast team and their crews that I'm very
11 familiar with, that I work with them and rescue. We're on a
12 stairwell that if you -- in that hallway from the 11th to the
13 12th, tenth floor. They run the stairwell part there. And so --

14 Q. And we have backup Coast Guard exhibit 7-B.

15 A. Yeah. So at that point.

16 Q. Page 1.

17 A. So now I'm looking to send a crew and then I want to make
18 sure we had life lines. And I saw Ladder 5 there in rescue. So I
19 had Captain Barisano, two members from rescue tie off their
20 lifelines to go in looking for the firefighters.

21 Q. What, if any, additional radio calls did you hear?

22 A. I'm not really sure. Like I said, at that point I was
23 focused on getting my company. I can't recall what I heard. All
24 I know is I -- was the two members of Ladder 5 rescue go in and
25 then I had the other two members of Ladder 5 and rescue standing

1 by to back them up.

2 Q. So you didn't hear any extra or any additional transmissions
3 that would related to the mayday from the team?

4 A. No.

5 Q. Did you ever -- I know you said that first call you believed
6 it to be Captain Robetto's voice. Did you ever hear a radio
7 transmission from firefighter?

8 A. No, the only one I ever heard was -- would sound like it was
9 Robetto.

10 Q. Okay. So you have the the team with the search line ready to
11 go. What happened?

12 A. Well, they tied off, they tied off and they went in. Captain
13 Barisano and firefighter Yugo Mahalko (ph.) and two members of
14 Rescue believe it was Dave. Firefighter Coto (ph.) and I'm not
15 sure which other guy is with. I can't remember, right? Maybe
16 Incolage (ph.)? And I work with these guys, so I know they're
17 very experienced guys. And then I had the other two members from
18 each crew on standby.

19 And at that point I pushed the other companies that I had
20 that were on line back farther because they had probationary
21 firefighters. I didn't want inexperience guys. So they went in
22 there and Ladder 5 ends up finding what would turned out to be
23 Firefighter Acabou. And they said that they -- he was stuck and
24 that they were going to need resources.

25 Q. And how did you know that they had found firefighter Acabou?

1 A. I heard the transmission. I'm standing inside the doorway and
2 wherever I was, I picked up Captain Barisano.

3 Q. At that point, were you aware of Captain Robetto's position?

4 A. He had been out. He came out. He may have came out before
5 they actually went in, before the first group. Before they, like
6 -- while we were getting everything, it seemed like it happened
7 really quick and Robetto was out within a minute or so it seemed.
8 That's, you know, so we knew he was out.

9 Q. When you sent in the that first search team, who did you know
10 you were looking for?

11 A. We know Brooks and Acabou because Ozzy had -- Captain Robetto
12 had come out. If I recall correctly, he was out before the the
13 crew got in.

14 Q. If you had to estimate from the time that you heard the first
15 mayday call, which you attributed to Captain Robetto to the point
16 at which you saw him at the door, any estimate on how much time
17 has left?

18 A. Minute, minute and a half. It was very quick. It happened.
19 Everything was happening, boom, boom, boom.

20 Q. And when he got to the door where you were, did he tell you
21 anything about what He had just experienced?

22 A. No, no, because I was at that time. He explained, I think to
23 someone else may be coming out. I was still in the doorway with a
24 light and banging a tool, trying to get those guys to try and aid
25 them to for coming out.

1 Q. And so when the search team calls you and says they had found
2 the Firefighter Acabou. What happened next?

3 A. They told me what they needed -- I believe they had the RIT
4 bag with them. They put a RIT hat on, more oxygen on Firefighter
5 Acabou. And then they came out. And we sent the second crew in.
6 The remaining members of ladder 5 and rescue, they had told me
7 what they had, that they had tied off. Captain Barisano has said
8 that he had tied off at that point. We thought it was a forklift,
9 he said. I tied off on something that may be a forklift or
10 something. I'm not sure exactly what I tied. I followed the line
11 tied off and we found Acabou, Firefighter Acabou. So they hadn't
12 found Firefighter Brooks. They hadn't even heard the pass. They
13 got lucky kind of finding them.

14 And next crew that was going in, we told them, you know,
15 Barry Shannon had said what to do, where to find. So he went in.
16 They went in looking for it and they didn't find initially. They
17 didn't find him, the second crew. So they came back out. I told.
18 Captain Barisano, come on down because it's clear, even though he
19 had just come out here and he explained exactly where, again to
20 them, and then they found them. So this all happened, like, in a
21 minute or so. It's very quickly going on and we never lost
22 contact with Firefighter Acabou from that point on.

23 Q. Why did Captain Barisano's team have to come back out of the
24 space?

25 A. I'm not sure if I called them out because I was trying to

1 estimate how much air they have or if their tanks had had going
2 off the warning. But -- and I had crews ready, I was lining up
3 crews to go in that we're very capable of there. Also, co-workers
4 with the, Ladder 5, you know, the rest of the ladder 5 members and
5 the rest of rescue members. I'm not even sure if rescue was with
6 ladder 5 at that point, or if they were searching off to the side
7 because they were looking for both firefighters at that time.

8 Q. The members of the search team or any of the search teams
9 that went in, what size SCBA packs where they went?

10 A. Just had the normal, the 30 minute SCBA'S you probably get
11 probably 15 TO 20 minutes when you're working under duress like
12 that.

13 Q. Does the Newark Fire Department have any other size air packs
14 besides 30 minute?

15 A. I believe Rescue might have our packs for, like, when they do
16 a hazmat, but that's not used. That's they're not using them
17 normally on a normal. They have the regular 30 minute packs too.
18 They have a separate set.

19 Q. Once the second team went in for the second time, if I'm on
20 the story correctly.

21 A. Right.

22 Q. What happened next?

23 A. That's where I kind of lucked out in that I had two rescue
24 captains that I was very familiar with on overtime. And at that
25 point, I think Ladder 11 with Captain Cooper and then later on,

1 Captain Ashton, who was on overtime at Engine 29. So I would --
2 when I made my groups of four, I had them designated as leaders of
3 each group.

4 So they -- earlier, Captain Barisano had told me, you know,
5 that he was wedged in. You know, they were in need help and
6 everything. And then when Firefighter Cooper, when his troop went
7 in, I think he may have went in after the third. They've been the
8 third group and that's when he told me that he was going to need
9 specialized equipment, what he needed. And I was relaying that to
10 Captain Kupko, who's able to then communicate with the deputy.

11 Q. And what was the specialized equipment that he was asking
12 for?

13 A. They wanted spreaders. They were looking for anything
14 because he was Firefighter Acabou was wedged in between the cars.
15 So they were having trouble trying to free them and I guess they
16 were trying to, you know, they were -- he had called for some
17 specialized tools.

18 Q. And did they report to you what his condition was, Acabou's
19 condition was?

20 A. No, they -- well, they they just said that he was trapped in
21 the car and that they, you know, they had put the RIT bag on him.
22 That the -- you know, just from experience, we knew it was dire
23 need.

24 Q. And the RIT bag or the RIT pack, what is? What is its air
25 capacity?

1 A. I believe it's 45 minutes, that one.

2 Q. During this time, are the conditions on Deck 10 still the
3 same?

4 A. Yeah, because I'm, I'm still -- it's getting smokier now, the
5 visibility I'm probably -- it's probably down to ten feet. It's
6 getting smokier, but it's not -- I'm still in inside the doorway
7 there. So I could still talk and trying to see as best I could,
8 but it's still -- but it is getting smokier.

9 Q. And to confirm, are are you still without a SCBA or have you
10 gotten one?

11 A. No, I'm still without an SCBA. So that's, you know, because
12 this way I could talk and see. So -- but, like I said, the
13 visibility had from 20 feet, probably down to ten feet, where I
14 could see pretty clear, but it was still at the doorway. It was
15 -- well, breathing, no problem breathing.

16 Q. So equipment got ordered. What happened?

17 A. They were -- well, they were bringing up the equipment, as
18 you know. It took a while for it to come up, but we were sending
19 in. You know, I probably put in two more teams trying to free him
20 before the equipment, before the actual equipment got there to
21 them.

22 Q. And when you were switching out those teams, how was that
23 occurring? Would the team come out and then the team go in, or
24 would a team come in and then the other one comes out?

25 A. The team would come out first, you know, because I -- because

1 we didn't know what? Yeah. You know what was going on? As far
2 as I didn't want to have too many people in there to be able to
3 keep track of. So, you know, if they needed, if they needed
4 something and requested it, then I would send a team in. But we
5 didn't have the resources, the air bottles, so I wanted to make
6 sure I had my teams ready and and trying to make sure I had
7 capable guys of going in there.

8 Q. And it was always the entire team?

9 A. They would usually, four at a time. You know, at this point,
10 since we're doing two different firefighters, I'm not sure if they
11 all four came out. You know, if two came out, they were doing
12 pairs before we go in, but I'm not sure exactly how they were
13 operating inside. If they were all four on on Acabou or two still
14 looking because we're still trying to do two things at once, the
15 Firefighter Brooks too, and they're not hearing any pass alarms.

16 Q. So when a team would come out and you'd have a new team go
17 in, how were they continuing to find their way back?

18 A. They would follow the line to the rope and, you know, they
19 would come out and talk. I would come out and say I'm coming out.
20 I would say in your next team. I would say this is what we have.
21 This is what we're doing. You know, they would talked before they
22 went in and then they would go in.

23 Q. At what point were they able to extricate Firefighter Acabou?

24 A. That was probably a good hour after we initially found them.
25 We probably put about four or five teams trying to free him.

1 Q. And the equipment that you needed, the spreaders, do you know
2 what route that they come to you from?

3 A. I think at that point they were -- they had started using the
4 stairwell ten that we or the stairwell that we that we were in
5 that went down to the bottom of the ship. Up until that point,
6 you know, I don't know when they started using it. Like I said,
7 when we were first got there, we were using the far stairwell.

8 Q. At any point in this evolution, did the conditions reach a
9 point to where you had to evacuate?

10 A. Or me personally, about an hour in. A big thing of smoke
11 came flying in, filled the stairwell and everything. So because
12 up until that point, the guys in the stairwell, in the hallway on
13 in reserve, they would, you know -- we wouldn't have to have the
14 SBCAs on trying to save the air. And about an hour in, I guess I
15 got smoked out. And I had to go to 12th floor for rehab myself
16 and that's when they had it start going on here earlier.

17 Q. So when you got smoked out, so that I can understand what
18 that scenario looked like, was it a gradual building of smoke?

19 A. No, it just hit us. It hit us all at once. Something
20 happened and I don't know. And it just overwhelmed the whole
21 stairwell and I think that's when even the Elizabeth firefighters
22 that were coming to the mutual aid this. It's been going so much
23 at that point, Elizabeth, I think was there where the EMS and they
24 got over come in the stairwells coming up too. So it just like
25 hit the whole, it just added more chaos to everything going on.

1 Q. Okay. When you experienced the sudden rush of smoke, did you
2 feel any change in pressure?

3 A. No, I well at that point, I. Was having trouble breathing
4 myself because I was inside the doorway, so I had to come out and
5 -- so I couldn't tell you anything. You know, at that point
6 you're just trying to catch your breath.

7 Q. Have you ever experienced a backdraft? Would you describe
8 this as a Backdraft event?

9 A. No.

10 Q. You mentioned the four to five different crews that. Sent in
11 working on a Kapka. You mentioned that you believed they were
12 also searching for Brooks.

13 A. Yeah, I would say that they, you know, I'm not sure exactly
14 what they were at the beginning. I know they were -- like I said,
15 we're trying to find it after a while. I'm not sure for how they
16 were actually, each crew was working in there, I'm not sure. You
17 know, I don't know what they actually went in to do.

18 Q. They weren't reporting back to you or on comes from inside?

19 A. No, we were having trouble. We were having -- that was
20 another big problem, we were having trouble hearing, talk. And
21 like I said, intermittent. Sometimes you heard something,
22 sometimes you didn't. So, like, I really didn't have a good
23 picture of what exactly. The -- how I didn't even know how he was
24 wedged in. You know, I just knew that they knew the guys in
25 there, what they had to do and they were communicating as far as,

1 like I said. I had some experienced captains that are specialize
2 in rescue. And you know, I was having them in charge of each
3 group, how they were handling it.

4 Q. Were any of the groups utilize the USAR group that you
5 described?

6 A. Ladder 5 members are USAR?

7 Q. After you got smoked out, what happened next?

8 A. I went to the top deck and at that point the water was
9 boiling up there and they were. Sitting on, you know, they had to
10 go on the cars to get off out from the water because everything
11 was melting the shoes and everything. And I talked to Captain
12 Barisano, and we were talking about how it was getting smoky. So
13 at that point, we're saying, you know, how can we assist the? The
14 firefighters that are in there trying to free firefighter Acabou
15 and trying to find Brooks. So we talked to the first mate guy.

16 Q. Who's the guy from the ship? The same one you had spoken to
17 before?

18 A. Yes, it was him. So I had two things at that point, I know.
19 One is, how can I make it better, the conditions on the tenth
20 floor after they got smoked out? And the second one when they do
21 get Firefighter Acabou out, how are we going to get them off the
22 ship? And Brooks, too, if we found them. But you know what I
23 mean, at that point, I'm trying to figure out we're now we're into
24 this over an hour into this trying to free Acabou. Let alone we
25 haven't found Brooks and it's like, you know.

1 So and we're 12 stories up, how am I going to get so first
2 thing we did is? Captain Barisano and I were talking. We're,
3 like, I wonder if we can isolate these fans and exhaust the tenth
4 floor. And so we asked the guy from the ship and we said, can we
5 isolate just the tenth floor? Do you have an exhaust system to
6 isolate the tenth floor and we'll send it out to sea? And the guy
7 said yes, yes, they'll send it out to sea.

8 All right. So we tried it. That's what I -- that's when the
9 fans got turned on. I said, well, then let's try and isolate the
10 tenth floor. And this is probably, I don't know, 11:30, 11:40 at
11 night.

12 Q. So you were the member from the fire department that
13 requested the ventilation to be turned on?

14 A. Yes, after the guy told us that the that it would go out to
15 sea, would go out the side of the ship and out the sea when it
16 went on, it came up the top on the 12th floor. That smoke, but
17 I'm like, you know what, we're getting smoke there, but we're out
18 on the top deck. I don't care. We'll take a beating if it's
19 making it easier for the guys on the tenth floor, we didn't know.
20 We hadn't -- we didn't know if it was helping or not, but --

21 Q. What, if any, communication did you have from ship's crew
22 expressing concern about turning on the ventilation?

23 A. Talking to the ship guy, he said it would. We had asked him
24 can we isolate just the tenth floor and we'll send it out to sea?
25 Obviously, it didn't. It came up to the top floor, but we still

1 didn't know if it was isolating it just the tenth floor. So,
2 like, they weren't really -- weren't with -- the communication
3 really wasn't much help on that part.

4 Q. After the ventilation is gone, what happened next?

5 A. All right. Now, I said, okay, we're doing that now. Let's
6 how are we going to get off? How are we going to get the
7 firefighter once they free him off this ship? We're going to
8 bring them to the 12th floor to the top deck. But how are we
9 going to get them out? So I was looking around and I knew
10 basically two options, maybe three if you say down the stairwell,
11 but that wasn't going to be an option going down. It was very
12 tight going down the ship. So I said, we can either go -- I know
13 that the urban search guys to high angle rescue where they can tie
14 you off, tie off the rope and slide them down.

15 And that wasn't really an option and I had looked to the
16 front of the truck, the boat and I saw a big white crane that was,
17 you know, 50 feet in the air. So I said to the ship guy, that
18 crane, I need that crane. Can we get that crane to operate? And
19 the guy goes, I don't know if we can. We may not be allowed to
20 because of Port Authority. And I don't know if we can get to the
21 control panel.

22 I said look, don't worry about the Port Authority. I'll get
23 that. You know, if we need that crane to get a guy off, we're
24 going to get it, we'll make the right calls and the control panel.
25 Where is it? I'll send firemen to get it, you know, because they

1 didn't. And it turned out later because of the communication, the
2 crane, he ended up getting me was the small little one by there's
3 a crane.

4 CDR BARGER: If we're going. Move to the page with Deck 12.

5 THE WITNESS: Where this boat is here, there is no boat here.
6 There was -- there ends up being a little crane here.

7 CDR BARGER: For the record, the witnesses indicated a spot
8 on Deck 12 starboard side right around the vicinity of the 46th
9 person bike -- boat.

10 A. Yeah, because the crane, the original crane I saw was way out
11 here in the front -- to the front of the ship. There was a big
12 white crane. That's the one I thought we were going to use. So
13 anyway, the guy says we can get -- we can get the controllers. So
14 I let Chief Carlucci know. I said look. I got access to a crane
15 because even the EMS guy, I guess the state police had brought a
16 helicopter.

17 And the EMS guy said they may be able to -- we may be able to
18 lower a winch down and bring them up that less than 30 seconds.
19 And he said no. That the troopers don't have it on that
20 helicopter. So, like I said we got the crane. The guy said. I
21 don't know if it works. It's an old crane and I'm still thinking
22 at this point. That big white crane looks pretty new, but so he
23 said, we have to test it out first, so he tested it out and it
24 works and he says I don't know if it's going to reach the ground.
25 But I looked over the side and I saw there was an aerial. I said

1 even we get it halfway down, we can get with an aerial, we'll get
2 this body off at, you know, at this time we'll get them off.

3 So I let Deputy Carlucci know of my intentions of at this
4 point. Still, Acabou hasn't been freed, but at least we have a
5 way if we once we get them, to get them off the ship. So I tell
6 Chief Carlucci where the crane is when I find out it's this one
7 here. And I tell my own EMS upstairs and I'm going to need them
8 downstairs, when we lower them so at this point. The only way we
9 find a spot back here, there's a pickup truck right in the back.
10 And if you see where I'm at.

11 CDR BARGER: For the record, the witness is indicating an
12 area just along the forward of the dotted line at frame 0, right
13 below the arrow that is marked ramp control station.

14 THE WITNESS: All right. So the only way to walk around at
15 this point is there's, like, a space about two feet maybe. And it
16 ran along the outside of the ship here along the edges. So our --
17 or we were going to bring once they did free them we, were going
18 to take them to this flatbed and work on them here. And then once
19 they got them stabilized, the plan was then to go along the edge
20 here.

21 And there was like an opening you got to come up around here.
22 This is, like, a solid here. And there's a car here. You had to
23 climb over his car and then you can walk to the edge and it opens
24 up by this crane. And that's where we're going to be able to
25 package them and drop them down.

1 CDR BARGER: And for the record, the witness was moving the
2 mouse parallel along the starboard side from the previous
3 mentioned location at the error tip of the ramp control station,
4 following around the bulkhead towards the lifeboat on the
5 starboard side.

6 THE WITNESS: So once they finally they got Firefighter Acabou
7 up, they brought him, like I said, to this pickup truck, they were
8 working on him. At that point I took Engine 6 and myself because
9 they had also said there was another mayday of another firefighter
10 down. And I thought maybe he was in this stairwell here, so I
11 said to 6 Engine, come on. Let's go over here and see what we
12 have. And then they -- someone had them.

13 So now I'm dealing with the crane operator. And he's got
14 everything well set. But like I said, we had to climb over right
15 in this area here. You had to climb over the car. Someone had to
16 actually assist you up. So I told 6 Engine to wait here in this
17 area here. So when they brought the stokes basket over to here,
18 they could hand the basket over to 6 Engine crew and then they
19 would take it the rest of the way to the opening here. There was,
20 like, an opening 12 feet by 14 feet.

21 We're next to the crane. And at that point, Elizabeth's Fire
22 Rescue captain was up there with another member of -- I don't know
23 if it was EMS guy or thing, so they were waiting and they were
24 going to package the firefighter to the crane to lower it down.

25 CDR BARGER: Then for the record, previously, the witness had

1 indicated that there was a car blocking the path on the starboard
2 side, right at the corner with an arrow marked by --

3 THE WITNESS: Right near the right.

4 CDR BARGER: -- 1005 millimeter off center line.

5 BY CDR BARGER:

6 Q. So then backing up just a little, while you got smoked out,
7 you moved up the Deck 12, you figured out ventilation. You
8 figured out the crane, removing firefighters from the ship. Who
9 was running operations down on Deck 10?

10 A. I believe at that point it was Battalion 1.

11 Q. And who would that have been?

12 A. Chief Supblim (ph.).

13 Q. Okay.

14 Q. Did you see him physically go down and take over and --

15 A. No, not at that -- well, when I got smoked out Captain
16 Cooper, one of my rescue captains that was working overtime was
17 down there. He was the one that at had told me what -- he needed
18 the tools. And at that time, he was out of the -- he had come
19 out. And he was calling for some of the specialized stuff because
20 he had been there, he knew what they need.

21 Q. Okay. When Firefighter Acabou got brought up and you said
22 you moved him over to the the bed of a pickup truck right on the
23 starboard side, was there still smoke coming out from the
24 ventilation?

25 A. No, we had turned it off once they freed the body and we may

1 have turned it off when they had told us that it -- that it wasn't
2 working, that it was wasn't helping any because the smoke was
3 coming out of the top ventilation here. Right here where the
4 arrows are.

5 CDR BARGER: And let the record show the Witness is pointing
6 to an area on the port side F, just around frame eight to seven.

7 A. And so once -- I don't know if the smoke was going down back
8 down the stairwell on these guys too, they once they told us that
9 it wasn't working, we shut it off. So I'm not sure how long the
10 fans were on. It wasn't probably on that long, maybe ten minutes
11 prior to coming. Well, we knew once we found -- once we were
12 going to free him, the plan was to turn it off anyway. It was
13 only just to try and help them freeing them.

14 BY CDR BARGER:

15 Q. Up on deck?

16 A. But like I said, once we found out that the smoke was coming
17 in on the top deck. You know, we were taking a beating, but it
18 didn't matter. It was more important than free to help them on
19 the tenth floor. But once we free them, we're now -- we needed to
20 be clear because so they could work on them.

21 Q. And at the time, while this search effort and rescue effort
22 is taking place, was it confirmed that it was firefighter Acabou
23 that had been found?

24 A. Yes, I believe so. You know, I'm not really sure, but I
25 would say yes.

1 Q. You were still on deck. If I'm understanding correctly, were
2 you still on Deck 12 when Firefighter Acabou was freed and brought
3 up?

4 A. Yes. I was with -- I walked along with them. I was standing
5 near the car once they were getting close to having it done. Like
6 I said, we went here to make sure we were going to be able to
7 figure out how we were going to grab to take them over, and we had
8 followed the path we saw the car here, that's when I said to 6
9 Engine, I said you guys are going have to wait on the other side,
10 so they can pass over Firefighter Acabou across the car hood. And
11 then they would take it the rest of the way.

12 And when they finally did transport them, that's exactly how
13 we did it. Captain Barisano and firefighter from 7 Engine, he had
14 been a rescue guy, they helped with the packaging the the
15 Elizabeth and I think it was an EMS guy that when they were
16 packaged in the body over here. They -- all four of them were
17 working on it, trying to package them.

18 Q. Once Firefighter Acabou was freed and brought up the 12, who
19 was searching for Firefighter Brooks

20 A. I -- I'm not sure how the operations were going. I was
21 concentrating on getting this firefighter off the ship, you know.
22 At that point, they we had companies working. I'm not -- I was
23 involved with that. I was just trying to get this guy off and
24 figuring out how we're going to get him off this ship.

25 Q. Once Firefighter Acabou was lowered down off the ship, what

1 happened then?

2 A. Everyone was ordered off the ship.

3 Q. And who gave that order?

4 A. I'm not sure who, if it was the deputy, the Fire Chief at
5 that point. This is probably midnight or so after midnight
6 sometime. It was pretty late. But they had said that they wanted
7 everyone off, so Captain Barisano and myself, after we had the
8 body off, we made sure everyone was off the 12th floor. And then
9 we were the last two up there and the -- from the Grimaldi were
10 still up there.

11 Q. When the evacuation order was issued. Do you have an
12 understanding of why?

13 A. No, I think they were just trying to regroup. I'm not really
14 sure. Like I said, I wasn't involved. I wasn't -- I was just
15 trying to get everything off. I was kind of, like, caught off
16 guard. I didn't know that they even had told him to evacuate. I
17 was more concerned. Like I said, getting the body off here. And
18 then after we did it, when I went, when I went back, that's when
19 they told me that everyone was supposed to get off the ship.

20 Q. When you say regroup, did that involve an accountability of
21 any sort?

22 A. I'm not sure what they were going to do. Like I said, at
23 that at that point, we get everyone down and that's when I that
24 was the first time. We ended up going down the stairwell where
25 that -- we fought the fire. That's when I -- first time I was

1 even on that stairwell going down, like, all the way down. And
2 when we were going down after we got everyone off the 12th floor,
3 I told. Chief Sublim, he said, let me check the tenth floor just
4 to see what it's like.

5 And at that point, we opened it up and it was pretty clear.
6 It was like it was shocked. It was like, you know, but this is
7 hours after the whole incident began, but it was it looked almost
8 as clear as when we first got there. And so --

9 Q. Who, if anyone, was working in the space?

10 A. At that time, nobody. They were all evacuated. I just --
11 was -- want to see what the conditions had changed and it looked
12 pretty good. And at that point, Chief Sublim even said -- we said
13 let's go see if we can find Brooks. And I said, well, he didn't
14 have any gear on at that point because guys laid their coat down.
15 And they were, you know -- when they were rehabbing up on them.

16 And I said, well, let's just go down. My plan was just go
17 down, get a fresh crew and go up there and go look for Brooks
18 because it looked clear. It was, like I said, I thought we'd be
19 able to find them easy. And at that point, they -- everybody in
20 there, everybody was there. New York was there, Elizabeth, Jersey
21 City, everybody. And that's when they took over the search and
22 didn't let the North Jersey go back up.

23 Q. So when you last saw Deck 10, as you headed down the port
24 stairwell, what was the condition of the the door going from Deck
25 10 into there?

1 A. Well, fine. Like I said, we walked in a couple feet in and
2 it was like, oh my God, this is pretty clear. We're going to -- I
3 thought we'd be able to go find him with ease. And it turned out
4 later that it took the rescue companies that use our people and
5 everything, took them probably about four or five -- and I'm like,
6 I didn't understand why it took so long. But seeing the video
7 here or the first time, I'm -- where they actually found Brooks, I
8 didn't realize how far in. That that's why it took so long, I
9 guess.

10 Q. Okay. The door from the stairwell into Deck 10 when you all
11 left and headed down, was it left open? Was it closed? So I know
12 previously you mentioned your training and experience with
13 shipboard fires, for the members of the crew that you had there
14 working at Deck 10 with you, what was your awareness about their
15 experience or training with regards to fighting shipboard fires?

16 A. I don't think anyone had really experience the only thing
17 that Ladder 4 and 27. Is that they have had. We have a fire boat
18 in there on the fire boat that's you know, so I don't even know
19 what kind of training that they have, but I know that they're at
20 least familiar with the port because that's their first two area,
21 and that's where the fire balloon is down in that area someplace.

22 Q. And today, the firefighters you were working with that day
23 appear to have experience with being on a ship in general?

24 A. Not that I know of.

25 Q. I understand that there was some electric vehicle training

1 provided earlier in June. Did you attend that training?

2 A. Yeah, we actually had it the shift before, four days earlier.
3 The guy said, you know, basically it was about electric cars, how
4 dangerous they are, how you can't put them out. And he did
5 mention about ships. And he said if you have one on a ship, it's
6 probably going to sink a ship. But if it's an electric car, he --
7 and he showed us what -- how these cars are stacked on a ship, how
8 dangerous it is and how tight it is. And he said, if it's an
9 electric car, you know you're not going to.

10 Q. And how how did he show you how the cars where stacked so
11 you're alerted?

12 A. He described it just basically how it was. He said they're
13 going to be next to each other. There's going to be no walking
14 area and they're strapped down and he said hopefully, he said in
15 in, you know, another month or so we'll get you on a ship to see.
16 But it was kind of eye opening when he showed us the diagram. We
17 didn't really go into fighting fires or anything on it. He just
18 described what it would look like. A ship like that.

19 Q. Was there any kind of photographs of a ship or video of a
20 ship that was shown?

21 A. There were, I believe, there were pictures. Yeah, there was,
22 you know, and it was just like he described the strapping.

23 Q. What, if any, specialized equipment are you aware of that the
24 Newark Fire Department has specific to fighting fires on ships?

25 A. I'm not aware of any.

1 Q. Was there ever a time that you had availability for reducers
2 to be able to use your own hoses on the ship?

3 A. I'm not familiar at all with ship, at least the first time I
4 was down on a ship.

5 Q. And my last question for you, Chief, what, if any, limiting
6 factors do you think challenged your response?

7 A. Just the lack of knowledge of, you know of, ship fighting.
8 You know we don't, they said that was the first time.

9 Q. Since the fire, have you been a part of any type of -- we
10 would call it a hot wash in the Coast Guard, an after action brief
11 or discussion on the incident and ways?

12 A. No, not really. They held us out until -- I didn't go back
13 to August 18th. They wouldn't let us return to duty. The city, I
14 don't know. They had to stay home.

15 CDR BARGER: Okay. Thank you, Chief. That's all the questions
16 I have for you right now. I will give the opportunity for other
17 members of the investigation team to ask follow up questions.
18 Lieutenant Commander Moore?

19 LTC MOORE: Thanks, commander.

20 BY LTC MOORE:

21 Q. Good morning, Chief. Going to try to truncate these into
22 some categories. Earlier on, you talked about administrative
23 duties as a Battalion Chief. Do those include scheduling people
24 for training?

25 A. No. Well, no. My administration stuff is when they take

1 personal days, vacations move and balancing the roll calls. The
2 training as far as from my men is, you know, if we just if I think
3 of a drill that we have to do, but there's usually a set schedule.
4 The city has a drill of the day and everything and then the
5 Academy does some stuff too.

6 Q. Thank you. Sorry that answered my next question. You spoke
7 about USAR or Ladder 5. Is there any additional training for that
8 USAR company or do they carry any additional -- you said they
9 carry additional equipment, but is there any additional training?

10 A. Yeah, they go to -- they -- they'll go out -- the state
11 provides classes and they'll have trenches. They'll have
12 different -- those guys are specialized. They'll have specialized
13 training that they'll usually leave the city to go or for a while
14 we were hosting it. They use our drills right at our training
15 Academy.

16 Q. Then he spoke about the EV training that you attended, and
17 that in a month or so, you were supposed to get on a ship. Did
18 that ever happen later on?

19 A. Not up -- just recently we went on a ship. About a month
20 ago, but like I said, I was out. I don't think that they ever --
21 I think everything got suspended or whatever after the incident.
22 I don't think that they continued doing it with the Port
23 Authority.

24 Q. Very early on in your testimony, you talked about ICS
25 training. Is there a standard definition of the basic roles for

1 any type of incident when you took that training? Like the
2 incident commander, would that role be defined as part of your the
3 ICS training you test?

4 A. Yes.

5 Q. And so what would you say your role was during the July 5th,
6 2023 fire if you had to put it in an ICS term?

7 A. I was just a -- I was a safety officer, basically the second
8 chief.

9 Q. And what would you say the role the safety officer is?

10 A. Well, what it usually -- you're just the eyes observing the
11 safety, you know. Make sure everything is safe on the ground. We
12 don't really have that per se, in Newark, because our second chief
13 is usually a working chief.

14 Q. We talked about if equipment was down or out of service, that
15 the captains are in charge of and managing that, they were
16 required to report that to anyone else if something's put out of
17 service.

18 A. Well, the stuff that we're out of service, we're by motors
19 takes them out. It was, you know, when they're broke down, so
20 that most of the companies, a lot of them were using spare rigs.

21 Q. Is there -- is that captured anywhere like documented so that
22 you have like a a list for the whole department or is it just
23 stuff to eat?

24 A. Listen, differently we do it. Each company does a daily
25 maintenance on their vehicle and then they'll call motors. Motors

1 will then make -- do what they have to do for repairs, and
2 sometimes they'll say we need to send that out or we need a part
3 and they'll change over to a spare rig. And that's what a lot of
4 the companies were using the spare rig.

5 Q. So we we talked about different packs that might be carried
6 between like the rescue company and other companies. Does the
7 USAR company carry different packs for their SCBAs?

8 A. The USAR has a special a different truck, so when they get
9 activated. They go on to their to Rescue 2 Truck. It's called and
10 they would use that truck and the rope truck. They -- plus, then
11 they would also drive their frontline piece, but they have
12 separate the equipment on a separate truck that that's usually in
13 quarters.

14 Q. Okay. All right. The radios carried, do you know if they're
15 VHF or UHF? When the radio communication issues started, did
16 anyone from the department relay that to the ship's crew?

17 A. I'm not sure.

18 Q. And we pulled up some of the radio traffic in that initial
19 dispatch. There was an ISO dispatched. We just haven't discussed
20 what that what is ISO?

21 A. That's the incident safety officer, which is also the second
22 time they they listed. I saw someplace on one of the things where
23 they listed it. It's actually the same person, just like the
24 third truck company is actually the fast team.

25 Q. When you saw the the crew on Deck 12 with the hoses, you

1 stated that you were trying to figure out what they were doing.

2 Did anyone ask them what they were doing?

3 A. We weren't talking to, you know what I mean? We were trying
4 to communicate with that -- the foreman or whatever. Just trying
5 to communicate. Finding out what was going on was hard enough.
6 The language barrier was very hard.

7 Q. And I think you stated there was no fire up there. They were
8 just seeming to try to wet everything down. Are you familiar with
9 the the term radiant cooling or exposure protection? Can you tell
10 us what that is?

11 A. You're cooling down an object so it doesn't communicate,
12 transfer the heat and everything. But like I said, at this point
13 they said, they had no fire that they were fire, so we didn't
14 really know exactly what they were doing. They were just soaking.
15 I think they were trying to put water down, like I said, by that
16 ramp. But he said we don't know what -- we weren't getting clear
17 exactly what was going on. So we were trying to determine what's
18 going on.

19 Q. So in in your observation, where they may be attempting to
20 cool those areas down or use any of those cooling tactics.

21 A. Well, if I'm not sure what they were doing. Like I said, I
22 didn't talk to, you know. I got up there later on the thing and
23 we never really asked them what they were. You know, I didn't ask
24 the -- I was trying to find out what they actually had. We didn't
25 know exactly what they actually had.

1 Q. And during those conversations, did you ever hear the term
2 boundary cooling?

3 A. Boundary cooling.

4 Q. And then one other thing, and this is the last thing
5 Commander Barger asked you if you thought there was a backdraft
6 event when you got smoked out you replied with a no. Can you
7 explain why you didn't think there was a backdraft event at that
8 time?

9 A. Yeah, the way that usually -- it flashes up in the heat and
10 things we didn't have that it was just a smoke, got pushed as if
11 you had a line and and everything got pushed towards here. It
12 didn't have the same -- if you've, if you've been in a flashover,
13 you would know it. But it was just a regular smoke. When we get
14 -- when you get up, an area gets opened up and it starts
15 ventilating coming out. It just got pushed towards the opening.
16 It's looking to to come out the smoke.

17 Q. And when that occurred, did you hear anything about the
18 conditions on Deck 11 when you observed that push?

19 A. No, I didn't hear anything, you know.

20 Q. Thanks, chief.

21 Q. We didn't read any full portions.

22 Q. Yes, thank you. I have to. Did you at any point ever
23 request additional resources that were outside of Newark Fire
24 department?

25 A. No.

1 Q. Okay.

2 A. Not me. That's that's usually the. The guy in charge is the
3 commander.

4 Q. Okay. Knowing that a fixed system was utilized, you said you
5 opened one door, it took your breath away. It being a low
6 pressure CO2 system is there. Any difference in how you would
7 approach a fire knowing that a fixed system was used versus not
8 used?

9 A. Being that I thought it was used. I thought maybe that's why
10 that we weren't seeing fire. I thought maybe they had knocked the
11 fire down. I didn't know that they had found out later that they
12 never had sealed the whole place. They never did it correctly.
13 So that's why I'm assuming that we weren't seeing fire, that it
14 had -- that system had knocked it down. And I didn't know. Like
15 I said, I figured that it had worked. Maybe it worked and that's
16 why we weren't seeing fire, because I never saw fire.

17 LTC MOORE: Okay. Okay. That's all I have. Thank you.

18 CDR BARGER: Lieutenant Commander Ward, Any further
19 questions?

20 LTC WARD: Thank you.

21 BY LTC WARD:

22 Q. I just had a couple of questions relative to the radios used
23 with the journal entry.

24 A. Right.

25 Q. So are they all storing the same slot?

1 A. Each company, let's just say, we'll do Ladder 5. Ladder 5
2 has five radios assigned to them. So the captain will have the
3 five radios. Then each member, if he's got four members, then
4 each member will be assigned radio A B C D. If there's only two
5 guys, then A, B maybe and then the other two would be stored in
6 the captain's room mostly. So each company will have -- is
7 responsible for their own five or radios or whatever they have.

8 Q. So are they checked in and out at the response of an incident
9 or at the the start of the day?

10 A. The start of the day when. If you were working yesterday,
11 when you, at the end of your shift, you're going to collect all
12 your radios, your captain, and then my shifts coming in. We're
13 going to take them. So you're going to pass five radio sets and
14 that's the accountability. Any problems with them? No.

15 Q. Check in and check out so when you return it into the same
16 journal started?

17 A. No. In the journal with the. In the journal, he's going to
18 put -- just say this usually, captain and four firemen. One's on
19 vacation. So you're going to -- that's when you put in today.
20 Ladder 5 has one Captain, three firemen on duty, one on vacation.
21 You list each member and then. You're going to get a signed
22 radial A. You're going to get a signed radio B and C, and then
23 you're going to sign off on it that you received the radio. So
24 that's the accountability, now it's on you. For the
25 accountability for the radio and at the end of your shift, you're

1 going to hand it in and the next shift will do the same thing.

2 Q. So when you hand it in, is that also documented in the
3 journal, as far as I've returned radio A that was assigned?

4 A. No, that's you're giving it to the shift. The next captain's
5 going to get it. You know he's going to when he does his shift at
6 8:00, he's going to say all radios accounted for. He's going to
7 sign his radios. If there's five radios and he's signing all
8 five, he'll sign off, sign A5. If he's not, he'll sign the three,
9 and then he'll note two radios in my room. So every day you can
10 look back to where the radios are.

11 Q. Okay. So is it safe to say the captain is the person that's
12 kind of in charge of inventorying the radios?

13 A. For his crew.

14 Q. And then as far as a radio being assigned to a person, are
15 they carrying it or expected to carry it by policy during the
16 incident the entire time?

17 A. Yes.

18 Q. You mentioned the discussion as far as opening ventilation.
19 Do you recall any expressed concern by the ship's crew on opening
20 the ventilation?

21 A. No, they had -- no because we asked them what can we do? Just
22 isolate the one floor and will it go out to sea, out the side of
23 the ship out to sea and the guy was a yes. Okay. Let's try it
24 then. Let's try and see if we can do. It didn't do that. It
25 came up to the top and like I said, the communication. And I

1 don't know if he didn't know, or if that's what he thought it was
2 going to do, but it really didn't do what we were trying to.

3 Later on, we found out didn't do what we were trying to do.

4 Q. And then do you recall who you were talking to regarding the
5 ventilation being opened?

6 A. That would be that ship mate, whatever that was in charge
7 that we talked to the whole time, whoever that was assigned, I'm
8 not sure his name. It couldn't --

9 Q. And then you also mentioned subsequent to this incident,
10 there wasn't really the the Hot Wash the debrief that occurred,
11 but typically either in training or other incident responses. Do
12 you have that type of hot wash discussion to kind of learn?

13 A. Yeah, that, you know, we'll do that. Each crew will do that
14 usually. But like I said, we weren't. They may have done it. I
15 don't know. I wasn't there and physically we were not in the --
16 that work.

17 Q. Are those things documented or is it more of a discussion on
18 the job training?

19 A. Like, each tour will do it. It's not factoring it's -- we
20 get all the companies together and we'll meet at a house and we'll
21 have diagrams. What they did, what you know.

22 Q. One last question. So did you recognize post evacuation
23 order for the Newark Fire Department that Brooks was still
24 unaccounted for?

25 A. Repeat the question.

1 Q. Yeah. You received the evacuation order to to get off the
2 ship. Did you recognize personally at that point that Brooks was
3 unaccounted for?

4 A. No, I -- like I said, I didn't even hear them say the
5 evacuation. I was just told that they wanted everyone off the
6 ship. At that point, I don't -- I didn't think that they had
7 found them. I hadn't heard, but there was so much confusion
8 because I didn't also realize that Elizabeth had a couple of
9 people go down. EMS had a couple of people down. So I didn't
10 know, you know, who was who. I wasn't -- like I said. I was
11 concentrating on just getting the body off the ship and couldn't
12 keep track of, you know, who was going on. I didn't know that. I
13 didn't even know that they that the firefighters that had gone
14 down were Elizabeth, like who they were.

15 Q. Okay. And then you've already discussed that there weren't
16 any people on your team that necessarily had experience fighting
17 shipboard fires or even shipboard familiarity in general. Was
18 there discussion at all about appreciating the differences or
19 maybe a different response recognizing it was a a new environment
20 for the team?

21 A. At the time, no. At the time, like I said, this was one
22 fifth battalion box, so I didn't really know what 27 Engine, 27
23 and Ladder 4, who's -- that's their first two area. How much
24 experience they had. So I didn't, you know -- that Battalion 5
25 was doing that. I was just trying to assist to see if I could

1 help him in any way.

2 LTC WARD: Those are all questions I have. Thank you.

3 CDR BARGER: Mr. Pittman and all questions.

4 MR. PITTMAN: Just got a couple of questions.

5 BY MR. PITTMAN:

6 Q. At some point you said you received a report that there was a
7 fire on 11 and you guys didn't actually see the fire on ten. You
8 lost -- or lost track of three firefighters at some point. During
9 that time and the recovery and everything, did anybody actually
10 attempt to fight the fire on the left?

11 A. No.

12 Q. So to the best of your knowledge, nobody attempted to fight
13 the fire on 11? You went from trying to identify a fire to
14 rescue?

15 A. Exactly. We were trying to identify what we had we on the
16 incident and then. When I turned into a rescue for our guys, we
17 never even got to the point, to find out what we had going on.
18 You know, we were trying to determine what we had, what floors
19 were even, you know, involved. And then once we lost our
20 firefighters, our effort went to, you know, was we minimum
21 resources? Fire, fire, life came number one for us.

22 MR. PITTMAN: That's all I have.

23 CDR BARGER: Thank you, Mr. Barnum.

24 MR. BARNUM: Yes, thank you, Commander?

25 BY MR. BARNUM:

1 Q. Thank you, Chief Maresca, just five follow-ups here. When
2 you first made it to Deck 12, you met up with Battalion 5 Kupko.
3 Is that correct?

4 A. Yes.

5 Q. Okay. At that point, did you discuss with Chief Kupko or the
6 CAP or or chief mate or anybody with the vessel crew about the CO2
7 system being utilized?

8 A. He had thought he was up there talking ahead of time. We
9 hadn't, you know, I hadn't. I didn't hear anything about that,
10 but I knew that they had sent it off because when I was walking up
11 the --

12 Q. But you did not?

13 A. -- stairwell. I lost my breath and just from that. That
14 little class that we had with the electric cars, the guy said,
15 once they put that system in, it will lose your breath. And I was
16 like, holy shit, it was -- it really did so.

17 Q. You knew something had been released in that space?

18 A. Right. So I thought and that's why I thought maybe we
19 weren't seeing fire. You know, when I was walking up the stairs,
20 I said, well, you know, when I got to the top. And I'm not seeing
21 fire and I'm thinking, well, maybe they had extinguished the fire.

22 Q. Do you have any experience with that type of system?

23 A. No.

24 Q. So what's your understanding? Do you have any understanding
25 of that type of suppression system and how it's supposed to be

1 properly utilized? And just to be clear, you didn't have any
2 conversations with anyone else about the operation of that system
3 and how it was supposed to be utilized?

4 A. No, I did not.

5 Q. Yeah, yeah. I think you might have just answered this, but
6 just so I'm clear, you said it's a Newark policy that a
7 firefighter will have a radio on him or her when engaging while
8 operating?

9 A. Well, basically you need the radio on you the whole time
10 because when they dispatch a box or anything. You're going to be
11 on channel one, so you hear it and then we'll go to channel three
12 later. For most incidences on this one, it was a full assignment,
13 so we went to channel two, but they carry every man is assigned to
14 radio and he should have it with him.

15 Q. Right. So it would be atypical if someone did not have a
16 radio when they entered a fire.

17 A. That would -- that -- it should never happen because, you
18 know, you may not in the firehouse if you're all in a room. You
19 may have it with your equipment. You know, if you're working,
20 whatever doing something by the rig, but on a whole once you get
21 there, you've radio is one of your life lines that you're always
22 going to have.

23 Q. Okay. So when you were on Deck 10, initially you said you
24 didn't have an SCBA on and you're sending teams in. Are you
25 checking the teams for make sure they're dressed out correctly,

1 make sure they have their mask on, make sure they have all their
2 gear Are you -- is that one of your duties?

3 A. Yes, I was making sure that they had their as far as the SCBA
4 on, you know, the gear on their PPE. Yeah, the radios you
5 couldn't tell because they're in, you have a strap, it's
6 underneath your jacket.

7 Q. Okay. My next question.

8 A. So I'm not looking for that. I'm not looking, you know.

9 Q. You're not looking to see if they have their radio, you're
10 not doing a radio check with them or anything before?

11 A. Now I'm looking.

12 Q. All right. The out of service rigs, you said there was a lot
13 of rigs that were out of service. Is there a certain percentage
14 of rigs that can be out of service? You know that would trigger,
15 you know, some sort of. Some sort of notice or alarm within the
16 department that you know we have too many rigs out of service?

17 A. That that's above my pay grade. That's the Fire Chief, would
18 know. That's his.

19 Q. Okay. So What are some of the reasons why these rigs are out
20 of service? Is that due for an oil change or, you know, the
21 engines?

22 A. No, they're -- they were broken. They could be engine, it
23 could be the ladders were at a service because they weren't -- the
24 aerials weren't working. Most of them were, I think, engine
25 problems probably. So they're giants.

1 Q. And in your experience of these, you know, are these out of
2 service for months, years or is it, do you know?

3 A. Depends what the -- with the rigs, you know, what's the
4 matter with it. I had Ladder 10 was out for over a year. They
5 had engine problems I think and they so they were in a spare rig.
6 But it depends. Like I said, it all depends on what kind of.
7 Mechanical problems they have.

8 Q. Okay. So you said as Battalion 4 you have seven companies
9 under you?

10 A. Yes.

11 Q. How many total rigs do you have?

12 A. In my battalion?

13 Q. Yes, sir.

14 A. Where you have the seven main and then you also have the rope
15 truck, you have USAR 2. There's also a spare rescue truck
16 sometimes there. And then we have the foam truck at 18. If you
17 want to count, I have a pickup truck with a -- the Zodiac, a
18 little raft at 19 for them when they have flooding. But they're,
19 like I said, they're only used on special clothes.

20 Q. Yeah. So out of all the rigs that you have under you, how
21 many were out of service?

22 A. 19 was in a spare. I'm not sure if ten. I think 10 truck.
23 They were in a sphere. I'm not sure what rescue was used in
24 rescues truckers. They -- I think they were, I think everyone
25 else was probably. In their first line, equipment out of the

1 seven companies.

2 Q. Okay. So a few three maybe.

3 A. I would say, at least at least two.

4 Q. Yeah. Now is that now, do you is in your understanding is
5 that typical for other battalions as well?

6 A. Yes.

7 Q. Okay. And how are you -- were you concerned in any way on
8 July 5th, that your response from the companies you're in charge
9 of would have been hindered due to rigs being out of service?

10 A. No, not for that incident that I was going to. I -- like I
11 said, this is down neck. I'm the second chief, come in there so I
12 don't even know what they have, what they were riding or what rigs
13 were out of service down there.

14 Q. Okay. I understand Newark has a cascade truck. Is that
15 correct to fill bottles?

16 A. Yes, I think that was out of service.

17 Q. What company was that? Or what battalion was that from?

18 A. That's in the 3rd battalion. That's at at the training
19 Academy, the cascade.

20 Q. And when is that deployed that asset?

21 A. That's usually if they need the bottles refilled. On a
22 weekend or whatever, there's always this four companies that they
23 rotate. They do it monthly. And on the weekends, they would they
24 use it to fill bottles if special service is closed. If you have
25 a big incident, you're going to need it. They may get a special

1 call to go to the Academy. Pick that up and go to the incident.

2 Q. Do you know why it was out of service? Does Newark have a
3 backup cascade?

4 A. No, that this is that cascade is the Essex County one
5 actually. That's stored at north as far as I understand. It's
6 not like Newark's cascade by itself. It's it's a county. There's
7 one in each county.

8 Q. Okay. Do you feel like having an operable cascade truck at
9 Blanton on July 5th and 6th would have helped the efforts from
10 Newark firefighters, Fire department?

11 A. I would say yes. You know anytime if we need bottles, I mean
12 I would say having one there or, you know. Yes, I would say yes.

13 Q. Okay. And just one on the bottles, I think you said this as
14 well, but so USAR is different than UASI, correct?

15 A. I'm not sure exactly.

16 Q. Are you familiar with UASI?

17 A. Not I. They're very similar, but I'm not really sure of the
18 difference now.

19 Q. Okay. But you said your -- you, sir, your rescue company
20 utilizes 45 minute bottles?

21 A. They there -- the rescue is also for hazmat confined space.

22 Q. So when you had your rescue team going to try to find the
23 missing firefighters, Firefighter Acabou, were they utilizing
24 those 45 minute bottles?

25 A. I don't know if they're what rig they're on, if it's on their

1 regular rig or not. So I don't really know what they, you know.

2 Q. So did they respond in their regular rig or did they respond
3 in their rescuer?

4 A. An irregular rig, they went on the initial assignment.

5 Q. Now, would how would you -- would there be a way to get that
6 rescue rig to the scene if needed?

7 A. You'd have to call and have somebody take it. Whether
8 another company, whether we have special Ops, but they may have
9 been there too. I'm not, you know -- you would have to call
10 somebody to if if I'm not even sure where those specialized
11 bottles are. That's the rescue would know that.

12 Q. Okay. At any time during your efforts, were you worried? At
13 any time prior to your entry, were you worried about the potential
14 of having maybe someone in the space, a crew member or someone
15 that would have needed to be rescued prior to making an entry by
16 the fire department?

17 A. Can you repeat that again?

18 Q. Yes. Sure. Did -- was -- did you receive any news or
19 information or word that maybe someone was in the space to when
20 you made entry?

21 A. Because we were still trying to figure out what we had. I
22 mean, it was. It was.

23 Q. Right, but no one came up to you and said, oh my God, there's
24 someone stuck. There's someone in there we can't locate them. We
25 don't know where they are.

1 A. As far as I know, like I said, I joined the conversation.
2 Later, so I don't know what was said before, but now as far as my
3 understanding is no.

4 Q. While on board, were there alarms going off?

5 A. Again, I can't -- I don't think so. I don't know.

6 Q. All right. And then just my last. Question here, Chief. We
7 talked about ventilation and it was kind of your idea to start the
8 ventilation on Deck 10 to try to get some of the smoke out.

9 A. Right. This was probably about an hour and a half into the
10 incident.

11 Q. Did you defer or confer, rather, with any any other
12 leadership within the fire department, whether it be Carlucci or
13 Kupko, you know, that was this is what you wanted to do and why or
14 to --

15 A. Captain Barisano and I talked about it and like I said, we
16 were just trying to he was in there and we were trying to figure
17 out what would help it make it easier for the guys to assist the
18 guys and that's why we talked to the crew member that was in
19 charge, that led, or whatever. And we asked them, can we do this,
20 can we do this? And he said yes. Everything that we wanted to
21 do, he assured us that it would do it. So that's why we tried.

22 Q. Okay. It was just it was a yes response or did you actually
23 have a discussion?

24 A. We had a discussion we asked can we isolate the tenth floor
25 and can we get that smoke from the tenth floor out the out the

1 sea, out the side of. The ship and he said yes.

2 MR. BARNUM: Thank you. That's all the questions.

3 CDR BARGER: Ms. McAtee.

4 BY MS. MCATEE:

5 Q. I have. I have a few follow up questions and I -- they may
6 bounce around a little. Who provides EMS on scene?

7 A. Who provides EMS universally?

8 Q. Are they provided fire related PPE?

9 A. I don't know.

10 Q. So the EMS that was with you on Deck 10, they did not have
11 SCBA correct?

12 A. At that point, everyone's weird to say they were on the 12th
13 floor, on the 12th floor.

14 Q. There was no EMS with you in the stairwell at that time now?

15 A. I never saw EMS until I went up to the 12th floor.

16 Q. Within the incident command structure, who was the incident
17 commander?

18 A. Chief Carlucci and then later, I guess, Chief Jackson would
19 be oversee him. But on the whole it was chief chief Carlucci.

20 Q. Would it safe to be described your role as Deck 10 Commander
21 or Deck 10 command?

22 A. I would say yes.

23 Q. Then what was Captain Kupka's role?

24 A. With Chief Kupka, with chief.

25 Q. 13 Kupka, sorry.

1 A. He was actually the the chief of operation there. I was just
2 trying to assist him. I went down to try and be his eyes and ears
3 on the tenth floor. So he was he was getting everything, you
4 know, we could have our roles, could have been reversed. It just
5 happened. I took them that I went down the stairs. They can, you
6 know, let's see what we have. He was still working with the poor
7 guy to find out. We're trying to determine what we have. We're
8 just investigating. We weren't really fighting fire. So he was
9 getting anything that I needed. He would, you know, we were
10 talking. It was taking two of us with the radio to to communicate
11 for down below.

12 Q. You did mention that you had had difficulties with the radio.
13 Were you able to isolate certain areas that you knew that you had
14 communication issues or were you there not were you not there long
15 enough to to turn that?

16 A. No, we knew we were having trouble. Well, we were having
17 trouble all over, but I knew on the tenth floor. You know, I was
18 having trouble with the guys inside and out and even trying to
19 reach with DC Carlucci, you know. If I was, was two steps in, you
20 know, maybe he's not hearing me. If I was one step out, maybe he
21 was hearing me. They weren't hearing me inside. You know, one
22 foot made a difference. You know, sometimes you heard it,
23 sometimes you didn't. And I could be the same thing. I could be
24 having a conversation with you and one minute I'm hearing you next
25 minute it's not going through. So it was kind of, it was very

1 frustrating

2 Q. During the rescue, did you at any time shift radio channels
3 or did you remain on channel two?

4 A. I was on channel two, but I had to scan on. So because like
5 I said at one time we tried channel five with Barisano and I and
6 he was doing it with the deputies driver, I think trying to.

7 Communicate outside there, but I wasn't hearing them so. And it
8 was just a short time that they tried the channel five. As far as
9 I know, I didn't hear them. Wasn't helping me, so I kind of
10 abandoned what they were.

11 Q. At one point you said that the crew said that they had a
12 fire, bit was knocked down. Did they provide any more details as
13 to what they did to put the fire out?

14 A. Yeah, they that. At the beginning it was some stuff dripping
15 onto a car. And they just put that out. It was. A little bit.
16 It wasn't like a car fire. It was dripping on two cars. From
17 above.

18 MS. MCATEE: I think that's all the questions I have At the
19 moment. Thank you, Chief.

20 CDR BARGER: Thank you. We'll now move to cross examination
21 from the parties and interests as we have with previous witnesses.
22 In order to ensure equitable time and opportunity for each party
23 and interest to ask questions, each party and interest will have
24 approximately eight minutes for cross-examination within the scope
25 of the direct examination questions. As a reminder for counsel,

1 please ensure that your questions are listing relevant information
2 that meets the purpose of this investigation. City of Newark?

3 MR. LIPSHUTZ: Thank you. We don't have any questions.

4 CDR BARGER: Port Authority of New York, New Jersey?

5 MR. REILLY: Thank you. We don't have any.

6 CDR BARGER: Grimaldi DT.

7 CROSS-EXAMINATION

8 BY MR. O'CONNOR:

9 Q. Thank you. Chief, I'm just going to walk you back a little
10 bit through some of the chronology here just to fill in some gaps
11 and ask for some clarification. When you arrived on scene, you
12 reported to Deputy Chief Carlucci, right?

13 A. Correct.

14 Q. And was the incident commander, right? And as the second
15 Battalion Chief on scene and you where the safety officer,
16 correct?

17 A. Correct.

18 Q. And together you were waiting for a report from Battalion
19 Chief Kupko, who was already up on Deck 12. Is that right?

20 A. Right. As far as I know, he was up on the Deck on 12.

21 Q. And were there crew members around you and Deputy Chief
22 Carlucci during this time period?

23 A. There was at least one guy because he's the one. That was he
24 was telling there was at least one guy because he was the one that
25 was taking him to the stairwell on the right and saying go up that

1 stairs, this will go to the 12th floor.

2 Q. During that time, did you ask that crew member for any
3 manifest or any fire plan for the ship?

4 A. I did not.

5 Q. And that crew member, when you made the decision to go
6 upstairs to that crew member guide you to this staircase, I think
7 you said it was on the right SIDE.

8 A. He just took me to the stairwell and say, take that stairs
9 and that'll go all the way up to the 12th floor. And then he went
10 back to the --

11 Q. So you went up the starboard ladder and somewhere about Deck
12 6 you stopped and you opened the door?

13 A. Correct.

14 Q. And you had the breath knocked out of you, is that correct?

15 A. Correct.

16 Q. And based on that and the training that you had the week
17 prior with the EV fires. You recognize that the ship must have
18 released some sort of suppression agent like CO2, is that right?

19 A. Yes.

20 Q. You then continue on up to Deck 12 and you meet Chief Kupko
21 Engine 27 and Ladder 4, right. And they were already speaking
22 with, I believe you used the phrase first mate, right?

23 A. Yeah, whatever. He -- they call them something.

24 Q. And the first mate, I believe you said you would ask them if
25 there were electric vehicles on board and he had answered no, I

1 think. And then the first mate had indicated to you that the fire
2 had started somewhere down below on Deck 10 or Deck 11. Is that
3 right?

4 A. Yeah, I'm not sure exactly how it went Kupko was talking when
5 we were trying to figure out, you know, where the fire was and
6 everything. And we weren't sure exactly what floor the fire
7 started on or he didn't? I don't think he said what floor it
8 started on. It just said it was you know, they had fire a couple
9 of cars on fire.

10 Q. You might have answered this earlier, but to the first mate
11 indicate to you that anyone was missing on the ship and any crew
12 members were unaccounted for.

13 A. That -- he didn't say anything. We didn't ask him. I don't
14 think I -- I'm not sure. Like I said, I got there late in the
15 conversation. We were just trying to, you know, at that point
16 trying to find out what, what's going on, what he is doing.

17 Q. So to your knowledge, nobody had asked the first mate whether
18 any of the crew members were missing.

19 A. I don't know. I don't. I didn't talk to, you know, I can't
20 recall if that came up or not.

21 Q. You made the decision to go down and investigate at at Deck
22 11 and Deck 10, right?

23 A. Correct.

24 Q. And the crew members advised you to use the aft port
25 staircase to be able to reach those?

1 A. So they said that that was the only one to get there. He
2 just he said you have to go there.

3 Q. Was the only one?

4 A. Yeah. Because we said how can we get down the check? I mean,
5 he said you have to go down the stairwell.

6 Q. And I believe you said that you wanted to bring a hose down
7 with you for protection.

8 A. For guide protection. Yeah. In fact, one of the Members
9 from the Grimaldi came down with us. Because he was going to show
10 us the different, you know, the layout.

11 Q. Was that member in turn out here?

12 A. He had an SCBA that they have some kind of breathing. He did
13 have something.

14 Q. And when you ask the crew for the hoses, did they collect the
15 hoses for you?

16 A. He there was one hose laying on the ground. We took that and
17 I talked to the guy, the guy who we were dealing with was very
18 good and I said, do you have three more lengths? And he had a
19 member go get me three more lengths, so we pieced in.

20 Q. Is it fair to say that despite communication difficulties,
21 may be foreign accents you were able to effectively communicate
22 with them in order to learn that the airport staircase was the way
23 that you could access Deck 10 and 11, and to ask them to supply
24 you with hoses from the ship?

25 A. Yeah, the guy was very good. Everything that we asked for,

1 he tried to assist us. He got me the crane. You know, then he --
2 you know, I wasn't sure if we were going to be able to use it. I
3 wasn't sure if it was -- all -- but he was -- the guy was doing as
4 best he could.

5 Q. So the crew was being helpful?

6 A. Yeah, the -- I only dealt with the one guy. But he was --
7 like I said, they were being -- they were -- the Grimaldo crew was
8 working the whole time, you know, up there. But he tried to
9 assist. Anything I requested, he tried to assist.

10 Q. So when you went down, descended the aft port staircase, you
11 went down to Deck 10 and you opened up the door, right?

12 A. Yes.

13 Q. Did you see any fire when you opened up the door?

14 A. No.

15 Q. It was just a light haze?

16 A. A light haze.

17 Q. And you had pretty decent visibility into the space?

18 A. I could see past you.

19 Q. Now, at some point during the search and rescue phase, so
20 this is after the mayday, I believe you said that you'd been
21 pushed up -- back up to Deck 12 due to smoke in the aft port
22 stairs.

23 A. Right.

24 Q. And when you were up there, you spoke to a crew member about
25 the possibility of turning on the vents to try and exhaust some of

1 the smoke that was inside of Deck 10?

2 A. Right. We asked them if they had an exhaust system and if
3 they could isolate each floor, and he said yes. And we said, if
4 we turned this exhaust -- will it go out to sea. We want to put
5 it out to see, trying to just clear the tenth floor. And he said
6 yes, it should do that.

7 Q. And after they informed you how the exhaust system worked,
8 did you tell them to turn it on?

9 A. Yes.

10 MR. O'CONNOR: Can we for a moment bring up Coast Guard
11 Exhibit 17 and page 3?

12 BY MR. O'CONNOR:

13 Q. Chief, I'd like to draw your attention to an entry on this
14 document that the time would be 2225. And it says E5-B5. I am on
15 the 11th floor, backing out. Now, I believe earlier you said that
16 to your knowledge, nobody had gone into that 11th.

17 A. Yes, talk --

18 Q. Reading that --

19 A. Talking to what -- my understanding is, E-11, these guys were
20 in the stairwell on the 11th floor waiting to -- they were
21 originally one of the companies that had lined to be -- to going
22 in, but it was one captain and he had a probie with him. And I
23 said I'm not putting a probie -- I didn't want my probies involved
24 in this. It -- because it's too hard to watch them. Probie is a
25 new firefighter.

1 So he was in the stairwell. He wasn't doing anything. He
2 was in reserve if we needed anything. But they -- and I don't
3 know why he, you know, like I said, he wasn't -- he was just
4 evacuating the stairwell.

5 Q. So they were --

6 CDR BARGER: So, Mr. O'Connor, just less than one minute.

7 MR. O'CONNOR: Thank you.

8 BY MR. O'CONNOR:

9 Q. So they were in the aft port stairwell?

10 A. Yes.

11 Q. Is that right? Do you know if a second hose had ever been
12 stretched down to prepare to enter Deck 11?

13 A. We never put a second line in to -- what did you say, 11, 10?

14 Q. 11.

15 A. They never put a -- oh, I don't know.

16 Q. Do you --

17 A. I was on -- like I said, I was in the doorway on 10, you
18 know. We never put a line in there because I had told him, don't
19 open that door on the 11th. I don't know if anyone -- you know,
20 like I said, we never did anything there.

21 MR. O'CONNOR: And one last question.

22 CDR BARGER: One last question.

23 BY MR. O'CONNOR:

24 Q. Chief, shortly before the mayday, are you aware whether
25 conditions inside Deck 10 where the firefighters were operating

1 suddenly changed or significantly changed?

2 A. No.

3 MR. O'CONNOR: Okay. Thank you.

4 CDR BARGER: Ports America?

5 BY MR. ZONGHETTI:

6 Q. Good morning, Chief. My name is Gino Zonghetti. I'm the
7 attorney for Ports America. I have a few questions.

8 A. Okay.

9 Q. You've covered it, but it sounds to me, based upon your
10 testimony, that at the time you entered the vessel, you, and as
11 far as you know, the other firefighters from Newark, had no
12 training with respect to shipboard firefighting? You had no
13 written procedures with respect to no shipboard firefighting. And
14 you -- I believe you said you also had no training with respect to
15 firefighting involving a fixed CO2 system on a vessel, is that
16 correct?

17 A. That's correct.

18 Q. Did -- I assume you also had no protocol in place as to what
19 to do when getting -- when boarding a ship, whether you should
20 meet with the captain, things of that nature?

21 A. That's correct. We had no protocol.

22 Q. Did you have any understanding as to -- under whose authority
23 the ship was in terms of firefighting when you boarded the vessel?
24 And what I -- by that, I mean did you have any understanding of
25 whether you folks from Newark were in charge of the firefighting

1 or it was still under the control of the captain of the vessel?

2 A. I wasn't sure. I never saw the captain. I didn't see the
3 captain until -- and I was surprised because I thought I'd see the
4 captain and not dealing with the first mate. The captain -- the
5 first time I saw the captain is when Acabou's body was brought to
6 that crane. That was the first time I had met him. That was
7 after midnight.

8 Q. Yeah. So that was something I was going to ask you next.
9 You were communicating with the -- who you assume was the chief
10 mate. You testified he was helpful, but there was some language
11 barrier, fair?

12 A. Right.

13 Q. And they were busy doing their own things as well, right?

14 A. He had -- his members were working. I don't even know how
15 many there were, but they were guys working. You know, they had a
16 hose line and they were soaking the whole time. They were there
17 until 6:00 in the morning.

18 Q. But you --

19 A. I saw them.

20 Q. You never had a meeting with the captain when you got up to
21 Deck 12 where you went to the bridge or wherever you laid out the
22 plans of the ship and he told you --

23 A. No, the first time I saw the captain was like I said, when
24 Acabou's body was actually being brought to that crane. He was on
25 the -- that 12th floor by the crane. That was the first time I

1 met him.

2 Q. Okay. And you never had plans for the shift and the -- or
3 the firefighting system and the ship before you entered Deck 12 as
4 well, correct?

5 A. I --

6 Q. 10?

7 A. I had never -- no, I had never seen -- I still have never
8 seen him. Well, I've seen him now, but --

9 Q. So neither -- you or the firefighters that went in to that
10 Deck 10 with you that day, knew where the emergency exits were or
11 the layout of that floor, is that correct?

12 A. No, we did not have that. We had just the one member from
13 Grimaldi that was with us. And as far as we knew, we just had
14 this door and we were -- that's why we were just investigating to
15 see what we had. We weren't going in to fight a fire.

16 Q. So you had a sense that there had been some -- something set
17 off, Halon or CO2? You had some inkling of that because you -- it
18 took your breath away on the sixth floor --

19 A. Right, they had --

20 Q. -- when you poked in?

21 A. I was a -- I had a sense that they had an incident. We
22 didn't know exactly what they had.

23 Q. Okay.

24 A. And they had -- you know, like I said, I knew that they had
25 sent the system off, but like I said, I didn't talk to them where

1 they explained or anything or what fires -- what floors were the
2 fire.

3 Q. Right. Did anyone explain to you that there was a problem
4 with the water tight door that involved the CO2 system?

5 A. No, we weren't getting -- no. Like, they never said any -- I
6 -- as far as I know, they had sealed -- if they ran their system,
7 they had -- you know, I know you have to seal everything up --

8 Q. Yeah.

9 A. -- you know, just from the guy talking that did the electric
10 thing. They said they sealed the whole thing up and then they
11 don't go in. They don't go in for days or whatever.

12 Q. The captain of the vessel testified in this proceeding that
13 after he set the CO2 system off, he had no concerns. Was that
14 ever expressed to you folks about the firefighting on the vessel,
15 that -- when he set the CO2 system off, he had no concerns about
16 the fire?

17 A. Who, the captain had the --

18 Q. Yeah.

19 A. I -- like I said, I didn't talk to the captain. The first
20 time I talked to the captain was when they had the body off.

21 Q. So given all this information you were missing, you didn't
22 know anything about the layout of the ship, you didn't know about
23 the CO2 system being set off. This lack of information you had,
24 that's what led you in your duties as a chief to investigate what
25 was going on, is that fair to say?

1 A. We did what we would do for any incident. We were just going
2 to find out what we have.

3 Q. Right.

4 A. But it was -- you know, whether it be a high rise, whether it
5 be a house fire, whether it be, you know, a gas leak. You're
6 going to find out, investigate to find out what we have.

7 MR. ZONGHETTI: All right. That's all I have. Thank you.

8 CDR BARGER: American Maritime Services?

9 BY MR. PALLAY:

10 Q. Okay. Thank you, Chief, for your service and thank you for
11 your testimony today. My name's Matthew Pallay of -- I represent
12 AMS in this case. Just a few questions please. Are you familiar
13 with Halon or CO2 systems in general? I know the question before
14 is couched in terms of on a vessel, but a fixed CO2 system or a
15 Halon system in general, are you familiar with how those work?

16 A. Vaguely.

17 Q. But you understand, I believe as you just said, that you have
18 to seal the entire area for -- in order for them to work, correct?

19 A. Right.

20 Q. When you came up to Deck 12 for the first time, you noted
21 earlier that you saw light smoke, is that correct?

22 A. Yes.

23 Q. Okay. And where was that light smoke coming from?

24 A. It was coming from the ramp.

25 Q. Okay. And did you understand at that time where that ramp

1 led to?

2 A. To the lower deck.

3 Q. Okay. And knowing what you know about Halon systems and
4 smoke coming out, did that give you any warning or indication as
5 to anything wrong with the CO2 system or its implementation?

6 A. No, it was -- I didn't -- we -- like I said, we didn't know
7 what was even going on. We didn't even know when the fire
8 started. It -- this could have happened at 3:00 in the afternoon
9 and we're just getting the call. We don't know when they, you
10 know, what's going on. I didn't even know that the door hadn't
11 closed. You know, as far as I know, if they put the Halon system
12 on, you would think that they would have sealed it up and used it
13 at that point, you know what I'm saying. And then maybe they
14 opened it up to see what they have. I don't know.

15 Q. Okay. So again, would it be fair to say that with that smoke
16 coming out, you realized it wasn't sealed at least at that time?

17 A. What's that?

18 Q. With --

19 A. It at -- yeah.

20 Q. With the smoke -- oh, go ahead.

21 A. When I'm on that floor now, it's not sealed. But I don't
22 know when they put the system off, it was sealed when they did it.
23 Like I said, I'm -- I don't know what they have. We're not seeing
24 fire, so I -- it's -- as far as I'm thinking, maybe they used the
25 system, put the fire out, you know, and now they're just mopping

1 up. Now they're calling us to see what's going on and we're
2 trying to determine what exactly do we have here.

3 Q. Okay. You noted earlier that the crew was being evasive when
4 you were speaking to them. Can you elaborate further as to how
5 they were being evasive or any specific examples?

6 A. Yeah, yeah, we didn't know when this fire started, what was
7 actually burning, what do you have. We're trying -- you know,
8 well, we had a fire. We had, you know, what --

9 Q. When you -- coming down from Deck 12, going to check on Deck
10 11 and Deck 10, at any time before entering Deck 10, did you lose
11 radio contact with either Chief Kupko or Deputy Chief Carlucci?

12 A. It, it -- can you repeat that?

13 Q. Sure. Did you lose radio contact at any time prior to
14 entering Deck 10?

15 A. No. No. Kupko was within talking distance with me.

16 Q. So --

17 A. And everything.

18 Q. Okay. Did you verbally report the black smoke coming out of
19 Deck 11 or over on the radio?

20 A. The -- I believe Jim, Chief Kupko was at the 12th floor when
21 we went down to the 11th. Like I said, I opened the door. It was
22 probably about this much. Black smoke came in. I closed it right
23 away and I told everyone, keep this door closed. We probably have
24 fire on the 11th floor. Let's go down to the 10th. So Jim was up
25 there. I would assume that he saw us right there.

1 Q. All right.

2 A. And then we would -- we proceeded to the tenth floor. We
3 opened that door and it was nothing.

4 Q. I guess I'll just rephrase it. Did you make any report over
5 the radio or hear any of the report over the radio -- you know,
6 describing the smoke coming out of Deck 11?

7 A. Not that I can recall. I'm not sure.

8 Q. When you entered Deck 10, you noted that you were using the
9 ships hoses as a lifeline?

10 A. Yes.

11 Q. And the lifeline is, you know, obviously --

12 A. Just a guide. The guide in. So when they went in, they
13 would have -- they come out. You would do the same thing with any
14 fire, any type of situation, whether it's a house fire, a
15 building.

16 Q. And that was the ship's line, correct?

17 A. Yes.

18 Q. When you entered Deck 10 or any time you were in Deck 10, did
19 you see any other ship lines other than the line that you had
20 brought in?

21 A. No, I never saw it. Like I said, I was at the doorway.

22 Q. Do you know if anyone else had reported seeing any other
23 lines on the floor?

24 A. Not that I know of.

25 Q. Does Newark Fire Department have or utilize back trackers?

1 A. Yes.

2 Q. Were there any pack trackers available or in use on July 5th?

3 A. I don't know. I don't know. I -- but just from experience
4 with the pack trackers that we've had when we first got them and I
5 was at the academy, the pack trackers didn't -- different floors.
6 They didn't help you. If you were on multiple floors or in
7 certain thick concrete and everything, they didn't give you an
8 accurate reading. We tried that. In fact, I've done that -- when
9 we were at the academy, what, we have the boarding building and
10 we've done it in my fire house at -- where Ladder 5 is at. That
11 they don't pick up on the thick -- same thing with the radios.
12 Sometimes you have problems with them picking up the backpacks.

13 Q. Okay. And what -- was a pack tracker ever brought on board
14 the vessel?

15 A. What's that?

16 Q. Was it ever brought on board the vessel?

17 A. Not that I know of.

18 Q. When you were -- after the mayday, but before you had been
19 smoked out of that stairwell, the support stairwell, were any crew
20 members in that stairwell with you giving direction, assisting
21 with the mayday or or the layout at that time?

22 A. I'm not sure what happened. The guy was -- originally came
23 in with us. I don't know. I -- because I wasn't dealing with
24 him. You know, so I don't know what he -- if he was still there
25 or not. I was more concerned, like I said, focused on my guys.

1 Q. Do you know if there was any call or did you make any call
2 for assistance from the crew to assist with locating Captain
3 Acabou?

4 A. Not that I know of. I don't know. Again, I was on the tenth
5 floor, just worried about getting my crew, the next guys, crew
6 that was going in and trying to get to my men.

7 Q. When -- with respect to the ventilation system, were there
8 any other options ever discussed other than using ventilation?

9 A. We were trying to figure out. We couldn't figure out
10 anything else that would work. Because as far as we knew, there
11 was no doorway. My understanding was it was only one doorway to
12 that floor that we were on. Talking to the -- you know, when we
13 were talking to the crew members, trying to see, you know, how we
14 can get to the different places. And that was -- at that point,
15 that was the only doorway that I knew of.

16 Q. Okay.

17 A. From what they had told us.

18 CDR BARGER: Mr. Pallay, less than one minute.

19 MR. PALLAY: Okay.

20 BY MR. PALLAY:

21 Q. We've heard testimony last week saying that it was possible
22 that the CO2 system could have been converted to a sprinkler or a
23 drencher system. If you had known if that was an option, do you
24 -- would that have been something you could have used instead of
25 turning on the ventilation?

1 MR. LIPSHUTZ: I'm going to object here. This is --

2 CDR BARGER: On what grounds?

3 THE WITNESS: What was that?

4 MR. LIPSHUTZ: I'm objecting.

5 CDR BARGER: Chief, hold on one second.

6 MR. LIPSHUTZ: It's beyond the scope. It's asking his
7 opinion. It wasn't addressed in the direct. Okay.

8 CDR BARGER: Mr. Pallay, yeah, if you would rephrase the
9 question to be within the scope of our direct.

10 MR. PALLAY: Okay.

11 BY MR. PALLAY:

12 Q. In your discussions with the crew to utilize the ventilation
13 system, were any other fire suppression methods or means discussed
14 or given as an option?

15 A. Well, the ventilation system was turned on to assist on
16 getting the firefighter out. We wouldn't do a suppression system
17 to get the firefighter out. We're trying to clear the smoke to
18 make it easier so they could see better. So no, there was no
19 discussion about suppression system because if they had the
20 suppression system, we would have used -- you know, they would
21 have used that before we would -- did anything. There would be no
22 fire.

23 CDR BARGER: And one last question.

24 MR. PALLAY: Okay.

25 BY MR. PALLAY:

1 Q. Can you just describe the first of the shipmate that you were
2 interacting with, you know, whether its nationality, his height,
3 hair color, any features you could describe?

4 A. Probably about my size and it was, like, whatever, whitish
5 skin. That's about all I can say. It was so -- you know.

6 Q. Thank you, Chief.

7 A. You're welcome.

8 REDIRECT EXAMINATION

9 BY CDR BARGER:

10 Q. Chief, I have one follow up question for you so that I
11 understand how this functions. If you're using a -- the
12 firefighter is using a -- I'm assuming a charged hose line, is
13 that correct, on Deck 10?

14 A. Yes.

15 Q. If you're using a charged hose line as a lifeline, how do you
16 do that? Are they holding it?

17 A. Well, you're --

18 Q. Are they -- is it on the ground?

19 A. When you go in -- if you go in fighting a fire, your line,
20 that -- no matter what this -- whether it's a house, whatever,
21 anything, is -- the way that line is attached to the outside. So
22 when they went in, when you're going to come out, you're going to
23 hold on to that for dear life and you're going to come out the
24 same way.

25 Q. Okay. So --

1 A. You're going to hold on to the hose.

2 Q. When you enter the space, you had the hose in your hand and
3 you're letting it, essentially, drag through your hands?

4 A. Right. Exactly. Yes.

5 CDR BARGER: Thank you. Any other follow questions from the
6 investigation team? Mr. Barnum?

7 BY MR. BARNUM:

8 Q. Just one for clarification. When you first entered that port
9 stairwell and went down, you peaked in 11 and you saw thick smoke
10 and you thought there was fire there, right?

11 A. Right.

12 Q. Why did you go to 10?

13 A. To see if they had fire down there.

14 Q. Was the ship's crewmember with you and telling you that the
15 fire had started there or if --

16 A. They had said some --

17 Q. If you had thought there was fire on 11 --

18 A. They had said something about 10 and 11.

19 Q. Okay.

20 A. You know, there might be fire or something on -- there had
21 been fire. It wasn't even that there was fire now. It was there
22 may have been. And, like I said, we're trying to determine what
23 we have. So we're just investigating and we were going to go
24 down. If I had to go down to the ninth floor, I would have went
25 to the ninth floor. But I went to the tenth floor because it was

1 open. It was no -- there was -- you know, it wasn't -- it was
2 clear.

3 Q. And was the ship's crewmember with you at that time?

4 A. Yes.

5 Q. He was? In turnout gear?

6 A. Yes.

7 Q. Did they ever enter the space with you?

8 A. No.

9 Q. Okay. Thank you.

10 A. Is -- into the tenth floor?

11 Q. Yes, sir.

12 A. Yeah, no. I would not have had him -- like I said, this was
13 -- we didn't have any fire. We didn't have -- there was no call
14 for -- he was just guiding us to the different floors.

15 Q. You said you wouldn't have had him what?

16 A. I wouldn't have had him go into the floor, to the fire thing.
17 That's -- the firefighters would have went there. I wouldn't have
18 put him -- he didn't have PPE gear. He just had the mask or what
19 -- whatever the have, the -- his breathing apparatus.

20 Q. So you didn't want to send him in because you didn't feel
21 he --

22 A. I wouldn't put -- he's -- I wouldn't go -- we would -- there
23 would be no reason for him to be with my guys in there.

24 Q. Okay. And you --

25 A. He's just going to be there -- he was going to stay here with

1 me or at least on that same floor as where I am because I'm the
2 guy that's going to ask him questions. You know, hey, can we --
3 is there another door. Is there another, whatever.

4 Q. So in your eyes, had the fire department taken over the
5 operation at that point?

6 A. No.

7 Q. No?

8 A. No, we had -- like I said, we didn't know what was going on.
9 We -- he was just there to assist me if I had questions. I wasn't
10 taking it from him. He was just a mate. It wasn't the supervisor
11 there. He -- the supervisor had said, you know, Joe, go with him.
12 Show them how -- where the doors are. Show them -- and that's
13 all. The guy was just guiding us so we wouldn't get lost on the
14 ship.

15 Q. Okay. Thank you.

16 A. You're welcome.

17 BY CDR BARGER:

18 Q. Chief, was that crew member there with you on Deck 10 at the
19 door the whole time that you were at Deck 10?

20 A. I couldn't tell you. He was with us when we went down the
21 steps and I don't know when he left or how long he was there, you
22 know.

23 Q. And then just to follow up on my earlier question with the
24 hose line as a lifeline, did you see it being used that day by
25 your crews going in holding it up in hand as they entered in

1 through the door?

2 A. Yeah, the initial Captain Manning was the crew that brought
3 it in. That hose line was the one that we brought in. And then,
4 like I said, when he came out, they had laid it in the straight --
5 that straight area coming down and they had left it there so the
6 next crew could just follow that in to where they went. And
7 then --

8 Q. Hold on a second. Is when you saw those subsequent crews
9 going into the space, did you see them actually physically holding
10 the hose as they went into the the space?

11 A. I don't know when they actually picked it up because it was
12 pretty clear. When you first went in, you could see everything.
13 As it started getting -- I'm sure that they had to bend down and
14 pick it up because you're going to need it. They have to follow
15 it. So if they lost visibility, they would have had to then grab
16 it.

17 CDR BARGER: Any other follow up questions?

18 LTC MOORE: Yes, Commander.

19 BY LTC MOORE:

20 Q. I think we've interchangeably used Halon and CO2. I just
21 want to clarify. If you're aware, what fixed systems were on
22 board the ship?

23 A. No, I didn't know what kind of system that they actually use.

24 Q. Mr. Barnum was asking you a little bit about the description
25 of the crew member that had the SCBA. Can you describe what kind

1 of outfit or clothing they were in?

2 A. I couldn't tell you. I don't -- you know, like I said, there
3 were so many people there. There were crew members all over. I
4 dealt with, you know, you saw a lot of them., but I only really
5 talked to the -- that ships mate or whatever, whoever that guy
6 was. And the guy that went with us down there, I don't even know,
7 you know, how much he spoken English or whatever. We didn't talk
8 too much. He just was staying with us, you know what I mean, to
9 assist us. Same with the guy that I initially went into. I
10 didn't have much of a conversation with him except for will this
11 stairwell go to the top, and the guy said yes.

12 Q. But you stated you didn't think he had turnout gear at all?

13 A. No. None of the ship people had what we have, like our
14 turnout gear.

15 Q. Sure.

16 A. They have whatever they wear. I don't even -- you know, I'm
17 not even sure what they had one. It was a hot night. I don't --
18 I couldn't tell you what they actually wore -- wear.

19 Q. And last thing, the ship's crew, were they able to
20 communicate with each other with their radios?

21 A. I don't know. I don't -- I didn't deal with any of them.
22 Like I said, it -- everything just happened so quickly that I
23 never -- I didn't have much interaction with the ship people
24 outside of that one guy.

25 Q. Okay. So just to be clear, you didn't observe any of them

1 using radios?

2 A. I couldn't tell you if they even had radios.

3 Q. All right.

4 A. I'm sure they did, but, you know, because when I asked the
5 guy about the crane, he -- he communicated with somebody. So he
6 must have had -- I don't know who he was talking to. But they
7 must have had radios. At least some of them just have had radios.

8 LTC MOORE: Okay. Thank you, Chief. That's it.

9 CDR BARGER: All right. Thank you, Chief Maresca, for your
10 time today and your testimony.

11 THE WITNESS: You're welcome.

12 CDR BARGER: You are subject to recall and my sequestration
13 order remains in place until rescinded by me. You will be
14 notified when it is rescinded by our reporter, Lieutenant Reed.

15 THE WITNESS: Okay.

16 CDR BARGER: The hearing is now in recess for ten minutes.
17 The time is now 11:59 a.m. We will reconvene at 12:10 p.m.

18 (Off the record at 11:59 a.m.)

19 (On the record at 12:18 p.m.)

20 CDR BARGER: The time is now 12:18 p.m. local time in Union,
21 New Jersey. The hearing is now reconvened and back on the record
22 regarding the fire on board Grande Costa D'Avorio. Our next
23 witness is Captain Robetto. Lieutenant Reed, please swear in the
24 witness.

25 (Whereupon,

OSWALD ROBETTO

was called as a witness and, having been first duly sworn, was examined and testified under oath, as follows:)

LT REED: All right. Thank you. You may be seated. Captain Robetto, I have a few preliminary questions for you.

THE WITNESS: Yes, sir.

LT REED: All right. Please state your name and spell your last name for the record?

THE WITNESS: Oswald Robetto, R-o-b-e, as in Echo, t-t-o.

LT REED: Okay. Thank you. And do you hold any professional certificates or certifications relating to your profession?

THE WITNESS: From New Jersey Division of Fire Safety, I have firefighter I and incident, incident management I.

LT REED: Okay. How long have you been employed as a --

THE WITNESS: Twenty-two, going on 23 years.

LT REED: Have you served at any other fire department apart from Newark?

THE WITNESS: No.

LT REED: Okay. Who was your employer in July of 2023?

THE WITNESS: City of Newark.

LT REED: Okay. And what position did you hold at that time?

THE WITNESS: Captain of the Engine 16, Newark Fire Department.

LT REED: And how long have you held that position?

THE WITNESS: Approximately eight years.

1 LT REED: Eight years?

2 THE WITNESS: Yes, sir.

3 LT REED: Okay. Thank you. Commander Barger, the witness is
4 ready to proceed.

5 CDR BARGER: Thank you. Lieutenant Reed will be conducting
6 the direct examination of this witness. Lieutenant Reed, you may
7 proceed.

8 DIRECT EXAMINATION

9 BY LT REED:

10 Q. Captain Robetto, in your own words, would you please describe
11 the duties that are related to the role as a captain?

12 A. Day to day operations in the firehouse amongst firefighters,
13 preventive maintenance of vehicles, housework, cleaning,
14 patrolling the battalion you're assigned to, drills, how --
15 inspections, just day to day operations from most companies. I'm
16 in an engine pumper, so our drills revolve around pump operations
17 and suppression.

18 Q. Okay. So how many members are on your shift of Engine 16
19 normally?

20 A. Just my company or -- we're in a double house?

21 Q. Okay. Yeah, just your company.

22 A. One officer and three firefighters.

23 Q. Are you considered the officer?

24 A. Yes, sir.

25 Q. Okay. Have you ever attended any shipboard firefighting

1 training?

2 A. Until not too long ago, just an awareness class explaining
3 electrical vehicles on these cargo ships that were being brought
4 to and fro.

5 Q. Okay. During that training about the electric vehicles, how
6 was that training conducted?

7 A. Classroom time, approximately, I don't remember the -- the
8 amount of hours, slides and I think two representatives of Port
9 Authority. Just going through the particulars of what we should
10 be looking for if this happens in the Port of Newark.

11 Q. When you attend this training, is it during your, like, duty
12 days?

13 A. Yes, sir.

14 Q. Yes. If you're attending training during your duty days,
15 does someone else have to cover your area?

16 A. They -- whatever the scheduling is, they adjust it as is. So
17 we're not the only engine company in our area. Battalion 5 has
18 approximately four engines. So we just take turns going to class
19 like that.

20 Q. Okay. And have you ever attended any hands on shipboard
21 firefighting training?

22 A. No.

23 Q. Okay. For the night of July 5th, 2023, how were you notified
24 that a fire on the Grande Costa D'Avorio? How were you notified
25 of that fire?

- 1 A. Through our dispatch system.
- 2 Q. Okay. And do you remember what time you arrived on scene?
- 3 A. Not really.
- 4 Q. Okay.
- 5 A. It's not a close ride for us. It's a pretty long ride. We
- 6 were one of the -- we were the last engine company on the
- 7 assignment.
- 8 Q. Okay. And in relation to battalions, what is Engine 16?
- 9 A. In the 5th Battalion.
- 10 Q. In the 5th Battalion, okay. Yeah. Who was your crew?
- 11 A. My apparatus driver was Firefighter John Williams,
- 12 Firefighter Paul Reilly and Firefighter Augusto Acabou.
- 13 Q. Okay. And what were their assignments initially upon getting
- 14 on scene?
- 15 A. Excuse me?
- 16 Q. So when you got on scene, where did everybody go as far as
- 17 those three firefighters?
- 18 A. Once on scene, Firefighter Williams staged at water supply, a
- 19 hydrant. Firefighter Reilly, myself and Firefighter Acabou
- 20 approached the command post, checked in and staged.
- 21 Q. Okay. And who did you check in with at the command post?
- 22 A. Deputy Chief Carlucci.
- 23 Q. All right. And what was your tasking when you checked in?
- 24 A. Just to stage and wait to see what the progress reports from
- 25 above -- from the companies that had made initial entry. Well,

1 not entry, but were on the scene prior to us.

2 Q. Okay. During this time, did you ever have any interactions
3 with the ship's crew?

4 A. No.

5 Q. Okay. Were you ever made aware that a fixed fire suppression
6 system was deployed on the vessel?

7 A. I don't recall hearing that over the radio at all.

8 Q. Okay. After staging, what was your next tasking?

9 A. Due to reports of companies that were operating on the ship,
10 we were ordered, with Ladder 8, to bring additional SCBA bottles.
11 Ladder 8 was also told to bring a search rope and we were to
12 become additional manpower and relief from companies working
13 above.

14 Q. Okay. So you took up SCBA bottles?

15 A. Yes.

16 Q. And where did you take those?

17 A. We were led by a crew member up the staircase closest to the
18 dock to the 12th deck.

19 Q. Okay. And after taking the SCBA bottles to the 12th deck,
20 who did you speak with and what was your additional tasking?

21 A. We were to bring the bottles to the opposite side of the
22 ship. We left the bottles there since we understand companies
23 were working down below on 10th Deck. We checked in with
24 Battalion Chief Maresca.

25 Q. Okay. So you checked in With Battalion Chief Maresca --

- 1 A. Yes.
- 2 Q. -- after dropping off the bottles?
- 3 A. I reported to him.
- 4 Q. Okay. When you reported to him, were you made aware of the
5 conditions on Deck 10?
- 6 A. From radio reports, we heard that companies had made initial
7 entry and they were suppressing a fire.
- 8 Q. Okay. When were you told to access the space?
- 9 A. When we were working our way down the stairs, we saw
10 companies were coming out or members were coming out. We waited,
11 since the staircase was a little narrow, so we had to wait for
12 people to clear stairs. We got down below. Battalion Chief
13 Maresca was at the door. We masked up and we proceeded to enter
14 the line that was already deployed.
- 15 Q. Okay. And when you spoke with Battalion Chief Maresca --
16 scratch that. When you were entering the space, who was entering
17 with you?
- 18 A. Firefighter Reilly stayed in the staircase. Firefighter
19 Acabou made entry and I was behind him.
- 20 Q. Okay. When you accessed the space, was anybody at the door
21 taking accountability?
- 22 A. Firefighter Maresca was at the door.
- 23 Q. Okay. And how was the accountability being taken?
- 24 A. I guess mentally. I -- memory.
- 25 Q. But there wasn't, like, a tab system?

1 A. No.

2 Q. Okay. Will you please describe the conditions of the space
3 once you entered?

4 A. Once we entered, the hose line went through the door, made an
5 immediate left, rode the wall a few feet and veered out to the
6 right towards the center of the ship. Visibility was a few feet.
7 We made our way up the line. I couldn't make out cars or
8 anything, but I didn't see any visible fire. But it -- we used
9 the hose line as a guide to get out to the nozzle.

10 Q. Okay. So what happened when you got to the nozzle?

11 A. Once we got to the nozzle, we saw someone was operating the
12 nozzle. They had a flashlight. They were standing. This is when
13 we came upon Firefighter Brooks.

14 Q. Okay. And did you ever see another firefighter in the space?

15 A. No one was on the line that I was aware of. Acabou was in
16 front of me. So if we bumped into someone coming out the opposite
17 way of the line, we would kind of bump heads.

18 Q. Okay. Is it common to find a solo firefighter in a space?

19 A. Depends on the situation. I can't say for that matter.

20 Q. In your opinion, is it appropriate for this situation?

21 A. We work in teams, so.

22 Q. Okay. Will you please describe the events that happened
23 while you were in the space after you met up with Firefighter
24 Brooks?

25 A. Once I got to Firefighter Brooks, I identified myself. He

1 was operating the hose line. I asked him, what are you hitting.
2 And he said, I'm just keeping the ceiling cool. At this time,
3 Battalion 5 radioed for my location and I gave him a progress
4 report from -- from the interior. I stated that we were on the
5 lien with Firefighter Brooks. We were backing up Firefighter
6 Brooks of Ladder 4. No visible fire at this time, but we have
7 some heat present.

8 Q. Okay. And then what happened?

9 A. At this time, not too long after that -- no, I'm sorry. I
10 missed a spot. Firefighter Brooks also had a thermal imaging
11 camera. So once he was cooling off the ceiling, I said let me see
12 what you're hitting and I asked him for his camera. And I looked
13 around and I didn't see any heat signatures on the screen. So I
14 gave him back the camera. And around this time, this is when
15 Battalion 5 radioed for my location and I told him we were with
16 Brooks.

17 Immediately after that, Battalion 4 requested -- well,
18 ordered us to bring the line back up. I replied and acknowledged
19 the order. I transmitted that we were coming out and I told
20 Firefighter Brooks and Acabou, let's go. They want us out.

21 Q. Okay. And how were you communicating with Firefighter Brooks
22 and Acabou?

23 A. Voice.

24 Q. By voice?

25 A. We were in close proximity to each other. Pretty much on top

1 of each other.

2 Q. So after making your -- after backing out of the space, what
3 happens?

4 A. Once we -- I told both members to back out, we did it
5 immediately, 180. We remained on the line. Fire -- so once we
6 were going on, Firefighter Brooks was on the nozzle, myself and
7 then Firefighter Acabou. I was able, with visibility, to come off
8 the line a little bit, not wander around too far. When we --
9 decided to back out, we did a complete 180. Firefighter Acabou
10 now took lead. I was in the middle and Firefighter Brooks was
11 behind me and we preceded to go out -- to exit.

12 In the process of exiting, Battalion Chief 4 ordered, again,
13 to bring the line back out. I responded again, okay. At this
14 time, Firefighter Brooks' mask began to vibrate, indicating that
15 he was low on air.

16 Q. Okay.

17 A. He indicated to me, he said, I have to go.

18 Q. And I said, okay. Get in front, knowing that he was going to
19 come off the line. And due to visibility, I -- once he came off
20 the line, I held on to his jacket. And I told -- Firefighter
21 Acabou, let him go in front since he was -- his mask was
22 vibrating. And once he got in front of Firefighter Acabou, I
23 could no longer see him. This is when I realized that conditions
24 were changing and visibility was getting worse.

25 Q. So during that time, what would you say the conditions

1 dropped to?

2 A. Visibility was about arm's length.

3 Q. Okay. Okay. After Firefighter Brooks goes in front, what
4 happens next?

5 A. I keep saying to them, stay on the line, follow the line.
6 Moving a few feet, we weren't moving that fast because I -- from
7 seeing the top floor, you could see there's a lot of entanglement
8 hazards. I kept going, kept going. Stay on the line, follow the
9 line, stay on the line, follow the line. I kept moving. I got to
10 one point. I can't say for sure who said it. Someone said, the
11 line's going this way. And I said one more time, stay on the
12 line. Follow the line out. Kept moving. Kept moving.

13 And then I came across a kink in the line. Once I got to
14 this kink, I got stuck. I pretty much hesitated because now I
15 knew the line wasn't laid out the way I remembered it going in. I
16 called out to see where they went. I said, where'd you guys go.
17 Nothing. I didn't hear anything. At this time, I was very
18 hesitant to move. I was afraid that maybe a loop had been
19 created.

20 So I knelt down to look at the kink. I actually had to get
21 down on my hands and knees and use my flashlight. And I just kept
22 saying to myself, this is impossible. How did this happen. I
23 felt that I had traveled enough distance that I might be near a
24 wall and I reached out and I found the wall. I started to go left
25 at the kink and I began searching for the door.

1 I kept going left, left. I figured I'd either come on the
2 door or hit the corner of the ship. I never reached the corner,
3 so I knew something was wrong and I stopped. I began working my
4 way back to the hose line and this is when my mask began to
5 vibrate. I transmitted a mayday. I think my exact words were,
6 mayday, mayday, mayday. Engine 16, I'm disoriented. I'm
7 separated from the line. I'm separated from the crew. I'm on
8 Deck 10 CC and I'm running low on air.

9 Once I transmitted that, I kept trying to find the door. I
10 kept moving. Now I was moving right, back to where the kink was
11 and eventually I spilled out into the hallway. Once I got to the
12 hallway, since I figured my mayday may have activated the Rapid
13 Intervention Team, I radioed command that I had found the stairs.
14 I took off my mask and made that transmission.

15 There was a lot of radio traffic. I remember, evacuation,
16 evacuate or evacuation tones were going. During this, it's
17 usually an emergency evacuation, so we leave all equipment on site
18 and I made my way to the 12th deck through the stairs. And at the
19 same time, they were --conducting a personal accountability
20 rollcall.

21 Once I got to the top deck, I asked members if anyone had
22 seen Firefighter Acabou or Firefighter Brooks, and no one could
23 confirm their location. When they reached Engine 16 for personal
24 accountability, I transmitted negative on par, negative on par.
25 Firefighter Acabou and Firefighter Brooks are not accounted for.

1 And then there was just a lot of radio traffic and I felt
2 like I was in the way because I was still on the 12th floor
3 landing. And I just, like, stepped out and I remember, like, bits
4 and pieces. I'd seen tanks floating on water. The top deck had
5 about a foot of water. I remember it, like, boiling hot. And a
6 lot of commotion.

7 Q. Okay. Do you know if your mayday was received? Do you know
8 if it broadcasted out?

9 A. I don't -- we don't have a way to know if radio transmissions
10 don't make headquarters.

11 Q. Okay.

12 A. Usually, if your transmission makes headquarters, they
13 usually repeat it.

14 Q. Okay. Do you remember what you were broadcasting on on the
15 radio and what channels you were receiving?

16 A. I switched over to file channel two, which is -- it was kind
17 of a procedure we use. They -- they assigned the incident on
18 channel one and they tell you and assign a channel for whatever
19 incident you're going. They'll tell you to go to channel two or
20 channel three.

21 Q. Okay. Do you have an emergency button on your radio?

22 A. Yes.

23 Q. Did you hit that button?

24 A. No.

25 Q. Okay. Do you remember how long it was between you calling

1 your mayday and you exiting the space?

2 A. No. But I remember activating my pass and just trying to
3 breath slower, knowing that my mask was vibrating.

4 Q. Okay. When you exited the space, was there anybody waiting
5 for you there?

6 A. No, not that I remember.

7 Q. Was Chief Maresco there to take accountability?

8 A. No, not that I remember.

9 Q. Okay. So in your words and thoughts, what were limiting
10 factors that -- do you think challenged your response to the fire?
11 Like, was there any limiting factors placed in general based on
12 your response to the fire?

13 A. I mean, that's -- I don't know what -- I kind of don't know
14 how you're asking the question.

15 Q. Do you feel like you were equipped to conduct shipboard
16 operations?

17 A. No.

18 LT REED: Okay. Thank you, Captain Robetto. That's all the
19 questions I have. I'll pass it back to Commander Barger.

20 BY CDR BARGER:

21 Q. Good afternoon, Captain Robetto. I have a few follow up
22 questions for you.

23 A. Yes, sir.

24 Q. So we're going to rewind in the time -- timeline of your
25 story, back to a couple things I'd like clarification on. You

1 mentioned when you first arrived on scene that your driver, I
2 believe, had positioned the truck to tie in to a hydrant?

3 A. Yes, sir.

4 Q. Where was that hydrant located?

5 A. Oh, it was outside of the property. Just out -- across the
6 street from the security gate.

7 Q. Okay. And did he actually tie a line into it?

8 A. No, he just staged there.

9 Q. Okay. When you first made it up to Deck 12, first time
10 you're going on the ship, you said you went up the ladder well or
11 stairwell that was closest to the dock?

12 A. Yes, sir.

13 Q. When you got up there, did you speak with anyone?

14 A. We were escorted by a crew member. I do remember him having
15 an accent, obviously not being English. Once we got up, no,
16 people just started going to the other side. I wasn't the first
17 one up the stairs. I was probably in the middle. But once we got
18 up, we realized that we had to go to the other staircase.

19 Q. Okay. When you got to the top of the first staircase closest
20 to the dock, did you open any doors?

21 A. No.

22 Q. How did you get from that side over to the other side of the
23 ship?

24 A. It was a maze of cars. Each car is lashed and pretty close
25 together. You could barely get your -- if you walked down the

1 wrong path, you could barely get your knee through. So even
2 around the rails, it was very close. It was tight to get through.

3 Q. Okay. But you were managing to walk between cars on the
4 deck?

5 A. Yes, but there were a lot of tripping hazards with the lashes
6 and stuff, not -- I don't remember how we got across. I do
7 remember it was a maze.

8 Q. What equipment did you and your other members of Engine 16
9 have with you?

10 A. We brought up two additional bottles, one in each hand. And
11 we had our full PPE, SCBA tanks and that's -- and Ladder 8 had
12 their equipment. We -- with Engine 16, we only brought up
13 bottles.

14 Q. What size air bottles were you wearing?

15 A. I -- 15 minute -- not 15, 30 minute bottles.

16 Q. When you were on Deck 12 before you proceeded down to Deck
17 10, did you ever speak with Battalion Chief Kupko?

18 A. I saw him operating, like, he was standing on top of cars. I
19 saw him, like, above grade on something. He was standing on a
20 car, I guess to get a better view of whatever he was looking at.

21 Q. And at that point, did you see any fire on Deck 12?

22 A. No, I saw multiple crew members standing on cars, wetting
23 down cars. I didn't see any visible fire. I did see smoke.

24 Q. Okay. And where did you see smoke coming from?

25 A. If I was facing the staircase to the water going -- about to

1 go down to my right side, towards the -- I'm sorry, to the front
2 of the ship, the stern I guess, is that it?

3 Q. The front is the bow.

4 A. Oh, I'm sorry.

5 Q. Stern is the back.

6 A. The -- no, towards the front of the ship.

7 Q. Okay.

8 A. Where the containers were, I guess.

9 Q. Okay. So how did you know to go down into the stairwell?

10 A. From radio reports that we were listening from the command
11 post.

12 Q. Okay. So no tasking from anybody on Deck 12 to go down into
13 the stairwell?

14 A. Well, the tasking came from Deputy 1, that we were going to
15 go upstairs and provide additional manpower. And that's where the
16 majority of the crews were already operating.

17 Q. Okay. So when you got down to the entrance to Deck 10, you
18 saw -- you said you saw Battalion chief Maresco?

19 A. Yes, sir.

20 Q. Okay. At any point did you see Captain Rogers?

21 A. He may have passed me in the stairway. There was multiple
22 members coming up and down the -- up the stairs when we were going
23 -- or waiting to go down.

24 Q. Okay. Do you know Captain Rogers?

25 A. Yes.

1 Q. From Ladder 4?

2 A. Yes.

3 Q. Okay. So you wouldn't be able to recognize them if you had
4 seen them?

5 A. Possibly, possibly not because many people were still wearing
6 their masks. I didn't look at helmet shields, so I couldn't
7 identify them for sure.

8 Q. Okay. And are you confident, 100 percent confident that when
9 you entered Deck 10, it was just you and firefighter Acabou on
10 your team entering?

11 A. Yes. Nobody was on the line. We didn't run into anybody on
12 the line when we went up the line.

13 Q. Okay. Was the line charged at the time?

14 A. Yes.

15 Q. Okay. How were you using it to follow it into the space?

16 A. Hand over hand. We would pick it up and just go hand over
17 hand.

18 Q. You mentioned there was decent visibility, but there was
19 smoke in the space.

20 A. Yes.

21 Q. Can you describe that smoke?

22 A. Black. Not thick black. Black and gray.

23 Q. You mentioned then -- conditions eventually changing in the
24 space?

25 A. Correct.

1 Q. Can you describe how that happened?

2 A. It just got worse. It just became darker and blacker while
3 we were operating. Like I said, you could see a few feet and then
4 it went to arm's length.

5 Q. Was there -- was it a gradual building of smoke or a
6 sudden --

7 A. I'm not sure if once you shut off the hose line, that might
8 have affected, meaning when you're operating a hose, there is some
9 airflow. But it got worse once we turned around.

10 Q. Okay. Did you feel any type of pressure wave?

11 A. Not that I remember.

12 Q. Okay. Have you ever experienced a backdraft?

13 A. No.

14 Q. Okay. During your time in the space, did you ever hear any
15 explosions?

16 A. No.

17 Q. Or anything that would be close to an explosion?

18 A. No. You're kind of limited on vision and hearing, mostly
19 because of your breathing. But no, not that I recall.

20 Q. Did you ever hear Firefighter Acabou or Firefighter Brooks
21 transmit a mayday or call a mayday?

22 A. No, my communications, I found myself repeating myself a lot
23 or repeating myself. I wasn't getting all my transmissions. Some
24 of them were intermittent, some of them were garbled. And at
25 times, there was just heavy radio traffic. People stepping on

1 each other.

2 Q. Okay. Can you tell us about what stepping on each other is?

3 A. People trying to just get their transmissions out and not
4 waiting for another person to transmit. And sometimes you might
5 get stepped on, meaning you're trying to press the button, someone
6 else presses the button, and I guess whoever registered on the
7 network first. So you would step on someone else's transmission.

8 Q. Okay. And does that include dispatch? Are they able to step
9 on people?

10 A. Yes.

11 Q. Okay. Were you receiving transmissions from dispatch when
12 you were in the space?

13 A. Some, yes.

14 Q. I believe you said that you did not hit your emergency
15 activation button?

16 A. No.

17 Q. Why not?

18 A. I just didn't think of it at the time. Once I declared a
19 mayday, I knew that my chances of finding the door were against me
20 because I came off the linen and was disoriented. So technically
21 when we do a mayday, you're supposed to give a LUNAAR, which is an
22 acronym for location, unit, name, air supply, assignment or
23 resources needed. I did not give a complete LUNAAR. I did active
24 my pass. I did not activate my emergency button, I just didn't
25 think of it at the time.

1 Q. Okay. And what was the intent of activating your pass?

2 A. In the event if I go down or if someone was looking for me,
3 they could kind of zero in on the sound.

4 Q. Okay. Is that a loud sound?

5 A. I don't -- I wouldn't know the -- in a ship, I don't think
6 that's loud at all. I don't know. You would have to be in the
7 vicinity to hear it.

8 Q. Okay. Before you found yourself out -- before you found the
9 door for yourself, did you hear any other pass alarms going off?

10 A. No.

11 Q. When you transmitted your mayday, what was your intent? Was
12 that for you or was that for the group?

13 A. I just let people know that someone was in trouble, myself
14 particularly because I was alone and disoriented and running low
15 on air.

16 Q. Okay. And at that point, did you have any awareness of what
17 Firefighter Acabou or Firefighter Brooks --

18 A. I believed they got out because the last thing I heard was
19 the line's going this way.

20 Q. Okay. And who did you hear that from?

21 A. I couldn't say because I couldn't see.

22 Q. Okay. The radio that you were using and made -- and
23 broadcast the mayday on -- whose radio was that?

24 A. Mine.

25 Q. Or I guess what would be the --

1 A. Identifier?

2 Q. -- identifier for that radio?

3 A. It should be Engine 16 Captain.

4 Q. Okay. So there -- there's a radio specific to the captain --

5 A. Correct.

6 Q. And is that a set of radio that 16 has?

7 A. All radios should have a captain identifier and then Alpha,
8 Bravo, Charlie and Delta, depending on how many people are in the
9 company.

10 Q. Okay. And my last question for you, when you first got down
11 to Deck 10 and you spoke with Battalion Chief Maresca, did he
12 advise you that anybody was still in the space?

13 A. Not that I remember.

14 CDR BARGER: Okay. All right. Thank you, Chief. All right.
15 Thank you, Captain. Lieutenant Commander Moore, do you have any
16 follow up questions?

17 LTC MOORE: Yes, Commander.

18 BY LTC MOORE:

19 Q. Captain, you said earlier you operate in teams. Your team
20 was yourself and Firefighter Acabou, correct?

21 A. And Firefighter Reilly and Firefighter Williams, but
22 Firefighter Williams remained at the hydrant and Firefighter
23 Reilly remained in the stairs.

24 Q. Okay. When you got on the line with Firefighter Brooks when
25 you had -- found him alone, are you aware of who else was on his

1 team?

2 A. No. He's usually assigned to Ladder 4, but if you're not
3 aware of the roll calls, he could have been working with someone
4 else.

5 Q. And on that subject, were TIC sheets being used for
6 accountability?

7 A. I'm sorry?

8 Q. Were TIC sheets being used for accountability during the
9 incident? Was there anyone keeping track, like, on a sheet?

10 A. What was the terminology you used?

11 Q. A TIC sheet.

12 A. TIC?

13 Q. Was anyone keeping accountability, like on a list?

14 A. I understand, but you're using -- what'd you say, a TIC
15 sheet?

16 Q. Uh-huh. We -- you could scratch that if you don't
17 understand. But the -- was there someone with a list, like,
18 keeping track?

19 A. Not that I'm aware of.

20 Q. Okay. You mentioned a kink in the line and you remember that
21 wasn't how you first encountered that hose line. Do you have any
22 idea how a kink or a loop like that might have been created?

23 A. Someone may have moved the line. It could have slid. It
24 could have done a lot of things. I'm not sure.

25 Q. Have you experienced something like that on a -- any previous

1 fires?

2 A. Yes. Yes, I'd -- it has happened, but usually you can use
3 something else to orient yourself, meaning a wall. Sometimes you
4 find the window or a door. But I have experienced it before. In
5 this kind of environment with such open space, it's easily to --
6 it's easy to get turned around.

7 Q. And Commander asked you if you had ever experienced a
8 backdraft. You had said no, but you described it as an increase
9 of smoke. With that smoke increase, was there any noticeable
10 increase in heat at that time?

11 A. A little, but we were low. We weren't, like, standing
12 upright. We were kind of duckwalking -- crouching down. We
13 weren't crawling because the floor was a little warm, but we were
14 just duckwalking.

15 Q. You used an acronym and I just wanted to clarify for the
16 record. You said PAR, can you clarify what that acronym --

17 A. Personal accountability roll call.

18 LTC MOORE: All right. That's all I have, Commander.

19 CDR BARGER: Lieutenant Commander Ward, any follow up
20 questions?

21 LTC WARD: (No audible response).

22 CDR BARGER: Lieutenant Reed, any follow up questions?

23 LT REED: (No audible response).

24 CDR BARGER: Mr. Pittman, any follow up questions?

25 MR. PITTMAN: No follow up questions.

1 CDR BARGER: For the NTSB, Mr. Barnum, any follow up
2 questions?

3 MR. BARNUM: Yes.

4 BY MR. BARNUM

5 Q. Thank you, Captain Robetto. Just for my clarification, is
6 your nickname Ozzy?

7 A. Yes, sir.

8 Q. Okay. Thank you. It's referred to several times. I just
9 want to be clear. Your time operating in Deck 10, did you
10 encounter another hose line?

11 A. When I came across that kink, that thought did enter if there
12 was another hose line in the compartment. But from me not letting
13 go of the line, that's what caused my hesitation, if something --
14 maybe someone moved another line or something around that I didn't
15 know was in the compartment. But I'm not aware if there was.

16 Q. Okay. How long were you operating in Deck 10 prior to you
17 receive -- your mask vibrating, indicating a low air?

18 A. I wasn't wearing a watch. I wouldn't know.

19 Q. Okay. Were you on air -- when did you go on air?

20 A. Once we crossed the threshold of the door into the
21 compartment.

22 Q. Okay. Were you on air at any point prior to that, going up
23 the ladder well or --

24 A. No.

25 Q. No. All right. And then Battalion 4 Maresca, you saw him

1 when you went in. Was he wearing an SCBA?

2 A. He had his back to the wall. I didn't -- I couldn't see.

3 Q. And I understand that, you know, as you came out, you had --
4 it was a very traumatic experience, obviously, but -- and you said
5 you didn't notice him at all when you came out?

6 A. No one received me, if that's what you're saying. I came out
7 to the staircase and thinking since I called a mayday, that I
8 activated the red team. And I understood that there were changed
9 operations from suppression to rescue. So I wanted to let command
10 know that I had found the stairs because I believed I was the only
11 one in trouble.

12 Q. You know, and understanding this was a unique fire being on a
13 ship, how is accountability of firefighters in and out typically
14 handled?

15 A. Usually with tags and accountability. Usually you hand in
16 your tags or give tags to someone who's assigned to collect them.

17 Q. And can you elaborate on that a little bit? I'm unaware.
18 I'm not a fireman, but if you were responding to a structure fire
19 on the shore and your team is --

20 A. There should be an accountability officer that is assigned
21 and would collect tags of companies going in and out of the -- of
22 the incident.

23 Q. Okay. Have you -- was that question ever risen? Did anybody
24 ask that, or as the accountability officer, did you have a tag?

25 A. Yes, I had a tag on me. No, they weren't collected.

1 Q. Okay. Would that -- would you expect that to be collected
2 when you boarded the vessel or when you entered Deck 10?

3 A. I would say probably when I boarded the vessel.

4 Q. Okay. When you -- and Deputy Carlucci was on board when you
5 boarded the vessel, correct?

6 A. He was at the command post.

7 Q. Okay. Thank you. And then last one here, you said your
8 company is a captain and three firefighters?

9 A. Yes, sir.

10 Q. Is that a typical sized company or are companies larger?

11 A. Usually one officer and three firefighters, depending on roll
12 calls. It could be as low as one officer and two firefighters.

13 Q. So you -- so your company was fully staffed? You weren't
14 down anybody?

15 A. No.

16 MR. BARNUM: Okay. All right. Thank you, Captain. That's
17 all the questions I had, Commander.

18 CDR BARGER: Ms. McAtee, any follow up questions?

19 MS. MCATEE: I have no questions.

20 BY CDR BARGER:

21 Q. Captain, one last follow up questions from me and then we'll
22 turn it over to the parties of interest to ask questions. When
23 you entered Deck 10, was there any ship's lighting still on?

24 A. No.

25 Q. So --

1 A. Oh, in the hallway and the staircase, yes. In the immediate
2 IDLH area, no.

3 CDR BARGER: Okay. All right. Thank you. All right. So
4 just as we have done with previous witnesses, in order to assure a
5 equitable time and opportunity for each party in interest to ask
6 questions, each party in interest will have approximately eight
7 minutes for cross-examination within the scope of the direct
8 examination questions. We'll start with the City of Newark.

9 MR. LIPSHUTZ: Thank you. I don't have any questions. Thank
10 you. No questions.

11 CDR BARGER: Port Authority of New York, New Jersey?

12 MR. REILLY: Thank you. I don't have any questions.

13 CDR BARGER: Grimaldi?

14 MR. O'CONNOR: Thank you. No questions.

15 CDR BARGER: Ports America:

16 CROSS-EXAMINATION

17 BY MR. ZONGHETTI:

18 Q. Good afternoon, Captain. My name is Gino Zonghetti. I'm the
19 attorney for Ports America. I have a few questions. And I'm
20 going to apologize up front if some of the questions sound
21 uninformed. I'm not a firefighter, so I don't understand all that
22 you folks do. When you entered Deck 10, Firefighter Reilly was at
23 the door. That -- he was stationed there by you?

24 A. Yes.

25 Q. And what was his job? Was he to --

1 A. I'm sorry.

2 Q. No, you go ahead, sir.

3 A. No, I'll let you finish your question. I'm sorry.

4 Q. that was it really. What was his job?

5 A. So since the line came down the stairs, went through the door
6 and immediately went left, there is a pinch point, a friction
7 point. So in the event if we needed more hose line, he would
8 light -- we call it lightening up the the line. He would move --
9 help move the line around that pinch point. Usually you would
10 assign firefighters. For example, if you're going in a case and
11 you're making the turn, which is around the staircase, I forget,
12 ballast -- or not ballast, but a rail, someone might stay there or
13 run back to it and just move the line around that.

14 Q. Okay.

15 A. So it's a pinch point or friction point.

16 Q. And was his assignment to stay by that pinch point while you
17 folks were inside?

18 A. He might have been running up and down the stairs. I don't
19 know. I wasn't in the staircase.

20 Q. Okay. But when you left, you assigned him to be there for
21 that purpose?

22 A. Yes.

23 Q. And this line was hooked up where, up on the 12th deck?

24 A. Yes, it came down the stairs and went into the IDLH area and
25 the tent, Deck 10.

1 Q. And the line was charged, is that the case?

2 A. Yes.

3 Q. So you entered the space, the deck with Firefighter Acabou.

4 And when you entered, if I'm not mistaken, the chief, Chief

5 Marasca, was standing inside?

6 A. He was at the door.

7 Q. Okay. Was he inside the door or was on the stairwell or

8 somewhere else?

9 A. When we made entry, he was posted on the door on the outside

10 near the stairs.

11 Q. Okay. About how far did you walk, if you can estimate,

12 before you came into contact with Firefighter Brooks?

13 A. I couldn't say.

14 Q. But the whole time you were following the line?

15 A. Yes.

16 Q. And in following the line, you actually had it in your hands

17 as you were walking with Firefighter Acabou or duckwalking?

18 A. Yes.

19 Q. Acabou?

20 A. Yes.

21 Q. And you were with Firefighter Brooks for how long, do you

22 recall?

23 A. No, I wouldn't recall.

24 Q. Was it a relatively short period of time?

25 A. When we met with him, I identified myself, was able to give a

1 couple radio reports, ask him what he was -- ask him his progress.
2 And then when we exited, his mask began to vibrate. I know I'm
3 leaving some stuff out that I said earlier, but we moved together.
4 I can't say exactly how much time it was together.

5 Q. Now, that's -- as you tried to return to the door, I assume
6 that was your goal, to return to the door from which you had
7 entered?

8 A. Yes.

9 Q. You were all holding on to the line?

10 A. As far as I know, yes. First, it was Acabou, myself and
11 Brooks. And when Brooks had to come off the line, I held onto his
12 jacket to make sure he didn't -- he knew where -- to get his
13 orientation back to the line.

14 Q. Right. You held on to him to make sure he got back to the
15 line?

16 A. Correct.

17 Q. And as you were following the line going back to the door, it
18 was still charged?

19 A. Yes.

20 Q. At some point you said you got to a kink, correct?

21 A. Yes.

22 Q. And my idea of a kink is what I would see in a garden hose
23 when the hose turned sideways and water doesn't come through it.
24 Is that essentially what you're describing?

25 A. Yes.

1 Q. At that point, though, did you -- was it your understanding
2 that as long as you held on to that line, you would get to the
3 door or did something different happen?

4 A. Me personally?

5 Q. Yeah.

6 A. I began to question what happened with the line, meaning it
7 moved. It might have created a loop. Somebody might have moved
8 it. I -- at just -- at first I hesitated.

9 Q. Okay. Did you eventually come back to that line or did you
10 get off of that line?

11 A. I came off the line and took a wall.

12 Q. Okay. So your concern was that something had happened with
13 that line that may not be now leading back to the doorway?

14 A. Yes.

15 MR. ZONGHETTI: Okay. That's all I have. Thank you.

16 CDR BARGER: American Maritime Services?

17 MR. ZONGHETTI: Just a couple more questions.

18 BY MR. ZONGHETTI:

19 Q. When you got back to the -- you had initiated the mayday call
20 and then you found your way back to the door. Was it your belief
21 that there was no one left at the door when you got back there or
22 are you unsure about that or --

23 A. To the best of my knowledge, I don't remember anybody being
24 at the door.

25 Q. And one more question, did you hear anyone banging or --

1 sometimes I understand, firefighters may bang a piece against the
2 doors --

3 A. No.

4 Q. -- to alert other firefighters to go towards the sound. Did
5 you hear that at all?

6 A. No.

7 MR. ZONGHETTI: Thank you, sir.

8 CDR BARGER: American Maritime Services?

9 BY MR. PALLAY:

10 Q. Good afternoon, Capital Robetto. Thank you for your service
11 and thank you for testifying today. Just a few quick follow up
12 questions. Prior to entering Deck 10, what information were you
13 given about the conditions and/or what you were going to be doing
14 once you entered into Deck 10?

15 A. From radio reports, we heard that Engine 27 had extinguished
16 some fire on Deck 10. Once we made entry, it was just to make
17 sure the fire was completely out and give progress reports to the
18 chiefs outside of the IDLH area.

19 Q. I believe you said earlier that you encountered Captain
20 Rogers prior to going into Deck 10, is that correct?

21 A. I don't remember saying that.

22 Q. Okay. Did you encounter -- prior to going into Deck 10, did
23 you run into any other fire members or firefighters coming out of
24 Deck 10?

25 A. I couldn't identify them because they were wearing their

1 masks and I wasn't looking at their shifts. So I don't know who
2 was coming past me.

3 Q. All right. Do you know how many had come past you?

4 A. No, I didn't count.

5 Q. And did they come past you before breaking the threshold into
6 Deck 10 or while you were already into Deck 10?

7 A. We couldn't go down the stairs without them clearing the
8 stairs first. The stairs are narrow.

9 Q. Okay. So in look -- in picturing the layout, did you pass
10 them then on -- at what point did you pass them? Were they in
11 Deck 10 or was it up on Deck 12, after they came out?

12 A. Some people came up the ladder, the stairs from 11 to 12.
13 Then we made it down to the landing and some more people were
14 coming out from 10 to 11. We had to wait to go down the stairs
15 and then we went down to -- Deck 10.

16 Q. Okay. When you finally were able to exit Deck 10, was the
17 door to the stairwell open or was it closed?

18 A. I don't remember. I spilled out into the hallway. I really
19 don't remember.

20 Q. And can -- do you recall the visibility at the time you
21 crossed over?

22 A. I was able to take off my mask and give a radio report that
23 I'd found the stairs.

24 Q. When operating on the line, do you recall if the hose is on a
25 mist or a fog setting versus the stream setting?

1 A. They're adjustable depending on the hose line. This was on
2 stream.

3 Q. And while the -- Captain Brooks was operating that line, were
4 you stationary or did you move around the deck?

5 A. No, we just stayed there because I didn't see any fire or
6 feel any fire, so I didn't -- it was -- since it's such an open
7 compartment, it was -- I just remained in that immediate area.

8 Q. While walking on the line to get to the nozzle, were you
9 bumping into or encountering any vehicles or cars at that time?

10 A. No. We -- I thought I was kind of lucky not to get tripped
11 up because considering how the 12th deck was, it was easy to
12 probably bump into a car and get turned around. But visibility
13 wasn't that bad at that point.

14 Q. And as you had exited, were you running into any vehicles or
15 straps --

16 A. No.

17 Q. -- or lashes?

18 A. When I stayed on the line, also, once again, I thought I was
19 pretty lucky that we didn't hit anything -- well, I didn't hit
20 anything.

21 Q. When you exited -- when you had exited Deck 10, was the line
22 still in place?

23 A. Meaning?

24 Q. Was there still a hose line crossing through the threshold
25 into --

1 A. I don't remember.

2 Q. -- the stairwell?

3 A. I don't remember.

4 MR. PALLAY: Thank you, Captain.

5 CDR BARGER: Are there any follow up questions from the
6 investigation team? Mr. Barnum?

7 REDIRECT EXAMINATION

8 BY MR. BARNUM:

9 Q. Captain Robetto, how -- in your training, how are you trained
10 in low visibility situations not to lose contact with your fellow
11 firefighter?

12 A. We do drills. Is -- not -- mass confidence drills. You
13 would blackout or put a hood over your mask and try to operate
14 without your vision. It's hard to simulate a fire because there
15 is a lot of background noise. But we also -- the fire department
16 also has what we call a mass confidence trailer. There are
17 several little mini drills within that major drill, going
18 downstairs, entanglements, wire entanglements, low profile.
19 Usually done in near zero or zero visibility.

20 Q. Are you trained to maintain physical contact with the fellow
21 firefighter?

22 A. You do. You try to stay as close as you can, but sometimes
23 you can't control that.

24 Q. Okay. When you were retreating out of the space, at any
25 point were you making physical contact with Firefighter Acabou?

1 A. Earlier on I was. But as visibility got worse, I noticed
2 that I had to hold on to the hose line and just operate hand over
3 hand. So it wasn't easy to. Usually you would tap someone as
4 they're going ahead. But it was getting harder and harder to see
5 the hose line, so I had both hands on my hose line.

6 Q. And at any point did you have to crawl?

7 A. No, I just stayed low. And then the only time I got on my
8 hands and knees is when I came on the kink because I was trying to
9 determine how -- in which direction it was going.

10 Q. So the time you got to the kink, you had already lost contact
11 with Firefighter Brooks and Firefighter Acabou?

12 A. They were ahead of me. I -- the last voice contact I had is
13 the line is going this way. And I replied, stay on the line.
14 Follow the line out. At this time, I felt like they may have
15 gotten out at the -- got out the door.

16 Q. But you couldn't -- but when you get to the kink, you
17 couldn't see them and you weren't --

18 A. No, negative. I could not see. I could not see if -- or I
19 could not see anything.

20 Q. Okay.

21 A. I could not see more than an arm's length.

22 MR. BARNUM: All right. Thank you, sir.

23 BY CDR BARGER:

24 Q. Captain, I just have a couple more follow up questions for
25 you.

1 A. Uh-huh.

2 Q. You've used the acronym IDLH a couple of times.

3 A. Yes.

4 Q. For the record, what does that stand for?

5 A. Immediately deadly life hazard.

6 Q. Okay. Once you made it out of the space and back up to Deck
7 12, what did you do then?

8 A. I tried to confirm with members who were up on the landing of
9 Deck 12 and outside the door of Deck 12 if anybody had seen
10 Firefighter Acabou and Firefighter Brooks. At the same time, they
11 were conducting a personal accountability role call headquarters
12 wise. So there was a lot of radio traffic. But once they got to
13 Engine 16, I -- I transmitted that they were not accounted for.

14 Q. Okay. And then what did you do?

15 A. I just, like, pretty much was in shock of what just happened.

16 Q. And did you stay on the ship? Did you leave the ship?

17 A. No, I stayed as long as I could. I stayed. I noticed that
18 people were jumping into cars. I remember my feet burning a
19 little bit. At one point, I was looking for a fresh bottle, but
20 it was hard to find one because every -- there was bottles
21 floating in the water on the top deck. I ran into the captain of
22 5 Engine, Captain Trinello (ph.) and I asked him if he had a fresh
23 bottle. And he said he did, and I switched harnesses with him. I
24 didn't even want to switch bottles. I switched harnesses with
25 him. And I tried to make my way back to Deck 10 because they were

1 looking for people to back up and support people that were doing
2 searches.

3 Q. And did you ever go back down and do any search?

4 A. No.

5 Q. Did you ever go -- did you ever leave Deck 12 and go back
6 down to Deck 10 or 11?

7 A. Just that one time. Like, I went -- once I was able to get a
8 secure bottle or a harness, I went back down. I posted on the
9 door what the captain of 14 Engine, but I don't think he remembers
10 that. And we were there together, just posting on the door.
11 There was an entry team and we were acting as a backup in case
12 they got in trouble.

13 Q. And that was on Deck 12?

14 A. 10.

15 Q. So you did go back down to Deck 10?

16 A. Yes.

17 Q. Who was down at Deck 10 at that point then?

18 A. I really don't remember. Like I said, it's -- my memory is,
19 like, kind of all over the place with some stuff.

20 Q. Was there a battalion chief?

21 A. I don't remember. I believe so, but I don't remember.

22 Q. And who did you say you switched harnesses with?

23 A. Captain Trinello of Engine 5.

24 Q. And then my final question for you, have you participated in
25 any kind of post-incident debrief or lessons learned?

1 A. I haven't been back to work yet.

2 Q. Okay.

3 A. Since the incident.

4 CDR BARGER: All right. Thank you, Captain Robetto, for your
5 time and testimony today. You are subject to recall. And my
6 sequestration order remains in place until you're released by me.
7 You will be notified when you are released by our recorder,
8 Lieutenant Reed.

9 The hearing will now take a one hour recess for lunch. The
10 time is now 1:15 p.m. We will reconvene at 2:15 p.m.

11 (Off the record at 1:15 p.m.)

12 (On the record at 2:16 p.m.)

13 CDR BARGER: The time is now 2:16 p.m. local time in Union,
14 New Jersey. The hearing is now reconvened and back on the record
15 regarding the fire on board the Grande Costa D'Avorio. Our next
16 witness is Battalion Chief Steven Lapenta of the Newark Fire
17 Department. Lieutenant Reed, please swear the witness in.
18 (Whereupon,

19 STEVEN LAPENTA

20 was called as a witness and, having been first duly sworn, was
21 examined and testified under oath, as follows:)

22 LT REED: Chief LaPenta, I have a few preliminary questions
23 for you. Will you please state your name and spell your last name
24 for the record?

25 THE WITNESS: Steven LaPenta, L-a, capital P-e-n-t-a.

1 LT REED: Okay. And in July of 2023, what was your
2 profession?

3 THE WITNESS: I was a battalion fire chief for the City of
4 Newark Fire Department.

5 LT REED: Okay. And what, if any, personal certificates or
6 certifications do you hold related to that position?

7 THE WITNESS: I have all required state certifications that
8 require me to have to be in that position.

9 LT REED: Okay. And how long have you been -- how long were
10 you employed at that position on July 5th?

11 THE WITNESS: I've been in that position since December of
12 2018.

13 LT REED: Okay. Thank you very much. Commander, the witness
14 is ready to proceed.

15 CDR BARGER: Thank you. Lieutenant Commander Moore will be
16 conducting the direct examination of this witness. Lieutenant
17 Commander Moore, please proceed.

18 LTC MOORE: Thank you, Commander.

19 DIRECT EXAMINATION

20 BY LTC MOORE:

21 Q. Good morning, Chief.

22 A. Good afternoon.

23 Q. How long have you been with Newark Fire Department in total?

24 A. Thirty-four and a half years.

25 Q. Before battalion chief, how long were you a captain?

1 A. I was promoted to captain in 2002.

2 Q. Can you explain the duties and responsibilities as a
3 battalion chief?

4 A. Primarily, our duties are to enforce the rules and
5 regulations set forth by the Department. We make sure that the
6 officers of the field units follow their rules and their
7 regulations and we answer directly to the deputy chief.

8 Q. Do you have any other specific duties, like, we would call
9 them collateral duties?

10 A. Well, speaking for the position that I am in now, I mean, I
11 answer to the deputy chief assigned to the training division and
12 the fire chief. So my duties are verified differently than, say,
13 a field battalion chief would.

14 Q. You mentioned training. How long have you been involved with
15 the training division?

16 A. Since my promotion in December of 2018.

17 Q. Can you tell us what the structure of that training division
18 looks like?

19 A. So there is myself. We recently added a captain when I first
20 started there. And there's a deputy chief who oversees the
21 division and there is firefighters there.

22 Q. What are the general training requirements for all Newark
23 Fire Department members?

24 A. Well, the state sets forth different requirements, the
25 Division of Fire Safety. They require firefighter I, incident

1 management level I, hazmat awareness and operations. But
2 authorities having jurisdiction can require more and that's what
3 we do. We train our recruit firefighters with firefighter I,
4 firefighter II, hazmat awareness and ops, ICS 200. And then after
5 three years, the firefighters can then apply for an application to
6 get their incident management level I certification.

7 So that's the basic state requirements, but we also, since I
8 started there, we added some extra stuff. And one of them was
9 aircraft rescue firefighting. We go to Newark Airport and we take
10 a class during -- it's a whole day. Just an awareness program.
11 And we also train them with mandatory bailout procedures, mass
12 confidence.

13 Q. You mentioned some of those more specific trainings. Are
14 there things that are required to be taken annually, like, to do
15 recertification?

16 A. We do recert annually, mass confidence course. We do the
17 bailout course annually. We also have the standard blood borne
18 pathogens, traffics, you know, all that kind of stuff, sexual
19 harassment.

20 Q. You mentioned aircraft rescue as more of a specialized
21 training. When there's a specialized training, do you have to
22 propose that? Like, how does that come about?

23 A. Well, it can -- there's two ways it can come about. Either I
24 research it and I suggest it to the Department and it goes up to
25 the deputy chief, it gets forwarded to the chief of the department

1 and director and ultimately they make the decision whether it's
2 worthwhile or not. I don't set policies or procedures. I just
3 basically suggest it.

4 Q. And if that specialized training is identified as a need, is
5 it now required for everyone or are people designated to take it?

6 A. We try and get the whole department up to date. So I started
7 this last year with the last recruit class and now we're going to
8 cycle through department members.

9 Q. Are there any other specialized training that you've proposed
10 since you started with the training division?

11 A. Myself, no. The Special Operations Division, they conduct
12 specialized training for the USAR assets, structural collapse
13 operations, trench, stuff like that. And the only thing that I
14 introduced was the aircraft rescue firefighting for the structural
15 firefighter course, which was basically put together by the
16 Division of Fire Safety. So now we implement that.

17 Q. Have you ever experienced any obstacles to getting training
18 approved?

19 A. Well, like I said, I suggested, I put it up there and whether
20 it comes out or not, it's not my decision. So I can't speak on
21 why it would or wouldn't come out.

22 Q. But have you ever proposed any training that wasn't approved?

23 A. Yes.

24 Q. Do you recall what the -- that training was?

25 A. Well, past couple years we tried to get the rapid

1 intervention company training and I sent it up several times. And
2 it was supposed to be approved, as far as I know, but we haven't
3 opened it up yet. We haven't started.

4 Q. Did you receive any feedback on why it wasn't approved or --

5 A. No.

6 Q. Or any updates about it?

7 A. No.

8 Q. Is there marine firefighting training approved for the
9 Department?

10 A. What happens before me, I, I can't speak about. But I know
11 since I've been there, we -- being a part of the Fire CBRNE
12 Committee UASI, it was brought to my attention that there was a
13 seminar that was going to be provided by the New Jersey Office of
14 Homeland Security and Prevention. And it was about electric
15 vehicles on ships. And it was brought to my attention. I sent it
16 up. It was approved. I put the schedule out and that was
17 probably June, if I could recall, I think. And we did the
18 training for that. It was just a basic dangers of, you know, care
19 fires on a vessel like that.

20 Q. Did you take that training?

21 A. Yes, I organized it. I was there.

22 LTC MOORE: Lieutenant Reed, can you pull up Exhibit 13
23 please? Just the first page.

24 BY LTC MOORE:

25 Q. Chief LaPenta, are you familiar with this document?

1 A. Yes, I am.

2 Q. Can you tell us in general what is this document?

3 A. This is as notice that goes out to the fire division advising
4 these members that are -- and these companies that are listed, the
5 time and the date to come to the training division to take the
6 specific class.

7 Q. And what is this training notice for?

8 A. Maritime electric vehicle fire seminar.

9 Q. Okay. And what was the date of that notice?

10 A. May 10th, 2023.

11 Q. Is this the marine firefighting training you were speaking
12 about earlier?

13 A. Yes, it was.

14 LTC MOORE: Can you scroll to page 39 please? If you can go
15 up one. Sorry.

16 BY LTC MOORE:

17 Q. Is this page familiar to you of the document?

18 A. Yes, it is.

19 Q. Can you just briefly describe what the -- this page is about?

20 A. This was an email that I sent to the chief of department,
21 Chief Jackson, expressing we have training available for container
22 ship cargo, EV fire awareness. The training is scheduled at a
23 certain date. We can send the first alarm assignment. There are
24 two sessions per day. We will walk through, get on the ship and
25 physically observe and get some ideas about how to approach these

1 incidents.

2 Q. And to your recollection, did all of this training occur?

3 Because you have different dates here.

4 A. So the training was scheduled. I received a phone call from
5 Brian O'Neill, New Jersey Office of Homeland Security Prevention
6 that I was working this with, trying to coordinate. And also Pete
7 Montella was part of that. We were scheduled to go to one of the
8 docks, but there was some -- I guess a labor dispute or something
9 going on. So this got delayed. And I expressed that in an email
10 down the road at some point. And then we did reschedule it.

11 Q. You did reschedule it?

12 A. It was rescheduled. We had some companies attend the
13 training.

14 Q. And just to be clear, the part that got rescheduled was the
15 part down at the docks?

16 A. Yes.

17 Q. Not the --

18 A. It --

19 Q. Not the classroom part?

20 A. No, the classroom part was complete. We were going to a
21 second phase of physically walking through, a fieldtrip, as you
22 would, just to get, you know, get on the ships.

23 LTC MOORE: Can we go to page 31?

24 BY LTC MOORE:

25 Q. Can you tell me what this page is?

1 A. This is the Newark Fire Division's Training Academy
2 attendance sheet for training evolutions. When we set up a
3 training event, we make the units sign in.

4 Q. So if someone is listed here, they physically attended the
5 training?

6 A. Yes.

7 Q. Okay. And who's -- can you tell us what training this was
8 for, the date and who attended?

9 A. Maritime electric vehicle fire, June 27th, 2023.

10 Q. And who's listed?

11 A. Wayne Brooks, Tour 1, Truck 4, AL Maresca, Tour 1, Battalion
12 Chief 4.

13 LTC MOORE: Okay. Please scroll to the next page.

14 BY LTC MOORE:

15 Q. And then on this page?

16 A. Alfonse Carlucci, Tour 1, Deputy Chief 1.

17 Q. And I think one or two more. And can you read that one?

18 A. James Kupka, Tour 1, Battalion -- I can't see what it says
19 there. It looks like Battalion Chief 5 also.

20 Q. And was this on the same day or is this a different day?

21 A. This is a different day. This is June 19th, 2023.

22 Q. All right. Okay. And you stated earlier before you took
23 over, there might have been some other training. Did you come to
24 be aware of any other firefighting training, marine firefighting
25 training that occurred prior to 2018?

1 A. There was some training. I don't recall the dates or when it
2 was. It was never offered to me before, so I have no idea of the
3 dates that these individuals took maritime training.

4 LTC MOORE: Okay. All right. Thank you, Lieutenant Reed.

5 BY LTC MOORE:

6 Q. Chief, are you aware of the marine firefighting annex, the
7 Coast Guard's area contingency plan for Sector New York?

8 A. No.

9 Q. Have you ever heard of NFPA 1005?

10 A. Recently I have, yes.

11 Q. And -- okay. How recently, before or after?

12 A. After the incident when I started researching maritime
13 firefighting.

14 Q. Are either of these implemented with Newark Fire Department?

15 A. Not currently, no.

16 Q. Does Newark Fire Department have any fire boats?

17 A. They do.

18 Q. Are you familiar with the setup or operations for those
19 vessels?

20 A. I do not.

21 Q. What about training for those vessels?

22 A. I'm not a part of that. It was all done prior to my tenure
23 down at the division.

24 Q. Okay. And then prior to the incident you spoke about, I
25 believe you were referring to July 5th, 2023. Had you ever been

1 on any ships in the past?

2 A. Yes.

3 Q. What for?

4 A. I was a firefighter assigned to Rescue Company 1 and I was a
5 captain at Rescue Company 1. And I was a ladder captain, Ladder
6 1. And we would go down when I was on those specific companies
7 and train for high angle, low angle rope rescues and hazardous
8 materials response.

9 Q. Do you recall what kind of ships they were?

10 A. They were some container ships, typical.

11 Q. And -- I'm sorry to interrupt. Where did that occur, like,
12 training?

13 A. Port Newark on one of -- mostly, I think we went to the
14 Maersk Terminal I think, a couple times.

15 Q. Are you familiar with how mutual aid is structured for Newark
16 Fire Department?

17 A. Yes.

18 Q. How does automatic mutual aid get -- initiated?

19 A. The deputy chief can request mutual aid response at an
20 incident. It would go through the dispatch center and then the
21 dispatches would notify the fire chief or the director and advise
22 them. And it also would go through the county coordinator.

23 Q. Is that a phone call or a radio call?

24 A. Most likely it would be a radio transmission and then the
25 previous -- the others would go through phone call communication

1 and emails.

2 Q. If there's a mutual aid request, how does that typically
3 work? Like, who makes that call and how does that start?

4 A. Well, the deputy chief can request -- the incident commander,
5 they can request any help they need and it would get transferred.
6 The information would be requested and go through the chain of
7 command. So it would go through the chief of the department and
8 basically the, you know, the assistant director on up. And then
9 that would go through the dispatch center. They would call the --
10 the county and the county would assign the companies. Usually the
11 closest, you know, to where the incident is occurring.

12 Q. So just to be clear, when they're asking for the mutual aid
13 request, they're requesting a type of resource, not a specific
14 department or company to come?

15 A. The mutual aid agreement is, they have mutual aid meetings.
16 And normally the typical response would be two engine companies, a
17 ladder company and a battalion chief would respond to the
18 incident. And then as -- if it escalates, more help could be
19 requested at any given time.

20 Q. Okay. When you arrive on an incident, how do you expect that
21 incident be -- to be structured? I think you mentioned an
22 incident command system before. If you arrive on an incident, how
23 do you expect the structure to be?

24 A. Well, the first arriving unit, the officer would establish
25 the command system. And then as a higher ranking officer gets on

1 the scene, they would assume the command position.

2 Q. Is that process documented anywhere for Newark?

3 A. I can't answer that.

4 Q. Have you ever seen anything written down on how the structure
5 should look?

6 A. It's your -- if you train -- if -- in the incident command,
7 ISC 100, 200, 300, 400 -- that's the process.

8 Q. Okay.

9 A. So if you're certified.

10 Q. And I believe you mentioned UASI before, can you explain to
11 us what UASI is?

12 A. UASI is a multi-jurisdictional resource. It's 12
13 municipalities. They all have specialized equipment. After the
14 events of 9/11, we realized that we needed more specialized
15 equipment and training to respond to these types of incidents. So
16 we're very resource rich in New Jersey. So we have the 12
17 municipalities. They train specifically with structural collapse.
18 And we do have a hazmat UASI response for chemical, biological
19 weapons. We do have a response for water supply, the Neptune
20 system and anyone can call these UASI assets throughout the state.

21 Q. So just to clarify, you mentioned 12 municipalities and
22 they're all New Jersey departments?

23 A. Uh-huh.

24 Q. Okay. Does that affect the incident command structure if
25 UASI is activated and they're responding to an incident, does that

1 affect the command structure?

2 A. When UASI assets arrive on the scene, you would start a
3 unified command system where the command post would be established
4 and all the assets would meet and operate directly. So the IC
5 for, say, Newark would be with UASI command post.

6 Q. What battalions are part of UASI from Newark Fire Department?

7 A. Battalion Chief 4, I believe, is the UASI chief. They would
8 respond to a call if requested because Ladder Company 5 and Engine
9 Company 10 operate the USAR Truck. So when they get called for an
10 incident, Battalion Chief 4 is designated to respond with those
11 units.

12 Q. And who's Battalion Chief 4?

13 A. On all four tours or --

14 Q. Well --

15 A. Well, there's four tours. There's four Battalion 4 chiefs.

16 Q. Okay.

17 A. So I --

18 Q. And you mentioned that you were UASI, is that --

19 A. Yes.

20 Q. -- only the hazmat related duties?

21 A. I am on the hazmat end of UASI. I'm on the Fire CBRNE
22 Committee.

23 Q. All right. Thank you, Chief.

24 A. You're welcome.

25 Q. On July 5th, 2023, were you made of -- aware of a fire at the

1 Port of Newark?

2 A. Yes.

3 Q. How were you made aware of that fire?

4 A. An executive email notification that goes out to the
5 executive staff advising us of fires or special types of incidents
6 that are -- occur.

7 Q. Do you recall when you were notified?

8 A. I can't recall the time.

9 Q. Evening, morning?

10 A. Oh, it was evening. It was probably when the fire came in,
11 whenever, 9:30 ish maybe.

12 Q. Okay.

13 A Give or take.

14 Q. What was the initial briefing like about the fire? What did
15 you find out?

16 A. The email just stated that there was a car fire on top of a
17 vessel on Port Newark.

18 Q. Were you on duty at the time?

19 A. No.

20 Q. Did you ever end up responding to that incident?

21 A. Yes, I did.

22 Q. And why did you respond?

23 A. I was listening to the radio transmissions and then I phoned
24 dispatch to find out if it was any electronic vehicles involved on
25 that ship. I also oversee the Hazardous Materials division, so I

1 wanted to make sure that we didn't have a hazardous materials
2 incident with the electric vehicles. So I called dispatch. I
3 made them ask the deputy chief if there were electric vehicles
4 involved. I got a phone call back saying no, and that was it.
5 And then I was listening to the radio and then I heard that the
6 incident escalate. So I was heading down and dispatch phoned me
7 and said they want you to respond in.

8 Q. When you say you heard that the incident had escalated, what
9 do you mean by that?

10 A. The radio transmissions, I heard someone say we can't find
11 our way out. And I could just hear the calls going through and I
12 knew there was something going on, so.

13 Q. So you started to respond. You got to the incident. And
14 when you arrived on scene at Port Newark, how far into the
15 incident was the other department members that had already
16 responded? How far into the incident were they?

17 A. I believe I was there an hour or so after the incident. I
18 pulled up on scene shortly after the fire chief. So whatever time
19 that was. I, I can't really pinpoint it.

20 Q. So you mentioned the fire chief was there when you arrived.
21 Were there -- was there any other Newark Fire Department
22 leadership there when you arrived?

23 A. There was Deputy Chief Carlucci.

24 Q. And after you arrived to Port Newark, what was your initial
25 briefing on scene?

1 A. The (indiscernible) to try to find out what was going on, who
2 was missing, where people were and I believe they -- we didn't
3 have an ID yet of the individuals when I was there. So we had no
4 -- there was some confusion of who was actually missing.

5 Q. Did you get assigned a position after you arrived?

6 A. Yes, the chief of the department put me in charge of the
7 rescue at that point, at that moment. Said he wanted me to be the
8 rescue chief.

9 Q. I'm sorry, can you repeat the --

10 A. He wanted me to be the rescue chief --

11 Q. That --

12 A. -- of that incident, yes.

13 Q. And that was the chief, are you referring to --

14 A. That was the chief of the department at the time.

15 Q. Okay.

16 A. Chief Jackson.

17 Q. At that time, who was the incident commander?

18 A. Deputy Chief Carlucci.

19 Q. Did Chief Jackson have a role at that time?

20 A. I don't know if he assumed any position.

21 Q. Was there a safety officer assigned?

22 A. A safety officer would be the second battalion chief that was
23 dispatched on the original assignment. I don't recall. I think
24 it was Battalion 4, I believe.

25 Q. Was there an accountability officer assigned when you

1 arrived?

2 A. I didn't see an accountability officer.

3 Q. As the incident unfolded, did you ever become aware that an
4 accountability officer had been assigned?

5 A. I requested through the chief of the department that we have
6 a full UASI Metro Strike Team response. And when that was going
7 on, the assets were starting to assemble and I was setting up a
8 command post with the UASI assets.

9 Q. So on that subject, had any calls for mutual aid been
10 requested when you arrived?

11 A. Not that I was aware of. The only one that was called was by
12 Chief Jackson. When he was on the scene, he requested the
13 Elizabeth Fire Department. And I suggested that we need to go
14 above that.

15 Q. Why did you make that suggestion?

16 A. It was an escalating incident and I've had some little
17 experience on these ships, not for firefighting, but I know that
18 they're just confined spaces and it was going to be a labor
19 intensive operation. So I immediately requested the response, to
20 get the -- the personnel there.

21 Q. And what was the reaction to your recommendation?

22 A. It was discussed. The level of the response, because you can
23 request certain amount of, you know, apparatus to come. And that
24 was it. We just -- he called for the response.

25 Q. You listed for us earlier the Newark Fire Department UASI

1 units. Were those already on scene?

2 A. Repeat the question please?

3 Q. You listed for us the different -- Newark Fire Department
4 units that are part of UASI. Were they already on scene at that
5 time?

6 A. Yes, the units that are in -- directly involved with the UASI
7 response were operating at the fire.

8 Q. Are you aware if any UASI responses had been suggested or
9 offered prior to that?

10 A. No, I was not made aware of anything.

11 Q. What kind of equipment were you suspecting the UASI to be
12 carrying when those resources arrived?

13 A. Structure firefighting gear, thermal imaging cameras, space
14 SCBA, search ropes, communications, lights, RIT packs.

15 Q. How would those communications differ from what was already
16 available?

17 A. Well, we were operating on the Newark fire frequencies. UASI
18 has a bunch of different frequencies that we operate on. There
19 was some -- the communication was just not flowing. So we wanted
20 to have that -- the UASI units that were operating directly with
21 the search for Brooks to be on the same frequency to not step on
22 the Newark frequencies.

23 Q. You also mentioned SCBAs.

24 Q. Yes.

25 A. Would those have differed from what was already on scene as

1 well?

2 A. I don't -- you know, have an answer for that. I don't know
3 specifically which each municipality uses. But typically, we
4 operate with Scott, 4.5 cylinders, rated for 30 minutes.

5 Q. Were you aware of how air supply was being managed on that
6 incident on July 5th?

7 A. I wasn't are of how it was being managed, but I was aware hat
8 we needed to get the air truck, the cascade units there because
9 this was going to, obviously, be a prolonged operation and air
10 would definitely become an issue.

11 Q. Was the cascade system ordered to the scene?

12 A. The cascade system was ordered. I spoke to my captain in the
13 hazmat division to respond to special operations on Orange Street,
14 pick up the cascade truck and bring it to the scene.

15 Q. Did it ever come?

16 A. It did show up, but it was not in service. It was
17 retrofitted. It was repaired. We took it back to the firehouse
18 for, you know, and then it was just scheduled to get fixed. It
19 just -- but it wasn't. So we were not made aware because it got
20 picked up later in the day when we were off duty.

21 Q. Is there a backup for that system?

22 A. Well, the UASI assets things, air trucks, yeah. So they wind
23 up responding with the call.

24 Q. Did you feel like there were any barriers to activating
25 mutual aid requests during the incident on July 5th?

1 A. None. Not with me. I asked the fire chief to get UASI and
2 they were there. I -- and that was it.

3 Q. How long do you think it took to -- once you recommended the
4 UASI, it was approved. How long before they -- the other units
5 started to show up?

6 A. I had the CAD report from Union County who dispatches the
7 units. The initial call was 2315 hours. And the first unit on
8 the scene would have been Elizabeth Rescue Company 1, who arrived
9 at 0020 hours.

10 Q. Thank you, Chief. Are you familiar with the New Jersey Fire
11 Boat Taskforce?

12 A. Yes.

13 Q. Was that considered for this incident?

14 A. I don't know.

15 Q. Do you know if they were ever ordered to the scene?

16 A. I don't know.

17 Q. All right. So UASI was ordered. They started to arrive.
18 Can you tell us what happened next from your perspective?

19 A. So myself and Chief Alvarez, Mac coordinator for Bergen
20 County. He's also the chief of the South Essex Fire Department.
21 He was on scene with me. And we were establishing an area for the
22 command post to be set up as the UASI assets were arriving. So
23 that took place as soon as the request went out through the fire
24 chief to access the UASI units.

25 As the UASI units were starting to arrive on the scene, we

1 were -- discussing a plan, what we were going to do, how we were
2 going to approach this. So that was the initial setup.

3 Q. And where did you all decide the command post should be
4 located?

5 A. The command post was at the bottom of the ramp aft, the aft
6 ramp. It was at the bottom on the dock.

7 Q. And you said you discussed a plan?

8 A. Yes.

9 Q. Can you give us a brief description of what that plan ended
10 up being?

11 A. So the plan was pretty much assembled by Chief Seeburger of
12 Bayonne. We were going to approach this similar to how we would a
13 high rise fire. And we were going to establish the search terms,
14 put a RIT team in place. And we discussed what level of an
15 operations floor we'd have our staging floor. At that point, I
16 went up to Deck 8, because Deck 8 was suggested. And in
17 firefighting, for high rise, you want to establish two floors
18 below the fire.

19 So I went up to Deck 8. I observed real quick. It seemed
20 tenable. It seemed like a good place to start. So we came back
21 down and then we had the accountability officer and then we had
22 the assets all line up and bring the equipment. I briefed all the
23 search units that were going in there, let them know this was
24 where we're relocated one firefighter. They were in the general
25 area. This is -- we searched Deck 9 already. They were upon 12.

1 That these -- the additional missing firefighter has to be on Deck
2 10 somewhere.

3 And they went up to Deck 8 and they decided that they were
4 going to move that to the staging area, to Deck 9 and that's where
5 we ultimately operated.

6 Q. And you just mentioned that you located one firefighter. Do
7 you know who that was?

8 A. The firefighter that was removed first was Firefighter
9 Acabou.

10 Q. And you stated that one firefighter was still missing?

11 A. The one firefighter still missing was Firefighter Brooks.

12 Q. Earlier we've heard that at some point the fire department
13 from New York arrived. Were you involved or did you know how they
14 came to the scene?

15 A. Yes, so early on into the incident, Chief Seeburger
16 approached the incident commander and said to him that, the FDNY
17 is available for us. What do you want to do. And I think his
18 response was, he needs to think about. At that point, it was
19 brought to my attention from Chief Alvarez and Chief Daly (ph.)
20 from the Jersey City Fire Department, that the New York City Fire
21 Department was available. What resources did you want.

22 And I asked the question, well, what are they going to send
23 us. And then I said, you know what, just tell them to send me
24 whatever they want. And then I said to Chief Daly, let Chief
25 Seeburger know. And he came back and reported that the FDNY was

1 in route with their marine unit and their rebreather unit and
2 their rescue company.

3 Q. And from the moment that that was ordered, when that offer
4 was taken, how long did it take for them to arrive?

5 A. I don't have the response time documented here for FDNY.
6 It's not captured in the CAT. It's not on anything. But I can
7 tell you that it was maybe 1:00 in the morning at that point
8 because that's when we started to put the plan into effect and
9 start sending companies up.

10 The plan was to have a RIT team in place and then have a
11 search team go in and look. And then they would come out and then
12 we would send the RIT team is at the next search team and replace
13 the RIT team and just have, like, a revolving system going until
14 we located the firefighter.

15 Q. All right. So I'm keeping track for accountability. At this
16 point in the incident, do you recall who had called a mayday at
17 that point?

18 A. I do not know who called a mayday. It wasn't specifically
19 told to me who it was. I don't think we knew where the mayday
20 came from. But I did -- initially I did hear the radio reports,
21 we're lost and we can't find a way out. And then I heard someone
22 say, you know, we found the hose line. We're coming out. And
23 then I believe Chief Carlucci conducted a PAR, personal
24 accountability report and that's when we discovered that there
25 were two members still missing.

1 Q. And keeping up with my acronym notes. Can you clarify what
2 CAD is for us?

3 A. The CAD is computer aided dispatch.

4 Q. And just brief description of what that system is?

5 A. So it's a computer system that when you dispatch, you
6 document everything through the computer and it keeps track. It's
7 just a computer program for dispatchers to keep track of what's
8 going on. And it's -- and everything is time stamped from the
9 first keystroke, from when the operator puts the call through and
10 it timestamps everything.

11 Q. So FDNY arrive. We're going through this rotation, right?
12 Can you tell us what happened next?

13 A. So Jersey City was the second unit to arrive on the scene.
14 Firefighter Acabou was already brought to the 12th Deck and they
15 were doing CPR and they were getting ready to remove him. When
16 Jersey City arrived on the scene, we directed them to immediately
17 go to Deck 10 and start the search for Brooks.

18 There was, I believe, three maydays at that time, all
19 simultaneously. So as Jersey City was going up to start the
20 search for Brooks, we had the Elizabeth Fire Department with two
21 maydays. We had a Mayday then come out for a Newark Rescue 1
22 captain. And then we had a mayday for a member of EMS, all within
23 a minute or two of each other.

24 So Jersey City helped remove the mayday victims. And at that
25 time, the UASI units were rolling in one by one and we were

1 getting established. So we sent the original companies with
2 Jersey City. They went back up. And then after that was North
3 Hudson Regional Fire Rescue. And then we had FDNY go in. And
4 FDNY founds Brooks.

5 Bayonne assisted, FDNY removing Brooks. The plan was to
6 bring him up to the 12th Deck, similar to what took place to lower
7 Acabou. When we got Brooks to the 12th Deck, the UASI members, I
8 believe it was Chief Pratt, found an American flag and draped
9 Brooks in the flag and then we lowered Brooks to the dock.

10 All the companies that were involved searching for Brooks,
11 it's in alphabetical order. It's nothing special, but it's
12 Bayonne, Hackensack, Hoboken, Jersey City, Marston, Milburn, North
13 Hudson Regional and Patterson. Those were all the units that we
14 had set up in place and we were rotating them as RIC team and
15 search team, RIC team, search team.

16 Q. Thank you. I want to discuss some possible limiting factors
17 to the incident. How were communications that you --

18 A. Horrendous.

19 Q. Can you give us a little bit more on why?

20 A. They were garbled. The transmissions were sporadic. Really
21 couldn't hear who was talking, what was going on. So the radio
22 transmissions were just horrendous at times. We actually started
23 going and giving orders or trying to find out what was going on by
24 face to face communications at one point. And then I believe the
25 captain of Ladder 5 switched to channel five as a direct.

1 It was so you're not necessarily trying to hit the repeater
2 on -- during your transmissions. And then the UASI assets, we
3 operated on UTEC 94 direct. So we're basically talking radio to
4 radio and not -- but we were kind of -- you needed to be kind of
5 in close proximity, but that seemed to work better than what we
6 were using.

7 Q. Were you transmitting on a radio or were you --

8 A. I was --

9 Q. -- using --

10 A. I was clearly transmitting the whole night and I was talking
11 on my radio designation is headquarters nine. So I was talking on
12 the Newark Fire Department radio as headquarters nine and I was
13 also talking with the UASI.

14 Q. Had you ever been on a fire prior to this one where you had
15 these issues with the -- being able to hear each other?

16 A. Certain buildings, construction, yeah, it could affect radio
17 communications, such as in the basements of these apartment
18 buildings, high rises, subbasements. You can definitely have some
19 type of communication issue.

20 Q. Were you ever able to overcome those on those incidents?

21 A. Most of the time we would switch direct. We would try not to
22 hit the repeater and we would be able to talk to each other. We
23 were all on the basement operating. If we were all on the
24 basement and we switch off that channel, we'd be able to talk
25 direct.

1 Q. Did you have any interaction with the crew of the ship?

2 A. I did.

3 Q. What do you -- what did you speak with them about?

4 A. When I arrived on the scene, the ship's captain was present.
5 I asked where the crew was. They said the crew was off the ship.
6 I said, can we have a map or diagram and the captain said, okay,
7 and disappeared in the back of the ship and came back out and
8 handed myself and Chief Daly with the Jersey City Fire Department
9 a notebook sized piece of paper with a little picture on it that
10 was pretty much useless to us at that point.

11 Q. How were the staffing levels for that incident, in your
12 opinion?

13 A. I have no idea what the staffing level was. I'm -- I wasn't
14 on duty. I had no answer for the roll calls.

15 Q. So after Firefighter Brooks was taken off the vessel, when
16 was the decision made to remove all firefighters from the ship?

17 A. Once Firefighter Brooks was lowered to the dock, the New York
18 City Fire Department and all the other UASI assets were coming
19 down. Our task, our objective was complete and we decided that
20 it's time just to back off the ship. There was no reason for us
21 to be on that vessel. There was no life hazard at that point.
22 The crew was accounted for, from what I was told, so.

23 Q. Do you know who made that decision?

24 A. Myself and the liaison of Chief Alvarez and Chief Seeburger.

25 Q. And was that communicated to the ship's crew?

1 A. The ship's crew was there, yes.

2 LTC MOORE: That's all the questions I have for you right
3 hand. I'm just going to go around the investigation team.
4 Commander Barger, do you have any questions?

5 BY CDR BARGER:

6 Q. Good afternoon, Chief.

7 A. Commander, how are you?

8 Q. I was taking notes as we started through your testimony, so
9 I'm going to go back to the beginning with some follow up
10 questions. So you mentioned that you recommend training in your
11 role at the Training Division?

12 A. I can recommend training, yes.

13 Q. Who then is responsible for approving training?

14 A. We're a paramilitary organization. We have a command --
15 chain of command, as you're aware. And it goes to the deputy
16 chief and the deputy chief would then send it to the fire chief's
17 office and possibly the directors' office for approval. And if
18 it's approved, it comes out.

19 Q. Do you find that most training that you -- or get recommended
20 are approved at the deputy chief level or are they approved at the
21 fire chief level or the director's level?

22 A. Most of the training that I've suggested has been approved
23 through the fire chief's level. Some hasn't. But most of it has
24 been.

25 Q. Okay.

1 A. For the most part.

2 Q. So in your experience, it's at the fire chief level that it's
3 either getting the approval or disapproval for trainings that you
4 recommended?

5 A. I can't answer for certain.

6 Q. We were taking a look at earlier at the electric vehicle
7 training roster and the bulletin that announced the training.

8 A. Yes.

9 Q. Knowing that you all work on ships, how do you coordinate a
10 special training like that around the shifts that are being
11 worked?

12 A. There is four tours for the fire division. And if you want
13 to pull up a document, I can explain it better with the visual.

14 Q. I believe that was Coast Guard Exhibit 13, Page 1.

15 A. Can you make it bigger please? Thank you. As you can see,
16 June 19th, 2023, is the schedule for Tour 1. And it -- you have
17 it broken down into two sessions a day, 0900 hours and 1200 hours.
18 And these are the responding companies here for that session. And
19 then at 1300 hours, the 1600 hours would be the remainder. And
20 it's set up for all four tours.

21 Q. So the tours, when they are on their assigned for training,
22 they were also on duty to respond to an incident?

23 A. Yes, certain training may require them to be taken out of
24 service while the training is being conducted. But most of this,
25 this is on-duty training.

1 Q. Okay. So was this one of those where they were taken out of
2 service to attend a training or could they potentially have been
3 in the training and called to respond to an incident?

4 A. Some of the training, some of the -- I believe there was a
5 couple interruptions. We had a couple fires and the units break
6 loose and they come back, yeah.

7 Q. What if somebody -- or I don't even know if this is possible,
8 could somebody have been on leave or vacation when they were
9 assigned to go, would there be a makeup session?

10 A. Yes, we could have scheduled a make up session, but this was
11 something we were going to plan similar to what we're doing with
12 the ARFF firefighting. Is that this is going to be at a
13 continually as a -- just, like, an annual type of training drill.

14 Q. Okay. So they --

15 A. So if someone missed it, they would get it, yeah.

16 Q. So in this case, there was no follow up training scheduled in
17 original block?

18 A. No, not -- no. Not this.

19 Q. You mentioned earlier that there had been, I think, on scene
20 training to be done follow up to this at the port, is that
21 correct?

22 A. I don't understand the question. Can you --

23 Q. I believe we took a look at an email described some follow up
24 training to this initial classroom session.

25 A. Yes.

1 Q. And that was to take place actually at the port or at a ship?

2 A. That was to take place at the port, to physically get on the
3 ship and look at the interior, look at the cargo containers and
4 also the new cranes that were installed on the Elizabeth side of
5 the port.

6 Q. Okay.

7 A. Yeah.

8 Q. Just for clarification, you had mentioned that that training
9 did not take place because of a labor dispute. Was that
10 firefighter labor or was that --

11 A. Union.

12 Q. -- port labor?

13 A. It was port labor.

14 Q. Port labor?

15 A. There was no firefighter dispute. It -- we were not able to
16 get to the terminal that was originally planned because of some
17 type of dispute. That's what was relayed to me.

18 Q. Okay. There was a question that was asked about the -- your
19 awareness of the NFPA 1005?

20 A. Yes.

21 Q. And you said you just recently became aware of that. But to
22 your knowledge, what is the NFPA 1005?

23 A. It's the National Fire Protection Association's guidelines
24 for maritime firefighting.

25 Q. Okay. And have -- since you became aware of it, has there

1 been any effort to implement any of the guidelines in that -- NFPA
2 standard --

3 A. Yes.

4 Q. -- into the Newark Fire Department?

5 A. Yes.

6 Q. Okay. What have those efforts been?

7 A. I was approached by Assistant OME Director Frank Belina (ph.)
8 of the Newark Fire Department to research and put together a plan,
9 a proposal to have our members start taking this and meeting the
10 NFPA standards. I put a proposal together. It would have
11 included all the chief officers, because ultimately they're in
12 charge of the incident. So we decided that we were going to start
13 with them. I sent the proposal to them and it went up. And it
14 has not been instituted as of yet.

15 Q. So is that proposal just for chief officers or what about
16 firefighters that are -- units that are first due to the port?

17 A. It was for all chief officers initially. Initially, the way
18 I viewed it was the chief officers are ultimately in command of
19 the decision and they make the decisions at the fire. So that's
20 why we were going to start with the chief officers. They have --
21 they can dictate what happens and what doesn't happen. And then
22 we were going to roll the firefighters into this.

23 Q. You mentioned that Newark Fire Department has fire boats?

24 A. Yes.

25 Q. As far as -- it sounded to me like the -- and correct me if

1 I'm wrong, the training for the companies that man the fire boats,
2 is that training that is contained within the Training Division's
3 portfolio or is somebody else responsible for providing training?

4 A. That training is conducted and organized through the Special
5 Operations Division.

6 Q. Okay. So Special Operations handles their own training
7 for --

8 A. Certain pieces of equipment, like the fire boat, yes.

9 Q. Okay. Do you know what that training requirement is --
10 consists of?

11 A. No.

12 Q. When you become a chief officer or, I guess, a -- starting
13 out as a battalion chief, is there any command type training that
14 is given when you become a chief officer?

15 A. The fire department has an officer development program in
16 place. It's pretty basic, I think. I know I've expanded on it
17 since I've been down there. I don't know prior. I know when I
18 took it it wasn't where it was today.

19 Q. What does it consist of?

20 A. Basically, your duties and responsibilities of a battalion
21 chief, discipline. We have the law department come in, go over
22 disciplinary actions and procedure, stuff of that nature. You
23 know, it's just basic stuff.

24 Q. How does a chief officer learn or know how to manage a fire
25 scene?

1 A. Through taking the FEMA NIM incident management courses,
2 IC1278, 300, 400.

3 Q. Is that -- is that concept of how to manage a fire scene
4 covered in the training for battalion chiefs that you were talking
5 about at all?

6 A. I do. Since I've been down here, I've added some blocks of
7 instruction to that, yes. And I've recently spoke to the fire
8 chief about doing the fire officer development that's approved by
9 the state, that meets the NFPA standard. So we just cut the
10 purchase order to buy the books and move them forward and then
11 bring everybody back and then go that route. Yeah.

12 Q. And you've mentioned a couple of the incident command system
13 courses. Does anybody -- is anybody required to take ICS300 or
14 400?

15 A. Yes. Yes. The Division of Fire Safety of New Jersey, you
16 need to be incident management level one for officer, for
17 lieutenant and captain, battalion chiefs and deputy chiefs should
18 be incident management level two. And chief of departments and
19 anyone that operates with the EOC should be incident management
20 level three.

21 Q. Okay. So is -- in New Jersey's level one, two and three,
22 where in there is ICS300 or 400 mandated?

23 A. Well, if you need to be incident management level two, you
24 have to have an I300 course to submit the paperwork to the state
25 to be certified in that position.

1 Q. For a point of clarification, talking about what units had
2 responded to the scene, so it's been mentioned Newark has -- I
3 think it's -- I sit two USAR companies?

4 A. We have two Newark companies that are attached to the USAR,
5 UASI response, but physically we have one rescue truck, Rescue 2.

6 Q. Okay.

7 A. Plus other assets with -- would be the boats and, you know,
8 stuff down in Special Operations.

9 Q. Okay. So to confirm, the Newark USAR company had responded
10 to the scene?

11 A. Yes.

12 Q. Okay. And that was with Rescue 2?

13 A. No. Rescue 2 was not part of that response. It was a
14 typical firefighting dispatch, four engines, two trucks, a truck
15 company as the fast team, the deputy chief, two battalion chiefs
16 and the rescue fire rescue Company 1.

17 Q. Okay. So how then did the USAR company response or is it one
18 of those that you just mentioned?

19 A. No, the actual physical truck, Rescue 2 would not have
20 responded to the scene because the members that operate the truck
21 were dispatched in operating at the fire.

22 Q. With -- okay, with their --

23 A. With their front line apparatus.

24 Q. Okay.

25 A. With the engine company and the ladder company.

1 Q. Thank you.

2 A. you're welcome. I believe you mentioned that you had called
3 for the air truck?

4 A. Yes.

5 Q. And you said it responded to the scene?

6 A. Yes.

7 Q. But then you said it was out of service?

8 A. Yes.

9 Q. So why did it respond to the team if it was out of service?

10 A. The UASI assets were retrofitting the cascade trucks. Ours
11 was out of service when -- it was probably out of service for, I
12 think, a month. They were getting new generators and compressors
13 and stuff. When I left -- when I was off duty, I went home that
14 evening. This -- members of Special Ops were picking up the
15 vehicle from the company that did the retrofit.

16 When they picked it up, they said, this thing is still -- you
17 know, not functioning. It needs repairs. So it went back to the
18 firehouse where it's housed at Orange Street. I was not made
19 aware that it wasn't functioning, but I knew it got picked up
20 because the vendor called me and said, your truck is ready, can
21 you pick it up. So I was under the impression that it was
22 functional, but it wasn't. So I decided that, you know, my
23 captain with the hazmat unit sent him -- I directed him there to
24 pick up that vehicle to bring it down there.

25 Q. Okay. So it wasn't until it got to the scene that you

1 discovered --

2 A. it wasn't until --

3 Q. -- you couldn't use it to fill bottles?

4 A. Yes, correct.

5 Q. Okay. You've mentioned the UASI command post.

6 A. Yes.

7 Q. Where was it in relation to the incident command post that
8 Deputy Chief Carlucci was operating out of?

9 A. Deputy Chief Carlucci was pretty much aft of the boat, but he
10 was on top of the ramp. And the UASI assets, we established a
11 command post at the foot of the ramp, where the Union County
12 communications vehicle set up and we had the tent there. And
13 that's where we were doing our staging and accountability. And I
14 was on the ramp in between and I was working with the liaison,
15 which would be Chief Alvarez (ph.). And him and I were going back
16 and forth and I was relaying the information to Chief Jackson,
17 what we were doing and who was coming on and what was going on.

18 Q. Okay. And how was the communication between the UASI command
19 post and the incident command post?

20 A. I spoke mostly directly to the fire chief at that point. So
21 I know Chief Carlucci was there. But I was answering to the fire
22 chief.

23 Q. Okay. And where was the fire chief located?

24 A. The fire chief was at the top of the ramp as well.

25 Q. Okay. With Carlucci?

- 1 A. With Carlucci.
- 2 Q. In that command post?
- 3 A. Yes.
- 4 Q. You mentioned getting a copy of what you requested as a map
- 5 of the ship.
- 6 A. Yes.
- 7 Q. And that it was a small, I guess, eight-and-a-half by 11, is
- 8 that accurate?
- 9 A. Yes.
- 10 Q. Did you observe at any point a larger version of a diagram of
- 11 the ship anywhere around the command post?
- 12 A. No.
- 13 Q. Have you ever heard the phrase fire control plan?
- 14 A. No.
- 15 Q. Okay. When you took the electric vehicle training, which was
- 16 also maritime training, was there any mention of fire control plan
- 17 in that course, that you remember?
- 18 A. I believe there was, yes.
- 19 Q. What was your understanding of what that was from the
- 20 training?
- 21 A. That the ship's captain had a map of the ship on the bridge.
- 22 And there's a diagram and we would be able to use it to look at it
- 23 and figure things out, pretty much. I mean, that was, you know,
- 24 the limit of that.
- 25 Q. Okay. But what you got, did you feel it met that?

1 A. No, absolutely not.

2 Q. Okay.

3 A. It was the size of a piece of notebook paper with a
4 photocopied image. It was all black. It was -- couldn't even
5 read it and it was night. So -- and I asked for something else
6 and it was never brough to me and it was never brought down to the
7 command post with the UASI assets.

8 Q. Okay. Was that question ever asked of the incident command
9 post, whether they had -- whether they had ever received a diagram
10 of the ship?

11 A. I have no knowledge of that.

12 Q. The fire control plan?

13 A. I have no knowledge of that.

14 Q. Okay. All right. Thank you, Chief.

15 A. You're welcome.

16 LTC MOORE: Lieutenant Reed, do you have any follow up
17 questions?

18 BY LT REED:

19 Q. So you mentioned earlier about UTAC radios.

20 A. Yes.

21 Q. Do you know what frequency they operate on, as far as UHF or
22 VHF?

23 A. Well, we -- they're multi-use radios. We can switch
24 frequencies and channels, so.

25 Q. Okay.

1 A. I'm not very well versed on the operation of the portable
2 radio system.

3 Q. Okay. At a high rise fire, would you expect there to be an
4 accountability officer assigned?

5 A. Yes.

6 Q. And just to clarify, there wasn't one assigned for this
7 incident?

8 A. I didn't see any accountability officer for the Newark Fire
9 Department. All the accountability -- and gain, I was working
10 closely with the UASI assets when they responded.

11 Q. Okay.

12 A. We had all our positions in place.

13 Q. When you were a captain, what were you in charge of or units?

14 A. I was originally promoted. I went to the captain. I was a
15 captain in Ladder Company 1. And then I was transferred to Ladder
16 Company 11. And then I was a captain with Rescue Company 1.

17 LT REED: Okay. And that's all the questions I had for you.
18 Thank you.

19 LTC MOORE: Lieutenant Commander Ward, do you have any
20 questions?

21 LTC WARD: Thank you. I just have a couple of clarification
22 questions.

23 BY LTC WARD:

24 Q. Were you present or aware of the decision to ventilate Deck
25 10?

1 A. Yes, I was present.

2 Q. Were you present as far as the deliberation on whether to do
3 it or not to do it?

4 A. Yes.

5 Q. Can you give a little bit of detail about that discussion?

6 A. I know there was some discussion about the buildup of
7 combustion products, the byproducts of combustion, smoke, heat and
8 it was suggested that the ventilation system be turned on to help
9 clear the area to facilitate the removal of Firefighter Acabou and
10 also it -- I believe it was turned on and then it was turned off
11 and then it was turned off again throughout the operation. But
12 I --

13 Q. Do you know why it would be turned on and turned off?

14 A. No, I don't.

15 Q. Okay. Did -- was there a discussion as to why it wouldn't --
16 it might not be a good reason to turn on the ventilation, aside
17 from clearing the space of smoke?

18 A. It was never expressed why it wouldn't be a good reason.

19 Q. Okay. You mentioned that you -- there was a -- you briefed
20 before you commenced your rescue operations as far as potentially
21 being on Deck 10. But as far as the discussion involving the
22 spaces, you talk about CO2 potentially being in the space, the
23 ventilation, those kind of aspects as well?

24 A. Yes.

25 Q. Okay. You mentioned previously a PAR that was conducted.

1 Could you just give a little bit of detail about what that
2 entails?

3 A. PAR is a personal accountability report and it's requested
4 through the -- it could be requested from anybody, but mostly
5 through the deputy chief, the incident commander of the scene.
6 And when he requests a PAR, the dispatchers will call the units on
7 scene requesting -- basically say do you have PAR, meaning are you
8 -- do you have accountability of all your members assigned to your
9 company.

10 Q. So it's verbal?

11 A. It's a verbal radio transmission, yes.

12 Q. And then as a result of that PAR that was requested, what was
13 -- who were the people indicating to be missing?

14 A. We determined that we had firefighters missing. And then
15 after we went over who it could be, we -- figured it out that it
16 was in fact Firefighter Brooks and Firefighter Acabou.

17 Q. Okay. We previously heard some discussion as far as using a
18 system with tags --

19 A. Yes.

20 Q. -- to -- for accountability. Can you describe that a little
21 bit more?

22 A. So the fire division issues personal accountability tags. It
23 would have your name, your tour and your company. And
24 firefighters and officers, or actually every member in the field,
25 would be issued two tags. And when the command post is

1 established, the officers are supposed to bring the tags of the
2 members that are on duty and bring it to the command post so we --
3 they keep track of who is on the scene.

4 And then if they get assigned to say, you know, division
5 three, third floor, then they're supposed to put those members
6 that they're operating up on the third floor to keep
7 accountability of who's on the scene and where they are.

8 Q. Okay. So far as the incident on July 5th, were the tags when
9 on Deck 12?

10 A. I never made it to Deck 12. I have no idea.

11 Q. Okay. Would you know whether or nit it -- the tags were
12 going to be attributable to coming on the ship or maybe going into
13 certain decks?

14 A. The accountability should have been set up and taken care of
15 outside the vessel. It's done at the command post.

16 Q. Okay. Your -- ordinarily that's how it's done?

17 A. Ordinarily, that's how it's done, yes.

18 Q. And from your memory, you can't necessarily speak to the July
19 5th incident, how it was run that day?

20 A. I can't answer for that.

21 Q. Okay. You also mentioned that there were several mayday
22 calls attributable to Elizabeth and other firefighting entities.
23 When you received those calls at the same time, was there
24 confusion that it was possible attributable to Firefighter Brooks,
25 those mayday calls?

1 A. Yes. So the problem was the radio transmissions weren't
2 specific enough to let us know they -- I think at one point they
3 said, we're bringing two firefighters down. And we -- they didn't
4 identify who the firefighters were. So there was some confusion
5 about who was coming off the boat, where they were located. So we
6 were able to ascertain that it was not our specific members.

7 Q. Okay. And then typically when people have a mayday call,
8 what are they trained to include in that mayday call?

9 A. So mayday training, if an individual is in trouble, they are
10 trained to immediately activate their pass device that's attached
11 to their SCBA, broadcast mayday, mayday, mayday. There's an
12 emergency alert button that you're supposed to activate because
13 when you hit the emergency alert button, it overrides the system.
14 It puts you on top. So the transmissions are coming through. You
15 won't get stepped on.

16 So that's the procedure. And then you would give your
17 location, your unit, your name, your air supply. You have
18 physical gauges on the SCBA. One is hanging off your shoulder
19 strap and you'll -- there's also a heads up display inside the
20 face -- the regulator that's colored so you -- let's you know your
21 level of air.

22 Q. Okay. And the mayday calls that you received on the day of
23 the incident, none of them had those emergency indicators
24 triggered?

25 A. I can't speak. I wasn't -- I'm not a dispatcher at that -- I

1 don't know if those emergency alert buttons were activated or not.

2 Q. Okay. Last question. As far as the search that was
3 commenced to find Firefighter Brooks, was there some discussion
4 for air capacity for the SCBAs for the search efforts?

5 A. We operate under our cylinders are rated for 30 minutes
6 optimally if -- but under the -- those conditions and you're
7 working it -- you're not going to get 30 minutes. So typically,
8 you -- say you can get 15 to 20 minutes of air. So you have to
9 conduct your operations to the point where if I use ten minutes of
10 air to get to where I'm going, I need ten minutes to get back. So
11 you pretty much try to monitor where you're going and how far, how
12 deep you've gone in to conserve your air supply. So air would,
13 for us, be a contributing factor.

14 I know the FDNY, they responded. They use one hour rated
15 bottles and they also have rebreathers, where the rebreather SCBAs
16 can give you up to four hours. You're just basically breathing
17 and circulating the air. It was discussed, I know, with Chief
18 Seeburger. It was brought up that we were going to send the FDNY
19 in that's -- pretty much, you know, let them go on with their one
20 hour bottles.

21 They were very confident that they would be able to get, you
22 know, to a good look with their one hour. And then if we needed,
23 we can go back and continue process, utilizing the rebreathers.
24 So that was the thought process there.

25 Q. Okay. Thank you.

1 A. You're welcome.

2 LTC WARD: I don't have any more questions.

3 BY LTC MOORE:

4 Q. I just have two follow ups and then I will pass over to the
5 NTSB. When Lieutenant Commander Ward asked you about the
6 ventilation discussion, was the crew involved during those
7 deliberations of the ship?

8 A. I can't recall. No.

9 Q. And just to clarify one more point, for the maydays that you
10 did hear, did you hear LUNAR for any of those maydays?

11 A. I did not hear a LUNAR for any mayday, any emergency
12 transmission. I did not hear a LUNAR and I did not hear the words
13 mayday, mayday, mayday be transmitted.

14 LTC MOORE: Thank you. I'll pass to the NTSB. Mr. Barnum,
15 do you have any questions?

16 MR. BARNUM: Thank you, Lieutenant.

17 BY MR. BARNUM:

18 Q. Chief LaPenta, your official title is deputy chief -- excuse
19 me, battalion chief of the training division, is that accurate?

20 A. I am the battalion chief of the training division, yes.

21 Q. Okay. So you oversee all training for the Newark Fire
22 Department?

23 A. No, I don't --

24 Q. What --

25 A. -- oversee all training. Special Operations has their own

1 training objectives in their schedules. I am not a part of the
2 Special Operations portion of it.

3 Q. Does the Special Operations have a battalion chief?

4 A. They have a captain.

5 Q. And would he be in charge of the training for all Special
6 Operations?

7 A. He would be part of it. Also the division is assigned a
8 deputy chief, who oversees both the operations of the Special
9 operations Unit and the Training Division.

10 Q. Okay. So that captain would respond -- or report to the same
11 deputy chief that you do?

12 A. Yes.

13 Q. Okay. Well, then you also said you're involved with the
14 hazmat group, correct?

15 A. I oversee the hazardous materials division, yes.

16 Q. And that's part of the Special Operations?

17 A. It -- you can encompass it as that, I guess, yeah. But not
18 necessarily. The Special Operations Division doesn't train under
19 the hazmat portion of it, more or less.

20 Q. Okay.

21 A. They do with the UASI.

22 Q. So I guess --

23 A. But it's different.

24 Q. I guess, can you define, explain what the Newark Special
25 Operations Department is?

1 A. So Special Operations, they have specialized equipment. They
2 take care of the boat. We have a lab truck, which has specialized
3 equipment on it that they bring to the scene. They have a command
4 center that they can bring to the scene. They're utilized for
5 water rescues, whether it be urban water rescue or a rescue on the
6 lake. They do respond to certain hazardous materials incidents
7 because some of our equipment is brought to the scene by them. But
8 they have varied duties. It's basically whatever the Department
9 of Public Safety wants them to do, they do.

10 Q. Okay. And are you -- what specialized training are you aware
11 of that they take?

12 A. They do take the USAR training that I'm aware of, which would
13 be structural collapse operations, trench, confined space, rope.

14 Q. Are you aware of any specialized marine firefighting training
15 that they take?

16 A. I'm -- I know it was given prior to me, maritime
17 firefighting, but I don't know if they have it or not.

18 Q. So prior to 2018?

19 A. Yeah, that's --

20 Q. All right.

21 A. I was assigned there, yeah.

22 Q. Yeah. Okay. You said you're familiar with the New Jersey
23 Fire Boat Taskforce?

24 A. Yes.

25 Q. What is that organization?

1 A. Well, they respond -- we have, I believe, it's Perth Amboy
2 and North Hudson Regional. They have their respond with fire
3 boats. Like Newark, we're a part of that, Newark. We're a part
4 of that taskforce as well. So if someone has any type of maritime
5 incident, the -- those boats can respond.

6 Q. Okay. What -- is there any kind of obligation to be a member
7 of that fire boat taskforce? I mean, does Newark have to drill
8 with them or do they have to do any other exercises in order to be
9 part of that?

10 A. UASI does require drilling, you know, annual drills and such
11 and training. But again, I'm not familiar with, you know, when it
12 took place or, you know --

13 Q. So what --

14 A. -- when it was done.

15 Q. So that -- so New Jersey Fire Boat Taskforce and then we
16 switch to UASI. So can you -- how are the connected just --

17 A. The Fire Boat Taskforce is a UASI asset. It is -- they're,
18 like, a division of it.

19 Q. Okay.

20 A. So --

21 Q. So when's the last time Newark Fire Department Marine Unit
22 participated or responded with the New Jersey Fire Boat Taskforce?

23 A. I don't have an answer. I don't know.

24 Q. You don't know. Okay. You said you arrived about an hour
25 after the first call?

1 A. From my recollection, yes. Approximately an hour. I know it
2 was shortly after the arrival of the fire chief.

3 Q. Okay. And then you were in contact with Chief Seeburger from
4 Bayonne?

5 A. Yes.

6 Q. And you said early on in the response, you brought it to --
7 was it Chief Carlucci or Chief Jackson's attention that FDNY was
8 available?

9 A. I brought it to the attention of Chief Jackson.

10 Q. Okay. And it -- you said his response was, I need to think
11 about it?

12 A. No, Chief Seeburger brought it to the attention of Chief
13 Carlucci.

14 Q. Okay.

15 A. That FDNY was available and that was his response to Chief
16 Seeburger. And then I was informed by Jersey City Chief Daly and
17 Chief Alvarez that New York City was available. And then I had
18 the conversation with him. And then I said, okay, let's bring
19 them. Just tell them to come. And I went up and I advised the
20 fire chief that the FDNY was in route as well.

21 Q. So how long after that -- how long was that after when Chief
22 Seeburger initially told Deputy Chief Carlucci?

23 A. I can't speculate the time. It was pretty soon.

24 Q. Okay. And then when was -- when were they actually -- and
25 then how long did -- until they actually were officially

1 requested?

2 A. FDNY, I'd have -- FDNY was requested through Chief Seeburger
3 immediately from -- after I requested through Chief Daly to let
4 him know that, yeah, send them. I don't have a -- I mean, you're
5 asking me for a timestamp, which --

6 Q. Yeah, I'm just curious.

7 A. I don't know.

8 Q. Was it, like, you know -- why was there hesitation?

9 A. I don't know. I -- there wasn't hesitation. I requested it.
10 Chief Seeburger got them going. I told the fire chief they're
11 coming. I -- there was -- the conversations that I had, there was
12 no hesitation.

13 Q. Okay. All right. And my last one here for you, the -- so
14 you're describing the two incidents -- the incident command post
15 and the UASI command post and then you couldn't verify if the fire
16 control plan was at the incident command post because you were at
17 the UASI command post. But then you said you met the captain, is
18 that correct?

19 A. When I first arrived on scene, the captain was standing at
20 the Newark command post at the bottom of the aft of the shift. I
21 asked the captain for a map, a diagram of the boat. And that was
22 my only interaction and then he came back and handed me that piece
23 of notebook paper.

24 Q. Were you at the incident command post at that point, at that
25 time?

1 A. I was up at the Newark command post. There was only one
2 command post established at that time.

3 Q. Okay. And how did you know that he was the captain?

4 A. I was told by the chief's driver that this individual talking
5 to Chief Carlucci was the captain.

6 Q. Okay. What did he look like? What was he wearing, do you
7 recall?

8 A. No.

9 Q. Could he have been a port captain?

10 A. I don't know.

11 Q. Okay. Did you -- were you able to -- did you respond -- did
12 you return to the vessel in the days after July 5th? Were you
13 able to meet the captain?

14 A. No.

15 Q. Did you ever see that person again after the --

16 A. No.

17 Q. -- that night? No. Okay. So you were just -- you're
18 relying on the others there to identify him as the captain?

19 A. Okay. Yeah.

20 Q. Okay. All right. Thank you.

21 A. You're welcome.

22 LTC MOORE: Mr. Pittman with the Coast Guard, do you have any
23 questions?

24 MR. PITTMAN: I just have a couple questions.

25 BY MR. PITTMAN:

1 Q. You stated that you were -- you had 34 years in the Newark
2 Fire Department?

3 A. Yes.

4 Q. Okay. Early on you stated that you didn't have the
5 opportunity to attend a marine firefighting training?

6 A. Yes.

7 Q. Okay. Well, according to the records submitted to us, you
8 were on the list to attend the training in 2014. Is there a
9 reason why you didn't attend the training?

10 A. I have no recollection of it.

11 Q. Okay. All right. So are you aware that the Port of Newark
12 is the third busiest U.S. port on the East Coast?

13 A. I know the Port of Newark is busy. I don't know where it
14 ranks.

15 Q. All right. Are you aware of the type of vessels that come in
16 and out of this port?

17 A. I'm aware of a couple vessels, sure.

18 Q. Okay. Are you aware of the hazards on those vessels that
19 come in and out?

20 A> I'm aware of certain hazards, yes.

21 Q. Okay. So are you aware of the safety alert that the Coast
22 Guard submitted back in November regarding dangers aboard rolos?

23 A. I can't hear you, sir.

24 Q. Are you aware of the safety alert that the Coast Guard
25 published with regards to this incident back in November of 2023?

1 A. No.

2 Q. Okay. So you haven't seen it or read it?

3 A. I don't recall it.

4 MR. PITTMAN: Okay. That's all I have. Thank you.

5 LTC MOORE: Ms. McAtee with the NTSB, do you have any
6 questions?

7 MS. MCATEE: I have no further questions.

8 LTC MOORE: Commander, no further questions for this witness.

9 CDR BARGER: Before we start the questions from the parties
10 in interest, I'll look to the parties, do we need to take a
11 recess?

12 THE WITNESS: I'm okay, yeah.

13 CDR BARGER: So we will take a five minute -- let's go with
14 ten minute recess and then we'll reconvene for the questions from
15 the parties in interest. The time is now 3:39 p.m. We'll
16 reconvene at 3:50 p.m.

17 (Off the record at 3:39 p.m.)

18 (On the record at 3:50 p.m.)

19 CDR BARGER: The time is now 3:50 p.m. local time in Union,
20 New Jersey. The hearing is now reconvened and back on the record
21 regarding the fire on board Grande Costa D'Avorio. Our current
22 witness is Battalion Chief LaPenta. This is a continuation of
23 Battalion Chief LaPenta's testimony. But, Chief LaPenta, as a
24 reminder, you are still under oath.

25 THE WITNESS: Yes, sir.

1 BY CDR BARGER:

2 Q. Chief, in light of the question that my colleague,
3 Mr. Pittman, asked right before we took the recess, just want to
4 get a point of clarification to the record. We have a document
5 that we were provided by the Newark Fire Department. It's Coast
6 Guard Exhibit 13, Page 42. I'm sorry, Page 43. And that should
7 be displayed on your screen now.

8 The question was asked, have you ever attended shipboard
9 firefighting training. And just to clarify the document we were
10 provided has a Captain Kupko -- or, I'm sorry, Captain LaPenta
11 down about mid-page having attended back in August of 2014. Is
12 that you as Captain LaPenta?

13 A. That is my name, yes, Captain LaPenta. This is a scheduled
14 training notice. This does not document that I took it. I don't
15 know where I was ten years ago in August. I may have been on
16 vacation. I may have been --

17 Q. Okay.

18 A. -- on sick leave. I personally have never attended shipboard
19 firefighting training.

20 Q. Okay. So as far as you know, that would've been you having
21 been on the schedule to attend, but you don't remember ever
22 actually attending it?

23 A. I'm letting you know, I never took shipboard firefighting. I
24 may be on the schedule to attend, but I never took it.

25 Q. Okay. Thank you, Chief.

1 A. You're welcome.

2 CDR BARGER: All right. We can take that exhibit off the
3 screen. All right. As we have no previous witnesses, in order to
4 ensure our equitable time and opportunity for each party and
5 interest to ask questions, each party of interest will have
6 approximately eight minutes to cross-examine within the scope of
7 the direct examination questions. City of Newark?

8 MR. LIPSHUTZ: Thank you, commander. No questions.

9 CDR BARGER: Port Authority of New York, New Jersey?

10 MR. REILLY: No questions.

11 CDR BARGER: Grimaldi?

12 MR. O'CONNOR: Yes.

13 BY MR. O'CONNOR:

14 Q. Thank you, Chief. I believe you said earlier that you had
15 arrived on scene about an hour after the incident began, is that
16 right?

17 A. Yes, approximately.

18 Q. And that you met with somebody who you believed to be the
19 ship's captain, is that right?

20 A. I was told he was the ship's captain, yes.

21 Q. Where did that meeting take place?

22 A. On the top of the ramp at the aft of the boat.

23 Q. And you asked that person about -- you asked that person for
24 a map, right?

25 A. Yes.

1 Q. And they came back with, I believe you described it, as an
2 eight-and-a-half by 11 small piece of paper that was black and
3 white, right?

4 A. Yes.

5 Q. And that it was useless?

6 A. Yes.

7 Q. can you describe more about that paper? Why was it useless?
8 What did it actually say on it?

9 A. It showed a picture that was -- it had a picture on it that
10 was -- it appeared to me, if I have to describe it, a 1980's fax
11 machine photocopy that was unreadable. I couldn't even decipher
12 what it was.

13 Q. It -- was it a picture of the boat?

14 A. It was in the shape of the boat, yes.

15 Q. A profile view?

16 A. Yes.

17 Q. Or an individual deck?

18 A. Profile view.

19 Q. And then I think you said that you had asked for something
20 else, like the fire control plan that you --

21 A. I asked for a bigger diagram, something that we could use.

22 Q. And you had learned about that during the electric vehicle
23 maritime firefighter training two weeks earlier?

24 A. It was mentioned that there was a larger map, yes.

25 Q. And that this person who you believed was the captain left.

1 And then you returned to the UASI command post, which was down on
2 the dock, right?

3 A. Yes.

4 Q. So do you know if that person ever returned with a full copy
5 of the vessel's fire control plan?

6 A. I did not see him return with the fire control plan. And
7 when I was walking back and forth between the forward command post
8 and the UASI command post, I did not see the large fire control
9 plan map anywhere at that time.

10 Q. I think you had said, when speaking to this who you believed
11 was the captain, that you had asked them about the crew as well,
12 is that correct?

13 A. Yes.

14 Q. And that they had said that all of the crew were off the
15 ship?

16 A. Yes.

17 Q. We previously heard from other witnesses earlier today that
18 there were crew members who were up on top of the ship with fire
19 hoses, wetting down cars.

20 A. Yes, prior to my arrival, yes.

21 Q. Prior to. Do you know if they were still there after you
22 arrived?

23 A. After I arrived, I tried to find out the status of the crew
24 members. And at that moment when I was at the command post, I was
25 advised that the members were off the ship.

1 Q. Do you know what the basis of that statement was, that the
2 members were off the ship, the crew members?

3 A. Because I inquired where -- if -- where the crew members
4 were.

5 Q. Who did -- you asked that at the incident command post?

6 A. Yes.

7 Q. Who did you ask that question to?

8 A. It was asked to Deputy Chief Carlucci, Fire Chief Jackson,
9 the chief driver and the individual who I was told was the captain
10 of the boat.

11 Q. Okay. I think earlier you were asked what factors you
12 believe contributed to this particular incident. And I think one
13 of the factors you identified was, and I believe this is your
14 words, horrendous communications.

15 A. Yes.

16 Q. Were there any other factors that you believe contributed to
17 the incident?

18 A. Initially there was some communication issues talking with
19 the crew.

20 Q. How about with equipment?

21 A. Equipment on our end, we responded with a full complement of
22 equipment that we respond to. I think we were adequately
23 equipped.

24 Q. I believe you've been describing how there had been no marine
25 training prior to the electric vehicle training and after the

1 training that was shown in the exhibits. Is that correct?

2 A. No, I did not say that.

3 Q. What --

4 A. There was maritime firefighting training prior my assignment
5 as the battalion chief of the training division.

6 Q. What year was that?

7 A. I can't recall. I don't know.

8 Q. Was that the training that was in the subject matter of the
9 exhibits that were shown earlier?

10 A. Evidently, yes.

11 Q. I believe you had said that you are the UASI rep for Newark
12 and that you've been in that post for about -- for a short period
13 of time, correct?

14 A. I am a member of the Fire CBRNE Committee, yes.

15 Q. The Fire CBRNE Committee?

16 A. Yes.

17 Q. Who -- and you've been a member of that for how many months
18 or years?

19 A. Since the beginning of '23 I believe.

20 Q. Did somebody else at the Newark Fire Division hold that
21 position before you?

22 A. There was a firefighter assigned to that position prior to
23 me, yes.

24 Q. Who was that person?

25 A. He's retired. Firefighter Lucas Russer (ph.).

1 Q. And we also talked about the New Jersey Fire Boat Taskforce
2 as well. Do you know if Newark has a representative assigned to
3 that taskforce?

4 A. It's someone from the Special Operations Divisions. Usually
5 the captain.

6 Q. Do you know who that person is?

7 A. Matt Marcineac (ph.), currently retired.

8 Q. Is there anybody who -- currently holds that position for
9 Newark?

10 A. I'm not aware of any officer being assigned as of yet.

11 Q. I think you had said earlier that when organizing with UASI
12 for their rescue operation, that you were treating it like a
13 structure fire. Is that correct?

14 A. The plan of approach was to treat it as a high rise fire.

15 Q. Okay.

16 A. A structure is a wide term.

17 Q. Do you know whether Newark has any standard operating
18 procedures for responding to shopboard fires?

19 A. No.

20 Q. Have you been a part of any post-incident analysis relating
21 to this fire?

22 A. No.

23 Q. Has there been any, to your knowledge?

24 A. No, no one has been available. Every -- people have been
25 off, so we haven't been able to gather collectively and have one.

1 Q. Do you anticipate that there will be one in the future?

2 A. Absolutely.

3 Q. That's all the questions that I have. Thank you.

4 A. Welcome.

5 CDR BARGER: Ports America?

6 BY MR. ZONGHETTI:

7 Q. Good afternoon, Chief. Gino Zonghetti, counsel for Ports
8 America. I assume that you would agree that training is important
9 for firefighters for their own personal safety, as well as for the
10 safety of the public?

11 A. Training is paramount to the safety of firefighters and the
12 public, yes.

13 Q. And the firefighters in the Newark Fire Department rely upon
14 the Newark Fire Department for the training they receive to do the
15 job at hand, is that correct?

16 A. The fire department provides training to the firefighters. I
17 think there's training that's available outside the fire
18 department that -- but, you know, that they can take on their own.

19 Q. Right. But when they sign up with the Newark Fire
20 Department, part of it's charter, essentially, is that we will
21 give you training that you need to do your job, fair?

22 A. We give them the basic requirement training established for
23 the division of fire safety, yes.

24 Q. And the Port of Newark has always been within the
25 jurisdiction of the Newark Fire Department as long as you've been

1 on the job?

2 A. Yes, sir.

3 Q. And in the Port of Newark, it's always been known to the
4 Newark Fire Department and those officers with whom you serve,
5 that shipboard firefighting may become something that has to be
6 done by the Newark Fire Department?

7 A. My -- can you repeat the question?

8 Q. Yes.

9 A. You're a little muffled.

10 Q. Sorry.

11 A. I can't understand you.

12 Q. I'm sorry.

13 A. I'm sorry.

14 Q. It's always been understood that the Newark Fire Department
15 might have to perform shipboard firefighting if there was a fire
16 on a vessel in the port?

17 A. Yes.

18 Q. Okay. Now, you mentioned that there was some training, some
19 maritime shipboard firefighter training that was given before you
20 came on the job. But I believe you never had that training,
21 right?

22 A. No, I never had that training.

23 Q. Chief Maresco, who was there this morning, never had that
24 training. Were you aware of that?

25 A. Not aware.

1 Q. Captain Robetto never had that training, were you aware of
2 that?

3 A. Not aware.

4 Q. Are you aware of any firemen or any captain or any chief that
5 was on board the vessel on July 5th, that had firefighter training
6 for marine environment?

7 A. I'm not aware.

8 Q. But the Newark Fire Department knew that was important
9 because they had given a course in that at some point in time, is
10 that the case?

11 A. I guess, yeah.

12 Q. What goes into whether repeat training is done in important
13 issues such as marine firefighting to ensure that all the
14 firefighters get that training?

15 A. Repeat the question please?

16 Q. Yeah. What -- is there any sort of schedule for repeating
17 training? Is there any thought process that goes into making sure
18 that the firefighters have something like marine firefighting
19 training?

20 A. If training is decided that it's needed and it warrants the
21 members taking it, the fire department will set up a training
22 schedule. And we would follow that schedule. And if, say, mass
23 confidence or bailout, for instance, that's done annually. Every
24 firefighter has to continually take that training. Maritime
25 firefighting, it could be part of it.

1 Q. Since the fire, has the Newark Fire Department given its
2 members any marine firefighter training?

3 A. Yes.

4 Q. Okay. The limiting factors, there was a communication issue
5 over the coms. You mentioned that, correct?

6 A. Yes.

7 Q. There were also -- wasn't there an issue with the amount of
8 the oxygen available in the tanks? There was 30 minute tanks,
9 versus other departments that had one hour cylinders?

10 A. Air supply operating in these types of incidents is always
11 going to be a concern.

12 Q. And the cascade truck was out of operation, right?

13 A. The cascade truck was out of service, yes.

14 Q. The crew, the firefighters and the chiefs who were on board
15 had no knowledge of the vessel's CO2 suppression system, how it
16 worked, whether it was -- whether it had been operated?

17 A. I can't answer that.

18 Q. There was an issue with manpower, which is why you called
19 UASI in, is that correct?

20 A. No, that's not why I called UASI in.

21 Q. Okay. Well, were the firefighters depleted and having
22 difficulty and you had to replace them and you needed more
23 manpower or was that part of the problem that was happening on the
24 vessel?

25 A. I anticipated a prolonged operation and firefighting is a

1 very strenuous job. And we would need the manpower to complete
2 the tasks.

3 Q. Was anyone aware on -- as far as you know, of the
4 international connection on board the vessel so that the Newark
5 Fire Department could use its own hoses?

6 A. Not aware.

7 Q. Okay. Well, let me ask this. There was a point in time when
8 the Newark Fire Department and all the other fire departments
9 left, correct?

10 A. Yes.

11 Q. What time was that?

12 A. I have no recollection. I would say the UASI assets, if I
13 can remember, we were off the boat at certain 4:30, 5:00 in the
14 morning, the UASI assets were -- left.

15 Q. But the fire was still raging on the vessel, wasn't it?

16 A. I don't know. I was not up there.

17 Q. What -- why did the fire department leave if there was --

18 A. The Newark Fire Department did not leave. The UASI assets
19 left.

20 Q. Okay.

21 A. The Newark Fire Department had presence the entire time.

22 Q. Were they fighting the fire on the vessel after everyone
23 left, after --

24 A. I was not there.

25 Q. Okay. In terms of the fire -- the New Jersey Fire Boat

1 Taskforce, that was a special operate that came under special
2 operations?

3 A. Yes.

4 Q. Was special operations activated for this fire?

5 A. Members of Special Operations were on scene operating at the
6 fire.

7 Q. Okay. Did the fireboats, were they ever activated and sent
8 the Newark fire boats?

9 A. I'm not aware.

10 Q. Were you aware whether the fire boats were operational?

11 A. I'm not aware.

12 Q. Do you know whether anyone in the Fire Boat Taskforce, any of
13 the Newark Fire Department members, had any specialized training
14 for marine firefighting?

15 A. I'm not aware.

16 Q. Are you aware that the FDNY has a specialized training that's
17 available to other fire departments for marine fire department
18 firefighting, including a simulator?

19 A. I do now after the events of July.

20 Q. Do you know whether any Newark Fire Department members had
21 ever been trained in the simulator?

22 A. I'm not aware.

23 MR. ZONGHETTI: All right. Thank you, sir.

24 CDR BARGER: American Maritime Services?

25 MR. PALLAY: Thank you.

1 BY MR. PALLAY:

2 Q. Good afternoon, Chief.

3 A. Good afternoon.

4 Q. My name's Matt Pallay of Freehill Hogan & Mahar. Earlier you
5 discussed that you were part of deliberations with respect to
6 turning on the ventilation system, is that correct?

7 A. I wasn't directly involved in that decision. I was present
8 when the conversation was taking place.

9 Q. Okay. So I just wanted to ask -- clarify that. By
10 deliberations, I mean, who was -- what kind of conversation was
11 had, who was having it regarding turning on the ventilation
12 system?

13 A. The incident commander, members of the boat, crewmembers of
14 the boat.

15 Q. And was this on -- was this over the radio or was this on the
16 deck?

17 A. It was face to face on the rear of the boat.

18 Q. Okay.

19 A. On the dock.

20 Q. Okay. Did this occur -- and this is -- it wasn't up on Deck
21 12?

22 A. I don't know. I wasn't on Deck 12.

23 Q. As part of deliberations, were there any concerns about
24 turning on the ventilation?

25 A. I wasn't made aware.

1 Q. Did you have any concerns about the ventilation being turned
2 on?

3 A. I didn't have any considerations. I didn't take anything
4 into consideration because I wasn't directly involved with the
5 decision making of what the effects of turning on the ventilation
6 system would have either negative or positive.

7 Q. Did you have a chance to witness the effects of turning on
8 the ventilation system?

9 A. No.

10 Q. Okay. Did the ventilation system improve or worsen
11 conditions on the vessel?

12 A. I was told that in some parts of the ship it improved and
13 then in other parts of the ship, it hampered the efforts.

14 Q. And do you know which parts were what?

15 A. I was told by the members that were being removed in the port
16 aft stairwell that the smoke lifted when the fan was on, but
17 inside the deck cargo hold, the smoke was worse.

18 Q. Okay. And that was where firefighters were being extricated,
19 correct?

20 A. That was where the firefighters were located, yes.

21 Q. All right. Were you ever part of any discussions about
22 closing of the ramp door or the watertight door on Deck 12?

23 A. No.

24 Q. Were you ever made aware of any efforts to close the door on
25 Deck 12?

1 A. No.

2 Q. In conducting rescue operations, were pack trackers
3 available?

4 MR. LIPSHUTZ: Respectfully, none of this was the subject of
5 his direct examination. I have not objected, but there doesn't
6 seem to be any limitation, so I am objecting now.

7 CDR BARGER: If I may, Mr. Pallay, yeah, if you would speak
8 to the relevance of the question related to our direct
9 examination.

10 MR. PALLAY: I'm just trying to figure -- you know, he
11 testified about the equipment that was used during the rescue and
12 I just wanted to see if this is included in that.

13 CDR BARGER: Okay. I'll allow it. Just to first find out if
14 he has any knowledge about it and then --

15 MR. PALLAY: Okay.

16 CDR BARGER: -- questions remaining within the scope of what
17 we had asked.

18 BY MR. PALLAY:

19 Q. Chief, are you -- are pack trackers part of the equipment
20 used by Newark Fire for rescue operations?

21 A. We have pack trackers in the department, yes.

22 Q. Were you aware if pack trackers were used on July 5th?

23 A. No, I'm not aware.

24 Q. Were pack trackers available on scene on July 5th?

25 A. Pack trackers are -- three of them, I believe, are kept. One

1 with the deputy chiefs and one with Battalion 4 and I believe one
2 with Battalion 1.

3 Q. And to your knowledge, you didn't see a pack tracker used on
4 July 5th?

5 A. I did not see a pack tracker utilized.

6 MR. PALLAY: That's all I have. Thank you, Chief.

7 BY CDR BARGER:

8 Q. Chief, one follow up question. In your time with the fire
9 department, have you ever been aware of or been a part of any
10 training, drills or exercises conducted with the Coast Guard from
11 the Port of Newark?

12 A. Yes.

13 Q. What training drills or exercises? Can you elaborate on what
14 it was?

15 A. Hazardous materials response drills. We've had a couple of
16 them on some ships down at the port.

17 Q. Okay. Any search and rescue type drills or exercises?

18 A. We would drill being involved with the rescue company, the
19 removal of going below deck, getting the -- a crew member off a
20 ship or removing someone from one of the cranes.

21 CDR BARGER: Oh, any other follow up questions from the
22 investigative team?

23 LTC MOORE: Just one, Commander.

24 BY LTC MOORE:

25 Q. I think earlier you mentioned that he special operations

1 division has both a captain and a battalion chief, is that
2 correct?

3 A. No, they have a captain and they have a -- the deputy chief.

4 Q. And the deputy chief.

5 A. There's a deputy chief and he oversees the Training Division
6 and the Special Operations Division.

7 Q. Okay. Thank you.

8 A. You're welcome.

9 LTC MOORE: Just wanted clarification.

10 BY CDR BARGER:

11 Q. And, I'm sorry, one last question. Back to the training that
12 you were involved with, removing the crewmember from below deck, I
13 believe you said, hazmat. Was part of that training drill or
14 exercise nautical terminology, ships terminology?

15 A. I can't recall, to be honest with you. It was a while ago.

16 Q. Okay. How along ago, would you say, if you had to guess?

17 A. Well, probably over -- it's over five years. I'm a chief
18 five years now, so.

19 Q. Okay.

20 A. All right.

21 Q. All right. Thank you, Chief.

22 A. You're welcome.

23 CDR BARGER: All right. Chief LaPenta, thank you for your
24 time today and testimony. You are subject to recall and my
25 sequestration order remains in place until released by me. You

1 will be notified by Lieutenant Reed, our recorder, when you are
2 released from that order. The hearing is now in recess for five
3 minutes before my closing remarks for the day. The time is now
4 4:12 p.m. We will reconvene at 4:17 p.m.

5 (Off the record at 4:12 p.m.)

6 (On the record 4:18 p.m.)

7 CDR BARGER: The time is now 4:18 p.m. local time in Union,
8 New Jersey. There are no more witnesses or exhibits to present on
9 today's schedule. Today we heard testimony from Battalion Chief
10 Maresca, Captain Robetto and Battalion Chief LaPenta, all of the
11 Newark Fire Department. We introduced Coast Guard Exhibit 13. It
12 is publicly available through the investigation's newsroom.

13 Tomorrow we will hear from the City of Newark Assistant
14 Public Safety Director Rufus Jackson, who was the Newark Fire
15 Chief on July 5th, 2023, Mr. Frank Gorman of Coast Guard Sector
16 New York, and Mr. Peter Montella of the Port Authority of New York
17 and New Jersey. We plan to introduce proposed Coast Guard
18 Exhibits 14 and 15. They will be publicly available on the
19 investigation's newsroom at the resumption of the hearing.

20 As a logistical note, for those attending in-person, building
21 management has asked that all visitors please park in the front
22 parking lots for the remainder of the proceedings. If you park in
23 the back lot, you will be asked to move. I request that all
24 parties and interest counsel stay beyond for a follow on
25 discussion.

1 Thank you again for attending today. The time is now 4:20
2 p.m. Hearing session day four is not adjourned. We will
3 reconvene on Wednesday, January 17th, 2024, at 8:30 a.m. Thank
4 you.

5 (Whereupon, the proceedings in this matter were recessed, to
6 be continued, on Wednesday, January 17, 2024 at 8:30 a.m.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

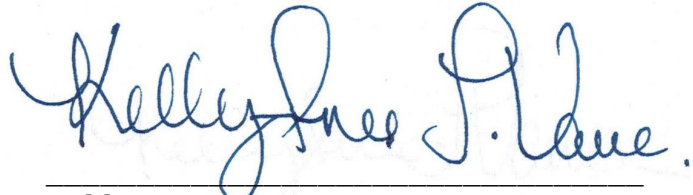
IN THE MATTER OF: FIRE ABOARD *GRANDE COSTA D'AVORIO*
AT BERTH 16 IN THE PORT OF NEWARK
IN NEWARK, NEW JERSEY ON JULY 5, 2023
US Coast Guard District 1 Formal
Investigation
Public Hearing Day 4 of 6

ACCIDENT NO.: DCA23FM039

PLACE: Union, New Jersey

DATE: January 16, 2024

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

A handwritten signature in blue ink, reading "Kelly Anne T. Vance". The signature is fluid and cursive, with the first name "Kelly" being the most prominent.

Kelly Anne T. Vance
Transcriber