

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

Thursday,
 January 18, 2024

Hearing Day 6 of 6

APPEARANCES:

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Presiding Officer and Lead Investigating Officer
United States Coast Guard

LCDR STEPHANIE MOORE, Investigating Officer
United States Coast Guard

WILLY PITTMAN, Investigator
National Center of Expertise (NCOE)
United States Coast Guard

LT BRANDON REED, Investigating Officer
United States Coast Guard
(Recorder)

LCDR KATHERINE WARD, Attorney Advisor
United States Coast Guard

BART BARNUM, Investigator in Charge
National Transportation Safety Board

NANCY McATEE, Investigator
National Transportation Safety Board

Parties in Interest:

MATTHEW PALLAY, Attorney
(On behalf of American Maritime Services of New York)

GINO ZONGHETTI, Attorney
(On behalf of Ports America)

ROBERT O'CONNOR, Attorney
(On behalf of Grimaldi Deep Sea)

JOHN REILLY, Attorney
(On behalf of Port Authority of New York and New Jersey)

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City of Newark Law Department
(On behalf of City of Newark and the Department of
Public Safety, Division of Fire)

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P R O C E E D I N G S

(8:30 a.m.)

CDR BARGER: Good morning, Ladies and Gentlemen. The time is now 8:30 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 Thursday, January 18th, 2024. It is the sixth and final planned day of the formal hearing into the previously mentioned matter.

I am Commander Christian Barger, the leading investigating officer for this 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 47 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 investigation team members present today other than myself are LCDR Stephanie Moore, Mr. Willy Pittman and LT Brandon Reed who is also the recorder. The legal advisor to this

1 investigation is LCDR Katherine Ward.

2 The National Transportation Safety Board is participating in
3 this hearing and represented by Mr. Bart Barnum and Ms. Nancy
4 McAtee.

5 The Coast Guard has designated five parties in interest to
6 this investigation. We will now take appearances for the parties
7 from my left to right. When I call the party, please state your
8 name and spell your last name for the record. City of Newark.

9 MR. LIPSHUTZ: Good morning. Gary Lipshutz, L-i-p-s-h-u-t-z,
10 first assistant corporate counsel, City of Newark, City's
11 Department of Public Safety, Division of Fire.

12 CDR BARGER: Port Authority of New York and New Jersey.

13 MR. REILLY: Good morning. John Reilly, R-e-i-l-l-y, from
14 Squire Patton Boggs, on behalf of the Port Authority.

15 CDR BARGER: Thank you. Grimaldi Deep Sea.

16 MR. O'CONNOR: Good morning. Robert O'Connor, O-'-C-o-n-n-o-
17 r, from Montgomery McCracken for Grimaldi.

18 CDR BARGER: Thank you. Ports America.

19 MR. ZONGHETTI: Good morning. Gino Zonghetti, Z-o-n-g-h-e-t-
20 t-i, from Kaufman Dolowich on behalf of Ports America.

21 CDR BARGER: Thank you. And American Maritime Services.

22 MR. PALLAY: Good morning. Matthew Pallay, P-a-l-l-a-y, from
23 Freehill Hogan and Mahar, on behalf of American Maritime Services.

24 CDR BARGER: Thank you. We will now take a 10 minute recess
25 to prepare the first witness, Battalion Chief Kupko. The time is

1 now 8:33 a.m. We'll reconvene at 8:45 a.m. Thank you.

2 (Off the record at 8:33 a.m.)

3 (On the record at 8:45 a.m.)

4 CDR BARGER: The time is now 8:45 a.m. local time in Union,
5 New Jersey. And the hearing is now reconvened and back on the
6 record regarding the fire on board the *Grande Costa D'Avorio*.

7 Our first witness is Battalion Chief Kupko of the Newark Fire
8 Department. Lieutenant Reed, please swear in the witness.

9 LT REED: Chief Kupko, will you please stand and raise your
10 right hand.

11 (Whereupon,

12 JAMES KUPKO,

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

15 LT REED: Thank you very much, Chief. You may be seated.
16 Chief, I have a few preliminary questions for you. Will you
17 please state your name and spell your last name for the record?

18 THE WITNESS: James Kupko, last name is spelled K-u-p-k-o.

19 LT REED: And on July 5th, 2023, what was your profession?

20 THE WITNESS: Battalion chief for the Newark Fire Department.

21 LT REED: And who were you employed by at that time?

22 THE WITNESS: City of Newark.

23 LT REED: What professional certificates or certifications do
24 you hold related to that position?

25 THE WITNESS: Would you repeat? I'm sorry.

1 LT REED: What professional certificates or certifications do
2 you hold related to your position?

3 THE WITNESS: All the basic requirements, firefighter level
4 1, several incident management certifications. I have USAR
5 training.

6 LT REED: Okay. And, on July 5th, 2023, how long had you
7 been employed in your position?

8 THE WITNESS: A little over 7 years.

9 LT REED: Okay. Thank you very much chief. Commander, the
10 witness is ready to proceed.

11 CDR BARGER: All right. Thank you. Ms. McAtee will lead the
12 direct examination of this witness. Ms. McAtee, please proceed.

13 DIRECT EXAMINATION

14 BY MS. MCATEE:

15 Q. Good morning, Chief.

16 A. Good morning.

17 Q. What was your position on July 5th, 2023?

18 A. Battalion 5.

19 Q. How long have you held the rank of battalion chief?

20 A. Almost 8 years.

21 Q. How many companies are in your battalion?

22 A. Six.

23 Q. What companies are they?

24 A. Engines 5, 14, 16 and 27, Ladders 4 and 8.

25 Q. What was the staffing level for your battalion on the night

1 of July 5th, 2023.

2 A. Roll call was 6 captains, 14 firefighters.

3 Q. Are you aware of what units are typically the first to Port
4 of Newark?

5 A. Yes.

6 Q. Which units are those?

7 A. Depending on the proximity, Engine 27, Engine 19, Ladder 4 or
8 Ladder 10.

9 Q. Are there any specialized units such as a marine unit located
10 in Battalion 5?

11 A. Yes, the marine unit.

12 Q. And that's the only one?

13 A. There's a still water moving rescue team as well.

14 Q. Okay. Please describe these units including the staffing
15 requirements.

16 A. Can you clarify the question?

17 Q. How many people does it take to run the marine unit and what
18 does it do?

19 A. I have no fireboat training. The staffing has to be I
20 believe at least one officer and four firefighters for the boat to
21 leave dock. I'm not sure of those exact numbers.

22 Q. Okay. Is there any required specialized training for those
23 individuals?

24 A. Yes, they're supposed to go through a certification process.

25 Q. Do you know what exact training is involved in that?

1 A. I don't know exactly what it entails, no.

2 Q. Are Coast Guard credentials required to operate to the manned
3 boat?

4 A. To the best of my knowledge, no.

5 Q. Are you aware if the marine unit participates in the New
6 Jersey Fireboat Taskforce?

7 A. I became aware through these proceedings, yes.

8 Q. But not before. For the record.

9 A. No.

10 Q. Now, as far as your personal training, do you have any marine
11 firefighting training?

12 A. I did attend a class in 2014, yes.

13 Q. At that time, was it mandatory?

14 A. It was not. I was selected based on my current rank and
15 file.

16 Q. Do you recall how long the training was?

17 A. One week.

18 Q. Do you recall what material was covered? I know it's been a
19 while.

20 A. It was a large body of material, yes. It was essentially an
21 intro to marine firefighting as (indiscernible) as it could
22 possibly be.

23 MS. McATEE: Lieutenant Reed, could you bring up Exhibit 13,
24 page 43?

25 BY MS. McATEE:

1 Q. For the record, do you see your name on this list of
2 attendees?

3 A. Yes.

4 Q. Thank you. Besides the department's standard firefighter
5 training, do you have any other specialized training that you have
6 received through your employment with the fire department?

7 A. Yes, I have some urban search and rescue training. I did not
8 complete that training because I was subsequently promoted out of
9 the position before I had the opportunity to do so.

10 Q. Do you remember July 5th, 2023?

11 A. I do.

12 Q. How were you alerted to the ship fire in the Port of Newark
13 on July 5th, 2023?

14 A. Through our normal CAD system dispatch.

15 Q. Please discuss your early response to the incident from your
16 arrival shoreside until you entered the ship?

17 A. Response time depending on time of day, et cetera, is going
18 to be somewhere in the 3 to 5 minute ballpark figure. While en
19 route, based on some of the knowledge that I can recall from my
20 training, I did request that prior to our arrival, the ship's
21 cargo manifest and blueprint or plan be brought down. Upon
22 arrival, initially there was a request for Engine 27 and Ladder 4
23 to man the fireboat. We subsequently made a request for them to
24 remain on scene as they were already committed into the port area.
25 I had a liaison escort the first due engine company up after I

1 gave a general size up. At that time, there was minimal smoke
2 showing from top deck.

3 Q. Did you take the incident command at that time?

4 A. I did assume command until I was relieved, yes.

5 Q. Did you speak with any ship's crewmembers at this point?

6 A. No, there was a liaison at the deck at the base of the roll
7 on, roll off ramp, but we had no direct communication.

8 Q. Okay. At what point did you had off the incident command and
9 to whom?

10 A. Shortly after that, I can't give you an exact time span,
11 minutes, when Deputy Chief Carlucci arrived on the scene, he would
12 assume command.

13 Q. And how was this accomplished?

14 A. Via the radio.

15 Q. And this would show up on the radio transcripts?

16 A. It should, yes.

17 Q. Okay. So within the structure of the incident command, what
18 was your role at this point?

19 A. I would have been the operations chief at that point.

20 Q. And what does that entail generally?

21 A. Gather as much information as we possibly can, make a
22 determination on tactics, manpower, equipment, et cetera, that's
23 going to be needed.

24 Q. Did Chief Carlucci remain the incident commander throughout
25 the entire incident after you turned it over to him?

1 A. From the duration that I was on scene, yes, I believe so.

2 Q. Do you recall who was tasked at the fire department to do
3 personnel accountability?

4 A. Ordinarily that job belongs to the chief's driver, the deputy
5 chief's driver.

6 Q. And on the night of July 5th, 2023, who was that?

7 A. That was Firefighter Figueroa.

8 Q. And how was the accountability done on scene?

9 A. Members are issued accountability tags. They should have
10 two. It states their name, the company that they're assigned to.
11 One of those tags should remain on their person and one of them
12 should be brought to and placed on the accountability board.

13 Q. Is there sort of an accountability done at each level say the
14 deck 10 command? Did you do kind of your own accountability of
15 which units you sent where?

16 A. I did my best to keep all of my units on deck 12, within my
17 view at all times.

18 Q. Who did you send to deck 10 originally?

19 A. Engine 27 was the first arriving company.

20 Q. At what point did you yourself go up to deck 12?

21 A. Once Deputy Chief Carlucci had assumed command was on the
22 scene.

23 Q. Did you speak with any ship's crews at this point?

24 A. Once I was brought up to deck 12, I requested to make contact
25 with the ship's captain, correct.

1 Q. And did you?

2 A. I did, briefly.

3 Q. Were you outfitted with PPE at this point?

4 A. I was not. I was under the impression that it was that it
5 was four to six vehicles on fire, and the initial report that I
6 got from my captain at Engine 27, when he went up, was the fire
7 was extinguished.

8 Q. Okay. Where on deck 12 did you establish your area of
9 command? We have a diagram I'll get for you.

10 MS. McATEE: Lieutenant Reed, Exhibit 7(b) please.

11 THE WITNESS: Initially when I came up and I first made
12 contact with the captain, it was on the starboard side, and we set
13 up the staging area that was on the portside near what would
14 become the eventual ladder well that we would enter down into deck
15 10.

16 BY MS. McATEE:

17 Q. Can you show that on this diagram please?

18 A. There it goes.

19 MS. McATEE: Let the record show that the witness has the
20 cursor on the starboard side.

21 THE WITNESS: We made contact initially somewhere around this
22 area and then the staging area was set up where this arrow here is
23 located between these bulkhead compartments and the ladder well
24 here.

25 MS. McATEE: And then let the record show that the witness

1 moved the mouse to the portside near the water tight door. Thank
2 you.

3 BY MS. MCATEE:

4 Q. So what happened next?

5 A. When I first made contact with the captain, I asked him if
6 the CO2 system on the ship was deployed. He said, yes, prior to
7 our arrival. I asked him if it could be repeated, and he told me,
8 yes. And at that point in time, he broke from my line of view
9 back towards the superstructure of the ship, towards the front of
10 the ship, the bow end. At that point in time, he left me with
11 what I was assuming the first mate, and he escorted me over to
12 where we set up the staging post on the portside of the ship.

13 Q. How effective were communications once you were on board?

14 A. On the top deck initially, they were pretty good because
15 there was minimal manpower on the scene that was committed onto
16 the ship at that time.

17 Q. And what was the primary means of communication?

18 A. Our issued radios.

19 Q. Did you notice how the crew communicated with one another?

20 A. Some of the members appeared to have walkie-talkies.

21 Q. So in addition to Engine 27, what other teams were sent to
22 deck 10?

23 A. Initially none. I wanted to commit as few personnel as
24 possible.

25 Q. At what point did it become necessary for more personnel to

1 do down to deck 10?

2 A. We ascertained from either the captain or the ship's mate, I
3 do not recall exactly, that they had a report from their members
4 that the fire originated on deck 10.

5 Q. And who directed the operation on deck 10?

6 A. Chief Maresca.

7 Q. What conditions were reported back to you by Engine 27 after
8 they made entry into deck 10?

9 A. They reported smoke and fire.

10 Q. What was the next step for you at this point?

11 A. The fire, from the reports that I received from lower floor
12 seemed to be minimal at that time. So we assumed that the CO
13 system had done its job by and large. We were able to commandeer
14 one of the ship's crew's lines. We requested additional hose
15 which was brought to us in a fairly short time manner so we could
16 piece into that hose and have enough to make it stretch down to
17 that deck on level 10, so that we had protection when we went in
18 to investigate.

19 Q. Did you hear the initial mayday?

20 A. Repeat the question.

21 Q. Did you hear the initial mayday?

22 A. I hear a mayday, yes.

23 Q. Do you recall the wording of that mayday?

24 A. No, a lot of the transmission was garbled. I did catch that
25 it came from Captain Robetto (ph.).

1 Q. What happened next?

2 A. We initiated a RIT team response to go in and locate them. I
3 know Chief Maresca asked for them several times to back out prior
4 to that call.

5 Q. What operations were going on, on deck 12 at this time, if
6 any?

7 A. I had a staging area there. I was bringing up resources that
8 we thought we would need. So we had members bringing up
9 additional air bottle to replace as well as a guide rope or a
10 searcher's safety rope.

11 Q. Were you aware if mutual aid had arrived at this point or was
12 it just Newark on scene?

13 A. It was just Newark I believe at this time.

14 Q. What happened next?

15 A. We -- Deputy Chief Carlucci conducted a PAR, personal
16 accountability. At that point in time, we were able to ascertain
17 there was approximately five firefighters missing. Captain
18 Robetto was able to radio that he had found his way out. Two
19 other members had made their way down off the ship, back to the
20 command post, and Deputy Chief Carlucci gave me a radio report
21 that he had eyes on them, and they were safe and sound.

22 Q. So how was it determine who was still missing?

23 A. We knew it was members that were in there based on who Chief
24 Maresca had allowed into the structure. So at that point in time,
25 we would ascertain that it was Brooke and Acabou once the other

1 two were identified.

2 Q. And what happened next?

3 A. Like I said, our RIT team was deployed. They followed the
4 hose line in, could not find the members on the hose line. They
5 then attached a search rope from there. It took several teams I
6 believe, I'm not sure how many, to actually locate Firefighter
7 Acabou, but it was more than one.

8 Q. Were you aware that there was a request to turn on the ship's
9 ventilation?

10 A. I was not aware at the time, no. The request did not come
11 from me. When that smoke started to vent up onto the top deck, I
12 had an idea or inkling that it was called for, and then I asked
13 the ship's mate to shut the system down.

14 Q. Was it ever turned on again to your knowledge?

15 A. I do not recall.

16 Q. Okay. At what point did the UASI mutual aid units start to
17 arrive?

18 A. It was well after the mayday.

19 Q. So what happened next?

20 A. We were able to locate one firefighter. We later found out
21 that it was Firefighter Acabou. There was a request for
22 additional equipment. We needed spreaders to try and free him.
23 He had wedged himself, from the reports, between vehicles. And so
24 it was going to be a time and labor intensive thing, the reflex
25 time to get the resources that we needed from the ground up to the

1 10th deck. It was going to take longer than it ordinarily would
2 in a regular situation, not a regular situation, but a more
3 routine structural fire. Once we had everybody get those
4 resources in place, they were able to eventually and effectively
5 free him and remove him where we made the decision to bring him up
6 to deck 12.

7 Q. And what was the next step from there?

8 A. Once we had him on deck 12, members began CPR. We secured
9 him to the Stokes basket, and we were in conversations with the
10 ship's crew in being able to ascertain the use of their crane to
11 lower the member down from the ship. We thought that was going to
12 be the safest and quickest way to do it.

13 Q. And were here search and rescue operations still going on at
14 deck 10 at this time?

15 A. I was not on deck 10. I don't know if the operations
16 continue or not. My focus at that time, within my span of
17 control, was deck 12 and getting Firefighter Acabou off the ship,
18 finding the easiest path of least resistance to remove --
19 manipulate him around the ship and get him over to the ship's
20 crane.

21 Q. And once firefighter Acabou was removed from the ship, what
22 happened?

23 A. At that point in time, an extended period of time had passed.
24 I believe members were brought down off the ship at one point to
25 regroup. By that time, the additional UASI strike teams were on

1 scene. I was then directed back up with Chief Carlucci and a
2 Jersey City strike team to continue to search.

3 Q. Was there ever a call to evacuate the ship?

4 A. There was a call from our dispatch initially to evacuate when
5 the maydays were first sounded. I then tried to as calmly as I
6 could come over the radio and say we do not want to evacuate the
7 ship. This is an effective rescue. We have a mayday. We have a
8 member missing or members missing, and we needed to, one, find
9 accountability and then, two, construct the plan to try and free
10 the victims -- locate and free the victims.

11 Q. Once the mutual aid units began to show up, did you role as
12 operations command change?

13 A. No.

14 Q. Can you walk us through what happened from that point until
15 you exited the ship please?

16 A. We had an initial Jersey City team that went up. They
17 performed a search. During that search, one of their members
18 sustained an injury and had to receive medical attention. They
19 went by their reports as far as they could, almost to the other
20 side of that deck, and they were unable to locate them at that
21 time.

22 Q. At what point did you leave the ship?

23 A. Not long after that, I believe there was a second team that
24 came up. I can't recall what department they were from. I was
25 essentially the liaison escorting them. I had a decent layout of

1 the ship and what was the quickest means of ingress and egress at
2 that point.

3 Q. And after you left the ship, what was your role shoreside?

4 A. We were essentially just rehabbing at that point. I didn't
5 have any role that was directly involved with the firefighting
6 operation.

7 Q. I'm going to change focus just a little bit. Were you aware
8 that the water tight door on deck 12 was open, and that they were
9 unable to get it closed?

10 A. I was aware that it was open because we were entering and
11 exiting through that door, but I wasn't privy to the operation
12 before, if there was anything mechanically wrong with it. That
13 information was not offered up by the ship's crew.

14 Q. Did the smoke level coming out of that door change over your
15 -- the course of your tenure on deck 12?

16 A. It was minimal to no smoke coming out of that stairway. The
17 stairway was probably the most tenable area on the ship.

18 Q. I'm talking about the water tight door just forward of that
19 where the ramps were.

20 A. Off to the right?

21 Q. Yes.

22 A. Yes. That's initially where it is, but it was mild smoke
23 coming out of it throughout the event. When the smoke intensified
24 is when the exhaust system was put on, on the ship. That was
25 making the environment outside on deck 12 uncomfortable for the

1 members. That's why I requested to have it shut down.

2 Q. Okay. What color was the smoke, the intensity, would you
3 say?

4 A. Grayish.

5 Q. And after they turned the ventilation on, how did the smoke
6 change?

7 A. It just intensified, the volume of it.

8 Q. Same gray smoke, just more of it?

9 A. Correct.

10 Q. Were you aware of who was responsible for the accountability
11 of the ship's crew?

12 A. To the best of my knowledge, it would be the ship's captain.

13 Q. And to the best of your knowledge, where you aware of how he
14 accomplished that?

15 A. When I had the initial contact with him, I requested if he
16 had conducted a roll call and all his members accounted for. He
17 told he had 28 members on the ship, and that he did have them all
18 accounted for at that time.

19 Q. Were they all on deck 12 or were you aware that they may be
20 located in another --

21 A. I did a quick headcount. There was not 28 members up there.
22 I can't give you the exact number. So they were scattered
23 throughout the ship.

24 Q. Okay. Are you aware of what a muster area is?

25 A. A muster area?

1 Q. Um-hum.

2 A. No.

3 Q. Okay. You said initially that on your -- that you were
4 initially asked for blueprints and a cargo manifest. Was that
5 ever provided to you?

6 A. Not to me directly. I understand that eventually it did make
7 its way to the command post.

8 MS. McATEE: That's all the questions I have for you at the
9 moment. I'll turn the question over to Commander Barger.

10 CDR BARGER: Thank you.

11 BY CDR BARGER:

12 Q. Chief, I have some follow-up questions for you, and then each
13 member of the investigation team will have the opportunity to ask
14 follow-up questions as well.

15 Going back to Ms. McAtee's earlier questions about the
16 fireboat, you mentioned that's within your battalion. Is that
17 correct?

18 A. That's correct.

19 Q. You mentioned what your understanding of the manning
20 requirement is for the fireboats. Do you know, does the Newark
21 Fire Department have any type of written policy or standard
22 operating procedure that dictates a manning requirement for the
23 fireboats?

24 A. I am unaware of one, but again I never received any direct
25 fireboat training.

1 Q. And you've never seen a written policy or standard operating
2 procedure then?

3 A. No.

4 Q. And then with regards to training requirements for members
5 that operate the fireboats, have you -- are you aware of any
6 written policy or standard operating procedure that requires any
7 particular level of training to operate the fireboats?

8 A. I'm sure there's some level of training that's required. I'm
9 not privy to that information though.

10 Q. Okay. We had looked an exhibit that had your name on a list
11 for training back in 2014. Do you recall what that training
12 consisted of?

13 A. It was several days, classroom discussion, general knowledge,
14 and then one day on a ship simulator at the FDNY Training Ground.

15 Q. Okay. And do you remember where was the classroom training
16 conducted or who conducted it?

17 A. I believe it was Middlesex County Fire Academy.

18 Q. All right. And then when you went over to the -- I think you
19 said the FDNY simulator --

20 A. Correct.

21 Q. -- who conducted that training there?

22 A. Members of their department in conjunction with the members
23 that gave the classroom class.

24 Q. Okay. And when you went through that training, how many
25 Newark Firefighters were in attendance with you? Estimation.

1 A. I don't recall the actual numbers. I do recall that there
2 was one other member who was under my previous command who was in
3 attendance that was on the ship that night as well.

4 Q. Okay. And who was --

5 A. A young firefighter.

6 Q. And who was that?

7 A. Hilton Reynolds.

8 Q. Okay. You mentioned when you got to the roll on, roll off
9 ramp, on the *Grande Acosta D'Avorio*, on July 5th, that you met
10 with a liaison from the ship.

11 A. Correct.

12 Q. Can you describe more about who that person was or what you
13 understood that person's role was?

14 A. I don't know what his title was. He was Southeast Asian
15 descent.

16 Q. Okay. And what conversation did you have with that person?

17 A. Can you get me up to my crew on the top of the ship? What's
18 going to be the easiest way to do that?

19 Q. Okay. Was there any discussion with that person as far as
20 conditions on the ship?

21 A. No. He had no information to offer. Let me clarify that.

22 Q. Okay. At that point, were you ever offered a diagram or the
23 fire safety plan for the ship?

24 A. Again, I had requested it en route while I was responding
25 there. At that time, it wasn't available.

1 Q. Okay. And since you described that person as a liaison, how
2 did you know that person wasn't a member of the ship's crew?

3 A. I'm assuming he was a member of the ship's crew. He was
4 adorn in the same type of uniform that the members on top of the
5 ship were.

6 Q. Okay. And what was that uniform?

7 A. Like a white jumpsuit.

8 Q. Okay. And then as you proceeded up to deck 12, which
9 stairwell did you take to get up there?

10 A. Starboard side.

11 Q. Okay. On your way up to deck 12, did you ever stop to open
12 any doors along the way?

13 A. I did. The escort took off without me at one point in time.
14 I managed my own way to get up there, and I did open up one or two
15 doors mistakenly.

16 Q. Okay. And where were -- in the path that it took you 12
17 floors up, or I guess 9 floors from where you enter on deck 3, do
18 you remember where along the way those doors were that you opened
19 up?

20 A. Somewhere probably deck 8 or 9. I don't know exactly.

21 Q. Okay. How far open did you open the doors and what did you
22 see?

23 A. Piping, mechanical equipment, no real means in or out other
24 than the door that I opened up.

25 Q. Okay.

1 A. It obviously was a dead end.

2 Q. Okay. Any indication of smoke, fire?

3 A. Perfectly clear.

4 Q. When you got up to the top deck, did you open any doors
5 before proceeding out onto the open weather deck?

6 A. When you came up, there was a single flight of stairs that
7 would take you from essentially 11 where you came out of that door
8 up onto deck 12 on the top. There was a door there with access to
9 deck 11. I did request that the crewmembers there open that door
10 so I could get a view inside. They had hand mines, their own hand
11 mines in place for protection, and at that point in time, there
12 was very light gray smoke emanating out of the door similar to
13 what I described earlier coming from the open shaft.

14 Q. Okay. And did -- just to confirm, that was a door on the
15 starboard side or --

16 A. Correct.

17 Q. And how were you sure that that door led into deck 11?

18 A. That's what I was told by the ship's crew. I wasn't sure.

19 Q. Okay.

20 A. I could just go off of the information they gave me.

21 Q. Okay. And is it your understanding that that led into where
22 the cargo deck was or another area of the ship?

23 A. I believe it was the cargo deck to the best of my
24 understanding, yes.

25 Q. Okay.

1 A. No one confirmed or denied that.

2 Q. Were you able to see any vehicles parked inside?

3 A. No, not in that particular area.

4 Q. Okay. Any visible sign of fire?

5 A. No, no visible fire.

6 Q. Okay. You mentioned that Engine 27 was the first company to

7 go down to deck 10. Is that correct?

8 A. Yes.

9 Q. Did they -- do you know, did they go down to -- when did they

10 go down to deck 10 and who was with them?

11 A. They were riding one and two. So there was only two members

12 of the company on the top deck, the captain and the additional

13 firefighter. And we didn't make our way down to there until one

14 of the crew members had revealed to us that they had reports that

15 the fire originated on that deck.

16 Q. Okay. And so was it just the two members of Engine 27 that

17 went down to deck 10 initially?

18 A. Initially along with Chief Maresca, yes.

19 Q. At what point, at what point after you arrived on deck 12 did

20 Battalion Chief Maresca arrive?

21 A. It was minutes later, not a long time.

22 Q. Okay. And when he arrived up on deck 12, what was the

23 coordination like between you and him?

24 A. I was already in the process of requesting resources to come

25 up and staffing. I was trying to find the lay of the land and

1 make contact again with the captain, ascertain as much information
2 as I can from the ship's captain. So him coming up, I was able to
3 relay what I knew to him and then he made his way down to deck 10
4 with Engine 27.

5 Q. Okay. And when he arrived up on deck 12, what did you
6 understand to be his role at that point?

7 A. At that point, it would be overseeing the direct operations
8 on deck 10. He would be the deck 10 supervisor.

9 Q. Okay. And did you two have that direct conversation?

10 A. We had that understanding, yes.

11 Q. Okay. And then you mentioned that when you heard the first
12 mayday call that you heard, that you believed it to be Captain
13 Robetto. How did you know that?

14 A. He stated so over the radio. It was muffled but we could
15 make it out. I know his voice.

16 Q. Okay. Did you ever hear any other maydays called around that
17 same time?

18 A. No.

19 Q. Okay. When you heard the mayday called, was it a clear
20 transmission?

21 A. None of the transmissions that came out of deck 10 were
22 particularly clear.

23 Q. Okay. And why is that?

24 A. I'm not a radio expert. I can't tell you.

25 Q. Okay. And so if the radio transmissions were -- coming out

1 of deck 10 were not necessarily always clear, did you all do
2 anything to overcome that challenge?

3 A. There were attempts made by the RIT teams to go to channel 5
4 which is a direct radio-to-radio communication that doesn't
5 require it to bounce off the repeater.

6 Q. Okay. And was that successful?

7 A. I was trying to monitor both channels. I know they were
8 having difficulty with that as well.

9 Q. Okay. At what point, if ever, did Battalion Chief Maresca
10 come back up to deck 12?

11 A. He came back up to deck 12 after Firefighter Acabou was
12 removed.

13 Q. Okay. And at what point, if ever, did Captain Robetto, who
14 you said called the first mayday, come back up to deck 12?

15 A. It would have been immediately after he extricated himself.
16 Not long after that.

17 Q. Okay. And did you have any communication with him when he
18 got up to deck 12?

19 A. I don't recall.

20 Q. And if you could clarify for me again, how did you become
21 aware of who was missing as a result of that first mayday?

22 A. Through the PAR that was conducted by Chief Carlucci.

23 Q. Okay. Are you aware who reported Brooks and Acabou
24 specifically as missing at that time?

25 A. I had direct communication face-to-face with Maresca. Not

1 face-to-face. We could talk to each other. I couldn't actually
2 see him but I could hear him. He was two floors below through the
3 stairs. We knew that, at that point in time, Robetto himself
4 extricated and then shortly after that, Chief Carlucci gave a
5 radio report that the other two had made their way down through
6 the ship to the command post.

7 Q. Okay.

8 A. So by a process of elimination.

9 Q. Okay. And then at what point, if ever, did Captain Rogers go
10 down to deck 10?

11 A. Captain Rogers was a part of the initial strike team that
12 went in. The second strike team I should say. 27 was the initial
13 team. He was part of that second wave.

14 Q. Okay. Are you aware of who he was with as a part of that
15 second wave?

16 A. Firefighter Brooks, yes.

17 Q. Okay. And then at what point, if ever, did Captain Rogers
18 return to the 12th deck?

19 A. He sustained an injury shortly after entering, rolled an
20 ankle and self-extricated up to deck 10 -- up to deck 12, I'm
21 sorry.

22 Q. And how did you become aware of that?

23 A. I saw him and then had a face-to-face with him.

24 Q. Okay. And did he -- during that face-to-face explain that to
25 you?

1 A. He said he sustained the injury down there. He gave the
2 thermal imaging camera to Firefighter Brooks who remained on deck
3 10 with Captain Robetto and Firefighter Acabou.

4 Q. Okay. So to your understanding, those four went into deck 10
5 together?

6 A. Correct, or shortly staggered.

7 Q. Okay. We've previously heard some indication that Captain
8 Robetto may have had issues with his boots. Did you have any
9 awareness of that? Yep, scratch that. Thank you. Captain
10 Rogers.

11 A. Yeah, but that was after the fact, after he came back up to
12 deck 12. That didn't occur on deck 10.

13 Q. Okay. Any idea why there was failures of boots?

14 A. It was just members that had the leather boots which are
15 purchased by themselves. It appeared that the water that was
16 pooling from them cooling the cars on deck 12 was being heated up
17 by the surface and I'm not a scientist, but it appeared that the
18 glue that attaches the boot to the shoe was coming undone.

19 Q. And so as the water sitting on deck 12 was starting to heat
20 up, how were you all dealing with that? How were you overcoming
21 that issue?

22 A. If you maintained your PPE, you were fine. As long as you
23 were covered up, you were fine.

24 Q. Okay.

25 A. But there's also several pickup trucks that if someone was

1 complaining of it that much, they could have hopped into the bed
2 of the pickup truck and we could have escorted them back over
3 towards the starboard side which didn't have that issue. There
4 was no water pooling.

5 Q. Okay.

6 A. All the water pooling was back towards the stern. As you
7 moved up towards the bow of the ship, that was less and less of an
8 issue.

9 Q. Okay. So back towards the door that you all --

10 A. Yes.

11 Q. -- that the fire department was going in and out to go below
12 to deck 10, that was the area that it was pooling?

13 A. Correct.

14 Q. Okay. And then just to confirm because we've heard in some
15 prior testimony, that Firefighter Brooks may have been left in the
16 space alone for a period of time. What is your understanding
17 of --

18 A. I have no knowledge of that, no.

19 Q. Okay. When you did -- or when the ship's ventilation was
20 turned on, I believe you said you became aware of it because black
21 smoke was starting to pour out onto deck 12?

22 A. There was always smoke emanating from the compartment that
23 the NTSB representative described. That just happened to
24 intensify, more volume.

25 Q. Okay. Was that the only place that smoke was coming out of?

1 A. To the best of my recollection, yes.

2 Q. Okay. So then how did you know that the ventilation had been
3 turned on?

4 A. You could hear it as well. It made an audible.

5 Q. Okay. And then why did you request the ventilation to be
6 turned off?

7 A. Again, smoke started to bank down on the top deck. That was
8 my staging area where I had all my fresh resources, all my
9 manpower, that we were working on shuffling down and up between 12
10 and 10. So when that area started to become less tenable, I
11 requested for it to be shut down.

12 Q. Okay. And in your estimation, how long between when you
13 heard the ventilation come on until when you requested it to be
14 turned off?

15 A. It's a time warp up there. I couldn't tell you --

16 Q. Okay.

17 A. -- exactly.

18 Q. When you -- once the UASI units responded, and I believe you
19 said you had gone down to the dock and met up with them and then
20 went back onto the ship, where did you go on the ship at that
21 point?

22 A. At that point in time, we knew that the staircase towards the
23 stern of the ship on the portside, opposite of where we went up,
24 was a direct line of access to deck 10 which was the entry point.
25 So it was essentially a short cut. We took those resources back

1 up that way.

2 Q. Okay. And then did you stop at deck 10 along with them?

3 A. Yes, that's when the Jersey City strike team went in, and I
4 maintained control of the door while they went in.

5 Q. Okay. And then the opening that Ms. McAtee and you discussed
6 at the top of the ramp there, you said smoke had started to
7 intensify coming out of that. At any point, were you made aware
8 that they were having issues closing that ramp off?

9 A. We were never made aware of any mechanical issues with the
10 ship by any of the ship's crew.

11 Q. Okay. And then did you ever make an attempt to close off
12 that opening?

13 A. We wouldn't even know how to do it.

14 Q. Okay. You mentioned that a Union City firefighter, UASI
15 member, had a injury --

16 A. Jersey City.

17 Q. -- or Jersey City. Do you remember what that injury was?

18 A. He rolled an ankle as well.

19 Q. All right. Thank you.

20 CDR BARGER: That's all the questions I have. Lieutenant
21 Commander Moore, any follow-up questions?

22 LCDR MOORE: Yes, Commander. Thank you.

23 BY LCDR MOORE:

24 Q. Chief, just a few. You stated that you had asked for the
25 plan en route coming out to the incident. When you arrived, did

1 you ask again for the plan upon your arrival?

2 A. I made an attempt. The member that was stationed at the foot
3 of the ramp, his English was extremely limited.

4 Q. I think you stated the plan wasn't available. Is that what
5 you're talking about?

6 A. I'm assuming that they were in the process of gathering that
7 information and bringing it down.

8 Q. And then you were also talking about radio traffic sounding
9 garbled at some point, switching channels. Did you ever switch to
10 a UTAC frequency?

11 A. No.

12 Q. And then we talked a lot about ventilation. So just a few
13 questions on that. You briefly said when you were on deck 12 that
14 you saw fire. Is that correct?

15 A. No, I did not say that.

16 Q. You did not see fire?

17 A. No.

18 Q. Okay.

19 A. I did not see fire the entire time I was on that ship.

20 Q. Okay. I just wanted to clarify that because I thought I
21 heard you --

22 A. I got reports that they had fire on level 10.

23 Q. Okay. Thank you for clarifying. And then as the smoke
24 intensified on deck 12, you were describing the color and the
25 intensity. Did you ever hear any reports of the conditions on

1 deck 10 or 11 when that smoke intensified?

2 A. I don't recall anything, no. I can only assume that deck 11,
3 it was intensifying based on the fact that the water that was
4 pooling there was hot enough to melt boots.

5 Q. Okay. And you explained to the Commander why you ordered
6 that ventilation to be shut down. Was that covered in your marine
7 firefighting training or was that just some reaction that you had
8 at the time?

9 A. It was covered in marine firefighting, yes. They explained
10 that the super structure on top of the ship is similar to a high
11 rise fire. Textbooks say in a high rise fire you shut down the
12 ventilation system.

13 Q. And then the last thing, when we were talking about Captain
14 Rogers rolling the ankle, I just want to clarify. You didn't know
15 that until he reported that to you or was that communicated --

16 A. Correct. Until he came back up to deck 10. That was a face-
17 to-face communication.

18 Q. Okay. What would the standard procedure be if a team needed
19 to split up during a response?

20 A. The engine company should not split up. A ladder company, if
21 they're manned to one and three, would split into two teams.
22 Ordinarily at a structural fire, you'd have an interior team,
23 search and rescue, ventilation, et cetera, and then you'd have a
24 roof team.

25 LCDR MOORE: That's all I have, Commander. Thank you.

1 CDR BARGER: Okay. Thank you. LT Reed, any follow-up
2 questions?

3 LT REED: No.

4 LCDR BARGER: Lieutenant Commander Ward?

5 LCDR WARD: I just have a few clarifying questions.

6 BY LCDR WARD:

7 Q. Back to the ventilation, we talked about your involvement as
8 far as shutting it off for the reasons that you've already
9 provided. Were you aware of why it was requested to be turned on
10 in the first place?

11 A. I was not made aware of the initial request. I understand
12 the reasoning behind it was to try an increase visibility on the
13 deck.

14 Q. Do you know who the initial request came from?

15 A. I'm only assuming that it's Chief Maresca. I can't confirm
16 or deny that one way or the other.

17 Q. Okay. And then as far as the impact of turning on the
18 ventilation relative to deck 10, did you hear any reports from
19 Maresca specifically that it alleviated the conditions for
20 visibility or any change?

21 A. I don't recall.

22 Q. When you requested to turn off the ventilation, who did you
23 request that from?

24 A. The ship's mate. He was essentially my guide, my liaison.

25 Q. Okay. Are you aware of any discussions, knowing that it came

1 from Maresca as you mentioned, on a reason why you would not turn
2 on the ventilation at that time?

3 A. Well, again based off of knowledge that I received through
4 the training, when you turn on the ventilation system, it can act
5 as a means to spread smoke and fire.

6 Q. Okay. You mentioned earlier as far as accountability should
7 use tags as far as entering and exiting, but can you specify
8 exactly what was put into place that day when you came on scene?

9 A. I was the third firefighter onto the ship. So that
10 accountability would have taken place after Chief Carlucci had
11 assumed command. He arrived as I was making my way up onto the
12 ship. So I can't.

13 Q. Okay. Were -- did you see a clipboard or a board in use as
14 the incident progressed for the purpose of accountability?

15 A. No, there was equipment all over the place.

16 Q. Okay. Accountability --

17 A. I couldn't pinpoint it, no.

18 Q. Accountability of the firefighters, not necessarily
19 equipment.

20 A. Yeah, correct. I couldn't.

21 Q. You mentioned that the mayday call came in a little big
22 garbled, but despite that, was it clear that it was a mayday call?

23 A. Yes, and then that was acknowledged by our dispatch system as
24 well.

25 Q. And why to you was it clear that it was mayday call? Based

1 on the substance or --

2 A. Yeah, I could make out enough that it was disoriented and was
3 trying to find a way out, yes.

4 Q. Okay. And you mentioned that just based on your experience
5 with his voice that you knew it was Robetto?

6 A. Yes.

7 Q. Do you know if Robetto was received by anyone subsequent to
8 that mayday call? Did you see --

9 A. What do you mean received by?

10 Q. Did you see him speak to anybody after he had extracted
11 himself from the deck, deck 10?

12 A. No. At that point in time, again I was operating on deck 12.

13 Q. Okay. You also mentioned at a point in time where the Newark
14 Fire Department regrouped. When you say regrouped, does that mean
15 that they all came off of the ship or what does that mean?

16 A. No. We had a discussion amongst the command how we were
17 going to alter tactics based on the current situation.

18 Q. Did that discussion take place on the vessel or did -- was
19 there a --

20 A. No, it took place at the command post.

21 Q. Okay. And was that subsequent to the -- locating Firefighter
22 Acabou?

23 A. It was after that.

24 Q. It was.

25 A. I believe so. I'm not 100 percent sure.

1 Q. And just to clarify, was the meeting called the impetus for
2 the PAR that was conducted?

3 A. Correct, yes. A meeting called will automatically trigger a
4 PAR.

5 Q. The last question I have, could you, as far as the crew that
6 was on board the vessel, do you recall their ongoing or supporting
7 efforts in the fire response on deck 12 or any other location that
8 you remember?

9 A. Can you specify?

10 Q. As far as the crew on the ship, were they doing any
11 firefighting efforts or --

12 A. The ship's crew themselves?

13 Q. Yes.

14 A. Yeah, they were operating lines on the top deck for the
15 duration of the incident, essentially cooling vehicles.

16 Q. Okay. That's all the questions I have. Thank you.

17 CDR BARGER: Mr. Pittman, any follow-up questions?

18 MR. PITTMAN: I have just one question.

19 BY MR. PITTMAN:

20 Q. Are you familiar with a voyage data recorder is for a vessel?

21 A. Can you repeat that for me?

22 Q. Are you familiar what a voyage data recorder is for a vessel?

23 A. A voyage data recorder?

24 Q. Yes.

25 A. No.

1 Q. Okay. It's similar to a black box that you'd have on an
2 airplane.

3 A. Okay.

4 Q. When I listened to the recordings, it was very clear that a
5 member of the fire department was on the bridge with the master.
6 Do you know who that person was?

7 A. On the bridge with the master?

8 Q. Yeah, he was --

9 A. What do you mean by the bridge? The top deck of the ship.

10 Q. The superstructure of the ship, there --

11 A. To my knowledge, no one entered the superstructure of the
12 ship with a crewmember.

13 Q. Okay. So you're not aware. You're saying no one was there?

14 A. I'm aware of it if it did happen.

15 Q. Okay. Thank you.

16 CDR BARGER: Mr. Barnum, any follow-up questions?

17 BY MR. BARNUM:

18 Q. Thank you, Chief. When you arrived to the vessel on July
19 5th, Engine 27 was already there, correct?

20 A. I pulled up simultaneously with them.

21 Q. Okay. And who was the first on board?

22 A. Engine 27.

23 Q. Okay. And how quickly after did you come on board?

24 A. Several minutes.

25 Q. Okay. Did you give them any direction or what to do? Did

1 you talk to them before they got on board?

2 A. Absolutely. I requested them to give me a size up.

3 Q. Okay. So you requested them to go up to deck 12 or --

4 A. That's correct. They went with the escort from the ship.

5 Q. Okay. You were talking earlier that when you initially went
6 on board you weren't fully dressed out in your PPE. Is that
7 correct?

8 A. Yes.

9 Q. When did -- did you ever get fully dressed out in your PPE?

10 A. Yes.

11 Q. When in the evolution of the fire was that?

12 A. I can't recall exactly. When the deck on the top became hot
13 enough that my station wear boots were not going to hold up.

14 Q. So you sent someone to get your PPE or did you go down and
15 get it?

16 A. I went and got it myself. I thought that would be the
17 fastest means. I had an idea of how to get on and off the ship at
18 that point.

19 Q. All right. So you don't recall exactly what time it was.

20 Was this after Firefighter Acabou was located or --

21 A. I'm not sure. I believe so but don't quote me on that. I'm
22 not 100 percent sure.

23 Q. Okay. Then my last question, I'm trying to get to the bottom
24 of this a little bit. You're saying the fireboats fall under your
25 command, correct?

1 A. Correct.

2 Q. Are you aware if either of those vessels was out of service?

3 A. That morning, we had an inspection of both fireboats. The
4 primary fireboat was out of service. They were unable to start
5 it.

6 Q. Okay. And that's start the engine?

7 A. Correct.

8 Q. Okay. Thank you.

9 MR. BARNUM: That's all the questions I have.

10 BY CDR BARGER:

11 Q. Chief, just a couple more follow-up questions?

12 A. So with regards to the inspection of the fireboats that
13 Mr. Barnum just asked you about, you said one of them was out of
14 service because of an engine problem?

15 A. Correct.

16 Q. And did I understand you correctly that was the larger one?

17 A. Yes.

18 Q. What was the status of the smaller fireboat?

19 A. It was in operation.

20 Q. Okay. Fully operational?

21 A. Again, I'm not trained on it. To the best of my knowledge,
22 yes. During the inspection, it was only started up and it was
23 running in the water.

24 Q. Okay. And, yeah, I guess that was going to be my question is
25 when you do an inspection of the fireboats, what are you looking

1 at?

2 A. Just the visual conditions, anything that's in need of
3 repair.

4 Q. Okay. You said you tested the engine. Did you do that on
5 both boats?

6 A. Correct.

7 Q. Do you test I guess the firefighting equipment on board like
8 fire monitor?

9 A. Without the engine starting on the primary fireboat, then
10 they're not going to be able to use the monitor. So, no.

11 Q. What about on the second boat?

12 A. The second boat doesn't have any to the best of my knowledge.

13 Q. Okay. So then on the second boat that was operational, what
14 firefighting capabilities does it have?

15 A. Victim retrieval, any kind of reconnaissance on the water.

16 Q. Okay. When you went back up with the UASI units to deck 10,
17 when you got to deck 10, was the door going into the cargo space
18 open or closed?

19 A. I don't recall.

20 Q. When you all got up there, what were the conditions on deck
21 10 at that time?

22 A. Light smoke. I had visibility into the deck 30 feet or so,
23 30, 40 feet from the door.

24 Q. Okay. What were you able to see inside of that space?

25 A. Burned out vehicles.

1 Q. Okay. And did you remain in the stairwell or did you go into
2 the space at all?

3 A. I was 1 or 2 feet within the door or in the hallway.

4 Q. Okay. When you -- in order to go into the space, 1 or 2 feet
5 into the space, did you have to have a SCBA on?

6 A. No. As long as I was crouching down low, no.

7 Q. When you all went up to deck 10, what was the tasking?

8 A. What was the?

9 Q. What was the tasking for the group that you and I believe it
10 was Jersey City went up?

11 A. At that time, we were trying to locate Firefighter Brooks.

12 Q. Okay. And who was directing that effort? Who was in charge
13 of that search effort?

14 A. The Jersey City strike team led by a battalion chief from
15 Jersey City.

16 Q. And are you aware, was there anybody directing UASI search
17 efforts down on the ground?

18 A. I was on deck 10. I couldn't speak to that.

19 Q. Okay. So you weren't taking any tasking from down below once
20 you got up there?

21 A. No.

22 Q. Okay. Who, if anybody, directed you and Jersey City to go up
23 to deck 10?

24 A. Chief Carlucci.

25 Q. I'm sorry.

1 A. Chief Carlucci.

2 Q. Chief Carlucci. And then you -- we talked about the training
3 in 2014. Did you attend any training in June of 2023 related to
4 shipboard fires?

5 A. Yes, it was the electric vehicle awareness course.

6 Q. Okay. What, if any, information was provided during that
7 training that you utilized in this situation?

8 A. It was just general knowledge, how the vehicles would be on
9 the ship, the layout. The gentleman who gave the course from the
10 Port Authority was a retired police officer, and he stated in the
11 course, this is not for tactics. It's just for awareness.

12 Q. Okay. And then for the last question, for the large
13 fireboat, how long had that been out of service?

14 A. I couldn't tell you for certain.

15 Q. Okay. And then do you have any familiarity or has it ever
16 been covered in any of the training that you went to, the maritime
17 firefighting annex for the port area contingency plan?

18 A. Repeat that question.

19 Q. Do you have any awareness or did it ever come up in any of
20 your training that there was a marine firefighting annex for the
21 area contingency plan for Port of New York?

22 A. No.

23 Q. Okay. Thank you.

24 CDR BARGER: Now, as we have done with previous witnesses, to
25 ensure equitable time and opportunity for each party in interest

1 to ask questions, each party in interest will have approximately 8
2 minutes to cross-examine this witness within the scope of our
3 direct examination questions.

4 City of Newark.

5 MR. LIPSHUTZ: Thank you. Gary Lipshutz, L-i-p-s-h-u-t-z.

6 CROSS-EXAMINATION

7 BY MR. LIPSHUTZ:

8 Q. Chief, just a couple of questions. Can you hear me okay?

9 A. Yeah.

10 Q. Up on deck 12, you met up with Maresca?

11 A. Correct.

12 Q. Did you guys come up with a plan?

13 A. The plan was simply to investigate the conditions on level 10
14 at that time. We weren't aware of the conditions.

15 Q. And so what was your understanding of what was going to
16 happen on deck 10?

17 A. We were going to do what we normally do in these situations,
18 investigate. If we have fire, if we locate, confine and
19 extinguish.

20 Q. And the plan was to take water hose?

21 A. Correct.

22 Q. And did you make any observations of the ship's water
23 pressure, their hoses?

24 A. I could observe the lines operating on the top deck. There
25 was about four or five of them going and the pressure appeared to

1 be adequate.

2 Q. A decision was made then to utilize the ship hose to go into
3 deck 10?

4 A. Correct.

5 Q. Am I correct that the hose was patched in and the
6 firefighters took a line down to deck 10?

7 A. Yes. We were able to commandeer a line from one of the
8 members that was operating on deck 12. We requested additional
9 hose previously so that we had ample length to make the stretch.

10 Q. And the companies that went in initially, do you know who
11 they were?

12 A. Engine 27.

13 Q. Any other company? Any other company?

14 A. Reports we had at the time was just minor fire. It was
15 dripping down from the top deck, a few hotspots essentially.

16 Q. Top deck, deck 12 or 11?

17 A. 11, it would have been, yes.

18 Q. Thank you.

19 A. The deck above. And there was a radio report given shortly
20 after that, that that fire was extinguished.

21 Q. The radio report, was that from Newark?

22 A. Yes. It came from deck 10.

23 Q. And is it your understanding that was Engine 27 members that
24 had extinguished whatever fire they had come across?

25 A. The majority of it, yes.

1 Q. And then you were getting resources ready on deck 12?

2 A. Correct. I was assembling relief teams, two members at a
3 time, with two bottles. We'd send those two members down to deck
4 10 with two fresh bottles. The members that came out could then
5 replace their bottles and come up to get a blow on deck 12.

6 Q. So they had their bottle on their back as well?

7 A. Correct. When they made their way out into the hallway, they
8 would remove that bottle. We were pushing the empties into the
9 corner. The member would assist them in placing a fresh bottle
10 into their tank, and they'd come upstairs and take a blow.

11 Q. Did you give instructions to the companies as they went
12 downstairs?

13 A. I did.

14 Q. What did you say?

15 A. I told them under no circumstances should they release that
16 handline.

17 Q. What handline?

18 A. The handline that they took downstairs from deck 12.

19 Q. Those hose line?

20 A. The hose line, correct. Yes.

21 Q. And you relayed that to Engine 27?

22 A. Every crew that went down the stairs.

23 Q. So would that include Ladder 4 crew?

24 A. Every crew that went down the stairs.

25 Q. So would that also have included Engine 16?

1 A. Yes.

2 Q. And the rescue teams as well?

3 A. Correct.

4 Q. Hilton Reynolds, you mentioned him.

5 A. Yes.

6 Q. What company was he with?

7 A. Ladder 8.

8 Q. And what were they doing on the ship if you know?

9 A. Ladder 8 was one of the -- I believe the first red team to go

10 in. Don't quote me on that, but they were one of the initial red

11 teams to go in, first or second.

12 Q. To deal with Acabou?

13 A. To effectively search for the missing members, yes.

14 Q. Okay. At some point, you were aware that an order was given

15 to the members inside of deck 10 to leave deck 10? This is before

16 the mayday. I'm sorry, to clarify.

17 A. Correct.

18 Q. Do you know the reason why they were ordered to leave deck

19 10?

20 A. At that point in time, all visible fire was extinguished.

21 There was no other reason for them to be in there.

22 Q. Did you have any concern of their safety at that point?

23 A. With the fire being out, not particularly.

24 Q. You were asked about the ventilation going on, which was not

25 your call. Do you know, was that before or after the maydays?

- 1 A. I believe it to be after.
- 2 Q. And what was your understanding of the reason? I think you
3 said to ventilate, obviously get the smoke out.
- 4 A. Again, it was to attempt to assist the tenability of the
5 area, the visibility to assist in the rescue effort.
- 6 Q. Thank you. You were asked about the fireboats.
- 7 A. Correct.
- 8 Q. The small boat being used for basically water searches,
9 rescues, things like that?
- 10 A. Yeah, if you get a jumper off a bridge, something like that,
11 yes.
- 12 Q. And the larger boat was out of service that day?
- 13 A. Correct.
- 14 Q. Did you -- do you have an understanding of the firefighting
15 capabilities of that boat?
- 16 A. That boat can be used in fire suppression, yes.
- 17 Q. Do you have any understanding about what impact or role that
18 boat would have played with respect to what was happening on the
19 ship that day?
- 20 A. I don't have direct knowledge of the length of penetration of
21 the streams that those monitors would put out.
- 22 Q. So you're not certain if the fireboat that Newark has would
23 have reached the top deck?
- 24 A. No.
- 25 Q. Thank you, Chief.

1 CDR BARGER: Port of Authority of New York and New Jersey.

2 MR. REILLY: We have no questions.

3 CDR BARGER: Thank you. Grimaldi.

4 MR. O'CONNOR: Yes. Thank you. Lieutenant Reed, can we
5 bring up Coast Guard Exhibit 17, page 1, and scroll down to the
6 very last row. Thank you.

7 LT REED: Yes.

8 MR. O'CONNOR: Thank you.

9 BY MR. O'CONNOR:

10 Q. Chief, earlier today I think you described meeting with the
11 ship's captain when you first arrived on deck 12. Is that
12 correct?

13 A. Yes, I was introduced to a man who was described as the
14 captain, correct.

15 Q. I'd like to draw your attention to the very last row on this
16 page. The timestamp is 2149. It begins, B5 to D1. Can you read
17 that into the record for us?

18 A. I am with the ship captain on deck 12. They have their own
19 portable handlines in place and the fire's knocked down here. The
20 fire actually started on level 10, 2 floors below. They were able
21 to seal off those compartments and deploy the CO2. We are going
22 to send Engine 27 down to check out those two levels. Fire on 12
23 is knocked down. 11 and 10 investigating now.

24 Q. Thank you. Do you recall making this radio transmission?

25 A. It sounds pretty accurate, yeah. There might be a loose

1 translation in the description.

2 Q. Was the purpose of this transmission to convey key
3 information that the ship's captain gave you to the incident
4 commander?

5 A. Whatever information I believed that he had gave me, yes, I
6 was making the incident commander aware. That was my job.

7 Q. I believe you had said that you also told Chief Maresca the
8 same information when he arrived on deck 12, correct?

9 A. He would have been briefed in a similar fashion face-to-face.

10 Q. And I believe you had said that the captain had also
11 confirmed that all of the ship's crew were accounted for. Is that
12 right?

13 A. He did tell me that, but I have people tell me that outside
14 fire buildings all the time. I place zero credibility in it from
15 my prior experience.

16 Q. So when you sent Engine 27 down to investigate decks 11 and
17 10, did you have any reason to believe that there were any members
18 of the ship's crew inside that space? In other words, did the
19 captain tell you that any of the ship's crew were missing?

20 A. He didn't, but he was very -- he was less than forthcoming
21 with his information.

22 Q. Now, I believe you described earlier that the ship's crew had
23 provided escorts to guide you around the ship, they quickly
24 gathered hoses upon your request, and that they turned the
25 ventilation system off at your direction. Do you believe that the

1 ship's crew were responsive and helpful throughout the incident?

2 A. They did the best that they could, yes. Again, there was a
3 language barrier there. So that slowed down communication. That
4 was the biggest issue.

5 Q. Despite the language barrier, was the key information
6 conveyed by the ship's crew to you, were you able to understand
7 eventually?

8 A. Yes. It took some teeth pulling.

9 Q. But you were able to understand them, right?

10 A. By and large, yes.

11 Q. I believe you had also said that when you were en route to
12 the scene, you had asked for the fire plan. Who did you make that
13 request to?

14 A. I made it to our dispatch center which would have relayed it
15 to whoever was on scene prior to our arrival.

16 Q. Do you know whether your request was every conveyed to the
17 ship's crew?

18 A. I can only assume that the dispatch made the request.

19 Q. Thank you.

20 MR. O'CONNOR: No further questions.

21 CDR BARGER: Thank you. Ports America.

22 BY MR. ZONGHETTI:

23 Q. Good morning, Chief. I have some questions for you. I'm the
24 attorney for Ports America. So did you say one of the crews --
25 one of the companies that you were with or more than one was

1 running one and two?

2 A. That is accurate, four of them.

3 Q. So one officer and two firefighters?

4 A. Correct.

5 Q. You got to the vessel, you went up to the 12th floor. There
6 was no visible fire. You were told there was no missing crew, and
7 the captain told you that the CO2 system had been engaged. Is
8 that all correct?

9 A. Yes, the system was supposedly engaged prior to our arrival.

10 Q. Now, we had a witness yesterday testify that the Newark Fire
11 Department was given the FDNY's marine firefighting procedures.
12 Did you ever receive those procedures as the chief in charge of
13 the unit that was in charge of the fireboats?

14 A. No.

15 Q. Were you ever trained -- did the Newark Fire Department have
16 any marine firefighting procedures in place?

17 A. I'm sure that information was covered when members that were
18 responsible for the boat took their certification.

19 Q. What I'm asking --

20 A. I did not take that certification.

21 Q. Okay. Is there a manual that has firefighting procedures at
22 the Newark Fire Department?

23 A. We operate via SOPs and GOs, yes.

24 Q. Is there an SOP and GO that has marine firefighting
25 procedures?

1 A. Not to my knowledge.

2 Q. So when you arrived at this vessel, aside from the training
3 you had taken some 8 years earlier, that was the extent of your
4 marine firefighting knowledge. Is that fair to say?

5 A. Yes.

6 Q. No procedures in place guiding you as to what to do with the
7 Newark Fire Department for marine firefighting.

8 A. I wouldn't say no procedures. We follow our normal GOs and
9 SOPs.

10 Q. Were you ever trained that firefighters were not to be sent
11 into a ship's flooded CO2 compartment until an investigation was
12 done by the incident commander regarding specifics as to the CO2
13 system?

14 A. I'm not aware of that, no, but we advised our members that
15 it's going to be an IDLH oxygen deficient atmosphere, and they
16 should only be entering under protection of the SCBA.

17 Q. Were you ever trained that the best procedure for marine
18 firefighting where there's a fixed CO2 system was that the flooded
19 area should remain sealed?

20 A. I can't recall if it was covered in the course or not.

21 Q. Were you ever trained that the incident commander should
22 obtain information as to the CO2 system including when it was
23 activated, the location of activation, who activated it, the
24 amount of discharge and the amount remaining?

25 A. We were privy to some of that information from the ship's

1 crew.

2 Q. Was that ever part of your training?

3 A. Was it part of my training?

4 Q. Yes.

5 A. Not to my recollection.

6 Q. Did the incident commander, did Carlucci do these things?

7 Did he find out this information?

8 A. He was made aware in the radio report that the CO system was
9 deployed.

10 Q. Was there a decision made by any commanding officer on that
11 vessel to override the ship's CO2 system meaning not to just let
12 it do what it's designed to do and send firefighters in instead
13 with handlines?

14 A. The CO system may or may not be effective 100 percent.

15 Q. Well, were --

16 A. We would still most likely make an attempt to investigate the
17 situation regardless --

18 Q. Were you trained --

19 A. -- to confirm if the fire it out one way or the other.

20 Q. Were you ever trained that a CO2 system on a vessel could
21 take days to work effectively?

22 A. No.

23 Q. Were you ever trained that the premature opening of a flooded
24 area could defeat a CO2 system on a vessel?

25 A. Yes. You're introducing oxygen. That's common knowledge.

1 Q. When you walked into the space on deck 10, was your breath
2 taken away?

3 A. No.

4 Q. You used the phrase, the firefighters were sent down to
5 investigate to do what you normally do. Do you recall using the
6 phrase, we did what we normally do?

7 A. Correct, yes.

8 Q. And what you mean by normally do was with respect to what you
9 normally do in structure fires, right?

10 A. Not necessarily.

11 Q. Well, did you do anything differently because this was a
12 ship's fire?

13 A. Members were made aware that the CO2 system was deployed, and
14 they should be on oxygen before the enter the space.

15 Q. And aside from that you did what you normally do, right?

16 A. We investigated, correct, with the protection of a handline,
17 yes.

18 Q. All right. I have nothing further. Thank you.

19 CDR BARGER: Thank you. American Maritime Services.

20 MR. PALLAY: Thank you, Commander.

21 BY MR. PALLAY:

22 Q. Good morning, Chief. My name is Matt Pallay of Freehill
23 Hogan and Mahar. I have a few questions. When you came up from
24 the main deck, up the starboard ladder, starboard stairwell, you
25 indicated that you opened the door on deck 11, the starboard side.

1 Is that correct?

2 A. I requested the ship's crew to open the door so I could take
3 a look, yes.

4 Q. Okay. And when you looked in there, what did you see?

5 A. Again I believe I already previously spoke to this fact.
6 There was light gray smoke coming out of the door.

7 Q. Did you see any flames?

8 A. No.

9 Q. Did you feel any heat?

10 A. No.

11 Q. Okay. Approximately how far into deck 11 were you able to
12 see from that point?

13 A. Ten, fifteen feet.

14 Q. Were you able to see the cars, the vehicles in there?

15 A. The area appears to be clear in the direct opening of the
16 door.

17 Q. Okay. And from there, you proceeded up to deck 12. Did you
18 see any fires on deck 12 when you first arrived?

19 A. Again, I previously testified that I never saw fire on the
20 ship.

21 Q. Okay. When you were on deck 12, you said you saw light
22 smoke, and that was coming from the big ramp door, water right
23 door on deck 12?

24 A. Possibly.

25 Q. And at some point, you worked your way to the portside stern

1 and you would have walked by that door. Is that correct?

2 A. Correct.

3 Q. Okay. Prior to sending firefighters down onto deck 10, did
4 you ever look down that door, that large ramp door?

5 A. I personally did not. I was in charge again at that point in
6 time at a staging area gathering necessary resources, relaying
7 information down, what was going to be needed for us to operate
8 safely and efficiently. And Chief Maresca went down with the
9 initial strike team --

10 Q. Okay.

11 A. -- Engine 27.

12 Q. I'm just focusing on this water tight door, this ramp door.
13 Did you see any crew either outside or inside of that door at that
14 time? Like vessel crew. I'm sorry.

15 A. I only had the ship's -- who I was assuming was the ship's
16 mate with me.

17 Q. Did you see any vessel crew using any handlines to wet down
18 or put water on that door?

19 A. Wet the door, no. They were wetting vehicles on top of the
20 ship, not the door.

21 Q. Okay. At any time, did you ever see any ship crew putting
22 water or wetting down that ramp door?

23 A. No.

24 Q. Did you see any -- I know you said you didn't see any fire.
25 Did you feel any heat when you walked by that ramp door?

1 A. No.

2 Q. Your previous training as a firefighter and also with marine
3 firefighting, you're familiar with CO2 systems or CO systems?

4 A. Yeah, our general interaction with them is things like
5 commercial kitchens, things of that nature.

6 Q. Okay. And it's fair to say that you understand that in order
7 for it to work, everything has to be sealed, correct?

8 A. Correct.

9 Q. Okay. When you had spoken with the captain, the master of
10 the ship, about the CO2 system being deployed and everything had
11 been sealed, did you have any concern as to whether it indeed was
12 sealed?

13 A. He gave me no indication to think otherwise.

14 Q. Did you notice any other indications that it was not sealed?

15 A. No.

16 Q. Was the fact that smoke was still coming out give you
17 indication that it wasn't sealed?

18 A. Again, the initial report was four to six cars on fire on the
19 top deck. Those fires were extinguished by the time I made it to
20 the top deck. The smoke could have been coming from the vehicles.

21 Q. Okay. Did you see -- but you saw smoke coming from this ramp
22 door?

23 A. Very light, yes.

24 Q. But -- so that smoke emanating out of that --

25 A. My initial purview from the starboard side of the ship, a

1 football field away, I couldn't tell where the smoke was coming
2 from.

3 Q. But you eventually made it over to the portside, didn't you?

4 A. Correct.

5 Q. Okay. And was there still smoke coming out when you were on
6 the portside?

7 A. I can't confirm or deny. Possibly, yes. My back was
8 generally to that area. I was focusing on the stern of the ship.

9 Q. Chief, you were on deck 12 for several hours, correct?

10 A. Correct.

11 Q. And was there smoke coming out of that door on deck 12 that
12 entire time?

13 A. I can't speak to the entire time, but at some point it became
14 apparent or obvious.

15 Q. All right. Is there any time during the several hours that
16 you were up there, that you did not see any smoke coming out of
17 that door?

18 A. Initially I can't recall.

19 Q. While you were on deck 12, did you see any efforts by the
20 ship's crew to enter in, down that ramp?

21 A. Enter the ramp?

22 Q. Correct

23 A. I'm unsure what you're referring to as a ramp.

24 Q. The water tight door, to go down this water tight door?

25 A. To go down the staircase?

1 Q. No, this large car ramp door, the large door. Not the
2 staircase that you went down.

3 A. Did any of them attempt to enter it? I don't believe so, no.

4 Q. Okay.

5 A. It was an elevated surface.

6 Q. Okay. Were you aware that that went down to deck 11?

7 A. No.

8 Q. When you spoke with the captain, earlier you testified that
9 he was less than forthcoming. What do you mean by that?

10 A. What do I mean by that?

11 Q. Yes.

12 A. Again, there's a language barrier, and when I asked him
13 questions, reading his body language, he seemed like he was giving
14 me the run around to a degree.

15 Q. Okay. About what kind of things do you think he was giving
16 you the run around?

17 A. Well, the initial thing was the accountability of the ship's
18 crew. He told me he had 28 members, and I could not see 28
19 members. So he's starting off with what I'm interpreting to be a
20 stretch or an omission of truth. So I've already gotten my guard
21 up with regard to the information he's giving me.

22 Q. Any other information that you had your guard up from the
23 captain?

24 A. They were hesitant to open door 11 when I asked them to do
25 it, and I asked them why, and they didn't give me a response.

1 Q. The captain told you that they could deploy the CO2 again.
2 Is that correct?

3 A. I requested if it could be done again. He told me yes and
4 then he disappeared. He headed back up towards the ship's bridge.

5 Q. Prior to sending a team down to deck 10 to investigate, did
6 you ever discuss with any of the ship's crew as to the layout of
7 deck 10?

8 A. Discuss with the crew the layout? No.

9 Q. And you never saw any maps prior to that time or layout of
10 the vessel?

11 A. Again, they were requested to be brought down to the command
12 post.

13 Q. But I'm saying before going down there, you hadn't seen those
14 layout plans?

15 A. No.

16 Q. You testified earlier that you had concern with introducing
17 oxygen into the space as that can make it worse. Is that correct?

18 A. Correct. It could have intensified the fire, yes.

19 Q. Okay.

20 CDR BARGER: One minute warning.

21 MR. PALLAY: Thank you, Commander.

22 BY MR. PALLAY:

23 Q. So if it had been discussed with you about turning on the
24 ventilation, would you have told them not to do it?

25 UNIDENTIFIED SPEAKER: Objection.

1 CDR BARGER: On what ground?

2 UNIDENTIFIED SPEAKER: That calls for rank speculation
3 respectfully.

4 CDR BARGER: I agree. I'll sustain the objection.

5 MR. PALLAY: All right. I'll ask it another way.

6 BY MR. PALLAY:

7 Q. Did you ever voice any of those concerns about introducing
8 oxygen via the vents to any other firefighters?

9 A. I explained to the members again that they should be on air
10 before they enter into an oxygen deficient atmosphere, yes.

11 Q. I apologize. I'm saying with the turning on of a ventilation
12 system, did you ever discuss issues or your concerns with turning
13 on a ventilation system?

14 A. Prior to that, no, because I didn't make the request.

15 Q. And you said that came from Chief Maresca?

16 A. I can only assume that.

17 Q. Okay. And --

18 CDR BARGER: One last question.

19 MR. PALLAY: Okay.

20 BY MR. PALLAY:

21 Q. Was the mate that was with you the same mate that was with
22 Chief Maresca or was there other additional crew with you and with
23 him?

24 A. I can't confirm if he had a conversation or not, outside of
25 being except with myself.

1 Q. Thank you, Chief.

2 REDIRECT EXAMINATION

3 BY CDR BARGER:

4 Q. Chief, I have a couple of final follow-up questions for you.
5 As far as your understanding of the discharge of the CO2 system,
6 were you aware of when that had been discharged?

7 A. No. Just prior to our arrival.

8 Q. Okay. So no idea had -- if it had been 20 minutes, an hour,
9 2 hours before your arrival?

10 A. No.

11 Q. Did you have any understanding of what part of the ship that
12 CO2 system covered?

13 A. I didn't find that I believe until after the fact.

14 Q. Okay. So at the time, when you were talking with the
15 captain.

16 A. I was unaware.

17 Q. You were unaware.

18 A. I did ask him if it was deployed on the floors that they had
19 reported fire on, and he did confirm that, yes.

20 Q. Okay. And then when did you have that conversation with the
21 captain about whether the CO2 system could be discharged again?

22 A. That was part of our initial conversation.

23 Q. Okay. And again, his response to that was what?

24 A. Yes.

25 Q. Okay. Did it get discussed any further from there or

1 afterwards?

2 A. No. After that, I saw the back of his head as he was
3 (indiscernible) superstructure. It was my assumption that he was
4 going to deploy the system.

5 Q. And if that was your understanding, then what, if any,
6 concern did you have for your crews?

7 A. Again, we made them aware that they were going to be entering
8 an oxygen deficient atmosphere.

9 Q. Okay. Any concerns about the space being sealed if he was
10 going to do that?

11 A. Yes.

12 Q. Okay. Did you pass any word to anybody about that?

13 A. Other than the fact that they should be oxygen the entire
14 time, that it was going to be an O2 deficient atmosphere, that was
15 the extent of it.

16 Q. Okay. As far as your training as the battalion -- related to
17 marine firefighting and the port itself, as the battalion chief
18 for units due to the port and that had the marine firefighter unit
19 or the fireboat unit, did you ever have any interaction with the
20 Port Authority?

21 A. Other than the police reporting to MVAs (ph.) and things of
22 that nature in the port itself, no.

23 Q. Okay. So you had never had any meetings to discuss how a
24 response would take place at the port?

25 A. No.

1 Q. Okay. All right. Thank you.

2 CDR BARGER: Any other follow-up questions from the
3 investigation team? Lieutenant Reed?

4 BY LT REED:

5 Q. Hey, Chief. I have one follow-up question. Were you ever
6 made aware that deck 10 had a free flow of communication to deck
7 11 as far as, you know, oxygen and gas and CO2?

8 A. I didn't hear the first part of the question. I'm sorry.

9 Q. Were you ever made aware that there was like a free flow of
10 communication via, you know, gases, like what's on deck 11 could
11 be transmitted to deck 10 and vice versa?

12 A. No.

13 Q. Okay.

14 A. By the ship's crew?

15 Q. Yeah.

16 A. No.

17 Q. Or at any point were you made aware of that?

18 A. No.

19 Q. So during that time, your understanding is you could -- deck
20 10 could be isolated when, in fact, it couldn't?

21 A. Correct.

22 Q. Okay. That's all the questions I have. Thank you.

23 BY MR. BARNUM:

24 Q. Chief, Bob Barnum, NTSB. Did you send Chief Maresca down to
25 be on scene commander on deck 10?

1 A. He's the same rank as me. I didn't send him down. We made a
2 mutual decision.

3 Q. Okay. Were you aware he did not have his SCBA when he went
4 down?

5 A. No.

6 Q. You're not aware. Okay.

7 A. Chief Maresca did not have it?

8 Q. Correct.

9 A. No, not to my knowledge.

10 Q. Okay. Did you see Chief Maresca prior to his entry in the
11 port ladder well and down to deck 10?

12 A. Yes.

13 Q. Okay.

14 MR. BARNUM: I have no further questions.

15 CDR BARGER: Okay. Battalion Chief Kupko, thank you for your
16 time today and your testimony. You are subject to my recall and
17 sequestration order remains in place until you are released by me.
18 You'll be notified of that release by our recorder, Lieutenant
19 Reed.

20 (Witness excused.)

21 CDR BARGER: The hearing will now take a 20 minute recess.
22 The time is now 10:12 a.m. We will reconvene at 10:35 a.m.

23 (Off the record at 10:12 a.m.)

24 (On the record 10:58 a.m.)

25 CDR BARGER: The time is now 10:58 a.m. local time in Union,

1 New Jersey. The hearing is now reconvened and back on the record
2 regarding the fire on board *Grande Costa D'Avorio*.

3 Our next witness is Dr. Brian Platt. For awareness, the
4 upcoming testimony is from a medical examiner and will discuss
5 information of a sensitive nature. If anybody in person would
6 like to leave the room, I'll offer that opportunity right now.

7 Okay. Lieutenant Reed, please swear in he witness.

8 LT REED: Commander Platt, please stand and raise your right
9 hand.

10 (Whereupon,

11 BRYAN PLATT

12 was called as a witness, and having been first duly sworn, was
13 examined and testified as follows:

14 LT REED: Thank you. You may be seated. Commander, I have a
15 few preliminary questions for you. Will you please state your
16 name and spell your last name for the record?

17 THE WITNESS: I'm Commander Bryan, with a y, Platt, P-l-a-t-
18 t.

19 LT REED: Okay. And what is your profession?

20 THE WITNESS: I'm currently one of the deputy medical
21 examiners at the Armed Forces Medical Examiner System at Dover Air
22 Force Base in Delaware.

23 LT REED: And who are you employed by?

24 THE WITNESS: Ultimately the United States Navy.

25 LT REED: What professional certificates and certifications

1 do you hold related to your position?

2 THE WITNESS: So I -- my MD degree is from Temple University
3 in Philadelphia that I obtained in 2007. I am board certified in
4 anatomic, clinical and forensic pathology since 2015 for anatomic
5 and clinical and 2017 in forensic.

6 LT REED: And how long have you been employed by the U.S.
7 Navy?

8 THE WITNESS: I've been on active duty since 2007.

9 LT REED: Thank you very much, Commander. Commander Barger,
10 the witness is ready to proceed.

11 CDR BARGER: Thank you.

12 DIRECT EXAMINATION

13 BY CDR BARGER:

14 Q. Good morning, Dr. Platt.

15 A. Good morning.

16 Q. I know we just talked about some of your background and
17 experiences -- or background, experience and education as a
18 medical examiner. As far as your current role with the Armed
19 Forces Medical Examiner System, how did you come to be in that
20 position or what experience have you had leading up to your
21 current position?

22 A. Well, experience, as I said, you know, with my board
23 certifications, I completed an anatomic and clinical pathology
24 residency at Walter Reed National Military Medical Center in
25 Bethesda from 2011 to 2015. My fellowship training was full-time

1 out service at the Virginia Office of the Chief Medical Examiner
2 at their Tidewater Office in Norfolk, Virginia, for a year from
3 2015 to 2016. And so -- and then I had follow-on orders to the
4 medical examiner's office at Dover ever since then. So I've been
5 in that -- been there. I've been in, you know, several roles
6 while there, been in charge of the histology section, the
7 radiology section, dental sections for a time, up until about
8 2018, 2019. For a time, I was in charge of the -- then it was
9 known as the Office of the Armed Forces Medical Examiner. Now,
10 currently the Forensic Pathology Investigations Division. I had
11 that for -- I was in charge of that division for approximately 8
12 months. The Medical Examiner System itself is divided into three
13 divisions, you know, AFDIL, the DNA Identification Lab, forensic
14 toxicology and then our division.

15 Q. Okay. And then what is your division specifically
16 responsible for?

17 A. We're specifically responsible for the actual forensic
18 pathology investigation. So, you know, conducting the autopsies,
19 identifying decedents that come under our jurisdiction, collecting
20 evidence, performing examination, finalizing report and in
21 conjunction with either jurisdictions in CONUS, in the continental
22 United States, or when it's overseas, we'll certify and sign off
23 on the death certificate.

24 Q. And in that role, what types of cases do you normally work?

25 A. In general, we work cases that fall under, like I said, our

1 exclusive federal jurisdiction or if they come under some sort of
2 federal investigation. So it's not just the Department of Defense
3 and active duty service members. It is, you know, DOD dependents,
4 contractor civilians. We will also work with the FBI. We will do
5 cases for the State Department. As necessary, we even have a MOU
6 with the Peace Corps. So, like I said, we are the only federal
7 medical examiner entity in the United States. So you think about
8 the distinctions between, you know, state and federal, we kind of
9 follow those guidelines.

10 Q. And how does that consultation process work when you get
11 involved with other federal agencies?

12 A. So, our consultation process, you know, it has a wide range
13 as far as, you know, cases that we don't initially do the autopsy
14 examination on but we get involved with. At the most basic level,
15 a lot of times we will case reviews for other MCIOs, military
16 criminal investigative organizations. So NCIS, CID, you know,
17 service members that their autopsies are done by local
18 jurisdictions in other states. They'll have us just review those,
19 and it could be as straightforward as do you agree? And other
20 times when we get into, you know, kind of more of a consult realm,
21 we get involved with their specific questions, you know, not just
22 do you concur with the cause and manner of death that this other
23 office came up with but if there are other specific questions,
24 then we will spend some time and go a little more in depth.

25 Q. Then what is your experience with victims of blast injuries?

1 A. Since 2016, obviously our experience and my experience and my
2 peers throughout that time, our experience with blast injuries
3 were primarily coming from, you know, combat actions from, you
4 know, from Operation Enduring Freedom from Afghanistan. And some
5 of the other related operations, whether -- the names, I'm
6 forgetting, you know, I'm forgetting some of the other operation
7 names, but things in Libya and other things like that, you know, I
8 recall those. Most of our experience with blast injuries at that
9 point, okay, are kind of, you know, military munitions, IEDs,
10 vehicle borne IEDs, anti personnel vests, what have you. So we
11 were still seeing cases up until approximately 2021 as I recall
12 kind of the some last blast injury type cases that we started
13 seeing. But, yeah, so my personal experience is more on the, you
14 know, kind of the, you know, towards the tail end when Operation
15 Enduring Freedom finally did end. Some of my peers, particularly
16 ones early on, had more -- had a lot of experience with the
17 vehicle borne IEDs coming out of Iraq and Afghanistan, you know,
18 in the late 2000s or, you know, early 2011, 12, 13 and on. So.

19 Q. Okay. And what is your experience with victims of fire
20 injuries?

21 A. Victims of fire injury range from and most commonly where
22 I've seen, you know, fire injuries have been involved in primarily
23 aviation mishaps where there's a post-crash fire is where, you
24 know, I've seen a lot of fire details. And we still see, you
25 know, with other fire related deaths, you know, a regular house

1 fire, you know, type situation, we see deaths there. And other,
2 you know, I think that's the best summary I can give you on that.

3 Q. Okay. And how did you become involved in the Augusto Acabou
4 and Wayne Brooks, Jr. cases?

5 A. A consult submission was presented to our office specifically
6 to do with the questions regarding the conclusions of the New
7 Jersey medical examiner as far as the listed causes of death for
8 in particular Firefighter Brooks.

9 Q. Okay. And what was the key factor of the questions submitted
10 to you in that consultation request.

11 A. So the New Jersey medical examiner concluded that there
12 appeared to be evidence of blast injuries particularly with
13 Firefighter Brooks. And the question was, is that, you know, if
14 we could -- basically did we concur with that element of the
15 autopsy findings based on what they described and if we agreed or
16 not.

17 Q. And do you remember what that initial indication was in the
18 New Jersey medical examiner's report relating to blast injuries?

19 A. The two things I recall in particular that the New Jersey
20 medical examiner described as far as specific to blast injuries
21 were hemorrhage in multiple organs, the lungs, liver, kidney in
22 particular. He also described kind of micro lacerations in the
23 tissue on histology, under the microscope. He also described
24 blast injuries in the thyroid that I recall but with no details.
25 Just said ballistic injuries. So that's what I recall.

1 Q. Okay. Can you please walk us through your methodology for
2 performing the consultation in this case?

3 A. Well, when I perform a consult, you know, initially I start
4 with, okay, what have I been given? You know, what materials, and
5 review the questions and review the materials I've been given. In
6 other cases and in this case as well, sometimes I will ask for any
7 other additional information, other, you know, particularly photos
8 of the scene, autopsy photos. In this particular case, because we
9 had two individuals involved in this incident, I asked for both
10 autopsy reports just to compare how the New Jersey medical
11 examiner did, you know, approached both cases and how he -- and it
12 was very helpful that he performed the same histology on both
13 cases here. So I had, you know, two things to compare.

14 I additionally asked for, you know, kind of a timeline of
15 events to kind of understand what was going on here, what other
16 people saw, any other, you know, to the extent the investigative
17 materials were available and particularly with kind of -- because
18 there was a question of a possible explosion event. Well, okay.
19 What's the timeline there? How does that relate to the timeline
20 of when these individuals entered the ship? When did these
21 individuals -- when were they found?

22 Q. And in doing your consultation, what type of references or
23 guidance from the DOD or otherwise do you refer to?

24 A. Well, you know, throughout the forensic literature and then
25 the DOD's specifically, there, you know, when we think of blast

1 injuries, there's -- the DOD recognizes five categories. Other
2 references will only describe four categories. And we talk about
3 with, you know, primary, secondary, tertiary, quaternary and
4 quinary, having to go that far.

5 Primary blast injuries, and these are the ones -- the primary
6 category is the only category that is unique to blast injuries.

7 CDR BARGER: And before we go that far, if we could put up
8 Coast Guard Exhibit 21, Exhibit 2 or Enclosure 2.

9 BY CDR BARGER:

10 Q. And, Dr. Platt, what is this reference we've put on the
11 screen?

12 A. So this is the Department of Defense Directive 6025.21E from
13 2006, and one of the -- ultimately it's a directive regarding how
14 the services deal with blast injuries, some other responsibilities
15 there, but what's useful here is one of the enclosures. It kind
16 of, you know, defines the different categories.

17 And the way, I think of -- you think of it in the way DOD
18 defines them, when you're talking about primary blast injuries,
19 you're talking about the actual pressure wave from the detonation.
20 So, it's -- you're looking at, in a sense, barotrauma. So, where
21 does that manifest on the body. Well, the most common thing we
22 would see is ruptured eardrums, ruptured tympanic membranes.

23 The other kind of classis injury you see is just
24 colloquially, you know, terms blast lung but, you know, it's just
25 the pressure effects and what happens there with the lungs inside

1 the thoracic cage, inside the ribcage. You can kind of see, you
2 know, lacerations of the parenchyma or the classic findings you
3 see is that pressure wave forces the lungs to expand. They, you
4 know, impact against the ribcage and you can almost see kind of
5 patterned, you know, contusions, you know. It almost looks like a
6 striped pattern against the lungs sometimes. You know, other, you
7 know, more, you know, more air filled spaces, you know, on the
8 gut, you can see perforations along there. So those are I guess
9 at the very, you know, the very specific blast injuries if you
10 ever see.

11 Now, in reality, we, you know, with our stuff, we saw things
12 in combination. So along with primary, a lot of secondary
13 injuries particularly with the anti personnel devices because, you
14 know, secondary injuries, you're talking about objects, you know,
15 ball bearings, what have you, debris, rocks, dirt, glass, what
16 have you, that are striking, you know, the individual. And a lot
17 of times there's penetrating injuries, things like that. So they,
18 you know, see that.

19 The tertiary injuries, you know, with -- compared to
20 secondary, secondary, it's the blast propelling objects. Now,
21 with tertiary, it's the blast propelling the decedent against
22 something. So what surfaces are they striking? You know, this
23 also gets into the crush injuries from, you know, buildings or
24 objects they may be in.

25 Quarternary, that's more of kind of, particularly with IEDs,

1 kind of the flash burn type stuff that we would see occasionally,
2 more of that.

3 And, then, you know, quinary, that the DOD uses, that's more
4 of, you know, exposure to the environment afterwards. Say it's --
5 particularly you have like a C burn device, cambio rad nuk (ph.).
6 So you have a chem device or a chemical munition or a bio
7 munition, and it's someone responding to that scene, and they get
8 exposed to that and they have injuries from that. So that's kind
9 of the best way to think of that particular category.

10 Q. Okay. And you mentioned in the primary category, that
11 ruptures of eardrums and impact to the lung is usually the top
12 indicators of that. Why is that?

13 A. Those are -- well, like I said, they're just the most unique
14 thing to it. You know, a lot of the other injuries you see in the
15 other categories, you know, penetrating injuries, blunt force
16 injuries, I can see that from other -- for other mechanisms, other
17 reasons, MVA, you know, what have you.

18 But like I said, those injuries are -- it's -- that's the one
19 unique element in a blast, that pressure wave, that barotrauma.
20 That's the one unique thing that you can see, that you can
21 distinguish from everything else.

22 Q. So in regards to the specific consultation that you provided
23 in this case, starting with Firefighter Augusto Acabou, what was
24 your findings in relation to the cause and manner of death?

25 A. Well, with his, the New Jersey medical examiner, they called

1 it, you know, industrial fire death and cited primarily carbon
2 monoxide intoxication, pulmonary edema, and then I'm not sure if
3 he mentioned heat with that one -- heat exposure with that one or
4 not. But, there was specifically no mention of any blast
5 injuries. And reading through the report, looking at the autopsy
6 photos and reviewing the histology, I -- you know, my conclusions
7 are, yes, correct, there are no blast injuries particularly with
8 Firefighter Acabou. I also didn't see any burns on him, any other
9 really fatal trauma. As certified, you know, that's not
10 incorrect.

11 As I said with -- in my consult with Firefighter Brooks, same
12 thing there. I mean you could say more specifically just the
13 carbon monoxide toxicity killed him because a lot of the pulmonary
14 edema, that's part of the physiologic process from carbon
15 monoxide, you can say just one thing, but he's not incorrect. I
16 would say there's just, you know, if anything in a more specific
17 way, you know, to certify the death there, but I have no -- with
18 Acabou's autopsy, I have no specific, you know, differences.

19 Q. Okay. So then what would you say the primary cause of death
20 was for Firefighter Acabou?

21 A. With Acabou primarily it was the carbon monoxide toxicity,
22 exposure. The had a carboxyhemoglobin of 34 percent. Anything
23 above, you know, the low single, you know, the single digit range,
24 3 to 10 percent, anything above that would be considered a toxic
25 exposure. So that would, you know, be the primary cause there

1 going on.

2 Q. Okay. And would you say that would be -- that
3 carboxyhemoglobin level would be consistent with somebody who was
4 in a fire environment?

5 A. Yes.

6 Q. Okay. And then as far as your findings related to the cause
7 and manner of death for Wayne Brooks, Jr., what did you find
8 there?

9 A. So, again, you know, when I was kind of talking about with
10 blast injuries, you know, one way I think about it is these are
11 not subtle injuries. So when the only -- my initial first
12 impression reading through the report, he's described -- the New
13 Jersey medical examiner described blast injuries microscopically
14 but nothing external, nothing obvious. Similar to Firefighter
15 Acabou, he had no obvious burns. He had no obvious blunt force
16 trauma there. And then with looking at the histology, he talked
17 about, you know, kind of micro lacerations.

18 The one thing I noticed about, you know, both individuals,
19 both, you know, on kind of the gross, kind of the overall exam as
20 we say and the microscopic exam, these individuals, they had --
21 they showed some early evidence of decomposition. They showed
22 some early evidence of what we say histolysis, just the normal
23 tissue breaking down. And, when you start to do that, you know,
24 under a microscope looking at the histology, those little
25 connections between those cells, those intercellular bridges that

1 makes cells into tissue, well, those start breaking down, too.
2 And I could, you know, in the -- particularly his kidneys, I could
3 see kind of, you know, kind of gaps, breaks in the tissue but I,
4 you know, I wouldn't call those micro lacerations particularly as
5 there was no discussion in his report, no gross evidence, no
6 looking at the kidney initially and seeing any injuries to it.

7 So, I was -- in my initial, I was very skeptical that, you
8 know, that there would only be microscopically those little blast
9 injuries with nothing visible essentially on the outside. So that
10 was kind of my -- that was my conclusion, my interpretation of the
11 histology there, that there again, no burns, no obvious trauma.
12 I've got a toxic level of carbon monoxide. I did not see, you
13 know, the -- just having the -- just talking about hemorrhage in
14 the tissue, well, that's -- we say that's very non-specific. You
15 can, just through the autopsy procedure, you know, there's blood
16 present, what have you. So, that's why I -- I didn't, you know,
17 concur that whatever he was seeing on the microscope under
18 histology, didn't concur that these were, you know, represent
19 blast injuries at all. So that's why I said the most appropriate
20 and more specific cause of death for Firefighter Brooks again
21 would be carbon monoxide toxicity, you know, because it also
22 explains the pulmonary edema that he described as well.

23 Q. Okay. And what was the carboxyhemoglobin level in
24 Firefighter Brooks?

25 A. His was 18 percent.

1 Q. Okay. And I know you mentioned anything above single digits,
2 you know, could be considered fatal. Any explanation for the
3 difference between the two?

4 A. I mean nothing that I can say specifically as far as there.
5 It's, you know, our experience with fatal carboxyhemoglobin
6 levels, they've ranged anywhere from kind of those teens, 20
7 percent range up to 60 percent depending on what they're doing.
8 You know, how much -- it's just how much of a confined space, how
9 long the exposure is, how concentrated the carbon monoxide is at
10 that time, you know, how quickly are you breathing it in. There's
11 just a lot of factors there, and the other big thing is, you know,
12 it's carbon monoxide because it has such a higher affinity to bind
13 the hemoglobin. It out competes oxygen. It's, you know, there is
14 a cumulative effect, too. So -- but, you know, there's just too
15 many variables to say, you know, the kind of -- to give you a
16 better answer to your question. And it's no -- this is a, you
17 know, this is a toxic exposure. I have no other -- I have no
18 better reasons for his cause of death given the circumstances
19 given what we know. So that's how I concluded with that as the
20 cause of death.

21 Q. Okay. And would Firefighter Brooks, you know, we know from
22 the time that Firefighter Acabou was found to when Firefighter
23 Brooks was found, was a bit of an extended time.

24 A. Um-hum.

25 Q. Would that duration have any impact on the level at all?

1 A. One thing you could say is potentially he had a longer
2 exposure, you know, longer cumulative exposure. Now again, the
3 concentration of carbon monoxide, it's not even throughout the
4 spaces they were operating in. You don't know what activity level
5 he was engaging in. How much he was breathing, you know, on his
6 oxygen supply, et cetera. So again, a lot of factors that you
7 just -- in the course of not just the autopsy, but me reviewing
8 the autopsy, that's, you know, I can't give you those details
9 looking in the scope of, you know, autopsy investigation.

10 Q. Okay. Based on your knowledge, does carbon monoxide toxicity
11 have impacts to an individual prior to succumbing to that?

12 A. It can. The most common things are kind of, you know,
13 headaches from that. You know, other, you know, vision
14 disturbances. Other neurologic stuff related to kind of the
15 initial hypoxia, the lack of oxygen you start to experience.

16 Q. Okay.

17 A. So, yeah, there are some symptoms that are present before you
18 would lose consciousness.

19 Q. Okay. We've heard in some previous testimony that some of
20 the search teams looking for Firefighter Brooks experienced or
21 heard explosions. They were on deck 10, hear what they would call
22 an explosion up on deck 11. Do you have any indication that that
23 potentially played a part?

24 A. From their description, no. Because then one of the
25 questions I would have, well, for those individuals, okay, well,

1 did any of them experience any symptoms afterwards? Headaches,
2 ringing in the ears, any other injuries related to that. That
3 would be one indication, number one. But, you know, having, you
4 know, kind of a deck in between and no descriptions of any debris,
5 no description of any injuries in the individuals that, you know,
6 witnessed this, then I would, you know, again, you know, I have no
7 reason to believe that that event as described had any influence
8 on the cause of death for Firefighter Brooks.

9 Q. Okay. And so just to confirm, based on your review of the
10 case, and the injuries that were or were not sustained, in your
11 opinion, is there any indication that either were exposed to a
12 high velocity detonation?

13 A. I have no -- from the materials I reviewed, I have no
14 evidence to conclude that.

15 Q. Okay. And then in the same light, any indication that either
16 individual was exposed to a lower velocity deflagration or back
17 draft event?

18 A. Since neither of them had burns, no, I can't make that
19 conclusion.

20 Q. Okay. Thank you. That's all the questions I have for you.

21 CDR BARGER: From the investigation team, Lieutenant
22 Commander Moore, any follow-up questions?

23 LCDR MOORE: Yes, sir. Jus one.

24 BY LCDR MOORE:

25 Q. When you were speaking about neurological effects

1 potentially, would that affect mobility or speech at some point?

2 A. Possibly.

3 Q. That's it. Thank you.

4 CDR BARGER: Lieutenant Reed, any follow-up questions?

5 LT REED: No.

6 CDR BARGER: Lieutenant Commander Moore -- I mean -- I'm
7 sorry. Lieutenant Commander Ward.

8 LCDR WARD: No.

9 CDR BARGER: Mr. Pittman?

10 MR. PITTMAN: No questions.

11 CDR BARGER: For the NTSB, Mr. Barnum.

12 MR. BARNUM: No questions. Thank you, Dr. Platt.

13 CDR BARGER: Ms. McAtee.

14 MS. McATEE: No questions.

15 CDR BARGER: All right. As we have done with previous
16 witnesses, in order to ensure equitable time and opportunity for
17 each party in interest to ask questions, each party in interest
18 will have approximately 8 minutes to cross-examine the witness
19 within the scope of our direct examination questions.

20 City of Newark.

21 MR. LIPSHUTZ: Thank you. Just a few.

22 CROSS-EXAMINATION

23 BY MR. LIPSHUTZ:

24 Q. Good morning, Doctor. Gary Lipshutz, L-i-p-s-h-u-t-z.

25 A. Good morning.

1 Q. Good morning. You've spoken about a chemical compound called
2 carboxyhemoglobin.

3 A. Correct.

4 Q. And that's the marker for carbon monoxide poisoning?

5 A. Yeah, that's the name given to the combination of when carbon
6 monoxide CO, you know, binds to high hemoglobin, specifically the
7 iron group that's in hemoglobin. So it's the same binding site
8 that oxygen would bind to.

9 Q. Thank you. For a layperson like myself, I was looking at
10 some of the toxicology results, and it talks about a compound
11 called carboxyhemoglobin. Is there -- do you think that's a typo?
12 Do you know?

13 A. I believe that's a typo.

14 Q. So there's no such thing.

15 A. Yeah, I think b and g, I would chalk that up to a typo.

16 Q. Okay. Thank you for the clarification. And lastly, you just
17 mentioned carbon monoxide and that's different obviously from
18 carbon dioxide, right?

19 A. Correct.

20 Q. Did you see anything in the medical examiner reports or
21 anything in the other things that you reviewed to suggest any kind
22 of carbon dioxide poisoning with these firefighters?

23 A. No. You know, the short answer's no. Increased carbon
24 dioxide in the body would present as, you know, as far as lab
25 data, would present as I think a respiratory acidosis or metabolic

1 acidosis. And you would do what we call arterial blood gas
2 testing to look for that. That wasn't done in this case. And
3 really -- and that's -- postmortem, it's not really, you know,
4 without knowing the data off the top of my head, like a lot of
5 things postmortem, those values change and are not indicative of
6 what was happening, you know, antemortem or perimortem. So simple
7 answer, no. And that's, you know, the best explanation I can get
8 you where you would see that but it was tested for in this case.

9 Q. Not tested and nothing in the autopsies that would lead you
10 to any conclusions with respect to carbon dioxide?

11 A. No.

12 Q. Thank you. No other questions.

13 CDR BARGER: Port Authority of New York and New Jersey.

14 MR. REILLY: No questions. Thank you.

15 CDR BARGER: Grimaldi.

16 MR. O'CONNOR: No questions. Thank you.

17 CDR BARGER: Ports America.

18 BY MR. ZONGHETTI:

19 Q. Good afternoon, Doctor. Just a few questions. My name is
20 Gino Zonghetti.

21 A. Good afternoon.

22 Q. So my understanding, you're testifying essentially giving an
23 expert opinion in this proceeding. Is that correct?

24 A. Correct.

25 Q. And your expertise is as a medical doctor. You're a forensic

1 pathologist as well?

2 A. Correct. That's medical examiner, forensic pathologist are
3 essentially equivalent terms.

4 Q. And you were asked by the Coast Guard to consult in this
5 matter primarily on one issue. Is that what you gather?

6 A. Correct.

7 Q. And that primary issue was whether in the autopsy report that
8 was performed by the medical examiner for the State of New Jersey
9 with respect to Firefighter Wayne Brooks, Jr. which listed blast
10 injury as one of the causes, whether that was accurate or
11 substantiated by the evidence?

12 A. Correct.

13 Q. Okay. And do you know anything about the medical examiner
14 for the State of New Jersey who did this autopsy, his or her
15 qualifications?

16 A. I'm not aware of his total qualifications. I know his name.
17 I know he works for the State of New Jersey.

18 Q. Okay. But you in your expertise, your training, your
19 experience and you've testified to what your experience is with
20 respect to blast injuries is, you came up with a different opinion
21 than was set forth in the autopsy report for Wayne Brooks with
22 respect to blast injury. Is that correct?

23 A. Specifically with respect to that, yes.

24 Q. Are you asked to consult with any frequency on other medical
25 examiners' reports, whether they're other states or jurisdictions?

1 A. Given the structure of our office, we actually do consult,
2 you know, fairly frequently compared to our civilian peers, you
3 know. Those offices are primarily focused on their area of
4 jurisdiction. Because we have essentially a worldwide
5 jurisdiction, it just -- that's, you know, a lot of different
6 entities, investigative entities will run cases by us. That's the
7 one unique thing about our office compared to our civilian peer
8 offices.

9 Q. Do you and your office with some frequency come up with
10 different findings than might be apparent on the autopsy reports
11 of other jurisdictions?

12 A. I can't give you a percentage, but the majority of the time
13 we do concur with what is submitted. And, the times that we do
14 disagree, we may disagree about, you know, specific details. It
15 is very rare when there is a complete disagreement as to cause or
16 manner of death. So this is an instance where I'm not disagreeing
17 on manner of death. We both agree it's an accident. As I stated
18 in my report, it's really -- I would conclude it is a more
19 specific cause of death, and I do not concur that there were blast
20 injuries in this case.

21 Q. Okay. So there are occasions where experts such as yourself
22 may disagree about details in an autopsy, fair?

23 A. Correct, yes.

24 Q. Okay. I believe if I'm understanding correctly your
25 testimony, that you believe that the primary factor in the death

1 of both firefighters, was carbon monoxide toxicity. Is that
2 correct?

3 A. Correct.

4 Q. That's all I have. Thank you, Doctor.

5 CDR BARGER: Thank you. American Maritime Services.

6 MR. PALLAY: Thank you. American Maritime Services has no
7 questions for this witness.

8 CDR BARGER: Okay. Thank you.

9 BY CDR BARGER:

10 Q. Doctor, just one last question for you. So in doing those
11 consultations of other medical examiners' determinations and
12 findings, in your opinion, would you say that your office and the
13 Armed Forces Medical Examiner System likely sees more cases
14 related to blast injuries than the traditional civilian
15 counterpart?

16 A. That has been our experience just with the nature of combat,
17 yes.

18 Q. Okay. All right. Thank you. Dr. Platt, thank you for your
19 time today and your testimony.

20 (Witness excused.)

21 CDR BARGER: The hearing will now take a recess for lunch, a
22 1 hour recess. The time is now 11:35 a.m.

23 (Off the record at 11:35 a.m.)

24 (On the record at 12:46 p.m.)

25 CDR BARGER: The time is now 12:46 p.m. local time in Union,

1 New Jersey. And we are back on the record regarding the fire on
2 board the *Grande Costa D'Avario*.

3 Our next witness is Mr. Bill Burkett. Lieutenant Reed,
4 please swear in the witness.

5 LT REED: Mr. Burket, please stand and raise your right hand.
6 (Whereupon,

7 BILL BURKET

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

10 LT REED: Thank you. You may be seated. Okay. I now have a
11 few preliminary questions for you. Will you please state your
12 name and spell your last name for the record?

13 THE WITNESS: Bill Burket, and that's B-u-r-k-e-t.

14 LT REED: Thank you, Mr. Burket. What is your current
15 profession?

16 THE WITNESS: I'm the senior director of the Maritime
17 Incident Response Team and Business Continuity with the Port of
18 Virginia.

19 LT REED: And who are you employed by?

20 THE WITNESS: Well, actually Virginia Port Authority.

21 LT REED: Okay. What, if any, professional certificates or
22 certifications do you hold related to your position?

23 THE WITNESS: Well, if you go back to my fire career of 31
24 years with Virginia Beach Fire, retired fire captain, multiple
25 certificates all the way through that, and then here with the Port

1 Authority, you know, just leadership. I am a certified credential
2 type 3 incident commander with the type 3 incident management
3 teams and just an array of certifications. We can get that later
4 if you wish.

5 LT REED: Okay. And how long have you been employed by the
6 Port Authority?

7 THE WITNESS: Since 2010. It's going on 13 years, but I've
8 been involved with the Port Authority since 1995.

9 LT REED: Okay. Thank you, Mr. Burket. Commander, the
10 witness is ready to proceed.

11 CDR BARGER: Thank you. I will be conducting the direct
12 examination of this witness.

13 DIRECT EXAMINATION

14 BY CDR BARGER:

15 Q. Good afternoon, Mr. Burket. You mentioned in the preliminary
16 questions that you had been a firefighter for 30 plus years.

17 A. Yes, sir.

18 Q. Can you tell us about that career as a firefighter? Who you
19 worked for? Where you worked? Types of fires?

20 A. Okay. It was with the Virginia Beach Fire Department. I
21 actually started off as a volunteer in 1975 as a junior
22 firefighter. I was hired in '79 as a career firefighter, and I
23 progressed up through the ranks as engine and company officers,
24 captain, and then a short fill in position as a battalion chief.
25 And then soon after, I retired and went to the Port Authority.

1 But, my tenure with the Virginia Beach Fire Department certainly
2 -- it's a great job and provides a lot of opportunity, fire ground
3 operations. Then you transition into special operations if you
4 wish to do so, hazmat tech and the marine division.

5 I was actually instrumental in developing our marine division
6 with the City of Virginia Beach. And so, you know, running
7 multiple companies, running multiple incidents. Formed MIRT Team,
8 which is part of the Port Authority now back in I would say 1989
9 is when we got up and running. Really small advisory group at the
10 time. It was focused on firefighting. Because of our lack of
11 resources in the Port of Virginia, dealing with marine fires and
12 the particular fireboats. And so we overcame that. I feel it's
13 kind of a different model than a lot of other ports, but we were
14 able to develop that process and get it to where it is today.

15 Q. Okay. And then as a firefighter with the Virginia Beach Fire
16 Department, what was your experience responding to maritime fires?

17 A. It's a different animal, okay. You know, being in the fire
18 service, you're taught -- the number one goal why we're here is to
19 protect lives and property, okay. That's what all land based
20 firefighters are trained to do. You spend all your time training
21 for fire ground operations which includes your SCBAs, your turnout
22 gear, how to operate certain apparatus. You also train to do
23 ventilation. You train to do search and rescue. You trained to
24 do hazmat operations in addition to the hazmat team to recognize
25 all of these type of events.

1 And, you know, as a land based firefighter, your job is when
2 you get on scene and to address life safety is number one. If you
3 have rescue problems, you go in and take care of it. And then
4 what follows after that is what, you know, you protect exposures,
5 you confine the fire and you extinguish the fire. And then you go
6 in and overhaul the fire.

7 And as you progress up through the incident command and
8 through the command ranks, you know, typically from a land based
9 firefighter perspective, that incident commander which we would
10 refer to as an IC, single IC. That could be a company officer
11 initially. It could transition into a battalion chief. Now, each
12 department's different. Their rank structure may be different
13 across the country, but as these chiefs or senior staff or
14 officers arrive on scene, then they may or may not assume command.
15 Some have policies and procedures whether that next highest
16 officer should assume the command. Some don't.

17 But, in the most part, if you're that land based firefighter
18 incident commander, you're it. And 99 percent of those calls,
19 that one incident commander handles those calls. He or she, you
20 know, will make those decisions. All right. They'll ask for help
21 if they need it, okay, and most times they don't. That's just the
22 way it is. It's our fire. We can handle it.

23 And so don't get me wrong. You could have other members of
24 your department show up and assist you with that command post, but
25 for the most part, unless it's an extreme complex event, such as a

1 marine fire, a shipboard fire, typically those incident commanders
2 were programmed and were wired to handle it ourselves, okay.

3 And, so if you stay in that mindset and you get aboard when
4 you have to now encounter a marine event such as this event that
5 happened up here, it becomes problematic, okay. You know,
6 especially if you haven't been exposed to any type of training or
7 to the maritime environment in general. It could really certainly
8 challenge you.

9 Q. Okay. So as a Virginia Beach firefighter, did you respond to
10 any maritime fires?

11 A. From -- now, I was kind of dual hatting at the time because I
12 was running the MIRT team but within the City of Virginia Beach,
13 most of our maritime fires were pleasure boat and marina fires,
14 okay. So we dealt with a lot of marina fires. Had one in
15 particular, dry storage, where we lost over 500 boats to fire. So
16 -- but it wasn't as complex as a major shipboard fire that's
17 either at anchor, underway or moored at a facility.

18 All right. So from Virginia Beach perspective, we didn't
19 have that type of infrastructure within our city boundaries, but I
20 will say that Thimble Shoal Channel, if you're not familiar with
21 the Chesapeake Bay and the entrance to the harbor, we're kind of
22 the gateway of where vessels come in to get to the Port of
23 Virginia, and also to go up to Baltimore, that that channel passes
24 through the City of Virginia Beach's jurisdiction. All right. So
25 -- and it was one event, it wasn't a fire. It was a hazmat on an

1 Evergreen ship on a container up on deck. They dropped the hook
2 in Lynnhaven. And so we responded to that to help mitigate that
3 fire.

4 Q. Okay.

5 A. Excuse me, not fire. It was strictly a hazmat leak to do the
6 assessment and those type of things. So -- but from the MIRT
7 perspective, when I was still with Virginia Beach Fire, I
8 responded to multiple ship fires within the port and even, you
9 know, offshore also.

10 Q. Okay. You were talking a little bit about the -- it was in
11 your experience and mentality of land based fire departments
12 responding to a scene. What, if anything, does a land based
13 firefighter do with respect to ventilation of a fire space?

14 A. The ventilation, okay, if we're talking about shoreside
15 structures, typically ventilation, there's a couple different
16 methods. You can do cross ventilation, horizontal, vertical. It
17 can entail just opening windows, you know, on the windward side,
18 those type of things. It could entail opening the roof or open
19 other natural vent areas. It also can involve positive pressure,
20 all, to pressurize certain things. So like a stairwell, In a
21 high rise or a building, when you want to transition the stairwell
22 to make sure that those products of combustion are not entering
23 that stairwell, especially if it's an escape route for the
24 occupants or it's where you're going to do your firefighting
25 tactics, there's a lot of systems. Either you can pressurize it

1 with external fans or there could be some install systems on the
2 structure to pressure that stairwell for you. So ventilation, it
3 can be complicated, but also it can be certainly an asset to the
4 crews working inside to keep all that smoke and heat off of them
5 as they try to reach the seats of fires as safety and quickly as
6 possible.

7 Q. So going now to your current role with the Maritime Incident
8 Response Team or the MIRT, what is that team?

9 A. Well, it's kind of unique to a port authority, okay.
10 Basically my position within the Virginia Port Authority is
11 twofold. The Virginia Port Authority is only responsible for five
12 terminals in the entire Port of Virginia, all right. All of the
13 other terminals are either owned by DOD, private sector, whoever
14 it may be, but for us, it's our terminals, our container terminals
15 and really one RORO terminal or breakbulk terminal, not RORO. I
16 should say breakbulk. And we do have an inland port that's up in
17 Winchester, Virginia, to do that rail-truck interface.

18 So my job mainly at that point inside of our gates is called
19 continuity of operation, that business continuity. I'm there to
20 make sure our continuity plan runs, for instance, when COVID was
21 -- middle of COVID, I was responsible for managing our COVID
22 taskforce, all right. Any incident or event that may happen
23 inside of our gates that could impact our day-to-day operations.

24 And most times, in those situations, I can come in, help out
25 the terminal. I mean because we are a landlord -- excuse me. We

1 are an operating port terminal. We're not a landlord. So we own
2 and operate our own terminals. So I can go in and help ops
3 address any situation that they have and then I come out and just
4 let them do their work.

5 Outside of our gates, a much different role, and this is
6 really where it's unique for a port authority. Basically to be
7 honest with you, I help coordinate all the OGAs, and an OGA is
8 what the Coast Guard refer to as an other governmental agency.
9 And those OGAs consist of the local fire department marine teams,
10 the police department marine teams. It may include some state
11 assets such as the state police. I help arrange for the public
12 safety dive teams. And in the Port of Virginia, there's 16
13 jurisdictions that surround the port.

14 All right. So I help manage that. And to be honest with
15 you, at that point, I'm working for Sector Virginia, okay. So if
16 Sector Virginia, the command center, or the sector commander or
17 the deputy sector commander, they need help with support from the
18 OGAs, as far as vessel response, I help coordinate, bring that
19 response to the -- get them rolling and sometimes will deploy our
20 mobile command unit. We'll set up based on where the command
21 center or the sector commander would like us to be, and then we'll
22 help manage that piece from there.

23 But, it's important to understand that this event has fallen
24 in someone's jurisdiction, okay. So a city or a county or an
25 agency. So that incident commander has to be there. So we're

1 kind of transitioning into this unified command. So we help
2 support that from a response and coordinate it.

3 But, in addition to that, we are also recognizing the
4 complexity of a maritime event. The Port Authority, and I'm
5 honored and I'm also very gracious that our Port Authority, our
6 leadership, is allowing us to work outside of our gates to ensure
7 the entire port or basically the entire AOR for Sector Virginia.
8 We're trying to do things to mitigate, and all hazards, not just
9 fire, search and rescue, hazmat, security, but the whole foot. I
10 mean initially the MIRT team was focused on fire, but it's
11 certainly transiting more to all hazards.

12 So, with that said, we -- am I -- okay. Can you hear me?
13 all right.

14 With that said, to help facilitate that preparedness, we work
15 together to provide annual training, and those four classes
16 consist of our marine firefighting school, our marine command
17 school, our public safety dive forum and our annual search and
18 rescue forum which that really brings the basis of the way we do
19 business and response in the entire Port.

20 And in addition to that, the Port Authority, you know, we
21 don't buy fireboats. We don't staff fireboats like some of the
22 other ports do, okay. Some of the larger ports will do that. And
23 again, each port authority operates a little different on how they
24 want to support this. And we can talk later about that, but for
25 the most part, you know, we're able not only to provide the

1 training, we utilize grants to do that when we have the folks come
2 to that. But we also, through grants, we help provide equipment
3 and resources.

4 For instance, we have three 3,000 gallon per minute portable
5 fire pumps that are on trailers that we purchased big support
6 trucks to pull those trailers. And they carry typically marine
7 firefighting type of equipment, nozzles and adapters. And, those
8 vehicles are not kept on terminal. We actually put them in the
9 firehouses for the cities that respond, and that includes Norfolk.
10 That includes Chesapeake. That includes Henrico, which is up the
11 James River where we have a terminal up near the City of Richmond
12 off 95. And we also have a rig that we put in the City of
13 Hampton, and they'll respond anywhere. Our mobile command unit is
14 housed in Virginia Beach.

15 And where the success has been behind that, this equipment's
16 quite expensive, but if we have it set on the terminal waiting for
17 a shipboard fire, it'll turn to dust. It doesn't get used. It
18 doesn't get maintained. Here we put this in the firehouses and
19 all the firefighters, and they're mainly MIRT team members from
20 the local agencies, where they check off the equipment daily, they
21 operate the equipment and they can even use it for responses
22 within their own city limits without asking for permission. And
23 that's all developed through a MOU that the Virginia Port
24 Authority has with all the local agencies that participate.

25 Q. In your experience during a maritime fire, who has the

1 primary I guess jurisdiction or authority to command that fire
2 scene?

3 A. Well, it's where that vessel is. And that's why in the
4 marine firefighting contingency plan, it's important to understand
5 that most cities have jurisdictional boundaries that actually
6 extend into the waterways. So with that said, if you have a
7 vessel that's underway and anchor, and it's -- has a problem, who
8 is the responsible fire department if it's a fire situation.
9 Since I've been doing this for over 30 some years, it's easy for
10 me in the Port of Virginia to determine that. But, the marine
11 firefighter contingency plans will typically outline those areas
12 to determine who the responsible party is, okay.

13 Q. What about a ship sitting in a dock?

14 A. Well, typically if it's docked in, you know, it's that city's
15 responsibility. I mean for here, Newark, it was Newark. If it's
16 tied up to Norfolk International Terminals, it's the City of
17 Norfolk. I guess if it's tied up to Red Hook, that could be
18 FDNY's, City of New York and again, don't quote me on those, but
19 that just gives you an idea of whose responsibility it is.

20 For -- let me quote -- let me just clarify that. The
21 responsibility -- it's more than just responsibility of the fire
22 department, okay, in managing these maritime events. Of course,
23 they look to the fire department to manage the strategy and
24 tactics of their folks, okay, and that come along with those.
25 But, also from the big port safety perspective, Coast Guard's

1 there. Of course, the ship's crew's involved. You may even have
2 an agent or a port captain show up. You could have your state
3 reps as far as environmental or hazmat. All these folks are
4 showing up to the command post where that incident commander is in
5 the process of managing that event.

6 Q. Okay. And so when it comes to preparing for maritime
7 incidents or in particular maritime fires, shipboard fires, how do
8 you all prepare and what organizations do you bring together to
9 accomplish that?

10 A. Okay. I've been fortunate enough and again, from a
11 preparation perspective, I'm heavily involved with the Coast
12 Guard, all right, especially since a lot of our work is outside of
13 our gates. I -- from the AMSC, the Area Maritime Security
14 Committee. I'm also a member of the area committee by which that
15 marine firefighting contingency plan falls in that area plan,
16 okay. I'm the member -- I'm the chair of the Port Readiness
17 Committee where I work with TRANSCOM and SDDC to have the Port
18 prepared for any military outloads or redeployments. I'm on the
19 LE Subcommittee. I'm on the Cyber Subcommittee, and the Rad Nuk
20 Subcommittee. So, that's the way you start to become involved,
21 understanding and all of the folks, all the Port partners and all
22 the players.

23 Now, to help that -- now, that's a Bill Burket thing, okay.
24 The question is do our local police departments know this? Do our
25 local fire departments know this? And how all this fits. That's

1 an ongoing process. All right. It certainly is.

2 So in this case, what we do is we hold those four annual
3 trainings, okay, like I mentioned. And the first one in
4 particular was the marine firefighting school. We're going on our
5 32nd year of putting that school on, all right. The attendees
6 initially started out just to be -- and that's focused on
7 firefighting. They were attendees from the Hampton Roads, Port of
8 Virginia area, our first couple of years. But now, it's
9 international. We get firefighters from the Netherlands. We get
10 firefighters from the Panama Canal. We've had them from Italy.
11 We've had them from Canada. And then domestically east, west,
12 Gulf Coast, all right. They all come. And we spend 5 1/2 days
13 referencing -- all of our training focuses on NFPA 1005 which is
14 the standard, okay.

15 But, we're a little different from the fact that we really
16 try to expose the land based firefighters of the challenges that
17 they're going to have when they approach the ship, okay, and they
18 have to interface. And, can I refer to my agenda for that?

19 Q. Sure.

20 A. Is that okay? All right. It includes everything from safety
21 accountability, strategy and tactics, water supply, hose handling,
22 air management, utilization of the incident command system to
23 help, even though most fire departments utilize the ICS, right,
24 incident command system. Well, in an event like this, you've
25 really got to expand it and probably use every component of the

1 ICS to successfully manage an event like this. All right.
2 Multiple decks, multiple crews, multiple points of entry, okay,
3 vessel systems. It's just -- if you're not utilizing the ICS
4 system, I hate to say it, but you're setting yourself up for
5 failure, all right, because it's difficult to track.

6 We do vessel types, marine construction. We do vessel tours,
7 all right, get them on vessels. That's a challenge. If you want
8 to get a crew on a working container ship, coal collier (ph.), it
9 is a challenge especially foreign flag, all right. Not only do
10 you have to get through the facility security part of it and then
11 gain access to the ship, trying to work with the agents to get the
12 permission to get on the ships, right, it takes me about a good 2
13 days of being on the phone constantly to hopefully get ships. You
14 know, knock on wood, we've been able to definitely do that.

15 All right. We discuss legal issues. We have a maritime
16 lawyer to come in and talk. We spend a day at the Navy's
17 firefighting school where they actually get live burns. We
18 discuss fixed systems, all type of fixed systems. We bring in a
19 company called Hiller. They have a trailer that's set up just
20 like a CO2 system, where they can -- now, this is a high pressure
21 system, not a low pressure, but they can watch how everything
22 functions, how the master cylinders release, the valve release,
23 cylinder control. They get to see the time delay work, the air,
24 how the CO2 flows through the siren and all that and then they
25 hear the discharge, all right.

1 Then it's certainly other types of fixed systems. You have
2 sprinkler systems. You have misting systems. You may have what
3 used to be called halon which is now the FM200 type of systems
4 that actually break the chemical chain reaction. They have no
5 smothering effect.

6 So -- but your CO2 is probably the most common, and it can be
7 for the firefighter the most dangerous if you're not sure how it's
8 working. And, also what we have to be aware of is the safety
9 factor, other than just entering the space where the CO2's been
10 discharged, also CO2 has been known to migrate, exit that space
11 due to holes or fittings that have been cut or open, and actually
12 made other compartments that you don't think are oxygen deficient,
13 oxygen deficient. All right. So when you working a CO2 system,
14 your crew, someone needs to be carrying the four gas instrument to
15 determine when you are in a low oxygen atmosphere because the only
16 way you're going to tell is having an instrument before it's too
17 late.

18 But anyway, we rely heavily on talking about the ship's fire
19 main system, the international shore connection, their hose
20 stations, their type of hoses, how you use them, when you should
21 use the ship's system, when not, okay. We also demonstrate where
22 we set up water supplies either from a fireboat onto the vessel or
23 dockside if the ship's alongside, you can connect up your water
24 supply from hydrants and establish your hose lines, get them on
25 board. And again, that's kind of a -- it's not easy as it sounds.

1 It's very manpower intensive. It typically involves maybe some
2 large diameter hose. Sometimes you can use 5 inch. Sometimes
3 it's a much smaller, 4 inch or 3 inch or 2 1/2. It involves
4 multiple adapters and appliances so you can step those lines down
5 to handlines that you can handle, typically 1 3/4 inch or 1 1/2
6 inch, right.

7 But it should be noted that if you use the ship's fire main
8 system, typically fire department hose off the rigs will not
9 connect to a shipboard fire main system just due to the different
10 type of fittings and connections. Now, unless it's US flag. If
11 it's US flag, the 2 1/2 is what we call fire hose thread and a lot
12 of times the 1 1/2 inch is pipe thread. All right. But most of
13 the fire departments use the national standard thread. So you can
14 get away with that sometimes, but for the most part, we like to
15 stretch our own hose lines, our own supply lines, especially if
16 the decision is made to do an offensive attack into that fire
17 compartment. The fire departments typically want their own hose
18 and nozzles because that's what they've tested, trained and used.

19 The shipboard hoses become very valuable to hold that, to
20 protect those primary boundaries, all right. So if you discharge
21 the system, the CO2 system into a hold, you've got to understand,
22 CO2 just depletes oxygen. It has no cooling effect, all right.
23 You still have the super heating smoking gases. You still have
24 the hot metal just waiting for that introduction of oxygen for it
25 to light back off.

1 So to keep those bulkheads cool, to know where they are and
2 how they function and where they're laid out, that's a very good
3 example of pulling the ship's fire hose and utilizing that to keep
4 those bulkheads cool while you're trying to do everything else.

5 Q. Okay. So that's the marine firefighting program. You
6 mentioned you had another training program that you also --

7 A. Yeah. Now, one thing I forgot to mention in the marine -- in
8 this 5 1/2 day course, the last day consists of a full scale
9 exercise that's held in the James River aboard a MARAD (ph.) ship,
10 and we put victims in it. We actually -- it's a superstructure
11 fire, and all the students respond to Fort Eustis. We have
12 fireboats there. We have police boats. We have Army landing
13 crafts, whatever you want. They're objective is to -- and by the
14 way, we are now testing our marine firefighting contingency plan.
15 We're exercising it. They have to deploy from shoreside, run
16 those couple of miles into the James River to put in place their
17 water supply because it's a dead ship. Nothing works on it,
18 right. We actually have folks up there who are playing the roles
19 of captain and a chief officer. And we do throw a language
20 barrier in there just so they have to deal with that to be
21 prepared for it. And they have to go out there and mitigate, hit
22 all the benchmarks to be successful with that exercise. And
23 that's a full day exercise on the last day.

24 Our second training is now, and it's only our fourth year, is
25 -- we just finished our fourth year, is our marine firefighting

1 command school. And this really was borne out of the fact that
2 the COVID year, I think what, 2020, we could not hold the marine
3 firefighting school. So in its place, after things started to
4 settle down, we developed the command school. And to be honest
5 with you, there's always been discussion over the many years that
6 we should be doing something like this, the command school, and so
7 we did.

8 It started off just like a 2 or 3 day school and mainly
9 focused on the incident commanders. But we soon realized that
10 there was much more that needed to be done. So we expanded the
11 course to a 5 day course. And it includes -- we really focus on
12 -- we talk about the MIRT organization. We talk about the marine
13 firefighting contingency plan. And by the way, anybody that
14 attends, it doesn't make a difference where you're from, we print
15 and bind a copy of our marine firefighting contingency plan and we
16 provide it as a handout for that student so when he or she goes
17 back to their local department or they're interfacing with their
18 sector there, at least they have an idea of what something looks
19 like. Because I'll be honest with you. Even during the command
20 school, I'll ask the students, and we had almost 70 students this
21 past year in October. I ask, does anybody know what your marine
22 firefighting contingency plan is? And if I get more than three
23 people raise their hand, we're lucky. All right. And it is an
24 important document.

25 So, we focus on the command and control of marine incidents,

1 right. We have two panels. One is a federal, state and local
2 responsibilities. That's where we have the captain of the port or
3 the sector commander and their deputy. We have somebody from our
4 state rep. We have somebody from the Virginia Department of
5 Emergency Management, and we had a local fire chief on there
6 because those are really the entities that are going to have some
7 say so what's going on in this marine fire, okay.

8 While I'm thinking about it, the incident commander from the
9 fire department, like I mentioned back earlier, you know, we get
10 in our cylinder of excellence where this is my fire, okay. If I
11 need your help, I'll ask you. If I want help, I'll call for it.
12 Other than that, please just stand over there until I need you,
13 right. That doesn't always happen, but I'm just telling you,
14 sometimes that the mentality, right, because that's what we work
15 in 99 percent of the time.

16 What we're trying to do with this new updated marine command
17 school is to convince the incident commander they now have to step
18 out of that cylinder of excellence, okay. Especially if you're
19 not familiar with the shipboard environment, you have to. Because
20 whether you like it or not, you're going to have the Coast Guard
21 walking down the dock. You're going to have, you know, a port
22 authority official walking down the dock, and then most times you
23 -- now, I mean you can certainly refuse their help, but they have
24 a right to be there and you have to start thinking unified
25 command. If you want a successful event, this has to start

1 transition into a unified command. And that also includes the
2 ship's crew by all means plugging them in.

3 But, if you're not aware of the structure of a crew's org
4 chart, the responsibilities of the captain or master, however you
5 want to call him or her, you know, what their overall
6 responsibilities are, which is the ship, the cargo and the crew,
7 all right. You get down on the deckside, he's got his chief mate.
8 You come down the engine side, you've got the chief engineer. And
9 all the seconds and the thirds, then right on down to the
10 boatswains and the wipers and all of those folks. They all have a
11 critical part, but if you as an incident commander do not
12 understand their role, or you go not understand their
13 responsibility, you're losing out on helping you manage that
14 event.

15 If that fire is dealing with an engine room fire, my best
16 person to go to immediately is somebody in that engine department,
17 okay. If it's dealing with cargo, certainly the mates because
18 they're the ones responsible for loading and discharging the
19 cargo. Don't get me wrong. That captain has over all
20 responsibility, but he or she is just tied up just trying to
21 manage the whole event. If you could get ahold of these people
22 and bring them down to your command post, you're starting to
23 really get the knack of it, all right. So just having them
24 understand that.

25 And then on the other panel, we have what we call vessel

1 owner responsibility where we brought in a ship's captain. We
2 brought in a maritime attorney. We brought in a ship's
3 (indiscernible). We brought in a marine chemist. And, any of the
4 agencies that the ship's owners that may have in their vessel
5 response plan, are any of those that can come and provide their
6 perspective because you've got to work together to make a
7 successful event and outcome, all right. We do recent events,
8 lessons learned.

9 And, you know, we had the *Spirit of Norfolk* fire a couple of
10 years ago which right there in the Port of Virginia which was a
11 total loss of the vessel, 108 passengers and most of them were
12 kindergarteners, rescued and not a problem, right. But again, we
13 had maydays, when the firemen got on board and went down in there,
14 we had maydays. And so we pulled everybody off. Fortunately they
15 self-extricated. Their injuries were minor, but we got them off
16 and I can elaborate more about that, but that was one of the
17 recent incidents we talked about, okay.

18 Shipyard tours. Here's a big thing that we really focused on
19 was reading of the ship's fire control plan and asking of those
20 documents, all right. There's multiple documents that we need to
21 be aware of. That is the dangerous cargo manifest, that is the
22 ship's fire control plan, and also maybe -- if you've got a
23 stability issue, maybe there's the stability book or any of that
24 stuff, but that's -- it kind of gets out of our wheelhouse where
25 you need a specialist in there to help you decipher that which is

1 mainly the ship's crew, captain, engineer, excuse me, chief mate,
2 that type of person.

3 If you've never seen this document before, it can be a large
4 document. Some are 2 to 3 feet long, all right. They are
5 positioned in multiple areas on the vessel. By code, they're
6 supposed to be at either gangway, port and starboard. They're put
7 in a red tube, and it says fire control plan, identified on it,
8 all right. So when the firemen, whoever come aboard, that's one
9 of the things they can look at, is get that fire control plan.

10 And when -- and sometimes and, of course, they're matted on
11 the bridge. It may be behind some glass in some of the
12 passageways, right, located throughout the ship. It just depends.
13 But when you pull these things out of the tube, you've got to be
14 prepared on where to put them and how they handle them. I've seen
15 some of them that are just paper, and if it's raining out, and
16 you've got water flowing, it turns to toilet paper in your hands.
17 You wipe it out. Also, some of them are laminated.

18 But what you've got -- when you at one, and you see the
19 legends and all the legends are the same, that's IMO code, right.
20 So the pictures and the symbols. But it's a very busy document.
21 There's a lot of information there from the fire control plan.
22 I've seen some, some ships will have a plan for each system, like
23 fire alarm, general arrangement, dampers, fire main system, a
24 separate document, but most vessels put everything into one on
25 their fire control plan. And not only does it include

1 firefighting equipment, it also -- and locations of smoke
2 detectors and pull alarms. It's also got a lot of safety
3 equipment, lifejackets, flares, EPIRBs, life rafts, those type of
4 things. You'll find those in there, okay. And so it's a very
5 detailed document. And if you don't understand how a land based
6 incident commander's working, if he or she is standing behind
7 their Suburban or their Tahoe, and they're answering multiple
8 calls on the radios, trying to manage the event and if you show up
9 with this document, it's difficult for them to even comprehend it,
10 okay.

11 So what we do in this class is we take the time to talk about
12 the document, to lay it out, let them have the opportunity to look
13 at it. And then our final day for an exercise, we're fortunate
14 again to have MARAD, to be able to use their preposition ships,
15 their ready reserve ships that are moored up in frequent docks
16 along the Port, these firemen that attended, they spend almost 8
17 hours and we rotated them through four or five different stations
18 where it was a different fire control plan, where they're looking
19 at a different incident, and then they had to manage reading that
20 document. And look, that incident commander reading the document
21 is not going to work. Your incident commander needs to get like a
22 research division, get another command officer, get somebody from
23 the ship's crew. It could be the chief mate. It could be any of
24 the mates. It could be any of the engineers. It could be the
25 boatswain, somebody who knows the ship. Say, hey, go in that room

1 or get over there in the command unit, and I want to know where my
2 primary boundaries are. I want to know where my egress points are
3 those. Where are my secondary boundaries? And, of course, by
4 then you should have known that they use fixed systems. Where are
5 those boundaries? All right. And come back and give me that
6 information.

7 Because, if you're trying to manage that all by yourself,
8 it's not going to work. You'll end up just pushing the document
9 off to the side, and not even coming back to it. I see that time
10 and time again.

11 Q. And during that point in training, do you talk about -- most
12 -- many ships calling on the U.S. ports are foreign ships with
13 foreign crews.

14 A. Yes.

15 Q. Do you talk about how to interact with a foreign crew or how
16 to approach that?

17 A. We do. We discuss that you could -- but, you know, for most
18 part, the officers speak English. It might be broken English, and
19 when you're in the heat of the battle, just that process of trying
20 to disseminate what's going on, at the same time, you've got
21 radios screaming in your ears and things like that. It takes a
22 lot of discipline, all right. So that's why the incident
23 commander needs to start segregating these things, pushing them
24 out, you know, provide different tasking to other command staff to
25 help him or her manage this event, okay. Because again, if you're

1 trying to do it alone, it's almost impossible. It's almost
2 impossible.

3 And this is unlike any other event that you'll see ashore,
4 you know. Now, don't get me wrong, God forbid, a 911 event, that
5 certainly rose to this level, not well beyond that but, you know,
6 a typical first alarm, second alarm fire, you know, the incident
7 commander manage that quite easily, but you don't have all the
8 folks coming in, you know, and you're also dealing with a foreign
9 country, right, you know, if it's a foreign flag ship.

10 So, there's a lot of nuances to it unless you are aware of
11 it, and unless if you've been exposed to it, you don't know. And
12 that's what we try to do with this command school is to focus on
13 those things. And I'll be honest, you know, I did come up here
14 with NIOSH with the initial investigations, and when I went back
15 home, I really did some soul searching. I said, man, you know,
16 somehow the word's not getting out, right. And granted, in the
17 fire departments, training is always an ongoing event. What has
18 to be understood is that the fire departments just aren't here to
19 train on shipboard firefighting. They have to do EMS. They have
20 to do hazmat, and you've got your other technical rescue. They
21 all have staffing issues, right.

22 And there's no such thing as free training. Even though like
23 our command course, there's no cost to attend, we paid that
24 through grants, all right. But you've got to still pay them
25 travel. You've got to cover their salaries, and then you've got

1 backfills that have to come in, right, to take care of their spot
2 while they're out off the job attending the training. So it not
3 as easy as it sounds, okay.

4 But, if a department has these type of infrastructures, such
5 as ports and they're first due area, they are responsible for
6 response, okay. So how do you manage that? And that's going to
7 depend on the department and some other folks. And, I will say --
8 I'm going to say it now while I'm thinking about it. Also in some
9 of that soul searching, I'm just going to let you, Newark is not
10 alone in the response capabilities to maritime environments.
11 There are many ports around this country where our local fire
12 departments are lacking the training that is really necessary to
13 manage this event, okay. And, that is ongoing. Don't get me
14 wrong. There are a lot of departments that are, hey, like you
15 look at -- I consider us, the Port of Virginia being one, FDNY, LA
16 Long Beach, Houston, Corpus, okay. But we all still have much to
17 do.

18 We still have a ways to go to be where we need to be because
19 what brought me to that realization after I left here and went
20 home was the fact that if you look back, Jacksonville had their
21 event, hurt nine firemen, maydays, all the firemen came off.
22 Fortunately, no fatalities.

23 The Navy fire on the ship over in San Diego. Same thing.
24 Maydays, multiple firefighter injuries, fire department came off
25 the ship, but that was with Big Navy. So that can get a little

1 clunky because they've got their own things going on, all right.

2 Our *Spirit of Norfolk*, you know, maydays, minor injuries but
3 the firemen came off.

4 There's been a lot of examples. And then, of course, this
5 incident here. So in my opinion, it's more than just a fire
6 department issue. It's a port partner issue. And what I'm --
7 port stakeholders. Let me put it that way. Port stakeholders,
8 and for us to successfully address these issues, it's going to
9 take the Coast Guard. It's going to take the port authorities.
10 It's going to take the fire departments. It's going to take the
11 shipping companies, right, anybody else working in the port to
12 help come together to help prepare, to help everybody understand
13 what the risk and the hazards are, all right.

14 But, we do have -- now, don't get me wrong. We've got some
15 good steps moving forward, all right. There's already some things
16 underway to help address this from a national level, but it's just
17 not a fire department problem.

18 Q. And so on that note, within the Port of Virginia, how do you
19 all do drills or exercises to test the marine firefighting
20 contingency plan?

21 A. Well, we mainly do it during that week training, okay, at the
22 marine firefighter school. That's the big one. And I tell you,
23 that's such -- when you look at it, that course costs us over
24 \$100,000 to put that course on, okay, for the 5 1/2 days. Based
25 on -- and it would cost more if we did not get donated services

1 like from MARAD or from some other folks, ship -- you know, access
2 to the ships and things like that. So, we test the plan that way.

3 Then there's also throughout the year, there are multiple
4 tabletops that we do, maybe not focused strictly on firefighting
5 but it could be search and rescue, where you're deploying the same
6 assets, you're still deploying the same command and control
7 processes, okay.

8 And one other important thing in our command school is that
9 we focus on that incident commander going from that single command
10 and kind of moving to a modified, unified command. That's like
11 when he or she's interfacing with the ship's crew, Coast Guard
12 shows up. Maybe like in this Port with Donjon being right here,
13 the salver (ph.) shows up or a surveyor shows up or an attorney
14 shows up or QI. They have to understand who these people are and
15 start to work with that.

16 Within the following day, we actually morph the thing into a
17 full unified command setting by which the Coast Guard IMAT team
18 from the sector actually sets up the entire room as you see
19 everybody wearing and the unified command. You've got the
20 planning section chief, the ops section chief, finance,
21 everybody's -- safety also. So they're all going through that
22 whole process because many land based firefighters or incident
23 commander don't get to see that, all right, in a marine
24 environment, especially if the Coast Guard is really involved.
25 When you get to that unified command piece and when that event

1 goes multiple days, that's what you're going to see. And we want
2 to expose that to them.

3 Q. You touched on it a little previously, but we all, and in
4 some cases, are still experiencing the COVID pandemic. How did
5 the years of the COVID pandemic impact your training and your
6 drills and exercises that took place in your port?

7 A. Well, of course, during the height of it, like in 2020 and
8 early 2021, it slowed us up a little. But, for the most part,
9 we've been able to work -- and that's what the command school was
10 held, in 2020, right. So we were able to get something done. But
11 every now and then, you'll still run across a shipping line that
12 says, hey, you know, we don't want you coming on our ships because
13 of COVID, right. And I get it. You know, it's just the way that
14 they want to run things.

15 But, you know, one of the challenges being able to gain
16 access to these ships, and there's a lot of shipping lines that
17 are very accommodating, that will allow us on to walk through and
18 basically that walkthrough is just strictly a familiarization, to
19 look at the systems, the bulkheads, you know, talk with the chief
20 officers or the engineers, get an idea of the layout of the engine
21 room, engine control rooms and things like that, and to see their
22 fixed systems, their type of fire hose, their type of connections,
23 those type of things.

24 Q. And you mentioned the command course is free of charge for
25 attendees. What about the firefighting course?

1 A. Well, we do charge for out of state and folks, and it's like
2 a couple hundred bucks, 300 bucks for the full 5 days. And the
3 only reason we're charging for that is to help us cover our costs,
4 all right, because it's so cost intensive.

5 CDR BARGER: All right. I want to start transitioning to the
6 -- your response and involvement in the investigation in the
7 incident that occurred here in Newark. I'm going to check with
8 the parties. Does we need to take a -- we're at about an hour.
9 Do we need to take a recess?

10 Okay. Good. So we'll keep going.

11 THE WITNESS: Commander, could I comment one other thing on
12 the command school? Do you mind?

13 CDR BARGER: Sure.

14 THE WITNESS: It's reference to the incident commanders.
15 Again in addition to trying to get them out of, hey, you need to
16 work with other people, we certainly stress to them to slow down,
17 okay. We don't need to be running to the seat of the fire to put
18 the fire out, okay. Take your time. Get ahold -- you need to do
19 a good size up or an assessment of really what's going on.
20 Interviewing and getting up with the ship's crew. Have you
21 discharged fixed systems? Of course, and don't get me wrong.
22 Life safety is number one, the accountability of the crew. What
23 about the passengers if it happens to be a different type of ship?
24 What about the -- any of the port stevedores or anyone other that
25 may be working on the vessel during cargo ops, okay. And based on

1 that information, sending recon teams up.

2 And where you've really got to be concerned, if you're going
3 to send those teams below deck, like in the engine room or even in
4 the cargo holds like the ConRo ship or maybe a typical container
5 ship, those are areas you truly need to slow down, see what you
6 got. Don't run in there, all right, because especially if a fixed
7 system has been discharged, let it work. Typically if you
8 discharge a system, rule of thumb, and it varies from incident to
9 incident or situation to situation, could be 24 to 48 hours before
10 even thinking of sending somebody into that space, okay.

11 But, if you're not aware of that, right, and if you're not
12 sure or understand how fixed systems work, we revert back to our
13 land based firefighter strategy and tactics. All right. Fire's
14 out. I need to get in there and make sure it's out. Check for
15 extension and put it out if it's not, okay.

16 So that's why there's many more challenges in the shipboard
17 environment than in just landside.

18 BY CDR BARGER:

19 Q. And so what do you teach as far as why you may let a CO2
20 system sit for 24 to 48 hours?

21 A. Right. Because if you enter too early, the fire could
22 reflash on you, right. Of course, there's a life safety issue
23 with that, not only to the crew but also to the fire crews
24 themselves. All right. You want to hold what you've got. You
25 want to keep that fire in that box, in that compartment. You

1 know, surround it six sides, gain access to those bulkheads, make
2 sure they stay cool, and just wait it out. Now, we've got time.
3 We've got time to bring additional resources in. We've got time
4 for the salvors to get in. We've got time to talk to our
5 dewatering experts. If we're flowing a lot of water, where's that
6 water collected? Does it impact the stability?

7 Depending on the cargo -- and here's another thing. You've
8 go to do a risk assessment. What is the cargo? Okay. What are
9 you trying to save? And, to me, that would help you also make a
10 big determination, okay. So, you know, just being able to take
11 your time, slow down. We don't need to get to the seat of the
12 fire right away. Now, if it's up in the superstructure or you can
13 walk down a passageway and maybe come to the master's office, if
14 it's on fire, and stretch a line really quick and knock it down,
15 that's one thing. But, if you have to go down deep into the decks
16 of the ship or to the cargo holds where you have a lot of enclosed
17 spaces, it's difficult to get hose lines, right. You're just
18 better off to wait and take your time, and get input from
19 everybody.

20 Q. So if you're leaving a cargo hold that has had a CO2 system
21 discharged into it, how can you tell if it's having any
22 effectiveness in accomplishing extinguishing the fire?

23 A. Well, there's several things that you would do. Number one,
24 keep an eye on your bulkheads. Are they heating up? Are they
25 staying cool when you're, you know, you want to apply enough water

1 to where the steaming stops, right, where they're no longer
2 steaming. But you've got to be aware of what water you're putting
3 in on the vessel.

4 There are certain tests that you can do, atmospheric from
5 remote. Maybe you can find a little inspection plate where you
6 can drop a tube in. This is where you bring your marine chemist
7 on board or your hazmat folks or even the salvors. As long as my
8 O2 level is staying low, then I know that CO2 is working.

9 Now, I will tell you there are some products, I learned this
10 on *Hoegh Duke* fire, it was palletized rubber in number 7 cargo
11 hold, and we actually had to go to a bulk CO2 operation on that
12 which meant we discharged all the CO2 that the ship had. Then we
13 brought in two tractor trailer loads of CO2 and our fire service
14 company connected those trucks directly to the manifold systems on
15 that ship, and we had tons just there ready to go whenever we
16 needed it. But that particular product required a lower
17 percentage of oxygen in order for it to extinguish. So instead of
18 being at 12 percent, we needed to get it below 8 percent. Now,
19 who would tell us that? That marine chemist did. And we didn't
20 know that until we got the advice from the marine chemist.

21 So those are some thing. Of course, you look for smoke, but
22 I will tell you if you're looking at temperature, you're setting
23 yourselves up for failure. That has made me wrong more times than
24 not. Just thinking you have low temperature, that the fire's out,
25 that's not the case. They will reflash on you in a heartbeat.

1 All right.

2 So, really low O2, take an atmosphere reading and check your
3 primary boundaries, see what they're looking like, right. Of
4 course, your ventilation is secured, all right, or as best as it
5 can be.

6 I know in this situation, the hatch on number 12 deck, they
7 couldn't close it. Well, then in my opinion, the captain did the
8 right thing by firing off the CO2. With it being heavier than
9 air, let it migrate down to those lower decks. Just be ready to
10 bring more in, right. But, they closed up everything else that
11 they could, all right. So you've got to weigh those factors, you
12 know.

13 Q. And when it comes to smoke --

14 A. Yeah.

15 Q. -- what are smoke indicators that there is a fire versus the
16 fire has been suppressed?

17 A. You're talking about reading smoke. All right. That's kind
18 of an art form. You hear a lot of folks. But, typically your
19 smoke, if it's heavy black smoke, it looks like you've got some
20 type of class B involved, whether rubber tires, petroleum, those
21 type of things. That kind of brown smoke kind of gives you like
22 an ordinary combustibile. But, you can certainly tell smoke
23 generation and due to color, that as smoke -- if the fire's
24 starting to increase, that smoke is starting to increase, all
25 right. And then when you can really see it boiling out of there

1 where it's producing it's own currents, then you know you've got
2 something going on down below.

3 Q. Okay. And now specific to the fire that occurred on the
4 *Grande Costa D'Avorio*, on July 5th, 2023, how did you become
5 involved with the investigation on that incident?

6 A. I was contacted by NIOSH. As a matter of fact, one of my
7 colleagues I used to work with in the fire department, Steve
8 Miles, worked for NIOSH. He now works for FEMA Safety. When they
9 heard about the fire, Steve advised the NIOSH officer, hey, you
10 might want to reach out to me or another SME if they've been asked
11 to come to this, who understands the shipboard environment because
12 he'll probably certainly be able to help you. So that's what it
13 was, reached out by NIOSH to assist them.

14 Q. Okay. And what did you do as part of the investigation with
15 NIOSH?

16 A. Well, day 1, we visited the ship, okay. Actually that was on
17 Sunday, July 16th, and then we did the walkthrough. And then I
18 was present for some of the interviews on a couple days. And then
19 myself and Mike Richardson, we had the -- we carried some
20 equipment, SCBAs to FDNY for the assessment for those SCBAs.

21 Q. Okay. And in the information that you have reviewed about
22 this particular case, what are your findings or what are your
23 opinions as to how the fire -- land based fire response went on
24 board the vessel?

25 A. You know, what I've been talking up to the point in my

1 opinion, there were four areas that I felt like that the Newark
2 Fire Department was challenged with, all right. The first one
3 was, of course, the lack of marine firefighting training, all
4 right, number 1. You know, like I -- just some of the things I've
5 already talked to about, about not understanding the ship's crew,
6 the shipboard environment, fixed systems, all of this, certainly
7 led to some issues, all right.

8 And again, not to fault them, but they fell back on what
9 they, you know, what a land based firefighter knows and does.
10 And, you know, they're good at that. They're good at getting to
11 the seat of the fire and putting the fire out and rescuing the
12 folks. That's why we're on the job. All right. That's why I was
13 on the job back then. But in this case, this shipboard
14 environment certainly was a challenge to those typical land based
15 strategy and tactics, okay. So, number 1, in my opinion, that's
16 the most contributing factor.

17 My second was maybe not the lack of full implementation of
18 the incident command system, all right. Each department has their
19 own way of doing things, but when you start to show up with
20 multiple jurisdictions, multiple agencies, to an event like this,
21 I think it's important that, and for instance, just as an example.
22 The incident commander, they used his radio sign D1 multiple
23 times. If you would have said command, all right, to me, that's
24 much cleaner and easier. I'm the incident -- I'm in command. You
25 know, Engine 7 to Command. Whatever it may be. So some agencies

1 may not know who D1 is, but if you say command, they know who the
2 incident commander is.

3 Also, I think the incident commander, his span of control
4 could have been much easier if he would have designated, and in a
5 way they did, okay, but if you're able to go back to that formal
6 training, develop an ops division, and maybe that ops division,
7 that ops person goes up on deck. He's on the bridge with the
8 captain, just saying, just an example. Also the decks, if you
9 would have divisioned those, division 12, division 11, division,
10 then any of those crews coming on board, whether they're other
11 Newark crews, whether they're from Jersey City or whether they're
12 from Elizabeth or FDNY, you go report to division 12, okay. And
13 that could have been one of the battalion chiefs. And that really
14 also helps with accountability. If I'm the division, I know who
15 that -- what teams are working for me.

16 Also what that does, it eliminates the amount of traffic
17 going back to that incident commander. So instead of him or her
18 trying to answer the radio on 12 different crews, and again I
19 don't have all the ties on who was talking, the radio traffic. So
20 I know the battalions that were up there were handling a lot of
21 that, right.

22 But if you're not careful, that incident commander can get
23 overwhelmed. That's why it's hard to read a fire control plan
24 with all that going on, right. It's hard to maintain your
25 accountability. It's hard to maintain your safety, you know, what

1 are my ongoing strategy and tactics. Let alone other folks
2 walking up to you and want to insert themselves into the incident
3 command process, okay.

4 So I think better utilization of the incident command system
5 on something like this where you get multijurisdictional,
6 multiagencies responding. To me, it's imperative, okay.

7 This also requires multiple accountability officers, not just
8 at the deck level, all right. It's catching you coming on. You
9 know, what about where are you going to be assigning that area on
10 that ship, and those are big areas, all right.

11 The third thing was communications. All right. Folks, comms
12 is challenge on every maritime event I've ever been to. I don't
13 care how well you plan, when you get multiple agencies, agencies
14 have their own radio systems. They may have different radio
15 systems. They could be programmed different. It is what it is,
16 okay.

17 But, on this situation, I know they had a channel 5 that was
18 direct that would allow, because if you're trying to hit the
19 repeater from inside the ship, you'll get the bonking noise. It
20 bonks which means you're not getting out. So, if you could have
21 established that radio channel up front, so all the units arriving
22 know to go to this particular channel, that will allow you to
23 communicate, could have helped solve some things, right.

24 And also, look, in the heat of the battle, it's tough enough
25 just to get a fireman to switch his radio from one channel to

1 another. I'm telling you, you might think it's easy, but it's
2 difficult, right.

3 So -- but in order to come in and set up a whole different
4 system, that really takes another team to bring them up and say,
5 look, please establish me a communication so I can start working
6 this event long term, right. But, if you have not exercised that
7 type of system in the shipboard environment, under an exercise
8 type of an environment, it's difficult to get it managed.

9 And fourth thing, I'm sorry, the fourth thing was the lack of
10 mutual aid assistance or offering or requesting mutual aid. I
11 know that the taskforce was dispatched and again, based on what
12 the incident commander saw with the fire being extinguished on
13 deck 12 quickly, right. Hey, I got this, you know. We can turn
14 units around. But, they bring a lot to the table. All right.
15 And so I think mutual aid, and again and, you know, I've worked
16 with FDNY quite a bit. They send a lot of their crews down to our
17 training.

18 But, folks, you have the largest fireboat fleet in the
19 country in the Port of New York. It's here. Large brain (ph.)
20 divisions. Let's use them. And I know Jersey has that, okay.
21 They have a fireboat taskforce. I just don't know all their
22 capabilities. The only reason I can really mention it is because
23 I know what New York has, all right.

24 So, we've got to be willing to ask for help, and this is for
25 all fire departments. And we have to be willing to accept that

1 help especially on an event like this.

2 Q. Since you just mentioned the fireboats, in your opinion in
3 review of this incident, what, if any, value could fireboats have
4 brought to the response?

5 A. They would have value, and you have to understand, I helped
6 create our fireboat team at Virginia Beach. So I'm a fireboat
7 guy, okay, through and through. Love fireboats, and the need for
8 fireboats. But, let me just say a fireboat's nothing but a
9 floating fire truck. That's all it is. Okay. Now, I'd rather
10 call them emergency response vessels instead of fireboats because
11 in most cases, our emergency response vessels get used much more
12 for search and rescue, security, and whatever it may be, in lieu
13 of just firefighting, okay.

14 But in this case, the boats, based on this ship, and where
15 she was located and what I saw, there were a lot of hydrants
16 pierside that land based apparatus could have connected into and
17 supplied water supply, the hose lines, and up to the ship.

18 Where the boats, for this event, where they would have been
19 most valuable, in the early stages, was coming alongside, if a
20 water borne, water supply was necessary, they could do that. But
21 also, there's a lot -- they could also be what we call a water
22 borne RIT, rapid intervention team. God forbid, somebody fell
23 overboard, boats can get them, right. And there's a lot of things
24 that you need to look for on the outboard side of that ship.
25 Let's get draft readings all the way around, right. So we can

1 start documenting, as we're putting water in the ship, how she's
2 starting to settle. Is it starting to list? Is it starting to
3 hag? Is it starting to sag? Whatever those things may be. And
4 that's what you need the boats for that.

5 Then, if it got to the point based on your observations of
6 the decks, or the steel plating, I'm sorry, the hull, that if
7 you're seeing blistering or high heat, those boats certainly could
8 flow water, you know, to help cool those exterior boundaries, all
9 right.

10 But, I think what's important to understand, you need more
11 than just one boat because those boats will be multitasked, all
12 right. You know, they could be -- like I mentioned for a RIT, it
13 could be multitasked just for doing relay. You would be moving
14 resources and people back and forth. Those boats become very
15 busy, all right. So -- and understanding the resources, I
16 understand that not only that both New York and New Jersey have,
17 bringing in other boats, could have been an asset, right. So at
18 least they're there ready to go to work if and when you need them.

19 Q. Now, when I picture or think of a fireboat, I think of the
20 monitor that they have on to spray water. In this particular
21 incident, with the size of the ship, would your standard fireboat
22 have been effective for that boundary cooling or any type of
23 firefighting?

24 A. Well, and basically on the ConRo on this event, with the fire
25 being from deck 10 up through deck 12, our smaller boats, our 30

1 footers, our 40 footers, that may flow 1500 gallons of water a
2 minute, with the nozzle pressure of about 150 of a smooth bore,
3 the reach would be challenged to get that high, all right. But
4 from lower than that, you know, it's like going through your
5 toolbox. You pull out the tool that you need for the job. In
6 this situation, to get that effective reach, what you did, the big
7 boats had to be there, the 343, the *Fire Fighter II* from FDNY, but
8 not every fire requires big boats, right. So our 30 and 40 foot
9 range become a very -- like in the Coast Guard, the 29s and 45s,
10 those medium endurance, very useful boat in just about any
11 situation. So these fireboats are the same way, okay.

12 Q. So in this case, are you aware that the ship's crew
13 discharged the CO2 system prior to the fire department arriving?

14 A. Yes, according to the timeline, I am.

15 Q. Okay. So according to the timeline we've developed, that Co2
16 system was discharged about 9:22 in the evening, and the fire
17 department arrived on scene about 15 to 20 minutes later.

18 A. Yes, sir.

19 Q. In a case like that, what would have -- what would you have
20 done as the incident commander first on scene or what would your
21 advice to an incident commander responding to that situation be?

22 A. Based on that ConRo ship and based on I believe it was Zone
23 Charlie or Zone 3, I can't remember the plan, that showed, because
24 those decks were stamped with holes all throughout in order to
25 facility the lashing of vehicles, all right, which mean from deck

1 -- was 5 or deck 6, all the way up the deck, through deck 11, it
2 was all one space for lack of better terms, all right, because of
3 those openings in the deck.

4 So with that CO2 discharged on there, I would -- my advice
5 for the incident commander is like let's not send anybody in
6 there. We need to get atmosphere monitoring on any stairwells
7 that you're going to be using to gain access to those upper decks,
8 to make sure that CO2 did not migrate into those spaces or in the
9 other living spaces that may be around. At the same time, you
10 want to go on and check for ventilation, make sure that's secured,
11 just get up with the chief engineer and find out, all right, how
12 much did you discharge? What's your reserve left? Okay. What
13 can you do if we need that reserve? Right, and what are our six
14 boundaries? Where are our primary boundaries?

15 All right. That's when we get the fire control plan. This
16 deck here, this deck, this, you know, whatever it is, and let's
17 get crews in place to monitor those boundaries and if the ship's
18 fire main system is working, let's get their hose to help keep
19 things cool, and just hold what we've got until we can figure out
20 what our action plan's going to be from that point forward.

21 Q. And then if you had learned that the, in this case, water
22 tight door at deck 12, which was one of the containment points for
23 this boundary, was open, would that have changed your approach?

24 A. Well, yeah. You have to monitor so much more closely. See,
25 CO2 is heavier than air. So it's going to migrate lower, right.

1 And, of course, deck 11's right below deck 12 and deck 10. So, I
2 would -- in that case, you would try to find an alternate of the
3 closing because I understand that the hatch could not be secured
4 because the system failed which anything mechanical could fail,
5 right. So, is there some other means that I can provide to help
6 reduce the amount of air that could be flowing in through that
7 opening, tarps. I think they even applied some hose streams
8 initially trying to, you know, keep things back.

9 But knowing that eventually CO2 is going to start escaping,
10 right, so maybe we need to be prepared to get ready to inject more
11 CO2 into that space based on our reserve. And at the same time, I
12 would look to the captain or the ship's reps that got on scene and
13 said, hey, we need more CO2 here, right. Let's go and get some
14 bulk CO2 trucks rolling so we can help maintain this, all right.

15 And if we can, if we can actively be able to measure through
16 instrumentation on what the O2 levels are at those deck levels,
17 then we can get an idea if that CO2 is working or not.

18 But based on the documentation I read and listened to the
19 interviews, when folks did reenter that space, based on that's
20 what they did, there was no active fire on those decks at the
21 time. So in my opinion, there was -- the CO2 was being effective
22 to a point, all right, if there was no active fire.

23 Q. Okay. And so when -- further on that end, you know the water
24 tight door is stuck open, and had you gone up to deck 12 and
25 observed that opening and saw a light hazy smoke coming out, what

1 would that have indicated to you?

2 A. Well, in that opinion, that we don't have -- just a light
3 haze, kind of lazy smoke, right, don't get me wrong. That's not
4 -- that's telling me that the fire's not out but, we don't have a
5 lot of active burning maybe at the time. So maybe the CO2 is
6 working, okay. And so my efforts at that time, we're trying to
7 figure out, all right, how can we close this? I mean what can we
8 cover it with? You may think a tarp will burn away. Yeah,
9 there's always that chance, but if I could get something over just
10 quick enough to cover that space to prevent that free flow of air,
11 then I'm adding more capability to that.

12 And what you have to understand with ventilation, there's a
13 series of securing ventilation. You have blowers. You have fans.
14 You have ductwork, and you have dampers. And, some of those
15 blowers could be supply and some of those blowers could be
16 exhausts, right. So not only do you have to secure the blowers,
17 dampers have to be secured. If not, you'll still get that chimney
18 effect where if the fire's really starting to get ahead of itself
19 or really starting to grow, it can literally draw those area
20 currents down, all right. So that's why dampers are important and
21 including that.

22 But also, ventilation can be strategic in my opinion. Now,
23 if you have discharged a system into a space that you want to do,
24 then sure. Let's not use ventilation. I mean that's --
25 ventilation needs to stay secured, all right. But, in some of the

1 ROROs and some of the documentation I've ready from other
2 companies, especially with the lithium ion battery situation as it
3 is now, they are starting to actively use ventilation to help
4 increase the visibility to give their crews a chance to get in
5 there and knock the fire down, okay, because with the lithium ion
6 battery, you also have to worry about hydrogen gas. There's a
7 huge explosion hazard with that if you're not careful. So using
8 active ventilation, whether it's supply or whether it's just
9 exhaust, is something you have to go strategically. But I think
10 that is well before you pop off a fixed system, okay. Once that
11 fixed system goes off, then you should secure all ventilation or
12 have it secured.

13 Q. So in this case, knowing that there were no electric vehicles
14 on board, they were all traditional, internal combustion engine
15 vehicles, but needing to clear smoke out of the space for search
16 efforts, would you have had concern about reengaging the
17 ventilation system to clear that smoke?

18 A. Okay. Here, we've got a report of a life safety issue,
19 right. We have two down, missing firefighters. Knowing what I
20 know, knowing what I know, known I'd have to be prepared, I would
21 not hesitate one bit in reactivating that ventilation system to
22 clear that visibility to allow them to gain quick access to those
23 firemen, okay. With the understanding that eventually that fire's
24 going to grow. It's going to probably reignite. So, we're going
25 to have to be strategic about it. We're going to have to be quick

1 about it. We're going to have to get hose lines in place.

2 There's a lot that we need to try to do, but also being ready to
3 secure ventilation when we're ready to do so, okay.

4 But again, you know, life safety should prompt everything,
5 all right. I've got trapped folks, whether it's firefighters,
6 whether it's crewmembers, whoever it is, you need to do what you
7 need to do to get to those folks. All right. And if it -- if I
8 can increase visibility because I know I have no active burning at
9 least on that deck at that time, to me it's a no brainer. Get in
10 there, do it, let's get them, and let's get them out.

11 Q. So we've heard in some previous testimony that one of the
12 firefighters, Firefighter Brooks, may have been left on the hose
13 line in the space by himself. In your experience as a
14 professional firefighter, would this be routine and what's your
15 opinion about if that were to be the case?

16 A. You know, back in a day, that was not uncommon, but as time
17 has grown, you always want to keep the integrity of your crew,
18 okay. So if you got two or three folks assigned to that hose line
19 and you are a company that's gone on that hose line, typically
20 when you come out, even though I'm the one that may be low on air,
21 and the other two many have plenty of air, we always teach
22 everybody comes out as a team. If you go in as a team, you come
23 out as a team.

24 But, it depends on who you work for. Like the Navy, they
25 just rotate the people, you know what I mean, one at a time. They

1 just go, go, go, but they have a bunch of folks on the hose lines
2 but in this case, from typical municipal fire departments, the
3 crew that goes in, comes out together.

4 Q. And then we've also heard some previous testimony that once
5 the fire departments transitioned into search and rescue efforts,
6 and once Firefighters Acabou and Brooks had been removed from the
7 vessel and there were no other firefighters needing to be found or
8 rescued, that the fire department then left. In your opinion, is
9 that a normal approach to a circumstance like that?

10 A. I think unless you can put yourself in the shoes of that
11 incident commander or those command officers that were on the
12 scene of that ship, to know that they had multiple maydays, not
13 just from those two, but also throughout the event trying to find
14 them, okay, and now that you've lost two of your own, right, I
15 tell you, it shakes you to the core. It's something -- when we
16 had the maydays on the *Spirit of Norfolk*, and I was standing on
17 the dock watching that vessel that we thought was going to
18 capsize, and we're hearing the maydays, it's something that I've
19 never experienced before in my life, in my professional career.
20 You just -- unless you experience it, it's hard to explain, okay.

21 And I can tell you with the Jacksonville fire, with the San
22 Diego fire, with the *Spirit of Norfolk* fire, and I even think and
23 count 100 percent on the two fish processing ships in -- up in the
24 northwest, up in the Tacoma area, when you had maydays and also
25 you have firefighter fatalities, the incident commander said, all

1 right, everybody off the ship, okay, because they did an
2 assessment in their mind. What are we risking to save this ship?
3 Here I've almost -- here I entered some folks, luckily for us it
4 wasn't fatalities. So what are we risking to save?

5 All right. And I can't speak for the others, but I can tell
6 you for the *Spirit of Norfolk*, there was no life hazard. If we
7 continued to flow water inside this ship, we would sink it at a
8 Navy pier which is not a good thing. And when that happens, you
9 also have an environmental impact. So, yes, we knew by allowing
10 this ship to burn, that it was probably going to be a total
11 constructive loss of this ship, right, but that was the decision
12 that the unified command made.

13 All right. Now -- and I can't recall if Newark left
14 completely from the ship, right. But in these cases, that I just
15 described to you, the fire department remained on scene but they
16 did not reenter the vessel. But also, we didn't have fatalities
17 like they did, okay. So -- it's a hard one to say. I mean if you
18 want to be legally correct about it, yeah, New York Fire should
19 have remained on scene to help manage the event, and I think in
20 most cases they did, right. I'm not 100 percent sure, but that's
21 a tough call to be able to have to be witness to that and manage
22 that, right. It's just -- it's hard to describe. I hope that
23 answers the question.

24 Q. And in your opinion, if a fire department were to change
25 their response posture, whether it's going to completely depart

1 the scene, reduce the number of assets that are on scene, or just
2 simply, we're not going to be on board any more. We're going to
3 take a defensive approach from the dock, how should that process
4 occur?

5 A. Well, in that case, you're definitely working with the ship's
6 crew, and hopefully by then, the vessel response plan has been
7 activated. The QI's been established. Salvors are on the way.
8 Coast Guard is there. There's resources there. All right. It
9 might have even been something -- again, I'm just thinking out
10 loud here. Maybe I could have called in Jersey or Bayonne. Hey,
11 guys, I need you here to help us with this fire. My folks are
12 done, right. But even, they're probably still working under
13 Newark's overall responsibility, just that I've changed command
14 from one department to another, right, due to mutual aid and some
15 other agreements they may have in place. I'm just thinking off
16 the cuff here.

17 But in most cases, the scenes were totally abandoned by the
18 fire departments. They stayed on scene. They provided resources.
19 They actually still managed it like Jacksonville, like we did in
20 Norfolk and even the Navy did on San Diego, right. Folks were
21 still there. It's just that the fire chief from the land based
22 fire department made the decision that they were not going to
23 expose their personnel to that environment any longer, okay.

24 Q. And just to clarify, I know I just asked you a bunch of
25 different opinions, about the response that took place, just to

1 clarify, what have you reviewed to help you determine those
2 opinions or what have you considered as part of formulating those
3 opinions?

4 A. Okay. Well, based on knowledge of those events and talking
5 with the incident commanders who had been involved in those
6 incidents, and also, you know, my personal involvement with the
7 fire we had, and also just understanding the port environment,
8 okay, the port stakeholders. That's probably the most important
9 thing. Like I mentioned to you earlier, about those three major
10 stakeholders in my opinion, coast guard, port authority, fire
11 departments, for a shipboard fire, but it takes all of us to come
12 together to help prepare and manage for that.

13 And what we did to help with that, some positive steps, was
14 in November, we held our, based on our CEO with the Port of
15 Virginia, Steven Edwards, and my direct report, Kathy Vick (ph.),
16 they allowed -- we hosted a first annual what they call Port
17 Authority Emergency Response Summit in Norfolk, one day, actually
18 day and a half. And, we had panels, and that's what we talked
19 about was -- and I tell you, it stemmed after coming back from
20 this incident, seeing what I see, thinking about the training that
21 we've done over the years, where our priorities have been, right.
22 And I mean a lot of our priorities were stretching hose, doing
23 this, doing that but, you know, now our priority is, hopefully
24 educating the incident commander to step back, get out of his
25 normal cylinder of excellence, right that they're typically used

1 to, and look at the big picture understanding that this is
2 probably bigger than anything they've ever handled at least as far
3 as from jurisdictional, agency response, complexity and ask for
4 help and accept the help and to slow down.

5 So if we get to that point, and I think we've already started
6 to make some differences in that, then I think we're really --
7 we're going to make some headway. And we're already starting to
8 see some positive results of that, all right.

9 But, please understand and again that if you have big, large
10 marine divisions or fireboats in your port, okay, that always
11 doesn't mean that your port is prepared to respond to a major
12 shipboard fire, all right. Because not only does it take the
13 folks on the boat, it takes the men and women in the engine
14 companies, the truck companies, the rescues and the hazmat for
15 those jurisdictions because all of those resources are going to be
16 needed if you have a port terminal or complex in your first due
17 area.

18 Q. All right. Thank you.

19 CDR BARGER: I have no additional questions. We'll go to
20 questions from the investigative team. Lieutenant Commander
21 Moore, do you have any follow-up questions?

22 LCDR MOORE: I do.

23 BY LCDR MOORE:

24 Q. I'm going to try to stay organized. You noted interaction
25 with shipping lines, mostly to hold the courses you were speaking

1 about or during an actual incident. Do you have any non-emergency
2 or non-training related interactions with the ships or shipping
3 companies that frequent the Port of Virginia?

4 A. Yes.

5 Q. Can you explain?

6 A. Well, I mean I will have intervention with them to help
7 support other training needs from other agencies that may require
8 some specialized training in the maritime environment. So, you
9 know, there's certain shipping lines that handle U.S. cargo all
10 the time, Maersk, Hapag-Lloyd, those type of shipping lines that
11 they're easier to get to, to get on board, right, because it's
12 typically U.S. flag. It makes it a little bit easier from an
13 administrative perspective. So, yeah, we're constantly working,
14 and also with my role as the port readiness chair, I'm routinely
15 interfacing with the shipping lines to help prepare for those
16 things.

17 Q. You mentioned a MOU that MIRT has with local municipalities.
18 Is training required as part of the participation in the MOU?

19 A. I don't know if we specifically say it's required. Most MOUs
20 are developed to say that they will sign, that you respond if
21 you're trained and/or available to respond, okay. Typically they
22 don't hold your feet to the fire that says you must respond, all
23 right. I know our MOUs don't say that. All right. If you're
24 available, that you will respond. And, yeah, and without saying
25 it in the MOU, I highly encourage our members to attend our

1 training, and believe me, they do.

2 But, one of the things we're starting to run into now is
3 because of staffing, you know, the ability to get folks to come
4 down from Henrico to Norfolk or Virginia Beach or whatever, in
5 order to maintain our ongoing marine firefighting training for our
6 MIRT team members. And by the way, members of the fire
7 departments and the special ops teams, they transfer out
8 routinely. Also you get retirements and all the other stuff. So
9 it's always a constant grind, maybe grind isn't a good word, but
10 it's a constant process to keep the folks trained because they
11 switch out so frequently, right. So it's ongoing. You think you
12 got it nicked, and the next thing you know, half of them are gone.

13 So to make a long story short, we're going to start to come
14 to them, okay. So when they're on duty in the firehouse, they're
15 at their station where we can at least an hour or 2 a shift, come
16 in and run like a company drill, but have it focused on the marine
17 firefighting piece, right. And then when we do our annual drills
18 or if we've got certain tabletops or other exercises that come to
19 light, then that's when we can pull them down for the practical
20 piece. But nothing replaces the practical piece.

21 Q. The MOU, is it specific to fire departments because you said
22 local municipalities? Are there other --

23 A. No. As a matter of fact, the MOUs are signed by their city
24 manager or mayors because it's multidisciplined. It's police.
25 It's fire. It's EMS. All right. So we've got their, you know,

1 at their city manager levels, even above the fire chief's level.
2 Most cases, the city managers or the county administrators,
3 they're the ones that sign the document.

4 Q. Now, shifting to the marine firefighting school, you said
5 MIRT's hosted that for 30 plus years, and would you say that it's
6 a one of a kind course or are there other courses like that
7 available?

8 A. Our course, I would say it's one of a kind. Now, there are
9 other courses out there where folks are traveling around, you
10 know, meeting up with the folks, and also a lot of firefighters
11 will come to our course hopefully to get the ground, you know, to
12 get a foundation, almost like a train to trainer thing, even
13 though it really isn't. Then they can take what they learn with
14 us and they can take it back to their departments and start to
15 implement it, right. But I'm telling you, it's got to be, in my
16 opinion, because -- it's got to be at that port level or fire
17 department level to find those one or two individuals who are
18 really passionate about this topic in order to make it work. And
19 also they have to embed themselves and all these committees that I
20 just spoke of and I belong to, in order to really become engaged
21 in the port stakeholder community, right. That's where your
22 success is. And especially departments or ports that have
23 multiple departments that surround the port, all right. So.

24 Q. Then another area you spoke about were communication issues,
25 and you testified that bringing on additional systems would take

1 practice and exercise. Can you explain to us what systems could
2 be used on a shipboard fire?

3 A. Well, I'm not a comms guy, okay. But, I know that some
4 departments have a deployable portable repeaters that could be set
5 up, and in a ship -- most ships I think and, of course, the
6 shipping companies can attest to this. It's a lot of ships that
7 have repeaters that are installed in their ships to basically help
8 enhance their own communication system which is different from the
9 fire service in most cases. So, but these systems from my
10 experience, they take a whole different team to bring them in.
11 You just can't tell an engine company go grab this and set this
12 up.

13 Additionally, when you get into a multijurisdictional or
14 multiagency response, I know a lot of this stuff is interoperable,
15 but can they talk on the same repeater systems? I don't know
16 those answers, okay. But to try to do that, in the middle of a
17 firefight, it's problematic. You need to have done it prior to,
18 trained on it, and number one, just to get see if it even works.
19 There's been a lot of good widgets out there that come to find
20 out, when we put them to test them, they have not been successful.

21 Q. And another area device we've heard a lot about during the
22 hearing would be a Pak-Tracker. Are you familiar with that
23 device?

24 A. What I know of Pak-Tracker is it's a Scott product for the
25 Scott SCBAs. I've never used one, okay. But, what I've been told

1 about them is it's like a pelican box that you would set up at the
2 command post and that particular backpack has to have that
3 equipment installed, you know, on the backpack itself in order for
4 it to transmit I guess location and maybe even pressure, sonar
5 pressure, within those particular SCBAs, but again, I've never
6 used one, and I would be curious to see how it would work in the
7 shipboard environment because it also has to transmit radio
8 signals, all right. So that could be. And there are some other
9 -- there's some other types of those type of equipment out on the
10 market. It just depends on the type of SCBA that you're
11 utilizing.

12 Q. Now, we've gotten into the discussion on mutual aid. Off the
13 cuff you said maybe swapping between departments would be an
14 option if the fire department left the vessel and needed to
15 continue to fight a fire.

16 A. Again, that's thinking way outside the box. I was just being
17 honest with you.

18 Q. Sure. And my question is specific there but --

19 A. And the only reason I bring that up because I've been
20 involved unfortunately where there's been other fire department
21 funerals where it's really impacted the entire department. So in
22 order for everybody to attend, they would bring other
23 jurisdictions in to man their firehouses and do what they have to
24 do. So I almost think the same thing. If they needed to abandon
25 the entire scene and resources from the shipping line or whoever

1 went in place, that could be an option.

2 Q. And I guess my specific question is, is that something you'd
3 expect to be planned out prior to needing it or like as an
4 incident unfolds?

5 A. Certainly, knowing your mutual aid partners are very
6 important, and I understand some of it could be automatic mutual
7 aid, right. So if there's a marine fire or something, depending
8 on how you want it set up, then that certainly is or what's
9 important, and that's another niche that I have. I know where our
10 resources are, okay. And, so -- and I'll be honest with you.
11 Every time I've reached out to a local police department or fire
12 department, for boat ops or whatever we need, I mean fortunately
13 I've never been told no. They're on their way. And that's all
14 based on building relationships. And look, I'm no longer an
15 incident commander in the fire department. So we're in charge of
16 nothing. What we do do, we support that local incident commander.
17 We support the sector commander, but I'm ready to be put into more
18 of a command role when it's necessary, and that has happened once
19 or twice. But -- and all of this works for us because of the
20 ongoing relationships and the way that we work together, we train
21 together, and we respond together.

22 Q. Thank you.

23 LCDR MOORE: That's all I have.

24 CDR BARGER: Lieutenant Reed, any follow-up questions?

25 LT REED: Yes, Commander. I have a couple.

1 BY LT REED:

2 Q. Mr. Burket, in your opinion, when would you expect the Coast
3 Guard, Port Authority and other OGAs to be notified of a marine
4 fire incident?

5 A. Again, that can be complicated, okay. In most cases now,
6 during our search and rescue forum, we talk specifically about
7 notification of other agencies. It all depends on how the call
8 comes in, okay. So, for instance, let's suppose I have a ship at
9 Norfolk International Terminals, or let's suppose it's not one of
10 our terminals. Let's suppose it's at a shipyard. Typically that
11 call comes into 911 through wherever that shipyard is. Let's
12 suppose it's in Norfolk, Virginia. Norfolk Fire Department
13 responds. We may not ever know that they went to that call unless
14 somebody in that command staff realizes, hey, we better let the
15 MIRT know also the Coast Guard.

16 All right. So we've gotten a lot better at that, and the
17 same thing on the Coast Guard side. If they get a call, whether
18 it's a mayday over the radio or whatever, the Coast Guard, they
19 immediately reach out because they knew who that local OGA is.
20 They dispatch them. Then I get a call, all right. And so that
21 will typically happen quickly, I mean within a matter of minutes,
22 all right. But, it can be hit and miss.

23 Q. Okay. Who would you expect to be making those notifications?

24 A. Well, typically most of my calls from the sector command
25 center, okay. So, Bill, this is what we've got going on. Who do

1 you think we need to notify in addition to such and such, okay.
2 And that happens either one or two ways. Either I make the phone
3 calls while I'm en route, even if I'm not required to respond. In
4 many case, I'm not. Or, you know, the sector command center will
5 reach out to those folks, all right. But most time, I at least
6 initiate a phone call to the incident commander and say, hey, you
7 need to know who I am, and we'll chat. Do you need this? No,
8 we've got it, Bill. All right. Then you know, you've got to
9 trust what they're saying.

10 But -- so that works well, you know, even though it kind of
11 sounds a little bit off the cuff, well, it is, right, but it's
12 been working for us extremely well over the past 20 years.

13 Q. Okay. And my last question, what would you expect the Coast
14 Guard response to be to a marine fire?

15 A. Okay. Good question. All right. What's kind of unique with
16 a lot of the fire departments or even emergency response agencies
17 don't realize, when the Coast Guard's made aware of an event, it
18 could be a SAR case. It could be a fire. It could be whatever.
19 That command center, it's already starting to implement tasks,
20 right. They're already starting to reach out. They're already
21 starting to make decisions, calling this and this. And down here
22 on the scene, you have the local jurisdiction IC working with what
23 they have to do.

24 All right. So where I've been successful is to get in the
25 middle of that and to help bring that together. So that way the

1 IC understands what resources the Coast Guard's calling for and
2 vice versa, just depending on the incident.

3 But, for a marine fire, in this case, you know, there was
4 always this vision that the Coast Guard comes in with the cavalry.
5 That's not the case. They may send a small boat out initially,
6 right, to get an idea from the waterside what it looks like. In
7 the meantime, the sector command center along with the prevention
8 or waterways, they could start sending out inspectors, right,
9 folks who understand shipboard construction that maybe help that
10 local incident commander read those fire control plans. You might
11 see somebody come out from their IMAT, you know, from that command
12 and control perspective, but most immediately what we see in our
13 sector is that you'll either see Captain Jennifer Stockwell or
14 Captain Peggy Britain, the deputy sector commander, they will show
15 up on scene very quickly, okay. Then that starts help.

16 But again, the incident commander from the fire department
17 needs to be aware that these things are heading their way, okay,
18 and if they're not expecting that, it could be clunky at first,
19 all right. So that's what we're trying to do, is grease those
20 skids before those folks even get there so they know that they're
21 coming.

22 Q. Okay. Thank you very much.

23 LT REED: That's all the questions I have.

24 CDR BARGER: Lieutenant Commander Ward, do you have any
25 questions?

1 LCDR WARD: Not at this time.

2 CDR BARGER: For the NTSB, Mr. Barnum? I'm sorry.

3 Mr. Pittman, do you have any questions?

4 MR. PITTMAN: No questions.

5 CDR BARGER: For the NTSB, Mr. Barnum?

6 BY MR. BARNUM:

7 Q. Mr. Burket, are you aware of any port authorities within the
8 U.S. that have their own fire department?

9 A. Yeah, there are a couple. I think Houston has one. I can
10 tell you the Port Authority of LA, Long Beach, they help fund a
11 lot of the marine firefighting assets that the LA Fire Department
12 and Long Beach Fire Department are utilizing. You know, it just
13 depends on the port authority, the way it's set up, where they're
14 located in the country, right, on what they can do. Like for us,
15 we don't have a fire department, the Port of Virginia. We rely on
16 the outlying fire departments. So that's my job is to ensure that
17 they are trained and staffed -- well, not staffed, but they're
18 trained, and we help provide them with as much equipment that we
19 can to help them prepare for that response, including their boats.
20 I mean we don't buy their boats. They acquire their boats through
21 grant process or straight out of their fire department budget, but
22 we help support them with other equipment and training, not only
23 for firefighting but for other all hazards events. So that's our
24 model, and we do put equipment in their firehouses like I
25 explained earlier but some port authorities do.

1 Q. Are you aware of any port authorities that may house a
2 jurisdiction's fire department house or company on their property?

3 A. I don't know of any specific -- the answer is yes. I just
4 don't where they are and who they are if that makes sense.

5 Q. Okay. And how would that relationship work?

6 A. Well, again the reason for that Port Authority Summit that we
7 held back in November, is to bring all the port authorities
8 together, and a lot of fire departments were there and other
9 folks, to -- if they're not -- when I'm talking about from the
10 port authority perspective, if they're not already engaged in some
11 of this thought process, right. Now, I'm not talking about port
12 authorities, open up your wallets and start funding all this.

13 That's not the case whatsoever. The case is can you help
14 facilitate the discussions and the planning and the training and
15 the preparedness for all of our port stakeholders since we're in
16 the port, right. Because we can't just rely on the Coast Guard.
17 Unfortunately these young men and women eventually transfer out,
18 right. So the ability to have that -- now, they have civilians
19 that work at the sectors that are a mainstay, right.

20 But not to get offline, I had an admiral ask me, he says,
21 Bill, what keeps you up at night? I said what keeps me up at
22 night, Sector Virginia, is the fact that if they don't fleet up,
23 that means the deputy moving up to the commander's spot because
24 that continuity is so important to us in the Port of Virginia, not
25 only from a commerce perspective, but also from a master security

1 perspective. We have the world's largest naval base in our port.
2 Navy is a big brother. It's a big partner. All right. And, it
3 takes a lot of work and coordination to make sure that all of us
4 are working together to continue the flow of commerce and keep the
5 channels open for the Navy to come and go. So that's very
6 important.

7 So, heck I almost got off base here. So, other port
8 authorities. So we're trying to ask port authorities, hey, let's
9 take a look at what's going on in your port. How can you help, to
10 help build the trust, to help build the partnership. So from a
11 port perspective, we are planning for an all hazards response in
12 that port no matter what it is and who it is. I hope that helps
13 answer your question.

14 Q. Yes. Thank you.

15 CDR BARGER: Ms. McAtee, NTSB, do you have any questions?

16 MS. McATEE: I just have a couple.

17 BY MS. McATEE:

18 Q. How is air supply typically managed on a large marine fire
19 scene?

20 A. Excuse me. Go ahead.

21 Q. How is air supply managed on a large marine fire scene?

22 A. Air management is critical, okay. We try to review some of
23 that, what should be done and some of the processes or best
24 practices that are utilized, you know, whether the folks are
25 wearing 30 minute bottles or an hour bottle, the management there

1 know how long the folks can go, the firefighters and for them to
2 return. And it's -- logistically, we have a lot of rescue. We
3 have a lot of cascade systems that will show up on scene to help
4 support the refilling of bottles, okay. So from your logistic
5 section chief, they're the ones responsible to ensure that those
6 resources and assets are on the scene. And fortunately, we have
7 multiple resources that we can bring in to help manage that.

8 Q. Are rebreathers commonly used in these scenes?

9 A. No. I mean I know right now in the Port of Virginia, just
10 due to our tunnel complex, very similar to like this up here, we
11 just started. Those fire departments, Norfolk, Hampton and
12 Suffolk are just starting to acquire rebreathers, just for that
13 purpose but for even -- I mean could we use them if we called for
14 them? I'm sure we would have access to them, but most of the --
15 that I know of, most of the land based companies don't carry
16 rebreathers.

17 Q. That's all I have. Thank you.

18 A. Thank you.

19 CDR BARGER: Before we begin cross-examination, we'll take a
20 25 minute recess. The time is now 2:40. We'll come back at 3:05
21 p.m. Thank you.

22 (Off the record at 2:40 p.m.)

23 (On the record at 3:40 p.m.)

24 CDR BARGER: The time is now 3:40 p.m. local time in Union,
25 New Jersey.

1 There will be no more witnesses or exhibits presented at
2 these public proceedings. Before we begin closing remarks for the
3 hearing, please join me in a moment of silence in remembrance of
4 Firefighters Augusto Acabou and Wayne Brooke, Jr. While we
5 continue to mourn their untimely loss, we remain dedicated to
6 learn from this tragedy in an effort to effect real change and
7 improve the safety of all first responders nationwide. This
8 commitment is unwavering.

9 (Moment of Silence.)

10 CDR BARGER: Thank you. On behalf of the Coast Guard,
11 National Transportation Safety Board and all of the designated
12 parties in interest, we extend our deepest condolences to the
13 Acabou and Brooks families who have been in attendance each day at
14 these proceedings.

15 Today we heard testimony from Battalion Chief Kupko of the
16 Newark Fire Department, Dr. Platt of the Armed Forces Medical
17 Examiner System, and Mr. Burket, Director of the Port of
18 Virginia's Maritime Incident Response Team.

19 We also introduced our final exhibit at these proceeding,
20 Coast Guard Exhibit 21 into the public record. This exhibit and
21 all previously used exhibits during these proceedings will remain
22 publicly available on the investigation's newsroom.

23 Today marks the final day of this public hearing and
24 conclusion of this phase of the formal investigation. This
25 juncture does not constitute as the conclusion of our fact finding

1 and investigation, however. The Coast Guard in tandem with the
2 National Transportation Safety Board and now in a position that is
3 further informed by the facts elicited through this hearing will
4 continue to gather and assess all necessary evidence to establish
5 the facts of this incident.

6 Accordingly, we plan to conduct direct examinations of
7 additional relevant witnesses subsequent to this hearing that
8 unfortunately could not testify in person over the course of these
9 2 weeks. The elicitation of this testimony will be held in
10 accordance with the same procedural rules provided at this hearing
11 to include the attendance of all party-in-interest counsel and
12 will be publicly viewable on the same live stream channel both in
13 real time and later as recordings.

14 Once all relevant witness testimony has been obtained, we
15 will transition into the analysis phase. During this phase, the
16 Coast Guard and NTSB will independently draw conclusions and
17 develop two separate final reports of investigation into this
18 matter. Both reports will include recommendations to promote
19 maritime safety overall and prevent future occurrences.

20 The Coast Guard's report of investigation will also be
21 provided to the designated substantially interested state, Italy,
22 as flag state of the subject vessel, to submit any comments for
23 our consideration.

24 As I previously emphasized, the purpose of this investigation
25 overall is to discovered what caused and contributed to the fire

1 and subsequent firefighter fatalities on the motor vessel, *Grande*
2 *Acosta D'Avorio*, on July 5th, 2023.

3 I would like to thank the entire Coast Guard and NTSB team
4 for their extreme professionalism and tireless efforts over the
5 past 6 months to gather and consider evidence, interview witnesses
6 and coordinate logistics, combined that these efforts ensured that
7 these proceedings brought value both to the viewing public and to
8 our investigation.

9 I'm confident that the broadcasting of these proceedings on
10 live stream and making them available to the public has helped
11 identify important and serious safety issues that can be addressed
12 in ports nationwide.

13 On behalf of the Coast Guard and NTSB, I would like to thank
14 the parties-in-interest for their participation in this
15 investigation. With their support in ensuring witness
16 availability, providing critical records and supporting
17 examination efforts, we are able to collect pertinent facts to
18 determine what really occurred on July 5th, 2023.

19 We would also like to thank all of the involved federal,
20 state and local entities and investigative agencies and their
21 continuing partnership, and specifically to the Township of Union,
22 New Jersey, for their use of these chambers to hold these
23 proceedings. Their support was critical to the success of this
24 hearing. As well as to the Union Police Department, we thank you
25 for your daily presence and support.

1 Our close collaboration with the parties and surrounding
2 community shows the deep partnerships in which the maritime
3 transportation system community is founded and thrives. We also
4 recognize the dedication of our first responders and maritime
5 personnel who risk their lives every day to protect and provide
6 for our communities.

7 Thank you again for attending throughout these proceedings.
8 The time is now 3:45 p.m. The hearing is now adjourned. Thank
9 you.

10 (Whereupon, at 3:45 p.m., the hearing was concluded.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

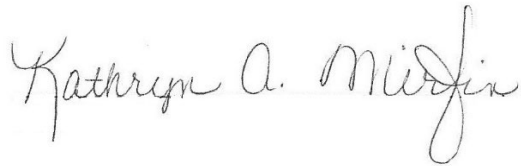
IN THE MATTER OF: FIRE ABOARD *GRANDE COSTA D'AVORIO*
AT BERTH 16 IN THE PORT OF NEWARK
IN NEWARK, NEW JERSEY ON JULY 5, 2023
US Coast Guard District 1 Formal
Investigation
Public Hearing Day 6 of 6

ACCIDENT NO.: DCA23FM039

PLACE: Union, New Jersey

DATE: January 18, 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.



Kathryn A. Mirfin
Transcriber