

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

GRAND JURY No. 1 PROCEEDINGS

Case No. 69

Conducted by:

David Hannon, Deputy District Attorney

Melissa Marrero, Deputy District Attorney

- - -

November 30, 2018

- - -

PPB Case No. 18-346005

- - -

DA Case No. 2390489-2

- - -

Katie Bradford, CSR 90-0148  
Court Reporter  
Portland, Oregon  
(503) 267-5112

Proceedings recorded on wma audio recording;  
transcript provided by Certified Shorthand Reporter.

## Index

	<u>GENERAL INDEX</u>	
		<u>Page No.</u>
1		
2		
3	November 30, 2018 Proceedings	3
4	Case Called	3
5	Examination of Todd Gradwahl	4
6	Examination of Thomas Snitily	28
7	Examination of Donald Livingston	39
8	Examination of Peter McConnell	74
9	Examination of Josh Howery	103
10	Examination of Leo Harris	135
11	<b><i>AFTERNOON SESSION</i></b>	164
12	Examination of Kelly VanBlockland	165
13	Examination of Scott Broughton	230
14	Playing Audio Recordings During	
15	Examination of Scott Broughton	235
16	Reporter's Certificate	268
17	* * *	
18		
19		
20		
21		
22		
23		
24		
25		

1 Death Investigation

2 PPB Case No. 18-346005

3 DA Case No. 2390489-2

4 Deceased: Samuel Rice

5 Incident Date: October 10, 2018

6 Location: Del Rancho Motel,

7 7622 SE 82nd Avenue, Portland, Oregon

8 \* \* \*

9 (Friday, November 30, 2018, 8:37 a.m.)

10 P R O C E E D I N G S

11 (Whereupon, the following proceedings were  
12 held before Grand Jury No. 1:)

13 MR. HANNON: I'm going to call the case,  
14 now.

15 All right. Good morning. We are here in  
16 the death investigation of Portland Police Bureau Case  
17 No. 18-347005, DA Case Number -- excuse me --

18 A GRAND JUROR: 69.

19 MR. HANNON: -- Grand Jury Case No. 69,  
20 DA Case No. 3 -- 2390489. And we are resuming with  
21 testimony and I'll hand it over to Ms. Marrero, who  
22 will take the next witness.

23 MS. MARRERO: Can we just pause for just a  
24 second?

25 MR. HANNON: Sure.

## Examination of Todd Gradwahl

1 (Recess taken, 8:38 a.m. - 8:39 a.m.)

2 (**TRANSCRIBER'S NOTE:** Testing audio  
3 recording equipment, 8:39 a.m. - 8:43 a.m.)

4 MR. HANNON: All right. Good morning. We  
5 are back on the record in DA Case No. 2390489, Grand  
6 Jury Case No. 69, death investigation. We are  
7 recalling the case just to confirm we didn't have any  
8 technical difficulties with the recording system.  
9 We're ready to proceed with our next witness.

10 MS. MARRERO: The State's next witness will  
11 be Todd Gradwahl.

12 THE WITNESS: Good morning.

13 **TODD GRADWAHL**

14 Was thereupon called as a witness; and, having been  
15 first duly sworn, was examined and testified as follows:

16 **EXAMINATION**

17 BY MS. MARRERO:

18 Q Good morning. Can you please state and  
19 spell your first and last name.

20 A First name is Todd, T-o-d-d. Last name is  
21 Gradwahl, G-r-a-d-w-a-h-l.

22 Q Thank you. And can you please tell the  
23 grand jury how you're employed.

24 A I'm employed at the Portland Police Bureau.  
25 I'm a homicide detective. And I'm also a detached

## Examination of Todd Gradwahl

1 member of the Special Emergency Reaction Team, which  
2 is also referred to as SERT.

3 Q Thank you, Detective Gradwahl. Can you tell  
4 the grand jury just briefly a bit about your  
5 background, your training and experience.

6 A I've been a police officer in Portland for  
7 24 years. I've been a member of Special Emergency  
8 Reaction Team for 19 years. As a member of the team,  
9 I've attended a lot of training, done a lot of  
10 training.

11 We train every other week for two days, so  
12 approximately 25 percent of our time for our normal  
13 training cycle, but we do additional training, too,  
14 like a week at a time every fall and attended other  
15 conferences and working with other teams throughout  
16 the -- the Northwest.

17 And also team members may travel, train with  
18 other teams throughout the United States. And we'll  
19 practice tactics, maybe learn from those trainings or  
20 those interactions. So over the course of my career,  
21 I've had a lot of training between the team training  
22 and then also the standard police training that I  
23 receive.

24 Q Okay. Thank you. Were you working on  
25 October 10th of 2018?

## Examination of Todd Gradwahl

1           A     Yes, I was.

2           Q     In what capacity were you working on that  
3 particular day?

4           A     That day, I was assigned to work for the  
5 Special Emergency Reaction Team. We had planned  
6 missions being search warrants to serve on that day.  
7 And we were just finishing up the second search  
8 warrant that we did that day in that capacity when  
9 this incident started evolving.

10          Q     And can you tell the grand jury how you  
11 became notified of this incident and sort of the  
12 process in which you began to head towards the Del  
13 Rancho.

14          A     Yes. I was on the previous search -- or the  
15 search warrant we were finishing up in the area of  
16 Northeast 50th and Killingsworth.

17                   We were finishing up that warrant when we  
18 started getting some stuff coming over our radio from  
19 members of the team that there's an incident occurring  
20 on 82nd Avenue that officers were on and that we may  
21 be transitioning to assist with that.

22          Q     And when you're hearing this information  
23 come over the radio, is that a full activation yet or  
24 is that just information that you're hearing at that  
25 time?

## Examination of Todd Gradwahl

1           A     It's information that everybody stay with  
2     their equipment, stay with -- we had armored vehicles  
3     out there and let's keep ourselves engaged. We were  
4     just finishing clearing the apartment, making sure  
5     there was no additional threats before we handed that  
6     scene over.

7                     But that way, people wouldn't start  
8     unloading weapons and things like that and thinking  
9     that they're done for the day, that this other  
10    incident is evolving rapidly it sounded like from my  
11    memory that we may immediately be going from one  
12    location to the other rather than going back to the  
13    precinct, at least for me, personally.

14                    There are some people, I believe, may have  
15    went back to the precinct, but the group I was with,  
16    that we were going to possibly jump back in the  
17    armored vehicle we were in and go to this new  
18    location.

19           Q     What information were you receiving?

20           A     That there was somebody that had been  
21    involved in a incident, where either, I think  
22    initially we were told they stabbed somebody and that  
23    now was in a motel room and had his wife or pulled her  
24    in with a knife and threatened to kill her or  
25    something along those lines.

## Examination of Todd Gradwahl

1           In my mind, I was thinking, this person has  
2 already done one crime and now it's potentially -- or  
3 sounding like a hostage situation, at that point.  
4 That was the initial information I had.

5           Q     Okay. And so given that initial  
6 information, did your team start heading towards the  
7 hotel, even though you hadn't been fully activated  
8 yet?

9           A     Yes. A decision was made that let's just  
10 start moving that direction in case it turns into an  
11 activation that we're closer than we are now, because  
12 this was in the early morning hours, traffic was going  
13 to be heavy, and it was quite a ways away from where  
14 we were.

15                   We were at the 5500 block north and this is  
16 going to be, I think, the 7600 block of south. So  
17 that's -- if you add those together, that's a lot of  
18 distance to cover in rush-hour traffic.

19           Q     Okay. And while en route or -- well, at  
20 some point, did you become fully activated?

21           A     Yes. I believe we were somewhere in the  
22 area of 82nd and Johnson Creek Boulevard when we  
23 received that we are activated. And that's when we  
24 proceeded northbound on 82nd Avenue toward the  
25 location.



## Examination of Todd Gradwahl

1           Q     And when you arrived at the location, what  
2 was your role?

3           A     My initial role when we arrived, there  
4 was -- things were happening pretty quick. There was  
5 a lot of officers and -- and traffic was getting  
6 blocked. And there, you know, was initial stages of,  
7 you know, trying to get everything set up, you know,  
8 'cause all this -- all these other resources are now  
9 coming.

10                     There was some rooms that hadn't been  
11 evacuated. So one of my -- my first role was to help  
12 get some of these rooms cleared out, you know, so  
13 whatever direction this went, that we were minimizing  
14 the people at harm in that location being the  
15 Del Rancho Motel.

16                     So myself and other officers, including  
17 uniform officers, were trying to get people out of the  
18 rooms that were surrounding the location.

19           Q     Okay. And once those folks were out, what  
20 was the next role that you took on?

21           A     So the next role, we had some officers being  
22 SERT officers to the west location. I met back up  
23 with them and a plan was kind of getting put in place  
24 that if we have to go in this room, you know, who --  
25 what order we're going to go in, who's going to do

## Examination of Todd Gradwahl

1       what.

2                       Shortly after that, there was -- we were  
3       told that we were going to move over to the apartment  
4       just to -- or the motel room just to the east of the  
5       target apartment.

6                       So the group of us went around through the  
7       apartment -- or the motel parking lot, and moved to  
8       Room 17, which is the room directly to the east of  
9       Motel Room 16 where the incident was occurring.

10               Q       Okay. And walk us through what you did.

11               A       One of the other operators, Sergeant Frankus  
12       (phonetic), had a, like a master-type key that gave us  
13       access into Room 17. So at this point, we're trying  
14       to be quiet, because we know we're right next door.  
15       There's only a wall in between us.

16                       We're also, as we're trying to get into that  
17       room, the door that we're going in, we're, you know,  
18       just right next to the room they're in, so worried  
19       about somebody maybe popping out of that room, being  
20       the -- the suspect that's -- that's armed.

21                       So we made access into that room. It had  
22       already been either evacuated or the person that was  
23       in that room had already left, 'cause there was --  
24       there was nobody in there, but there was stuff that  
25       was evident that somebody was staying in that room.

## Examination of Todd Gradwahl

1           We put our people, once we got everybody in  
2           the room, got -- made sure our order was straight and  
3           who was going to do what. So we had Sergeant Frankus  
4           was the sergeant that was in the room.

5           Officer Townley was going to go first,  
6           Sergeant Frankus was going to go second, myself going  
7           third into the room if we needed to and deploy a  
8           flash-bang, which is a FSDD, a flash sound  
9           diversionary device, which will make a loud flash,  
10          make a loud noise. They also, some smoke will come  
11          off those.

12          Officer Griffin and Officer Trella was the  
13          two officers that were going to use a -- a large metal  
14          ram to -- they can swing it back and then come forward  
15          and that will assist in opening the door, a locked  
16          door or force it open.

17          Officer Sparling had a tool to break a  
18          window out next to the front door of the motel room.  
19          There was blinds and stuff in there. And then  
20          Officer Corno (phonetic) was going to assist him with  
21          that.

22          Q       Okay. And is this sort of team of officers,  
23          what is that called?

24          A       At that point, we were a hasty rescue team  
25          at that point or sometimes called hasty assault,

## Examination of Todd Gradwahl

1 depending on, you know, the situation, but at this  
2 point, we were doing a hostage rescue. This was our  
3 hasty team to do it.

4 When I say "hasty," it doesn't diminish it,  
5 what -- what the -- what the job is. It's not like  
6 hasty, like, ah, we'll do this, threw it together.  
7 This is -- this is organized and we practice in this.  
8 And it just means that we can let somebody know we're  
9 ready to go if -- if something happens.

10 And then later, as you can develop a more  
11 deliberate plan, which it would be called, which is,  
12 you know, maybe you have -- if it's like a bigger  
13 structure with multiple doors, it's like, okay, now we  
14 have five different doors we're looking at making  
15 entry, and it's like it's really hammered down.

16 But all plans are always evolving. You are  
17 always looking to make things better, 'cause  
18 information changes or whatever it may be; but at that  
19 point, we had that team set up and if we had to go, we  
20 were ready to go.

21 Q Okay. Thank you, Detective. When you were  
22 in that room and when you all were getting set up, can  
23 you describe what you were hearing from the other --  
24 from the other side of that wall?

25 A Yes. We heard some -- some kind of crashing

## Examination of Todd Gradwahl

1 and banging. There was some information broadcasted  
2 that it looked like a mattress was against a window,  
3 which is -- for me, is an indication that whoever's in  
4 there is trying to -- to barricade.

5 That's -- that's something that would  
6 prohibit us from either getting a visual look into the  
7 room, but more, making it harder for us to get in  
8 there. And then we start hearing some other, it  
9 sounded like furniture sliding around.

10 The room we were in had some, you know,  
11 furniture and bed and stuff, so I figured it was  
12 similar. And from where we were, it sounded like that  
13 something was getting pushed against the front door  
14 area, you know.

15 So, in my mind, and the conversation we were  
16 having in there that, you know, he's barricading it to  
17 make it hard for us to get in this room, which is  
18 not good.

19 Q And what were your concerns about a  
20 barricade at that point?

21 A That if we needed to go, if we started  
22 hearing screaming or -- or something indicating that  
23 the female in the room was being harmed, that we  
24 weren't going to be able to get in there as fast as we  
25 wanted to because the door was going to be blocked by

## Examination of Todd Gradwahl

1 a piece of furniture or beds or bed frames or whatever  
2 it may be. And that's why, you know, another reason,  
3 you know, we had this window getting broken out, too.

4 Q Okay. And while you were hearing these  
5 items moving around inside, did you hear the female  
6 at all?

7 A I don't remember hearing the female. I  
8 remember hearing the male voice.

9 Q And could you hear what he was saying?

10 A I heard, like, screaming. Like -- or -- it  
11 was kind of like -- not like a screaming for help type  
12 of scream, but more just like an anger, kind of  
13 guttural kind of like yelling. And this is as stuff's  
14 getting moved around in there.

15 Q Okay. And so as you're hearing that, what  
16 are you all doing?

17 A Well, we're thinking that, you know, there's  
18 on some of these situations like this, you know, the  
19 tone is maybe like somebody's calming down. This  
20 didn't sound like he was calming down at all. It  
21 seemed like, you know, he's really amped up.

22 There's information being broadcasted over  
23 the radio that he said he's going to kill her. We  
24 knew he was armed. We were already told that he had  
25 drug her in the room against her will.

## Examination of Todd Gradwahl

1           So, in my mind, in my experience over the  
2 years, this is moving really fast and this is a  
3 significant threat. It's unlike, you know, a lot of  
4 our call-outs that we get where it's more of a  
5 toned-down kind of a thing.

6           Q     Okay. So at the point that you're in the  
7 room, had you heard at that point that he had made  
8 threats that he would kill her?

9           A     Yes.

10          Q     Okay. And had that come out over the radio?

11          A     Yes.

12          Q     And at that -- at what point did you hear  
13 the gunshot?

14          A     It was -- it was shortly after that, 'cause  
15 we were talking amongst ourselves like, you know,  
16 "Let's get ready to go." You know, we were concerned  
17 about the door.

18                 We were -- I had actually taken off, like,  
19 my gas mask to make myself thinner, 'cause I carry  
20 that on my back. You know, so, in my mind, you know,  
21 as -- as we were talking amongst ourselves and I  
22 believe some other guys were trying to make themselves  
23 as thin as possible to get in this room that -- you  
24 know, so in our head when we took off, we believed  
25 this was going to be barricaded and that -- that it

## Examination of Todd Gradwahl

1 was going to be difficult to get in the room.

2 So as we're having those discussions, heard  
3 a gunshot. It was announced that it was a sniper  
4 shot. And, at that point, the execute command was  
5 given and we moved up to that door, which was close to  
6 us, 'cause we just came right out our door, went to  
7 that door.

8 And as the Officer Trella (phonetic) and  
9 Officer Griffin started using the battering ram, it  
10 took three times before it was open enough that I  
11 could get a flash-bang in the room.

12 And after that went off, that's when  
13 Officer Townley and Officer Frank -- or Sergeant  
14 Frankus started to make entry into the room. And we  
15 had to fight through a mattress that was -- and a  
16 dresser that was holding the mattress up against the  
17 door. And it -- we had to, you know, really work to  
18 get through there, but we did.

19 Made entry into the room. Saw a female to  
20 the back right as we made entry and then somebody was  
21 announcing that the -- the male suspect was down in  
22 the bathroom area.

23 And as we came around, saw, you know, that  
24 officers were dealing with the female and I just went  
25 toward where the male was and saw that he was down on



## Examination of Todd Gradwahl

1 the ground at that point in the bathroom area.

2 Q Okay. And was -- a question?

3 A GRAND JUROR: So what time was the hasty  
4 team, I guess, ready?

5 THE WITNESS: Well --

6 A GRAND JUROR: 'Cause you said you were  
7 preparing, so at what point would you -- would you  
8 guys say that you were kind of set?

9 THE WITNESS: Well, we were set already. We  
10 were -- but it's -- you know, it's -- you're  
11 constantly like what can we do, you know, like, for  
12 instance, take the gas mask -- you know, so it's  
13 you're always trying to, you know, think of what's --  
14 what more you can do.

15 But when we were -- right when we -- we had  
16 the plan of who was going to do what for the most part  
17 before we even left to get into that room. So we had  
18 a hasty team. The first hasty team that we had was  
19 the one when we were all to the west.

20 So why -- while I was helping evacuate some  
21 of the rooms, other operators were -- already had a  
22 hasty team. So as soon as we got there, shortly after  
23 we got there, there was, you know, the first stages of  
24 a hasty team put together at that point.

25 Then it just kept on getting a little bit

## Examination of Todd Gradwahl

1 better, I guess. But when we went to the room, it  
2 was -- we knew what we were going to do.

3 BY MS. MARRERO:

4 Q And so I guess to clarify a little bit  
5 further, when you form a hasty team, is the goal to be  
6 able to make a -- a fast entry --

7 A Yes.

8 Q -- if need be?

9 A So if -- if right when we get there, if  
10 it's, you know, three or four people, five people and  
11 it's like, okay, we -- we're here. We got a hasty  
12 team.

13 If all of a sudden at that point, we needed  
14 to go, we could go. But then as time goes on and  
15 other people start showing up, you may swap people out  
16 because somebody has a -- a discipline that they're  
17 more experienced in or whatever it may be.

18 Q So the -- the team, just like the situation,  
19 is constantly evolving?

20 A Yes. I mean --

21 Q Would that be accurate?

22 A It could be on a different situation where  
23 maybe you even have somebody that's not on the team, a  
24 uniform officer, like, "Hey, you're going to be the  
25 one that tries to knock this door in." And it's like,

## Examination of Todd Gradwahl

1       okay, we -- you have sort of a hasty team at that  
2       point and then as team members start showing up, you  
3       may replace those other officers.

4               Q       Okay.  And when you went in and  
5       (indiscernible).  And we're going to pull up some  
6       photos and I'll ask you a few more questions about the  
7       room and the location of those.

8               A       Okay.

9               Q       But when you went in and when you saw the  
10       female, did she appear to be unharmed?

11              A       Yes.

12              Q       Okay.  And all right.  So I've got some  
13       photos up on the screen here for you Detective  
14       Gradwahl.  Can you sort of explain to the grand jury  
15       what they're looking at in terms of the furniture and  
16       any sort of debris that we see in those photos.

17              A       There's, on the picture on the left, that  
18       would be if you -- if the front door was -- if you're  
19       standing in the front door looking straight back to  
20       the -- to the south.  But our vantage point when we  
21       came in, there was mattresses blocking that.

22                      But there's the dresser off to the left.  
23       There's part of the bed frame, I believe in that  
24       picture.  And then straight back is the bathroom with  
25       the suspect on the ground.  And then to the right of

## Examination of Todd Gradwahl

1 that picture, there's a -- you see part of an opening  
2 that goes to another room.

3 So the middle picture, you'll be able to --  
4 you can see the other room to the right-hand side of  
5 that picture and the female was back in that area.

6 Q Okay. And she -- I'm sorry. She was back  
7 in this area?

8 A Yes.

9 Q Okay. And was she able to be safely  
10 evacuated from the room?

11 A Yes.

12 Q Just a few other things before we move on.  
13 Can you talk to the grand jury about these holes that  
14 we see in the walls and just tell them that what is.

15 A Those are holes in the wall that the team  
16 next door. They were to the room to the west. They  
17 were holes that they made that they -- they would be  
18 able to look in and help the team make an entry.

19 They could either, you know, get eyes on the  
20 threat first and take whatever action they need or  
21 needs to be done or they can relay the information to  
22 us and provide us with updates of what they're seeing  
23 while we're trying to get into the room if they were  
24 able to do that first.

25 Q Okay. And --

## Examination of Todd Gradwahl

1           A GRAND JUROR: I know timewise it's going  
2 to be hard to say, but from the first hit of the  
3 battering ram, would you say how long -- how many  
4 seconds would you say before you were effectively  
5 truly in the room? 'Cause it sounded like you had  
6 three hits and then you got to get through the  
7 barricade.

8           THE WITNESS: Ten seconds, maybe. More --  
9 you know, somewhere in that general time frame.

10          MR. HANNON: Sorry. We have another  
11 question from the grand jury.

12          A GRAND JUROR: Kind of a back-up question.  
13 When you guys were already basically set and ready, at  
14 that point, are you waiting for someone to say go or  
15 is it your -- essentially your choice of when you try  
16 to get into that room?

17          THE WITNESS: Well, at that point, I  
18 believe, at least in my mind, that if it is a sniper  
19 shot taken, that we're going to support that sniper  
20 shot. And that's pretty standard.

21                 And so if we knew that ahead of time and I  
22 believe the execute command was given, but I think we  
23 were -- once we heard sniper shot, you know, starting  
24 to creep out the room at that point. And so, yeah.

25                 And then the ten seconds could be two or

## Examination of Todd Gradwahl

1 three seconds less than that, but, you know, just  
2 picturing, you know, one, two, three with -- with the  
3 ram and then flash-bangs, but, you know, there's going  
4 to be a slight delay before that goes off, but we're  
5 going to be going in pretty much on top of that. But,  
6 yes.

7 BY MS. MARRERO:

8 Q And when you entered the room and sort of  
9 took stock of where everything was and where everybody  
10 was, did you personally observe Mr. -- observe  
11 Mr. Rice?

12 A Yes, I did.

13 Q And is the photograph in the center here  
14 consistent with what you saw when you entered?

15 A Yes.

16 Q Was there anything notable in either of  
17 his hands?

18 A Yes. I saw a black-handled, silver-bladed  
19 knife in his hand.

20 Q And once the victim was removed from the  
21 room, were medics called in?

22 A I believe the medics were called in, you  
23 know, maybe while she was still in there. I mean, it  
24 was -- it was fast. We -- that we had medics come in;  
25 and, you know, during that time frame, I believe the

## Examination of Todd Gradwahl

1 medics were coming in and people were trying to get  
2 her out of the room.

3 Q Okay. Can you discuss what -- well, can you  
4 explain to me what are -- what does the term "rules of  
5 engagement" mean to you?

6 A Rules of engagement, depending on the  
7 situation, may come from -- it's usually whoever's the  
8 highest ranking person on scene. You know, at some --  
9 as some point, maybe a sergeant of the scene may  
10 dictate the rules of engagement for whoever's there.

11 And then as, you know, like on these type of  
12 call-outs where, you know, more and more people start  
13 showing up, you know, generally, it's -- you have to  
14 be on scene to be able to dictate what going on.

15 So once the incident commander shows up,  
16 which is usually, you know, a lieutenant, captain,  
17 commanders or higher that are -- occupy those roles  
18 that they'll announce that, you know, "I'm here, I'm  
19 in charge and I'll be, you know, making the decisions  
20 from here on out."

21 And so decisions they make, it's not going  
22 to be all the decisions. You know, if -- if we're in  
23 the room, we don't need to ask every little thing we  
24 do. "Can I, you know, take the gas mask off here," or  
25 whatever. But they're going to be dictating what

## Examination of Todd Gradwahl

1 the -- what their expectations are for rules of  
2 engagement.

3 For example, on a hostage situation, it may  
4 be that it's standard rules, which means just --  
5 standard rules we always follow. If we feel that  
6 somebody's an immediate threat of death or serious  
7 physical injury, you have to make that decision what  
8 you're going to do.

9 It's up to the operator or the officer. If  
10 it's -- it could be more than that, though. It could  
11 be the shot of opportunity that they -- they give  
12 because they have information coming in from all  
13 different sources. You know, the operators in the  
14 room, they're limited to what they're hearing on the  
15 radio and what they're able to talk amongst  
16 themselves.

17 They're not at the command post hearing  
18 what -- what maybe the negotiation team is hearing,  
19 what we're saying, what they know on a criminal, you  
20 know, history of somebody. All those things may play  
21 into their decision and their expertise of being an  
22 incident commander to authorize something like that.

23 Q And so you mentioned standard rules, so is  
24 this something that's present in, essentially, every  
25 situation that you encounter unless something has



## Examination of Todd Gradwahl

1 changed?

2 A Yes. And that's every day we head out of  
3 the office or on our way to work, whatever it may be,  
4 it's standard rules.

5 Q Okay. Had you received any order -- any  
6 orders modifying the standard rules of engagement at  
7 that point?

8 A From what I remember, there was talk on the  
9 radio that I heard and that we had talked amongst  
10 ourselves that if -- if there's screaming heard or we  
11 believe that she's being injured, that it's likely  
12 that we're going to go at that point or that we are  
13 going to go.

14 And I believe I heard that from Sergeant  
15 Livingston. I can't remember if I heard -- if  
16 somebody else, the commanders or somebody else may  
17 have said that on the radio. I know that the  
18 sergeants sometimes will talk to the lieutenant back  
19 at the command post on the phone at times.

20 I can't remember exactly how that was  
21 relayed, but my understanding was and that we were  
22 prepared to, when we got the execute, that if we hear  
23 screaming or believe that she's being injured in the  
24 room, that we were going to go, which, you know, so  
25 that was -- I felt that that -- there was a high

## Examination of Todd Gradwahl

1       likelihood that could be happening.

2               Q       Okay.  And so as this is happening, are you  
3       hearing constant updates over your radio?

4               A       Yes.  We're hearing -- hearing updates.  
5       And, you know, for -- for these types of situations,  
6       this one, you know, my 19 years on the team, this was  
7       moving really fast from the first word we heard of it  
8       at 15 Killingsworth to, you know, when the shot was  
9       taken, it was a -- a very short time frame for these  
10      type of call-outs.

11              Q       And can you go through the different updates  
12      you heard in terms of the information that was coming  
13      in that elevated your concern?

14              A       Yeah.  I believe there was -- there was talk  
15      that -- or that I'm hearing over the radio and what  
16      I'm hearing personally through the room and the  
17      barricading that -- that things were -- were  
18      escalating as far as his demeanor and -- and then the  
19      threats to kill her.

20                    Those seemed like they were elevating, not  
21      declining, like in some of the other situations I've  
22      been involved in.  And so that's the kind of stuff  
23      that I was hearing over the radio.  The mattress is  
24      covering the window.

25                    And then we're hearing barricading and then

## Examination of Todd Gradwahl

1 that he's going to kill her. And so that's kind of  
2 what I was operating under, those things that I was  
3 hearing.

4 MS. MARRERO: Okay.

5 BY MR. HANNON:

6 Q Detective Gradwahl, just one follow-up  
7 question. You mentioned a shot of opportunity when  
8 there's information coming in from the CIC or the  
9 critical incident commander, who's getting information  
10 from other sources, the Crisis Negotiation Team, the  
11 SERT team and that's being dispelled over the radio.

12 That quote, unquote, "shot of opportunity,"  
13 that is something that is higher than the standard  
14 rules of engagement. Is that accurate?

15 A Yes.

16 Q So, in other words, the standard rules of  
17 engagement would allow an officer, any uniformed  
18 officer, to follow the normal rules and protocols if  
19 someone is in mortal danger, they themselves are in  
20 mortal danger, but the shot of opportunity  
21 authorization is something that would be escalated  
22 beyond the standard rules of engagement?

23 A Yes. And -- and that was just an example of  
24 a type of rules of engagement that you could encounter  
25 or train in or whatever it may be, not -- not specific

## Examination of Todd Gradwahl

1 to this event.

2 Q Right.

3 A But the -- the standard rules, you know,  
4 are -- are something that the individual themselves  
5 comes to that conclusion.

6 BY MS. MARRERO:

7 Q And do the standard rules allow you to  
8 take -- to take action if you have concern about  
9 somebody's safety and specifically that they are at  
10 risk of death or serious bodily injury?

11 A Absolutely, yes.

12 MS. MARRERO: Are there any questions from  
13 the grand jurors?

14 Okay. May this witness be excused? The  
15 State's next witness will be Tom Snitily.

16 Please raise your right hand.

17 **TOM SNITILY**

18 Was thereupon called as a witness; and, having been  
19 first duly sworn, was examined and testified as follows:

20 **EXAMINATION**

21 BY MS. MARRERO:

22 Q And can you please state and spell your  
23 first and last name.

24 A Yeah. Tom Snitily, T-o-m, S-n-i-t-i-l-y.

25 Q Thank you. And can you tell the grand jury

## Examination of Tom Snitily

1 how you're employed.

2 A As a Portland police officer.

3 Q How long have you been in law enforcement?

4 A Coming up on 17 years.

5 Q Thank you. And can you detail for the grand  
6 jury your background, training and experience.

7 A Yeah. I went to the basic academy and  
8 Monmouth. I then completed the advanced academy with  
9 Portland. In-service training every year. And then  
10 in 2011, I was assigned to the SERT team and trained  
11 with them until now.

12 Q Okay. So you've been with SERT since 2011?

13 A Yes.

14 Q And were you working on October 10th of  
15 this year?

16 A Yes, I was.

17 Q And in what capacity were you working on  
18 that day?

19 A With the SERT team.

20 Q And did you respond to the Del Rancho Motel?

21 A I did.

22 Q And can you tell the grand jury how you  
23 became aware of an incident unfolding at the Del  
24 Rancho Motel.

25 A Yeah. We were just finishing -- we served

## Examination of Tom Snitily

1 two search warrants that morning and we were just  
2 finishing our second search warrant. And I was --  
3 during that search warrant, I was assigned to the  
4 BearCat piece of armor.

5 Q And what is -- what is the BearCat?

6 A Oh, sorry, it's one of our armored trucks  
7 that we use on search warrants to drive us around  
8 and --

9 Q Does it --

10 A -- that gives us protection.

11 Q -- transport the -- the SERT team and any  
12 gear that you need to have with you?

13 A Yeah, we have two different ones. One's a  
14 BearCat and one's a Bear truck.

15 Q Okay. And can you describe sort of the  
16 information that you heard as you --

17 A Yeah.

18 Q -- as this started to unfold?

19 A On that warrant, I happened to be assigned  
20 to the BearCat with -- Sergeant McConnell was the  
21 person in charge of that BearCat. And so he started  
22 to get phone calls regarding a call that was taking  
23 place that patrol was dealing with on 82nd Avenue at  
24 the Del Rancho Motel.

25 And so he asked us, somebody to turn on

## Examination of Tom Snitily

1 radio to their radio net so we could start to hear  
2 what was happening. So that's when I first kind of  
3 learned that it was going on.

4 Q Okay. With what did you hear over the  
5 radio?

6 A Just heard that they were dealing with a  
7 person that had either stabbed someone or attempted to  
8 stab someone at a mini-mart and then gone over to a  
9 hotel and had taken a woman inside a hotel room and  
10 wasn't allowing her to leave. And it was kind of  
11 their initial response to that.

12 Q Okay. And that the team that you were on,  
13 were you ultimately activated to that location?

14 A Yes.

15 Q And can you tell me what your role was when  
16 you arrived on scene.

17 A When we got there, I got immediately  
18 assigned to start working on breach plans while the  
19 other guys went up to make what we call a hasty team  
20 or a crisis team.

21 Q Okay. So were you separate and aside -- we  
22 just heard from Detective Gradwahl. You weren't part  
23 of his team?

24 A No. They -- they took off to do that and my  
25 job was to -- to be a breach -- breach team.

## Examination of Tom Snitily

1 Q And what does that mean, to be a breach  
2 team?

3 A To come up with the best way to get inside  
4 the location, if need be.

5 Q And so where did you locate?

6 A I got assigned to -- we had another breach  
7 arrive that got assigned to work for -- with the front  
8 door. The only -- there was only one door to the  
9 room. And so I got assigned to go into a room next  
10 door to see if there was a way to create a hole in  
11 the wall.

12 Q And which room did you go into?

13 A No. 15. It was one to the west.

14 Q Once you got in there, did you take any  
15 actions to try and make it possible to -- to go  
16 through the wall?

17 A I did, yeah.

18 Q And what did you do to do that?

19 A I immediately saw that we'd be able to get  
20 a, I believed, a view port. So I wanted to work as  
21 fast as I could to give us options to hopefully help  
22 the situation. So I hung up a charge on the wall to  
23 get a view port in there.

24 Q And can you describe to the grand jury what  
25 a view port is.



## Examination of Tom Snitily

1           A     Just a -- a hole in the wall, just so  
2           somebody can see from one side to the other.

3           Q     You indicated that there was only one door  
4           in and out of the hotel room where Mr. Rice had  
5           barricaded?

6           A     Yeah. It faced the -- one door facing the  
7           parking lot, if you look at the map there.

8           Q     So there weren't any doors, like between the  
9           hotel rooms, anything like that?

10          A     No. No common doors.

11          Q     Okay. And what was your understanding of  
12          the situation as you were setting up?

13          A     I was hearing radio traffic that he'd pulled  
14          this woman back into the -- the hotel and he'd also  
15          made threats to kill her if the cops came in. And  
16          then updates were coming in that I believe he either  
17          stabbed or attempted to stab. There was some sort of  
18          altercation at, I think it was a mini-mart across the  
19          street, like a 7-Eleven.

20          Q     And so are you receiving these updates sort  
21          of as the situation is developing?

22          A     Yeah. As I'm doing what I'm doing. I'm  
23          just picking them up on the radio.

24          Q     Okay. Did you hear anything when you were  
25          in Room 15, when you were adjacent?

## Examination of Tom Snitily

1           A     Yeah. After I got that first charge up, I  
2     could hear, it sounded like in Room 16, furniture  
3     being moved. And it was my belief it sounded like he  
4     was barricading the door with furniture.

5           Q     And was this something that you continued to  
6     hear? Was this something that you heard very briefly  
7     and then it went away?

8           A     I heard it for just -- you know, you could  
9     hear like the scaping of furniture moving towards what  
10    would be, I thought, my wall away. The door actually  
11    was more towards the far wall.

12          Q     Okay.

13          A     So like being moved away and that kind of in  
14    my mind was like, yeah, he's barricading the door.

15          Q     Did you hear any voices thin room?

16          A     I did. I could hear a male voice yelling.  
17    I couldn't really tell what he was saying, but just  
18    like hearing through walls, like a male voice. And I  
19    don't know if he was, like, yelling outside at people  
20    or if he was yelling on a phone or yelling to someone  
21    else, but --

22          Q     Did you hear a female voice at any point?

23          A     I never heard a female voice, no.

24          Q     At some point, did you request additional  
25    equipment to assist?

## Examination of Tom Snitily

1           A     Yes.

2           Q     And did the situation, ultimately, result in  
3 a gunshot before all of that equipment even got  
4 to you?

5           A     Yes.

6           Q     So was this fairly quick occurring?

7           A     Very fast, yeah.

8           Q     Okay. At what point did you hear a gunshot?

9           A     I don't -- you mean exact time or --

10          Q     Yeah. Were you still setting up in the room  
11 at that point?

12          A     Yeah. I was, you know, always trying to,  
13 basically, increase our likelihood of success to try  
14 and save her, so I continually thinking of stuff I  
15 could do to help that out.

16          Q     And so had you set up so that you could  
17 create a porthole?

18          A     Yes. I'd set that up. I was actually  
19 moving to create more to give us additional looks  
20 inside.

21          Q     Were you -- were you able to get as many set  
22 up as you had hoped?

23          A     No. I wanted at least another one to gain  
24 advantage, hopefully to go to another part of the  
25 room, 'cause I felt like the one I had would only go

## Examination of Tom Snitily

1       into the main living space and I wanted one to go to  
2       the bathroom, 'cause I felt like that would give us --  
3       you know, with the door being barricaded, I thought  
4       there might be a real time delay.

5                   And with that, if I could have -- the more  
6       eyes we could have had in there, the more likelihood  
7       that we'd get a view and hopefully protect her.

8           Q       But the -- the situation escalated before  
9       you were able to get fully set up?

10          A       Yeah.

11          Q       And what -- what occurred after you heard  
12       the gunshot?

13          A       I heard the shot and our radio transmission  
14       just so we confirmed that it was us that took the  
15       shot, is Zulu, Zulu, Zulu. And I heard that come over  
16       the radio, which made me know that a sniper had taken  
17       a shot.

18                   And they said side three, so I knew it was  
19       our -- I don't know if they've already talked about  
20       our numbering, but that means it's the back side that  
21       that shot came from.

22                   And our protocol is based on when a sniper  
23       takes a shot, we're going to support that with an  
24       entry to the room to -- to save -- save the female  
25       inside just in case that hadn't had the effect it

## Examination of Tom Snitily

1 needed to and he was still able to then change the  
2 event, that he might be attacking her right then. And  
3 so I know to launch -- initiate my charges and we're  
4 going to launch entry.

5 Q And did you do that at that time?

6 A Yes.

7 Q And were those successful in creating the  
8 holes in the wall?

9 A Yes.

10 Q And what -- what were you able to see when  
11 you looked through?

12 A When I got up there, I was looking into the  
13 main living area. And I immediately looked to my  
14 right and could see what looked like an open door to  
15 the bathroom.

16 And I could see just a hand laying on the  
17 ground motionless and I believed that was the suspect.  
18 And so I was -- I could hear that the guys were kind  
19 of hung up at the door trying to fight through the  
20 barricade. And I was trying to yell to them, "Head to  
21 the bathroom, head to the bathroom. That's where I  
22 think it's going on."

23 And the whole time, I was trying to find  
24 her, hoping that she might be somewhere near to my  
25 side of the wall, that I could protect her until they

## Examination of Tom Snitily

1       could get in there.

2               Q       And did you see her?

3               A       I never saw her in the room, no.

4               Q       Did you ever make entry into Room 16?

5               A       No, I didn't.

6               Q       At any point, had you heard a more specific  
7       threat that he had made regarding her?

8               A       Yeah.  Almost real close to when the shot,  
9       just a little bit before, it felt like.  You know, I'm  
10       sure I missed a lot of radio traffic with how much I  
11       was doing, but I remember there was a transmission  
12       that was coming either from intel or our negotiators  
13       that says he's threatening to slit her throat.

14              Q       And you heard that over the radio?

15              A       Yeah.

16              Q       Would any members of the team have been able  
17       to hear that as well?

18              A       Everyone should have.  It came over our net.

19              Q       Okay.

20              A       It was something of that nature, like he's  
21       threatening to cut her throat or slit her throat or --

22              Q       And with regard to the porthole that was  
23       created, can you just describe how big that -- that  
24       hole is and whether or not a person would be able to  
25       get through that as they're having trouble getting

## Examination of Tom Snitily

1 through the front door?

2 A You can look through it. It's a view port.  
3 You wouldn't be able to walk through it.

4 Q Okay.

5 A But, yeah.

6 MS. MARRERO: Are there any other questions  
7 from grand jurors?

8 May this witness be excused? Okay.

9 THE WITNESS: Thank you very much.

10 MS. MARRERO: Thank you.

11 MR. HANNON: Are the grand jurors okay to  
12 proceed with the next witness?

13 Great. We'll call Sergeant Donald  
14 Livingston.

15 Just stand right there and raise your right  
16 hand and he'll swear you in.

17 **DONALD LIVINGSTON**

18 Was thereupon called as a witness; and, having been  
19 first duly sworn, was examined and testified as follows:

20 **EXAMINATION**

21 BY MR. HANNON:

22 Q Hello. We're going to start first by  
23 stating your name and spelling it for the record.

24 A My name's Don Livingston. First name is  
25 D-o-n; and last name and L-i-v-i-n-g-s-t-o-n.

## Examination of Donald Livingston

1 Q And what is your current occupation?

2 A I'm a sergeant with the Portland Police  
3 Bureau.

4 Q And how long you been with the Portland  
5 Police Bureau?

6 A Ah, 21 years.

7 Q And what is your current assignment with the  
8 Portland Police Bureau?

9 A I'm a sergeant assigned to the Special  
10 Emergency Reaction Team, which is part of the tactical  
11 operations division. It's basically the SWAT team for  
12 the Portland Police Bureau.

13 Q And is that an on-call position or a  
14 full-time position?

15 A For me, it's a full-time position, but I am  
16 on call 24-7 in regards to call-outs for anything, any  
17 business in the Portland Police Bureau.

18 Q And we heard your position as sergeant --  
19 you're sergeant of the SERT team?

20 A There's two full-time sergeants, so in terms  
21 of hierarchy, I am SERT 2. Jim Darby is SERT 1. He  
22 is the team leader. He oversees the entry side. And  
23 my primary responsibility is to oversee the inner  
24 perimeter, which includes containment or sniper  
25 observer officers.



## Examination of Donald Livingston

1           Q     And how long -- in addition to being a  
2           sergeant, how long have you been part of the SERT team  
3           or been active with SERT?

4           A     Two years.

5           Q     And is there any training that goes along  
6           with being a member of the SERT team?

7           A     Yes.  There's -- initially, you have to go  
8           through a basic SWAT school, which is a one-week  
9           school put on by the Oregon Tactical Officers  
10          Association.  I also went through the basic sniper  
11          school, which is also one week put on by -- one week  
12          school put on by the Oregon Tactical Officers  
13          Association.

14                 There's ongoing training, so every other  
15          week, we train two days as a team.  And, annually, we  
16          train one week as a team down at Camp Rilea, which is  
17          in Warrenton, Oregon, near Astoria.

18                 And then, you know, I'm also required to go  
19          outside training, kind of seek training in specific  
20          areas to see what's out there aside from what we do  
21          specifically in Portland, just to make sure that what  
22          we are doing meets the national standards and current  
23          practice.

24          Q     And in addition to that, just being a  
25          sergeant with Portland Police Bureau, is there

## Examination of Donald Livingston

1 training that you have to rise to that level of a  
2 position with the Portland Police Bureau as well?

3 A Yes. As an officer, we're all required to  
4 go through quite extensive training. It starts out  
5 with the basic police academy. For Portland, the  
6 advanced academy. I actually started my career with  
7 the Metro Police Department. There, we had training  
8 once a month as a -- as a department.

9 Here with the Portland Police Bureau, we  
10 have annual in-service training. The State requires  
11 so much training in order to maintain your  
12 certification. Portland Police Bureau actually goes  
13 above and beyond that.

14 So I have attended annual in-service  
15 training through the City for my entire 21 career --  
16 21-year career. Additionally to that, I'm -- I've  
17 worked in the Training Division for six years as an  
18 instructor.

19 I specifically taught defensive tactics,  
20 which is now called control tactics. I was a firearms  
21 instructor and also taught patrol tactics, which is  
22 now referred to as patrol procedures.

23 Q Thank you. Were you acting as sergeant for  
24 the SERT team going back to this incident on  
25 October 10th, 2018?

## Examination of Donald Livingston

1           A     Yes.  On October 10th, I was actually the  
2     team leader that day.  Sergeant Darby was on vacation,  
3     so I assumed the role of team leader for the events  
4     that day.

5                     It was actually kind of a busy day.  We had  
6     two warrants that we served prior to getting called  
7     out for this.  And my partner that day, who oversaw  
8     the inner perimeter, was Sergeant Pete McConnell.

9           Q     And just for clarification then, so where in  
10    the timeline of your day did this incident start to  
11    unfold at the Del Rancho?  What was the SERT team  
12    doing at that time?

13          A     So our day started at 4 o'clock.  We served  
14    a warrant for Homeland Security Investigations in  
15    relation to a robbery investigation.  That was on  
16    136 and about Powell area.  And then at 9 o'clock, we  
17    served a second warrant for the same investigative  
18    unit, related to the same investigation at 51st and  
19    Killingsworth.

20                    That -- that execution of that warrant  
21    started at 9:00 a.m.  I believe we finished that.  I  
22    called up investigators when I received a page on my  
23    phone to call Sergeant Nice of East Precinct as he was  
24    either responding or on scene of the call-out at the  
25    Del Rancho Hotel.  So as far as like a specific time,

## Examination of Donald Livingston

1 I can't recall.

2 Q And did you take the call from Sergeant Nice  
3 or were you still finishing the tasks related to the  
4 warrant?

5 A I was finishing the tasks related to the  
6 warrant, so I got on the police radio and asked  
7 Sergeant McConnell to call Sergeant Nice to see what  
8 was exactly happening and what we could provide as far  
9 as assistance goes.

10 Sometimes these consults are mainly asking  
11 questions. They're reaffirming that what they've set  
12 up tactically is correct and meets the standard. And  
13 then sometimes it turns into a full-team activation.

14 Q And after you were finished finalizing the  
15 tasks related to the original warrant that you were  
16 completing, did you consult with Sergeant McConnell  
17 about what was going on with Sergeant Nice's situation  
18 at the Del Rancho?

19 A Yes. I met face to face with Sergeant  
20 McConnell. He had told me that it sounded like there  
21 was a hostage situation down at the Del Rancho Motel  
22 and that we were likely going to be activated.

23 He had already talked to Lieutenant Dakin  
24 and received permission to move the team closer to a  
25 staging location. That way, if we were activated, we

## Examination of Donald Livingston

1 would be close and our response time would be minimal.

2 So we were getting all the officers loaded  
3 back up into the vehicles that we were transported to  
4 to serve the warrant and we were going to drive down  
5 close to the -- close to the hotel. Specifically, we  
6 picked a Fred Meyer parking lot at 82nd and Johnson  
7 Creek Avenue, which would give us a straight shot up  
8 82nd to the motel.

9 Q Now, just as an aside, had the SERT team not  
10 been activated for these other warrants, is such a  
11 rapid response by SERT typical when these situations  
12 are evolving like they were at the Del Rancho?

13 A No. Typically, we're all over the place,  
14 some people at home. So in order to get the whole  
15 team there, it could take up to 45 minutes to an hour.  
16 It just depends what -- what time of day and what the  
17 location is.

18 Q So based on your training and experience,  
19 the response, despite as we've heard earlier,  
20 rush-hour traffic or the morning traffic, would you  
21 characterize SERT's response to this particular  
22 location for this particular incident as quicker than  
23 usual?

24 A Yes. Very -- very much so. Probably the  
25 quickest response that I've been to as far as like a

## Examination of Donald Livingston

1 call-out situation goes.

2 Q And as you were working with the SERT  
3 members who were available as resources are being  
4 gathered, were you listening over the air or  
5 consulting with other police personnel as you were  
6 en route?

7 A Yes. So we were coordinating our efforts on  
8 one radio channel, which is called She-2. That's kind  
9 of the primary net that we use for our team when we're  
10 on an event. The main incident was happening on East  
11 Precinct.

12 There was actually also a call created,  
13 which I can read on my phone. And I was talking on  
14 the phone with the CNT sergeant who was also  
15 responding, Sergeant Troy King.

16 So between all those things, I was trying to  
17 gather as much information as possible about what had  
18 happened and what was happening currently during  
19 the -- the incident.

20 Q And from your understanding as you were  
21 en route, to the best of your knowledge, what was your  
22 understanding of the situation as you were gathering  
23 the SERT resources?

24 A Well, I knew that there was disturbance at a  
25 7-Eleven, which was, from my previous knowledge, was

## Examination of Donald Livingston

1 pretty much right across the street from the Del  
2 Rancho Motel.

3 I knew it involved a knife and I knew that  
4 the disturbance kind of carried over into the  
5 Del Rancho Motel parking lot and then a female was  
6 forcibly taken into a motel room.

7 It was my belief based on the conversations  
8 that the female was a significant other of the male  
9 that had taken her in there. I didn't know exactly  
10 what the relationship was, but boyfriend-girlfriend  
11 was what the assumption was.

12 When I got there, I also received  
13 information that was probable cause to arrest the male  
14 subject for the incident that happened in the  
15 7-Eleven. Specifically, it said there was probable  
16 cause to arrest him for Assault II.

17 I knew that Sergeant Nice was in charge of  
18 the event as the incident commander. And at -- as we  
19 got off of the freeway at Johnson Creek, we were  
20 actually officially activated as a team to respond, so  
21 our services were requested.

22 And we never actually stopped at the staging  
23 location. We drove straight to the Del Rancho Motel;  
24 stopped so I could get out and contact the incident  
25 commander.

## Examination of Donald Livingston

1           Q     And we've heard previously that when there  
2     are SERT call-outs and the critical incident commander  
3     or CIC arrives, they take command. But prior to that  
4     person arriving or all the pieces are set in place --  
5     pieces or set in place, excuse me, there's someone  
6     else in charge at that time. Was that the case in  
7     this situation?

8           A     Yes. The sergeant or the highest ranking  
9     individual on scene with the most information is going  
10    to be the incident commander. And that at that point  
11    was Sergeant anyone Kyle Nice. He was still assuming  
12    that role.

13                     And he was pretty busy up there at the  
14    scene, directing activity. Myself, Lieutenant Dakin  
15    and then Assistant Chief Jaime Resch were all part of  
16    the previous incident as the -- as far as the people  
17    in charge.

18                     When I got there, I knew Sergeant Nice was  
19    too busy to come out and talk to us, so I made an  
20    effort to move to where he was to have a face-to-face  
21    conversation with him.

22           Q     And did you get permission from  
23    Sergeant Nice, when you arrived on scene, to get  
24    pieces in place for your SERT team.

25           A     Yes. So, first I asked exactly what room



## Examination of Donald Livingston

1 the suspect was in. He showed me where it was. It  
2 was Room 16 and then he also told me that he'd  
3 evacuated Room 15 and 17, and they were working on  
4 some additional evacuations.

5 He had set up a custody team out front and  
6 had -- and some containment officers as well. I asked  
7 him if I could deploy a hasty team. That would be a  
8 team of a minimum of five officers, depending on  
9 resources. And I'd like to get them as close to the  
10 room as possible.

11 And the purpose of that team would be to  
12 make entry into the room if there was some type of  
13 commotion. They needed to provide life-saving aid to  
14 the female victim. He approved that -- that mission.

15 I also asked him if I could start working on  
16 some explosive breach capabilities, specifically for  
17 the front door, and also for some through wall gun  
18 ports and maybe a through wall charge as well.

19 And that would occur in the room to the  
20 right of it if you're facing the door which would have  
21 been Room No. 15. He approved both those missions.  
22 And I specifically asked him to continue evacuations.  
23 If you look at the picture there, the Del Rancho Motel  
24 kind of had two sides, they parallel each other.

25 I was concerned about people being inside

## Examination of Donald Livingston

1 their rooms, potentially in a hazardous situation, so  
2 I asked him to evacuate the entire hotel, all rooms.

3 Q And going to that term "hasty team," it's  
4 been your experience and now, Sergeant, describe  
5 briefly what -- what a hasty team is designed to do  
6 upon arrival at the scene.

7 A So we train as a group, as a team, quite  
8 often. A good way to put it is a quick reaction team  
9 so specifically you'll have one or two guys assigned  
10 to breach or ram the door open. In this case we need  
11 to gain access. You'll have somebody designated to  
12 throw a flash-bang. Maybe somebody to break a window  
13 and get a rifle through and then make entry into the  
14 room itself.

15 So at bare minimum it's a team of officers  
16 that train together, work together on specific tactics  
17 that can come up with a quick plan to get inside of a  
18 location and provide aid; or end a situation, take  
19 somebody into custody.

20 You're always working to make that plan  
21 better and you're always working towards what we refer  
22 to as a deliberate plan, which would mean everything's  
23 in place, every possible outcome you can consider has  
24 been thought of and this is your best chance of  
25 resolving the situation safely.

## Examination of Donald Livingston

1           So that's your end goal and you start out  
2 with a group of five at least officers going up and  
3 starting to formulate a plan.

4           Q     And as already indicated, you set that up at  
5 this time. At some point, were you able to get a  
6 face-to-face briefing with Sergeant Nice at the scene  
7 to kind of get a better understanding of what was  
8 going on? Or was all your information from over the  
9 air?

10          A     I did have a face-to-face with him. One  
11 thing we always do is when the management arrives, the  
12 CIC, the lieutenant from SERT and CNT, we have -- kind  
13 of have a face-to-face meeting as a group and kind of  
14 go through the whole incident, so everybody's on the  
15 same page.

16                This incident was so rapidly developing that  
17 when they pulled Sergeant Nice away to do that, I was  
18 very busy setting things up, so I was not able to  
19 attend that -- that meeting and kind of get the whole  
20 comprehensive call. So I had a face-to-face with him.  
21 I got a little bit of information, but I was not able  
22 to attend that meeting.

23                So what I did do was ask Lieutenant Dakin  
24 over the radio I kind of gave a summary of what I  
25 knew, and asked him to fill in any blanks so everybody

## Examination of Donald Livingston

1 on the team would have that information on our radio  
2 net, which was SU2.

3 Q And -- and that -- so you conveyed that over  
4 the air to your lieutenant and did -- did that  
5 actually happen from the command center to that  
6 blinking (indiscernible) or that air?

7 A Yeah. They had -- they had their briefing.  
8 I -- I did that for two reasons. Normally, on a call  
9 we'll kind of give as much information as we can to  
10 kind of -- kind of let an information update, or I  
11 would normally do that, but since I did not attend, I  
12 specifically got on the radio, gave the information I  
13 had and asked Lieutenant Dakin to fill in the blank,  
14 so that happened. Everybody received the same  
15 information.

16 Q And as that occurred, at that point, did the  
17 information change or was it still pretty much the  
18 same about what everybody then knew about the  
19 circumstances as they found it?

20 A It was pretty much the same.

21 Q So can -- can you summarize, again, then at  
22 that stage, what was the information known to the team  
23 since at that point it was conveyed open -- over the  
24 air.

25 A That there was an incident at the 7-Eleven

## Examination of Donald Livingston

1 that involved a knife. And then that incident,  
2 disturbance, continued in the parking lot of the  
3 Del Rancho. The suspect pulled a female forcefully  
4 into a motel room and there was probably cause to  
5 arrest him for Assault II.

6 There was also information put out that he  
7 -- he specifically said when officers were there that,  
8 "If you don't leave, I'm going to kill her." So that  
9 led us to believe it was definitely a hostage  
10 situation.

11 Q And when all this information was being  
12 conveyed over the air, are these summaries or -- or --  
13 or is it, you know, verbatim recordings of what  
14 everybody does?

15 A It is summaries.

16 Q Now, in addition to your team setting up the  
17 hasty team in the -- in position in the rooms nearby  
18 Room 16, was there any other sergeants or officials  
19 setting up any other SERT officers?

20 A Yeah. So there's too much for one person to  
21 kind of run everything, so Sergeant McConnell was in  
22 charge of the IP and he was setting up containment or  
23 sniper observer officers.

24 So, specifically, as we -- as we look at our  
25 -- our room, it's on the bottom of that which would

## Examination of Donald Livingston

1 have been the south side and towards the right, or the  
2 east end of the unit, so we would want officers on the  
3 back side of it kind of if you look at that, that  
4 grassy field area --

5 Q Are you talking about right around here?

6 A Yes. We would want officers back there and  
7 so I know specifically he was sending officers back  
8 there for sniper observer spots and containment. We  
9 also had officers, if you look where that red or  
10 reddish color pen is, we had -- we had replace patrol  
11 and they were our custody team, yes. Or sniper  
12 observer officers on Site 1, or the main door.

13 So Sergeant McConnell is responsible for  
14 setting all those people up. I'd also designated  
15 Sergeant Frankus as in charge of the hasty team, which  
16 had moved into Room No. 17, which is to -- if you look  
17 at that, to the right end of the unit and if you're  
18 facing that door it would have been on the left side  
19 of our target.

20 Q Now, you mentioned as you were moving pieces  
21 of personnel around, the lieutenant and the acting  
22 chief also arrived. So did the command of the scene  
23 change at some point after your response to the scene?

24 A Well, Sergeant Nice went back there. They  
25 had a conversation. I could see them huddled up. I

## Examination of Donald Livingston

1 was not a part of it. I was kind of moving around  
2 talking to different people getting things set up.

3           Once that conversation happens the normal  
4 procedure is that the critical incident commander,  
5 which would have been Assistant Chief Resch, would  
6 take charge of the incident itself as the overall --  
7 person overall in charge. My direct chain never  
8 changed. Lieutenant Dakin was always my next step in  
9 the chain of command.

10           Q     And, at some point, did acting Chief Resch  
11 become the critical incident commander at the scene?

12           A     You know, I can't recall her saying anything  
13 on the radio that she was in charge of it. My  
14 conversations always went through Lieutenant Dakin.

15           Q     Gotcha. And is it fair to say that during  
16 the interactions any orders that come to you from  
17 Lieutenant Dakin is going to be coming from either the  
18 critical incident commander or whoever's in charge of  
19 the scene at the time, through that chain?

20           A     That is correct.

21           Q     And as we've heard from other witnesses,  
22 your chain is involved with the SERT team, and there's  
23 a separate chain related to the crisis negotiation  
24 team; is that accurate?

25           A     That is correct as well.

## Examination of Donald Livingston

1           Q     During this process, as orders are being  
2 filtered down from the critical incident commander  
3 prior to that were there rules of engagement in place  
4 that all the officers are operating under?

5           A     Yeah, we were, at the time, operating under  
6 what we refer to as standard rules of engagement,  
7 which means that you are bound by procedure policy,  
8 state and federal law. You're acting within the rules  
9 and regulations that are set forth every day for  
10 patrol officers, as well as any teams.

11          Q     And as that is going on, nothing, to your  
12 knowledge, changed from those rules of engagement?

13          A     That's correct, they never changed.

14          Q     Now, as this situation evolved, did you  
15 learn of any behavior going on inside Room 16 as your  
16 hasty teams were in place and the inner perimeter team  
17 was in place?

18          A     Yeah. So the front window was -- the  
19 curtains were drawn, they were closed, it appeared  
20 dark inside.

21                 At some point, I heard Officer VanBlokland  
22 say over the radio that he was placing a mattress up  
23 against the rear window, so it was consistent with  
24 behavior that I would refer to as barricading.

25                 I could also -- I could never hear it but



## Examination of Donald Livingston

1 officers who were staged in the rooms next door could  
2 hear furniture moving around and they broadcast that  
3 over the radio, which was also consistent with  
4 barricading.

5 I was concerned he was barricading doors,  
6 windows, which would limit our access to the inside of  
7 the room if we needed to make an entry in there to  
8 provide assistance, life-saving aid to the female.

9 Q And let's talk about that. Do you, based on  
10 your training and experience as a SERT sergeant, but  
11 then also addressing your over 20 years of experience  
12 as a law enforcement officer, are you familiar with  
13 the dangers that could be present when someone is  
14 armed with a knife as opposed to a gun?

15 A Yes. They're both very dangerous. You  
16 know, I've responded to scenes where people have died  
17 from stab wounds, you know. They're both extremely  
18 dangerous, could result in death.

19 So I was concerned for her safety based on  
20 the fact that I knew that he had a -- a knife; that it  
21 was seen by people in the 7-Eleven as well as the Del  
22 Rancho Motel parking lot. So -- and then threats to  
23 -- to kill her on top of that made me highly concerned  
24 for her -- her safety.

25 Q And despite it not being a firearm, in your

## Examination of Donald Livingston

1 training and experience as a law enforcement officer  
2 how quickly have you observed or learned about,  
3 through other people's cases, are able -- people able  
4 to use a knife in an illegal manner out in the public?

5 A Extremely fast. I think maybe the common  
6 person, if they've never seen something like that  
7 before would be shocked. And -- and the overall  
8 impact that a knife could have on somebody is -- is --  
9 if you've never seen it before, it's shocking I would  
10 say.

11 So definitely barricading doors would  
12 prevent us from getting inside her chances of survival  
13 go down based on the fact that we can't have access  
14 to her.

15 Q So as you learn about the barricading and  
16 the covering of the windows, did you communicate to  
17 the hasty team and the teams in and around Room 16 of  
18 measures to take to try to expedite responses to help  
19 protect the person inside the room?

20 A Well, I knew the gun port charge was built  
21 and hung. I knew Officer Corno was working on a door  
22 charge, so he's going to get that place on the front  
23 door which would increase our chances of getting  
24 through the front door even if it is barricaded.

25 And I knew that Officer Snitily was also

## Examination of Donald Livingston

1 going to start working on a through-all charge. So at  
2 that point, Sergeant McConnell and I kind of had a  
3 meeting. We did have some officers that were in  
4 training at Columbia County, which I had requested  
5 that they leave training and respond to the scene.

6 Our partner team is Washington County  
7 tactical negotiation team. I had reached out to our  
8 lieutenant, Lieutenant Dakin, and asked for them to  
9 send eight additional officers to come assist us. Two  
10 breachers to assist with the through wall, and four  
11 entry guys to support that. And then two additional  
12 IP guys to help with containment. So I was getting  
13 more resources there to increase our chances of  
14 success.

15 Q And to that point, from your training and  
16 experience for these SERT call-outs, one, you -- you  
17 identified that sometimes it can take as long as  
18 45 minutes to assemble a SERT Team to arrive on scene.

19 Despite the rap -- the rapidly evolving  
20 facts from this particular case, with the resources  
21 you were seeking under other types of SERT responses,  
22 do these types of situations take longer to evolve  
23 with the persons inside the room and then negotiations  
24 with the Crisis Negotiation Team or other officers on  
25 scene?

## Examination of Donald Livingston

1           A     If I understand your question right, the  
2 length of time based on negotiations?

3           Q     Yeah.

4           A     You know, once we get everything set, it's  
5 our hope that negotiators can make contact and have  
6 meaningful conversation and relay to us how it's  
7 going. In this case, it was relayed over the radio  
8 that negotiations were not going well. They were kind  
9 of on and off the phone with him several times.

10                   I didn't note specifically what had been  
11 said, other than at one point -- and I can't remember  
12 in the -- in the chain of this -- it was relayed over  
13 the radio that initially he said, "If you don't -- if  
14 you try to come in here, I'm going to kill her."

15                   And then later on he said, "If you don't  
16 leave, I'm going to kill her." So it did not sound  
17 like negotiations were going well. We were continuing  
18 with our plan, but nothing had bumped it up to us  
19 activating a deliberate plan, at least through the  
20 command post.

21                   So we were still kind of waiting for that --  
22 that piece, something on the inside, something seen or  
23 something heard, to actually activate us.

24           Q     And compared to other SERT responses that  
25 you've had, how -- how fast would you describe this

## Examination of Donald Livingston

1 situation escalating with the individual compared to  
2 other scenes where people are either held hostage or  
3 they're just holding themselves up, preventing law  
4 enforcement from taking them into custody?

5 A This was extremely fast. I -- I would guess  
6 my time on scene is 30 minutes. Normally, these  
7 things take hours. This was, by far, the fastest one  
8 I'd been a part of.

9 Q Did you also work with officers to come up  
10 with a break-and-wreck scenario to try to go through  
11 the windows, if that was available?

12 A Yeah, that was part of the hasty team plan.  
13 Sergeant Frankus has actually worked out the personnel  
14 responsible for that, so the front door was on the  
15 left side as you faced the unit.

16 There was a window to the right of the front  
17 door. Two officers were responsible for breaking that  
18 window with a tool. And then the second officer would  
19 ideally get on some type of elevated platform to look  
20 inside with rifle.

21 So as it was set up, we had a gun port  
22 charged, which would, if activated, would blow a hole  
23 under the wall big enough for a person and his  
24 shoulders to look through. Usually, you can support  
25 that with a handgun to get eyes into the room.

## Examination of Donald Livingston

1           We had a team that was going to go through  
2 the front door. Sergeant -- or Officer Corno was  
3 working on an explosive breach, but as it was set up  
4 two officers were going to use a ram to try to break  
5 the front door down.

6           And then the third thing that we had going  
7 was a break-and-rake plan, which was two officers, one  
8 to break the window and a second to get a rifle inside  
9 the room. So we were going to get three different  
10 looks inside that room to hopefully save her life if  
11 needed.

12           Q     Now, we've talked, again, about the  
13 barricading and item being moved around. Despite the  
14 efforts that you were making to try to get in that  
15 room and get in that room quickly, from your training  
16 and experience these barricades or obstacles, so to  
17 speak, does that create delay for the hasty and rescue  
18 teams to get in there to protect the victim?

19           A     Yes. We practice this stuff in training.  
20 We actually get buildings or houses that the City has  
21 purchased and we set up scenarios where we actually do  
22 explosive breaching and try to get through.

23           And if there's any barricade, it does limit  
24 us and our abilities to get through that. That's why  
25 we -- we try so many different options to increase our

## Examination of Donald Livingston

1       likelihood of success.

2               Q       And going back to the point that everyone  
3       was still operating under the standard rules of  
4       engagement, within those standard rules of engagement  
5       is there a term that you are aware of or know as  
6       appropriate initiative?

7               A       Yes.  So appropriate initiative means that  
8       you, as the individual, still have the authority to  
9       evaluate the situation and make use of force or  
10       lifesaving decisions based on the totality of the  
11       circumstances or the information that you know at the  
12       time, just like you would on an open police call.

13                       Just because you're part of a team that's  
14       run by a command structure does not limit your ability  
15       to do that still.  So that's -- that's something that  
16       we discuss as a team.

17                       Appropriate initiative is always there.  
18       It's -- if you have time, it's one of those things  
19       that you may choose to relay your plan over the radio  
20       just so other officers are involved.  But there's  
21       oftentimes where you don't have that opportunity to  
22       do so.

23               Q       So as this, again, plan is constantly  
24       evolving and trying to gather resources, what are you  
25       physically doing in addition to communicating with

## Examination of Donald Livingston

1 your team at the scene at the Del Rancho?

2 A Well, because I was still waiting for a  
3 couple officers to come from Columbia County range,  
4 they were on their way, and I had requested those  
5 eight officers from Washington County CNT, the last  
6 two people that were available to actually retrieve  
7 any gear or equipment were myself and  
8 Sergeant McConnell.

9 I was still overall in charge of the entire  
10 event so I was trying to really limit my involvement  
11 in that. But there was a couple pieces of gear that I  
12 specifically had to grab for team members that were  
13 requested.

14 And I had -- we have intel officers as well  
15 that work as part of our team. We did have three  
16 intel officers there at the scene at least, and I  
17 reached out to one of them to grab a piece of  
18 equipment for me that I took from him at the sidewalk  
19 and then walked back to the hasty team.

20 So I was kind of trying to get stuff done  
21 and still have overall vision of what was happening  
22 and be available for the responding people when they  
23 arrived so I could brief them and place them where I  
24 needed them throughout the event.

25 Q And at what point as this is unfolding did



## Examination of Donald Livingston

1 -- did you hear a gunshot?

2 A So as I'd received -- it was a bench. I  
3 received a bench from the -- one of our pieces of  
4 armor from an -- the intel Officer Mike Jones, I  
5 walked it back towards the hasty team, which was,  
6 again, in Unit No. 17.

7 I walked along the north sidewalk, and as I  
8 was crossing the parking lot area to get to Unit 17, I  
9 heard a gunshot. I was not 100-percent sure if the  
10 gunshot came from us or it came from inside of  
11 Unit 16. It appeared kind of muffled, but I was in  
12 the center of those apartments.

13 I heard it but I specifically was waiting  
14 for radio traffic. If it was one of us, the  
15 expectation is after you fire a shot, that you  
16 announce that on the radio.

17 So I did not touch the radio. I heard  
18 moments later Officer VanBlokland announce on the SERT  
19 net specific command that we use, "Zulu, Zulu, Zulu,"  
20 which means, "I fired a shot." And he gave specific  
21 information, suspect was going to be down right below  
22 a window as you walked inside of the -- as you walked  
23 inside of the room.

24 Q And so based on the training and experience  
25 of the SERT Team, what is the typical response when

## Examination of Donald Livingston

1 that command goes out?

2 A Based on the situation we had and the tools  
3 that we had set up that entry into the room could be  
4 launched under two situations or three. One would be  
5 a deliberate command from the command post.

6 I could have launched (indiscernible) two  
7 situations. Number one, I hear something inside, like  
8 I hear a commotion, maybe I hear her screaming for  
9 help. That, in the situation, would have cause me to  
10 execute the plan.

11 The third thing would be a sniper shot. So  
12 on a "Zulu, Zulu, Zulu," the training for our team is  
13 and the standard practice is for us to support that by  
14 putting our plan into place, and our plan that we had  
15 at the moment.

16 So immediately I heard the gun port charge  
17 go off, and the hasty team exited the Room No. 17 and  
18 started moving towards No. 16 and two officers were  
19 working the two-person ram on the door.

20 I could tell it was barricaded. The door  
21 was barely moving. I think it was three hits before  
22 it kind of got far enough back to gain access inside  
23 and the break-and-rake team responded to the window  
24 and had smashed the window out.

25 Q Now, you mentioned three hits to get into

## Examination of Donald Livingston

1 the door. Is that consistent from your experience of  
2 the door being barricaded, given how the ram, the  
3 equipment, can be used?

4 A Yeah. The two-person ram is generally very  
5 effective. The doors at the Del Rancho Motel are not  
6 significant. Normally, that would have gone when hit,  
7 it would have come swinging open. Potentially even  
8 like off the hinges. But this was -- they are very  
9 slightly pushing.

10 Even after three hits it was big enough for  
11 officer or Detective Todd Gradwahl to toss a  
12 flash-bang in there and then we had to physically use  
13 muscle to force that door open in order to get people  
14 inside.

15 Q And just to be clear, that team nor you were  
16 actually in the room at that time, so there's still  
17 potentially a risk of harm both to the female occupant  
18 and/or the law enforcement personnel going in there  
19 given those instructions and how difficult it is to  
20 get to that door; is that accurate?

21 A That's accurate, yeah.

22 Q So after that occurred, what happened next?

23 A So the officer -- the officers that had did  
24 the gun port charge and got a view inside the room  
25 were now giving us a little bit of information. They

## Examination of Donald Livingston

1       could see the suspect was down.

2               We had forced the door wide enough to get --  
3       start getting officers in there. I believe I was the  
4       forth officer through the door. Officer Townley  
5       (phonetic) who I think was the second had shielded the  
6       female against the wall and we, the rest of us, had  
7       worked back to the bathroom area where the suspect was  
8       laying on the floor.

9               Based on my initial observation, it appeared  
10       to me he was deceased. I tried to get on the radio  
11       several times. We have medics that work with us in a  
12       close capacity. They're Portland Fire Bureau medics  
13       that are trained and are assigned to our team.

14              I specifically had requested for one of them  
15       to come up so they could either treat him or pronounce  
16       him deceased. And then I asked for Officer Townley to  
17       get the female out of there. I wanted her -- I know  
18       she just went through a traumatic event. I wanted her  
19       out of there and also potentially looked at by medical  
20       to make sure she was okay.

21              The medic, Jay Fink (phonetic), from the  
22       Portland Fire Bureau made it inside and pronounced the  
23       suspect deceased.

24              Q       Once that occurs and knowing your -- based  
25       on your training and experience, then what typically

## Examination of Donald Livingston

1 happens next in these incidences, what was your next  
2 role?

3 A So I started to switch roles into this is  
4 now a crime scene. Everybody needs to get out of the  
5 -- the motel room. So I started funneling officers  
6 out. We all got outside onto the sidewalk.

7 I -- I asked for an investigator or a member  
8 of the CNT or intel to come up and take control of the  
9 female victim, so they could get her back to  
10 investigators. They sent two detectives up there to  
11 grab her.

12 And then I would just reminded officers that  
13 this is an investigation and we cannot talk about it.  
14 We're going to get -- an interview by detectives,  
15 potentially issue GAG orders, so I just reminded them  
16 that we're not allowed to -- to speak about this.

17 Q And did you -- did you segregate your teams  
18 into different locations as well when -- when doing  
19 that?

20 A Yeah. So the parking lot itself actually  
21 turned into a crime scene. So officers were  
22 already --

23 Q Do you have a street level, like in front of  
24 the area?

25 A Officers were already setting up crime scene

## Examination of Donald Livingston

1 tape. When I -- when I walked out of the apartment, I  
2 asked them, kind of -- they were pushing it really  
3 close to us. I asked them to push it down further.  
4 So, basically -- do you mind if I stand up?

5 Q Yeah. Go ahead.

6 A So, basically, the -- the red crime scene  
7 tape ran right here. So this, right -- from here back  
8 was all the crime scene of the event. We then put  
9 crime scene tape across here. And then this was kind  
10 of like a working area where officers could stage.

11 Initially, we were all standing more back  
12 here, outside of the -- the armored vehicle that  
13 rolled out or the -- the ambulance that rolled up.  
14 And then we all move down to this area right here, so  
15 we weren't interfere with anything that was involved  
16 as far as evidence goes.

17 Q And going back to the original point, of the  
18 -- did you allow the SERT officers to kind of strip  
19 down their gear as they waited for investigators to  
20 arrive?

21 A Yeah. So our gear weighs 60 pounds. And  
22 we've been working since 4:00 a.m. So I specifically  
23 asked investigators if we can take our gear off and  
24 just relax. And they -- they allowed us to do that.

25 Q And, to your knowledge, in addition to not

## Examination of Donald Livingston

1 talking to each other, were gag orders in place for  
2 the witnesses as well to not discuss the incident?

3 A Eventually they were. So the typical  
4 process or procedure is you get interviewed. And then  
5 you'll get issued the gag order. So knowing that's  
6 coming, everybody was not allowed to talk to each  
7 other based on my direction until we all had received  
8 our gag orders or had been interviewed by detectives.

9 Q How did the -- did you have a chance to  
10 personally observe the victim, the female, inside the  
11 residence after you guys were able to pull her out of  
12 the room?

13 A I did. I -- I saw her both inside and then  
14 outside of the room as well.

15 Q And how did she appear to you?

16 A She appeared in shock, like, she -- she  
17 appeared very white, almost like I would refer to as  
18 condition black. And -- but not -- not injured, like,  
19 she was able to walk out on her own and follow  
20 directions.

21 Q And, finally, just going back to the search  
22 call-outs and certain protocols, what are some of the  
23 more high-risk lethality or dangerous scenarios by  
24 which SERT is often or mandatorily called out to and  
25 respond to?

## Examination of Donald Livingston

1           A     So, as a team, the policy for the Portland  
2 Police Bureau says we're required to respond -- we're  
3 required to activate for hostage situations, active  
4 shooter situation or sniper situations.

5                     The other thing that were required to be  
6 there for, but it's not, like, an emergency ongoing  
7 incident is high risk of search warrant. So we have a  
8 procedure where investigator will go through a  
9 checklist and if it rates to a certain point, they're  
10 required to activate us.

11                    There's also considerations for block  
12 searches where armed people are known to be inside.  
13 So the main three that are actually ongoing events are  
14 hostage, active shooter or sniper events. And the --  
15 the reason is the chance of loss of life is very high.

16           Q     And, again, from your training and  
17 experience, you've participated in certain scenarios  
18 or incidences. How would you characterize the speed  
19 of which this escalated compared to other SERT  
20 call-outs and scenarios?

21           A     Even in scenario world, this was an  
22 extremely fast incident. You know, normally these  
23 things take a while to build up. There is some  
24 background, some -- some conversation.

25                    Like I said before, it was about, I would



## Examination of Donald Livingston

1 estimate, 30 minutes of me being on scene until it was  
2 finished. It was very fast, the fastest one I'd ever  
3 been involved in.

4 Q And just, again, as a SERT sergeant, is  
5 there any information indicating coming from the CNT  
6 side of this operation that the person inside the  
7 residence was actively trying to discuss ways to  
8 surrender or ways to hand over the female hostage  
9 inside the residence or ways to end this peaceably  
10 without SERT being involved?

11 A Absolutely not and quite the opposite. The  
12 negotiations were not going well. He was making  
13 threats to harm the victim.

14 MR. HANNON: Do the grand jurors have any  
15 questions?

16 Thank you. May this witness be excused?

17 Thank you.

18 THE WITNESS: Thank you.

19 MR. HANNON: Sure. We'll take a five-minute  
20 break. We'll go off the record.

21 (Recess taken, 10:07 a.m. - 10:22 a.m.)

22 MS. MARRERO: Okay. We are back on the  
23 record.

24 This is Sergeant Peter McConnell.

25 PETER McCONNELL

## Examination of Peter McConnell

1 Was thereupon called as a witness; and, having been  
2 first duly sworn, was examined and testified as follows:

3 A GRAND JUROR: Thank you.

4 DIRECT EXAMINATION

5 BY MS. MARRERO:

6 Q Good morning, Sergeant. Can you please  
7 state and spell your first and last name for the  
8 record.

9 A My name is Peter McConnell. My first name  
10 is spelled P-e-t-e-r; and my last name is spelled is  
11 M-c-C-o-n-n-e-l-l.

12 DIRECT EXAMINATION

13 BY MS. MARRERO:

14 Q Thank you. Can you please tell us how you  
15 are employed.

16 A I'm a sergeant with the Portland Police  
17 Bureau. I'm assigned to Central Precinct day shift.  
18 And I'm also a detached sergeant on the Special  
19 Emergency Reaction Team.

20 Q Can you detail for the grand jury your  
21 training and experience that qualifies you for those  
22 positions?

23 A I've been a police officer here in Oregon  
24 for 25 years. I attended the basic Police Academy at  
25 Monmouth, Oregon at the time, the Portland Police

## Examination of Peter McConnell

1 Bureau Advance Academy, yearly inservice.

2 Approximately 12-and-a-half years ago I was  
3 appointed to the Special Emergency Reaction Team as an  
4 operator. I worked on what's called the inner  
5 perimeter for approximately nine years before  
6 transferring over to the entry element.

7 Approximately a year and a half ago I was  
8 promoted to sergeant, assigned to Central Precinct and  
9 also given supervisory duties on the Special Emergency  
10 Reaction Team or SERT.

11 As a member of SERT, we train two days every  
12 other week and once a year for a week at a time at  
13 Camp Rialea. We go through extensive training related  
14 to scenarios we would encounter in our jobs as members  
15 of SERT and training at the range as well.

16 Q Thank you. Were you working on October 10th  
17 of this year?

18 A Yes, I was.

19 Q In what capacity were you working that day?

20 A I was actively working as a member of SERT,  
21 serving a warrant. I was the second sergeant in  
22 charge. And on a call-out my duty would be to run in  
23 the inner perimeter.

24 Q And can you tell the grand jury when you  
25 were finish serving the warrant, how did you first

## Examination of Peter McConnell

1       become alerted to the incident that was unfolding in  
2       East Precinct?

3             A       I'm sorry. How I became aware of it?

4             Q       Yes.

5             A       Actually, we weren't quite finished serving  
6       the warrant yet when my pager went off. We received a  
7       request for what's called an a SERT consult page.

8                     In certain tactical situations that regular  
9       uniform patrol officers encounter, it common to reach  
10      out to special units, such as SERT or the Crisis  
11      Negotiation Team, to talk to those sergeants about  
12      other options or other avenues of handling the call.

13                    So towards the end of the warrant, maybe we  
14      have five or ten minutes to go, my pager went off. I  
15      took the consult page. It was from Sergeant Nice at  
16      East Precinct. I called him back on his phone and he  
17      had told me over the phone -- he wanted to give me a  
18      heads up, but it looked like they had a hostage  
19      incident in the East Precinct.

20                    He was not scene yet. He was going to get  
21      on scene and call me back. He was not activating the  
22      SERT, but I let him know that we were all together a  
23      short distance away and we can be there shortly if he  
24      needed us.

25                    Once we ended that phone call, I went up to

## Examination of Peter McConnell

1 the house. It was just finished being cleared. I met  
2 with Sergeant Livingston and let him know the content  
3 of the conversation I'd had with Sergeant Nice. We  
4 had other operators that were aware of it now and were  
5 reviewing the call, I believe, on their phones.

6 We decided it was best, based on the  
7 incident and the seriousness of it, the potential  
8 danger to life, that we finish the warrant quickly and  
9 we started heading closer to the area to a staging  
10 point, so if we were activated, we would be able to be  
11 on the scene shortly.

12 Q And, Sergeant McConnell, let me ask you --  
13 to clarify or to follow up on that a little bit. You  
14 said, "Based on the incident and the risk to life and  
15 the dangerousness of that situation." What  
16 information did you receive in that first phone call  
17 with?

18 A Initially, what I believe I received was  
19 that there was a hostage situation that -- I think it  
20 was a girlfriend had been grabbed at knifepoint and  
21 taken into a hotel room. I'm not certain if this was  
22 during the consult page or en route to the call.

23 We further got updated that the suspect had  
24 stabbed somebody and I believed that was at the  
25 7-Eleven. I think later when we arrived on scene,

## Examination of Peter McConnell

1 that information that he stabbed somebody at 7-Eleven,  
2 was discounted. And we received new information that  
3 he attempted to stab somebody at the hotel prior to  
4 taking the woman into the room at knifepoint.

5 Q And so when you decided to leave the -- to  
6 finish up the warrant up quickly and to head towards  
7 the hotel, what's the process for getting your team  
8 over there?

9 A In this case, we had left our equipment van  
10 at North Precinct, which was only about 40 blocks  
11 away. So as soon as I hung up with the consult page,  
12 our inner perimeter at the warrant didn't have any  
13 responsibility because we were just clearing the  
14 attic, so I directed someone that was free to drive to  
15 North Precinct to get the equipment van and start  
16 bringing it back to where we were.

17 Don and I discussed briefly. We decided we  
18 were going to load everybody up in our two pieces of  
19 armor and drive to I-205, start heading Southbound and  
20 en route we would find a place to stage.

21 In looking at the map, we decided we were  
22 going to take the Johnson Creek exit and stage at the  
23 Home Depot parking lot there until or if we were  
24 activated. Then we would respond from there. That  
25 would put us about ten blocks away from the hotel.

## Examination of Peter McConnell

1           Q     And what did you know at that point about  
2 whether or not CNT had been activated and what they  
3 were doing?

4           A     En route, we had a dispatcher come over to  
5 our net, which was She-2. They gave us a synopsis of  
6 the call. At some point during that, I learned that  
7 CNT was activated and I believe it was Sergeant King  
8 or Lieutenant Nakamura (phonetic) from CNT was calling  
9 the IC, which I believe was Sergeant Nice, to see why  
10 SERT wasn't activated.

11                     Just at the time that we're arriving on  
12 scene -- actually, we never pulled in to the Home  
13 Depot parking lot. We were just pulling on to Johnson  
14 Creek Road, Sergeant Livingston got on our net and said  
15 SERT had been activated and we can proceed to a  
16 staging area close to the hotel.

17                     So once I got that information I talked  
18 to -- we were in the lead. I talked to the driver of  
19 our vehicle and told him to just go northbound on  
20 82nd Avenue and stop just south of the hotel out of  
21 sight.

22           Q     And so once you got there what was your  
23 role? What was your responsibility?

24           A     My role was to run the inner perimeter. I  
25 was in charge of placing people on SERT around the

## Examination of Peter McConnell

1 perimeter to take appropriate action, whether that be  
2 containment, whether that to employ some kind of force  
3 option. But make sure that all sides of the problem  
4 were covered from the outside.

5 Sergeant Livingston was in charge of the  
6 entry element and the overall team leader. He and I  
7 met briefly when we landed to the south. He advised  
8 via radio that they had already come up with a plan to  
9 come up with a hasty team from their officers in their  
10 armored car, which is a group of officers that can  
11 respond immediately if for some reason we needed to  
12 make entry.

13 He was going to go forward and talk with the  
14 IC. I felt it easiest if I just went with him because  
15 we were actually going into what I would call the  
16 courtyard of the hotel.

17 And that way I can see myself exactly where  
18 the problem was, where the hotel room was, try and get  
19 as much information as I could. And then I would  
20 return and deploy people on the IP based on what I  
21 saw. So I -- sorry.

22 Q So -- and I'm -- can -- I want to clarify a  
23 couple of the terms you're using. You've said IC and  
24 IP. Can you tell the grand jury what those are.

25 A The IP is the inner perimeter and that is in



## Examination of Peter McConnell

1 reference to SERT operators. The IC is the incident  
2 commander, which, in this case, was Sergeant Nice. So  
3 it's the -- typically, it's the highest ranking  
4 sergeant or a sergeant that is initially in charge of  
5 the call on the uniform side.

6 It would be possible that the shift  
7 lieutenant gets there, get's briefed and takes over  
8 the IC role from the sergeant, but I believe  
9 Sergeant Nice was still the IC and that is who I had  
10 taken the consult from and that is who  
11 Sergeant Livingston met with.

12 Ultimately, command normally will transfer  
13 over to SERT in the CIC role or Critical Incident  
14 Commander, but in this case at the time we arrived,  
15 Sergeant Nice was the IC.

16 Q Okay. Thank you. And so as you are  
17 positioning folks in the inner perimeter, where --  
18 where are you directing folks to go to? Can you  
19 describe, sort of, the scene that you were seeing?

20 A So I'm looking over you to the -- it looks  
21 like a Google Earth photo of the motel that's on the  
22 wall here -- to the top, which would be to the north,  
23 that's the northern building of the motel. And then  
24 to the bottom is the southern building of the motel.

25 Unit 16, which I was directed by officers on

## Examination of Peter McConnell

1 scene, is where this problem was occurring, is in the  
2 southern-most building. Unit 16 is about in the  
3 middle of that east, west building, give a little bit  
4 left or right.

5 When I came around the corner, I saw a large  
6 number of officers on the northern part of the parking  
7 lot, focused their direction to the south towards  
8 Unit 16.

9 I got information that that's where the  
10 problem was, that a male -- and I got a description  
11 from Officer Higginbotham which I broadcasted on the  
12 radio, had taken the female into that room at  
13 knifepoint.

14 And this is when I think Officer  
15 Higginbotham told me that he'd also attempted to stab  
16 somebody at the hotel, so I put that on the -- that  
17 information out on the radio.

18 In looking at this, since there was a hotel  
19 room on either side of Unit 16, my biggest concerns in  
20 containing that and getting observations were having  
21 someone on the inner perimeter on the front, which we  
22 would call Side 1 and on the back of that unit, which  
23 we would call Side 3. Those were the two likely  
24 avenues of escape or that the suspect would come  
25 out of.

## Examination of Peter McConnell

1           I found Officer Griffin and I brought him  
2 over to the front where the other officers were. I  
3 told him where the problem was. I gave him a very  
4 brief description of what I had learned and told him  
5 his job was the front door and the one window attached  
6 to Unit 16. And that I would find him a partner as  
7 soon as I could.

8           There were also other officers there, but I  
9 wanted him partnered up with a fellow SERT officer  
10 from the inner perimeter. Ultimately, I think that,  
11 initially, being Officer Asheim.

12           And then my next concern was getting  
13 security on the back side. I sent two officers there  
14 and a K-9. But they got to their position, which I  
15 direct them to going through the manager's office,  
16 which is the extreme west end of the southern building  
17 where that southern building gets a little wider to  
18 the left. The one that --

19           MR. HANNON: Right here?

20           THE WITNESS: -- Deputy District Attorney  
21 Hannon is pointing to. You actually enter from the  
22 other side. Right through there is the door.

23           They went through that office to where his  
24 pen is now. There's a little three-foot fence on the  
25 backside with maybe a three to four foot alleyway.

## Examination of Peter McConnell

1           So I told them to stay there with their K-9  
2 officer and that they would be responsible for anybody  
3 that came out of Unit 16. But I also was aware that  
4 they're not able to make observations into Unit 16.

5           So my next priority was to find two officers  
6 on the inner perimeter that I could put further back  
7 off of the back side, directly off of Unit 16 that  
8 would be able to make observations through any windows  
9 that would be there.

10 BY MS. MARRERO:

11           Q     And, Sergeant, can you tell us why would  
12 those officers have not been able to see into Unit 16  
13 from where you had positioned them?

14           A     So their position was west of Unit 16 and  
15 they're right up against the building. They're  
16 between the building that Unit 16 is in right -- right  
17 there, give or take where your pinky finger is now,  
18 and the fence line. So they're -- they're looking  
19 directly east.

20           So they're -- what you need to be is to the  
21 south looking north to be able to be able to make  
22 observations into the windows if there are any there.  
23 This position is what I would call a containment  
24 position. They're ready with lethal options, less  
25 lethal options, and a K-9.

## Examination of Peter McConnell

1                   In the event that the suspect were to  
2                   somehow crawl out one of those windows, they would be  
3                   able to challenge the suspect and deploy whatever  
4                   force would be necessary in that circumstance. Or if  
5                   the victim were able to self-evacuate out one of those  
6                   windows, they could interceded and take the victim to  
7                   safety.

8                   Q       And so knowing that that was their  
9                   positioning and that would be their role, did you  
10                  assign officers to try and get a more direct view into  
11                  that room?

12                  A       Yes, I did.

13                  Q       And can you describe for us who you assigned  
14                  to that?

15                  A       I made it back out on to 82nd Avenue at some  
16                  point and I saw that Officer Kelly VanBlokland and  
17                  Officer Leo Harris were geared up and ready to be  
18                  deployed.

19                           I went to -- or pointed to the entry way to  
20                           the parking lot on the north side of the VN Indoor  
21                           Garden Supply. That's the building. And then to the  
22                           north of that -- would you like me to come up there?

23                           MR. HANNON:    Sure.    Sure.

24                           MS. MARRERO:   That would be great.

25                           THE WITNESS:   All right. Or do you have a

## Examination of Peter McConnell

1 laser pointer?

2 MR. HANNON: We don't.

3 MS. MARRERO: I don't.

4 THE WITNESS: All right. I'll try to speak  
5 loud.

6 MR. HANNON: We've got a microphone. You're  
7 fine.

8 THE WITNESS: Okay. So the next business,  
9 directly south from the motel, is labeled the VN  
10 Indoor Garden Supply. There's a parking lot on the  
11 north and kind of east side of that. There's a fence  
12 line right here and right here.

13 Even though this shows a gate right here, I  
14 don't remember that, but there is a gate right here.  
15 And these items here, I don't think that's realistic  
16 with how that was that day, but I remember that there  
17 were Conexes, like great, big 55-foot Conexes, maybe  
18 ten of them right here.

19 I didn't notice at the time, but there was a  
20 red pickup with a red wooden -- red work pickup with  
21 wooden rails on the side that was parked just north of  
22 those Conexes. I pointed to this area and I asked  
23 Officer VanBlokland and Officer Harris to get into  
24 that parking lot.

25 I suggested maybe on top of the Conexes, but

## Examination of Peter McConnell

1 to find a position that they could see into the  
2 windows of Unit 16. I don't really remember much  
3 other conversation than that.

4 I asked them if they enough information and  
5 they told me that they did. I think they ended up  
6 having to cut the lock off of this fence to gain entry  
7 and then they deployed to their position and I went  
8 back to the area of the motel to conduct other  
9 missions.

10 A GRAND JUROR: Was her window into that  
11 backroom?

12 THE WITNESS: You're saying the bathroom  
13 of 16?

14 A GRAND JUROR: Yes.

15 THE WITNESS: I believed there was,  
16 honestly. And I, ultimately, end up -- you'll hear  
17 later -- end up back in this area after the event.  
18 But I never really looked back here, but just walking  
19 up and knowing that it's a hotel, I saw windows all  
20 through here, so I believe that there were windows on  
21 the back side of 16.

22 But just -- by my positioning, I never  
23 really got the time to pause and look and make sure  
24 there were windows there.

25 A GRAND JUROR: Okay.

## Examination of Peter McConnell

1 BY MS. MARRERO:

2 Q So you had directed Officer VanBlokland and  
3 Officer Harris to that area. Did you give them direct  
4 orders on exactly where you wanted them positioned?

5 A I wanted them positioned on what called  
6 Side 3, the back side, in a position that they can see  
7 in any windows to Apartment 16. I didn't specifically  
8 tell them where to go.

9 I pointed out some options, but they're both  
10 highly trained officers and do this all the time in  
11 training and in real life operations and don't  
12 necessarily need me to point exactly to a position  
13 than say, "This is where I want you." They understand  
14 when I say "Side 3" what their responsibility is.

15 Q And so once you had given them that  
16 instruction and went back to the front, what is your  
17 continuing role at that point?

18 A I'm still the sergeant-in-charge of the  
19 inner perimeter trying to make the perimeter better  
20 than what it is, managing getting uniform personnel  
21 out that aren't necessarily needed, but also  
22 establishing containment or thinking of other  
23 contingencies.

24 One thing I remember talking about with  
25 Sergeant Derrick Foxworth who's on the inner perimeter



## Examination of Peter McConnell

1 is getting containment to the east if the suspect or  
2 victim were to come out and run and go to the right to  
3 the eastern part of the parking lot.

4 By this time, we didn't really have any  
5 inner perimeter folks left. And so I think that  
6 position I got three uniform officers from  
7 Sergeant Nice or any sergeant and put them with a K-9  
8 and told them to stay out of sight, but listen to our  
9 radio in case this suspect came out and ran to the  
10 east.

11 Q So you indicated that at that point you  
12 didn't have any inner perimeter officers left. Were  
13 you seeking or was anybody still seeking assistance  
14 from additional officers that were being called to  
15 the scene?

16 A Sergeant Livingston and I had met briefly in  
17 the courtyard. He informed me that we had officers  
18 that were coming into the scene from training, but  
19 they were the Columbia County Range. And so there's  
20 a -- a distance to drive.

21 We talked about getting additional resources  
22 from another SWAT team. We talked about getting six  
23 more operators, four of which would be inner perimeter  
24 operators from Washington County, TNT or SWAT team.

25 And it's my belief that that request had

## Examination of Peter McConnell

1       been made to the command post and they would be coming  
2       this way. But, again, that is probably 45 minutes to  
3       an hour away before they get there.

4               Q     Did you also discuss with  
5       Sergeant Livingston that the team is still operating  
6       under standard rules of engagement at that point?

7               A     Yes.

8               Q     Can you talk a bit about that?

9               A     Standard rules are how the team deploys. It  
10       refers our force rules. We have a directive,  
11       Directive 10.10. It covers police officer's use of  
12       force. It covers a wide range of, you know, uses of  
13       force to include deadly force.

14               Standard rules, essentially, means that  
15       officers are acting under Directive 10.10 and making  
16       force decisions on their own based on the directives  
17       of the Bureau.

18               Occasionally, based on the situation of the  
19       incident, there may be a modification to those rules,  
20       meaning that the command post which typically has the  
21       most information in an event, they have the direct  
22       line to any negotiations that are going on, any  
23       information that's being provided by the negotiators  
24       about an event that an operator may not have.

25               A commander or a Critical Incident commander

## Examination of Peter McConnell

1 may modify the rules and say, "You have a shot of  
2 opportunity," meaning the next time you see somebody,  
3 you know, you need to employ deadly force, even if in  
4 that moment you don't think that it would -- I don't  
5 say necessarily be appropriate, but you don't  
6 understand why that is because the command post has  
7 the most information.

8           And that is just an example. In this case,  
9 however, the rules were never modified. We deploy  
10 under standard rules and we stayed under standard  
11 rules throughout the event.

12           Q     And under the standard rules, if an officer  
13 felt like they needed to employ deadly force in order  
14 to protect life or serious physical injury, would they  
15 be allowed to take that initiative?

16           A     Yes.

17           Q     Okay. As this is happening and as you're  
18 deploying folks to their respective positions, did --  
19 are there still -- is there still information coming  
20 out over the radio?

21           A     Yes.

22           Q     And what sort of information is, to your  
23 recollection, being sent out over the radio?

24           A     There's information about negotiations  
25 through phone calls. I don't remember the specifics

## Examination of Peter McConnell

1 of that.

2 I recall hearing that we had been on the  
3 phone with the suspect; that that phone call was  
4 ended. I believe that I heard that he had threatened  
5 to kill the victim inside, but I don't remember the  
6 specific transmission or where that was in the call.

7 I do remember someone broadcasting that we  
8 have probable cause for the suspect for Assault II,  
9 which is a serious Measure 11 crime. I'm not positive  
10 if I heard that officers were hearing sounds thinking  
11 that the suspect was barricading the room.

12 I know, ultimately, that was the case, but  
13 I'm not sure if I heard that on the radio. I was  
14 moving around and doing a bunch of other jobs. There  
15 was a lot of radio transmission that day.

16 Q Okay. And what were you doing as all of  
17 this was happening? Once you're at the front, once  
18 everybody's deployed and you're waiting for additional  
19 units, what are you doing?

20 A So I talked about kind of deploying the  
21 inner perimeter. Other things that I was doing in it  
22 amongst that was getting hotel room keys made by the  
23 manager who was there, so officers would be able to  
24 get into these rooms whether it be right next to  
25 Unit 16 or if they wanted to get into a room just to

## Examination of Peter McConnell

1 see the lay of the land, so they can see, "Oh. This  
2 is Room 11. It's just like Room 16. This is where  
3 the bathroom is." Things like that.

4 One of the big concerns I had is  
5 establishing negotiations with the suspect. I didn't  
6 specifically know it, but I believed that uniform had  
7 already tried with ECIT trained officers and also  
8 through phone negotiations or had the suspect's phone  
9 number available to -- to CNT negotiators. But  
10 sometimes people hang up the phone or sometimes they  
11 just don't answer their phone.

12 So I saw Sergeant Max Holbrook (phonetic),  
13 who's a negotiator with the Crisis Negotiation Team.  
14 I asked him to get a face-to-face negotiation team  
15 ready and stage it by the manager's office. So if it  
16 became necessary to use them, we could bring them  
17 forward and start a face-to-face negotiation.

18 The other thing we have SERT medics, which  
19 are EMTs with the Portland Fire Bureau that are  
20 assigned and detached to the CERT team. We had two of  
21 the medics with us that day, so I made sure they  
22 understood where the problem was.

23 I asked them to stage, be ready in the  
24 Bearcat because they also sometimes double as drivers.  
25 But if we had a -- a need for medical for the victim

## Examination of Peter McConnell

1 or the suspect, I wanted them to know that -- where  
2 the problem was and be able to get there quickly so  
3 they could render aid to either one if need be.

4 Q Are you also at that time assisting and  
5 getting equipment to various members of your team?

6 A Yes.

7 Q And can -- were you able to get everything  
8 where it needed to be before you heard the shot fired?

9 A No.

10 Q And at what point did you actually hear the  
11 shot fired?

12 A I was just returning from Room 15 to right  
13 next to room 16. I had dropped some equipment off  
14 with Officer Tom Snitily, and Detective Billy Winters  
15 accompanied me and assisted me in doing that.

16 We were going back to retrieve additional  
17 equipment and I was either in the courtyard or had  
18 just rounded the west end of the building when I heard  
19 one gunshot, which I believe to be from the back side  
20 of the hotel. I believe that it was a police officer  
21 that had shot.

22 I don't necessarily remember hearing the  
23 transmission that it was an inner perimeter officer  
24 that fired, but it was by belief that that is what had  
25 happened. I turned around, and I could see the entry

## Examination of Peter McConnell

1 element from Room 17 starting to move to the front  
2 door. So, at that point, I turned and ran to assist  
3 them in any way that I could.

4 Q And how were you able to assist the entry  
5 team?

6 A When I got there, I saw Officer Aaron  
7 Sparling (phonetic) doing what we would call a  
8 break-and-rake at the window of Unit 16, which is  
9 taking a long, six-foot pole, breaking out the window,  
10 trying to use it to capture any curtains or window  
11 hangings that would prevent you from seeing in and  
12 then getting a view into that room and covering the  
13 people trying to make it through the front door.

14 I ended up to the right of him. I briefly  
15 looked into that window. I really couldn't see  
16 anything. I -- I think there was a -- a mattress  
17 covering most of the window or at least the left side  
18 of the window.

19 My perception was that the entry team had  
20 been able to get through the front door. I thought I  
21 had seen the line of officers starting to move in, so  
22 I moved over to trail in with them. But then I  
23 realized that they were having more trouble getting  
24 through the door because the door appeared to be  
25 barricaded.

## Examination of Peter McConnell

1           After a short delay, officers were able to  
2 get through the door. By the time I got close to the  
3 door, they had located the victim. They had secured  
4 the room.

5           There was no need for me to go into the room  
6 so I never actually made entry. I saw the victim  
7 being escorted out. I called for a medical -- or the  
8 two SERT medics to come right up to Room 16 with a  
9 plan on having them there, staging them there until  
10 the room was called clear and then we'd bring them in  
11 to render aid to the suspect.

12           Ultimately, they drove up to the entryway  
13 and ran to the front door. They were escorted into  
14 the room. So, at that point, I talked briefly with  
15 Sergeant Livingston.

16           There was really nothing for me to do there,  
17 so then I went to Side 3, to the back side of the  
18 hotel where I thought the shot had been fired by the  
19 police to determine who the involved officers were --  
20 or involved officer was and any witness officers, and  
21 make sure the scene was secured.

22           Q     And before we talk about what you saw on  
23 Side 3, at the time that you heard the gunshot, was  
24 everybody still operating under standard rules?

25           A     Yes.



## Examination of Peter McConnell

1           Q     Okay.  Had any commands been give, to your  
2     knowledge, to modify those?

3           A     No.

4           Q     So when you got to Side 3, can you describe  
5     for the grand jury what you observed?

6           A     Yes.  I went through the fence -- the gated  
7     fence -- that VM Indoor Garden Supply.  I walked to  
8     the east and was looking for Officer VanBlokland and  
9     Officer Harris' position.

10                   Ultimately, I found them standing in the bed  
11     of this red work pickup -- a larger pickup with wooden  
12     rails on either side.  They were -- so that is the  
13     back end of the pickup that I'm describing.  It's  
14     facing westbound, so the end that we're looking at is  
15     actually the eastern end, if that makes sense.

16                   When I came around the side that you can  
17     see, I found Officer VanBlokland and Officer Harris  
18     standing in that bed.  I'm thinking, which is labeled  
19     G there, is Officer -- what I believe to be Office  
20     VanBlokland's drag bag, which is a fancy name for an  
21     equipment bag that you carry a larger rifle in.

22                   Sitting on top of it was an AR-15 style  
23     rifle.  I asked them, essentially, who shot, and  
24     Officer VanBlokland indicated that he had shot.  I  
25     asked Officer Harris, "Had you shot?"  And he said no.

## Examination of Peter McConnell

1           So I determined, in my mind, that  
2           Officer VanBlokland was the involved officer.  
3           Officer Harris was a witness officer. I told them to  
4           stand fast, not to discuss the incident.

5           I started getting uniform resources there to  
6           secure the crime scene. One of them, I think it was  
7           Officer Harris, indicated probably a little bit  
8           further east in the grass would be a shell casing.  
9           Presumably Officer VanBlokland's shell casing.

10          I briefly looked for it, but it was, you  
11          know, 12 inches of grass and that really was not my  
12          priority. So I -- I stopped doing that. I got two  
13          East Precinct officers. I brought Officer VanBlokland  
14          and Officer Harris down off the truck.

15          Officer Harris was not involved. He was  
16          wearing his rifle, so I told him to bring it. I told  
17          Officer VanBlokland just to leave his rifle sitting on  
18          top of his drag bag.

19          I brought one of the East officers back  
20          there where exactly I was standing. I told him not to  
21          trample the grass because there should be a shell  
22          casing there; that that rifle -- presumably the other  
23          rifle -- were loaded and not to touch it, but also to  
24          maintain security on it because we are in a public  
25          area.

## Examination of Peter McConnell

1           And then I brought the two officers to the  
2 front of the truck while I briefed the other officer  
3 from East about where to put up the red crime scene  
4 tape, to start a crime scene log.

5           I started coordinating officers to place,  
6 with Officer VanBlokland and Officer Harris. This is,  
7 you know, so they have someone with them after this  
8 traumatic event and also to make sure that no one is  
9 coming up and talking to them about the event.

10           I found two cars that we could put them in,  
11 once we had all that in place. Each of -- each -- you  
12 know, the involved officer and the witness officer  
13 were placed in the cars with another SERT member that  
14 wasn't directly involved in the incident, and they  
15 stayed there until they were authorized to leave the  
16 scene.

17           Q     Okay. And, at what point -- well, what do  
18 -- what do you do at that point, once they're  
19 separated?

20           A     That they're separated? I continued  
21 managing the crime scene.

22           Q     And then --

23           A     -- I kind of did various administrative  
24 jobs along 82nd Avenue. I had the crime scene  
25 secured. I made sure there was a crime scene log

## Examination of Peter McConnell

1       happening.

2                   I'm sure I touched base with  
3       Sergeant Livingston.  You know, the next time I really  
4       became aware of the hotel, most of the SERT team was  
5       segregated behind some tape, kind of in a holding  
6       area.

7                   I coordinated with Detective Kammerer, who  
8       is one of our SERT intel officers, but he's also a  
9       homicide detective.  We also had Detective Brad  
10      Clifton there, who is a SERT intel officer and a  
11      homicide detective.

12                   We had Detective Billy Winters there, who  
13      is a SERT intel officer and a robbery detective.  But,  
14      specifically, Detective Kammerer and Detective  
15      Clifton, who regularly investigate these things.

16                   If I had a question about is an officer  
17      involved or -- not involved -- but a witness officer,  
18      not -- specifically, like the officers on Side 3 that  
19      could only look down Side 3, I asked them, do you --  
20      do you consider them witness officers?  Do they need  
21      to be segregated?  Questions like that to make sure all  
22      our policies were followed.

23                   Q     And so, at this point, it's really turned  
24      into an investigation because the threat is gone; is  
25      that correct?

## Examination of Peter McConnell

1           A     Yes.

2           BY MR. HANNON:

3           Q     A couple things to clarify real quick. We  
4           heard a couple different things on staging areas.  
5           When SERT was in route to the location when it was  
6           called initially as a consult, was -- is it your  
7           understanding the staging area was going to be the  
8           Fred Meyer Johnson Creek parking lot, or was it -- or  
9           Home Depot parking lot, or do you recall?

10          A     I believed it was going to be the Home Depot  
11          parking lot, but this is an event where we were kind  
12          of, you know, making these decisions en route.

13                   And because I'm thinking Home Depot parking  
14          lot and there was someone else in the other -- like  
15          Don, who was in the other piece of armor as we're  
16          separated, might have said the Fred Meyer parking lot.

17                   My belief is that we were going to 82nd and  
18          Johnson Creek, and we were going to find the business  
19          that best afforded the large package that we bring to  
20          stage there until we were officially activated.

21          Q     And, ultimately, it all became moot because  
22          you never really staged in either parking lot?

23          A     Before we had come to a stop on Johnson  
24          Creek or would've been turning into either of those  
25          businesses, Sergeant Livingston advised us that we'd

## Examination of Peter McConnell

1       been activated.

2                   And so then the next question was: How do  
3 we get close enough to where we need to be without  
4 just running right into the scene?

5           Q       One other question I had, you were talking  
6 about you couldn't recall what you actually heard or  
7 when you heard it because of radio traffic.

8                   Is it fair to say that it was radio traffic  
9 coming in throughout this process, but as this is  
10 ongoing, you're also working on other aspects of the  
11 -- of the scene so that you may hear some of it but  
12 not all of it, but other officers may hear some of it  
13 and not all of it? It just depends on each particular  
14 person?

15           A       Yes. So I wear a radio with an earpiece.  
16 I'm operating on the same radio net as all the other  
17 SERT operators. But as radio broadcasts come out, I  
18 may be talking to Tom Snitily about securing chainsaws  
19 or, "What equipment do you need?" Or deploying  
20 Sergeant Foxworth or briefing Officer VanBlokland and  
21 Officer Harris.

22                   So there are occasions where I'm aware of a  
23 transmission, but I'm doing multiple things and don't  
24 necessarily process the entire transmission.

25                   MS. MARRERO: Any questions from the grand

## Examination of Josh Howery

1 jurors?

2 May this witness be excused?

3 MR. HANNON: Mm-hmm. Thank you.

4 All right. Thank you. We're ready to call  
5 our next witness, is it sergeant or officer?

6 THE WITNESS: Officer.

7 MR. HANNON: Officer Joshua Howery.

8 JOSH HOWERY

9 Was thereupon called as a witness; and, having been  
10 first duly sworn, was examined and testified as follows:

11 EXAMINATION

12 BY MR. HANNON:

13 Q All right. Could you start by please  
14 stating and spelling your name for the record?

15 A Yes. My name is Josh Howery, H-o-w-e-r-y.

16 Q And Officer Howery, how are you currently  
17 employed?

18 A I'm a Portland Police officer. Have been so  
19 since January of 2001. And I am currently assigned to  
20 the Special Emergency Reaction Team.

21 Q And how long have you been assigned to the  
22 SERT team?

23 A I've been assigned there for nine years.

24 Q And is that your specific assignment, or is  
25 that you -- are you part of the SERT team, but you

## Examination of Josh Howery

1 have other duties with the Portland Police Bureau?

2 A At this time right now, that is my -- that  
3 is my primary assignment. Up until two months ago,  
4 the previous six years, I was the lead control tactics  
5 instructor and the use-of-force instructor for the  
6 training division.

7 Q And just briefly, what is the control  
8 tactics instructor?

9 A Control tactics is our discipline of  
10 hand-to-hand defense stuff. It used to be called  
11 defensive tactics. So we would -- we would teach all  
12 the arrest techniques, take-downs, hand-to-hand  
13 defense moves and then go over our use of force  
14 policy, that sort of thing.

15 Q You mentioned you were an instructor in  
16 another field. What was that?

17 A I'm also -- I -- right now, I'm also a  
18 firearms instructor. I'm also a patrol procedures  
19 instructor; but my main, full-time job at the training  
20 division was the control tactics and use of force.

21 Q Okay. And before joining the Portland  
22 Police Bureau, could you describe for the ladies and  
23 gentlemen of the grand jury your educational  
24 background?

25 A Yes. I received a Bachelor of Arts degree



## Examination of Josh Howery

1 from George Fox University. I attended a campus  
2 Public Safety Academy while I was -- shortly  
3 thereafter, as I was employed there. And then I was  
4 -- I attended Basic Police Academy and Advanced  
5 Academy.

6 Q And how long is police -- Basic Police  
7 Academy?

8 A Basic Police Academy was, I believe,  
9 14 weeks at that time.

10 Q Mm-hmm. Yeah?

11 A And --

12 Q Advanced?

13 A Advanced Academy was another 14 to 16 weeks,  
14 I believe.

15 Q And how does that work in the timeline of  
16 one's career at the Portland Police Bureau going  
17 through Basic and then Advanced Academy?

18 A At the time of hire, a police officer would  
19 go through, get hired, spend a little bit of time just  
20 getting their equipment together of a couple days,  
21 getting orientated [sic] to the Bureau, itself. And  
22 then sent to -- it's now Salem, at the time for us it  
23 was Monmouth -- to go to the basic academy.

24 So you would spend that time after being  
25 hired to go get your initial training. Then an

## Examination of Josh Howery

1 officer would go to the street with a coach and they  
2 would work with their coach for several months going  
3 through the field training process.

4 And then after a certain time when the next  
5 academy was ready to go, the advanced academy would  
6 start. And that's put on by Portland Police. And so  
7 then they would -- the -- the officers would go  
8 through that.

9 Once they finished that, they would finish  
10 out the rest of their probationary time, which is 18  
11 months, and they would finish that on the field  
12 training aspect again.

13 Q And so as you've just indicated, the  
14 Advanced Academy with the Portland Police Bureau is an  
15 additional training provided to the uniformed officers  
16 from the Portland Police Bureau?

17 A Yes, that's correct.

18 Q Now, in your capacity as train -- training  
19 in these various fields including control tactics,  
20 what are some of the things you do as a trainer in  
21 that regard?

22 A We would teach all levels of force,  
23 beginning with, you know, mere presence, for instance.  
24 How to even -- and then moving on verbal. You know,  
25 how do we give commands? How do we try to get people

## Examination of Josh Howery

1 to comply with us? How do we put ourselves in a safe  
2 position to deal with a situation, right?

3 And then when an officer was forced to act,  
4 they would be -- they would be taught what's  
5 appropriate level of force to act with in certain  
6 circumstances? What's a reasonable amount of force?  
7 And so would it be merely handcuffing somebody and not  
8 using any physical force, all the way up to, you know,  
9 deadly force situations.

10 Q And in discussing that, are you familiar  
11 with or able to discuss the differences between normal  
12 use of force and deadly force?

13 A Yes. Deadly force, we would -- we would  
14 have defined as force that is likely to cause serious  
15 physical injury or death.

16 Q And why is it or why do police officers get  
17 trained in that capacity or scenarios that would  
18 require that type of use of force?

19 A We -- we train the officers to be able to  
20 use that type of force because of the levels of  
21 resistance that they may encounter from a suspect that  
22 they are dealing with.

23 And that person, based on the -- on the  
24 level of threat that they provide to either the  
25 officer or somebody else. And so when we teach force,

## Examination of Josh Howery

1 force, typically, is taught proportionately.

2 And so as the level of threat rises, the  
3 level of amount -- or the amount of force that an  
4 officer should, in some cases, use to effectively stop  
5 that behavior, many times will arise as well, all the  
6 way up to and including deadly force.

7 So if a person is using deadly force against  
8 somebody else, the amount of force to stop them, based  
9 on distance, time, other factors, it might -- it very  
10 well and very often rises to a level where the officer  
11 needs to use deadly force themselves to stop that  
12 behavior.

13 Q And in that context, we're not just talking  
14 about a police officer and the police officer's  
15 interaction with an individual, are there scenarios  
16 in which officers observe an individual presenting a  
17 threat of -- that requires a use of force or lethal  
18 use of force because of a danger presented to another  
19 individual, not just the police officer.

20 A Yes. And that -- that goes along with our  
21 police, too, when we talk about deadly force. That an  
22 officer can use deadly force if they reasonably  
23 believe that a person poses a -- poses an immediate  
24 threat of death or serious physical injury to them or  
25 another person.

## Examination of Josh Howery

1 Q And -- and -- and now are you familiar with  
2 the concept of a duty to act?

3 A Yes.

4 Q And -- and what is duty to act?

5 A That -- you know, if the officer's observing  
6 somebody who's in dire need of help, right, they --  
7 there -- there's a person who is in danger of being  
8 seriously injured or death -- you know, or death, that  
9 the officer is -- that's why they're there is to try  
10 to protect those -- those folks from being harmed.

11 Now, it's not always that that officer has  
12 to run into a situation that is hopeless and that they  
13 have no chance of success, but if they have a chance  
14 of success and they can do so safely, they should, in  
15 fact, intervene in those situations, including using  
16 deadly force to stop that deadly threat from  
17 happening.

18 Q And so is my understanding correct that in  
19 addition to defensive tactics and use of force, that  
20 there is also components or education related to kind  
21 of the sanctity of human life or protection of life?

22 A Yes. The -- our -- our entire force policy  
23 starts by talking about the sanctity of human life and  
24 that we recognize that. And that part of our job is  
25 to preserve life whenever possible.

## Examination of Josh Howery

1           Q     So -- and in your training, are you familiar  
2 with kind of the legal minimum incidences required  
3 that allows -- based under State and federal law --  
4 that allows officers nationwide to use deadly or  
5 dangerous force against someone in those situations?

6           A     Yes.

7           Q     And does the Portland Police Bureau follow  
8 the standards that is the bare minimum as required by  
9 State and federal law to use lethal force?

10          A     Yes. We -- we take that, and then we  
11 actually add a layer above that. And so our policy,  
12 when it talks about deadly force, is more restrictive  
13 than what the State and federal law actually leave as  
14 a minimum --

15          Q     Okay.

16          A     -- if that makes any sense.

17          Q     And let me -- and let me ask: Why is that?

18          A     Part of that is because the Police Bureau  
19 or, you know, City of Portland, the Police Bureau,  
20 we -- we want to make sure that there's an extra level  
21 of protection there. That we're not just shooting  
22 everybody that we can shoot, but that -- or, you know,  
23 we're using deadly force against everybody that we can  
24 use deadly force against.

25                     But that there's some thought going into it.

## Examination of Josh Howery

1 And that if there's other ways, that we should try to  
2 go -- we should try to resolve those conflicts with  
3 less. We understand that that's not always possible;  
4 many times it's not.

5 But that -- if an officer is following  
6 policy and they use deadly force and they are still  
7 within our policy, then what it lets us know is that  
8 we are still a long ways from the very bare minimum,  
9 when they could use force legally as defined by  
10 federal and State law.

11 Q And in -- in -- from your experience, we've  
12 heard testimony with the critical incident commander  
13 and SERT call-outs that has a dual component, both the  
14 CNT, or Crisis Negotiation Team, along with the SERT  
15 team.

16 Is the purpose of the Crisis Negotiation  
17 Team consistent with that in trying to de-escalate  
18 situations without the need of using any sort of  
19 deadly or dangerous force in that -- in that regard?

20 A Yes, absolutely.

21 Q And from your training and experience as  
22 part of the SERT team, how -- how critical is the CNT  
23 component of -- the Crisis Negotiation Team  
24 component -- of those call-outs?

25 A It's very -- it's very critical. In fact,

## Examination of Josh Howery

1 we don't do -- we don't go to any call-outs without  
2 CNT also typically joining in on that. They --  
3 they're the ones that usually get communication with  
4 our suspects.

5           They -- they're usually the ones that get a  
6 lot of the intel. They -- they get a lot more  
7 information for us. And then as -- as we work  
8 together, you know, our primary mission is to resolve  
9 this confrontation peacefully in some -- you know, in  
10 -- obviously, in some cases that's not possible  
11 because the event is driven by the suspect.

12           But they -- they're such a part of what we  
13 do, that our teams work together so we can bring  
14 enough resources. We can bring more options to the  
15 table. Where, in some cases, if you didn't have all  
16 those resources, deadly force might be used a lot  
17 faster and a lot more often.

18           But because we have the resources, in many  
19 cases, we're able to diffuse those situations before  
20 they rise to that -- that level of immediacy. And  
21 then again, in some cases, it doesn't work because of  
22 what the suspect does.

23           Q     So can you -- you made a statement there  
24 that I want to expand upon a little bit. You said the  
25 incident is driven by the suspect.



## Examination of Josh Howery

1           A     Yes.

2           Q     Based on that and are you aware of the  
3           issues related to action and reaction in your training  
4           with use of force and deadly use of force with  
5           officers?

6           A     Yes.

7           Q     And -- and describe what you mean by the  
8           incident is driven by the suspect and how that factors  
9           into action and reaction in these discussions and use  
10          of force.

11          A     Okay.  The principle action/reaction is  
12          something that we teach in our defensive tactics  
13          program -- the control tactics program -- and the  
14          patrol procedures program as well.  At -- we start  
15          that from the very beginning of the police officer's  
16          career, as far as the basic and advanced academy.

17                    When we talk about action/reaction, it's a  
18          principle that we -- we define as any contest of time,  
19          the initiator of an action has an advantage over the  
20          reactor -- the person that has to react.

21                    There's all sorts of games that people play.  
22          You know, there's the slapping the hands game.  
23          There's the drop the dollar bill in between somebody's  
24          fingers and, you know, lots of different illustrations  
25          for that.

## Examination of Josh Howery

1           When it comes to the -- me saying that the  
2           suspect drives what happens with the -- with the  
3           situation, it's the same thing. The suspect makes  
4           decisions. We have -- we don't have control over what  
5           they're going to do in many cases.

6           Especially with their -- you know, for  
7           instance, they're in a building. They're walled off  
8           by doors, windows and walls, and we don't have  
9           physical control over somebody there, right? They are  
10          going to be able to do what they want to do, and then  
11          we are going to have to react to that.

12          In the -- when we are reacting, it always  
13          means that we are slower. We -- we do a -- we do  
14          demonstrations in the advanced academy. And I can  
15          have somebody with a -- a blank firing gun, one of our  
16          Sem munition pistols, pointed at me with their finger  
17          on the trigger.

18          And if I have the same type of gun down by  
19          my side, when -- and the -- the game is when I move  
20          my hand to come up and actually shoot at them, they  
21          can pull the trigger and shoot me. And what happens  
22          is because they're waiting for my motion first, and  
23          then they're trying to react to it, I will win that  
24          almost every time.

25          I'll be able to take the gun all the way

## Examination of Josh Howery

1 form pointed at the ground with my finger off the  
2 trigger, point it at them, pull the trigger --  
3 sometimes two to three times before they're able to  
4 simply pull the trigger.

5 Just because the brain takes some time to  
6 actually process what's happening and send the signal  
7 down to the finger to actually pull the trigger and  
8 then the time that it actually takes to take -- pull  
9 the trigger. It puts them back at least a quarter of a  
10 second of reaction time.

11 Now, we take that into a bigger scenario, a  
12 bigger deal, that person's able to do a lot more  
13 things before physically we can actually react to  
14 them. But, again, the -- the concept is -- the  
15 principle is still there. If the person makes an  
16 action and then the -- the -- the person who has to  
17 react to that is going to be slower.

18 Q You mentioned in that example kind of  
19 devices used to give firearm scenarios. Let's talk  
20 about knives. In -- in your -- as a trainer in the  
21 teaching both the officers and the advanced academy,  
22 what -- what lessons are to be learned from how lethal  
23 knives can be as -- in these kind of scenarios -- both  
24 in the action/reaction and how deadly they can be?

25 A Okay. Knives can be just as deadly. You

## Examination of Josh Howery

1 know, the way the bullets typically produce death is  
2 usually by blood loss. Same thing with knives. The  
3 difference is, typically, range, right? You have to  
4 be a little closer to a person with a knife to -- to  
5 do that same type of damage.

6           However, the amount -- the type of damage is  
7 still immediate. It happens just as fast. In some  
8 cases, it can -- multiple knife wounds can be  
9 delivered faster than multiple gunshots in some cases.  
10 And then the -- the damage is just as devastating.

11           Q     No, that's okay. Was there something else  
12 you were going to add to that? I didn't mean to  
13 interrupt your thought, sorry.

14           A     Oh, no.

15           Q     So go and again, expanding upon that  
16 further, as you mentioned the scenarios broaden. When  
17 you have a situation involving a knife, and then you  
18 expand upon the scenarios as opposed to an open area  
19 with just an officer or another person and the  
20 assailant, if you throw in obstructions and things  
21 that obscure the view of officers or people trying to  
22 save lives --

23           A     Mm-hmm.

24           Q     -- what does -- what -- who has the  
25 advantage when factoring in knives and those

## Examination of Josh Howery

1       obstructions and not being able to observe what's  
2       going on?

3               A       The suspect has the advantage, certainly.  
4       Many times -- you know, there -- there are some cases  
5       when knife wounds, gunshot wounds, can be, you know --  
6       treatment can be given to help save lives from those  
7       type of injuries.

8               However, most of the time, time is very  
9       critical on those.  If you have a gunshot wound --  
10      if -- if somebody shoots somebody inside if a  
11      building -- and we may not be able to see that -- but  
12      we still have the indication that a gunshot went off  
13      because you can hear it, even outside the building.

14              A knife is silent.  And so you may get a  
15      muffled scream or grunt or something like that from  
16      the person being stabbed.  However, that's not always  
17      the case either and they may not be able to.  You  
18      know, we had a -- a situation about a year and a half  
19      ago, where the guy stabbed three people, and it was a  
20      matter of a second.

21              Three people, and two of them died and one  
22      of them was able to be saved.  But, you know, that's  
23      because the officers were there very, very quickly and  
24      were able to render medical aid right away.  But  
25      that's not always possible either.

## Examination of Josh Howery

1           Again, it -- it happens so fast, and then  
2 with a knife, again, it could be so silent that if you  
3 -- if this happens inside a building, we may not even  
4 know that it actually occurred -- and there was  
5 nothing giving us an indication that it did -- and  
6 then now the immediacy even jumped up even more 'cause  
7 we just don't know.

8           Q     So let's take you to your experience with  
9 SERT. One, while you are an instructor, and you  
10 instruct on use of force and -- and Central tactics  
11 instruction and you are part of Portland Police  
12 Bureau's SERT team, were you actually on the call-out  
13 with the Portland Police Bureau on the SERT incident  
14 that occurred at the Del Rancho on October 10, 2018?

15          A     I was not. I was on vacation out of state.

16          Q     And so turning to this type of scenario or  
17 situation, how critical is CNT, or Critical  
18 Negotiation Team, in trying to resolve this kind of  
19 hostage scenario where someone is -- is locked into a  
20 building with their assailant?

21          A     They are critical for us to be able to get  
22 information if we're going to be able to resolve this  
23 peacefully.

24          Q     And how is that?

25          A     For us to resolve that peacefully, we have

## Examination of Josh Howery

1 to be able to negotiate with the suspect. We have to  
2 be able to communicate. We have to be able to get  
3 information on what's going to be going on inside.

4 Without them, we're left with just what  
5 happens and what we know of how violent this situation  
6 was already. Without the communication, it's very,  
7 very hard to start a diffusion process. We can't  
8 diffuse that situation very well.

9 Q Even if negotiations are not going well, but  
10 it's a two-way conversation, is there still value for  
11 that for both the CNT negotiators and the SERT team  
12 who are trying to set up?

13 A Yes. If -- if we have some kind of  
14 communication, at least there's some information that  
15 gets -- that's able to be passed on with us. Even if  
16 that information is only: Negotiations are not going  
17 well.

18 Because that gives our -- that gives our  
19 team on the outside that's trying to do a tactical  
20 plan, the information that, you know what? We may  
21 actually have to do a tactical resolution on this  
22 because negotiations are not going well.

23 And they start -- you -- you -- you may  
24 start making plans to initiate that or changing our  
25 plans on how we're -- something that will give us the

## Examination of Josh Howery

1 best chance of success.

2 Q And is it fair to say that whether -- even  
3 if the person is not talking positively about  
4 surrendering or releasing a hostage or hostages, but  
5 the fact that they are talking with the crisis  
6 negotiating -- negotiation team members, that -- that  
7 additional time just has value in potentially  
8 diffusing the situation?

9 A Yes. Typically, the longer a situation goes  
10 on, you know, the -- the less energy it -- it -- it  
11 continues to hold. And so if things are moving very,  
12 very quickly, it -- it's a little bit more dangerous.

13 If we can lengthen that out, I were -- and  
14 we're pretty positive we're lengthening things out,  
15 then that energy tends to ebb and flow a little bit  
16 more. And we're able to gain some time. Plus it  
17 gives us more time to actually make our tactical plan  
18 if we need to go that direction.

19 Q And when those communications are ongoing,  
20 even if they are not in a positive direction, but  
21 still at least if a two-way communication, does that  
22 give the crisis negotiation team of negotiators other  
23 avenues to explore or stratagems to use to keep the  
24 person talking and keep that delay occurring so that  
25 the search deployments don't need to occur and more



## Examination of Josh Howery

1 time can be bought?

2 A That definitely can be the case, yes.

3 Q From what you understand, having not been at  
4 this scenario, if the SERT team got activated and the  
5 ultimate hostage scenario resolved in about 30 to  
6 35 minutes, how quickly or not so quickly is that for  
7 a resolution in a hostage situation that occurred  
8 here?

9 A That's -- to me, that sounds very, very  
10 fast.

11 Q In your experience with the SERT team, both  
12 directly or in your training and experience watching  
13 other people's experiences and scenarios, the hostage  
14 situation or, in the alternative, the stand-off  
15 situation, how long do those typically last when  
16 deployed and set up in surrounding a person?

17 A It varies. However, it -- the -- part of it  
18 is it takes time to just set up, right? To get our  
19 pieces in place. To get the -- the armor; to get the  
20 other resources that we want; to get containment on an  
21 area. It takes some time to do that.

22 It takes other time for CNT to get set up  
23 and get their negotiators in position where they need  
24 to -- you know, they have all the equipment ready and  
25 now they're starting to actually put out feelers for

## Examination of Josh Howery

1 more intelligence and more information that they can  
2 start to pass -- pass on.

3 And then when you think about all those  
4 pieces that have to get in place and all the  
5 information gathering that's happening, and then it  
6 starts to get passed out on the radio to -- back and  
7 forth between the negotiation team and SERT, where  
8 it's, like, "Okay. They're ready for this. Now,  
9 we're ready for this. And, okay, we're going to move  
10 some folks over here," just the whole -- the whole  
11 planning time takes time.

12 It can be that 30 minutes before we're even  
13 ready, in some cases, to get a phone call in. Just  
14 try it -- you know, try -- try to start. In other  
15 cases, we may be close enough that we got set up a lot  
16 faster and that phone call goes in, and now we're  
17 starting to go, you know, try those avenues. And then  
18 if we're not able to get communication or the  
19 communication is going bad, that can tend to speed  
20 things up.

21 Q And when you talk about communication going  
22 bad, that's one aspect.

23 A Mm-hmm.

24 Q But are there -- are there things that  
25 officers on scene may observe themselves, first hand,

## Examination of Josh Howery

1 that they will relay to the other SERT members or the  
2 crisis negotiation team to -- to determine whether the  
3 scenario's getting worse or better?

4 A Yes. One of -- one of the things that we  
5 try to do is get containment on a -- on a structure if  
6 we have a structure that's involved, and get  
7 intelligence from that, eyes-on.

8 The negotiation team will do that, usually  
9 by phone in that sort of thing. SERT will do that by  
10 actual putting members in certain places so they can  
11 actually get realtime information that they can  
12 actually see themselves.

13 Q And in talking about that personnel, did the  
14 inner perimeter officers and sniper -- or officers  
15 with the rifles -- what component can they contribute  
16 to in fact gathering and intelligence gathering in  
17 those scenarios?

18 A Our inner-perimeter folks are the ones with  
19 the rifles and they typically have optics available to  
20 them, both binoculars and scopes on the rifle.  
21 They're able to, if we can, get into positions where  
22 maybe seeing inside windows, seeing what kind of  
23 movements the suspect is doing.

24 In some cases, they're able to see facial  
25 expressions and start to look at, you know, "Hey, this

## Examination of Josh Howery

1 person looks really, really scared" or maybe they're  
2 not. And then other information, sometimes just on  
3 doors and windows.

4 Sometimes whether the suspect is doing  
5 something inside that might make it harder for a  
6 tactical resolution to actually work, right? I -- I  
7 spoke before is we try and give ourselves the best  
8 chance of success.

9 And if the suspect is inside and they're  
10 starting to do something that starts to take away some  
11 of those options, or slow down those options, if we  
12 were able -- if we were half -- if we were forced to  
13 launch, that's good information for the rest of the  
14 team to know, too, because we may start using other  
15 options.

16 Q And as in this scenario, while the  
17 SERT officers are able to communicate to the critical  
18 incident commander and team, what they're hearing,  
19 seeing and observing firsthand, is that in conjunction  
20 with the information or lack thereof that's being  
21 communicated by the Crisis Negotiation Team and the  
22 team of negotiators on the communication or lack  
23 thereof coming from the suspect or person inside the  
24 residence in this scenario?

25 A Yes. All that information is coming

## Examination of Josh Howery

1 together and so that the CIC -- the commander -- the  
2 incident commander -- should have a more complete  
3 picture, in most cases, than any one side or one  
4 person?

5 Q So we've discussed with other witnesses  
6 regarding criminal incident commanders and additional  
7 orders versus the standard rules of engagement.  
8 Regarding the standard rules of engagement, what are  
9 those?

10 A Standard rules of engagement let the  
11 officers -- the tactical officers on the outside --  
12 know that the commander's intent as far as use of  
13 force, that it would be guided by normal policy, by  
14 what the officers observed for themselves.

15 And so the -- the officers would be under  
16 the deadly force policy, that an officer may be -- may  
17 use deadly force if they reasonably believe the person  
18 to pose an immediate of death or serious physical  
19 injury.

20 Q And the term "appropriate initiative," how  
21 does that factor into standard rules of engagement?

22 A That lets the officers know that they are  
23 authorized to do what they have to do if -- in case of  
24 a life-threatening emergency, and that they are free  
25 to act as they -- as they need to without a specific

## Examination of Josh Howery

1 command from the CIC or from the command post that  
2 yes, you may use whatever force or technique you need  
3 to do. That if you -- if there's an urgency to  
4 doing this to -- to protect life, that -- that you  
5 may do that.

6 Q And, again, going back to your instruction  
7 and teaching newer officers in ongoing training and --  
8 and tactics, that appropriate initiative exists for  
9 uniformed officers in any normal type situation every  
10 day they get up and go to work; is that accurate?

11 A Yes, that's correct.

12 Q So if -- if a uniformed officer sees someone  
13 in -- in danger of -- lethal danger or danger of  
14 serious bodily injury from a person on the street and  
15 there's no other scenario that they could do to  
16 protect the life, as they see it, they're allowed to  
17 use reasonable steps as necessary?

18 A Yes, that's correct.

19 Q Now, in this -- I mentioned an incident on  
20 the street; and, obviously, that's different. How  
21 does all of this factor in to someone who's working  
22 with a rifle and a scope and working in that kind of  
23 inner-perimeter capacity in a search response?

24 How do the -- do the circumstances or  
25 rules of -- standard rule -- rules of engagement or

## Examination of Josh Howery

1 (indiscernible) initiative change in any way?

2 A They don't change as far as what -- what's  
3 reasonable, what is allowed under the policy. The  
4 officers on the out -- on the outside, on the inner  
5 perimeter there, they -- they do take into  
6 consideration the other resources that are available.

7 They do take into consideration the two  
8 teams that are working and how negotiations are  
9 working because of the amount of training that they go  
10 through.

11 So because of -- the situation has changed  
12 now, it is rarely just -- it all happens at once.  
13 Typically, we understand that we are trying to get  
14 different pieces in place. We're trying to get more  
15 information in some cases.

16 And then as those things evolve as far as  
17 the situation itself as a whole, they're looking at a  
18 bigger picture than we sometimes end up looking at for  
19 them, I guess, than a patrol officer looks at while  
20 they're on the street and things juts happen in a --  
21 in a split second.

22 So because of that, they may, in some cases,  
23 be a little bit more patient. And in some cases  
24 understand that now things have changed to the point  
25 where they have to use deadly force. And then they do

## Examination of Josh Howery

1 it because of the -- the situation as a whole.

2 Q In this particular incident, if I were to  
3 tell you that the initial call to regarding this  
4 incident or disturbance at 7-Eleven with all the  
5 information that was available to the officers as the  
6 situation escalated to when the ultimate shot was  
7 fired by the -- one of the SERT officers was less than  
8 65 minutes.

9 Based on your training and experience, would  
10 you characterize that length of time for this scenario  
11 as normal, fast or slow, given how everything unfolded  
12 and escalated?

13 A It seems rather fast. It seems -- I would  
14 say that the suspect was continuing to do things that  
15 -- that -- that kept feeding the situation energy.  
16 And that they weren't allowing some -- any of the  
17 resources to effectively start to defuse that  
18 situation.

19 Q And presuming -- when you talk about at --  
20 not being able to defuse energy from the situation,  
21 would you consider it more high risk or less high risk  
22 in the fact that when SERT was finally involved as  
23 well as the Crisis Negotiation Team, that they were  
24 not able to establish really any positive or any  
25 direct contact with the suspect other than threats



## Examination of Josh Howery

1 coming from the suspect as well as direct observations  
2 of barricading, going on in the room and -- and  
3 obstructions covering the windows, did that create a  
4 higher risk situation for the responding officers and  
5 -- and their concern for the victim inside or pretty  
6 normal, given the time frame of that scenario?

7 A That increases the risk greatly because  
8 it's -- what it does, it makes it harder for us to  
9 have more -- it -- it takes -- I'm sorry. It takes  
10 away some of the options to try to resolve it  
11 peacefully.

12 And then what it does, it shows -- it gives  
13 us a glimpse of the suspect's mindset a little bit of  
14 how -- they're not trying to use a hostage as a  
15 bargaining chip so where we can actually maybe  
16 negotiate with them, but they're using them as just a  
17 true victim.

18 And then this person is, you know, we would  
19 categorize that person as a little bit more dangerous  
20 or a lot more dangerous because they're not trying to  
21 -- to negotiate. They're not trying to get away.  
22 They're just trying to commit their crime.

23 Q And the information that is going out, are  
24 each -- when it's under the standard rules of  
25 engagement and this idea of appropriate initiative, is

## Examination of Josh Howery

1 each individual officer left for their own personal  
2 decision making skill set based on what they're  
3 observing directly and observing secondhand through  
4 the radio and information being shared, having to make  
5 their own decisions in these critical points?

6 A Yes.

7 MR. HANNON: Okay. Do any of the grand  
8 jurors have questions for Officer Howery?

9 A GRAND JUROR: No.

10 MR. HANNON: There was I believe earlier one  
11 question related to uniform officers watching Mr. Rice  
12 pull Ms. Ochoa into -- or grabbing her, potentially,  
13 going into the hotel room. Do you want to ask that  
14 question?

15 A GRAND JUROR: Yeah. Yeah. Just as you  
16 were describing, in the beginning you were explaining  
17 to us the duty to act.

18 THE WITNESS: Yes.

19 A GRAND JUROR: And I was just -- I was  
20 thinking about -- I was thinking about as -- as I  
21 think there maybe two patrol officers. They be coming  
22 in for coming across the street and find him and  
23 engage him, you know, stop and --

24 THE WITNESS: Uh-huh.

25 A GRAND JUROR: He's pacing back and forth.

## Examination of Josh Howery

1 And I was thinking, isn't there some action that they  
2 can take at that moment to try to prevent him to going  
3 into the hotel?

4 THE WITNESS: I see.

5 MR. HANNON: And -- and let me elaborate.  
6 So -- and the question regards that more if -- not to  
7 put words in your mouth, but would you characterize  
8 more aggressive actions to take him down before he  
9 gets into that room?

10 A GRAND JUROR: Yes. A Taser or -- or --

11 MR. HANNON: Or take him down?

12 A GRAND JUROR: Or if necessary.

13 THE WITNESS: Sure. You know, part of that  
14 is -- that's still left up to the officer's discretion  
15 on what do they think that they can do that will work.  
16 But at the same time, there will also be a -- you  
17 know, there's -- always the thought of, I don't want  
18 to make it worse, right?

19 And so if what I decide to do has a great  
20 chance of working and it's within policy and I can --  
21 I can do that, then great. If the officers don't  
22 think that it's going to work or if they had think  
23 it's a low chance of working or they think that they  
24 can make it worse.

25 What happens if I miss? What happens if,

## Examination of Josh Howery

1 you know, certainly, if they decide to deploy deadly  
2 force with their pistol from a significant range, what  
3 if they, you know, missed completely? What if they  
4 hit some bystander? What if they hit the hostage?  
5 Those things would certainly make it worse.

6 And so they -- they're trying to avoid that  
7 at the same time as trying to resolve this. If  
8 there's too much distance and the person gets in and  
9 barricades themselves in and then now they're trying  
10 to break down the door, maybe not without -- with --  
11 maybe not with the right tools to do that.

12 And now we're -- the person's, you know,  
13 maybe that let's the suspect go to a point where  
14 they're -- they end up using lethal force against  
15 the -- the hostage because they feel that they're  
16 right on -- it's right on the heels and we don't have  
17 a chance to intervene, that might be a consideration  
18 for the uniform officers as well.

19 And so based on what they, you know, the  
20 distance, the time involved, the researches they have  
21 at hand, they may decide to back off and call in the  
22 rest of the resources that, you know, have SERT and  
23 CNT and everybody else come in and start to try to  
24 resolve this.

25 A GRAND JUROR: So -- so if we go through

## Examination of Josh Howery

1 the incident happening, there's a moment where they  
2 have their -- instantly think, okay, I got to back off  
3 and let other -- other things come to play here?

4 THE WITNESS: Right. They have -- they --  
5 they are the only ones that have that decision-making  
6 process, right? They're -- the -- that ability. And  
7 they have to make it in that split -- split second  
8 decision.

9 Do I go for it and try something that could  
10 potentially solve this? Or they have to consider, can  
11 I pull it off? Will this make it worse? Is it better  
12 for me to back off and get more resources here; and,  
13 you know, different tools even in some cases.

14 BY MR. HANNON:

15 Q In some of those situations where they're  
16 confronting somebody who's acting in a certain  
17 aggressive manner, is the personal knowledge of either  
18 the officers or maybe other officers who had  
19 experience with that individual, can that factor into  
20 their decision-making process in the belief that maybe  
21 deescalation and backing off might actually improve  
22 the situation versus going forward and -- and  
23 worsening the situation with aggressive behavior?

24 A Yes, absolutely.

25 Q And from a -- from a tactic standpoint

## Examination of Josh Howery

1 from -- from the Portland Police Bureau, again,  
2 understanding that the scantity of human life is the  
3 -- the life of the accused or the person who's acting  
4 aggressively, is that also another life that the  
5 Portland Police Bureau wants to try to save or protect  
6 and -- and avoid having to use that lethal force if --  
7 if possible?

8 A Yes. That's -- and that's, essentially, why  
9 we have all of the resources we have. You know, in  
10 most cases when the negotiation team and SERT gets  
11 called, we usually are able to resolve those  
12 situations using to little or no -- or not force.

13 And that's -- that's the goal is to use  
14 little or no -- no force. There are other situations  
15 where we may be -- we may have the tools and the  
16 training and the ability to resolve a confrontation  
17 where we do have to use force as well.

18 But, generally, with all of our call-outs  
19 and all the things that we do, we use force very --  
20 very little -- a small amount of the time.

21 MR. HANNON: Any other questions from the  
22 Grand Jury?

23 May this witness be excused?

24 A GRAND JUROR: Yes.

25 THE WITNESS: Thank you.

## Examination of Leo Harris

1 (Pause in proceedings, 11:36 a.m. -  
2 11:37 a.m.)

3 MR. HANNON: Yep.

4 MS. MARRERO: Okay. The State's next --  
5 State's next witness is Leo Harris.

6 MR. HANNON: Over here. Stand and please  
7 raise your right hand.

8 LEO HARRIS

9 Was thereupon called as a witness; and, having been  
10 first duly sworn, was examined and testified as follows:

11 EXAMINATION

12 BY MS. MARRERO:

13 Q Take a seat, please.

14 Can you please state and spell your first  
15 and last name for the grand jury?

16 A Yes. Leo Harris, L-e-o, H-a-r-r-i-s.

17 Q Thank you, Officer Harris. Can you please  
18 tell the grand jury how you are employed?

19 A I work for the City of Portland for the  
20 Police Bureau.

21 Q How long have you've been in law  
22 enforcement?

23 A 17 years.

24 Q Can you detail for the grand jury for your  
25 background and your training?

## Examination of Leo Harris

1           A     When I got hired, I went to a program called  
2     the Police Corps. Ended up going through basic  
3     training there and came to Portland, obviously, and  
4     went to the Advanced Academy.

5                     Then I've had ongoing training throughout,  
6     obviously, inservice year to year. I'm currently in  
7     our Training Division, running the Patrol Tactics  
8     Program or Patrol Procedures Program, which teaches  
9     some of the tactics that police officers do  
10    day-to-day. And I'm also on SERT and I have been for  
11    ten years.

12           Q     Thank you. And were you working on  
13    October 10th of this year?

14           A     Yes.

15           Q     And then what capacity were you working  
16    that day?

17           A     As a SERT member on the IP.

18           Q     IP being the inner perimeter?

19           A     Inner perimeter, yep.

20           Q     And can you tell the grand jury what you  
21    were doing as you were finishing up the warrants that  
22    you've been executed that morning?

23           A     Officer VanBlokland and I were in a  
24    containment position and we moved back to a vehicle  
25    that had the radio on and was scanning and started



## Examination of Leo Harris

1 hearing a call coming out in East Precinct. And --

2 A GRAND JUROR: Can you talk just a little  
3 louder?

4 THE WITNESS: A little louder?

5 A GRAND JUROR: Yeah.

6 THE WITNESS: Sorry.

7 We were just finishing up one warrant. And  
8 as we're heading back to our vehicle from our  
9 containment position, we started hearing a call on  
10 East Precinct that we're all talking about.

11 BY MS. MARRERO:

12 Q Okay. And what, specifically, were you  
13 hearing in this call?

14 A That a man had dragged a lady inside and was  
15 saying that he was going to slit her throat or kill  
16 her. And that they were in a motel room at the  
17 Del Rancho.

18 Q Thank you. As you're hearing this, what is  
19 your thought process in terms of what your next steps  
20 were going to be?

21 A I was thinking about policy and how that  
22 looks and what patrol would probably do. It'd  
23 probably be to eventually active SERT and have CNT  
24 come and try to negotiate and SERT come and try to do  
25 the tactical piece.

## Examination of Leo Harris

1           So I was trying to transition into how we  
2 would get there or how we would set it all up.  
3 Officer VanBlokland and I had taken somebody else's  
4 vehicle for some other reasons to the first warrant,  
5 so we had to actually had to go back to North  
6 Precinct, get our vehicles.

7           I think the majority of people went from the  
8 warrant straight down there, so we were delayed a  
9 little bit, going to North Precinct and then down to  
10 the call-out.

11           Q     And then when you eventually got to the  
12 call-out, did you make contact with Sergeant  
13 McConnell?

14           A     Yes.

15           Q     And at that point had you received further  
16 updates on either the radio or from Sergeant  
17 McConnell?

18           A     Yes. I mean, just trying to keep up to  
19 speed on everything that's happened. There was a lot  
20 of information coming in. I'm sure we missed some of  
21 it, but we're, you know, keeping up on it. He, I  
22 think, was in Room 16.

23           They had officers out front. They were  
24 trying to talk with him. They had the backside, which  
25 we called Side 3, I think facing the south was

## Examination of Leo Harris

1 contained. They needed somebody back there with a  
2 view into the room, if possible.

3 Q Okay.

4 A So that's where officer --  
5 Sergeant McConnell sent us, trying to get a elevated  
6 position looking maybe down into the room, so we can  
7 see what was going on in there.

8 Q And so can you talk a little bit about what  
9 your duties were with regard to that assignment?

10 A Find an elevated position and be able to get  
11 a view down inside. Hard to know what's going on in  
12 there. Don't -- I wasn't hearing that they were  
13 seeing him out front. So if it's at all possible, our  
14 job is to try to get some intelligence.

15 At that point, maybe our whole understanding  
16 of the call is different. Maybe what's going on  
17 inside there, they're just in there talking calmly or  
18 something, like, a lot of times what we're hearing may  
19 or may not be accurate with what we're seeing.

20 But if we don't have an ability to view into  
21 that space, then we don't really know. So there was a  
22 fence on the back side with some blackberry bushes  
23 blocking the view. So the only way to really -- if we  
24 were going to have an ability to look inside, there  
25 was to get a little bit higher than that fence.

## Examination of Leo Harris

1           The property to the south had several Conex  
2 boxes that we're full of -- I don't know what they're  
3 full of actually. And we ended up finding a truck  
4 that was in front of those. There's no good way for  
5 us to get in top of those Conex boxes to have a view  
6 down in, but that was goal when we left.

7           Q     And can you talk about, sort of, the gear  
8 that you had on you just in terms of the stuff that  
9 you had?

10          A     We always have a standard kit. We have a  
11 load-bearing vest that's bulletproof on it. You have,  
12 you know, all of our normal gear for doing different  
13 kinds of missions. I brought with me a spotter scope  
14 that's not attached to a rifle. It's a 40-power scope  
15 that you just look through.

16                So my hope was to find a spot where we can  
17 look deep into a room through a window and gain more  
18 intelligence. We both had -- I have one rifle.  
19 Officer VanBlokland I think had two rifles. Normal  
20 helmets, all that stuff that we normally wear.

21          Q     And as you got there and you were looking  
22 for a location to set up, were you completely set up  
23 as the situation was escalating?

24          A     No, not even close. Events kind of happen  
25 on their own and, obviously, we tried to be, you know,

## Examination of Leo Harris

1 set up and ready when they happen.

2 If this was a standard barricade where maybe  
3 somebody was inside refusing to communicate and wasn't  
4 coming out, a lot of times those have more time to  
5 develop where if we don't take any action and maybe  
6 try to force him out using gas or something, then  
7 nothing happens.

8 Here, it seemed like things were happening  
9 the whole time. It never really slowed down. We  
10 never did get into our final spot. We would've  
11 both -- I don't want to speak for Kelly. We were  
12 looking for an elevated position where we could look  
13 down into the room.

14 I would've rather had been prone. I  
15 would've rather had been hidden and none of those  
16 things were really an option. Things were moving so  
17 fast, so we ended up standing up in the back of a  
18 truck where we were, at some point, going to -- that's  
19 it right there.

20 That's funny, I haven't seen it since that  
21 day. I thought there was a hot tub in the back that  
22 was on its side. And there's my spotter scope sitting  
23 there. So as you can see, there's not a lot of room  
24 in there, so we were both standing to the back.

25 Once we went around the front of the Conex

## Examination of Leo Harris

1 boxes and could see the back of the motel, my biggest  
2 concern was to just trying to figure out which window  
3 or windows or room was where the incident was going  
4 on. So that took a while and I don't remember if we  
5 were both in the back of the truck.

6 I vaguely remember I think  
7 Officer VanBlokland being in the truck and I might've  
8 been on the ground using our radios to try to talk to  
9 other SERT members and figure out which room the whole  
10 incident was happening in 'cause we were looking at a  
11 whole bunch of windows.

12 Q And how did you, ultimately, determine which  
13 room the incident was occurring in?

14 A I asked. I heard that there were SERT  
15 members in the rooms on both sides, east and west of  
16 his and I asked them to come to the windows and point  
17 us in the right direction.

18 So, at some point, they came to the window  
19 at the same time and were both pointing this way,  
20 which made it nice and clear. The only confusing  
21 thing was there was two windows and a door.

22 And so the door I was worried that -- and  
23 the SERT members were on the outside of that door. I  
24 think we asked if they had a door in their room. And  
25 they said, "No."

## Examination of Leo Harris

1           So then I was concerned that that would a  
2 door that the man in 16 could exit from. And,  
3 basically, we figured out that that was a boiler room  
4 maybe that had no other access into or out of any of  
5 the rooms, at least that's what we're told.

6           I still don't know if that's true or not.  
7 So we were just mainly, at that point, concerned with  
8 the two windows that we could see.

9           Q     And what did you see as you were focusing on  
10 that window?

11          A     The window to the left, which I would think  
12 more to the west, at some point by then we had figured  
13 out that was the room. Kelly and I were both standing  
14 -- Officer VanBlokland and I were both standing in the  
15 back of that truck.

16                He was closer to the wood, to the right  
17 side, which would be to the north. I was to the left.  
18 We were going to climb up on to the sidewall there and  
19 get up on to a Conex box.

20                And a man looked out of the window and we  
21 recognized -- we had already looked at our work phones  
22 that had a picture of what we were considering the  
23 suspect on there. The person that came to look out of  
24 the window looked like the person in that picture.

25                I think it took a minute for me to kind of

## Examination of Leo Harris

1 realize what was going on. It seemed like the window  
2 was kind of blocked and my recollection is that there  
3 were curtains that he had either pulled out of the way  
4 and then there's also a mattress in front of the  
5 window.

6 And I think what he had done, I think the  
7 mattress was taller than where he can see. So he had  
8 pulled the mattress down and was, like, had his arm  
9 over it, he was looking.

10 I think he flipped us off and was yelling.  
11 I can see that he was yelling. I can kind of hear it.  
12 I assumed the window was shut, 'cause it didn't  
13 sound -- it wasn't loud. I couldn't tell what he --  
14 he was saying.

15 Q And -- and you said that you think he  
16 flipped you off. Did you -- what did you observe?  
17 Did you actually see him making a gesture with his  
18 finger or --

19 A Yes, like that. And it wasn't -- we were  
20 close. It probably felt 20 to 30 yards away, maybe  
21 30 yards away, but it wasn't so close that I could  
22 make eye contact with him and see he was looking  
23 directly at us. I felt like he probably saw us, but  
24 he was looking out the back. And I assume at some  
25 point that he saw us. I don't know.



## Examination of Leo Harris

1           Q     Okay.  You couldn't hear what he was saying,  
2     but did you have a perception of -- of, sort of, his  
3     demeanor towards you based on what you did see through  
4     the window?

5           A     He seemed angry.  He seemed loud.  He was  
6     yelling.  He seemed like he was saying something at  
7     the top of his voice.

8           Q     Were you able to see the female victim at  
9     all?

10          A     No.  I could not see anything other than  
11     just, I think -- it might've been his right arm, but  
12     I'm not sure -- shoulder, and then face.

13          Q     And what was going through your head as you  
14     were observing this?

15          A     Whether or not we should use deadly force to  
16     protect the lady inside at that point.  It seemed very  
17     early.  We tried to coordinate as a team.  We really  
18     want these things to get resolved peacefully.

19                     We know the most hostage-type incidents get  
20     resolve through negotiations.  That's how we always  
21     want them to go, but I was also thinking about all of  
22     the other things that it kind of led up to this.

23                     Him out on the community, having stabbed  
24     somebody or had reported to have stabbed somebody, and  
25     dragging her back inside, making threats to her and

## Examination of Leo Harris

1 specific threats, you know, "I'm going to slit her  
2 throat," or, "I'm going to kill her," I believe were  
3 the terms.

4 It wasn't just, you know, "She's going to  
5 die," or something. It was more specific. He -- I  
6 can't remember if it happened before this or after  
7 this, but, at some point, he leaves and I think pulls  
8 the curtains shut, something that make me think, oh,  
9 we're not going to see him again.

10 Okay. I thought, okay, he's gone and he's  
11 not going to come back. That was my thinking. And I  
12 know that I was feeling, like, maybe we made a  
13 mistake. Maybe we should've used deadly force right  
14 then to protect her.

15 We already heard about him barricading the  
16 doors and making it harder for officers to get in. I  
17 was feeling very scared for the lady inside. I was  
18 thinking, you know, if he takes an action against her,  
19 even if we try to respond quickly, it might be really  
20 slow and delayed. It may not be in time to save her.

21 I was also thinking that for us it was safer  
22 that he was reported to have a knife because for us  
23 going in there, that would be safer. But I actually  
24 thought that might make the situation worse for her  
25 because he might stab her or hurt her and we might not

## Examination of Leo Harris

1 hear it.

2           It's not like a gunshot that you can hide,  
3 but if he covers her mouth and stabs her, we may not  
4 even know something bad happened to her, so that we  
5 should go in there and rescue her.

6           So it was hard. It felt like a lot of  
7 pressure to be looking at him and trying to figure out  
8 whether or not to use deadly force or not.

9           It was obviously a lot of stuff going on on  
10 the radio. Normally, at that point, we would get on  
11 the radio and say, "We're thinking about using deadly  
12 force. We're really worried about this lady's welfare  
13 and that he might slit her throat."

14           And allow anybody else to chime in and say,  
15 "Well, we have this information or that information  
16 that would not lead you to believe that that'd be a  
17 good thing to do."

18           Right after he disappeared from that window,  
19 I believe that CNT was on the phone with him again and  
20 it wasn't a very long conversation. And he basically  
21 just said, "Get the police out of here or I'm going to  
22 slit her throat."

23           Sergeant Livingston then said, "If we hear  
24 her screaming, that we're going to make a crisis  
25 entry." Obviously, for her and for the SERT members,

## Examination of Leo Harris

1       that is a more dangerous action than us using deadly  
2       force on him if we had to protect her 'cause there's  
3       no guarantee that they're going to get in.

4                Even with all of our plans in place and all  
5       of our efforts, it's still is going to be -- we don't  
6       know what has happened in there. I can hear if we put  
7       a couple of desks and chairs against the door, it'd be  
8       really challenging to get in, even with all of the  
9       other things you put in place.

10            Q       And so as this is going on in your head and  
11       you -- you've heard all of these things over the  
12       radio, and in terms of it being more dangerous for --  
13       to do a -- a crisis entry as opposed to you using  
14       deadly force or Officer VanBlokland using deadly  
15       force, can you expand on that just a little it?

16            A       The potential is there for it to just be  
17       more successful and immediate. If we saw him and use  
18       deadly force, it's just us and him versus them trying  
19       to get in through a door and maybe he is able to do  
20       something to her.

21                Maybe he's able to do something to them as  
22       they're climbing over desks and chairs and tables or a  
23       bed, whatever is in a motel room there.

24            Q       Given the amount of time it would take to --  
25       for them to get in?

## Examination of Leo Harris

1           A     Correct, yeah.

2           Q     And so the information that you had received  
3     about possibly barricading the door, was that playing  
4     into your thought process at that point?

5           A     Very heavily because if we can't get in  
6     there and help her, then he has more ability to either  
7     set up some kind of ambush, do something to her and  
8     we're not able to go take an immediate effort, you  
9     know. It's, like, we'll take on all that risk and  
10    we'll do the best we can to get in very quickly.

11                   And I think that, you know, we train a lot  
12    we have a lot of people who are very committed to it,  
13    but it still could be 10, 15, 20 seconds and that is a  
14    long time for somebody to hurt other people or move to  
15    a different location and make our job harder. So it  
16    was --

17           Q     And so what was the next thing that you've  
18    observed or that drew your attention?

19           A     At some point right in that also, we heard  
20    an update over the radio that we had probable cause  
21    for Assault II. So that factor into it also. I don't  
22    know -- I didn't know anything about the victim at  
23    7-Eleven, but, at some point, there was still an  
24    external victim out there.

25           Q     Okay. What had you heard about that

## Examination of Leo Harris

1 incident?

2 A That he had been at 7-Eleven and tried to  
3 stab somebody. I thought I heard, initially, that he  
4 had tried to stab somebody and was unsuccessful.

5 But then later, right at that point, we  
6 heard -- and it was right in that time period where we  
7 had seen him in the first window and then he  
8 disappeared, I thought that we got the update that  
9 there was PC for Assault II, which made me feel, like,  
10 okay, there is some kind of concrete action that  
11 happened out in the public, which also plays into this  
12 not being a type of situation where we would disengage  
13 from it because if he is willing to hurt other people  
14 out in the community, it's not something where we can  
15 just say, "Okay. This is going to resolve itself."

16 So even if he was by himself, where a lot of  
17 times if somebody's in crisis or they are even a  
18 cornered criminal and we think that the risk is going  
19 to be really high. But if we don't think they're  
20 going to go hurt other community members, an option on  
21 the table is disengaging, like, could we come back  
22 tomorrow?

23 Is that going to be something that's an  
24 option? In here, partially because of that  
25 information from 7-Eleven, that absolutely felt like

## Examination of Leo Harris

1 the wrong thing to do for the community.

2           So we get to that point. We're worried  
3 about the barricading, which would delay us getting in  
4 if he were to hurt her. You know, Sergeant Livingston  
5 had already said if we hear her screaming inside,  
6 we're going to make a crisis entry, knowing that might  
7 take a little bit of time even with all of these other  
8 things in place.

9           He, at some point, then comes back to that  
10 second window. I think I was still trying to figure  
11 out a place to up my spotter scope, still thinking  
12 about whether or not I was going to climb on to the  
13 Conex box. So I think I was facing the same direction  
14 as the truck. Officer VanBlokland was over by the  
15 wood side rail.

16           And then I don't know how I knew. I don't  
17 know if Kelly said he's back on the window or  
18 something, but I looked up and he was in the window  
19 and out to the left. What I remember and I don't know  
20 if this is true, but what I remember was a piece of  
21 wood diagonally across the windows.

22           And I thought I remember seeing him open the  
23 window. At that point, Officer VanBlokland shot one  
24 time and the man went down out of view. I heard -- I  
25 thought I heard somebody call an execute.

## Examination of Leo Harris

1           And so I knew that if we shot, I knew that  
2           the entry was going to go in and try to rescue her.  
3           There, you know, from our training, we know that it's  
4           possible taking moving shots, potentially, through  
5           barriers like if there had been glass we have to shoot  
6           through, it's going to be a lot less effective.

7           It deflects the bullets, so there may or may  
8           not be a devastating round that actually stops the  
9           threat, so they are always going to follow up with an  
10          entry, so I knew that was going to happen.

11          I don't know how long it took. Several  
12          seconds, obviously. They were working through breach  
13          issues and stuff like that that other people will talk  
14          about, but, at some point, I heard them say that the  
15          suspect was down and to bring medical in.

16          I did not hear over the radio, or at least I  
17          don't remember hearing it, that the victim was fine  
18          and I was really hoping to hear that. At some point,  
19          I don't know how I figured out that she was okay.

20          I do remember later, sitting in a car after  
21          they separated all of us, I see her walk out and  
22          talking to detectives. That made me feel better that  
23          at least, physically, she looked like she was okay.

24          Q     Okay. And once the shot went off, you said  
25          eventually you all were separated, but once



## Examination of Leo Harris

1 Officer VanBlokland actually fired the shot, what did  
2 you at that point?

3 A I don't even remember exactly. I set my  
4 spotter scope down.

5 Q Did you remain at that location?

6 A Yeah. We just stayed at the back of the  
7 truck. Sergeant McConnell walked up pretty quickly,  
8 told us not to talk to each other about it, asking  
9 where the round might've gone, the shell casing from  
10 the rifle. We figured it went into this patch of  
11 leaves where we couldn't see it. He told us not to  
12 talk to anybody, call anybody, not to talk to him.

13 I had Sergeant McConnell make a bunch of  
14 phone calls from me because I had a bunch of classes I  
15 was suppose to teach that day and throughout the  
16 night, that we started letting people know they were  
17 going to finding replacements for us.

18 Q And aside from that, though, you didn't --  
19 you didn't take any further actions part of the -- the  
20 scene that day?

21 A No.

22 Q So I want to go back a little bit and talk a  
23 little bit more about some of the things that you had  
24 heard or things that you knew.

25 Had you heard anything over the air about

## Examination of Leo Harris

1 any sort of mental health symptoms or any sort of drug  
2 use for the suspect?

3 A Not mental health. There could've been, but  
4 I didn't hear it. It is somewhat of a challenge. I  
5 always feel bad later. People think, oh, you should  
6 know all of this information. And I think we probably  
7 80 percent of it, if not more.

8 But we're climbing fences sometimes, cutting  
9 locks, driving there. You actually having to pay  
10 attention to traffic. You're driving there quickly  
11 but safely, trying not to get, you know, us or  
12 somebody else injured, listening to all of the stuff  
13 that's going on. It's easy to miss stuff.

14 I have heard quite a bit about reported meth  
15 use. So they had said that he was high on meth, he'd  
16 taken a lot of meth and some of the information from  
17 CNT was that he wasn't making a whole lot of sense.

18 I remember some of the stuff he was talking  
19 about, prostitution and stacking. And I don't know  
20 what that is. I remember I think saying something to  
21 Kelly. We're like, "What did they just say?" Like,  
22 it didn't make sense talking about stacking and  
23 prostitution.

24 And that made me more concerned for her  
25 safety also. I've been on several real life hostage

## Examination of Leo Harris

1 situations and also, you know, multiple scenarios and  
2 when there's somebody inside saying, "I don't want to  
3 hurt anybody. I just want you all to leave."

4 A lot of times, that's going to work out in  
5 some kind of good, you know? It may take a lot  
6 longer, but he didn't talk to them very much. It  
7 seemed like he was hanging up the phone with them and  
8 we knew he was high on meth.

9 It was much more concerning for her safety  
10 that maybe he's not making rational decisions. This  
11 isn't him saying, you know, "I just want to leave and,  
12 you know, I won't hurt her." He was saying, "I'll  
13 slit her throat."

14 And then there wasn't a lot of dialogue.  
15 They, I think, said he was agitated, none of which  
16 helped us feel like this is going to work itself out.

17 Q So did you feel like the situation was  
18 becoming more agitated as time went on?

19 A Yeah. It definitely felt like it was  
20 building as we were -- from the time we listened to it  
21 until the time it ended, it felt like it just kind of  
22 built and built. It felt very fast. I don't know how  
23 long it took me to get there and then get into that  
24 yard.

25 I know I was more delayed with Kelly getting

## Examination of Leo Harris

1       there than some of the other people that were right  
2       out front; but from our standpoint, never really a  
3       time where we knew all of the information and then  
4       we're trying to make strategic moves. It was, like,  
5       we just still building our plan and reacting to stuff  
6       because of all that was happening so quickly.

7               Q       And what was your thought process after he  
8       had stepped away from the window the first time before  
9       he reappeared?

10              A       I was feeling a little bit nervous that he  
11       would kill her or do something. And then we would  
12       feel guilty for not having shot him the first time,  
13       which was a lot of pressure. It felt very -- it felt  
14       a little bit -- we joke sometimes about on IP about  
15       feeling like you're on an island, like, you're all by  
16       yourself.

17                    There's really nobody else there to help you  
18       make decisions. You're not, like, asking bosses.  
19       You're not -- there's no way you're weighing all of  
20       this information kind of by yourself. And then, in  
21       some senses, you know, Kelly and I don't even have  
22       time to talk about everything that's happening.

23                    And so it's, like, okay, you know, and, you  
24       know, very cognizant of, you know, police  
25       officer-involved shootings and how they're going to

## Examination of Leo Harris

1 get looked at and how they're going to get reviewed.  
2 And he and I are both in the Training Division and we  
3 have lots and lots of experience looking at it,  
4 reviewing tactics.

5 We're constantly trying to do the best job  
6 we can. Obviously, everybody wants it to be resolved  
7 peacefully and this weighs on all of us, even in the  
8 moment. And it was definitely a few seconds of, "Oh,  
9 crap. Did we just let her get killed?"

10 But then it's weird, you know? It's not  
11 like we're watching him standing over her with a knife  
12 stabbing her right then. We're trying to make a  
13 decision based on everything we're hearing, our  
14 ability to effect a rescue, how much danger she's in,  
15 what kind of decision making he's going to be making  
16 down the road.

17 All of that is very challenging and we felt  
18 like her life was in danger, but we also wanted CNT to  
19 be able to talk to him, try to have more of an effect,  
20 all of this stuff. But if we never seen him again, I  
21 don't know how this would have resolved itself.

22 It could've gone really well or it might not  
23 have of. It's just so hard to know. It's certainly,  
24 in that moment, did not feel like it was going to  
25 resolve itself well.

## Examination of Leo Harris

1 Q And, in that moment, you felt that her life  
2 was in danger?

3 A Very much so.

4 (Pause in proceedings, 12:01 p.m.)

5 BY MR. HANNON:

6 Q You just mentioned that there's a lot of  
7 information coming into the radio traffic and you're  
8 -- have a lot of thought processes going on in a very  
9 short period of time and that you're on an island,  
10 kind of making these decisions, both you and  
11 Officer VanBlokland personally.

12 Was there any conversations going on between  
13 the two of you as you're observing what you're  
14 observing, either statements kind of in passing or  
15 casual conversations as to what you're seeing or what  
16 you're hearing?

17 A They were very choppy 'cause something would  
18 happen. And then we would maybe talk about something  
19 just for a second. I don't remember very many. There  
20 were no full conversations. There wasn't any, like,  
21 "Hey, you do this and I'll do that."

22 We were both trying to figure out, you know,  
23 where our spot was going to be. And then we just kind  
24 of ended up at the truck. There was no other way to  
25 get on top of those Conex boxes. The yard was

## Examination of Leo Harris

1 actually very clean.

2 I was hoping to find a ladder, you know?  
3 The closest thing we could find to that truck was a  
4 barbecue and I was thinking about trying to climb up  
5 on to this barbecue. And then it would've been a hard  
6 climb with all of our gear.

7 So we get to the truck and then all of a  
8 sudden we're in the view of the back. So he and I  
9 didn't have much time to talk. We're both feeling  
10 pressured to figure out which window the room is.  
11 Then we get up in the truck and we're still trying to  
12 decide whether or not to move higher; and, all of a  
13 sudden, we see him the first time.

14 I think that we may -- I can't remember  
15 whether it was, you know, internally. I was thinking  
16 this or he and I talked about maybe we should've shot  
17 him. That's when he left the first time. We were,  
18 like, that might have been a mistake, like, we might  
19 have just let something terrible happen. I can't  
20 remember if that was outside or inside.

21 We did talk about -- after he left the first  
22 time, there was a couple of different things that  
23 happened. Like I said, the PC for Assault II; him  
24 saying he was going to slit her throat if we didn't  
25 get the cops back.

## Examination of Leo Harris

1           Don Livingston saying that if we heard her  
2           screaming or crying, they were going to do a crisis  
3           entry. At some point in there, Kelly and I did have a  
4           really quick conversation about, "I would like to get  
5           on the radio and say if we see him again we're going  
6           to use deadly force," just so that everybody else  
7           knows.

8           And also if command post has more info, then  
9           they can tell us, "No, don't do it, you know, we are  
10          back on the phone with him and things are going well,"  
11          or something. I can't remember if we tried or not. I  
12          feel like we did.

13          There were so many times where we did try to  
14          ask a question and I would push my radio button and it  
15          would honk at me because somebody else is already  
16          talking, doing something.

17          So that happened frequently throughout the  
18          call, even just trying to figure out which position  
19          we're going to go to, which window is which. We go to  
20          talk and the radio would be already busy.

21          Q       And in that -- and does that fit with your  
22          kind of experience of this entire scenario as a whole  
23          that based on that radio activity, there was just a  
24          lot of rapidly escalating activity requiring everybody  
25          to respond as to what they're observing and seeing



## Examination of Leo Harris

1 at once?

2 A Yes. And then also just the coordination  
3 for some of the breach issues and things like that  
4 where we're trying to put together a plan. We have to  
5 go rescue her right now 'cause this felt like this was  
6 moving very quickly.

7 At no point did I hear any radio traffic  
8 that wasn't important. Each time I wanted to say  
9 something and somebody else was saying something I  
10 recognized that was either equally or more important.

11 But, yeah, that was definitely a challenge,  
12 but it happens like that on every fast paced event  
13 like this, whether it's some of our trainings that we  
14 do that are fast paced, quickly evolving or whether  
15 it's a real life one that communication is always a  
16 challenge.

17 There's no way to divvy up, oh, half of you  
18 are going to go talk on a different radio net 'cause  
19 then you don't know what each other knows. So you  
20 have to stay on the same net, but at some point there  
21 is a max capacity.

22 And on those events, they're usually -- it's  
23 at max capacity for it at some point. Once you get  
24 all of your plans built, if nothing's happened, then  
25 there starts being some radio space where there are

## Examination of Leo Harris

1 long gaps where people aren't talking.

2 Q And --

3 A A lot of times on a barricade it might get  
4 like that, but not on a --

5 Q And in your training scenarios and actual  
6 live scenarios, whether it's a hostage situation or a  
7 stand off, is it -- is it more typical that those  
8 periods last longer which allows for a little more  
9 information to come in or Crisis Negotiation Team has  
10 had better success with the -- engaging in a two-way  
11 conversation with the person inside the location?

12 A Can you say that again?

13 Q Sure. So in other -- you -- you describe  
14 this as fast.

15 A That's correct.

16 Q Have you -- have you had a faster SERT  
17 call-out hostage scenario or -- I -- I -- put the  
18 hostage scenario in with the stand-off scenario  
19 because sometimes they're by themselves.

20 A Mm-hmm. Yeah.

21 Q Have you had one that occurred faster than  
22 this one in your experience?

23 A I don't remember one that's happened faster.  
24 I would say that the majority or the most critical  
25 ones feel like they can't go any faster.

## Examination of Leo Harris

1 Q Mm-hmm.

2 A And this was definitely in that category.  
3 So I don't know if it's faster, slower than another  
4 one of those. But there's only, you know, maybe in  
5 my -- I've been on the SERT team for ten years and  
6 there's maybe five or six call-outs that all feel like  
7 they couldn't have gone any faster.

8 The hostage piece makes it so much more  
9 challenging because if this was a standard barricade,  
10 if he was in there if he committed a crime or if he  
11 was in crisis and we were just trying to get him to  
12 get out, we wouldn't be worried as much about all of  
13 the breaching issues.

14 We wouldn't be making a plan to go in. We'd  
15 be waiting for him to come out to us. We'd be much  
16 more patient. So because of the hostage piece and us  
17 trying to figure out an entry to go rescue her if we  
18 needed to, that probably added a whole nother  
19 25 percent of communication that has to happen on the  
20 front end, so that really fills it up quickly.

21 Q And then, initially, one last question. I  
22 think and maybe I'm wrong, but, initially, after the  
23 shot was fired, obviously, Sergeant McConnell hadn't  
24 come yet and turned it into a crime scene and  
25 separated everybody and put down, don't -- don't talk

## Examination of Leo Harris

1 about this incident.

2 But was there any conversation or any  
3 statements that you recall made by Officer VanBlokland  
4 immediately after the shot was fired, but before  
5 Sergeant McConnell came?

6 A He did say something, like -- he set his gun  
7 down and he said something, like, "I was hoping to  
8 never have to do that," or something like that.

9 MR. HANNON: Okay. Do the grand jurors have  
10 any other questions for Officer Harris?

11 Okay. Why don't we take a brief recess as  
12 we get situated for our next witness as well as I  
13 believe lunch?

14 A GRAND JUROR: Can we take 10? A break  
15 and --

16 MR. HANNON: Yes, absolutely.

17 A GRAND JUROR: -- and get it set up?

18 MR. HANNON: Yes.

19 \* \* \*

20 (Noon Recess taken at 12:07 p.m.)

21

22 **AFTERNOON SESSION**

23 (Whereupon, the following proceedings were  
24 held before Grand Jury No. 1, 12:33 p.m.):

25 MR. HANNON: We are back on the record and

## Examination of Kelly VanBlokland

1 call our next witness, Officer VanBlokland.

2 Please stand right there, raise your right  
3 hand and then we'll swear you in.

4 **KELLY VanBLOKLAND**

5 Was thereupon called as a witness; and, having been  
6 first duly sworn, was examined and testified as follows:

7 THE CLERK: Thank you.

8 **EXAMINATION**

9 BY MR. HANNON:

10 Q Go on and have a seat.

11 A Can I get a glass of water?

12 Q You absolutely can.

13 A Thank you very much. Thank you, sir.

14 THE CLERK: Absolutely.

15 BY MR. HANNON:

16 Q So first, thank you for being here and could  
17 you please state and spell your name for the record.

18 A My name is Kelly VanBlokland, K-e-l-l-y,  
19 V-a-n-B-l-o-k-l-a-n-d.

20 Q Officer VanBlokland, you -- you are here  
21 voluntarily; is that correct?

22 A That is correct.

23 Q And you have an attorney outside, so if you  
24 have any questions or concerns, you can take a break  
25 at any time. You just let us know.

## Examination of Kelly VanBlokland

1           A     Thank you.

2           Q     First, why don't you tell us how you're  
3 currently employed.

4           A     I'm currently employed with the City of  
5 Portland Police Bureau. I've been a Portland police  
6 officer since December 30th, 1993. I'm approaching my  
7 25th year next month. I'm currently assigned to the  
8 Training Division, where I've been there since 2010.

9                     I was the lead firearms instructor for  
10 approximately six years. And then I took position as  
11 our lead armor, so I'm responsible for maintaining all  
12 the weapon systems the Police Bureau operates for  
13 repairs and purchases.

14                    I also purchase all the ammo for the Police  
15 Bureau for duty use and for practice. And I'm also a  
16 detached member of our Special Emergency Reaction  
17 Team, which is our version of -- of a SWAT team.

18           Q     And before we get into more of your training  
19 and experience, why don't you tell us a little bit  
20 about yourself personally. Are you from Oregon?

21           A     Yes, born and raised in Oregon. Moved over  
22 to this side of the state to go to college. Went to  
23 Western Oregon State University. During my last  
24 roughly two years at Western Oregon State, I was a  
25 reserve police officer with the City of Keizer.

## Examination of Kelly VanBlokland

1                   Started to seek employment with law  
2 enforcement agencies when I was still in college. And  
3 upon graduating, the City of Keizer employed me as  
4 their community service officer, where I worked for  
5 maybe two or three months before I was hired by  
6 Portland that December.

7           Q     And when you went to Western Oregon  
8 University, what was your major?

9           A     Criminal justice was my major and I minored  
10 in Spanish.

11          Q     Do you actually speak Spanish?

12          A     Used to. I haven't had the chance to use it  
13 enough to maintain it.

14          Q     Okay. Now, you indicated you were assigned  
15 to the Training Division. What exactly do you do  
16 within the Training Division?

17          A     I'm currently one of the lead armors, so as  
18 I had mentioned, we're responsible for all the weapon  
19 systems that are deployed within the city, just for  
20 purchasing or repairs, make sure they are properly  
21 functioning.

22                   If someone calls us and says there's an  
23 issue, we will take it in and repair it. So that  
24 covered the Glock handguns, the Remington X70  
25 shotguns, the less-lethal launchers.

## Examination of Kelly VanBlokland

1 Q And when you were the firearms instructor,  
2 what did that entail? What were you doing then?

3 A I was teaching the advanced academy, so I  
4 was the lead firearms instructor responsible for  
5 training all the new recruits when they came back from  
6 the basic academy down in Salem.

7 Q And when you were teaching at the advanced  
8 academy as a firearms instructor, did that include use  
9 of force or threatened use of force in an officer's  
10 capacity?

11 A Use of force was covered in different  
12 classes.

13 Q Mm-hmm.

14 A We're basically main -- are basically  
15 focused on the shooting skill itself, which is a very  
16 perishable skill. So we did a lot with marksmanship  
17 and just being able to protect themselves and others  
18 with the weapons they're issued.

19 Q Gotcha. And, of course, as a Portland  
20 police officer, you, yourself, have been trained in  
21 regards to you attended basic academy; is that right?

22 A Yes, I did.

23 Q And did you attend the advanced academy?

24 A Yes, sir.

25 Q And just in your own words, could you



## Examination of Kelly VanBlokland

1 summarize for the ladies and gentlemen of the grand  
2 jury basic academy and advanced academy?

3 A The basic academy is -- when I went, it was  
4 hosted in Monmouth. Since then, it's been moved to  
5 Salem. When I went through, I want to say it was a  
6 12-week process going through the basic academy. Upon  
7 graduation, returned to Portland where you're assigned  
8 with a field training officer.

9 You work the street for a period of time  
10 until an advanced academy slot opens up and then you  
11 go back to the academy that Portland hosts to get more  
12 specific training on Portland techniques, city codes;  
13 and, again, kind of criminal law, use of force,  
14 decision making.

15 And then once you were finished with the  
16 advanced academy, then you return back to the street  
17 with your field training officer to complete your  
18 phrases until you're off probation.

19 Q And then just in your capacity as a Portland  
20 Police Bureau officer, is there ongoing training  
21 throughout your career?

22 A Yes. We have yearly in-services that may  
23 range from a 40-hour in-service to two different  
24 blocks of 20-hour in-services. They run the spectrum  
25 of hard skills, driving, shooting, defensive tactics,

## Examination of Kelly VanBlokland

1 coupled with legal updates, use-of-force classes, just  
2 whatever the topic may be. It varies as far as the  
3 classroom work from in-service to in-service so they  
4 can cover a broad spectrum to keep us up to date on  
5 different policies.

6 Q And you probably already said this, but  
7 going back to SERT, how long have you been with SERT?

8 A I was assigned to SERT June of 2007, so I've  
9 been an active member for 11 years.

10 Q And as a member of SERT for 11 years, have  
11 you had a consistent role or has the role evolved over  
12 time with SERT?

13 A So my first year, we do a rotation between  
14 our entry element and our inner-perimeter team, so  
15 it's about a six-month rotation on each, after which I  
16 was assigned to our inner-perimeter team, which I've  
17 been on ever since. So I've done the last 10 years of  
18 my time with SERT as an inner-perimeter officer.

19 Q And before going more into the details of  
20 what an inner-perimeter officer is, as a member of  
21 SERT going back to 2007, in addition to all the other  
22 in-service and ongoing trainings that you've had with  
23 the Portland Police Bureau, is there any ongoing  
24 training or updates that you work in as a member  
25 of SERT?

## Examination of Kelly VanBlokland

1           A     As a member of SERT, as a specially unit  
2     that does respond to the most critical incidents  
3     requested in the City of Portland, we do receive a  
4     tremendous amount of additional training above and  
5     beyond what your average patrol officer receives.

6                     We train two days every week, so that  
7     averages out to about 520 additional hours plus a year  
8     that we receive.  It's shooting skills on one day and  
9     basically the other day is some type of, like,  
10    scenario-based training, iteration training, just  
11    depends on what topic we're covering.

12                    We cover a broad spectrum of types of  
13    critical incidents we may have a respond to, and so we  
14    take time to hit on every one of those topics  
15    generally at least twice throughout the year.

16           Q     And run us through, what is scenario-based  
17    training?  What would that entail as a member of SERT?

18           A     Scenario-based training is when the person  
19    running the training basically sets up a realistic  
20    event that the team has to deal with.  It could be a  
21    hostage crisis.  It could be a lone barricade in the  
22    house.

23                    It depends on the hard skill they want us to  
24    work on for the day.  So we'll have actual role  
25    players come in.  They'll have assigned tasks as how

## Examination of Kelly VanBlokland

1 they want this to potentially resolve. It's kind of  
2 fluid depending on how we choose to deal with the  
3 event, so you can only anticipate so many things.

4 When you have 27 guys that all are coming up  
5 with ideas and you have one guy that's setting up the  
6 training, it's hard to cover the spectrum of what a  
7 very critical thinking person may come up with.

8 So they kind of know how they want the  
9 scenario resolve, and so they'll work us through that.  
10 And we'll actually deploy in our positions. The entry  
11 team will come up with their hasty plan, their  
12 delivery plan for the event.

13 And then we'll basically just start putting  
14 all of our pieces in place, the negotiations, the  
15 information that we're seeing from the inner  
16 perimeter, so we're kind of information gatherers.

17 We disseminate back to the team as far as  
18 our role on a outer or inner perimeter and then the  
19 scenario just kind of plays out and we get to  
20 resolve it.

21 Q And when you have that scenario training, is  
22 it just doing the training or is there any sort of  
23 debriefing periods afterwards where you analyze kind  
24 of what the team did, how they did it and ways to  
25 improve and ways to anticipate future scenarios or

## Examination of Kelly VanBlokland

1 unknowns?

2 A Yes. So at the end of every scenario, we'll  
3 pull the role players out of the house that we used  
4 and we get all of the members of the team together  
5 that were involved and we'll basically talk start to  
6 finish as far as how we resolved it, our thought  
7 process at the time, things we could have done better,  
8 things that we did that didn't go well, how we could  
9 improve upon that.

10 And we always are very critical of ourselves  
11 as far as figuring out did we have best choice at the  
12 time and what could have been better. So in actual  
13 real events, we have a broad knowledge, a base of  
14 things we've done in realistic-based training to pull,  
15 to use.

16 Q So in going back specifically to what's been  
17 your role for the majority if not almost entire time  
18 on the SERT team, describe for the grand jury what  
19 inner perimeter is. What is that role?

20 A So inner-perimeter team member's role is  
21 once we respond, basically the uniform officers have  
22 set up containment around whatever problem we're  
23 dealing with. And so our role is to, as an  
24 inner-perimeter officer is to basically -- we don't  
25 just take their positions, but we'll kind of work in,

## Examination of Kelly VanBlokland

1 talk to them, debrief the officers.

2 If it's a good position that hasn't been  
3 compromised or seen, we may actually stay in that  
4 position. But our role is to watch our designated  
5 area of the house. We -- we generally number a house  
6 one through four, where generally the front door will  
7 be Side One and we work clockwise around the house.

8 It will be Side Two, the back is generally  
9 Side Three and then Side Four. And that just takes  
10 the confusion out of directions. You put me in  
11 Southwest Portland and tell me north, I'm going to  
12 mess it up probably every time.

13 So this takes the guesswork out. So if I  
14 tell someone I'm seeing something off of Side Three,  
15 the rest of the team's aware of what I'm looking at  
16 and where that problem might be.

17 And so as an inner-perimeter officer, my  
18 role is to contain. We want to contain and isolate  
19 these incidents as best we can. Uniform generally has  
20 done that for us, so we're augmented and relieving  
21 that. And then we're really information gatherers at  
22 that point. We're seeing real time what's going on.

23 We can broadcast what we see and what we  
24 hear to the other officers on scene, so we can give  
25 them a better picture of what is actually occurring

## Examination of Kelly VanBlokland

1 now as opposed to getting relayed from somebody else.

2 They're getting real time information from  
3 the inner perimeter officers as far as what's  
4 occurring with the event if we're able to glean any  
5 information from what we can see.

6 Q And are you doing that just with the naked  
7 eye? Is there technology or enhanced technology that  
8 allows you to get perspectives or vantage points that  
9 other officers, whether they be uniform officers, SERT  
10 officers or even crisis negotiation team officers,  
11 just a better perspective that you might be able to  
12 inform them on?

13 A Yes. So we carry 10 power binoculars with  
14 us as well so we have magnified optics that we can  
15 look through, binoculars.

16 I have a 50 power spotting scope that I  
17 could deploy. I usually don't for most of them, as  
18 it's too big and cumbersome and we're so close anyway  
19 to most problems. And then we also have magnified  
20 optics on our weapons system.

21 Q And inner perimeter, SERT activations or the  
22 use of the SERT team, is that usually by itself or is  
23 there another component when there are -- when SERT is  
24 utilized in any given scenario?

25 A Yes. When we serve search warrants or we

## Examination of Kelly VanBlokland

1 have a call-out, our Crisis Negotiation Team is also a  
2 part of those events. We have a smaller number for a  
3 planned search warrant, but we'll get the entire  
4 Crisis Negotiation Team for an actual call-out.

5 Q And setting aside warrants, are there  
6 certain policies or procedures or protocols in place  
7 with the Portland Police Bureau that requires  
8 mandatory SERT call-out that deploys both the SERT  
9 team and the crisis negotiation team to respond in  
10 concert to those scenes?

11 A Yes, there are. Hostage event is one.  
12 Armed barricaded persons would be another. Our realm  
13 is really starting to broaden. We're starting to  
14 respond more to like high-rise suicidal events. We  
15 have a rope (indiscernible) system of that. Another  
16 one would be an armed person in the blocks.

17 And an example is maybe a traffic stop that  
18 goes bad or a pursuit happens. Say the suspect runs  
19 from the car, an officer sees a gun in his hand. He  
20 runs into a neighborhood. They get good containment  
21 and nobody's in there, they'll activate us for that  
22 as well.

23 Q What about live active shooter situations?  
24 Are those another one?

25 A Yes.



## Examination of Kelly VanBlokland

1           Q     And as working in a perimeter and doing it  
2     so long, taking some of the bigger ones, such as  
3     hostage, armed barricade, live active shooter and  
4     armed persons in the blocks or kind of locking down  
5     city blocks for community safety, going back to your  
6     years and experience in 2007, could you give us an  
7     estimate as to how many SERT call-outs you've been a  
8     part of as an inner perimeter team member?

9           A     Between search warrants and call-outs, we  
10    probably average a hundred a year, so from 2007 to  
11    now, I'm probably just short of a thousand different  
12    missions that I've performed in my job with the SERT  
13    team.

14          Q     And okay. And in addition to providing  
15    intelligence, one, do you keep yourself in a position  
16    that is standing upright and open or do you try to  
17    find a prone position under concealment as you're  
18    setting up in a position in the inner perimeter of a  
19    SERT call-out?

20          A     Ideally, we want to find kind of a  
21    clandestine position that we can get into. It may be  
22    a seated position. It may be in a house looking  
23    through someone's front window.

24                    Ideally, we want to be away from the problem  
25    and we want to be somewhat out of view or seen, A, to

## Examination of Kelly VanBlokland

1 protect ourselves, and especially if there's an armed  
2 person in the house with the rifle or handgun, we  
3 don't want to be visible so they could potentially  
4 take shots at us.

5 But we also want to become out of sight if  
6 we can because of -- generally, if a person knows the  
7 police are there, they're not going to act normally,  
8 so we're going to get less intel.

9 If they identify where we're at, we may  
10 never see them again, so why would -- 'cause why would  
11 they want to be seen if they know we can observe and  
12 report on what they're doing. So, generally, we do  
13 want to be in a clandestine position.

14 Q And then do you bring any -- I mean, as a  
15 uniformed officer, I presume you have a sidearm or  
16 handgun with you as part of your day-to-day  
17 operations?

18 A Yes.

19 Q And when you work in a capacity as inner  
20 perimeter in a SERT call-out, do you bring any other  
21 firearms with you in those scenarios?

22 A Yes, I do. So as a inner-perimeter officer,  
23 we deal with a lot of the problems at a distance, so I  
24 always deploy my AR15 rifle with a magnified optic on  
25 it. I also have access to a Remington 308 precision

## Examination of Kelly VanBlokland

1 rifle, which is more for distance through heavier  
2 barricades, like thicker glass, two-pane residential  
3 glass and the downtown business glass, it has a better  
4 chance of penetrating if I did have to fire a round to  
5 save someone's life downtown.

6 So we have different tools. We also have a  
7 40-millimeter less lethal launcher we have access to.  
8 So, yes, there are a broad spectrum of tools that I  
9 can choose from based on the incident as far as what I  
10 think I will need.

11 Q Turning your attention to this particular  
12 day and incident, were you part of a SERT mission  
13 prior to all of the incidents that unfolded at the  
14 Del Rancho on October 10th, 2018?

15 A Yes, I was. I was part of two search  
16 warrants that we performed that morning. Started at  
17 -- the first service as at 4:00 a.m. and the second  
18 service was 7:30 a.m., I believe.

19 Q And in those missions, was that similar to  
20 what we've described before? There was a CNT  
21 component, a SERT component and including you and  
22 others for an inner-perimeter assignments?

23 A Yes.

24 Q And did those warrants go as planned?

25 A Yes. They went flawlessly.

## Examination of Kelly VanBlokland

1           Q     At what point when you're involved in those  
2 missions did you personally learn of or know that  
3 something may or may not be unfolding in East Precinct  
4 at the location of Del Rancho Motel?

5           A     As the conclusion of the second search  
6 warrant, it would have been sometime after 9:00 a.m.  
7 The inner perimeter had been cleared from that search  
8 warrant because everyone had been taken into custody  
9 and they were waiting for investigators to come up and  
10 take possession of the house.

11                     So Officer Leo Harris and myself went back  
12 to the truck that we had arrived in and we were  
13 basically waiting for the search warrant scene to  
14 basically disintegrate so we could go back to  
15 northeast -- or North Precinct.

16                     And at that point, I had heard someone say  
17 that our SERT sergeants had received a consultation  
18 page from East Precinct regarding an incident that was  
19 occurring there.

20           Q     And did you learn more information about  
21 what that was entailing at this warrant scene or did  
22 you and Officer Harris head back to North Precinct  
23 before learning more?

24           A     So the scene wasn't secured yet.  
25 Investigators hadn't taken for -- for us for the

## Examination of Kelly VanBlokland

1 search warrant. So as we were sitting in the truck, I  
2 was in the passenger seat. Leo's in the driver's  
3 seat, Leo Harris, Officer Harris, excuse me.

4 And once we heard the -- learned of the  
5 consultation, I basically pulled my phone. I have  
6 access to CAD, so I can pull up CAD calls and read  
7 basic descriptions.

8 And so we turned the truck radio on East net  
9 so we could start monitoring what was occurring over  
10 there a little bit. I still had a SERT net in my ear,  
11 in my ear piece, and I, basically, started scrolling  
12 through the call that was occurring at the Del Rancho,  
13 so I read that initial piece of it there.

14 Q And -- and a CAD, is that a printout of kind  
15 of what's being relayed through BOEC, or the Portland  
16 Police Bureau communications on the open net?

17 A Yeah. It's our computer-aided dispatch  
18 system that BOEC uses to dispatch officers to  
19 incidents. And so you can pull it up on a computer.  
20 We can pull it up on our phones.

21 And it's basically kind of a description of  
22 what's going on on the call. They put updates to the  
23 initial call and just keep it kind of a running update  
24 as far as what's occurring.

25 Q And from your recollection, what did you

## Examination of Kelly VanBlokland

1 recall seeing either in the CAD or heard over the air  
2 as this was unfolding?

3 A I had it pulled up, so I was reading it to  
4 Officer Harris and it said that there had been a  
5 fight, I want to say, in or near the Del Rancho Motel.  
6 There had been an attempted stabbing.

7 The suspect had retreated back to the  
8 Del Rancho where a witness had seen him armed with a  
9 knife. They saw him grab a female, make threats to  
10 her and then drag her into Room 16.

11 Q And as you learned of that information, what  
12 were you thinking at the time as to whether or not you  
13 were likely or not likely to be activated or were you  
14 thinking about that?

15 A Another piece in that initial part that I  
16 read was also that they believed he was possibly high  
17 on meth. So I'm reading through this. I read the  
18 fact that he had already attempted to stab somebody.

19 He's now taken a female hostage, in my mind,  
20 the way he grabbed her at knifepoint, made threats to  
21 her, high on meth, drug her into the room, I  
22 immediately recognized that East was dealing with a  
23 pretty -- pretty significant event and I was already  
24 starting to label this as a hostage event.

25 Q And from your perspective in your training

## Examination of Kelly VanBlokland

1 and experience, were you anticipating then that a SERT  
2 call-out was probably likely at that point unless you  
3 had more information later?

4 A Yes. Based on what I had read and my  
5 understanding of what had initially occurred, unless  
6 something significant changed in the next few minutes,  
7 I felt highly likely that East would activate the  
8 entire team.

9 Q What, if anything, happened next that you  
10 were monitoring that? Did you drive back to North or  
11 did someone else drive back to North?

12 A So they -- they cleared the search warrant.  
13 It was secured by investigators. Sergeant Livingston  
14 got on the air, kind of apprised us that he had a SERT  
15 consult for this event that was occurring at East.  
16 Told everybody on scene that he wanted us to start  
17 kind of rolling that way so we'd be closer to the  
18 event in case they did activate the entire team.

19 I went and contacted the owner of the truck  
20 I was sitting in 'cause it wasn't Leo's or my truck.  
21 So he drove us back to North, 'cause I had to have my  
22 first responder vehicle, 'cause I -- I needed access  
23 to additional tools in that truck that I figured I  
24 might need for this event if we did get activated.

25 And so we started heading back towards North

## Examination of Kelly VanBlokland

1 Precinct from the area of like 16th and Killingsworth,  
2 so we weren't that far away, which was nice. And the  
3 rest of the team, both piece of armor and I think CNT  
4 just started to head towards 82 and Johnson Creek,  
5 which was going to be our initial staging location  
6 prior to the activation.

7 Q Now, from your -- from your experience as a  
8 SERT member, given that there were some previous  
9 warrants executed by SERT and given the fact that you  
10 were part of that, how quickly would you describe this  
11 deployment of SERT to this potential location compared  
12 to scenarios where you were paged to a call-out?

13 A It probably cut our response time in half,  
14 to be honest with you, 'cause we were already geared  
15 up and we already had everything we needed uniform and  
16 equipment-wise, other than me having to go get my  
17 truck. Pieces of armor already had drivers. They  
18 were ready to go straight away. So, yeah, I'd say  
19 probably cut our response time almost in half.

20 Q And were you at North Precinct long or were  
21 you able to get your equipment along with  
22 Officer Harris relatively quickly?

23 A It was quick. We rolled in. I jumped out  
24 of the rig, used the bathroom real quick, jumped in  
25 and then myself, Officer Harris and another third



## Examination of Kelly VanBlokland

1 responder vehicle jumped in and we started running  
2 code towards our first staging location.

3 Q When you say "running code," what does that  
4 mean?

5 A Code 3, so I activated my lights, my siren.  
6 And so we just make sure we have everything lit up on  
7 our rig and audible as much as we can to basically  
8 protect ourselves and everybody else to give them  
9 notice that we're coming through as quickly as we can  
10 safely.

11 Q And as -- so -- and were you the person  
12 driving to the location or was anybody -- or was  
13 someone else driving to the location?

14 A I was by myself in my truck. I was driving.  
15 I was the lead vehicle. Leo Harris was behind me in  
16 his first responder vehicle. Then a third first  
17 responder that, to this day I don't know who that was,  
18 jumped in behind us.

19 So I was the first of three, which always  
20 causes me concern when you're running in a -- in a  
21 group of more than one vehicle. Everyone generally  
22 sees the first, so I always feel good about that, but  
23 then they tend to want to fall back in right behind  
24 you, so that raised my level of concern for the guys  
25 that were following me, so I was extra cautious as far

## Examination of Kelly VanBlokland

1 as really changing my siren tone, getting my --  
2 getting the -- not the PA, but honking my air horn a  
3 little bit, really putting people on notice to pay  
4 attention.

5 It was a pretty busy morning still, later  
6 that morning. It was like 9:00 -- I don't know,  
7 probably 9:20, 9:30 by then, I'll bet, but traffic  
8 was -- it was packed on Killingsworth.

9 Q And as you're doing that, were you able to  
10 monitor what was going on on the radio or the CAD as  
11 you responded to the scene or was your attention more  
12 focused on getting to the scene as quick as possible?

13 A Both. I turned my truck radio on East net.  
14 I still had my SERT net in my ear, so I'm trying to  
15 monitor both radios, trying to run code, play with my  
16 siren, my air horn, keep people out of the way. So my  
17 attention was really mainly focused on being that lead  
18 vehicle to protect the guys behind me and get us  
19 there.

20 So I picked up a few bits and pieces. I was  
21 able to glean from, I think, the East radio that they  
22 were currently doing evacuations on the motel, trying  
23 to isolate Room 16, which was giving me a major  
24 comfort they were getting things contained as much as  
25 they could. So I knew they had a good contingent

## Examination of Kelly VanBlokland

1       there that was dealing with the problem as best they  
2       could.

3               Q       But in your -- in driving there from the  
4       vehicle to the location, is that an example of while  
5       everything is out in the open air, sometimes different  
6       officers from their own individual perspectives may  
7       have other things going on that doesn't necessarily  
8       allow all the information to come in at once, given  
9       that there's other tasks and duties occurring  
10      simultaneously?

11             A       Yeah, that would be correct.

12             Q       Okay. So did anything else of note occur as  
13      you were driving towards the location or did you  
14      ultimately arrive at the location?

15             A       Finally made it down Killingsworth, which  
16      was, like I said, very -- very high pedestrian vehicle  
17      traffic that day. Once we got into I205 southbound,  
18      for being 9:30 in the morning, it looked like rush  
19      hour. It was basically at a standstill. All three  
20      lanes were crawling, very, very slow pace.

21                    And so I hate to do it, but there was always  
22      that big wide left emergency lane, so I opted to put  
23      all three of us in that emergency lane, which always  
24      has its own type of issues, 'cause people want to tend  
25      to take that lane when they hear a siren coming, so

## Examination of Kelly VanBlokland

1 again, that slowed me down and was really putting me  
2 on notice to pay attention to what people were doing  
3 more than what I could hear on the radio.

4 So I -- I didn't glean a ton of information  
5 other than the evacuations were occurring en route.  
6 On 205, the full team activation happened, so again,  
7 my phone started blowing up. My pager started going  
8 off, so I'm dealing with those as well, trying to  
9 silence those.

10 And, basically, the -- the page read very  
11 similar with the initial call from the motel as far as  
12 male took a female hostage to Room 16 and they believe  
13 the subject was high on meth is I think roughly the  
14 way the page read. And then I just continued to guide  
15 the three of us down I205.

16 We took Johnson Creek and then we basically  
17 were told we could respond straight to the problem.  
18 So I hit northbound 82nd and parked just south of the  
19 motel in the middle turn lane on 82nd.

20 Q When you were driving -- going back to the  
21 point of driving down 205 on that emergency lane, did  
22 you choose that despite some of the concerns mainly  
23 because you wanted to arrive at the scene quicker  
24 given how the situation was unfolding?

25 A Yes. If we hadn't taken that left emergency

## Examination of Kelly VanBlokland

1 lane, we would not have got there. It would have  
2 taken hours, the way traffic was traveling at that  
3 point.

4 Q When you arrived at the scene, what was the  
5 next thing that occurred?

6 A Once I arrived, I finish finished basically  
7 collecting some gear I thought I would need for that.  
8 I already had my AR15. I grabbed my gear bag that I  
9 could put my 308 precision rifle in.

10 I contacted Officer Harris, asked him -- I  
11 assume since we arrived together -- I didn't see any  
12 other inner-perimeter officers there -- that he and I  
13 would be deployed together.

14 So I contacted him and asked him if he had  
15 his 40-millimeter launcher with him, which is our less  
16 lethal system. He said he did, so I didn't bother  
17 grabbing mine. Then we contacted Sergeant Pete  
18 McConnell basically to see what he needed as far as us  
19 deploying, what missions needed to be done.

20 Q And, to your knowledge, when you arrived,  
21 had the hasty team already been deployed or was it in  
22 the process of being deployed?

23 A Yeah. Sergeant McConnell told me that he  
24 already had one inner perimeter team off of side one,  
25 which would have been the front door side with the

## Examination of Kelly VanBlokland

1       hasty team, so I knew we already had a hasty team in  
2       place, which gave me a measure of comfort. I already  
3       knew we had at least the front door covered by an  
4       inner-perimeter team.

5             Q       And so where did Sergeant McConnell then --  
6       well, let me ask this: Did you have some input as to  
7       where you and Officer Harris might be deployed or was  
8       that given at the direction of Sergeant McConnell?

9             A       I was confident (indiscernible) the Side One  
10       team, so he said the next position we needed to fill  
11       would have been the Side Three position. So he  
12       mentioned that there was a lot to the south.

13             It was -- it was a motel, so there really  
14       was not a two and a four side that would need  
15       inner-perimeter officers for, so that -- that helps on  
16       our deployment as well as far as giving us additional  
17       resources.

18             Rather than having four teams out, we now  
19       can have two teams out and we're starting doubling  
20       those teams, which is always nice on an event like  
21       this, to have more people looking at the same problem.

22             Q       Let me interrupt you real quick right there.  
23       So when you say two, four, just refresh our memory.  
24       Two, four meaning the east and west sides of the  
25       location where this is occurring, but the front door

## Examination of Kelly VanBlokland

1 is covered and all we need now is the rear covered by  
2 the inner-perimeter team?

3 A Yes, which would be the south side of the  
4 motel, so Side Three.

5 Q And so did you ultimately go to that  
6 location with Officer Harris?

7 A Yes. Sergeant McConnell pointed out that  
8 the lot in the back had some Conex boxes, which is the  
9 large shipping containers that you often see in the  
10 back of semis or on trains. He said that might give  
11 us an actual decent spot as far as looking down on the  
12 room a little bit.

13 I looked at the lot he was talking about and  
14 there was like an agricultural business there that  
15 owns that lot, I believe. And it was surrounded by a  
16 tall chain-link fence with razor wire on it. So I  
17 start scouting around.

18 The business is closed. I can't get in that  
19 way. The chain-link fence goes all the way around.  
20 There's a gate north of the business on the west side  
21 of the lot that's padlocked, but we can gain access to  
22 that.

23 So I told Leo I was going to go back -- Leo  
24 Harris that I was going to go back and grab a set of  
25 bolt cutters. Came back, passed those off to him and

## Examination of Kelly VanBlokland

1 we basically worked on cutting that lock so we could  
2 gain access to the lot.

3 While we were working with that lot -- or  
4 the lock, Officer Harris gets a cut on his finger, so  
5 we have to deal with that real quick with our medics,  
6 get him bandaged and then we deploy in the lot.

7 Q And as this is unfolding, are you receiving  
8 any new or aware of any updates that are occurred on  
9 the open net or as we learned before, the search She-2  
10 frequency?

11 A So I know they already have a hasty team in  
12 place. There's more SERT officers arriving, so  
13 they're going to start augmenting that hasty team in  
14 front with more of a deliberate team.

15 That's the next step is once you're there  
16 and you have enough people and it turns into -- and  
17 you have a good plan for -- for the mission, they  
18 start calling a deliberate team.

19 I knew they were working on what they call  
20 gun port charges. We have several breachers that deal  
21 with explosives, so they were putting gun ports up on  
22 both sides in the adjacent rooms that would gain us a  
23 visual access into that room if we did have to make  
24 some type of entry. So I knew that was in the works.

25 Q And was there any information yet coming out



## Examination of Kelly VanBlokland

1 in the open net as to whether or not -- well, let me  
2 ask -- let me take a step back.

3 In your training and experience as both in  
4 scenarios as well as working inner perimeter, how  
5 critical a role does the crisis negotiation team or  
6 CNT play in either, A, fact gathering; or, B, defusing  
7 the situation to require less aggressive measures by  
8 the SERT team?

9 A The fact gathering and the deescalation is  
10 CNT's primary role. That's what they do. They're  
11 very good at what they do. I knew they were already  
12 on scene because we had the contingent of CNT who were  
13 with us. And I think I remember seeing their big gear  
14 van as well when I -- when I showed up initially.

15 So I knew they had probably not got their  
16 whole team there yet, but a small contingent who could  
17 start working on trying to figure out who the people  
18 are inside, relationships, to start gathering intel  
19 and at some point to start trying to make contact to  
20 deescalate, defuse and help resolve the crisis.

21 Q What happened next?

22 A Once we got into the lot, I was scouting for  
23 a position for us to set up. I looked at the Conex  
24 boxes and there was just no great way to get up there.  
25 There was no ladder system. There were no ladders

## Examination of Kelly VanBlokland

1 around.

2 So I started looking for an alternative  
3 position to set up. So I walked around to the north  
4 side of the Conex boxes. They were basically at maybe  
5 a 30-yard gap or 40-yard gap between the -- the  
6 closest Conex to the motel and the motel itself.

7 And there was a flat bed pickup truck that  
8 was actually in a decent position. It had wooden  
9 rails on the side of it, so I'd have some support.  
10 And so I told Officer Harris, I said, "Hey, let's just  
11 set up here initially so I can get eyes on."

12 I had a rough idea of where Room 16 was in  
13 the bank of motel windows. I look at the back side of  
14 the motel. I'm looking at the windows and they're  
15 kind of set up in twos. So my initial assessment was  
16 that probably each room has two windows that allow  
17 visibility in and out of the -- the motel rooms.

18 Q And you said you're trying to get eyes on.  
19 Explain that. What were you hoping to accomplish in  
20 getting into your position? You mentioned you were  
21 trying to get eyes on to the hotel.

22 As inner perimeter, what was your primary  
23 focus in trying to get into position in this  
24 particular scenario or incident?

25 A At that point, I wanted to identify where

## Examination of Kelly VanBlokland

1 the problem was and see if I could start gathering  
2 information for the team and for both teams, CNT and  
3 SERT at that point, to start relaying what I'm seeing,  
4 give the most real time updates, as I said, a big part  
5 of our role as inner-perimeter officers.

6 Q Were you able to get set up into the truck  
7 at the rear of the hotel?

8 A Yes. The flat bed truck, it was easy to  
9 step right into. I set my gear up, stepped up and --  
10 this event was very high energy from the get-go. I  
11 mean, it never slowed down.

12 And so I, based upon my training and  
13 experience and my understanding of my weapon systems  
14 and ammunition, I chose to stay with my AR15 and had a  
15 significant -- enough optic on. It's got a one to six  
16 power scope on it.

17 And I was close enough to the problem and I  
18 knew six power would be more than I'd ever need for  
19 this. And I also knew dealing with this motel, the  
20 odds were was probably single-pane residential glass.

21 And ammunition choice that I chose, I knew  
22 if I had to take a shot through glass, it would  
23 penetrate, stay together and not deviate from my  
24 point -- point of impact much. So I just chose to  
25 stay with my AR15 and not set up my 308 precision

## Examination of Kelly VanBlokland

1 rifle.

2 Q Go into that sequence of thought processes  
3 that you had. You've been in SERT since 2007. You're  
4 a firearms instructor. You've gone through 520 plus  
5 hours of training per year in addition to whatever  
6 actual live incidents you've responded to.

7 That calculation that you made in your head  
8 as to keeping your rifle, keeping that particular  
9 scope and keeping a particular set of ammunition, how  
10 quickly of a decision-making process is occurring as  
11 you make that decision, given how much experience you  
12 have in this particular field?

13 A It was pretty immediate, to be honest with  
14 you. It just occurred. I didn't have to really put  
15 any thought into that. I -- I know the ballistics of  
16 my ammunition. I know what they're capable of and  
17 their limitations.

18 I know that the 308 precision rifle has some  
19 limitations as well. And I just knew as close as we  
20 were to this problem, that that was going to be the  
21 best selection, so I just stayed with it. It was  
22 instant.

23 Q So in addition to providing intelligence and  
24 fact gathering, is it fair to say that the dynamics  
25 that you observed either through the net or

## Examination of Kelly VanBlokland

1 information that you were receiving from She-2, was  
2 factoring into the decision making process for you as  
3 to exploring all options in protecting the person  
4 inside?

5 A Absolutely.

6 Q And so let's talk about that. At this stage  
7 as you're setting up, what were some of your concerns  
8 about the person inside? What did you know and what  
9 were you worried about?

10 A Well, at this point, what I knew about the  
11 male subject inside was that he's already shown his  
12 willingness to do violence. He'd been in an  
13 altercation with a subject.

14 I think it eventually turned out to be at  
15 the 7-Eleven I think across the street, but I  
16 initially thought it was at the Del Rancho or around  
17 the Del Rancho Motel. But he attempted to stab an  
18 individual, so I knew he was absolutely willing to do  
19 violence.

20 He'd been seen with a knife. He was armed  
21 with a knife. Knives are incredibly dangerous tools.  
22 Anybody that has any kind of skill, really not even a  
23 skill. I mean, he can cut you and poke holes in you  
24 as fast as they can move their hand.

25 And knife wounds could be very traumatic.

## Examination of Kelly VanBlokland

1 If you hit an artery, you bleed out in a matter of  
2 less than a minute depending on what artery's severed.  
3 So I was very concerned for her. At this point, I  
4 didn't know the relationship between she and he.

5 I knew that he was using her basically to  
6 keep everybody at bay, put her in harm's way. I was  
7 afraid that -- they hadn't said if she'd been injured  
8 yet, but I was afraid if he was injuring her, no one  
9 would know.

10 That's another fear about a knife is they  
11 can be utilized with no one ever knowing it's  
12 happening. And so there's a lot of fears in my mind  
13 as far as what was going on in that room.

14 Q So as you're setting up, you have your rifle  
15 in place, you have your scope, you're getting into  
16 position. And is Officer Leo Harris with you at this  
17 point in -- in that area of the truck?

18 A Yes, he is. He's still down on the ground.  
19 He's setting up some gear. He's getting his spotting  
20 scope out, which is the higher magnification scope  
21 that I was talking about, the 60 power.

22 And he was also just kind of looking. We  
23 always scout for better positions. You want to look  
24 always to better our position if we can, so he was  
25 still looking around to see if we could gain access to

## Examination of Kelly VanBlokland

1 the Conex, I believe, and just seeing if there was  
2 somewhere better than where we were currently at to  
3 set up.

4 Q And as this is, again, continuing, is there  
5 any more information filtering in to you from either  
6 the crisis negotiation team or fellow SERT officers,  
7 part of the hasty team?

8 A I knew they were working and they talked  
9 about working on the gun port charges, so I knew that  
10 was in place, which is a big piece of our deliberate  
11 plan for a hostage rescue if we do have to execute  
12 one.

13 So I knew that was occurring, which was  
14 giving me a measure of comfort, that they're  
15 solidifying their plan. They're really working on  
16 getting their deliberate plan in place.

17 I -- I had a conversation -- Leo Harris and  
18 I had a conversation about just wanting to narrow down  
19 which bank of windows we were looking at. Information  
20 had come out -- I don't remember exactly what point --  
21 that we had SERT members in both adjacent rooms on  
22 both sides of 16.

23 So Officer Harris got on the air and asked  
24 the SERT members inside to come to their windows  
25 closest to the Room 16 and basically just open them up

## Examination of Kelly VanBlokland

1 and look at us.

2 Prior to that as I was looking through, I'd  
3 seen movement through the clear glass window that I  
4 suspected belonged to Room 16. It looked like I saw  
5 somebody kind of -- almost looked like they were  
6 facing back and forth.

7 And I could see light-colored skin, so I  
8 knew all of our guys were wearing helmets. And so I  
9 was relatively confident that I was looking through  
10 the clear pane glass window of Room 16.

11 And once the SERT members came and  
12 identified which rooms they were in, then that locked  
13 it down. I absolutely knew that I had seen a subject  
14 walk back and forth in Room 16 in front of the window.

15 Q Do you recognize this vantage point or  
16 this -- a picture of this location?

17 A Yes, I do.

18 Q And when you were trying to get eyes on the  
19 correct room, were you able to get SERT members from  
20 each area to direct you to the appropriate room and  
21 confirm whether you were correct?

22 A Yes.

23 Q And were you correct in which room you  
24 suspected was that Room 16?

25 A Yes, I was.



## Examination of Kelly VanBlokland

1           Q     Okay.  So after they were able to confirm  
2     that room, what happened next?

3           A     I continued to watch my two windows, trying  
4     to gain information.  Like I said, I'd seen the person  
5     kind of pacing back and forth and, in fact, they were  
6     deeper in the room.  It was a bright, sunny day, dark  
7     in the room, so I really -- my vision couldn't  
8     penetrate very deep in the room.

9                     My eyes were adjusted to daylight and I'm  
10    trying to look into a dark room, so I didn't have the  
11    ability to see very deep in that room.  From my  
12    training, scenario-based training, I know that on a  
13    day like this, the room's dark.

14                    For me to really get a good facial  
15    recognition on somebody, they're going to have to be  
16    within probably a foot and a half, maybe two feet of  
17    that window for the ambient light from outside to  
18    shine on them enough so I can get some type of facial  
19    recognition to recognize somebody.

20                    So I knew in order for me to get  
21    information, anybody inside would have to get awfully  
22    close to that window anyway.  So I'm running through  
23    that in my mind as well, just trying to understand  
24    that if I see anything, it's not going to be very --  
25    very far from that window.

## Examination of Kelly VanBlokland

1           At some point after I see him in the window,  
2 there's information broadcast that I think CNT had  
3 finally identified who the subject was inside as  
4 Samuel Rice.

5           And our intel officer said that they were  
6 going to be sending out a photograph of him to us.  
7 And they usually do that via e-mail or a text. It  
8 also came out at that point that I think that also had  
9 potentially identified the female inside.

10           And I -- I think eventually came out that  
11 that was a girlfriend. I thought I heard wife at the  
12 time. I can't remember exactly which I heard, which  
13 also and -- and they stated there was a history of  
14 domestic violence between the two.

15           And so that also raised my level of concern  
16 for her safety. With a -- with a stranger-to-stranger  
17 hostage event, there's no -- there's no connection to  
18 the hostage. There's no passion. There's no emotion  
19 there.

20           The hostage is potentially just to tool for  
21 them to safely resolve a problem. But with a history  
22 of domestic violence, he's already shown his  
23 willingness to do harm to her, so that starts to  
24 escalate that he's already been willing to try to stab  
25 somebody at the 7-Eleven.

## Examination of Kelly VanBlokland

1           He's grabbed now I know his wife or  
2 girlfriend and drug her in this room at knifepoint and  
3 threatened to do her harm as he did so.

4           And now there's this relationship piece  
5 there that make makes, in my mind, him even more  
6 unpredictable as far as what he's going to do to her  
7 or how he may use her in this event. So my level of  
8 concern for her is ever increasing.

9           Q     And given your training and experience  
10 either as a Portland police officer or as a SERT  
11 responding officer, have you seen the unfortunate  
12 tragedies of domestic violence situations where males  
13 have used lethal force against their significant  
14 others with a knife that were both legal or at least  
15 caused serious bodily injury?

16          A     I've seen domestic violence with knives. We  
17 were on a call-out where the significant other  
18 actually beat her to death with his fists. We  
19 responded to that. Unfortunately, she was already  
20 dead before we ever arrived.

21          But, yeah, it runs it gamut of anyone  
22 willing to do harm against somebody will use whatever  
23 means necessary to achieve that.

24          Q     As that information filtered in, did you, in  
25 this entire process -- let me -- let me take a step

## Examination of Kelly VanBlokland

1 back.

2           When there's other scenarios with SERT  
3 call-outs and the crisis negotiation team is involved  
4 and trying or actually engaged with the occupant of  
5 the location, did you have any information indicating  
6 that CNT was having success in having conversation  
7 that would potentially deescalate or slow the energy  
8 in this particular incident?

9           A     Not up to this point in the call-out, no.  
10 I'd heard no information that CNT had any -- any  
11 success up to right now where I'm talking with  
12 communications with Mr. Rice.

13           Q     What was the next thing to occur or bit of  
14 information that you received?

15           A     Several of the entry officers inside  
16 broadcast that they could hear the sound of heavy  
17 furniture being moved inside and they believed that he  
18 was barricading the front door, which, again, is  
19 starting to raise my level of concern.

20                     This isn't -- this isn't normal behavior.  
21 It's someone who's trying to fortify their position  
22 and prevent us from helping anybody. And so now I  
23 know that those gun ports are incredibly important.

24                     It's a mechanical device. They're relying  
25 on the ability for everything to detonate properly and

## Examination of Kelly VanBlokland

1 for people to be in the right rooms if they have to  
2 make an entry to be there to intervene and protect  
3 somebody.

4 So I've seen many successes with them and  
5 I've also seen failures with gun ports. Depends on  
6 where they hang them on a wall. Did they properly  
7 span the two by fours. Is it efficient enough to tap  
8 the water through and push away enough sheetrock to be  
9 able to see.

10 So there's a lot of variables in there that  
11 I have great confidence in but I'm also concerned  
12 about. Things go wrong. I heard them start talking  
13 about starting to build through-wall charges. Now  
14 that they know the front door's barricaded, they're  
15 starting to think how else are we going to gain access  
16 to this.

17 This room only has really one main way of  
18 getting in, which is the front door. He just took  
19 that away from us and made it incredibly challenging  
20 now for us to get in quickly, efficiently and save  
21 somebody if need be.

22 So that's raising my level of concern as  
23 well. If she does start screaming or if we do decide  
24 we have to make an entry to save her life, it's going  
25 to take a lot more time for our entry team to get in,

## Examination of Kelly VanBlokland

1 locate them, assess and do what they need to to  
2 protect her.

3 And so, yes, this event is -- again, the  
4 energy was just -- kept climbing and climbing and my  
5 level of concern for her, it just continued to grow  
6 throughout the course of this.

7 Q And in that context, when there's barriers  
8 or as the information is being relayed to you and the  
9 barricades and barriers are being put in place, one,  
10 how does that impact from your training and experience  
11 and your thought process the reaction time in trying  
12 to intervene on any violence between him and her?  
13 Does it create more time or less time for you or other  
14 SERT officers to intervene if she's in danger?

15 A Any barricade that we have to negotiate will  
16 -- will add time to what we have to do. If you -- if  
17 you fortify and block the front door, the tools we  
18 normally use to breach that to gain entry are now  
19 diminished.

20 A heavy dresser or bed frame, now our  
21 standard two-person key hitting that is against more  
22 resistance and so they're going to have to find  
23 different ways and potentially use explosives now to  
24 take that door away so it folds in half as opposed to  
25 being trying to push in, so all that takes more time

## Examination of Kelly VanBlokland

1 to build. And so it lengthens our ability to get in  
2 to the event.

3 Q And in that context as well, based on your  
4 training and experience, either scenario-based or in  
5 actual incidents, when those barriers or obstructions  
6 are put in place, is anybody else potentially in  
7 danger when there's a breach besides the victim who  
8 you have the SERT officers are trying to rescue?

9 A Yes. It changes our tactics a little bit as  
10 far as how we have to enter. We have certain ways  
11 that we can enter safely to cover angles and make sure  
12 we're -- we're protected as we enter as well.

13 And now, having to negotiate a barricade,  
14 even with an edge weapon, it now affords someone the  
15 opportunity to do the victim additional harm, or more  
16 harm. Our ballistic vests aren't knife-proof.

17 It'll stop handgun bullets, but you can stab  
18 right through them. So, again, that's raising concern  
19 that if someone gets hung up through the barricade and  
20 he's there to ambush them, they have really no  
21 protection against that.

22 Q And even with the armor or Kevlar  
23 protection, are their joints or arterial areas that  
24 are not necessarily going to be as protected as other  
25 centralized areas for the SERT officers trying to make

## Examination of Kelly VanBlokland

1 entry into this breach?

2 A Well, your arms aren't protected, so they  
3 have access to underneath your arms where your major  
4 arteries are. Your neck's not protected. Your groin  
5 area's not protected. So all your major arteries  
6 other than your heart and organs really don't have a  
7 ton of coverage.

8 Q And, again, I know you're striking a lot of  
9 information in a short period of time, but given the  
10 hundreds of hours of experience over many years, are  
11 all of these things instinctively going through your  
12 mind as you're observing this room and other  
13 information is filtered in?

14 A Yes. And that's -- these are things that  
15 I've encountered enough with 25 years as a police  
16 officer just to know as far as the dangers of certain  
17 types of weapons against civilians and law  
18 enforcement.

19 So to be honest with you, it's -- it's one  
20 of those things that naturally occurs for me at this  
21 point, which is a luxury for me on a call-out like  
22 this because I can focus on the task at hand and not  
23 put a ton of thought process into the things I already  
24 know.

25 The information is just there. And so I



## Examination of Kelly VanBlokland

1 just use that from my prior training and experience to  
2 start basing my actions and judgment based on the  
3 totality of the circumstances as far as what's already  
4 occurred, what they're armed with and what they're  
5 capable of doing.

6 Q And, at this stage, even though you've heard  
7 now information from the SERT officers about  
8 barricades and furniture potentially being moved, have  
9 you yet received any information from CNT or the  
10 Crisis Negotiation Team indicating that all of the  
11 energy in this incident is defusing or diminishing?

12 A No. There's been no information from CNT  
13 that they've had any luck yet with contacts and the  
14 energy level was still rising.

15 Q What's the next -- what happened next and --  
16 as it's unfolding?

17 A So shortly after the information came out  
18 from the entry team that they heard him moving  
19 furniture and barricading that front door, I'm  
20 watching my windows responsibility. As I mentioned  
21 before, there were two banks of windows, a clear pane  
22 glass window on the left; an opaque glass window on  
23 the right.

24 The clear pane glass window was partially  
25 obscured with a blind or a drape was partially across.

## Examination of Kelly VanBlokland

1 And so I'm obviously focusing more on that window  
2 'cause I can still see into it. The opaque glass  
3 window is frosted. I can't see in, so I've got really  
4 one window to focus most of my attention.

5 And, at this point, I'm roughly 20 yards  
6 from the windows, so I'm mostly looking over the top  
7 of my optic, because you get eye fatigue if you look  
8 through it too long. So I'm just watching, gleaning  
9 information. I can watch both windows easier.

10 And as I'm watching the clear pane glass  
11 window, I start to see movement, so I focus my  
12 attention more on it. And what I'm -- what I see is  
13 Mr. Rice. I already had a picture pushed out to me,  
14 so I know who I'm looking for at this point to  
15 identify Mr. Rice.

16 And I see him push a bed mattress up against  
17 the -- the Side Three, the south side wall of this  
18 motel room. And he starts to obscure this clear pane  
19 glass window. He's pushing the mattress up against  
20 this window, which is the only one we can see through.

21 And that immediately confirms what I had  
22 heard the entry team say where he fortified that front  
23 door. He's now taking me as to fortify the back entry  
24 point which would be the windows for whatever we can  
25 see in or do with.

## Examination of Kelly VanBlokland

1           As I'm watching Mr. Rice push -- push this  
2 mattress against the window, I'm looking at his hands.  
3 And I've got -- already identified him. He pushes the  
4 mattress up and his left hand's open, which would be  
5 consistent with moving an object.

6           You're using the most surface area that you  
7 can so you have the best footage on it as he's pushing  
8 this mattress up. The left hand's open. I can see  
9 the fingers over the top.

10           But his right hand is curled up in a fist.  
11 That immediately caught my attention. It's odd.  
12 It's, like, you don't move objects that way unless  
13 you're holding onto something. And so I already know  
14 it's him, so I -- I start focusing my attention on  
15 that right hand. I'm trying to figure out what  
16 he has.

17           We know he's already been seen armed with a  
18 knife, but I'm really trying to figure out, does he  
19 have access to other weapons in this room. If I see  
20 him with a gun in his hand, that changes the whole  
21 dynamics of this for our guys on both sides of that  
22 room, 'cause they're -- they're going off the  
23 information he's armed with an edged weapon, not  
24 something that can fire bullets and penetrate  
25 sheetrock, which changes the dynamics of where they

## Examination of Kelly VanBlokland

1 might need to be in the room.

2           They may have to bring up shields to fortify  
3 their position. So I'm visually interrogating his  
4 hand, trying to figure out what he has. And I just  
5 can't figure out the shape of it.

6           And he gets the mattress in place and he  
7 just stops. And I'm in plain view at this point to  
8 take into consideration what he had as a weapon. I  
9 wasn't concerned as much with my position of safety.  
10 I felt safe being 20 yards away from the window.

11           But, again, if it's a firearm, that's going  
12 to change where Officer Harris and I need to be and  
13 what we need to do to protect ourselves as well. So  
14 I'm looking at that hand and I just can't figure out  
15 what it is and I'm staring and he's staring directly  
16 at me.

17           And he's just got this stone-cold face look  
18 and he's just glaring at me. It's like -- it's almost  
19 like we could sit here and make eye contact from  
20 two feet away. It was that type of intensity as he's  
21 looking at me.

22           But I go back to his hand and eventually I  
23 see him almost point at me, like he rolls his hand  
24 like he's got a stick or something in his hand that  
25 he's pointing at me. I can see -- I can his fist. I

## Examination of Kelly VanBlokland

1 can see his thumb. But I'm just looking at a  
2 rectangle-shape object.

3 And I'm looking at this rectangle shape, and  
4 immediately, I thought firearm. But then I could see  
5 right away that there wasn't a barrel. It wasn't --  
6 it wasn't -- it wasn't a firearm that I was familiar  
7 with of any kind.

8 And I'm looking at it and I see a little  
9 glint. And, again, laser pointer came to mind. I  
10 said, no, it's the wrong color. It was just a flash  
11 of light. And I'm trying to figure out what this is  
12 and he's still staring at me and I'm looking at his  
13 hand and he's pointing this object at me.

14 And then he disappears and he pulled his  
15 hand down and he takes that drape and drapes it  
16 across. And I think I had a brief conversation with  
17 Officer Harris as far as what I had seen; that I  
18 couldn't immediately identify it and then I went back  
19 to watching the windows.

20 And I -- and now the window's taken away  
21 from me. I can't see in. I'm looking at two panes of  
22 glass, the opaque and the clear, but now I have no  
23 visibility in. And my --

24 Q Let me interrupt you real quick if you  
25 don't mind.

## Examination of Kelly VanBlokland

1           A     Sure.

2           Q     You mentioned you had a brief conversation  
3 with Officer Harris. Do you recall what, if any, of  
4 that substance of that conversation was?

5           A     I can't remember details, other than I think  
6 I told him that he had barricaded the window as well  
7 and that he was holding something in his hand. I'm  
8 trying to still work through what I had seen  
9 with that.

10          Q     Okay. And what happened next?

11          A     And so we've got time. I'm now watching  
12 these two windows. I -- my heart kind of sinks,  
13 because now I have -- I have no ability to get intel  
14 on what's going on. He's taken away my only view into  
15 this.

16                   I have really no way of intervening now if  
17 something -- if something happens in the room. I  
18 can't see anything. He's taken away my vision. And  
19 as I'm working through that thought process, it clicks  
20 in my head what I had seen him holding.

21                   And I had -- and I don't know how I came to  
22 it, but I realized he was pointing a knife at me. He  
23 was sitting in that window, pointing this knife at me,  
24 staring at me. And what -- what I couldn't see was  
25 the blade, because it was pointed straight at me.

## Examination of Kelly VanBlokland

1           I'm seeing the, basically, the hilt of this  
2 knife, this rectangle shape. And the glint I saw was  
3 he had changed angles on it just enough to catch the  
4 sunlight.

5           And luckily I was in the right spot to catch  
6 that visually so I was able to put that all together  
7 at that point and realize that, yes. So we had  
8 witness information that he was armed with a knife and  
9 now I have my own personal knowledge that, yes, he's  
10 in that room, she's in that room, and he absolutely is  
11 armed with a knife.

12           Q     Was there any thought now that you've lost  
13 visual and the energy or how much the incident's  
14 escalated as to kind of what you did, what you were  
15 doing, what you should have done, what you could do at  
16 that point?

17           A     I was thinking I may have lost an  
18 opportunity to resolve this incident the first time I  
19 saw him. At that point, we had witnesses information  
20 that said he was armed or potentially armed with a  
21 knife; but the nice thing about our team is we bring  
22 an incredible amount of patience and tolerance to  
23 these events.

24                     We absolutely want to resolve them in the  
25 safest way possible for the person inside, the suspect

## Examination of Kelly VanBlokland

1 or the subject inside that took her hostage and for  
2 the members involved.

3 And so that's the nice thing about receiving  
4 all the additional training is we can run through all  
5 these past scenarios, whether they be real or  
6 scenario-based training to have this decision-making  
7 process of bringing more time and tolerance and  
8 understanding the tools we bring to these events as  
9 well gives us all more options.

10 But I was second guessing myself once  
11 that -- once my vision went away, that I would never  
12 see him again. He was going to injure or kill her and  
13 my opportunity to prevent that was gone.

14 Q After he was able to obscure and barricade  
15 that window, did you receive any other updated  
16 information from either the Crisis Negotiation Team or  
17 SERT officers on scene?

18 A I remember catching some information that  
19 they had made a priority out of the through wall  
20 charges 'cause they knew the front door was  
21 barricaded.

22 I never was able to get on the air nor  
23 Officer Harris I'm aware of to say that he had  
24 barricaded that Side Three window as well and that  
25 vision was gone. The energy from Room 16 was so great



## Examination of Kelly VanBlokland

1 that we just had to keep dealing with problems. And  
2 so the air saturation was incredible.

3 We couldn't get on to even tell them updates  
4 that we were seeing him or any of his actions. And at  
5 that point, I would have loved to have got that  
6 information out, but they already were basing their  
7 deliberate plan on the fact that he had barricaded the  
8 front door and they would have to find a different way  
9 into that room, utilizing the front door and  
10 potentially a through-wall charge to gain access if  
11 they needed to.

12 So the information at that point was I think  
13 more crucial, at least for Officer Harris and I to  
14 have than -- than the entry team inside. So I didn't  
15 try to get on the air to get that out because what  
16 they were doing, in my mind, was more important than  
17 what I had seen, for them.

18 Q And was there any information coming out  
19 regarding any additional threats by the person later  
20 identified as Mr. Rice in regards to his reaction or  
21 threats regarding law enforcement and the victim  
22 inside?

23 A So I'm continuing to watch the closed  
24 windows. There is information broadcast a short time  
25 later from I believe our intelligence-gathering

## Examination of Kelly VanBlokland

1 officers that we also have assigned to the team.

2 Their -- their main role is they'll be  
3 embedded with the Crisis Negotiation Team, so they're  
4 giving us as much realtime feedback as they can as far  
5 as what negotiations are occurring and -- and what  
6 those -- the flavor of those negotiations, are they  
7 being successful, are they not being successful, that  
8 type of thing.

9 And information was broadcast that CNT was  
10 on the line with Mr. Rice; that he had basically made  
11 some rambling comments; and that he had made the  
12 statement that the police need to leave or better  
13 leave -- I can't remember the exact quote -- or I'm  
14 going to cut her throat and then hung up on CNT.

15 And, again, it just went into the totality  
16 of circumstances for me that he's already done harm.  
17 He's made a threat to her before when he drug her in  
18 the room and now he's making an unrealistic demand  
19 with us having to leave or -- or he's going to slit  
20 her throat or cut her throat and kill her. And we  
21 can't leave. We know that. He knows we can't leave.  
22 We're there because of the crisis and a hostage event.

23 And so, again, the energy just keeps  
24 continuing to build. He's putting an unrealistic  
25 demand on us that's not going to happen with no

## Examination of Kelly VanBlokland

1 request as far as how to defuse this, so the energy's  
2 just continuing to climb.

3 Q So, at this stage, before anything else  
4 happens, in summary, what had you learned then both  
5 from the initial call, which still, by my  
6 understanding is less than an hour or about an hour,  
7 from the initial call from the 7-Eleven where do you  
8 find yourself in the next portion of the incident  
9 chronologically, what did you know for yourself in  
10 totality about this now scenario?

11 A Well, I know the initial part of it was he  
12 tried to stab someone at the 7-Eleven, a felony  
13 Assault II or Attempt Assault II. He then retreated  
14 back to Room 16.

15 He has effectively taken a hostage at  
16 knifepoint, kidnapped her, which is again another  
17 felony, and drug her in the room against her will.  
18 And now he is fortifying his location inside to  
19 prevent us from having easy access to potentially save  
20 her life if we need to.

21 The energy's continued to build. He's now  
22 got on the phone, made an additional unrealistic  
23 request for us to leave or he's going to cut her  
24 throat. Energy's continuing to build.

25 He's already shown his propensity of

## Examination of Kelly VanBlokland

1 violence with attempting to stab a person at the  
2 7-Eleven and the domestic assaults before, potentially  
3 high of methamphetamine, which is a stimulant, makes  
4 people unreasonable, irrational and nervous.

5 So there's just a lot of pieces of this that  
6 is bringing this to, in my mind, it's going to have to  
7 be some type of a tactical resolution. CNT is not  
8 having the ability to defuse or deescalate this event.

9 He's not making requests of how he wants to  
10 peaceably leave this event and helping CNT with that  
11 piece. We can only negotiate with those that want to  
12 be negotiated with.

13 Q So what happened next?

14 A They -- again, intel got on and said that we  
15 did have a good victim at the 7-Eleven. They did want  
16 to go through with charges for an Assault II, so I  
17 knew we had a good -- good crime to follow through on  
18 that, so that crime did occur.

19 Sergeant Livingston then gets on the air and  
20 says that, hey, if we hear yelling from inside,  
21 they're going to execute their deliberate plan and  
22 make entry into the room to save her life.

23 And I know he's got an edged weapon. He  
24 can -- he can -- he could kill her or injure her and  
25 it wouldn't make a noise. And, in my mind, we need to

## Examination of Kelly VanBlokland

1       intervene and do something about this. He is going to  
2       kill her.

3                   And I try to get on the air. Again, the  
4       air -- the radio is just saturated. I'm pushing my  
5       communication button and all I'm getting a honk 'cause  
6       it won't go through 'cause other people are talking.

7                   I'm trying to get on the air and basically  
8       put my entry guys on notice, my sergeants on notice,  
9       the lieutenant, the entire command staff on notice  
10      that base on what I know, the totality of the  
11      circumstances, based on this event, what I have right  
12      now, if I see him again, I'm willing to use lethal  
13      force to end this event.

14                   And I could not get on the air to put them  
15      on notice. And so I think I voiced that to  
16      Officer Harris that I can't get on the air. Here's  
17      what -- here's what I'm thinking. I went right back  
18      to watching these windows in just hopes of some  
19      fleeting chance to intervene and save her life.

20                   Q       And what in addition to -- in addition to  
21      giving just command overall notice on what you're  
22      thinking just for your team members, what would be the  
23      benefit of letting them know what you're -- what  
24      you're hoping to accomplish if -- if the situation  
25      presents itself?

## Examination of Kelly VanBlokland

1           A     The entry team needs to know that where my  
2     thought process is because they have to, A, be  
3     prepared that if I do have to fire from outside to  
4     intervene in this, they need to be follow up with  
5     their deliberate plan.

6                     So it puts them on notice, that hey, let's  
7     get our ducks dialed in, finish what we're doing,  
8     continue to work on through wall charges, but it puts  
9     them on notice that we need to tighten this up and be  
10    ready to -- to initiate and execute this deliberate  
11    plan if something happens.

12           Q     So what happened next?

13           A     I continued to watch both these windows.  
14    Again, my focus is on that clear pane glass, because  
15    that's where I've seen all the activity.

16                     And all of a sudden, the opaque glass window  
17    comes open and I'm fairly surprised, to be honest with  
18    you, that it opened up. I -- it just seemed unnatural  
19    for someone that has done all this to expose himself  
20    to the police.

21                     They already know they've committed an  
22    Attempt or Assault II. They've taken a person  
23    hostage. And I see this window come open and he's  
24    just sitting there staring at me. I can see him, full  
25    face from, you know, mid-neck probably up.

## Examination of Kelly VanBlokland

1                   And he's got just that stare again. He's  
2 looking at me and just staring at me in my location.  
3 And, literally, I'm looking. I feel like I'm having  
4 eye-to-eye contact with him.

5                   At this point, I'm looking through my optic.  
6 And, in my mind, I knew he was doing one thing. He's  
7 made the demand that the police better leave or I'm  
8 going to go cut this girl's throat. He knew he had  
9 quick access to find me to see if we were complying  
10 with that demand.

11                   And I'm having this -- I was just looking at  
12 him and he's staring at me and I'm staring at him.  
13 And I know that if I allow him to walk away from that  
14 window, he's going to go cut her throat.

15                   And I quickly run through my mind as far as  
16 where my guys are in the hotel. And I know they're in  
17 positions of safety. They're on both sides of the  
18 rooms. I -- I don't think anybody's on Side One of  
19 that room with the front door, which I know is my back  
20 stop if I fire a round.

21                   And it seemed like it took forever for me to  
22 roll through these thought processes. And I said the  
23 other one seemed instantaneous and I'm sure this was a  
24 whole lot quicker than it felt like. But I was just  
25 concerned as I'm rolling through this that he's going

## Examination of Kelly VanBlokland

1 to disappear and I'm going to lose this chance to  
2 save her.

3 And I -- I figure out in my mind that  
4 everyone's going to be safe and I fire one round. And  
5 Mr. Rice disappears from the window and I, by the  
6 grace of God, the air opened up and I was able --

7 Q It's okay. Take your time.

8 A I was able to get on the air and tell the  
9 entry team that I'd fired a round, that the suspect  
10 had gone down and that was from Side Three. And  
11 basically at that point I continued to watch my  
12 window.

13 I basically started hearing. I heard some  
14 loud booms, which would have been consistent with the  
15 gun ports going off. Then I heard a bunch of wider  
16 banging noises, which, all right, I know they're --  
17 they're keying the door and it's not going.

18 And I know he's barricaded it. And,  
19 eventually, I hear flash-bangs go off, so I know  
20 they've cleared the entry point and they're getting  
21 into the room and it felt like it took ten minutes,  
22 but eventually get on the air and said that he was  
23 down and the hostage was safe.

24 And, at that point, I relaxed. I quit  
25 watching the window and grabbed my rifle at that point



## Examination of Kelly VanBlokland

1 and knew that she was okay.

2 Q Officer VanBlokland, when you wake up in the  
3 morning and do certain activities of working inner  
4 perimeter, did you ever envision or hope or plan that  
5 you would ever have to find yourself in this position  
6 to do what you did that day?

7 A I've been doing law enforcement work for  
8 over 25 years and I've never had to use lethal force  
9 in my life. And coming up on the end of my career, I  
10 felt very fortunate that I hadn't and thought maybe  
11 I'd make the last two years of my career without ever  
12 having to shoot somebody.

13 And I've prepared for it. I've trained for  
14 the last 11 years or the last 27 years with the idea  
15 that at some point I'm going to have probably defend  
16 my life or somebody else's, but with the hope that I  
17 never would have to.

18 I knew that in that moment if I didn't take  
19 that opportunity, I wouldn't be able to sleep at  
20 night. I knew that if he went back from that window  
21 and went and cut her throat like he said he was going  
22 to, I wouldn't be able to sleep. I wouldn't be able  
23 to live with myself for not being able to do my job.

24 Q And we're obviously being audio recorded and  
25 may or may not be clear, but obviously the -- as you

## Examination of Kelly VanBlokland

1 describe it, the emotions are getting to you and  
2 that's understandable.

3           What's going through your mind right now as  
4 you are trying to relive and recollect about this  
5 (indiscernible) that's taken place as you communicate  
6 to the grand jury?

7           A     I'm just -- I feel super fortunate that I  
8 was there in the right place at the right time and had  
9 the ability to save her life.

10           It's very unfortunate that I had to do what  
11 I did, but knowing that she's okay and knowing that  
12 all of my team members are okay and I was able to get  
13 on the air and tell them what had occurred and what  
14 they needed to do was huge.

15           Q     And did you believe both at that time and as  
16 you recollect, do you believe at this time did you  
17 have any other option other than the action that you  
18 took that day?

19           A     No, there was no other option at that point.  
20 There was no communication. There was no  
21 deescalation. The only option I had at that point was  
22 to fire that round.

23           Q     Now, when that was completed, do you recall  
24 telling anything to Officer Harris as you watched the  
25 scene process -- it may have seemed like taking

## Examination of Kelly VanBlokland

1 forever -- and -- and as you were getting prepared for  
2 the scene to turn from a SERT scenario into a crime  
3 scene?

4 A I -- I don't recall what I said to him, if I  
5 said anything.

6 Q Okay. And what's the next thing you recall  
7 after hearing the breach, hearing the flash-bang and  
8 getting word over the air that the female was safe and  
9 the -- the suspect was down?

10 A They immediately called for our team medics  
11 to come in to try to render aid if they could. At  
12 that point, the air had kind of mellowed or calmed  
13 down at that point and they were getting their ducks  
14 in a row as far as getting care to him as quickly as  
15 they could.

16 Sergeant McConnell got on the air and said  
17 they he would come back to my position and Leo Harris'  
18 position, which he did shortly thereafter and we just  
19 maintained our positions there we would leave.

20 Q And when he arrived, was there any  
21 instructions or anything else that he told you to do  
22 when Sergeant McConnell arrived at that location?

23 A No. He asked if we were okay. There was no  
24 communication for as far as the event at all. I told  
25 him I was fine. I had him call my wife. I grounded

## Examination of Kelly VanBlokland

1 my rifle at that point.

2 I've been involved in enough critical  
3 incidents to know that it was an active crime scene  
4 and they would need to process everything, so I left  
5 my rifle in the condition that it was, grounded on my  
6 drag bag and maintained that position until I was  
7 relieved. And then I was able to go back to my SERT  
8 truck and wait in the SERT truck.

9 Q And were there also instructions throughout  
10 this process to not have any conversation with  
11 Officer Harris who was present with you when this  
12 occurred?

13 A Yes, there was.

14 Q And per Portland Police Bureau protocol, at  
15 some point, were you also issued a gag order not to  
16 discuss the case with others?

17 A Yes. I was issued one that day before I was  
18 allowed to go home.

19 Q And just from a human aspect, you work  
20 closely with these SERT officers and other law  
21 enforcement officers day in and day out through this  
22 -- through your career; is that right?

23 A Can you repeat that? I'm sorry.

24 Q Yeah. You work closely with officers, both  
25 in SERT and local police officers day in and day out?

## Examination of Kelly VanBlokland

1           A     Yes.

2           Q     Are you close to some of them or many  
3 of them?

4           A     Yes.

5           Q     Understanding it's protocol and procedure,  
6 but given what you had been through and obviously the  
7 impact it still has on you today, is that difficult to  
8 not be able to discuss with others and people around  
9 you what occurred?

10          A     It's been incredibly challenging not to have  
11 a chance to talk about the event.

12                 MR. HANNON:   Okay.  Do the grand jurors have  
13 any other questions for Officer VanBlokland?  Seeing  
14 no questions from the grand jurors, is it okay for  
15 this witness to be excused?

16                 Well, why don't we go off the record and  
17 take a break.  We'll finish up with our next witness,  
18 but as we have a prior court commitment, so we'll come  
19 back to that.  Why don't we go off the record.  Thank  
20 you.

21                         (Recess taken, 1:45 p.m. - 2:57 p.m.)

22                 MR. HANNON:  We are back on the record in  
23 this matter and we are ready to call our next witness.  
24 Detective Scott Broughton will be recalled.

25                 THE CLERK:  Detective Broughton.

## Examination of Scott Broughton

1           MR. HANNON: You're still under oath, so go  
2 ahead and have a seat.

3   EXAMINATION

4 BY MR. HANNON:

5           Q     So just to segue where we are at, Detective  
6 Broughton, the grand jury has heard testimony from  
7 witnesses that led to a critical incident. And where  
8 the scene turned in from a SERT response into then a  
9 criminal investigation and crime scene, you mentioned  
10 this in your earlier testimony, but what was the first  
11 thing that occurred for you in response to this  
12 incident at the Del Rancho Motel?

13          A     I -- after being notified or with, like, the  
14 notification?

15          Q     Getting the page, yeah.

16          A     So I was -- I was notified by my sergeant,  
17 Michelle Hughes, that this incident had occurred and  
18 that I was going to be the primary investigator.

19          Q     And did you -- did you respond to the actual  
20 location?

21          A     Yes, I did.

22          Q     And when you responded to the location, did  
23 you, unlike other homicide investigations, did you  
24 already find a large police presence and crime scene  
25 clearly established when you arrived there?

## Examination of Scott Broughton

1 A Yes, I did.

2 Q And, again, we've talked about this before,  
3 but when you arrived, did you already -- were you  
4 already able to identify certain people involved in  
5 this incident?

6 A I was aware that Officer VanBlokland was the  
7 involved officer and Officer Harris was the witness  
8 officer.

9 Q And were you -- was there an identity of the  
10 decedent who was shot by Officer VanBlokland in this  
11 scenario?

12 A Yes, there was. I believe I learned that  
13 after my arrival, but --

14 Q Okay.

15 A -- he was identified.

16 Q And it was Sam Rice; is that right?

17 A Yes, it was.

18 Q And during your investigation, were you able  
19 to identify the female victim who was held against her  
20 will, so to speak, inside the hotel room?

21 A Yes, I was.

22 Q And who was that?

23 A Talon Ochoa.

24 Q And that is -- is that a picture of  
25 Officer VanBlokland as you saw him that day?

## Examination of Scott Broughton

1 A Yes, it was. Or yes, it is, rather.

2 Q And did you know about his training and  
3 experience and his -- how long he had been on the SERT  
4 and all of that or did you learn about that through  
5 this process?

6 A I knew an approximated amount of time, but  
7 then I later learned, you know, more specifically when  
8 Officer VanBlokland was hired and how long he's been  
9 on the SERT team.

10 Q Okay. Now, as part of this process or  
11 investigation, is it fair to say that there's certain  
12 information that was locked in or recorded as part of  
13 your investigation that you would gather?

14 A Yes.

15 Q Such as the BOEC recordings, the CAD  
16 printouts, the CNT call recordings and the 9-1-1 call  
17 recordings?

18 A That's correct, yes.

19 Q And did you obtain all those things in  
20 conjunction with your investigation?

21 A Yes, I did.

22 Q And just to get this out of the way first  
23 and foremost, was, except for minor inconsistencies  
24 that occur commonly between witnesses who -- who give  
25 accounts from their own individual perspectives, was



## Examination of Scott Broughton

1       there any glaring inconsistencies or material facts  
2       that were inconsistent with the witness statements  
3       that you found on the recordings?

4             A     No.

5             Q     Okay. So, in other words, all the  
6       recordings, the CAD printouts, the BOECs, the CNTs and  
7       the 9-1-1 calls were consistent with the various  
8       accounts provided by local law enforcement at the  
9       scene?

10            A     Yes, they were.

11            Q     So real quickly, I'm going to do -- well,  
12       and let me ask you this, 'cause this hadn't come up  
13       yet. When you conducted your investigation, did you  
14       obtain screen captures of the text messages that were  
15       communicated between CNT and -- and the occupants of  
16       the hotel room from Talon's phone?

17            A     Yes. I don't recall who those -- which --  
18       which officer exchanged those text messages, but I did  
19       get a copy of them, yes.

20            Q     But was there any witnesses able to  
21       definitively say who actually typed in those responses  
22       from Talon Ochoa's phone to the CNT operators?

23            A     Not to my knowledge.

24            Q     So it's entirely possible while Talon may  
25       have texted that either on her own or under duress,

## Examination of Scott Broughton

1 it's also entirely possible that Sam Rice may have  
2 texted those messages on his own from her phone?

3 A It is possible.

4 Q So real quick, why don't we go through some  
5 of the recordings that were seized as part of this  
6 incident. I'm going to start with the 9-1-1 calls, if  
7 that's okay. You submitted -- obviously, you have a  
8 thick binder there.

9 A Yes.

10 Q Ms. Marrero and I are working off our  
11 binders as well. Those are the investigative binders;  
12 is that right?

13 A Yes.

14 Q That includes not just the paper reports and  
15 transcripts, but also photographs, video surveillance,  
16 as well as digital media related to this  
17 investigation?

18 A That's correct.

19 Q And you submitted, it appears -- it lists  
20 three 9-1-1 files or recordings; is that -- is that  
21 accurate?

22 A Yes.

23 Q Now, well, when we play these, it's entirely  
24 possible not all of them actually have anybody talking  
25 on the 9-1-1 calls. These are simply downloads from

## Playing Audio Recording

1 this particular incident 9-1-1 calls. Is that fair to  
2 say?

3 A Yes.

4 Q All right. So I'm going to just play them  
5 in order.

6 A And would you be able to move the bar, the  
7 date modified bar over so I could see the -- the  
8 full -- there you go. That's enough. Thank you.

9 Q And are these time stamps?

10 A It is.

11 Q Okay. So when it says 9-1-1 call, 9:10,  
12 that's one call at 09:10, 9:10 in the morning?

13 A That's 9:10 a.m., yes.

14 Q And so this one at 9:57 and this one,  
15 9:59 a.m.?

16 A That's correct.

17 Q Okay. And do we have our volume -- well,  
18 we'll find out, I guess.

19 (**TRANSCRIBER'S NOTE:** Audio recording played  
20 in open court, 3:03 p.m., as follows:)

21 9-1-1 OPERATOR: 9-1-1.

22 CALLER: So, yeah, I have a customer out  
23 there. They're fighting at the 7-Eleven. And I saw  
24 them and (indiscernible).

25 9-1-1 OPERATOR: Okay. Are they inside or

## Playing Audio Recording

1 outside?

2 CALLER: Yeah, inside.

3 9-1-1 OPERATOR: Two people?

4 CALLER: Yeah.

5 9-1-1 OPERATOR: Okay. I've got officers on  
6 the way. Are there any weapons involved?

7 CALLER: No, not that I know of. They're  
8 talking about knives and stuff.

9 9-1-1 OPERATOR: Can you take them one at a  
10 time. Tell me what is the race, age and color of  
11 clothing.

12 CALLER: Yeah. They're white guys, two of  
13 them.

14 9-1-1 OPERATOR: How old are they?

15 CALLER: One was 22, 25 and the other one's  
16 about 45 plus.

17 9-1-1 OPERATOR: The guy in his 20s, what  
18 color clothing?

19 CALLER: He's wearing some kind of jacket  
20 (indiscernible).

21 9-1-1 OPERATOR: And what color clothing of  
22 the 40-year-old?

23 CALLER: He's wearing black, and black  
24 jacket and black (indiscernible).

25 9-1-1 OPERATOR: What's your first name?

## Playing Audio Recording

1 CALLER: (Indiscernible).

2 9-1-1 OPERATOR: What's the phone number  
3 there?

4 CALLER: The phone is not working over there  
5 (indiscernible. (503) 775-8911.

6 9-1-1 OPERATOR: 775-8911?

7 CALLER: Yeah.

8 9-1-1 OPERATOR: All right. They should be  
9 there shortly.

10 CALLER: Thank you.

11 9-1-1 OPERATOR: Bye-bye.

12 (**TRANSCRIBER'S NOTE:** Audio recording  
13 stopped, 3:05 p.m.)

14 BY MR. HANNON:

15 Q Detective Broughton, which call -- in the  
16 sequence of events in this incident, which call is  
17 that?

18 A That was the initial 9-1-1 call made from  
19 the 7-Eleven store.

20 Q Now, these two subsequent calls, were these  
21 calls that dispatch or Crisis Negotiation Team  
22 officials or Portland Police officials were able to  
23 tie to the Room 16 at the Del Rancho Motel?

24 A Yes, they were.

25 MR. HANNON: Okay.

## Playing Audio Recording

1                   (**TRANSCRIBER'S NOTE:** Audio recording played  
2 in open court, 3:06 p.m., as follows:)

3                   9-1-1 OPERATOR: 9-1-1. 9-1-1. 9-1-1.  
4 9-1-1.

5                   CALLER: (Indiscernible).

6                   Hello, this is 9-1-1.

7                   CALLER: (Indiscernible).

8                   (**TRANSCRIBER'S NOTE:** Audio recording  
9 stopped, 3:07 p.m.)

10 BY MR. HANNON:

11                 Q     And this is the other call that came from  
12 Del Rancho at 9:59 a.m; is that accurate?

13                 A     Correct.

14                 MR. HANNON: I'll play that now.

15                   (**TRANSCRIBER'S NOTE:** Audio recording played  
16 in open court, 3:07 p.m., as follows:)

17                   9-1-1 OPERATOR: 9-1-1.

18                   SAM RICE: What's in my wallet?

19                   9-1-1 OPERATOR: 9-1-1, anyone there?

20                   SAM RICE: They're in out in front of  
21 Del Rancho going after 610 threatened to kill me and  
22 rape Talon Ochoa again.

23                   9-1-1 OPERATOR: Okay. What unit number are  
24 you in?

25                   SAM RICE: 16. My name is Aaron Les Deisel.

## Playing Audio Recording

1 I'm stuck on a song. I've got the best and hottest  
2 boy voice in the world. But I am dead fucking pissed  
3 about this. I have my nuts cut open. I had my ball  
4 sack cut open and I have a scar on my penis to prove  
5 it. And so I --

6 9-1-1 OPERATOR: Do you need -- do you need  
7 an ambulance?

8 SAM RICE: (Indiscernible). No. You need  
9 an ambulance if you don't fucking (indiscernible).  
10 Bring in the fucking wallet in there.

11 9-1-1 OPERATOR: (Indiscernible).

12 SAM RICE: (Indiscernible).

13 9-1-1 OPERATOR: Do you want to be  
14 transferred to an officer?

15 SAM RICE: No, I don't. You are stupid for  
16 letting this happen to people, especially women. You  
17 shouldn't -- no. You shouldn't sell yourselves for  
18 food and money and freedom. You shouldn't sell your  
19 body parts for that. I told you what could happen.  
20 What kind of (indiscernible) right now.

21 9-1-1 OPERATOR: Inside of the what?

22 SAM RICE: Why is that guy limping on the  
23 ground? People leave and go somewhere else later. I  
24 gave her a wallet, my new ID, my proper ID with my  
25 proper birth date that I remember on a screen on the

## Playing Audio Recording

1 window.

2 9-1-1 OPERATOR: Where did you leave your  
3 wallet?

4 SAM RICE: Her wallet was in my back right  
5 pocket.

6 9-1-1 OPERATOR: And what is your name  
7 again?

8 SAM RICE: (Indiscernible). No, shut up.  
9 She doesn't trust anybody. I don't mean -- I don't  
10 mean to be rude, but you shouldn't sell people  
11 fucking, you know, body parts. She shouldn't have  
12 sold it.

13 9-1-1 OPERATOR: Okay. And what was your  
14 name again?

15 SAM RICE: No, no, no. I'm done with it.  
16 Aaron Johnson stuck his dick in her before I came  
17 back. Well, I came back to have sex with my wife, it  
18 was (indiscernible) and loose and it's not loose.  
19 Leave it on. Leave it there.

20 Okay. She was loose and fucked. I got  
21 something that should have been a virgin. But still  
22 had two pieces of glass in her vagina, one in the  
23 center and one on the right, which is supposed to be  
24 the left. And what else?

25 Oh, two razor blades come out. That's your



## Playing Audio Recording

1 fault. I'm suing you for Attempted Murder of my  
2 fiancée, Dawn Talon Ochoa. No (indiscernible) because  
3 I can't walk through terrain. If I got to find  
4 someone (indiscernible) I'm going to fight back and  
5 it's going to kill me.

6 9-1-1 OPERATOR: So Talon is there with you,  
7 right?

8 SAM RICE: (Indiscernible).

9 9-1-1 OPERATOR: Aaron --

10 SAM RICE: Shut your fucking mouth.

11 9-1-1 OPERATOR: So Talon is there with you,  
12 right?

13 SAM RICE: Shut up. She don't even want to  
14 talk to me or you.

15 9-1-1 OPERATOR: Well, that's too bad.

16 SAM RICE: Listen and nobody talks. You're  
17 a female.

18 A VOICE: Get off the phone.

19 (**TRANSCRIBER'S NOTE:** Audio recording  
20 stopped, 3:10 p.m.)

21 BY MR. HANNON:

22 Q When you were able to analyze that call,  
23 coupled with what you understood the facts to be based  
24 on the briefings when you arrived, what were some  
25 things of note in that 9-1-1 call that jumped out

## Examination of Scott Broughton

1 at you?

2 A Just the tenor and pitch of the caller's  
3 voice.

4 Q Was there statements in those calls that  
5 were nonsensical, indicating either that the caller  
6 was either under the influence of something or going  
7 through some sort of mental health crisis?

8 A Yes, there was.

9 Q And that kind of behavior and aggression,  
10 was there any reports of that in the briefings with  
11 the witnesses that you had when the scene was frozen  
12 and witnesses interviewed?

13 A Yes.

14 Q Was -- and were there -- was the CNT call or  
15 attempted calls with -- well, going back to that 9-1-1  
16 call as well, the 9-1-1 caller identified him coming  
17 from Room 16 and also made reference to Talon, but he  
18 identified himself by a name different than Samuel  
19 Rice; is that right?

20 A That's correct.

21 Q Do you recall or could you hear what name he  
22 identified himself as?

23 A I believe it was Aaron something. I'd have  
24 to listen to it again to say for certain the  
25 last name.

## Playing Audio Recording

1           Q     And was there information that came out  
2     after the SERT and CNT response incident that the  
3     person in the room, in addition to acting aggressive,  
4     was referring to himself by the name of Aaron as  
5     opposed to Sam Rice?

6           A     Yes.

7           Q     Turning our attention to the CNT call, looks  
8     like there are two audio files. These are the backup  
9     files obtained by the CNT. Excuse me, I'll let you  
10    see it. Sorry.

11          A     Yes, that's correct.

12          Q     And looks like the time stamps on those are  
13    10:12 a.m. apiece?

14          A     Yes.

15                   (Pause in proceedings, 3:12 p.m. -  
16    3:13 p.m.)

17                   (**TRANSCRIBER'S NOTE:** Audio recording played  
18    in open court, 3:13 p.m., as follows:)

19                   (Phone ringing.)

20                   AUTOMATED VOICE: Please leave your message  
21    for 971 --

22                   (Phone beeping, dialing.)

23                   UNIDENTIFIED OFFICER: I'm here to help.

24                   OFFICER WEINBERGER: Thanks.

25                   (Phone ringing.)

## Playing Audio Recording

1                   OFFICER WEINBERGER: Hello.

2                   SAM RICE: (Indiscernible).

3                   OFFICER WEINBERGER: Who am I speaking with?  
4 This is Officer Weinberger, Portland Police.

5                   SAM RICE: (Indiscernible).

6                   OFFICER WEINBERGER: What -- what was that?

7                   SAM RICE: You all (indiscernible) go home.  
8 This is over. You're out of your formation. Look at  
9 where you're standing. I'll tell you what, I'll give  
10 you updates. The formation is four, right?

11                   OFFICER WEINBERGER: Formation's four?

12                   SAM RICE: No, no, no. Building movements,  
13 right? What do you do? (Indiscernible) leave you and  
14 me alone, her.

15                   OFFICER WEINBERGER: All right. So --

16                   SAM RICE: So (indiscernible).

17                   OFFICER WEINBERGER: What stacked up? I'm  
18 going to --

19                   SAM RICE: (Indiscernible) let me do this.  
20 They want (indiscernible). So I'm going to stop the  
21 situation. No, no, no, no, no. But could it, right?  
22 So why? The entire world in position, so what  
23 buildings would you use to form up and make a stack  
24 for the squad or a platoon, so to say.

25                   (Indiscernible). You stack up on a building

## Playing Audio Recording

1 and move through the layers based off the surrounding  
2 covers and then move at one (indiscernible).

3 OFFICER WEINBERGER: Okay. So --

4 SAM RICE: But go away. (Indiscernible) the  
5 formation you got there, are you assuming -- are you  
6 assuming that what you establish that, keep it moving  
7 real quick. You shouldn't stop.

8 OFFICER WEINBERGER: Are you -- are you  
9 seeing some --

10 SAM RICE: (Indiscernible) don't stop going  
11 down a road.

12 OFFICER WEINBERGER: Okay. And what's --  
13 what's going on in there?

14 SAM RICE: (Indiscernible). You're killing  
15 me. Stop it. It's Attempted Murder. Just -- just  
16 stop.

17 OFFICER WEINBERGER: So tell me -- tell me  
18 what's going on in there.

19 SAM RICE: (Indiscernible).

20 OFFICER WEINBERGER: What do you want me to  
21 stop happen -- happening? Did -- did you put the  
22 phone down? Hey, will you pick up the phone for me?  
23 Pick -- pick up the phone so we can talk. You need  
24 to -- you need to pick up the phone. Aaron?

25 Aaron? Aaron, pick up the phone.

## Playing Audio Recording

1 SAM RICE: Don't -- don't (indiscernible).

2 OFFICER WEINBERGER: Aaron, what -- what do  
3 you want me to stop having happen? Aaron --

4 (Busy signal.)

5 (Dialing.)

6 AUTOMATED VOICE: Please leave your message  
7 for 971 --

8 (Busy signal. Dialing.)

9 AUTOMATED VOICE: Please leave your message  
10 for 971 --

11 (Busy signal. Dialing.)

12 AUTOMATED VOICE: Please leave your message  
13 for 97 --

14 (Busy signal. Dialing.)

15 UNIDENTIFIED OFFICER: And, again, you know,  
16 he's rambling fairly incoherently at times about crop  
17 formations and that.

18 OFFICER WEINBERGER: Yeah.

19 UNIDENTIFIED OFFICER: Again, we're just  
20 trying to keep him on the line (indiscernible) --

21 AUTOMATED VOICE: Please leave your message  
22 for 9 --

23 (Busy signal. Dialing.)

24 OFFICER WEINBERGER: This feels bad. Hey.  
25 Okay. Okay. Okay. Good-bye.

## Playing Audio Recording

1                   AUTOMATED VOICE: Please leave your message  
2 for 9 --

3                   (Busy signal. Dialing.)

4                   AUTOMATED VOICE: Please leave your message  
5 for 9 --

6                   (Busy signal. Dialing.)

7                   (Phone ringing.)

8                   OFFICER WEINBERGER: I'm about to call  
9 Aaron. That's the last name he had (indiscernible).  
10 The closest we have. (Indiscernible).

11                   (**TRANSCRIBER'S NOTE:** Audio recording  
12 stopped, 3:20 p.m.)

13 BY MR. HANNON:

14                   Q     So did you have a chance to listen to that  
15 CNT recording?

16                   A     I did.

17                   Q     Did you receive reports or briefings about  
18 difficulties with the Crisis Negotiation Team  
19 establishing any sort of toe-hold or contact or  
20 rapport with Mr. Rice inside that room?

21                   A     Yes.

22                   Q     And did that -- your recollection and your  
23 observations of that call corroborate that while there  
24 was effort, that difficulty to maintain contact  
25 with him?

## Examination of Scott Broughton

1           A     Yes.

2           Q     Go ahead and turn it off.

3                     And was there anything in the CNT recording  
4     that corroborated the kind of escalation or  
5     aggravation that the SERT officers reported hearing or  
6     seeing or observing as this situation escalated?

7           A     Yes.

8           Q     And what was that?

9           A     At one point, he -- Mr. Rice is heard, I  
10    believe, saying, "Fuck off or I'll cut her throat."  
11    Or words to that effect.

12          Q     And -- and was there also mention or  
13    obviously when the recording on CNT is going, it's  
14    almost live recording the background for the CNT  
15    negotiator; is that accurate?

16          A     Yes.

17          Q     So you can almost -- is it fair to say you  
18    can hear in the background kind of intel being relayed  
19    between observations from the call or conversations or  
20    lack thereof to the other intel officers to share in  
21    the field?

22          A     Yes.

23          Q     And, in fact, Officer Weinberger is recorded  
24    as saying. "This feels bad" as he's trying to  
25    establish contact with Mr. Rice; is that fair?



## Examination of Scott Broughton

1           A     Yes.

2           Q     Were you able to establish a timeline of  
3 events based on both the BOEC, CAD recordings as well  
4 as the 9-1-1 calls and everything else?

5           A     Yes.

6           Q     Why don't you walk through with us real  
7 quickly the timeline of the event starting from the  
8 incident at 7-Eleven to the ultimate final shot fired  
9 by Officer VanBlokland.

10          A     Certainly.  So at 9:11, call is made to  
11 dispatch saying that there are two people fighting  
12 inside of 7-Eleven at 7501 Southeast 82nd Avenue.

13          Q     And we have it characterized as 9:11, so  
14 that's within seconds or a minute after that first  
15 9-1-1 call that's recorded at 9:10; is that right?

16          A     That's correct.

17          Q     After that, what happened next?

18          A     Officers Higginbotham and Dale are  
19 dispatched to that call.

20          Q     And you know that time because it's recorded  
21 that they're indicating to BOEC or dispatch that  
22 they're going to go to that call?

23          A     Yes.  These are -- this timeline is taken  
24 from the -- from the CAD, the CAD call printout.

25          Q     Okay.  After they dispatched to that

## Examination of Scott Broughton

1 location, what happened next?

2 A They -- the -- dispatch broadcast at  
3 7-Eleven. Oh, sorry, suspect in the 7-Eleven call is  
4 now at the Del Rancho Motel across the street from the  
5 7-Eleven armed with the knife and may have tried to  
6 stab someone.

7 Q And then next?

8 A Officer Higginbotham broadcasts a  
9 description of a white male, 30, camel hoodie, blue  
10 jeans or gray pants and bald.

11 Q And what time did he broadcast that?

12 A 09:16.

13 Q What was the next bit of information?

14 A At 09:17, information is broadcast that the  
15 suspect took a female inside the room with him, that  
16 the suspect has a knife and threatened her.

17 Q Next?

18 A Again at 09:17, radio broadcast that the  
19 suspect may be high on meth.

20 Q Just as an aside, from your training and  
21 experience, have you ever encountered situations where  
22 someone may be in -- displaying signs of being in a  
23 mental health crisis and those symptoms being confused  
24 with being high on methamphetamine or some other form  
25 of controlled substance?

## Examination of Scott Broughton

1           A     Yes.

2           Q     And vice versa, have some people confused  
3 someone who is -- believes someone is in a mental  
4 health crisis; but, in fact, they're under the  
5 influence of methamphetamine?

6           A     Yes.

7           Q     And based on your observations from both the  
8 surveillance videos as well as the 9-1-1 call and the  
9 CNT call, was that description of the suspect  
10 potentially being high on methamphetamine consistent  
11 with the behavior that you observed both visibly and  
12 audibly?

13          A     Yes.

14          Q     What was the next portion of the timeline  
15 that you were able to establish from the record?

16          A     At 09:18, acting Lieutenant Nice request --  
17 requested a call from a SERT sergeant.

18          Q     And then what happened?

19          A     09:18, a request is made through dispatch to  
20 have the Crisis Negotiation Team respond to the  
21 location.

22          Q     And then what happened? Let me help you.

23          A     09:21, uniformed personnel broadcast they're  
24 watching the back of Room 16.

25          Q     Next.

## Examination of Scott Broughton

1           A     09:22, a request is made through dispatch to  
2     find a K9 to respond.

3           Q     And then?

4           A     09:22, acting Lieutenant Nice paged out CNT,  
5     which is the Crisis Negotiation Team, to the scene.

6           Q     And what happened after that?

7           A     09:22, a radio broadcast is made stating a  
8     male yelled, "If you come inside, she will die."

9           Q     And what happened after that?

10          A     09:25, a K9 unit from Oregon City is  
11     dispatched.

12          Q     And is that, from your training and  
13     experience just as a -- as a police officer, do you  
14     find that sometimes neighboring counties and  
15     neighboring law enforcement agencies will offer  
16     resources if the Portland Police Bureau cannot gather  
17     the resources they need within a certain period  
18     of time?

19          A     Yes, they will.

20          Q     What happened after that?

21          A     09:28, Portland Police K9 units are  
22     dispatched to the scene and the Oregon City K9 is  
23     canceled.

24          Q     What happened next?

25          A     09:28, the SERT team begins to respond to a

## Examination of Scott Broughton

1 staging location.

2 Q Next.

3 A 09:34, Crisis Negotiation Team personnel  
4 arrive at the scene.

5 Q What happened next?

6 A 09:36, uniformed personnel broadcast that  
7 Ochoa is picked up -- picked up the phone when they  
8 called, but would not speak to them.

9 Q Next?

10 A 09:37, hotel room evacuations begin.

11 Q What happened next?

12 A 09:39, uniformed personnel broadcast that a  
13 suspect appears to be barricading his doors, windows.

14 Q Next.

15 A 09:42, full SERT team activation.

16 Q So just to take a pause right there. So the  
17 initial call happens at -- 9-1-1 call's at 9:10 a.m.  
18 The first dispatch is at 9:11 a.m. And in 31 minutes,  
19 if my math is correct, there's a full SERT activation  
20 at that point?

21 A That's correct.

22 Q And is -- from your understanding and  
23 experience, is that -- is that common with this type  
24 of scenario, hostage scenario, in a motel room?

25 A That -- that a SERT team activation would be

## Examination of Scott Broughton

1       that rapid?

2             Q     Yes.

3             A     Yes.  Yes, it is.

4             Q     What happened next?

5                     Thank you.

6             A     09:50 hours, officers conducting interviews  
7     at 7-Eleven broadcast that the suspect has a knife and  
8     attempted to stab someone at the 7-Eleven with it.

9             Q     So at that stage in the investigation, there  
10    was confirmation through witnesses that there was  
11    a knife?

12            A     That's correct.

13            Q     What happened next?

14            A     Again, 09:50, SERT personnel begin arriving  
15    on scene.

16            Q     Next.

17            A     09:53, SERT personnel receive permission to  
18    hang to -- to be able to create holes in the wall.

19            Q     Okay.

20            A     09:56, SERT personnel are making plans to  
21    utilize K9 to deny the suspect access to Room 16 in  
22    the event that he comes out of the room.

23            Q     What happened after that?

24            A     09:59, radio broadcast of an open line on a  
25    cell phone whose GPS matches the location.  The phone

## Examination of Scott Broughton

1 number of the open line was the same number associated  
2 with Room 16.

3 Q What happened next?

4 A 10 o'clock, Aaron Diesel calls dispatch  
5 asking for money.

6 Q And is that a summary of kind of the 9-1-1  
7 call we heard where he's telling you about the wallet  
8 and new identification and other ramblings?

9 A Yes, it is.

10 Q What happened next?

11 A 10:01, dispatch broadcast that the, quote,  
12 "Aaron Diesel was talking a mile a minute about  
13 prostitution which shouldn't be happening and other  
14 ranting."

15 Q What happened next?

16 A 10:02, dispatch broadcast that Aaron Diesel  
17 does not want to speak any females.

18 Q Next?

19 A 10:03, a radio broadcast is made stating  
20 that the door to Room 16 opened a tiny bit, then  
21 slammed shut.

22 Q After that?

23 A 10:08, SERT personnel report sounds of  
24 furniture being moved around in Room 16.

25 Q Next?

## Examination of Scott Broughton

1           A     10:11, radio broadcast of suspect making  
2     rambling statements about stacking things.

3           Q     Next.

4           A     Radio broadcast that CNT personnel are on  
5     the phone with the suspect.

6           Q     10:13?

7           A     That there was a -- a radio broadcast that  
8     the suspect's last statement was if police don't  
9     leave, that he'll cut her throat.

10          Q     And that was, of course, was transcribed  
11     from the CNT call?

12          A     Yes. And I also found at shortly before  
13     that that a member of the SERT intel detail broadcast  
14     that the suspect said go fuck yourself or he'll cut  
15     her throat.

16          Q     Next.

17          A     10:15, a radio broadcast of a SERT sniper  
18     shot taken from the south side of the motel.

19          Q     What happened next?

20          A     10:16, radio broadcast of the suspect down,  
21     the hostage is safe and the SERT medics respond to the  
22     room, to Room 16.

23          Q     And what happened next?

24          A     10:17, a radio broadcast of medics with SERT  
25     team with Rice, who was subsequently declared



## Examination of Scott Broughton

1       deceased.

2               Q     Now, after you were able to do that, but you  
3       didn't do that at that time, but did you also examine  
4       the scene when you responded to the crime scene?

5               A     Yes, I did.

6               Q     Let's talk about that real quick. Does this  
7       capture the Del Rancho Motel?

8               A     Yes. That's an entrance off 82nd Avenue.

9               Q     And these two vehicles, what are these  
10      vehicles?

11              A     Those are armored vehicles assigned to our  
12      SERT team.

13              Q     And this red tape, what does that signify?

14              A     The crime scene.

15              Q     And when that red tape is set up that way,  
16      what is the purpose of doing that as far as  
17      investigative protocols?

18              A     To log all -- all people who enter the  
19      scene.

20              Q     And is that to preserve to scene as is  
21      without contamination?

22              A     Yes, it is.

23              Q     What are we looking at here?

24              A     That is another view of the Del Rancho from  
25      the middle of 82nd Avenue. That's looking east and to

## Examination of Scott Broughton

1 the right, you'll see the sort of breezeway  
2 drive-through of the motel office.

3 Q And this vehicle right here, is that the --  
4 what vehicle is that?

5 A That is a -- I believe that's an ambulance  
6 used by SERT team personnel.

7 Q Which angle is this?

8 A Again, another view from -- from the west  
9 looking east into the parking lot down towards  
10 Room 16.

11 Q And this row of rooms right here, is that  
12 where Room 16 would have been situated?

13 A Yes, it is.

14 Q This photo up here, is this zeroing in on  
15 the location of where the hasty teams and Room 16  
16 were at?

17 A Yes.

18 Q And what about this photograph right here,  
19 what are we looking at?

20 A So on the left is the -- the ambulance and  
21 then just immediately to the right of that where the  
22 mouse cursor is, that's the door to Room 16. And then  
23 that's the door to Room 15.

24 Q And this device right here?

25 A That is a handheld battering ram.

## Examination of Scott Broughton

1           Q     And, again, as this photo is taken, these  
2     are the items as -- left as is, to preserve to crime  
3     scene?

4           A     That's correct.

5           Q     Obviously, the medical vehicles were moved.  
6     What is this photograph of?

7           A     The door on the far left of the photo is for  
8     Room 17, the middle door is Room 16, and then the door  
9     just to the -- to the right of Room 16 is Room 15.

10           And another straight-on view. The door on  
11     the left there is for Room 16 and the door on the  
12     right is Room 15.

13           Q     And were there certain things that caught  
14     your eye about Room 16 even from the outside looking  
15     in?

16           A     The broken window and broken glass and the  
17     curtains hanging out of it.

18           Q     And it appears as though you can see the  
19     mattress situated in front of the window from this  
20     angle; is that accurate?

21           A     That -- that's correct.

22           Q     Is this Room 16 right here?

23           A     This is Room 16, yes.

24           Q     And what angle is the photo on the left?

25           A     The photo on the left is taken from

## Examination of Scott Broughton

1 approximately the threshold of the door, looking into  
2 the room, which is more or less due south.

3 Q And then as you're looking into the room  
4 from the threshold, is that the distance from the  
5 threshold approximately to the bathroom where Mr. Rice  
6 was found?

7 A That's the view, yes.

8 Q And the picture on the right, is that just a  
9 closer-up view of the front window to Room 16?

10 A Yes, with the curtains out.

11 Q All right. Why don't we pan, start with the  
12 -- are we now inside the room with these photographs?

13 A Yes.

14 Q And first photograph on the left.

15 A There's some furniture in the foreground.  
16 Directly straight back is the bathroom with Mr. Rice  
17 laying.

18 Q And there was some damage here to the left.  
19 What was the cause of that?

20 A From the holes made in the wall.

21 Q Okay. And that's just a closeup picture of  
22 that?

23 A Yes.

24 Q I notice some furniture here. Is this  
25 consistent with having to move this furniture from the

## Examination of Scott Broughton

1 barricade that Mr. Rice established?

2 A Yes, it is.

3 Q Picture on the right, what are we looking at  
4 here?

5 A It is just a view of the, sort of the right  
6 side of the room where there's mattresses pulled up  
7 and stacked in front of the -- the window.

8 Q And, I'm sorry, turn to the middle picture  
9 again. Were you able to get an angle of the other  
10 bedroom area with the mattresses barricading that  
11 window as well?

12 A Yes, there is.

13 Q And was that consistent with the other  
14 accounts that -- not only the view but the area was  
15 obstructed for inner-perimeter teams to see what was  
16 going on inside the residence?

17 A Yes, it is.

18 Q And how -- how big would you describe the  
19 surface area of this motel room from, like, say Point  
20 A bathroom to Point B, this other bedroom? Is it a  
21 large motel suite or small?

22 A It is small. I would say that the bathroom  
23 is approximately two to three feet away from the --  
24 the back bedroom area, if you will.

25 Q What angles are we looking at in the room

## Examination of Scott Broughton

1 from here?

2 A So this is standing on the inside of the  
3 room facing the parking lot. And the window you see  
4 beyond the mattress there is the broken window seen in  
5 the previous photos. And so what we see is two box  
6 springs and a mattress stacked up against the -- what  
7 would be the parking lot window of the Room 16.

8 Q And this hole up here?

9 A That was a hole made in the wall by SERT  
10 team personnel.

11 Q And is this just -- photo on the right, is  
12 that just a closeup of the kind of barricade set up in  
13 front of the window?

14 A That is, yes.

15 Q And you have a small (indiscernible)  
16 barricade here in front of the door that was pushed  
17 aside by SERT team; is that right?

18 A Correct.

19 I'm sorry, which one did you want me to  
20 speak about?

21 Q No, you go ahead. You tell me  
22 (indiscernible).

23 A So from the left again, it's another photo  
24 from the -- of the inside of the room where the front  
25 bed, if you will, the mattress and box springs are

## Examination of Scott Broughton

1 stacked up.

2 The middle photo is a similar viewpoint.  
3 You see the bed frame on the floor in both of those.

4 And the right photo is a view from the room  
5 looking towards the back bedroom area, if you will,  
6 with a mattress stacked up in front of the window.

7 Q And what are we looking at here?

8 A On the left is a photo of the bathroom with  
9 Mr. Rice laying on his back. And on the right is a --  
10 is a closeup of the knife that Mr. Rice was found  
11 holding in his right hand.

12 Q And, again, when these incidences arise,  
13 this is the scene as found when frozen after the  
14 situation turned into a hostage situation to a crime  
15 scene?

16 A Correct.

17 Q What are we looking at from this angle?

18 A That is a view looking at Room 16 from the  
19 south.

20 Q And in which perspective would this have  
21 been from -- from your understanding of the witness  
22 statements and the interviews?

23 A This would have been consistent with the  
24 view that Officer Harris and Officer VanBlokland had.

25 Q And what's -- what are we looking at here?

## Examination of Scott Broughton

1           A     That is a truck that Officer Harris and  
2     Officer VanBlokland were and that Officer VanBlokland  
3     fired a shot from.

4           Q     And the items that he left at the scene, is  
5     that protocol for these types of investigations after  
6     the scenario shifts from a response to a crime scene?

7           A     Yes.

8           Q     And what is this a picture of?

9           A     Those are further away and a closer-up photo  
10    of where the shell casing from Officer VanBlokland's  
11    rifle was found.

12          Q     And it looks like it's (indiscernible) are  
13    these the containers they're describing trying to, if  
14    they had the opportunity to get more leverage and  
15    height in trying to peer into Room 16?

16          A     That would be, yes.

17          Q     What is that a picture of?

18          A     That is a closeup photo of the shell casing  
19    fired from Officer VanBlokland's rifle.

20          Q     And that's the casing that was later  
21    submitted to Mr. Glover for analysis comparing it to  
22    the firearm found that Mr. -- or Officer VanBlokland  
23    submitted?

24          A     Correct.

25          Q     And what are we looking at here?



## Examination of Scott Broughton

1           A     Those are overall photos taken during  
2     Officer VanBlokland's countdown of  
3     Officer VanBlokland.

4           Q     Countdown. Describe that for us. What does  
5     that mean?

6           A     That the -- you know, we will examine the  
7     involved officers to count the number of rounds that  
8     are missing from magazines to know how many rounds to  
9     look for at the crime scene. How many shell casings,  
10    excuse me.

11          Q     And is that to ensure or corroborate the  
12    versions of events given or recorded based on the  
13    various pieces of evidence that was collected?

14          A     Yes.

15          Q     And were you able to do a round count and  
16    confirm that there was only one round fired by  
17    Officer VanBlokland?

18          A     Yes.

19          Q     Is there anything else that we have not  
20    discussed -- oh, there is one.

21                 After the investigation at the scene, the  
22    scene being frozen, analyzed, witnesses being  
23    interviewed and the interviewers briefing you on the  
24    accounts of what happened, was there a postmortem  
25    examination that occurred the next day?

## Examination of Scott Broughton

1           A     Yes.

2           Q     And did you attend that postmortem  
3 examination personally?

4           A     Yes, I did.

5           Q     And we've heard from the medical examiner as  
6 it relates to the cause of death. But you were there  
7 and present for fluids to be drawn for a toxicology  
8 screen?

9           A     Yes, I was.

10          Q     And did you personally have a chance to both  
11 review the Medical Examiner's report as well as the  
12 toxicology screen?

13          A     I did.

14          Q     And was there any evidence to indicate there  
15 was methamphetamine use in this case?

16          A     No.

17          Q     So based on your training and experience  
18 from what you observed on the behavior coupled with  
19 the toxicology screen, were you able to draw a  
20 reasonable conclusion related to the behavior of  
21 Mr. Rice as this situation unfolded and escalated on  
22 this particular day?

23          A     Yes.

24          Q     And what would that -- based on your  
25 training and experience, what would that conclusion

## Examination of Scott Broughton

1 be?

2 A He was involved in some sort of a mental  
3 health issue.

4 Q Is there anything else related to the  
5 investigation that I have not asked you about that you  
6 can recall as it relates to evidence gathering and  
7 fact gathering?

8 A Not that I can recall, no.

9 MR. HANNON: Do the grand jurors have any  
10 questions for Detective Broughton?

11 May this witness be excused unless you have  
12 any further questions?

13 Okay. Thank you. And I think that will  
14 conclude the testimony.

15 \* \* \*

16 (Conclusion of Grand Jury proceedings,  
17 11-30-18 at 3:42 p.m.)

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

--o0o--

REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



---

KATIE BRADFORD, CSR 90-0148  
Court Reporter  
(503) 267-5112