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

GRAND JURY No. 1 PROCEEDINGS

Case No. 96

Conducted by:

Melissa Marrero, Deputy District Attorney

- - -

August 15, 2019

- - -

DA Case No. 2404216

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

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

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1 Deceased Person: David Wayne Downs

2 Date of Incident: 6-9-19

3 DA Case No. 2404216

4 Grand Jury No. 1 (Room 4), Case No. 96

5 * * *

6 (Volume 2, Thursday, August 15, 2019, 9:41 a.m.)

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

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

10 MS. MARRERO: Okay. We are on the record.
11 On behalf of the State, Melissa Marrero,
12 M-a-r-r-e-r-o. My Bar number is 123846. We are in
13 Grand Jury 1. This is Case No. 96, continuing from
14 previous testimony.

15 This is the inquiry into the
16 officer-involved shooting involving Officer
17 Kirby-Glatkowski. This is District Attorney Case
18 No. 2404216.

19 The State's next witness will be Erik
20 Kammerer.

21 A GRAND JUROR: I'm sorry. Do we have a
22 copy of the oath?

23 A GRAND JUROR: He's not the normal
24 phone-in --

25 MS. MARRERO: Oh, let's go off the record.

Examination of Erik Kammerer

1 Let me get it for you.

2 A GRAND JUROR: Sorry.

3 MS. MARRERO: That's okay. Let me see.

4 (Recess taken, 9:42 a.m. - 9:44 a.m.)

5 **ERIK KAMMERER**

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

8 A GRAND JUROR: Please sit down.

9 **EXAMINATION**

10 BY MS. MARRERO:

11 Q Thank you, Detective. Can you please state
12 and spell your first and last name.

13 A Erik, E-r-i-k; Kammerer, K-a-m-m-e-r-e-r.

14 Q Thank you. How are you employed?

15 A I'm a detective with the Portland Police
16 Bureau.

17 Q How long have you been in law enforcement?

18 A This will be 25 years in October.

19 Q Can you detail for the grand jury your
20 educational background, your training with the Bureau
21 and the assignments that you've had.

22 A So I've been -- I was sworn in as a police
23 officer in October of 1994. I immediately attended
24 the state basic academy. And then I attended the
25 Portland Police Bureau advanced academy, which is just

Examination of Erik Kammerer

1 additional training on how to be a police officer.

2 And I was a uniformed police officer for
3 about nine years. I was promoted to detective in July
4 of 2003. I attended a two-week detective academy and
5 then I've just received ongoing training in
6 investigations. And I'm currently assigned to the
7 Homicide Detail, where I've been assigned since 2007.

8 Q Thank you. And, Detective, can you explain
9 what your role is with this investigation.

10 A I'm the -- the lead investigator for this
11 case.

12 Q Can you describe for the grand jury what the
13 process is for your unit or for detectives when an
14 officer-involved shooting takes place.

15 A So, sorry, very squeaky chair. I will
16 usually -- I'm usually at home, 'cause -- not that I'm
17 always home, but a lot of these cases occur outside
18 normal work hours, as was the case this time. I was
19 at home. I received notification from my sergeant to
20 respond to the location near 14 and Marshall.

21 And in any homicide case, you'll get two
22 primary detectives that respond; two crime scene
23 detectives that'll respond; at least two support
24 detectives that will respond to do interviews or
25 whatever else needs to be done. And you may get up to

Examination of Erik Kammerer

1 six additional detectives responding, depending on
2 who's available.

3 And you'll get two, at least two
4 criminalists that'll respond and their primary duties
5 are to document the scene via photographs and video
6 and collect evidence and then handle any evidence
7 processing that needs to be done.

8 In this case, because it's an
9 officer-involved shooting, you get a lot more people
10 responding. We'll have command staff responding up to
11 and including the chief of police.

12 You'll have members from internal affairs
13 responding; members from the office of professional
14 standards responding; members from IPR, which is the
15 independent police review, which is a civilian
16 organization that has oversight of the Police Bureau.
17 They'll respond.

18 Members from the Mayor's Office will respond
19 and members from the Department of Justice will
20 respond. And you get a lot more oversight on an
21 officer-involved shooting, a lot more review of the --
22 the investigation. And that was the case in this one.

23 Q Okay. Is there a particular protocol for
24 when an officer-involved shooting occurs that you
25 follow?

Examination of Erik Kammerer

1 A Yes. The -- the first priority is to ensure
2 that all of the involved and witness officers have
3 identified and then separated from each other and
4 monitored. And you'll get members of the traumatic
5 incident unit, union members.

6 So every involved member will have a couple
7 of personnel with them, as well as someone being
8 assigned just to make sure that they don't discuss the
9 incident with anybody else.

10 Q Thank you. And I've been referring to an
11 officer-involved shooting, but when do these protocols
12 come into effect? What has to happen in order for
13 this response?

14 A So this response is the same, whether an
15 officer -- when an officer uses force that could be
16 perceived as being deadly force, uses force in a
17 manner that is intended to be deadly.

18 So whether or not someone is injured, is
19 actually struck doesn't matter. The response is the
20 same. In-custody deaths where police officers have
21 arrested someone who end up dying before getting to
22 jail, we'll respond on those as well.

23 Q Thank you. And what is the process once you
24 get to the scene there? What -- what are the steps
25 that you typically will take?

Examination of Erik Kammerer

1 A When I arrived, my first priority is to make
2 sure that the crime scene itself is secured, it's
3 adequate. It's captured what needs to be captured for
4 us to adequately process the scene. It's secure:
5 There's one point of ingress and egress. We don't
6 have wandering in and out.

7 You know, like I said earlier, a ton of
8 people respond to these, so I need to make sure that
9 they're not wandering into the crime scene and
10 possibly contaminating it.

11 You know, just because you're a police
12 officer doesn't mean you should be going into this
13 crime scene. So we -- we take ownership of that, make
14 sure it's secure.

15 Then we'll identify who the involved witness
16 officers are, ensure that they have been separated and
17 they're being monitored. If there's any civilian
18 witnesses, if they've been located and identified.

19 If anybody has started to canvass for
20 additional witnesses. If anybody has located or will
21 canvass for video of the incident. Pretty much that's
22 the order of which we do things.

23 Q Okay. With regard to additional steps that
24 take place whenever, for instance, a firearm is used,
25 can you describe what a round count is.

Examination of Erik Kammerer

1 A So after we get through the initial making
2 sure everything has been taken care of and we've
3 identified the involved officers and any other officer
4 that may have been present at the time that the force
5 was used that could have been in a position to use
6 deadly force as well, we will conduct what's known as
7 a countdown of their firearm and any other firearms
8 they have on their person.

9 So we'll -- their duty weapon, we'll collect
10 their weapon, we'll collect the magazines and we will
11 literally count all the bullets and --

12 Q What's the purpose of doing that?

13 A So the purpose of that is I know that a
14 Portland police officer carrying a Glock 17 handgun,
15 which is the standard issued firearm, will have two
16 additional magazines including the one in the chamber.
17 Each magazine is capable of holding 17 rounds.

18 And I know that generally officers will load
19 their three magazines with 17 rounds and then put one
20 additional round in the chamber, thus giving them
21 52 rounds.

22 So we'll count to see how many rounds they
23 have and that will help us to determine how many
24 casings we should be looking for in the scene. And
25 then also if there's any kind of discrepancy between

Examination of Erik Kammerer

1 the casings we're finding and the rounds that the
2 officers are missing.

3 Q And does that also assist with being able to
4 identify in certain situations which -- which officers
5 fired how many shots?

6 A Yes. If, you know, an officer is saying
7 they fired one round, we account for 51 rounds on
8 their person, the other magazines and the handgun and
9 the two other officers that were there say they didn't
10 fire and then they each have 52 rounds, then we know
11 that, yes, they didn't fire; and the officer that said
12 they fired did fire.

13 Q Thank you. You've mentioned a couple of
14 times now that you'll have the involved officers or
15 witness officers separated and you'll have some with
16 them. Can you talk about that process and why that's
17 done in the context of communication restriction
18 order?

19 A So, ideally, officers will be placed in
20 separate locations. Vehicles, if they're available.
21 Each officer will be in their own vehicle, have
22 somebody with them so that that officer can say, "Yes,
23 I was with Officer X during that time. Officer X did
24 not discuss the case with anyone, did not make any
25 phone calls and speak to anyone about the case."

Examination of Erik Kammerer

1 And that's ensures the integrity of the
2 investigation, that no information is getting out
3 there; that we -- we own all that information and we
4 can control it.

5 Therefore, when we interview other
6 witnesses, other witness officers, we know that what
7 they're telling us is what they know and not what has
8 been provided to them by somebody else. And we will
9 do that not just in officer-involved shootings, but in
10 any homicide investigation or any serious
11 investigation, for that matter.

12 Q Transitioning over to this particular case,
13 when did you receive the call that the shooting had
14 occurred?

15 A Just to get back to your previous question,
16 you'd asked about communication restriction orders.

17 Q Yes.

18 A So once we have done a weapons countdown and
19 we are done with the officer, they'll be issued what's
20 known as a communication restriction order, which
21 basically says they're not allowed to talk about this
22 case to anyone other than the investigators, members
23 of the Internal Affairs and then their clergy or their
24 spouse or their attorney, if they have one.

25 Q Thank you. And the purpose of that again is

Examination of Erik Kammerer

1 to do what?

2 A Protect the integrity of the investigation.

3 Q Thank you. So with regard to this
4 particular case, when did you receive the call that a
5 shooting had occurred?

6 A It was June 9th, 2019 at approximately
7 10:15, I think, that morning.

8 Q And what was the information that you
9 learned in terms of where this occurred?

10 A It occurred in -- so there's a building
11 located at 1331 Northwest Lovejoy. At the bottom
12 floor of that building is a Safeway store and then
13 there's a parking garage.

14 And then above that, I think Floors 7
15 through 9, are office space. And we eventually
16 learned that the shooting occurred in the stairwell on
17 the sixth floor of that building.

18 Q And there a map up on the screen there. Do
19 you recognize that, Detective?

20 A Yes. That's a Google Maps overhead of -- so
21 the building encompasses an entire block, basically,
22 between 13th and 14th, Lovejoy to Marshall. And then
23 so the Safeway's down here.

24 On the 14th Avenue side is a -- the parking
25 garage entrance ramp. And then this red-and-white

Examination of Erik Kammerer

1 area here is the location of the stairwell within the
2 context of that building where the shooting occurred.
3 There are multiple stairwells in this building, but
4 this is one where it occurred.

5 Q Okay. And you responded to the scene?

6 A Yes, ma'am.

7 Q And walk us through what you observed and
8 what you learned when you got to the scene.

9 A When I got there, I learned that the
10 officers that were involved were currently up on the
11 fifth floor, which is a parking structure. Floors 3
12 through 6 are parking structures. 3 is reserved for
13 the Safeway store. And then 4, 5 and 6 service the
14 office spaces on 7, 8, 9.

15 So the officers were on the fifth floor
16 currently being monitored, separated. We made the
17 decision to go up and begin doing round countdowns on
18 the officers. Officer Kirby-Glatkowski and
19 Officer Wells and Officer Oldham were designated as
20 the involved officers.

21 And then we learned that Officer Quinsland,
22 Officer Flohr, were witness officers to what had
23 happened.

24 Q How do you differentiate between involved
25 and witness officers?

Examination of Erik Kammerer

1 A So an involved officer is one who uses force
2 or directs the use of force. And a witness officer is
3 someone who just sees what happened.

4 Q With regard to all of these officers,
5 Kirby-Glatkowski, Wells, Oldham, Quinsland and Flohr,
6 had you confirmed before you did the round countdown
7 that they had been separated appropriately --

8 A Yes.

9 Q -- as required by policy?

10 A Yes.

11 Q Okay. And can you walk us through those
12 countdowns and what you learned.

13 A So Officer Kirby-Glatkowski had 51 rounds of
14 the 52 he should have had, leading us to believe he
15 fired one round. Information -- preliminary
16 information from witness officers indicated that one
17 round had been fired.

18 Officer Wells had her 52 rounds. Therefore,
19 not likely that she had fired her handgun.

20 And then Officer Oldham was a less lethal
21 operator and he had fired his less lethal, so we
22 conducted a countdown on that less lethal as well.
23 And so the less lethal or --

24 Q Can you describe what that weapon is.

25 A Yeah. It's a 40-millimeter single-shot

Examination of Erik Kammerer

1 launcher, so you have to open the launcher, remove the
2 spent round, put a new round in to fire every time.

3 The launcher itself has two rounds. On
4 the -- in a pouch on the butt stock back here. And
5 then the less lethal operator, in this case,
6 Officer Oldham, has a drop pouch on his left thigh
7 that contains five more rounds.

8 And so when we -- when I received the
9 launcher from Officer Oldham, his leg pouch was empty
10 and there were two rounds in the butt stock and one
11 loaded into the chamber. So at most, he's capable of
12 carrying seven rounds. We had three, thus likely he
13 fired four at the scene.

14 Q And can you describe what these rounds are
15 made of and what they're intended to do.

16 A Yeah. So the blue tip here is a foam, so it
17 decompresses, but it's a hard foam. It's attached to
18 this carrier here, this black plastic piece which is
19 then embedded in the metal casing.

20 So when it's loaded into the launcher, the
21 firing pin goes forward. It hits the primer in the
22 back of that casing and it makes the powder inside the
23 casing propelling this black carrier with the sponge
24 round glued to it out the end of the barrel.

25 This is a rifled barrel, so as it comes out,

Examination of Erik Kammerer

1 it imparts spin, which gives it great accuracy. And
2 it's very accurate when aimed, fired.

3 On the top of that there is a red dot sight,
4 so it's -- it's not a magnification. It just provides
5 a red dot. When you look through it, it's like a
6 sight. So you put the red dot on what you want to
7 shoot at and that's where the round goes.

8 Q Okay. So once you're done with the
9 countdown of the rounds, what happens with the
10 involved officers?

11 A They are issued a communication restriction
12 order and then investigators from Internal Affairs
13 take over dealing with the officers.

14 Q Okay. At that point, does your
15 investigation continue into the scene?

16 A Yes.

17 Q Can you walk us through what investigative
18 steps you're taking at the scene?

19 A So before we do anything, 'cause we don't
20 want to just go tromping through the scene and start
21 busting things up and moving things around, we'll have
22 criminalists from our Forensic Evidence Division go
23 through and do photographs and video prior to anybody
24 else going into the scene, which is mostly what
25 happened on this case.

Examination of Erik Kammerer

1 We did have a Officer Robert Miller who's
2 assigned to our Explosives Demolition Unit.
3 Preliminary reports from the witness officers
4 indicated that the subject had been claiming to be in
5 possession of an explosive device and the officers saw
6 him holding what appeared to be some sort of plunger
7 detonator in his hands.

8 So before anybody went in, we sent in
9 members from EDU, Sergeant Collins and Officer Miller,
10 to go in and just make sure that there were no
11 explosive devices; that this was, indeed, a safe scene
12 at this point.

13 And so Officer Miller went in and took some
14 preliminary photos himself before he moved anything
15 around and determined that there was no explosive
16 device, that this had been a hoax, if you will, the --
17 the presence of an explosive device.

18 But there were items which did cause him
19 initial concern until he was able to move things
20 around and verify that what could have looked like a
21 bomb was not.

22 A GRAND JUROR: EDU is explosive device
23 unit?

24 THE WITNESS: Explosive Demolition Unit.

25 A GRAND JUROR: Okay. Thank you.

Examination of Erik Kammerer

1 BY MS. MARRERO:

2 Q So after Officer Miller has come in and
3 determined that there's not an explosive what are the
4 steps that you take after -- and after the
5 criminalists come and do the photos and the video
6 work, what steps did you take?

7 A So then we'll go into the scene and we'll
8 look to see what -- what we see, what are items of
9 evidence, what officers have already determined are
10 items of evidence and perhaps placed a business card
11 next to -- to flag it for our notice.

12 And then we'll go look at additional, you
13 know, 'cause we try to get the best picture possible
14 before we go in, see what the scene offers, see if it
15 matches what we know, see if we learn something from
16 the scene so we can go back to additional witnesses.

17 And that's what we did in this case is we
18 went in and looked at the scene just to make sure
19 we're not missing anything, trying to get a picture of
20 what happened from the scene.

21 Q Okay. And as all of this is happening,
22 where is the deceased?

23 A He's still in position on the landing of the
24 sixth floor.

25 Q And is that true in every case in which

Examination of Erik Kammerer

1 lethal force is used?

2 A Well, not just lethal force by the police,
3 but in any -- any homicide case, jurisdiction for
4 the -- the deceased, the dead body, belongs to the
5 Oregon State Medical Examiner's Office.

6 So we can't just go in and throw him in an
7 ambulance or whatever. That has to be handled by the
8 Oregon State Medical Examiner's Office. They are
9 responsible for coming in; removing the body; and a
10 investigator with the Oregon State Medical Examiner's
11 Office was notified, did respond to the scene.

12 But they also were not going to go in and
13 disrupt the scene to remove the body, allowing us to
14 process the scene first. And so that was the case
15 here as well is that we processed the scene with the
16 deceased still in place. And that is very common in
17 any homicide or any officer-involved shooting that we
18 investigate.

19 Q And had -- had the deceased not died from
20 the wound that he suffered, of course, he would have
21 been taken to the hospital, correct, had he still been
22 alive?

23 A Yeah. Officers would have done some sort of
24 medical treatment on him, gotten medical personnel
25 then. Then he would have been assessed by medical

Examination of Erik Kammerer

1 personnel and most likely put in an ambulance and
2 transported to a hospital for treatment.

3 Q At this step in the investigation, did you
4 know who he was?

5 A No, we did not.

6 Q Okay. At what point did you learn his
7 identity?

8 A It wasn't until the next day, after
9 fingerprints had been obtained after the autopsy. And
10 then they compared those to the database and then we
11 had positive identification on him.

12 Q And what is his name?

13 A David Downs.

14 Q Thank you. And as the scene is being
15 processed -- or rather after the scene is processed --
16 is there anything else that's brought in to help
17 document the -- to help document the -- the way things
18 were when police arrived?

19 A So in addition to photos and video, we also
20 use a tool which is Laika -- it's a laser scanner,
21 three-dimensional laser scanner. I don't know the
22 specifics. It's millions of laser measurements a
23 second.

24 And in conjunction with that is a camera
25 that sits on top of it. So they'll -- they'll put the

Examination of Erik Kammerer

1 laser unit on it, take all the measurements; take the
2 laser unit off, put the camera, and then capture the
3 scene and then knit those together later. So you get
4 a true representation of the scene to an exacting
5 measurement.

6 Q Okay. And was that done in this particular
7 case?

8 A It was, yes.

9 Q And I'm going to pull that up on the screen
10 here.

11 Detective, can you walk us through -- can
12 you walk us through the scene diagrams in this
13 particular case as well as the Leica scans to give the
14 grand jurors an understanding of what was found at the
15 scene that day and where it was located?

16 A So this is that Google Maps again. This is
17 a cross-section, if you will, of that stairwell.
18 Here's the -- the eighth floor landing, seventh floor,
19 sixth floor. So this is where the deceased was
20 located, on the sixth floor. This does go all the way
21 up to the ninth floor. It's -- the detective just
22 captured the relevant portion of it.

23 So this seven-and-a-half floor, if you will,
24 here is where the officers were positioned at the time
25 of the shooting. And then, again, Mr. Downs was down

Examination of Erik Kammerer

1 here on the sixth floor.

2 So if you were able to hover in the air in
3 the stairwell looks directly down, here's where --
4 this is what you'd be looking at. Stairs coming down
5 from the eighth floor, the landing between the seventh
6 and the eighth floor, and then stairs going down to
7 the seventh floor.

8 So items of evidence were located in here.
9 These were shell casings and one 9-millimeter shell
10 casing and then the 40-millimeter shell casings and
11 then broken parts of those 40-millimeter projectiles.

12 Q And the 40-millimeter is the less lethal --

13 A That's correct.

14 Q -- correct?

15 A Again, if you were to hover, now you're
16 looking between the seventh and the sixth floor. And
17 the circle DE, that's deceased. So that's where
18 Mr. Downs would have been. And then the items of
19 evidence surrounding him.

20 Q And, Detective, had you received information
21 in terms of what had occurred from either dispatch or
22 from briefings from other officers or from witnesses?
23 Did you have at least preliminary information in terms
24 of -- of what was being reported to have occurred?

25 A That --

Examination of Erik Kammerer

1 Q At the point at which you're processing the
2 scene?

3 A Yes. So we knew a gentleman named -- his
4 name is Edward Connor, but he goes by Mike. Mike
5 Connor had worked in the building, had come in that
6 weekend, had heard a disturbance in the stairwell.

7 Called 9-1-1 to report this disturbance and
8 then called back about five minutes later saying,
9 "Hey, I yelled at the people in the stairwell and the
10 guy yelled at me. He said he had a bomb, he had a
11 knife and a hostage and he was waiting for the
12 police."

13 Q And as you were processing the scene, did
14 you have an opportunity to speak with any of the
15 involved officers or any of the other witnesses?

16 A We spoke with Officer Wells, who did what's
17 called a scene walk-through. So we'll bring an
18 officer that has the most knowledge of the scene to
19 take us into the scene and show us where we can find
20 items of evidence to try and learn where the officers
21 were standing so we can determine what their line of
22 fire would be so we know where to look for additional
23 rounds, where we know to look for additional casings.

24 You know, if the suspect was armed with a
25 gun where they were shooting at, anything that will

Examination of Erik Kammerer

1 lead us to find -- determine where everybody was in
2 the scene and find items of evidence so we can process
3 those.

4 Q So you have preliminary information not only
5 from what the 9-1-1 caller had said, but then a scene
6 walk-through with Officer Wells?

7 A Yeah. And just to be clear, the purpose of
8 the scene walk-through is not to conduct an interview
9 of the officer out there. Our interviews are all
10 recorded. We sit down in a room, turn on the recorder
11 and just start interviewing.

12 And so the -- the purpose of the scene
13 walk-through is just to find items of evidence. It's
14 not an interview. So we did not interview
15 Officer Wells there in the stairwell.

16 Q But for instance, you were able to locate
17 the relevant locations where they had come from,
18 things of that nature?

19 A Yes.

20 Q And so is this the Leica scan that's up on
21 the screen there?

22 A It is. It's the -- the launch screen, if
23 you will.

24 Q And can you walk the grand jurors through
25 what we're looking at here and then sort of take them

Examination of Erik Kammerer

1 through the crime scene, describing what you observed
2 that day.

3 A So as you'll recall earlier when I spoke
4 about how the measurements are obtained with the laser
5 measurer on top first and then the -- the camera goes
6 on second and those two images are integrated.

7 So what you have here is a representation of
8 just the laser image of the stairwell here that's been
9 pieced together from the various stands. And then
10 this is the same thing with the camera images included
11 in there.

12 And you can see that measurements were made
13 from approximately eight different base stations in
14 order to encompass the entirety of the -- the
15 stairwell that was being used in the investigation.

16 So while, you know, there's eight
17 measurements, it -- not all eight stations are needed
18 to show the relevant evidence, if that makes sense.
19 So if we start out at Station 2 here, which is this
20 landing between the seventh and the eighth floor, and
21 then this is the sixth floor here, where the deceased
22 is located.

23 So the officers would have been here looking
24 down through the stairwell. So there's the stairs
25 coming down from the eighth floor. Here's the metal

Examination of Erik Kammerer

1 railing that keeps you from falling to your death down
2 through the middle of the stairs.

3 And there's this metal lip right along the
4 base of the railing that runs the whole length, I'm
5 assuming just to keep little things from falling down,
6 getting kicked down.

7 So Placard 1 here is that foam tip of the
8 less lethal, the 40-millimeter less lethal round.
9 It's become separated from that black carrier. And
10 then this 3 here is the casing that's left over if
11 it's fired.

12 And then 2 here is a -- you're looking at it
13 from head on, is that black carrier with the -- like
14 the blue foam there where it's separated, so there's a
15 little bit of a foam left.

16 Q What does that indicate to you?

17 A So that indicates to me that that
18 40-millimeter projectile struck something hard enough
19 to tear the foam off of that carrier and separate
20 them. And then Placard 4 here is that 9-millimeter
21 shell casing that came from Officer Kirby-Glatkowski's
22 firearm.

23 Q And what is that? I see a business card
24 there. Can you explain to the grand jury why that's
25 there?

Examination of Erik Kammerer

1 A Yeah. Officers, while they're still in the
2 scene, will identify items of evidence and mark them
3 so that other officers and anybody else that comes
4 into the scene doesn't kick it, step on it, miss it.

5 So they'll just take a business card and
6 fold it in half, put it there like a little tent to
7 mark items of evidence for us.

8 Q And with regard to the view looking down
9 from the perspective, is this able to give us an idea
10 of what officers standing on that landing would have
11 been looking at?

12 A Yeah. So click on this picture here. So
13 this shows what the officers would have been looking
14 at. That would have been their line of sight and
15 their perspective from the position on this landing
16 here where they fired from.

17 Q And is that Mr. Downs visible in that photo?

18 A That is, yes.

19 Q And so you were there at the scene. Can you
20 approximate how wide that -- that opening is that
21 actually looks down?

22 A From stairwell to stairwell, it's probably
23 slightly less than three feet, but then you have the
24 tubular railing in there, which narrows it down even
25 further.

Examination of Erik Kammerer

1 Q Okay. Let's continue to walk through.

2 A So there's these blue circles here and you
3 can see them in the other photo, too. And then here's
4 a close-up of them. So those were likely caused by
5 impacts of those 40-millimeter less lethal rounds.

6 It's my thought that when Officer Oldham is
7 attempting to gain line of sight on Mr. Downs there to
8 use his less lethal launcher, if you recall the
9 previous picture, you have that sight on top that you
10 look through, sits on top of the barrel and you have
11 the barrel below.

12 And so -- yeah, so when this is closed, this
13 would all line up. You would shoulder it and you
14 would look through that sight at your target. And the
15 way sights are set up, the barrel and the sight
16 intersect, 'cause they -- they sit on top of each
17 other, right?

18 So if they're totally parallel, you would
19 never hit what you're aiming at. It would always be
20 too high. So they intersect at some point away from
21 you, whether it's 25 yards, 50 yards, 250. They're
22 set to intersect at some point.

23 In this case, I believe when Officer Oldham
24 was sighting on Mr. Downs while his sight was looking
25 between that metal lip and that tube of the hand

Examination of Erik Kammerer

1 railing and he had sight on him, his barrel was
2 actually below that.

3 And so when he pulled the trigger, his
4 rounds was actually striking the concrete landing and
5 not going through the opening that he thought he was
6 sighting through because it was so close to that
7 landing.

8 Q And, Detective, I just wants to be clear.
9 Is that what you believe based on the evidence you've
10 seen here at the scene or is that based on something
11 that you were told by Officer Oldham?

12 A No. That is -- I've not talked to Officer
13 Oldham, but that is my belief on what I'm seeing at it
14 scene here as to what occurred.

15 Q Okay. And you're trained in the use of
16 those 40 millimeter?

17 A I am, yes.

18 Q Okay. With regard to -- let me back out of
19 this.

20 A You can just close it.

21 Q Okay. So with regard to these rails, are
22 these railings that we're seeing in this image
23 consistent on every level?

24 A Yes.

25 Q Okay. And if a person had moved, for

Examination of Erik Kammerer

1 instance, excuse me, to the side of this landing or
2 the other side of the landing, would there be a clear
3 view down to where the -- to where Ms. Johnson and
4 Mr. Downs were?

5 A No. I wouldn't think so. I mean, if you
6 leaned over the side, depending on how low down you
7 have, you may get a better view of kind of this area
8 down in here or you may get a better view of the
9 stairs down here.

10 But as far as what you're seeing down there,
11 remember here, you're only looking at the seventh
12 floor, so if you're talking about looking down to the
13 sixth floor, here, as you move to the side, you're
14 going to lose this area completely.

15 Q Okay. We'll continue the walk-through down
16 the stairs.

17 A So you see this dark circle below here,
18 that's the image that doesn't get scanned. It sits on
19 a tripod, and so it can't look beneath itself, so
20 that's why you see that dark circle. So this scan was
21 obtained from the seventh floor looking back up
22 towards where the officers were.

23 This is one of our crime scene detectives
24 who happened to walk through at the time that the
25 camera was taking pictures, so he's not as ghostly as

Examination of Erik Kammerer

1 he appears there. These are all the less lethal
2 rounds on the stairs. This is just a picture that was
3 taken.

4 Again, you can see the separated pieces of
5 the 40-millimeter projectile casings here. And,
6 again, that's indicative of the 40-millimeter striking
7 something very hard -- in this case, concrete -- and
8 just tearing apart.

9 Q Detective, are there doors on each of these
10 landings?

11 A There are. This one's both open and closed
12 at the same time. They're secured doors. You can see
13 the key pad here. Red, locked; green, unlocked. And
14 these are all locked doors, not allowing access into
15 the building.

16 If you were to use the parking structure to
17 access the -- the businesses there, there is a little
18 lobby entrance off the parking structure that has
19 elevators, which would be open during normal business
20 hours, but this section was closed under normal
21 business hours. So you can enter the stairway and
22 then you can only go down to exit on the first floor.

23 Q Are there doorways on the half landings?

24 A There are not, no. There are only doors on
25 the floors.

Examination of Erik Kammerer

1 Q Okay.

2 A So here's the stairwell, so now you're
3 looking down towards that five to six floor landing.
4 Here, you're on the sixth floor. Placard 14 -- so 13
5 is a less lethal projectile and 14 is the knife that
6 Mr. Downs had in his hand.

7 Q And is this the floor that Mr. Downs was
8 located on?

9 A Yes. This is the step directly -- so this
10 landing here where this black circle is, that's that
11 sixth floor landing where Mr. Downs is. He's right
12 over here outside of this view and the knife that he
13 had is right there. And this 40-millimeter projectile
14 is a fully intact one. It is not separated.

15 Q What does that mean to you?

16 A That it didn't hit something hard, like
17 concrete. It may have, in fact, struck Mr. Downs.

18 Q And so based on the location of that, do you
19 believe that at least one of the less lethal rounds
20 made to down to the location where he was at?

21 A I do, yes. So that is the stairway. And
22 this perspective is very low because they didn't have
23 it on a tripod here. They actually set it on the
24 landing.

25 And then over here on the wall is blood

Examination of Erik Kammerer

1 spatter. And then it's up here as well on the -- the
2 wall leading up to the half floor.

3 Q Can you describe what we're looking at in
4 terms of these photographs of the blood spatter and
5 what that indicates to you?

6 A Okay. So you have these -- these little
7 stickers here, little measurement stickers. They're
8 90-degree angles. And then you have this measurement
9 tape here just so you get a sense of the size of the
10 area. So we're looking at about a three-foot by
11 three-foot area here, right in the corner of that
12 stairwell.

13 And blood will move at whatever velocity
14 it's propelled at. So, for instance, if everybody
15 seen an TV, someone gets shot by a gun, there's this
16 explosion of blood.

17 When rounds are coming in, they're moving
18 extremely fast, and so the blood then moves extremely
19 fast. So you get what's called high-velocity blood
20 spatter. So it's almost like a mist. It's very fine.

21 You don't get thick pieces of blood moving
22 at that speed. It's very, very fast and very, very
23 fine. Then you have what's called lower velocity or
24 low velocity blood spatter and then you have transfer
25 blood spatter.

Examination of Erik Kammerer

1 So a classic example of low velocity. So
2 you have a baseball bat and you're hitting someone and
3 say it hits them in the head. So that first hit
4 breaks the skin, causes it to bleed.

5 Blood is not transferred. There's just
6 blood coming out of the capillaries now. The second
7 blow gets blood on it. And then as it's pulled --

8 Q Gets -- I'm sorry, gets blood on --

9 A Gets blood on the bat. Right, the second
10 below of the bat, you get blood on the bat now. So
11 the bat comes back for another strike. The blood
12 that's on there then keeps going. Inertia keeps it
13 moving.

14 And then it will hit whatever fixed object
15 it can find, in this case, a wall. And you get
16 thicker, droopier blood. You don't get fine little
17 misty blood. So you get these big old spots of blood.

18 Obviously, no baseball bat was used in this
19 case. But any hard object can transfer that blood. A
20 punch, you punch someone in the nose, three or four
21 times, they're bloody. That fist comes back, the
22 blood keeps going.

23 And then if you have blood on you, if you're
24 someone that's bleeding and you get blood on you and
25 you start touching things, that's called transference.

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1 So you'll get swipe patterns. See how it's kind of
2 swiped her and then it's dripping down here, but it
3 doesn't appear to have a source of origin up here,
4 almost as if it was put on there and then it's running
5 down the wall.

6 And so when you look at this, you can see
7 you have the low velocity spatter as well as
8 transference and then the running down the walls.

9 Q Is that -- what is that consistent with?

10 A That's consistent with some sort of blunt
11 force trauma, multiple uses of it which then causes
12 that transference of blood to the blunt force
13 instrument, whatever it was, in this case, a fist.

14 And then you get the -- the cast-off, if you
15 will. And then if you'll notice, you know, we're only
16 about three feet off the ground here, where the
17 majority of the blood is. That indicates that
18 whatever event happened, happened down low.

19 It didn't -- nobody was standing and all
20 this blood got put down here. The source of the blood
21 was close to where it was deposited. So you do see
22 blood up here, that tells me at some point, someone
23 was likely standing when you got this transference of
24 blood and then the remainder of it occurred down here.

25 Q Is the blood that we're looking at on the

Examination of Erik Kammerer

1 wall there consistent with a gunshot wound?

2 A Absolutely not.

3 Q Can you describe what you mean by that or
4 describe why that is.

5 A So gunshot wounds cause high velocity blood
6 spatter, which again is that misty blood. So you
7 would see -- if you were able to look at it close
8 enough, you would see very tiny points of blood; but
9 from a distance, it would look like a haze of blood on
10 the wall. You wouldn't have -- you wouldn't -- from
11 this distance, you would not be able to ascertain
12 individual spots.

13 Q Could this be -- could this pattern that
14 we're looking at here be consistent with what was
15 ultimately reported by Ms. Johnson?

16 A Yes. I would think so, yes.

17 Q Okay. With regard to the rest of this
18 scene, is there anything that we haven't seen in terms
19 of relevant evidence?

20 A No, I don't believe so.

21 Q Were there -- was there any evidence of drug
22 use located at the scene?

23 A There was. Directly behind Mr. Downs was an
24 uncapped needle that was lying. So just for
25 orientation, this is that back wall. Over here would

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1 be the side wall with the blood spatter on it that we
2 just saw.

3 And then over on that side would be the door
4 leading out of the stairwell. So directly behind him,
5 the stairs would be going up on this side and down on
6 this side, is that uncapped syringe.

7 Q And then with regard to the item in the
8 corner of that photograph, do you know what that black
9 item is?

10 A It's a speaker. And then you have this
11 length of wiring coming off of it or lanyard. This is
12 one of the items that Officer Miller initially saw
13 obscured and then uncovered to determine it was not
14 some sort of wired-up explosive device, but just a
15 speaker. And then there's this clear plastic cup
16 here, too, that does have some relevance.

17 Q Okay. Walk us through that.

18 A We were able to find some surveillance video
19 of Mr. Downs and Ms. Johnson coming into the Safeway.
20 And in that video, you can see him tearing that
21 plastic cup.

22 Q Was there -- aside from that speaker that
23 you mentioned Officer Miller had some concerns about,
24 was there anything else located at the scene that --

25 A Yeah. There was a black metallic pen light,

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1 probably about that big around. Had a rubber
2 depressor on the end for -- to turn the light on and
3 off. And that was what Mr. Downs had been holding in
4 his left hand over his head, claiming it was a
5 detonator for an explosive device.

6 Q Are there any other pertinent viewpoints,
7 Detective, through the Leica scans?

8 A No.

9 Q Do the grand jurors have any questions about
10 the scene photographs or the walk-through? Does
11 anybody want to revisit anything?

12 A GRAND JUROR: I just wanted to make
13 sure -- Ms. Johnson was cleared from the -- you didn't
14 mention her at all, so was she around when you got
15 there?

16 THE WITNESS: She was at the hospital when I
17 got there.

18 A GRAND JUROR: Okay.

19 THE WITNESS: Yes.

20 A GRAND JUROR: Okay.

21 BY MS. MARRERO:

22 Q So backing up just a little bit, Detective,
23 you -- you pointed out the key pad in one of the
24 photos. Can you describe how the building can be
25 accessed from different areas?

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1 A So the easiest method of access -- there are
2 secured doors on the first floor for the office
3 spaces, but like I said, those are secured and they're
4 open during regular business hours.

5 This was outside of regular business hours,
6 so those doors were locked, which did present a
7 problem for an of our officers actually in getting
8 access to the building. They needed Mr. Connors to
9 let them in and then additional officers, because
10 Mr. Connors wasn't there anymore, were having trouble
11 getting into the building.

12 We learned subsequently that you can access
13 pretty much the entirety of the building through the
14 ramp coming off of 14th that leads up into the parking
15 structure. So you can get all the way up to the sixth
16 floor there and then access the stairwell at any
17 point.

18 However, once in the stairwell, you can't
19 get out until you go all the way down to 1. And if
20 you start at the stairwell on the bottom, you cannot
21 get up through the third floor because it's locked at
22 the third floor, allowing access only down.

23 Q And were you able to obtain surveillance
24 video and ascertain how Ms. Johnson and Mr. Downs
25 accessed the stairwell?

Examination of Erik Kammerer

1 A Yes.

2 Q And of the views here on the video, do you
3 know which one they come into first?

4 A Yeah. So just play -- 01, 02, 03, 04. So
5 this is a camera looking out onto 14th Avenue from
6 inside the -- the ramp. As you come in, it starts to
7 go up. And if you watch this area right up in here.
8 So that's Mr. Downs right there in his camouflage
9 pants, carrying that plastic cup. And that's
10 Ms. Johnson right there.

11 Q And does Mr. Downs appear to have anything
12 in his hand, in his other hand there as he's walking?

13 A No, he does not.

14 MS. MARRERO: Okay.

15 A GRAND JUROR: Is he wearing gloves?

16 THE WITNESS: No.

17 BY MS. MARRERO:

18 Q And what view are we looking at now?

19 A Well, this is the -- that ramp. So here's
20 that opening that you just saw earlier in the previous
21 video. And this is the ramp then that leads up to the
22 parking structures.

23 And then that's Mr. Downs and Ms. Johnson
24 walking up the ramp there, Mr. Downs on the left.
25 He's going to stop and find something on the ground

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1 there and kick it and then move along.

2 Q What view is this?

3 A So this is the view on the fourth floor and
4 you're going -- here's the stairwell here. So you're
5 going to see them hit the top of the ramp and come
6 across.

7 And if you -- if you notice her shoes there,
8 they're kind of distinctive, that pinkish purple
9 color. Those are actually found in the scene as well.
10 So here's the actual stairwell door here and you'll
11 see them come across. So there's Mr. Downs and
12 Ms. Johnson.

13 Q Detective Kammerer, was there any video
14 surveillance in the stairwell?

15 A There is none, no.

16 Q Is there any video surveillance available
17 (indiscernible) that you're aware of?

18 A Any other video surveillance?

19 Q Mm-hmm.

20 A No.

21 Q Were there any windows into the stairwell
22 from the outside?

23 A No, there are not.

24 Q Were any witnesses identified who observed
25 the shooting, aside from the officer -- the witness or

Playing Audio Recording

1 involved officers?

2 A No.

3 Q As part of your investigation, do you pull
4 the BOEC recordings?

5 A I do, yes.

6 Q What is BOEC?

7 A The Bureau of Emergency Communications. So
8 that's where 9-1-1 -- when you call 9-1-1, that's --
9 you're getting ahold of BOEC. And they capture all
10 incoming calls and most radio transmissions.

11 Q And you mentioned Mr. Connors earlier. Were
12 you able to review his 9-1-1 calls?

13 A Yes.

14 Q And do we have those here?

15 A I believe so.

16 (**TRANSCRIBER'S NOTE:** Audio recording
17 played, 10:35 a.m., as follows:)

18 9-1-1 OPERATOR: 9-1-1.

19 MIKE CONNORS: Yeah, I'm hearing some
20 yelling going on in a stairway in the building.

21 9-1-1 OPERATOR: Okay.

22 MIKE CONNORS: 1331 Northwest Lovejoy.

23 9-1-1 OPERATOR: 1331 Northwest Lovejoy?

24 Okay. And do you know --

25 MIKE CONNORS: Yeah.

Playing Audio Recording

1 9-1-1 OPERATOR: -- what level it's on?

2 MIKE CONNORS: I don't. It sounds like it's
3 about on Level 4 or 5. And it's in the, ah, south --
4 ah, southwest corner of the building.

5 9-1-1 OPERATOR: Okay. And can you make
6 out, like is it two people fighting or like somebody
7 yelling for help?

8 MIKE CONNORS: It sounds -- no, it sounds
9 like two people fighting.

10 9-1-1 OPERATOR: Okay. And your name?

11 MIKE CONNORS: Ah, Mike Connors.

12 9-1-1 OPERATOR: And what is your phone
13 number, please?

14 MIKE CONNORS: Phone number's
15 (503) 781-0280.

16 9-1-1 OPERATOR: Okay. 781-0280. All
17 right. We're getting help on the way. If you hear or
18 see anything else or get any further information, feel
19 free to call us back.

20 MIKE CONNORS: Okay. Thank you.

21 9-1-1 OPERATOR: All right. Bye.

22 (**TRANSCRIBER'S NOTE:** Audio recording
23 stopped, 10:36 a.m.)

24 BY MS. MARRERO:

25 Q So that was the first call, correct?

Playing Audio Recording

1 get a description of the guy?

2 MIKE CONNORS: I didn't, because I didn't --
3 ah, I didn't want to run out there, 'cause he was
4 saying, "I got a knife."

5 9-1-1 OPERATOR: Okay. Did he mention any
6 other weapons?

7 MIKE CONNORS: He did not.

8 9-1-1 OPERATOR: Okay.

9 MIKE CONNORS: Well, other than he says he
10 has a bomb.

11 9-1-1 OPERATOR: Okay. And, ah, you said
12 he's between the fourth and fifth floors on the
13 stairwell?

14 MIKE CONNORS: Ah, yeah. I think that's --
15 I think that's right. That's an estimate.

16 9-1-1 OPERATOR: Okay. All right. Sounds
17 good. And are you calling from (503) 781-0280?

18 MIKE CONNORS: I am.

19 9-1-1 OPERATOR: Okay. They're on their
20 way. I'll make sure to let them know.

21 MIKE CONNORS: Okay. Thank you.

22 (**TRANSCRIBER'S NOTE:** Audio recording
23 stopped, 10:37 a.m.)

24 THE WITNESS: And that was approximately
25 five minutes after they (indiscernible).

Examination of Erik Kammerer

1

2 BY MS. MARRERO:

3 Q When did the -- that was about five minutes
4 after, you said?

5 A Yes, ma'am.

6 Q And is there also a recording of the radio
7 traffic between the officers?

8 A There is, yes.

9 Q Can you describe what that is and how
10 that's pertained?

11 A So, in this case, I believe the -- this
12 audio recording has had all the dead air space
13 removed, so it's called compressed. So it's going to
14 sound very rapid fire, but that is not a true
15 representation of how those radio traffic came
16 through.

17 The full one would be somewhere around 20
18 minutes just for -- from the time of the dispatch
19 until the time that the shots were fired. And the
20 shots were fired at approximately 10:05 and the 9-1-1
21 call -- 9-1-1 call came in at 9:43.

22 Q With regard to the speed of this incident,
23 would you describe this whole event unfolding as
24 having been relatively fast, relatively slow, based on
25 your experience?

Examination of Erik Kammerer

1 A A little bit of both. I mean, you know,
2 they -- it took the officers time to get into a
3 position where they could ascertain what was going on.
4 And once that happened, then it was very fast.

5 MS. MARRERO: Okay.

6 (**TRANSCRIBER'S NOTE:** Audio recording
7 played, 10:39 a.m., as follows:)

8 DISPATCH: AT1.

9 OFFICER: What you doing?

10 DISPATCH: Going to the Lovejoy Building,
11 1331 Northwest Lovejoy. Our caller is hearing sounds
12 of a fight coming from the stairwell in the southwest
13 corner.

14 (**TRANSCRIBER'S NOTE:** Audio recording
15 stopped, 10:39 a.m.)

16 BY MS. MARRERO:

17 Q And, Detective, I'm sorry. I'm going to
18 pause that for a moment. Before we get into this, is
19 this radio traffic that the involved officers would
20 have had access to?

21 A Yes. Yes, they would have been listening to
22 this radio traffic. And you're going to hear
23 additional other police business going on during the
24 course of this, 'cause all of Central Precinct
25 operates on this net.

Playing Audio Recording

1 Q Okay. So -- but all of the officers who
2 responded who were involved in this incident really in
3 any capacity have access to this communications?

4 A Well, by access, post shooting, no.

5 Q No. During, officers at the scene.

6 A Yeah. They would have been listening to
7 this. This is the transmissions they would have
8 heard.

9 MS. MARRERO: Thank you.

10 (**TRANSCRIBER'S NOTE:** Audio recording
11 played, 10:39 a.m., as follows:)

12 DISPATCH: I think it's between Floors 4
13 and 5.

14 UNIDENTIFIED SPEAKER: Copy.
15 (Indiscernible).

16 DISPATCH: 9:45. (Indiscernible) still on
17 emergency (indiscernible) channels at 188 and
18 Burnside. (Indiscernible). Information, Gresham 61
19 (indiscernible).

20 OFFICER 881: 881. Clear my line, Frank,
21 and put me on the (indiscernible) at Starbucks for the
22 theft or whatever it is.

23 DISPATCH: 881, copy.

24 OFFICER WELLS: 821. We probably need to
25 update. Why don't we get another car heading this way

Playing Audio Recording

1 until we can advise.

2 (TRANSCRIBER'S NOTE: Audio recording
3 stopped, 10:40 a.m.)

4 BY MS. MARRERO:

5 Q Who's that voice?

6 A So that's Officer Wells and that update that
7 she copied would have been the second call from
8 Mr. Connors, updating the information he'd learned.

9 So, at this point, they'd sent one
10 two-person car, Officer Wells and Officer Flohr. And
11 now she's arrived. She's heard the update or she's
12 read the update in the call and is asking for
13 additional cars now.

14 (TRANSCRIBER'S NOTE: Audio recording
15 played, 10:40 a.m., as follows:)

16 DISPATCH: 831. (Indiscernible) to the
17 Lovejoy Building.

18 OFFICER 831: 831 in route.

19 DISPATCH: They're (indiscernible).

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 DISPATCH: (Indiscernible).

22 OFFICER 811: 811. (Indiscernible).

23 DISPATCH: 811. (Indiscernible.)

24 OFFICER WELLS: 81, are you guys still on
25 line with the caller? We're trying to call them.

Playing Audio Recording

1 DISPATCH: Yeah, he is no longer a landline.

2 UNIDENTIFIED SPEAKER: You guys have a less
3 lethal going to that (indiscernible)?

4 OFFICER WELLS: Not yet. I'm still trying
5 to figure out where this is, because the Safeway
6 address is 1303, which takes up a whole block. I'm
7 assuming it's the apartments above, but we don't know
8 how to get up there and the caller won't answer their
9 phone.

10 DISPATCH: 721, are you able to respond to
11 this for less lethal, the Lovejoy Building?

12 OFFICER 721: I can.

13 UNIDENTIFIED SPEAKER: From Central.

14 DISPATCH: (Indiscernible) en route, please.

15 OFFICER 871: 871. Can I get 882 and 881 on
16 Seg 2?

17 UNIDENTIFIED SPEAKER: Okay.
18 (Indiscernible).

19 OFFICER WELLS: 81, these will be the
20 apartments above Safeway and the caller is going to
21 meet us at 13 and Marshall to let us in.

22 DISPATCH: They are the apartments above
23 Safeway and the caller will meet at 13th and Marshall
24 for access.

25 OFFICER: And 841 is with them.

Playing Audio Recording

1 DISPATCH: 841, 9:52.
2 3801 en route.
3 3807.
4 OFFICER 3807: What?
5 DISPATCH: We have a priority hit and run at
6 633 Southeast 16. (Indiscernible) now. Our caller's
7 still here. The vehicle took off. We don't have a
8 plate number or anything like that. (Indiscernible)
9 for contact.
10 UNIDENTIFIED SPEAKER: Absolutely.
11 DISPATCH: 9:53.
12 OFFICER WELLS: (Indiscernible) just to
13 update, we're with the caller. And we're going to
14 move locations for entry. I'll update that in a
15 minute.
16 DISPATCH: Copy. 9:53.
17 UNIDENTIFIED SPEAKER: 831 23.
18 DISPATCH: 831 9:54.
19 OFFICER WELLS: (Indiscernible) we're gonna
20 get access off of 14th if there is anyone else coming.
21 DISPATCH: The access is going to be off
22 14th for the Lovejoy call.
23 OFFICER WELLS: Yeah. Looks like we're
24 going to start at 14 and Lovejoy.
25 DISPATCH: Be access, 14th and Lovejoy.

Playing Audio Recording

1 UNIDENTIFIED SPEAKER: 871 to 881, we've
2 gotta enter at the hospitality (indiscernible). Make
3 it a Code (indiscernible) response for that.

4 UNIDENTIFIED SPEAKER: Okay. 45 Multnomah.

5 DISPATCH: 871 dispatch copy, 9:54.

6 OFFICER WELLS: 821, is anyone else coming
7 to my call?

8 OFFICER: 721 at 14th and Burnside.

9 DISPATCH: And, 821, 3801 is also en route.

10 OFFICER WELLS: I copy that. I think we
11 will wait until at least the less lethal gets here.
12 And we will be at 14 and Lovejoy, just inside. I'll
13 look for you.

14 UNIDENTIFIED SPEAKER: Copy that.

15 DISPATCH: 9:55.

16 UNIDENTIFIED SPEAKER: 721 on 23.

17 DISPATCH: 721, copy.

18 And, 882, just to confirm you're out with
19 871. 871, just confirm when you Code 4.

20 OFFICER 871: Yeah, we're Code 4 for now.
21 We're just trying to talk (indiscernible).

22 UNIDENTIFIED SPEAKER: I'm Code 4 at
23 Starbucks, 9:56.

24 UNIDENTIFIED SPEAKER: And we're not at the
25 Starbucks. We're at the --

Playing Audio Recording

1 UNIDENTIFIED SPEAKER: (Indiscernible).

2 DISPATCH: Copy at 10155 Southwest Capital.

3 UNIDENTIFIED SPEAKER: 821, do you need any
4 units around the perimeter on (indiscernible)

5 DISPATCH: 821, can you advise if you need
6 any cars at the perimeter or do you want everybody
7 inside with you?

8 OFFICER WELLS: I have Moose hanging out at
9 14 and Lovejoy where there's an exit to the stairwell.

10 (**TRANSCRIBER'S NOTE:** Audio recording
11 stopped, 10:43 a.m.)

12 BY MS. MARRERO:

13 Q Do you know who Moose stands for?

14 A Officer Moussallem.

15 (**TRANSCRIBER'S NOTE:** Audio recording
16 played, 10:43 a.m., as follows:)

17 OFFICER WELLS: Apparently there might be
18 access through the Safeway from the third floor. And
19 we're going to talk with security real quick. So
20 maybe one person kind of at Safeway.

21 UNIDENTIFIED SPEAKER: Okay. I'm heading on
22 now. I'll -- I'll just go straight to Safeway and let
23 me know if that would change.

24 OFFICER WELLS: So the only thing we have is
25 male and female voice. That's all we got. And we'll

Playing Audio Recording

1 let you know when we head up.

2 OFFICER 3801: 3801.

3 DISPATCH: 3801.

4 OFFICER 3801: What type of confirmation do
5 we have on weapons and this hostage situation claim
6 and all of that?

7 DISPATCH: 3801, we have one call with one
8 update regarding that and it was made by the suspect.
9 Only one call.

10 And, 3801, this is actually secondhand
11 information from our original caller that he overheard
12 someone saying, "Tell the cops that I'm waiting for
13 them." And that they had a hostage with 33 Baker and
14 they also mentioned having a knife.

15 (**TRANSCRIBER'S NOTE:** Audio recording
16 stopped, 10:44 a.m.)

17 BY MS. MARRERO:

18 Q What does 33 Baker stand for?

19 A That's an explosive device.

20 (**TRANSCRIBER'S NOTE:** Audio recording
21 played, 10:44 a.m., as follows:)

22 UNIDENTIFIED SPEAKER: (Indiscernible).

23 DISPATCH: 31, you're broken up a little
24 bit. Can you repeat that?

25 OFFICER 3801: Officer Wells, who are you

Playing Audio Recording

1 talking to? Who's giving you information?

2 OFFICER WELLS: One of the residents. He is
3 hanging with Moose at 14 and Lovejoy. And there's
4 about five of us in the elevator heading up to the
5 ninth floor to check the stairs.

6 (**TRANSCRIBER'S NOTE:** Audio recording
7 stopped, 10:45 a.m.)

8 BY MS. MARRERO:

9 Q And, Detective, again, who were the five who
10 headed up?

11 A It was Officer Wells, Officer Flohr,
12 Officer Quinsland, Officer Oldham and Officer --

13 Q Kirby-Glatkowski?

14 A -- Kirby-Glatkowski, yes.

15 (**TRANSCRIBER'S NOTE:** Audio recording
16 played, 10:45 a.m., as follows:)

17 OFFICER 871: 871. We're 61 at Code 4 here.

18 DISPATCH: Copy, 871 61 at 9:59.

19 OFFICER 811: 811. Just to clear

20 (indiscernible), we're going to be entering the
21 stairwell and we can hear people on the stairwell.

22 DISPATCH: Copy, entering the stairwell and
23 voices are heard. 10 o'clock.

24 OFFICER 841: 841. We can see the suspect
25 from two floors above. White male, bald head, red

Playing Audio Recording

1 shirt, green pants. He has a knife in his right hand.

2 DISPATCH: Copy, white male, bald, red
3 shirt, green pants with a knife in his hand.

4 OFFICER 841: 841. (Indiscernible) we're
5 challenging him.

6 DISPATCH: Copy. (Indiscernible).

7 OFFICER KIRBY-GLATKOWSKI: Second less
8 lethal.

9 DISPATCH: 51, copy the less lethal
10 response.

11 (**TRANSCRIBER'S NOTE:** Audio recording
12 stopped, 10:46 a.m.)

13 BY MS. MARRERO:

14 Q Do you know whose voice is calling in these
15 updates?

16 A I believe that's Officer Kirby-Glatkowski.

17 (**TRANSCRIBER'S NOTE:** Audio recording
18 played, 10:46 a.m., as follows:)

19 OFFICER KIRBY-GLATKOWSKI: There is a naked
20 female on the staircase near him.

21 OFFICER 3801: 3801. Who does not have a
22 job up there? I need somebody to let me in the
23 elevator so I can get upstairs.

24 OFFICER KIRBY-GLATKOWSKI: Suspect is about
25 240 pounds, white male. We are (indiscernible).

Playing Audio Recording

1 Suspect still has the knife. Less lethal is deployed.

2 (TRANSCRIBER'S NOTE: Audio recording
3 stopped, 10:46 a.m.)

4 THE WITNESS: So I don't know if you heard
5 that, that noise. That was the less lethal being
6 deployed.

7 (TRANSCRIBER'S NOTE: Audio recording
8 played, 10:46 a.m., as follows:)

9 DISPATCH: Less lethal being deployed,
10 10:02.

11 UNIDENTIFIED SPEAKER: Stage medical.

12 DISPATCH: Copy.

13 OFFICER KIRBY-GLATKOWSKI: Second less
14 lethal deployed. Seems to have no effect.

15 DISPATCH: Copy. Second less lethal
16 deployed with no effect.

17 (TRANSCRIBER'S NOTE: Audio recording
18 stopped, 10:46 a.m.)

19 THE WITNESS: That snapping noise, that's
20 the less lethal.

21 (TRANSCRIBER'S NOTE: Audio recording
22 played, 10:46 a.m., as follows:)

23 DISPATCH: Code 3 medical is staged.

24 OFFICER 841: 841. He's standing in front
25 of her with the knife. Less lethal is ineffective.

Playing Audio Recording

1 He is posturing, holding the knife and threatening her
2 with it.

3 UNIDENTIFIED SPEAKER: He's standing in
4 front of her.

5 OFFICER 3801: 3801. Can I get second
6 sergeant here. I need you guys to -- are you guys
7 challenging him? Can you see --

8 OFFICER 841: 841. We are challenging him
9 from the landing directly above. We need SERT. Let's
10 get our rifle here. He has the knife to her throat.

11 OFFICER 3807: 3807. I'm en route. You
12 have a SERT (indiscernible).

13 OFFICER 811: 811. We're on Floor 8. He is
14 on Floor 6, so any units responding come to Floor 8.

15 DISPATCH: Copy. You're on Floor 8, but the
16 suspect's on Floor 6. We'll have SERT be en route.

17 UNIDENTIFIED SPEAKER: We do not have access
18 to upstairs. I need somebody to break off and come
19 back down and let us upstairs.

20 UNIDENTIFIED SPEAKER: Copy. Flohr is on
21 the way down right now. Flohr, were you able to get
22 out?

23 OFFICER FLOHR: Waiting for elevator.

24 OFFICER: (Indiscernible).

25 OFFICER 721: 721. Shots fired.

Playing Audio Recording

1 DISPATCH: Copy, shots fired. Shots fired
2 at Lovejoy Building (indiscernible).

3 OFFICER 721: Shot fired, suspect is down,
4 victim's running south out of -- down out of the
5 stairwell. We need AMR to come Code 3. It's a head
6 shot.

7 DISPATCH: Copy, Code 3 for head shot.

8 OFFICER 831: 831. Can somebody advise, is
9 he still armed?

10 UNIDENTIFIED SPEAKER: Negative. He is 55
11 and come to Floor 6. I'll let you guys in.

12 DISPATCH: Copy. Suspect is 55 on Floor 6.

13 OFFICER 851: 851. Start a crime scene on
14 the outside.

15 (**TRANSCRIBER'S NOTE:** Audio recording
16 stopped, 10:48 a.m.)

17 BY MS. MARRERO:

18 Q So, Detective, what does 55 mean?

19 A It means they're deceased.

20 Q With regard to what we're listening to, I
21 know you said that that recording is compressed, so
22 the dead spaces or so that the dead air is not audible
23 and it doesn't drag out. Is that an ongoing recording
24 that is recording everything that's happening or does
25 it have to be initiated?

Examination of Erik Kammerer

1 A No. It only records radio transmissions,
2 so, I mean, that's what you're hearing is captured
3 radio transmissions. So if the officers aren't keying
4 their mikes, no radio transmissions are occurring.

5 Q Okay. So that's where it sounds as though
6 things stop and then starts and then stops and then
7 starts, because it's only recording if somebody's
8 essentially pushing a button?

9 A Yes.

10 Q With regard to what occurred after your
11 walk-through and after the evidence was collected,
12 what further investigative steps were taken with
13 regard to Mr. Downs in determining the condition --
14 his condition?

15 A We went to the autopsy the next morning.

16 Q And --

17 A On June 10th, I believe.

18 Q Okay. And we'll have Dr. Nelson here to
19 testify in a bit, so I won't have you go into too much
20 detail, but you were able to observe a gunshot wound?

21 A Yes. He had a single gunshot wound high up
22 on his forehead, just lightly to the left of midline.

23 Q Okay. And did you observe any other
24 injuries on his body that appears like they could be
25 consistent with a less lethal round?

Examination of Erik Kammerer

1 A There was some sort of abrasion on his leg
2 that, to me, looked like it could have been an impact
3 from a less lethal round.

4 MS. MARRERO: Okay.

5 A GRAND JUROR: And what was a 721?

6 THE WITNESS: That's a unit number, 721.

7 A GRAND JUROR: Okay.

8 THE WITNESS: So that's actually
9 Officer Oldham, who's the less lethal operator.

10 A GRAND JUROR: Okay.

11 BY MS. MARRERO:

12 Q And subsequent to the crime scene
13 investigation and the autopsy, was any evidence
14 admitted to the lab for testing?

15 A Yeah. The -- we -- as part of the
16 countdown, we collected Officer Kirby-Glatkowski's
17 firearm, his magazines and all the ammunition. So
18 that, along with the shell casing and then the bullet
19 that was recovered at the autopsy were all submitted
20 to the Oregon State Police Crime Lab.

21 Q Okay. In reviewing the -- and we'll have
22 those witnesses come testify later. In reviewing the
23 evidence that you have, do you believe that there was
24 sufficient time to get, for instance, crisis
25 negotiators in there or the SERT Team or anything of

Examination of Erik Kammerer

1 that nature?

2 A I was not there. I was not there in the
3 stairwell. I would -- I don't feel I am qualified to
4 answer that question without actually being present
5 during the incident.

6 Q Let me ask a different way. Were -- were
7 those resources on scene when this occurred?

8 A They were not. They had been requested, but
9 they were not there.

10 Q Okay. So that's where I was going. Had
11 they been requested and who had requested them?

12 A I don't recall who it was. They asked for
13 SERT to be activated, which is our special emergency
14 reaction team or our SWAT Team.

15 And as part of any SERT activation, the
16 Crisis Negotiation Team also responds, so you get a
17 two for one, if you will, with -- with a request for a
18 SERT activation. And so they would have shown up at
19 the scene and been briefed by somebody capable of
20 briefing them in what was going on.

21 And then, at that point, they would have
22 taken over both the tactical portion and then the
23 negotiation portion. If things had played out, that
24 would have occurred, but that could have taken upwards
25 of 20 to 30 minutes on a really good day.

Examination of Erik Kammerer

1 Q On a really good day. And so does the speed
2 of an evolving situation determine whether or not it's
3 even possible to get a SERT team in place?

4 A We -- the police are always reacting to
5 what's going on. We're never -- we don't -- you know,
6 we don't know what's going to happen ahead of time, so
7 we always have to react to what we're seeing and what
8 we're experiencing and so that's, you know, our -- our
9 actions are dictated by our reaction to what's
10 happening.

11 MS. MARRERO: Okay.

12 A GRAND JUROR: Did you hear them call for
13 the SERT team on the radio?

14 THE WITNESS: Yes, sir.

15 A GRAND JUROR: Okay. And then there was --
16 there was a discussion of Flohr going downstairs to
17 let some people in. Was that the SERT or is that a
18 different --

19 THE WITNESS: No. That's Officer Flohr, who
20 was one of the five that went up in the elevator. And
21 so she had a key card that allowed the elevator and
22 door access.

23 So you can't even go up and down on the
24 elevators without a key card to unlock them. And so
25 she had the key card. And so they were sending

Examination of Erik Kammerer

1 Officer Flohr back down to get Sergeant Hill, who
2 responded and then also requested an AR operator, so a
3 rifle operator to also be -- respond and be there as
4 lethal cover in the stairwell.

5 A GRAND JUROR: Thank you.

6 BY MS. MARRERO:

7 Q And so at the time that shots were -- the
8 shot was fired, resources were still being gathered at
9 the scene?

10 A Yes.

11 MS. MARRERO: Folks, do you have any other
12 questions for Detective Kammerer at this time?

13 Okay. We can take a five-minute break. I'm
14 going to go get the next witness.

15 THE WITNESS: Thank you.

16 (Recess taken, 10:53 a.m. - 10:59 a.m.)

17 MS. MARRERO: Okay. We are back on the
18 record with our next witness. Would you please stand
19 up and raise your right hand. We'll swear you in.

20 **EDWARD MICHAEL CONNORS**

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

23 A GRAND JUROR: Thank you. Please sit down.

24 **EXAMINATION**

25 BY MS. MARRERO:

Examination of Edward Michael Connors

1 Q Can you please state and spell your first
2 and last name.

3 A Edward Michael Connors. I go by my middle
4 name, Mike. Last name, C-o-n-n-o-r-s. Do you want me
5 to spell Edward or Michael?

6 Q No, that's okay. Thank you, Mr. Connors.
7 Can you tell us: How are you employed?

8 A I work at the law firm Hathaway Larson.

9 Q And where is your office located?

10 A 1331 Northwest Lovejoy, Suite 950, which is
11 on the ninth floor of that building.

12 Q The ninth floor of what building?

13 A The Lovejoy Building.

14 Q Okay. And is that the same building that
15 Safeway is in?

16 A Correct.

17 Q Okay. I wanted to speak with you -- well,
18 how long have your -- how long has your office been
19 located in that building?

20 A We've been there since July of 2017.

21 Q Can you describe for the grand jury how
22 that -- how the offices are accessed? And in
23 particular, how individuals who don't have access via
24 a key card or some other way could possibly access
25 that building?

Examination of Edward Michael Connors

1 A Sure. So the building consists of two
2 floors that are Safeway. I mean, they only have one
3 floor, but their floor is so tall that it takes up two
4 floors. Then there's parking on Floors 3 through 6.

5 The third floor is public parking that
6 people use to access Safeway. The fourth through
7 sixth floors are intended to be used by the tenants,
8 office tenants in the building. And the office
9 tenants occupy Floors 7 through 9.

10 Q Okay. And is that -- are all of those
11 floors open and accessible to the public?

12 A They are. Through driving through the
13 parking lot, you can get all the way up to six. You
14 can only access the Safeway on the third floor. There
15 are some stairwells there.

16 Otherwise, if you're on the fourth through
17 sixth floors, you can access the stairwell, but you
18 can't get access onto the seventh through ninth floors
19 unless you have a card key.

20 But anybody could walk up through the
21 parking lot and access all the floors. I'm not a
22 hundred percent sure, but I do believe you can access
23 some of the stairwells from the first floor and get up
24 to at least the third floor or fourth floor.

25 Q Okay. With regard to the doors out, though,

Examination of Edward Michael Connors

1 so you can walk up the ramps --

2 A Mm-hmm.

3 Q -- you can go out the doors. Can you go all
4 the way down and get out on the first floor?

5 A Yes.

6 Q But would you be able to go up and get out,
7 for instance, at your office without a -- a key card?

8 A No, you could not. I believe there's also a
9 barrier between the third and fourth floor that you
10 have to access. If you were coming up the stairwell
11 from the first floor, you would reach that door and
12 have to have some access. I've never done it. I
13 don't even know if building tenants who have a card
14 access can access it through there, but there's a
15 barrier there.

16 And then from the fourth floor to the sixth
17 floor, anybody that accesses that can go down. But if
18 you go up, you can access out each parking level, so
19 you can get out, in or out through Parking Level 4
20 through 6, but if you go above six, seven through nine
21 where the office tenants are located, you cannot
22 access any of those floors unless you have the
23 appropriate card key to do so.

24 Q Okay. And I want to speak with you about an
25 incident that occurred in your building. Were you at

Examination of Edward Michael Connors

1 work on June 9th of 2019?

2 A I was.

3 Q And do you recall what day of the week that
4 was?

5 A I believe it was a Sunday.

6 Q Thank you. And at what point did you become
7 aware of something happening?

8 A So I parked my car and I was walking towards
9 the door. You -- there's a door that you can enter
10 into to access the elevators. And right next to that
11 is the doorway of the stairwell.

12 Q Can you access the elevators and ride that
13 up and down without a key card?

14 A Only, I believe, to the parking levels.

15 Q Okay.

16 A And to Floor 1.

17 Q Okay.

18 A You cannot access Floors 7 through 9 without
19 that card key during off business hours.

20 Q Okay. So sorry I interrupted. Go ahead.

21 A Oh, that's okay. So I arrived and I was a
22 little bit unsure where I parked. I think I parked an
23 Level 5. And I was working towards the doors and
24 trying to figure out whether I was going to take the
25 stairwell up to the office or the elevator, 'cause I

Examination of Edward Michael Connors

1 often just walk the stairs, get a little extra
2 exercise.

3 And I don't recall whether I heard some
4 commotion before I opened the stairwell door or after
5 I opened it, but I heard, sounded like two people
6 struggling or fighting in the stairwell. I did open
7 the door. And, again, I don't recall whether I first
8 heard it when I opened the door or I think I heard it
9 before I opened the door.

10 I opened the door and listened in and then
11 shut the door. I believe I walked into the elevator
12 waiting area and I was trying to figure out what to
13 do. Because it sounded like two people fighting, I
14 was trying to figure out should I somehow try to
15 intervene? Should I call the police?

16 Is this an emergency? You know, I was kind
17 of going through that calculation. And, ultimately,
18 decided I wanted to weigh on the side of caution. I
19 hate to be one of those people that didn't call and
20 something terrible happened.

21 So I called 9-1-1. And I reported that
22 there was some altercation in the stairwell. I didn't
23 have a visual. I didn't know who it was. I didn't
24 know the circumstances at all. And so then I got off
25 the phone and I could still hear some noises.

Examination of Edward Michael Connors

1 Q Did you hear them saying anything at that
2 point?

3 A The only thing I recall was I heard one
4 person yelling, "Shut the F up," f-u-c-k.

5 Q Okay.

6 A "Shut the F up, shut the F up."

7 Q And did it sound to you like that was a male
8 voice, a female voice, or could you not tell?

9 A It sounded like a male voice.

10 Q Okay. So go on.

11 A So then after I called 9-1-1, I could tell
12 that there was a still struggle going on. I was
13 trying to figure out what to do. So I figured if I
14 let -- if somebody was being attacked, if I let them
15 know that the police was on the way that may be a way
16 to get the person assaulting the victim to leave.

17 And so I opened the door and I shouted down,
18 "Hey, I just called the police. You better break it
19 up. Police are on the way." And then a male voice
20 responded back. It was difficult to hear everything
21 he said, but he basically said, "That's fine. Bring
22 it on. Let them know I'm waiting for them."

23 And then he told me that he had a knife, a
24 bomb and a hostage. And it was at that point when he
25 made that statement that a very clear female voice

Examination of Edward Michael Connors

1 yelled, "Help, help." So I closed the door. Again,
2 was trying to figure out, what do I do? And so I
3 decided, given the circumstances, that trying to do
4 something would be stupid.

5 So I got into the elevator and I just went
6 up to my office. I honestly don't know why I did
7 that, but that's -- I knew I had my card -- card
8 access to get up there, so I went up there.

9 And then when I got up to my office, I
10 called 9-1-1 again to report the additional
11 information I had learned, in particular, that he --
12 you know, the perpetrator, the gentleman had a
13 hostage, sounded like a female. And then he had told
14 me that he had a bomb and a knife and that he
15 understood that police were on their way and he was
16 waiting for them.

17 Q Okay. At any point did you actually see the
18 individuals while they were in the stairwell?

19 A No, I had no visual at all.

20 Q Okay. After you called the police the
21 second time, what was your next involvement in this
22 incident?

23 A So the next involvement was I got a call
24 from, I believe, the officers who had arrived on the
25 scene. And they had told me that they were on the

Examination of Edward Michael Connors

1 opposite corner of the building.

2 And so I said, "I'll come to you." And so I
3 ran out and met them and told them it's actually the
4 stairwell on the opposite end, which would be the
5 southwest end of the building.

6 Q And there's a map up on the screen there.
7 Does that building -- does that view look familiar to
8 you?

9 A It does.

10 Q And is that the building that you were
11 working in?

12 A Yes, it was.

13 Q That highlighted area, is that consistent
14 with the stairwell and where that would have been?

15 A Correct.

16 Q Okay. And so walk us through what happened
17 at that point.

18 A So I exited the building here and ran down
19 this way, met the officers on this corner here and
20 advised them it was in the other area. We ran along
21 Marshall Street down Northwest 14 and then entered
22 into the lobby.

23 Along the way, I was trying to give the
24 officers as much information as I could, which is
25 pretty much what I had advised you. So I was telling

Examination of Edward Michael Connors

1 one of the officers on the way in, just reiterating
2 what I had heard.

3 And then when we entered into the elevator
4 lobby, the officer who I was speaking with asked me to
5 repeat it because there was a commanding officer was
6 there and everybody was sort of in one spot.

7 And he said, "Can you repeat what you said
8 so that my commanding officer can -- can hear it." So
9 I repeated the same information. And then they
10 started asking me about access into the -- into the
11 building, into the stairwell.

12 My card cannot access the -- there's a
13 public entrance here. I'm sorry, public's not a good
14 word. There's an entrance to the stairwell here right
15 outside the door. My card cannot access that.

16 Q So that's not accessible?

17 A That's not accessible from the outside. I
18 believe you can get from -- from if you're in the
19 stairwell out, but you can't do otherwise. And so I
20 was trying to tell them what I had testified about
21 earlier, that you need the card to access various
22 floors.

23 And I just gave them my card and said,
24 "Here's my card. You're going to be able to get to
25 the ninth floor. You'll be able to get to the parking

Examination of Edward Michael Connors

1 structures on 4 through 6." And then they grabbed my
2 card and went up the elevator.

3 Q And did you go up the elevator with them?

4 A I did not. I waited in the lobby. I
5 figured that it might be helpful just kind of knowing
6 how, you know, the layout of the building, where the
7 incident occurred. There were officers that were, you
8 know, arriving.

9 And so I just waited in the lobby to see if
10 I could be of any help. And a couple times, officers
11 would come in and ask and I would tell them, up the
12 elevator. These are the floors you can access. And
13 I'd given one of the officers that was the first one
14 that went up my card, so --

15 Q Okay. And did you have any other cards that
16 you can give out or once you gave them the card, was
17 there no further access for you until you would be
18 able to get that back?

19 A Correct. There was -- I only had one card.
20 And so once I gave it up, I didn't have any additional
21 access.

22 Q At some point, did you move to the street?

23 A I did.

24 Q At what point did you move to the street?

25 A Well, there was two times. When it was

Examination of Edward Michael Connors

1 originally going on, the officers were trying to
2 figure out if I could get access on that first floor,
3 ground floor outside. And so I had -- was, you know,
4 kind of just outside the lobby on the street on
5 Lovejoy and 14th.

6 I saw the building security, who I thought
7 was building security, but apparently was the Safeway
8 security. So I ran to that security officer. I said,
9 "Do you have a key to get into that door, stairwell
10 door, on the ground floor?" And he said he did not.

11 And so -- and then I went back in the lobby.
12 The second time I went out on the street was to -- at
13 a certain point, I just asked the officers, I said,
14 "Should I leave this situation or do you want me to
15 hang around and be helpful?" And of the officers
16 said, "Yeah, you should probably go ahead and leave."

17 Q Okay. Did you hear any -- anything else
18 from within the stairwell?

19 A I did not.

20 Q Any gunshots, yelling, anything of that
21 nature?

22 A I did not. When I was in the lobby, I
23 didn't hear anything, no argument. I did not hear any
24 gunshots or anything of that nature.

25 Q At some point did you observe anybody who

Examination of Edward Michael Connors

1 you believed was involved with the altercation after
2 you had given your key card to the officers and after
3 you had spoken with them?

4 A Yeah. So -- so when I left, I walked down
5 to this corner here because they evacuated the Safeway
6 and everybody was kind of congregating and I was
7 hanging out, figuring that at some point someone would
8 probably want to talk to me about my experience and
9 get my information. And so I waited there.

10 And while I was waiting there, there was a
11 woman who was sitting over here, this kind of section
12 on Lovejoy. And there was some emergency responders.
13 At some point, there was a police officer. She was
14 very agitated. She had blood on her forehead.

15 I vaguely recognized her. I think she's
16 somebody who is transient and who has been around
17 this -- this area. But she was very agitated. And it
18 appeared to me as though the emergency responders and
19 the police officer were trying to calm her down and
20 convince her to go with them in the ambulance to get
21 treatment.

22 And she seemed to be not wanting to do that.
23 That went on for -- gosh, I'm guessing, but
24 ten minutes. It seemed like a long time. But then
25 eventually they appeared to convince her to go with

Examination of Edward Michael Connors

1 them to the hospital.

2 Q Okay.

3 A I presume the hospital. To get in the
4 ambulance.

5 Q Did you see anybody else that was related to
6 this after she left and went in the ambulance to the
7 hospital?

8 A I did not.

9 Q Are where you aware of whether there are any
10 cameras available in the stairwells or within that
11 building?

12 A I don't believe there are cameras in the
13 stairwell. There are -- at least there appear to be
14 cameras in the parking lot portion where the cars are
15 parked. I can see them periodically through, you
16 know, on the rooftop, security cameras.

17 And I at least am not aware of any cameras
18 on the ninth floor where I work. I don't know about
19 the other floors. Some of the floors I haven't been
20 on, but to the extent that I have, it's been very
21 infrequent. I haven't noticed anything.

22 Q Okay. The male voice that you heard, did
23 you recognize that voice at all?

24 A I did not.

25 Q And until you saw the female on the street,

Examination of Edward Michael Connors

1 had you recognized her voice or --

2 A No.

3 Q -- had any familiarity with that?

4 A No, I do not.

5 Q Is there anything else that you observed on
6 that day that I have not covered?

7 A No. I think that's -- I think that covers
8 everything.

9 MS. MARRERO: Do the grand jurors have
10 questions?

11 Okay. So that'll conclude this witness.
12 I'll be back in just a moment with the next.

13 THE WITNESS: Thank you.

14 A GRAND JUROR: Thank you.

15 (Recess taken, 11:16 a.m. - 11:20 a.m.)

16 MS. MARRERO: The State's next witness is
17 Greg Meyer. If you could please raise your right
18 hand, sir.

19 **GREG MEYER**

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

22 THE CLERK: Thank you. Please sit down.

23 MS. MARRERO: Mr. Meyer, could you please
24 state and spell your first and last name.

25 THE WITNESS: Greg, G-r-e-g; Meyer,

Examination of Greg Meyer

1 M-e-y-e-r.

2 EXAMINATION

3 BY MS. MARRERO:

4 Q Thank you. And how are you employed, sir?

5 A I'm a interior plant scaper.

6 Q Can you describe what that entails.

7 A I go into buildings and take care of plants,
8 indoor tropicals, you know, some decks and outdoor
9 stuff, too, but mainly interiors.

10 Q And do you work here in Portland?

11 A Yes. Mm-hmm.

12 Q Do you work for a particular company?

13 A Well, no. I have my own company, but I work
14 for different entities, like I do New Relic, Unico
15 properties, you know, (indiscernible) big tech
16 companies and stuff.

17 Q And did you respond to -- well, were you
18 working in the Safeway building?

19 A The Lovejoy Building?

20 Q The Lovejoy Building.

21 A Correct.

22 Q Thank you. On June 9th of this year?

23 A Yes.

24 Q Approximately what time did you arrive at
25 work that day?

Examination of Greg Meyer

1 A At that building?

2 Q Mm-hmm.

3 A 9:30, approximately.

4 Q And when you got there, did you notice
5 anything out of the ordinary?

6 A When I got off the elevator, I heard a lot
7 of noise.

8 Q What did you hear specifically?

9 A Ah, people yelling, screaming; or yelling
10 and screaming, yeah, probably a good word for it,
11 yeah.

12 Q Where were you located when you first heard
13 that?

14 A That would have been seventh floor.

15 Q Could you tell where that yelling and
16 screaming was coming from?

17 A Not at very first. A lot of times, when I
18 get there, the (indiscernible) workers have their
19 earphones on and they sing really loud. So sometime
20 -- I just thought maybe at first it was them making a
21 little noise.

22 And then I went in the bathroom, filled my
23 water canon and came out. And then I heard the
24 yelling in the stairwell. And that's when I actually
25 heard. I thought what was going on in the stairwell.

Examination of Greg Meyer

1 I just, you know, alerted to it at that point.

2 Q And what did the yelling sound like?

3 A A guy screaming as loud as he can at a lady.

4 And she's -- it's almost like she was pleading and
5 sobbing and crying, you know. It was pretty intense.

6 That's all I remember is how intense it was.

7 Q Could you hear what they were actually
8 saying?

9 A No. Most of it, no, I could not, other than
10 "please," and, you know, "I'm sorry" or something like
11 that, you know. But the walls are pretty thick and he
12 was yelling so loud and it reverberated in the -- that
13 stairwell and I couldn't really understand what he was
14 saying most of the time.

15 Q When you heard "please" and "I'm sorry," was
16 that the male voice or the female voice?

17 A Female.

18 Q That was the female voice?

19 A Mm-hmm.

20 Q Did you -- were there any particular words
21 that'll you recall hearing from the male voice?

22 A Not until he yelled something at me, you
23 know, whatever -- I don't know. I told you I went to
24 the door. I didn't know --

25 Q Well, so let's talk about that.

Examination of Greg Meyer

1 A Yeah. Mm-hmm.

2 Q When you first are hearing the yelling,
3 where are you in relation to the stairwell?

4 A When you come out of the bathroom, the
5 stairwell's right to your left.

6 Q And approximate distance?

7 A I'd say 10, 15 feet.

8 Q Okay. And is the door closed?

9 A Yes. Mm-hmm.

10 Q So you're not actually standing in the
11 stairwell?

12 A No. Hm-mm.

13 Q And where did you position yourself at that
14 point?

15 A I went over to the door and stood by the
16 door and sat there, listening, to try to see what was
17 going on. And just, you know, it's just like an
18 intense argument between two people, you know, to me.
19 I didn't really know what the dynamics of it were,
20 you know.

21 Q At any point, did you actually go into the
22 stairwell?

23 A Yeah. I didn't go -- well, yeah, I went to
24 the door. So I was thinking, I've got to diffuse
25 this, because I was worried about her, you know, being

Examination of Greg Meyer

1 hurt or something.

2 So I went to the door. It's one of those
3 doors where you push the door to unlock it, 'cause
4 it's locked from the stairwell, so you can't get into
5 the building. So I hit the door. Then after I opened
6 it, I banged the handle twice to try to get them to
7 break up whatever was going on.

8 Q And when you opened that door, could you
9 actually see them?

10 A No. Huh-uh.

11 Q Could you tell whether they were above or
12 below you at that point?

13 A I was assuming they were below, because I
14 know there's a gate on the stairwell where it stops
15 people. So, in my mind, they must -- I didn't think
16 they had gone past there, but I was not sure. I
17 couldn't really tell.

18 When I stood there and I heard them yelling,
19 I -- I was kind of like -- I couldn't really tell
20 whether it was above me or below me, really.

21 Q Okay. And you said that the individual said
22 something to you.

23 A Yeah. After --

24 Q At what point did that happen?

25 A I had closed the door and I have boxes right

Examination of Greg Meyer

1 next to the door with my plants in them. I was taking
2 care of the plants. And after I hit the door and went
3 back to watering the plants, he yelled, like, six or
4 seven words up at the stairwell at me, or whatever,
5 yelled at me.

6 And I thought I heard the word "knife" and
7 "Come, you know, get me," or something. And so all I
8 said to myself was, wow, did he just threaten me? And
9 that was the one thing that went through my mind,
10 'cause I couldn't really clearly tell what he was
11 saying, but to me, it sounded like somebody was
12 threatening me, you know, or something like that,
13 so --

14 Q So am I understanding correctly that the
15 door was closed again at that point.

16 A Mm-hmm. Correct.

17 Q So you're listening through the wall,
18 essentially?

19 A Yeah. Mm-hmm.

20 Q Okay. And when you had opened the door and
21 had sort of pushed the -- the mechanism --

22 A Mm-hmm.

23 Q -- to make that noise, had you said anything
24 to the individual --

25 A No.

Examination of Greg Meyer

1 Q -- at that point?

2 A No.

3 Q Okay. Just sort of making noise to let him
4 know that --

5 A Just wanting to make noise. And I thought
6 maybe that alone would make them break up the fight,
7 you know. I didn't want -- I didn't want to go down
8 there by myself and go see what was going on.

9 Q Okay. And after you heard the individual
10 yell something --

11 A Mm-hmm.

12 Q -- what occurred next?

13 A I heard the -- well, I guess it was the
14 lawyer. He yelled down at them something about, "Shut
15 up or I'm calling the cops" or something. I couldn't
16 really understand totally what he was saying.

17 And then the guy said the same thing to him.

18 And, I mean, it really seemed was the same.

19 (Indiscernible) was the same. Ba, ba, ba, you know.

20 He -- and I thought, it's sounds like he's saying the
21 same thing to me that he just said to me. And that's
22 kind of -- that's what I had heard, anyway.

23 Q Okay. And, at that point, what did you do?

24 A It was quiet for a little bit. Then I went
25 down to the first floor. And I could hear a little

Examination of Greg Meyer

1 bit of this -- but when he yelled at them, I --

2 Q When who yelled at them?

3 A Ah, the lawyer.

4 Q Mm-hmm.

5 A I was assuming -- this was my mind -- it was
6 the Safeway workers arguing and he was the manager or
7 something. This is what was playing out in my head.
8 And I thought maybe things had stopped them, you know,
9 or they have toned things down a little bit.

10 And then -- no, after that, I left the
11 building and went on my way. And I did -- you know, I
12 saw a couple cop cars going the other way, but I
13 thought they were going to that building, you know,
14 actually, so --

15 Q Okay. At any point, did you hear any sort
16 of weapons being discharged or --

17 A No.

18 Q -- anything of that nature?

19 A Huh-uh.

20 Q Did you at any point see any of the involved
21 individuals?

22 A No. Hm-mm.

23 Q Okay. Approximately how long do you think
24 you heard the yelling for? How long do you think you
25 were there before you --

Examination of William Winters

1 A Engaged the door?

2 Q -- engaged the door?

3 A I would say ten minutes.

4 Q And did you call the police?

5 A No, I did not.

6 MS. MARRERO: Folks, are there any other
7 questions for Mr. Meyer?

8 Okay. Thank you, sir.

9 THE WITNESS: Thank you.

10 MS. MARRERO: Thanks.

11 (Recess taken, 11:28 a.m. - 11:30 a.m.)

12 MS. MARRERO: The State's next witness is
13 William Winters.

14 Please raise your right hand.

15 **WILLIAM WINTERS**

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

18 THE CLERK: Thank you. Please sit down.

19 **EXAMINATION**

20 BY MS. MARRERO:

21 Q And please state and spell your first and
22 last name.

23 A William Winters. Last name is
24 W-i-n-t-e-r-s; first name is William, W-i-l-l-i-a-m.

25 Q Thank you, Detective Winters. Can you

Examination of William Winters

1 please tell me how you're employed.

2 A I work for the city of Portland, Portland
3 Police Bureau, as a homicide detective.

4 Q And how long have you been in law
5 enforcement?

6 A Just -- just about 19 years.

7 Q Thank you. Did you go through all of the
8 training that's required of Portland police officers,
9 including the basic and advanced academies?

10 A Yes, I did.

11 Q Did you also go through specific training to
12 become a detective?

13 A Yes, I did.

14 Q And were you involved in the investigation
15 into the officer-involved shooting that left Mr. David
16 Downs deceased?

17 A Yes.

18 Q And what was your role with the
19 investigation?

20 A To interview the victim who was held at
21 knifepoint by Mr. Downs.

22 Q And what is that person's name?

23 A Bethanie. And her last name is Johnson.

24 Q Where did you make contact with Ms. Johnson?

25 A At Emanuel Hospital in the emergency room.

Examination of William Winters

1 She was in a -- a room separated from everyone down in
2 the corner. And Detective Travis Law was there
3 with me.

4 Q Thank you. And approximately what time did
5 you make contact with her?

6 A About 12:15 in the afternoon.

7 Q And was that on June 9th?

8 A Yeah. Actually, might have been a little
9 later than that. Let me make sure. Maybe about
10 12:30.

11 Q Okay. When you made contact with
12 Ms. Johnson, can you describe her demeanor?

13 A We -- Detective Law and I arrived and we
14 went back to the emergency room area where she was at.
15 And we could hear her, Bethanie, yelling from down the
16 hallway.

17 As we made the turn where she was at, a
18 uniform officer was there, Officer Simmons. And he
19 gave us a brief history of his brief contact with her.

20 And she was sitting in her room, emergency
21 room, isolated to her with the door open and having a
22 loud conversation with the nurses, just saying "I'm
23 not going to go with the program. I'm -- I want to go
24 home."

25 And the nurses were trying to calm her down

Examination of William Winters

1 at that time. Just from a distance, just asking her
2 to calm down. They wanted her put -- they needed to
3 take some vitals and stuff like that and she just
4 didn't want to be touched.

5 Q Thank you. And did you make contact with
6 her yourself?

7 A Yes, I did. The nurses didn't seem like
8 they were getting anywhere from her. I wasn't in
9 uniform. I was in a pair of gray pants and shirt that
10 had police badge on it.

11 And from a distance, I introduced myself as
12 Detective Winters and I said, "Hey, Bethanie, I know
13 you've gone through some pretty traumatic stuff today.
14 I need to talk to you about what happened."

15 And she stopped her yelling and she said,
16 "Yeah, I'll gladly talk to you; but I yell at times
17 'cause I have a nervous tic." And so I said, "Hey, we
18 can work through that. I understand."

19 And we slowly went through the whole program
20 of talking to her about what happened. And at times,
21 she would get really upset and -- through the
22 interview and then other times, she would just be
23 completely calm.

24 And she would apologize. Every time she
25 would get upset and yell and scream, she would say,

Examination of William Winters

1 sorry, that's just my nervous tic and go from there.
2 And we -- we were able to get through the interview
3 about what happened.

4 Q And what did Ms. Johnson tell you had
5 happened?

6 A She was down by the bus station and -- in
7 Old Town and she had met this gentleman. She didn't
8 know who he was. And they agreed to walk up to
9 Safeway. She described him as a white guy with brown
10 hair, 5'10", brown eyes. And she thought maybe a
11 plaid shirt and she didn't know about his pants.

12 She said they were going up there to shoot
13 up. And based off of that -- shooting was to do
14 drugs. I had asked her. But she did not -- but she
15 said the other guy ended up shooting up in front
16 of her.

17 They were in a stairwell for about 20
18 minutes and for some reason, the gentleman got mad at
19 her, accusing her of taking the drugs in her stuff,
20 which she said that she didn't.

21 And, at some point, the guy got mad, threw
22 her up against the wall three or four different times.
23 And then she said she had done nothing wrong. And she
24 was screaming at him to stop. And at that point --

25 Q Did she indicate whether she was clothed?

Examination of William Winters

1 A She said that she had her clothes off and
2 the asked about that. And she said she had taken her
3 clothes off on her own. And she had stated that she
4 was messing around with the guy. But when you would
5 try to get into that detail, she would yell out and
6 scream that she didn't want to talk about it.

7 Q Okay. But she did indicate that she had
8 taken off some of her own clothing?

9 A Yes.

10 Q And did she indicate whether that was prior
11 to him throwing her against the wall?

12 A She said it was.

13 Q It was prior?

14 A Yes.

15 Q And did she say that he had done anything
16 else to her that day?

17 A She did not.

18 Q Did she indicate that he had punched her
19 at all?

20 A Yes. She stated the guy had punched her
21 with a closed fist. She held -- I remember her
22 holding her arm up and saying the guy punched her
23 three or four times across the forehead. And --

24 Q Did she indicate whether she felt free
25 to go?

Examination of William Winters

1 A She said -- stated she was not free to go,
2 because the guy was blaming her for taking his stuff.
3 She said she remembers the police coming. She did not
4 -- she stated she did not have -- the guy did not have
5 a knife. When he first pulled it out against her, I
6 guess, you know, but then at some point, he grabbed
7 her and put it up against her throat.

8 Q And did she recall that the person that
9 Mr. Downs had been shot?

10 A She said -- and she, quote, said the person
11 shot from up above, above them. She said from being
12 held -- she stated the guy was being held -- and/or
13 she was being held by the guy and he was shot. She
14 was not shot. She wasn't hurt. She said she
15 remembers the guy being shot. And --

16 Q Did she say how long he had had the knife
17 held to her?

18 A I don't remember. Just for a few minutes.
19 From -- she thought the guy was holding the knife to
20 her throat for a few minutes prior. I mean, not too,
21 too long, she said.

22 Q Okay. Did you observe any injuries on
23 Ms. Johnson?

24 A Yeah. She had some marks across her
25 forehead. She had some blood in different spots

Examination of William Winters

1 around her body. I'd have to review --

2 Q Is this a photograph of Ms. Johnson in the
3 hospital that day?

4 A Yes. That was prior to us getting there.
5 That was forensic evidence. But that's what she
6 looked like when I saw her in the holding -- or in
7 the -- on the gurney, sitting there. She was sitting
8 up at that time.

9 They were trying to -- the nurses, I
10 remember specifically, were trying, like, "Hey, we
11 need to help clean up your forehead," so we can get
12 some -- some lacerations cut up -- or stitched up on
13 her head. And she didn't want that. She didn't want
14 anyone to touch her.

15 Q Okay. So you saw her when she appeared
16 bloody like this?

17 A Yes, I did.

18 Q Okay. And have you responded to the actual
19 scene where this had happened at 14th and Lovejoy?

20 A Yes, but I was never up in the stairwell or
21 anywhere --

22 Q Okay.

23 A -- to see what the scene looked like.

24 Q And had you contacted Ms. Johnson at that
25 location before she was transported to the hospital?

Examination of William Winters

1 A No. She was already at the hospital at that
2 time.

3 Q Okay. Did you become aware that Ms. Johnson
4 had mental health issues?

5 A Yes. I had learned that.

6 Q And after your interview with Ms. Johnson,
7 what -- what did she do or what occurred?

8 A I had learned at the hospital that the
9 doctors were going to put a -- or a director, a
10 doctor's hold on her based on her mental state, 'cause
11 they needed to get her stabilized.

12 Q Okay. And what is -- what is a hold?

13 A It's a police officer's hold or a doctor's
14 hold that her -- she was unsafe to care to herself
15 or -- and she was a danger to herself. And so they
16 wanted to put her on a hold at that time.

17 Q To keep her at the hospital?

18 A Yes, to keep her safe.

19 Q And is that an involuntary hold?

20 A Yes, it is.

21 MS. MARRERO: Folks, do you have any further
22 questions for Detective Winters?

23 A GRAND JUROR: No.

24 MS. MARRERO: Okay. That'll do it for this
25 witness.

Examination of Israel Hill

1 (Recess taken, 11:39 a.m. - 11:40 a.m.)

2 MS. MARRERO: State's next witness is Israel
3 Hill.

4 If you could please go ahead and raise your
5 right hand.

6 THE WITNESS: As soon as I get it free.

7 ISRAEL HILL

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

10 A GRAND JUROR: Thank you. Please sit down.

11 EXAMINATION

12 BY MS. MARRERO:

13 Q Thank you, Officer Hill. Can you please
14 state and spell your first and last name.

15 A Israel. First name is Israel, I-s-r-a-e-l.
16 Last name is Hill, H-i-l-l.

17 Q How are you employed?

18 A I am a sergeant with the Portland Police
19 Bureau.

20 Q I apologize, Sergeant Hill.

21 A That's fine.

22 Q How long have you been in law enforcement?

23 A It has been almost six years.

24 Q And can you detail for us your educational
25 background and your training.

Examination of Israel Hill

1 A I am -- like I said, been almost six years
2 with the Bureau. Been through DPSST. Also annual
3 in-service training and our advanced academy and
4 various trainings throughout the year. Pretty much
5 standardized with any other officer that's -- or
6 member that's working with the Bureau in uniform
7 capacity.

8 Q Thank you. And were you working on June 9th
9 of this year?

10 A Yes, I was.

11 Q In what capacity were you working that day?

12 A I had not been promoted yet. I was an
13 acting sergeant at Central Precinct, day shift.

14 Q And what does that entail?

15 A Same duties as a sergeant, but you literally
16 just have not been promoted yet. And so you are in
17 the acting sergeant capacity, responsible for officers
18 or any major tactical patrol calls that come out over
19 the radio or any calls that need supervising --
20 supervision.

21 Q And did you review such a call on that day?

22 A Yes.

23 Q And can you tell the grand jury what
24 information you received and what you did in response.

25 A I received a call or heard a call come out

Examination of Israel Hill

1 over the radio that a -- a two-person car was
2 originally dispatched to on southwest -- if I can
3 refer to the report -- southwest, I believe it was 14
4 and Lovejoy; that there was a argument or sounds of a
5 fight coming from a southwest corner of a stairwell
6 between the fourth and fifth floor.

7 And so, at that time, a district car was
8 being sent. That was a two-person car. And then I
9 heard another officer say they were going as less
10 lethal and then another officer was going as well as
11 cover. So in my head, I did the math, and I said,
12 well, that's four officers going to disturbance.

13 Those types of calls, disturbance calls or
14 fight calls, they're fairly common downtown, just with
15 the uptake in mental health calls that come out and
16 things of that nature.

17 They are common, but as the officers arrived
18 and said that they were trying to -- they were
19 actively hearing a disturbance and trying to find it,
20 at that point, I was already en route, but I figured
21 that I should be going just because now we're still
22 hearing an active disturbance.

23 We don't know exactly what is going on. We
24 don't know who's involved, how many people there are.
25 So as I arrived, I actually see Officer Moussallem and

Examination of Israel Hill

1 possibly one other officer downstairs.

2 We later learned that this building was
3 complete secured and locked, but he is talking to
4 someone who I later learned was the caller, the
5 original caller, the one that called the call in. I
6 believe his last name is Connors.

7 Q Let me stop you for a second there,
8 Sergeant. When you en route to the call, did you make
9 contact with any of the officers who were already on
10 scene to see what was going on?

11 A I made a radio transmission asking for
12 updates about any weapons or any known -- any known
13 weapons or anything of that nature.

14 That was when I got a response from an
15 officer that heard my transmission saying that they
16 were actively hearing a fight, but they didn't have
17 any updates about if there were any weapons actively
18 involved at that point.

19 Q And which officer was that at that point?

20 A I believe that was Officer Wells.

21 Q Okay. And did she indicate whether they had
22 made contact with either of the involved individuals?

23 A To my recollection, she said that they were
24 attempting to locate both or the involved parties.
25 They didn't know how many there were, so she did not

Examination of Israel Hill

1 say both. But they were attempting to locate the
2 disturbance. They could hear it, but they had not
3 laid eyes on anyone yet.

4 Q Okay. And then once you arrived and located
5 Officer Moussallem with Mr. Connors, what was your
6 next step? What did you do?

7 A After that, I knew that the rest of the
8 officers on scene was actively in the building trying
9 to find this disturbance, so I was trying to get to
10 them. With that's when I learned that the entire
11 building was locked.

12 And so I was asking -- I started asking
13 Mr. Connors did he have another way for me to get to
14 them, because, at that point, I got on the radio and I
15 asked if one of the officers could come down and let
16 me in.

17 And about that time is when I heard the
18 first transmission that they had made contact with two
19 subjects in a stairwell and they could actively see
20 the male had the knife to the female's throat. And so
21 I'm still on the air telling them that I need to get
22 upstairs to secure entry.

23 Mr. Connors tells me that there is another
24 kind of roundabout way to get in through an adjoining
25 Safeway. So we started on our way east down that

Examination of Israel Hill

1 street to get into the Safeway.

2 And Officer Moussallem who I had seen was
3 standing at the bottom of the first floor stairwell,
4 because there was a little bit of -- we were trying to
5 figure out where this was going to end up, so he
6 stayed there just in case the -- one half of this ran
7 down the stairwell. That was the only way out to the
8 street. So he was going to stay there to contact that
9 person if they decided to flee on foot.

10 And on my second attempt to go to the
11 Safeway and get to the parking lot to try to make it
12 into a stairwell, that's when we got the second radio
13 transmission that shots had been fired or a shot had
14 been fired. At that point, we didn't know how many,
15 so shots fired. And so that's when kind of everything
16 changed and I still hadn't made it upstairs yet.

17 Q So when you were trying to get in, did you
18 have -- and once you heard that the officers had
19 located the suspect and that they had seen the knife,
20 too, at the victim's throat, at any point did they ask
21 for a SERT activation?

22 A So, yeah, this was -- that was also in
23 there. There was -- I knew that when they said that
24 there was a subject with a knife to another subject's
25 throat, I knew that just by our protocol and our

Examination of Israel Hill

1 procedure, the way we do things, that's a hostage
2 situation, which -- which constitutes for us, a SERT
3 call-out.

4 Q What is SERT?

5 A It is our Special Emergency Reaction Team,
6 if I'm -- it -- they changed it. It used to be
7 something else, so --

8 Q Okay. And -- and is that something --
9 what's the process for getting SERT involved?

10 A Well, they have a full activation and a
11 partial activation. You call -- you have to, as a
12 sergeant, request for whoever the on-call sergeant is
13 to kind of give him just a brief of what you have so
14 that he knows.

15 And then also you have to -- even after you
16 give him what you have, if he knows that or she knows
17 that this is something that SERT comes to, you have to
18 physically get on the air and activate SERT, which
19 this is one of our -- this is a call that would --
20 with constitute SERT being activated.

21 So it's a hostage situation. And there's
22 like a criteria of five or six different types of
23 calls that SERT would be activated or at least at SERT
24 consult would be made.

25 Q And did you hear an officer transmit that a

Examination of Israel Hill

1 SERT notification needed to be made prior to the --

2 A Yes. He actually --

3 Q -- prior to (indiscernible)?

4 A He said it right before I did. And just
5 time is very sensitive in calls like this. And radio
6 traffic is very sensitive. And so you don't want
7 people on the radio repeating things that other people
8 have already said. So once he said it, I kind of
9 checked that box in my head and kind of moved on to
10 the next thing.

11 Q You said that the timing is important in
12 calls like this. How quickly was this evolving from
13 the time you got there?

14 A If I can refer to my report, I believe
15 somewhere in my report I actually wrote -- this entire
16 call from the time they laid eyes on the subject to
17 the time that shots were fired, this whole thing
18 progressed in like three minutes or less.

19 So this very fast-moving. It was a very
20 intense and rapidly moving call once they had actually
21 made eye contact with the victim or laid eyes on the
22 victim and the suspect.

23 Q Okay. And so with a three-minute sort of
24 time frame from when they first laid eyes on the
25 involved individuals to -- well, to when you were

Examination of Israel Hill

1 there and there was a request for SERT, is that fast
2 for this type of situation? Is that slow of this type
3 of situation? How does that impact the reaction?

4 A It's very fast, because once you have eyes
5 on and just for this call in particular, SERT consults
6 are usually a little bit -- a lot more effective and
7 appropriate when you have a chance for -- even if you
8 have an idea of the call type or you know what's going
9 on, everybody is staged.

10 And at least behind some sort of cover or
11 concealment and you're able to kind of roll out to
12 them what you have and have everybody hold their
13 spots.

14 If there's a perimeter. There should be a
15 perimeter. And then you're kind of like slowly
16 rolling resources in while everybody's just holding
17 what we have because it's unsafe to move forward or
18 advance.

19 In a situation like this, though, there was
20 not time to get on the phone and talk to another
21 sergeant about what you have have roll in resources
22 and have everybody wait, because there were seconds in
23 between one event and the next, so there just -- there
24 just was not time to -- for a SERT consult.

25 Q Okay. And so if there wasn't time for a

Examination of Israel Hill

1 SERT consult, was there time for SERT to get on scene
2 and set up and stage?

3 A No. Not before any of this transpired.

4 Q Okay. And you indicated that you heard
5 shots. Did you hear -- are you aware of what type of
6 firearm that came from?

7 A No. I heard the shots fired transmission on
8 the radio.

9 Q Oh, I see.

10 A I didn't actually hear shots. There was
11 just -- there was a whole building and several closed
12 doors between -- and floors between where we were and
13 where the event was occurring.

14 Q I understand. Thank you for clarifying
15 that.

16 A No problem.

17 Q Once you heard the shots fired call, what do
18 you do at that point?

19 A At that point, I, again, got on the radio
20 and asked for an officer to immediately come down with
21 a key card and get me to them. And, finally, an
22 officer was able to break off and run down and let me
23 in and that was Officer Flohr.

24 At that point, we went up the elevator. And
25 as I stated in my report, I'm not sure exactly what

Examination of Israel Hill

1 floor we got off on, but I recall running down
2 approximately two flights of stairs.

3 And as soon as I got to the top of the
4 stairwell that the subject was laying in, that's when
5 I noticed a male that appeared to be deceased down in
6 the -- in the stairwell just adjacent to the parking
7 garage door.

8 Q And once you saw -- once you saw that male,
9 what did you do?

10 A I got on the radio and I asked for AMR or
11 for an ambulance or a medical team to respond Code 3,
12 which is just ASAP, as quick as you can. I also asked
13 for a crime scene to be established and a crime scene
14 log. A crime scene log is just literally a sheet of
15 paper with lines on it.

16 And it's just what officers are on scene or
17 in the scene and their DPSST number. And later, those
18 officers are mandated by our directive to write a
19 report just to justify what their role was as to why
20 they were there in case anything comes up later about
21 officers being there.

22 Q Okay.

23 A I also separated the involved witness -- the
24 involved officer from the witness officers and told
25 them not to talk about the event or speak to each

Examination of Israel Hill

1 other.

2 Q And what other notifications did you make?

3 A If I could refer to my report, I listed them
4 out in here just so I don't forget any. I -- I also
5 notified my lieutenant, which is my supervisor and our
6 IPR, which is pretty much just Internal Affairs or IA.

7 And then PSD, which is professional
8 standards and EAP, employee assistance program and our
9 PIO, which is our public information officer, just to
10 let them know about -- that's just standard protocol
11 of who you have to notify or make sure someone is
12 notifying them.

13 Q And so IPR is the Independent Police Review?

14 A Yes.

15 Q And then did you also notify homicide
16 detectives?

17 A Yes. And Detective Hughes was the first one
18 to call me back.

19 MS. MARRERO: Okay. Folks, do you have any
20 further questions for Sergeant Hill?

21 A GRAND JUROR: So Flohr let you into the
22 elevator after the shots were fired. You were trying
23 to get up there before that. What -- what would you
24 have done? What was your plan?

25 THE WITNESS: To -- what was my plan to get

Examination of Israel Hill

1 there?

2 A GRAND JUROR: Yeah.

3 THE WITNESS: Or what was my plan once I --

4 A GRAND JUROR: Once you arrived, what were
5 you hoping to do?

6 THE WITNESS: So in my head as I'm filtering
7 through this, my plan was if they -- since they had
8 already contacted him, I was going to try to come in
9 from -- see if they could let me in from either a
10 stairwell above or below, so that I'm not walking
11 right into the stairwell where they are contacting
12 this guy.

13 And try to see if -- if he was giving
14 them -- just find out what they already done, if there
15 was -- at that point, I didn't even know if there was
16 an ECIT officer on scene, which just an Enhanced
17 Crisis Intervention Team specialist. Just somebody
18 that is more -- it's officers that we have trained
19 that are inclined to deal with subjects in mental
20 health crisis.

21 So I was just going to try to see if we
22 could establish a rapport with him and see how much
23 time we had just actively being on scene trying to
24 gauge it and maybe there would be time for a tactical
25 plan or us to come up with another option.

Examination of Israel Hill

1 But, at that point, less lethal had already
2 been deployed and so I knew that a less lethal option
3 had already been used pretty much to no avail. And so
4 we were just running short on time.

5 But my time was just to try to get up there
6 and see who had established some type of rapport with
7 him, to see if we could game plan a different approach
8 or less lethal or get other resources there or just
9 anything that we could to keep from a lethal option,
10 but it just was not -- it was not an option.

11 A GRAND JUROR: Okay. Thank you, sir.

12 MS. MARRERO: Any further questions?

13 BY MS. MARRERO:

14 Q Sergeant Hill, just to clarify, when you
15 were getting these updates on the radio, is this --
16 you're hearing the radio traffic and we've listened to
17 the CAD.

18 You're hearing the radio traffic that the
19 officers who are actually in the stairwell and have
20 sight on the two individuals, you're hearing the same
21 radio traffic that they're hearing, correct?

22 A Yes.

23 Q Okay. So had you had a detailed
24 conversation with any of those officers at that point
25 that you're asking one of them to break off to

Examination of Israel Hill

1 come up?

2 A I'm sorry, can you repeat the question? I'm
3 trying to track you.

4 Q Yeah. So beyond that radio traffic --

5 A Uh-huh.

6 Q -- that you were hearing, had you had a more
7 detailed conversation? Did you have an opportunity to
8 get more information from those officers who had
9 eyes on?

10 A No. No, they were -- they were actively
11 dealing with what was in front of them, and so the
12 only communication they are with me was what they were
13 hearing on the radio.

14 I mean, I was talking to Moussallem, but he
15 was downstairs on the first floor with me. So he --
16 he didn't -- he couldn't let me up either, but the
17 only transmissions or communication we had was through
18 the radio.

19 MS. MARRERO: Okay. Any further questions?
20 Okay. Thank you. That completes this witness.

21 THE WITNESS: Thank you.

22 (Recess taken, 11:57 a.m. - 11:58 a.m.)

23 **NATHANIEL JONES**

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

Examination of Nathaniel Jones

1 A GRAND JUROR: Thank you. Please sit down.

2 EXAMINATION

3 BY MS. MARRERO:

4 Q I need you to state and spell your first and
5 last name.

6 A Nathaniel Jones, N-a-t-h-a-n-i-e-l,
7 J-o-n-e-s.

8 Q Thank you, Officer Jones. Can you tell us
9 how you're employed.

10 A I am employed by the city of Portland as a
11 police officer here at Central Precinct on the day
12 shift.

13 Q Thank you. How long have you been in law
14 enforcement?

15 A Over three years.

16 Q Thank you. Were you working on June 9th of
17 2019?

18 A I was.

19 Q And at that time, had you gone through all
20 of the training that's required for -- for Portland
21 police officers?

22 A I did.

23 Q Did you respond to the incident that
24 occurred at 1331 Northwest Lovejoy?

25 A Yes, I did.

Examination of Nathaniel Jones

1 Q And did you respond before or after the
2 shots fired call had come out?

3 A I responded after the shots were fired.

4 Q Can you tell the grand jury what you
5 observed when you arrived on scene.

6 A I, initially, arrived outside the location,
7 so on Lovejoy between 14 and 13. And I found Officer
8 Jackson Oldham, who had somebody identified as a
9 female victim of an assault.

10 And he had mentioned to me that he had used
11 force and he was kind of supposed to take a step-back
12 role, so I stayed with the female victim, Bethanie
13 Johnson. And I tried to ask her questions.

14 Q I'm sorry. What did you say her name was?

15 A Bethanie Johnson.

16 Q Okay. And you said you tried to answer --
17 you tried to ask her questions. Can you tell us how
18 that -- how her demeanor was and whether she was
19 responsive.

20 A Not entirely responsive. She answered some
21 basic questions, such as I asked why she had blood
22 dried on her forehead and face. She said she was hit
23 a couple times. I didn't know the male, the
24 deceased's name or anything like that, so I just tried
25 to ask some kind of clarifying questions.

Examination of Nathaniel Jones

1 And she wasn't entirely, I guess what we
2 would call a cooperative witness. She had kind of a
3 nervous tic, which I associated kind of like
4 Tourette's. And she was pretty fearful of the medical
5 crew and fire trying to convince her to lay down on a
6 gurney, which I think was a great distraction to me
7 attempting to ask her questions.

8 Q And would she allow them to touch her or
9 assist with her head injury in any way?

10 A Not at all, not at all.

11 Q Okay.

12 A Initially, at least, until we --

13 Q And were you able to take photographs of
14 Ms. Johnson?

15 A I did take some photographs of Ms. Johnson,
16 yes.

17 Q Okay. And I've got one of these photos up
18 behind you. Is this --

19 A That is -- I'm not entirely sure if that's
20 mine; but, yes, that's how she appeared.

21 Q Okay. Did she give you any information
22 about where she'd come from or what had happened?

23 A I don't recall specifically. I don't
24 believe so. All I really got from her and she didn't
25 know who the guy was prior to that day.

Examination of Nathaniel Jones

1 Q Okay. And, at some point, did she try and
2 leave the scene?

3 A She did.

4 Q Walk us through what happened.

5 A So we're right there kind of still on
6 Lovejoy, 13 to 14. There's an ambulance there.
7 There's some firefighters there. There's myself and I
8 believe Officer Nate Simmons there as well.

9 And we're trying to gently convince her to
10 go on a gurney to get kind of checked out for
11 injuries. And at some point and she basically just
12 blatantly refuses and attempts to walk away.

13 I follow her to about 12th Avenue and
14 Lovejoy, where she stops again. And, at that point,
15 we just kind of grab ahold of her and gently escort
16 her to the gurney. I think they medicated her before
17 they actually laid her down.

18 Q I'm sorry. Say that last part.

19 A They sedated her.

20 Q They sedated her. And when you say "they,"
21 who are you referring --

22 A AMR.

23 Q AMR.

24 A With our assistance of kind of holding
25 her arm.

Examination of Nathaniel Jones

1 Q Okay. And after that, was she taken to the
2 hospital?

3 A She was.

4 Q Did you have any other involvement with this
5 investigation?

6 A Exterior perimeter duties after that.
7 Essentially, I stayed at the front doors right there
8 on Lovejoy and kind of controlled access.

9 MS. MARRERO: Are there any further
10 questions for Officer Jones? That'll conclude this
11 witness then.

12 Thank you. We can go off the record.

13 * * *

14 (Noon Recess taken at 12:02 p.m.)

15

16 ***AFTERNOON SESSION***

17 (Whereupon, the following proceedings were
18 held before Grand Jury No. 1, 1:08 p.m.):

19 MS. MARRERO: We are back on the record.

20 The State's next witness is Travis Gover.

21 You can go ahead and raise your right hand.

22 **TRAVIS GOVER**

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

25 A GRAND JUROR: Thank you. Please sit down.

Examination of Travis Gover

1

EXAMINATION

2

BY MS. MARRERO:

3

Q Can you please state and spell your first
4 and last name.

5

A My name is Travis Gover. It's T-r-a-v-i-s;
6 last name is G-o-v-e-r.

7

Q Thank you. And how are you employed?

8

A I'm employed as a forensic firearm and tool
9 mark examiner with the Oregon State Police Forensic
10 Services Division. And I work out of the Portland
11 metro lab located here in Clackamas.

12

Q Okay. Sorry about that.

13

And can you tell the grand jury about your
14 educational background, your training and your
15 experience.

16

A Education, I have a bachelor of science
17 degree in biology from the University of Oregon, so
18 it's a foundation scientific degree, which is required
19 by the Oregon State Police to become a forensic
20 scientist.

21

Training, I've been to and basically
22 attended what they call the Bureau of Alcohol, Tobacco
23 and Firearms National Firearm Examiner's Academy.
24 It's a year-long intensive training course.

25

Involves visiting manufacturers to determine

Examination of Travis Gover

1 how firearms are rendered unique and the markings that
2 they produce. We also receive training in the
3 microscopy, the comparison of fired cartridge cases,
4 fired bullets, other fired components from different
5 types of firearms.

6 We also do serial number restoration for
7 firearms or any other thing that has a serial number
8 that's been obliterated in some fashion. Plus a
9 multitude of other, you know, areas of the discipline
10 that we are taking, so --

11 Q And can you speak about your practical
12 training separate and aside from the coursework that
13 you've done?

14 A What's that? I'm sorry.

15 Q Any sort of practical experience. So
16 visiting manufacturers, anything of that nature.

17 A I'm also a member of what they refer to as a
18 Association of Firearm and Tool Mark Examiners. It's
19 an organization. It's international, based out of the
20 United States, does all of the basically continuing
21 education for firearm and tool mark examiners. I've
22 been a member since 2000 or 2001.

23 So it's -- and they hold annual seminars
24 every year. About every other year, I go to a meeting
25 and get updated on the newest trends in microscopy and

Examination of Travis Gover

1 casework, so --

2 Q And then, of course, casework at the lab?

3 A Plenty of casework.

4 Q How long have you been working with the
5 State Police Forensic Laboratory?

6 A I've been over there -- I've been there for
7 just over 20 years.

8 Q Thank you. And can you detail for the grand
9 jury what is it that you're analyzing when evidence is
10 submitted to you?

11 A For this particular case or in general?

12 Q For this particular case.

13 A So this particular case, I examined one
14 Glock manufactured semiautomatic pistol, as well as
15 one fired cartridge case and one fired bullet.

16 Q And what is your process? What are you
17 looking for?

18 A So with a firearm, the first thing we do is
19 we go through and we check, like, the safeties and
20 make sure that they're working properly so we know
21 that it's safe for us to shoot in the laboratory.

22 We're documenting what we refer to as class
23 characteristics, which is basically like the caliber,
24 which is the primary class characteristic of a
25 particular firearm.

Examination of Travis Gover

1 You know, going through, checking, you know,
2 the magazine capacities, just kind of a general
3 overview, checking the firearm to see if it's going to
4 be functionable when we take it out to test fire.

5 Q And what is -- what is a test fire?

6 A Test fire is basically what we refer -- we
7 refer to as a known sample, where we basically take
8 the firearm out to the firing range that we have on
9 site and we shoot it to make sure that it's working as
10 it was designed to by the manufacturer.

11 Q And in doing all of this, what is it that
12 you're looking to be able to ascertain?

13 A Well, by -- by generating what we refer to
14 as a test fire, we're gaining basically known samples,
15 a known fired cartridge case that we know came from
16 the firearm in question. And we also get known
17 bullets that we know came from that firearm in
18 question.

19 Q And why is it important to have known
20 casings, known bullets?

21 A The known samples, we'll basically look at
22 against themselves. And this is how we determine what
23 marks the gun is producing and what they're
24 reproducing between shots, so --

25 Q And with regard to the marks, what marks are

Examination of Travis Gover

1 you referring to and are they individual for each
2 firearm?

3 A So the marks I'm referring to -- so for --
4 I'll back up for a second. And I'm going to refer to
5 different components, but most people will refer to an
6 unfired component as a bullet, when in reality, it's
7 -- it's called a cartridge.

8 So when you refer to the bullet, that is a
9 projectile itself. And the cartridge is made up of
10 four components. One is the cartridge case. One is
11 the bullet, which is the projectile. Third is
12 basically the powder that's inside the cartridge case.

13 And the fourth is the primer, which is
14 basically a small -- (indiscernible) looks like a
15 small disk on the base of the cartridge, contains a
16 small amount of an explosive compound, when hit by the
17 firing pin or striker basically causes a small amount
18 of flame to go through into the powder and start it
19 burning, generates the pressure which pushes the
20 bullet down the barrel.

21 Within that process, as the bullet's being
22 pushed down the barrel during firing, it's also -- the
23 pressure is pushing the cartridge case back into the
24 firearm itself, an area referred to as the breach
25 base, which is a supported area where the firing pin

Examination of Travis Gover

1 comes through to make that initial contact.

2 From that pressure, any marks from the
3 machining process to manufacture the firearm are being
4 imparted from the firearm onto that base area of that
5 cartridge case.

6 So by myself, you know, visiting
7 manufacturers back east. I've actually had -- FBI
8 people have actually visited manufacturing plants for
9 Glock in Austria and done papers.

10 And so we know that the marks that these
11 particular firearms are unique to themselves and not
12 necessarily going to see, you know, what we refer to
13 as individual marks being reproduced between different
14 guns.

15 Q Okay. And are you able to then make a
16 comparison between different pieces of evidence to
17 ascertain whether or not they came -- for instance, a
18 bullet came from a gun or a casing came from a
19 particular gun?

20 A Yeah. So if we have unknowns, like an
21 unknown bullet or an unknown cartridge case submitted
22 to us, we'll do a general write-up on those first to
23 determine the caliber of the, you know, the cartridge
24 case, make sure it's the same as the firearm.

25 Same with the bullet. We'll make, you know,

Examination of Travis Gover

1 measurements, determine it's the same caliber as the
2 firearm in question. And if those things are the
3 same, then we'll move forward to what we refer to as a
4 microscopic comparison.

5 And that's where we're looking for these
6 microscopic individual marks on either the cartridge
7 case or the bullet in question. And then we can
8 compare those to the marks that we've obtained from
9 our known test fires that we've, you know, got from
10 the lab, you know, testing system.

11 Q And with regard to this case and
12 particularly with reference to Lab No. 19L4104, did
13 you do any testing on this particular case?

14 A Yes. So, in this case, submitted to me was
15 a Glock semi-automatic pistol, Model 17. Serial
16 number is BCPL796. And also submitted with that were
17 also three magazines and it looked like 51 cartridges
18 basically from the -- from the officer.

19 Also submitted was one fired 9-millimeter
20 Luger caliber cartridge case and one fired damaged
21 what we refer to as a 38/9-millimeter caliber bullet.
22 And that's because the 38 and the 9-millimeters share
23 the same diameter bullets, so we classify them into a
24 family.

25 Q And what -- what particular work did you do

Examination of Travis Gover

1 on this case?

2 A Pretty much I test fired the firearm and
3 found it to be operable as it was designed to be. And
4 then I did a microscopic comparison of the fired
5 cartridge case to my known samples, my known cartridge
6 cases from the gun, as well as I examined and
7 microscopically compared marks from the fired bullet
8 that I received to fired bullets that I obtained from
9 the gun.

10 Q And what was your conclusion?

11 A From the microscopic comparison, I
12 determined that the fired cartridge case was fired in
13 the Glock semiautomatic pistol in question. And I
14 determined that the fired damaged bullet was fired
15 from the Glock semiautomatic pistol.

16 MS. MARRERO: Okay. Are there any questions
17 for this witness from the grand jurors?

18 Okay. Thank you. That concludes this
19 witness.

20 THE WITNESS: Thank you.

21 (Recess taken, 1:18 p.m. - 1:29 p.m.)

22 MS. MARRERO: Okay. We're back on the
23 record. The State's next witness is Robert Miller.

24 Please go ahead and raise your hand.

25 **ROBERT MILLER**

Examination of Robert Miller

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

3 A GRAND JUROR: Thank you. Please sit down.

4 EXAMINATION

5 BY MS. MARRERO:

6 Q Can you please state and spell your first
7 and last name.

8 A My name is Robert Miller, R-o-b-e-r-t,
9 M-i-l-l-e-r.

10 Q Thank you. And how are you employed?

11 A I'm a police officer and bomb technician
12 with the city of Portland.

13 Q And how long have you been in law
14 enforcement?

15 A 19 years.

16 Q Thank you. Can you go through with us your
17 education and training that qualifies you for those
18 positions.

19 A As a police officer, I attended the basic
20 academy and -- and Portland academy. I don't remember
21 how many weeks now. 14 weeks, something like that.

22 I've attended, I don't know, probably a
23 thousand hours of kind of basic police training in the
24 last 19 years. I've been a bomb technician assigned
25 to the Metro Explosive Disposal Unit since 2012.

Examination of Robert Miller

1 For that, I went to the basic hazardous
2 devices school. It's run by the FBI in Huntsville,
3 Alabama. That's a six-week program. Became a
4 certified bomb technician. That certification lasts
5 three years. I've been recertified twice. That's a
6 week-long recertification you got to go to.

7 I've had an additional 1500-plus hours
8 specific to my role as a bomb technician of training
9 since 2012. Anything else you'd like to know from me?
10 Is that enough?

11 Q No. I think that's okay. Thank you.

12 With regard to your role as a bomb
13 technician, what -- what are your actual
14 responsibilities?

15 A The role of the public safety bomb
16 technician are to locate and render safe hazardous
17 devices and explosives. That's kind of in a
18 one-sentence summary.

19 Q And when you come to work every day as a
20 police officer, are you essentially just waiting for
21 calls related to hazardous devices? Are you a patrol
22 officer unless you get a call? How does your
23 assignment --

24 A Yeah. I'm patrol officer with North
25 Precinct three days a week. We train one day a week

Examination of Robert Miller

1 with the bomb squad, so we train every week. And then
2 I'm on call for any -- anything related to my duties
3 as a -- as a bomb technician.

4 Q And so are you on a call-out basis then,
5 essentially?

6 A Yes.

7 Q And were you called out on June 9th of this
8 year?

9 A I was.

10 Q And in what capacity did you respond to that
11 scene?

12 A I responded as a bomb technician.

13 Q And can you tell the grand jury what your --
14 when you arrived at the scene, what information you
15 received and what your process was from there.

16 A Sure. When I arrived, I was told that
17 there'd been a shooting and that there was a person
18 who'd said that they had a bomb and was holding
19 somebody hostage, the person had been shot and was
20 deceased.

21 I was asked, along with my sergeant,
22 Sergeant Collins, to go up and clear the scene,
23 evaluate if there were any explosive devices,
24 specifically improvised explosive devices, IEDs and
25 make sure that the scene was safe for the rest of the

Examination of Robert Miller

1 investigators to -- to operate.

2 Q And in addition to hearing that the
3 individual had stated that they had a bomb, had you
4 been made aware of any sort of particular devices that
5 had been observed by the officers?

6 A Yeah. I was -- I was told that he'd had
7 something in his hand that looked like it had a button
8 or a switch on it.

9 Q And what was your concern upon hearing those
10 things?

11 A Well, so when a person says they have a
12 bomb, the next thing that you look for is indicators,
13 things that would lead you to believe that they do
14 have an improvised explosive device, a bomb.

15 And so when -- when there's discussion of
16 that there were actually switches involved, that's
17 something that kind of elevates that and goes from
18 being somebody saying something to there's somebody
19 said something and now we've got some -- some physical
20 indicators that there could be something going on
21 there.

22 Q And were you called in before they sent
23 criminalists or the Forensic Evidence Division?

24 A Yes.

25 Q Why is that done?

Examination of Robert Miller

1 A Well, my job is to go and make it -- make
2 sure that it's safe so that the criminalists, the
3 crime scene people, the detectives, the medical
4 examiner, all those people can go and work.

5 None of those people want to go in and work
6 around a potential improvised explosive device that
7 could go off if they do something wrong.

8 Q So what was your course of action that day?

9 A So I went up to the scene, checked in with
10 the crime scene people. Went in and just started to
11 take a look at the scene.

12 I took some photographs of the scene when I
13 initially got up there, just a few quick snapshots,
14 because I did notice one item that was -- that was
15 laying near the wall that was a little bit concerning
16 to me when it comes to a potential IED.

17 Q And, Officer Miller, I'll direct your
18 attention behind you. Is that one of the photographs
19 that you took?

20 A I believe that is a photograph I took, yes.

21 Q And is that the item that you were concerned
22 about upon coming up the stairs?

23 A It is.

24 Q And can you tell us what we're looking at
25 here and what gave you concern as a trained bomb

Examination of Robert Miller

1 technician?

2 A So, I mean, you can see the -- the plastic
3 cup. This black device is an electronic device. And
4 then coming out this side, this single wire here looks
5 a little bit like a antenna or a wire.

6 It's all covered up by the hat and the
7 shirt, but my concern was what was underneath this --
8 this -- there could be explosive underneath this --
9 this shirt and this could be the fusing system, the
10 thing that would make the improvised explosive device
11 go off.

12 Q And what we're seeing here on the screen, is
13 this how it appeared when you first approached the
14 scene?

15 A Yes.

16 Q Thank you. And so what else did you observe
17 or notice when you got there?

18 A So I -- so I moved that clothing off of --
19 off of there so that I could evaluate what -- what
20 that was underneath there. And I was able -- when I
21 moved it off, I was able to see that it's actually --
22 looks like a blue tooth speaker and this is actually
23 just a piece of cord.

24 It wasn't wires or an antenna. It was just
25 like a shoelace sort of thing. So I was able to

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1 determine that that wasn't an IED. That's just a blue
2 tooth speaker. But when I was covered up, I couldn't
3 tell.

4 Q Okay. Were you able to locate any items
5 that appeared to have some sort of a push button on
6 them?

7 A Yeah. So on the -- the left of the deceased
8 person there, there was a flashlight, about six or
9 seven inches long, about an inch in diameter that I
10 could see a push button on it.

11 Q And when we say "a push button," what do you
12 mean by that?

13 A You know, I should have brought up -- a
14 light. But it's -- the push button on a flashlight
15 that you would, you know, round disk that you push to
16 turn on the light.

17 Q And when you saw that item there, what were
18 your thoughts about that?

19 A Well, again, flashlights have been used as
20 IEDs of themselves and flashlight switches have been
21 used as -- as fusing components in IEDs, things to set
22 off larger charges.

23 So I did a visual inspection of -- of what
24 was going on there to look for indicators that that
25 might be -- there were no wires or anything attached

Examination of Robert Miller

1 to the light, no antennas, nothing that would suggest
2 that somebody had put a radio inside and was going to
3 set off on IED with that. Looking at the -- at the
4 light, it didn't appear to have any modifications to
5 it that would lead me to believe that it was an IED.

6 I also did a, just a visual scan without
7 moving the body of the deceased person there to see if
8 there was anything on -- on his person that I could
9 see that would be consistent with -- with something
10 that would be an IED and I couldn't locate anything --

11 Q Okay.

12 A -- there either.

13 Q This light that had the push-button top, if
14 that were being held in a hand, could that be mistaken
15 for -- for something that could be a trigger?

16 A Absolutely. That's -- that's when I -- when
17 I first saw it, that's exactly what I thought they
18 were talking about, because that's -- there have been
19 many cases where a flashlight just like that and a
20 button just like that have been used as the -- as the
21 button to initiate IEDs.

22 Q Thank you. In surveying the scene in total,
23 did you find any explosive devices?

24 A I did not.

25 Q Upon determining that there weren't any

Examination of Robert Miller

1 explosive devices present there, what did you do?

2 A I left the scene. I briefed the detectives
3 as to what -- as to what I'd seen. I told them that I
4 hadn't moved the deceased person. I hadn't rolled him
5 over.

6 I hadn't gone through all the clothing to
7 make sure that there was absolutely nothing there, but
8 I didn't have any indications that there was an actual
9 device there, so I stood by while they had people
10 going up to do the crime scene work in case they did
11 discover something that they had concerns about, then
12 I was going to return to the scene.

13 But with the lack of indicators, I didn't
14 feel it was necessary for me to go through everything
15 to -- to absolutely clear the scene. I didn't see the
16 indicators that would make me do that.

17 Q And once your role with EDU was completed,
18 did you stay on to assist as a patrol officer or were
19 you removed then?

20 A Yeah. As soon as the investigators had
21 cleared the scene, they asked me to come down to -- to
22 the Detective Division at the Justice Center and then
23 I was later interviewed by detectives.

24 MS. MARRERO: Thank you very much. Folks,
25 are there any other questions for Officer Miller?

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1 A GRAND JUROR: In your personal experience,
2 have you ever seen a remotely triggered IED?

3 THE WITNESS: I personally haven't. Well,
4 when you say remotely triggered, do you mean with a
5 radio?

6 A GRAND JUROR: Like with an antenna?

7 THE WITNESS: I haven't. We've had them in
8 Portland. I haven't personally been on those calls,
9 but we have had several in Portland.

10 MS. MARRERO: Any other questions from the
11 grand jurors?

12 That will conclude this witness then. Thank
13 you.

14 THE WITNESS: Thank you.

15 (Recess taken, 1:39 p.m. - 1:48 p.m.)

16 MS. MARRERO: We are back on the record.
17 The State's next witness is Officer Flippo.

18 Raise your right hand.

19 **ZACHARY FLIPPO**

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

22 A GRAND JUROR: Thank you. Please sit down.

23 **EXAMINATION**

24 BY MS. MARRERO:

25 Q Will you please state and spell your first

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1 and last name.

2 A Zachary Flippo. Z-a-c-h-a-r-y, F-l-i-p-p-o.

3 Q Thank you, Officer Flippo.

4 Can you tell us how you're employed.

5 A I'm a police officer with the City of
6 Portland.

7 Q How long have you been in law enforcement?

8 A A little over nine years.

9 Q Thank you. Can you detail for the grand
10 jury your background, education and training.

11 A I went to college for a few years in
12 different colleges before I was hired as a police
13 officer when I was 21. And so I didn't finish my
14 degree. I was also in the Coast Guard Reserves and I
15 did a little law enforcement in the Coast Guard
16 Reserves.

17 Q And when you were hired as a police officer,
18 did you go through the standard training that's
19 required for Portland police officers?

20 A I did?

21 Q And what is your current position?

22 A I am one of the lead patrol procedures
23 instructors at the Training Division.

24 Q What does that mean?

25 A So at the Training Division there's

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1 different disciplines that have an officer or two in
2 charge of them. So there's firearms. There's control
3 tactics. And that would be like arrest procedures and
4 like physically controlling people.

5 There's Taser. There's the AR, assault
6 rifle, and less lethal, persons in charges of those
7 systems. And then there's our PDO, the driving
8 instructors. And then there's me and my partner,
9 we're the patrol procedures instructors.

10 And patrol procedures is a synthesis of all
11 those different disciplines. It comes together. And
12 we just teach people the basics of decision making and
13 being a police officers, using all the different
14 tools, tactics and training that they've learned in
15 the other disciplines.

16 So it's everything from taking a cold death
17 call to responding to an active shooter falls under
18 our purview for training.

19 Q So as a member of the Training Division, do
20 you also work out in the field or are you primarily in
21 training?

22 A I am primarily at training, yes. I do work
23 overtime shifts on the street still occasionally.

24 Q Okay. And in terms of your
25 responsibilities, what -- how do you effectuate the

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1 training of police officers?

2 A So for my responsibilities, I help teach at
3 the advanced academies that we have for new police
4 officers and I also help teach at our in-service, our
5 annual in-service.

6 So that's for everyone in the bureau, from
7 the chief all the way down to the newest officer, they
8 go through our annual in-service. And it's anywhere
9 between 10 and 40 hours, depending on the year. So
10 I -- I do both those.

11 Q Thank you. Can you tell the grand jury how
12 much training officers receive to become police
13 officers, as far as use of force?

14 A So --

15 Q In general, yes.

16 A In general, officers are hired and they get
17 two weeks of training by the Portland Police Bureau
18 before they go to the basic police academy in Salem
19 that every officer in the state has to go to. So they
20 get two weeks. Then they go to the basic police
21 academy. That's 16 weeks.

22 And then they come back and they get another
23 two weeks of training from the Training Division in
24 Portland before they go in the street with the coach.
25 So they ride side by side with a experienced officer

Examination of Zachary Flipppo

1 and learn firsthand, how to be a police officer out in
2 the street in a patrol car.

3 They do that for anywhere from three to six
4 weeks, about. And then they come back to the Training
5 Division for a 10-week advanced academy where we train
6 them on everything to our standards here in Portland.
7 And then they return to the street with a coach, a
8 field training officer, until the end of their
9 probationary period.

10 Q With regard to that advanced academy, is
11 that required to be become a police officer in the
12 state or is that particular to the Portland Police
13 Bureau?

14 A That's just in Portland, 'cause we want to
15 make sure our officers have the most and best training
16 that we can give them. Other agencies don't do that.

17 Q With regard to the training that's received
18 at the basic and advanced academies, can you describe
19 how that learning takes place? Is it a classroom
20 format, hands-on format?

21 A Okay. It's a little bit of both. Our
22 philosophy in the parole procedures program for
23 teaching officers how to do any skill is crawl, walk,
24 run. So crawl would be a classroom, like PowerPoint
25 presentation that I give and we talk about tactics and

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1 principles and concepts that we want them to know and
2 decision making points that we think are important.

3 And then, you know, we move to the walk
4 phase, where maybe -- we use traffic stops as an
5 example. We'll go in our training area and I'll have
6 two cars set up just not moving in a perfect traffic
7 stop distance and everything like we -- if you could a
8 perfect traffic stop setup.

9 We have that setup and then we just walk
10 through it just to walk through without having any
11 cars moving or any real role players. And then so we
12 just do little drills, get them used to going through
13 the motions. And then we start adding in role players
14 and scenarios with learning objectives that we have.

15 The scenarios are scripted, so our role
16 players know what to do and how to act to get a
17 certain learning objective out of the -- the trainee
18 that's going through our training. And so that's kind
19 of how everything progresses. It's a building block
20 approach.

21 Q Okay. And aside from traffic scenarios, do
22 you practice other scenarios with officers?

23 A Yes. We do scenarios -- scenario-based
24 training is our preferred method of training our
25 officers, 'cause it gives them a look at a rapidly

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1 unfolding event that they have to respond to and make
2 decisions quickly in a safe environment. And so we
3 do -- we do scenarios for every block of instruction
4 that we teach, just about.

5 Q And when you say every block of instruction,
6 you mean --

7 A Traffic stops, person encounters, critical
8 incidents, active shooter, vehicle-assisted rescue,
9 citizen rescue.

10 Q All of the various types of scenarios
11 that --

12 A All the -- all the different classes I
13 teach, we do scenarios for, so everything. And the
14 scenarios are -- range in difficulty from you just do
15 a traffic stop that is just a person that you need to
16 talk to about their driving and that's all that
17 happens to a, you know, deadly force encounter. And
18 everything in between.

19 Q And is there training or guidance in terms
20 of decision making that is part of the curriculum?

21 A Yes, there is.

22 Q Talk about that.

23 A We talk about decision making in almost
24 every class we teach. We talk about making a pro-con
25 analysis based on what you have on, you know, on your

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1 call, on your scene. And deciding whether or not
2 taking action is going to be beneficial or detrimental
3 to the safety of everyone there and the outcome of
4 whatever you're trying to do.

5 Q And when going through those considerations,
6 is feedback provided to the officers?

7 A Yep.

8 Q How is that done?

9 A So on every scenario, there is an instructor
10 that watches the scenario. They wear a vest, so
11 they're -- you know, they're just out of play, but
12 they are -- they walk around, they watch all the
13 interactions.

14 And the instructors are officers that have
15 been selected from all the officers and sergeants in
16 the -- in the Police Bureau to go through special
17 school put on by the leads of the Patrol Procedures
18 Program, so myself and my partner.

19 And so we give them extra training, an extra
20 hundred hours of training and with an emphasis on
21 debriefing scenarios and -- and teaching officers how
22 to be better after a scenario.

23 So those instructors -- and, you know, I do
24 it, too -- will watch the scenario, will see what they
25 did that maybe they can improve on. We'll see what

Examination of Zachary Flippo

1 they did that was good.

2 And we'll talk to them afterwards, after the
3 scenario's over, like, "Hey, you did really good on,
4 you know, X, Y and Z, but I noticed that you could
5 have improved here and this is what we recommend you
6 do."

7 And then we'll just talk to the -- the
8 student or the officer that goes through and get their
9 take on what they were seeing, what they were
10 thinking. And then we just kind of talk through what
11 they were thinking and why they took the certain
12 actions that they did.

13 Q When you're doing scenario-based training
14 like this, is there a right and a wrong way for the
15 officers to handle the particular scenarios?

16 A There are multiple ways to handle every
17 scenario. I always tell like -- we have an advanced
18 academy going on right now. And I always tell them,
19 when they ask me questions, "It depends." They hate
20 hearing that answer, but every situation is dependent
21 on the facts and what you have in the moment.

22 There's no -- usually no cut and dry answer
23 to any specific scenario, because you can't see the
24 future, so you don't know what's going to happen and
25 you take a certain action.

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1 Q And can you describe what the field training
2 evaluation program is.

3 A So the Field Training Evaluation Program is
4 a program in the Training Division where officers that
5 work patrol are selected to be -- are called coaches.
6 And they are assigned a trainee for a certain period
7 of time, so a new officer.

8 They'll -- the new officer will ride with a
9 coach and learn how to be a police officer on the job.
10 And they'll -- it starts out in entry phase, when
11 you're basically just sitting in the passenger seat
12 watching your coach do everything.

13 And then slowly, as you move through your
14 probationary period, you move along in your phases
15 until you're Phase 5, which means you're on your own,
16 and you get more and more responsibility.

17 Q Okay. And is that a component of every new
18 police officer's training?

19 A Yes.

20 Q With regard to policies, are police
21 officers, specifically Portland police officers, given
22 specific training with regard to use-of-force
23 decisions?

24 A Yes.

25 Q Can you discuss that.

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1 A In our scenarios, there is use-of-force
2 decisions we have to make and we discuss them in our
3 scenarios. We discuss the use of force decision, talk
4 about what they saw, why they did it, talk about how
5 it relates back to policy and if they were in policy
6 or not.

7 Q With --

8 A Our -- sorry, go ahead.

9 Q Well, with regard to that, is there a
10 specific Portland police policy with regard to use of
11 force?

12 A Yes, there is.

13 Q And where's that contained?

14 A It's in our directed manual. It's 10-10.
15 It's calls use of force.

16 Q And is that provided to all the police
17 officers, both in classroom format and then also
18 training that occurs?

19 A Yes. Yep.

20 Q And can you talk a little bit about the
21 force directives 10-10 and I know it's not a short
22 document, but, generally, what is it?

23 A So 10-10 is use of force. It outlines kind
24 of our -- as an organization, our mission and how use
25 of force relates into that. It, basically, says that

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1 we recognize that part of your commitment to the
2 community is to ensure the public of their safety and
3 our safety and, you know, the safety of the employees
4 in the Police Bureau.

5 And we may have to use force to do that, but
6 there's an emphasis on the sanctity of human life as
7 well. And that's interwoven into our training and
8 culture at training and as an agency as a whole, I
9 believe.

10 Q And so that emphasis on the sanctity of
11 human life, is that sort of an over-arching theme that
12 is throughout or is that explicitly written in the
13 force directive?

14 A It's specifically -- it's specifically in
15 there and it's an over-arching -- it's both. It's an
16 over-arching theme as well, yeah.

17 Q Okay. And within your training program, is
18 there a component related to deescalation?

19 A Yes, there is.

20 Q Can you explain what deescalation means.

21 A Deescalation, the definition in our policy
22 is something like -- a deliberate attempt to reduce
23 the necessity and intensity of force.

24 And in our policy, it says if time and
25 reasonableness -- reasonableness allow, I think is the

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1 wording -- I might be a little bit wrong about that --
2 but you can do that through talking to somebody and
3 trying to convince them or advise them or persuade
4 them not to take a certain action.

5 You can use time as an advantage and let
6 them respond to your warnings, commands or whatever
7 else you -- you're trying to do, using distance or
8 barriers between you and a potentially violent person
9 is another form of deescalation. Just the way you
10 approach a -- a call for service can be a form of
11 deescalation.

12 Q And so does deescalation mean that no force
13 will be used in any particular circumstance?

14 A No. We recognize that deescalation doesn't
15 always work or it can still lead to a force event even
16 if you are really trying to deescalate a situation.

17 Q And is that -- is that borne out by your
18 experience?

19 A Yes.

20 Q With regard to deescalation, is there an
21 expectation that an officer should try and deescalate
22 a situation if they have time to do that?

23 A Yes.

24 Q How does time play into that assessment?

25 A It depends on the immediacy of the incident

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1 that you're dealing with and if you have time to try
2 and deescalate, then you should absolutely try and do
3 that.

4 But sometimes you just have to take action
5 and you don't have time to, you know, get more
6 resources or get a barrier between you or -- or try a
7 different tact of conversation with whoever you're
8 dealing with, just -- just based on the other person's
9 actions.

10 Q Can you expands on that a little bit? How
11 does a "person's actions" impact the immediacy of an
12 incident?

13 A If they're a threat to you or someone else
14 and they are actively about to hurt someone, then we
15 need to intervene immediately. We don't want to wait
16 and let ourselves or someone else get hurt.

17 Or if the person's suicidal and they're
18 actively trying to commit suicide, we need to step in
19 right away and stop that from happening as well.

20 Q And so is it possible then to solve every
21 situation without force?

22 A No.

23 Q How do not only time, but also resources
24 play into the assessment of whether deescalation is
25 possible or appropriate in a particular circumstance?

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1 A The more resources you have on a critical
2 incident, the more prepared you're going to be for
3 different contingencies and the more officers you have
4 there, the more jobs they can fill. And that -- that
5 can help resolve situations safely.

6 Can you read the question again? Sorry.

7 Q Well, is there -- what is the interplay
8 between time and resources when making these
9 determinations as to whether or not deescalation's
10 appropriate in a particular instance?

11 A You may have a special unit that has
12 different capabilities than you have or someone that's
13 trained with, you know, ECIT or enhanced crisis
14 intervention officer, maybe they're there and able to
15 intervene in a way that you're not able to intervene.
16 So that would be some examples.

17 Q Okay. So, for instance, if you had a slowly
18 evolving situation, would you expect to be able to
19 bring in more resources before action had to be taken?

20 A Yes.

21 Q To the contrary, if you had a rapidly
22 evolving situation, would you expect to see more
23 decisive action?

24 A Yep. I would expect to see officers taking
25 action without waiting for as many resources as they

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1 would on a slower evolving situation.

2 Q And is that consistent with your training
3 and policy?

4 A Yes.

5 Q What is the duty to act?

6 A Duty to act, we have a -- you know, in our
7 force policy, it says that we're going to -- that we
8 will ensure the public safety.

9 Also, we have a policy and it's titled,
10 "Satisfactory Performance." And in there, it says
11 that members will take action if they see crime,
12 disorder or other occasion that requires police
13 response. It's in our policy that we need to take
14 action if something's happening that requires our
15 attention.

16 Q And so would it be consistent with policy or
17 appropriate police behavior if they see some sort of
18 emergency situation to just turn around and leave?

19 A That would be out of policy, so no.

20 Q Okay. And if somebody was in need or in
21 danger, either the subject themselves that you're
22 encountering or somebody else that is with a subject,
23 would it be appropriate for the officers to step away
24 because of danger in the situation?

25 A No, it would not.

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1 Q Okay. With regard to force, is there
2 specific policies related to or are there specific
3 policies related to the use of deadly force?

4 A Yes, there is.

5 Q How is deadly force defined?

6 A Deadly force is force that is likely to
7 cause serious physical injury or death.

8 Q And what is the training with regard to the
9 use of deadly force that is given to Portland police
10 officers?

11 A There is classroom training. And then, we
12 do a lot of scenario training with deadly force
13 involved in it.

14 Q And what does that policy say about when an
15 officer can just deadly force?

16 A Members may use deadly force to protect
17 themselves or others from what they reasonably believe
18 to be an immediate threat of death or serious physical
19 injury.

20 Q And is that to the officers or to other
21 people or both?

22 A Both.

23 Q And what does "poses an immediate threat"
24 mean?

25 A That means if they don't take action,

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1 they -- they or someone else will be hurt. The threat
2 is happening right now. It's -- it's on the verge of
3 occurring. It's -- it's, you know, basically
4 happening.

5 Q Do they have to be actually experiencing
6 deadly force or observing deadly force or the
7 commitment of some sort of a felony against another
8 person before they take action?

9 A No.

10 Q So do they have to -- do they have to wait
11 until something has already occurred before taking
12 action?

13 A No.

14 Q Would it be appropriate to do so?

15 A No, it wouldn't.

16 Q Is the standard that you've articulated in
17 this policy, are you aware of how that compares to the
18 criminal laws?

19 A Our standard verses the state standard? Is
20 that what you're asking?

21 Q Mm-hmm. Yes.

22 A I am aware how it -- yes.

23 Q Okay. And is that based on your training --

24 A Yes.

25 Q -- as part of the Training Division?

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1 A Yep.

2 Q Can you explain to the grand jury how your
3 policy compares to the criminal laws.

4 A Our policy is more restrictive than the
5 state statutes in regards to using deadly force.

6 Q And when you say "more restrictive," what do
7 you mean by that?

8 A You could be -- you could use deadly force
9 in Portland as a police officer and it could be
10 legally justified, but you'd still be found out of
11 policy per our standards.

12 Q And is that always the case that somebody
13 could be found -- just in your experience, if somebody
14 is always going to be found out of policy but within
15 the law?

16 A Generally, no. They're both -- it's in
17 policy and legal.

18 Q Okay. But it's possible that it
19 wouldn't be?

20 A Yes.

21 Q If it was close to the line. Do you know
22 why the Bureau has a more restrictive policy than --
23 than state law?

24 A It goes back to that sanctity of life
25 statement in our force policy. We don't want to be

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1 near the line of legal justification for using deadly
2 force, so we have a higher standard.

3 Q Let's talk a little bit about threat
4 assessments. I assume officers are trained with
5 regard to threat assessment?

6 A Yep.

7 Q How are officers trained to deal with an
8 individual who's armed?

9 A Typically, we want time and distance.
10 Distance first. And try and use time to deescalate
11 the situation and stay away from him. We wouldn't go
12 up and approach, usually, someone that's armed that we
13 think is going to attack us.

14 Because there's people out there that, they
15 have, you know, a knife in their pocket or they're
16 open carrying a firearm. And we -- we aren't so
17 concerned about contacting those people out in the
18 public. It's the people that are aggressive and
19 threatening that we don't want to get near if they're
20 armed.

21 Q And does the type of weapon that a person is
22 armed with, does that impact the threat assessment
23 analysis?

24 A Yes.

25 Q Can you describe how that is.

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1 A So a firearm is -- is deadly at longer
2 ranges than a knife or a blunt object is. You know,
3 like a knife is just as deadly as a handgun, but at a
4 certain range.

5 Q What do you mean by that?

6 A So within arm's reach or a few paces, you
7 can stab someone and the wounds are just as lethal as
8 a -- as a bullet in a lot of cases.

9 Q Okay. So if you have an officer who is
10 dealing with, for instance, somebody who is carrying a
11 knife, but there's nobody around the person who's
12 carrying the knife, is that threat assessment going to
13 look different than somebody who is carrying a gun,
14 for instance?

15 A Yes.

16 Q Will that assessment look different than
17 somebody who is carrying a knife but has somebody in
18 their immediate proximity?

19 A Yes.

20 Q Can you explain why?

21 A We -- you know, it's our duty to intervene
22 and protect that other person if we can and we'd
23 probably get closer and take more risk than we would
24 if they were just by themselves.

25 If they were by themselves, we'd just leave

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1 them alone and stay -- you know, monitor them, stay as
2 far away that we thought was safe and not approach
3 them. But if there's somebody else potentially in
4 danger, then that changes our tactics and we might get
5 a little closer.

6 Q Okay. And is -- in terms of tactics, you're
7 talking about distance and getting a little bit
8 closer. Would it be -- would the same sort of
9 considerations be taken into account if somebody, for
10 instance, said that they had a bomb?

11 A I mean, yeah. That would be a huge
12 consideration. If -- bombs can be extremely deadly
13 and if you don't know what type it is or if you can't
14 see it, or if you can see it and you -- even if you
15 can see it, you're going to want to stay away from it,
16 if possible.

17 Q Okay. In conducting a threat assessment in
18 a particular situation, if an officer ultimately ends
19 up using deadly force, what do they need to be able to
20 articulate in terms of -- of their decision making?

21 A That the person was an immediate threat of
22 death or serious physical injury to themselves or
23 somebody else.

24 Q Okay. And what does the training tell
25 officers about how to respond to a subject who's

Examination of Zachary Flippo

1 threatening another person?

2 A We need to try and positively impact that
3 situation and -- in any way we can.

4 Q And when you say "positively impact that
5 situation," what does that mean?

6 A Try and get the person that is being
7 threatened out of harm's way so they're safe and away
8 from the person that's armed and -- and so they don't
9 get hurt.

10 Q Let's switch gears a little bit. Let's talk
11 about some less lethal options.

12 Can you explain some of the less lethal
13 options that are available to police officers on their
14 standard patrol uniform?

15 A Just on a standard patrol uniform, there is
16 pepper spray, an ASP baton, so the telescoping baton
17 and Tasers.

18 Q Okay. What is a sponge round?

19 A A sponge round is a round that's fired from
20 a 40-millimeter less lethal launcher.

21 Q And so is that considered a less lethal
22 option as well?

23 A Yes.

24 Q Although not carried on a typical patrol
25 uniform?

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1 A Yeah. It's not on -- it's not on a typical
2 patrol uniform and also not every officer has one.
3 You have to be selected to go through the training and
4 then go to the training and pass. And then you get to
5 carry on on patrol.

6 Q And are sponge rounds penetrating?

7 A No.

8 Q Meaning do they penetrate and go into the
9 body?

10 A They're not designed to, no.

11 Q And do they typically break bones?

12 A I don't believe so.

13 Q Okay. Is it appropriate or even possible to
14 consistently use or to use these different types of
15 less lethal options in every scenario?

16 A No.

17 Q Can you explain why?

18 A So if you're in a confined space with
19 multiple people in there, you wouldn't want to use --
20 like we were in this room right here and I pepper
21 sprayed somebody, we would all get the effects of the
22 pepper spray, because it will spread out.

23 And we'll all start coughing and our eyes
24 will start watering and I won't be able to see and
25 neither will you. It wouldn't be appropriate in here.

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1 Also, you have to have the right distance for that.

2 You can't -- if you're too far away, pepper spray

3 isn't -- the stream's not going to make it.

4 Same thing with your ASP. You have to be,
5 you know, a few feet away to hit someone with a baton,
6 just 'cause of the range of the baton and your arm and
7 where they are.

8 Q And so if somebody had a weapon that would
9 put you in additional danger or somebody else in
10 additional danger if you were to get close enough to
11 actually use to ASP baton, would that be an
12 appropriate use?

13 A Yes, it would. Yes.

14 Q Sorry. Say it again?

15 A It would be inappropriate.

16 Q Inappropriate?

17 A It not be an appropriate response to get
18 close to somebody --

19 Q Sorry. I want to make sure the record's
20 clear, 'cause I think I'm -- I think I talked -- I
21 think I spoke over you there.

22 Would it be appropriate or would it not be
23 appropriate?

24 A It would not be appropriate.

25 Q Okay. And why is that?

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1 A Because you're putting yourself at risk of
2 being harmed by getting close to that other weapon to
3 try and use yours.

4 Q And if you had somebody else who was being
5 threatened by whatever the threat was or whoever the
6 threat was, would getting close potentially put them
7 in additional danger as well?

8 A Yes. And if we're still talking about the
9 ASP, you're swinging -- you're swinging an ASP and the
10 people are close together, you could potentially hit
11 the one you didn't intend to hit while trying to hit
12 the person you did; so, yeah.

13 Q Is it also possible that moving in on the
14 subject would or could in certain circumstances be an
15 aggravating factor that could escalate the situation?

16 A Yes.

17 Q How about a Taser? Is a Taser always
18 appropriate to use?

19 A No, it's not.

20 Q What are the limitations with regard to a
21 Taser?

22 A Tasers are not a hundred percent effective.
23 There's a lot of things that can cause them not to
24 work. The way they work is basically two probes are
25 fired out of a cartridge from the Taser and they're

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1 attached to wires.

2 And the area between where the probes hit,
3 electricity is conducted and the muscles between those
4 probes are supposed to lock up and seize and not be
5 able to work. It also hurts. And it lasts for five
6 seconds.

7 And then our Tasers automatically turn off
8 and we have to either pull the trigger again or cycle
9 to the other cartridge and fire our second cartridge,
10 which -- 'cause we only have two on our Tasers.

11 So if I were to shoot someone in the arm
12 with my Taser, like between my shoulder and my elbow,
13 the area between my shoulder and my elbow would be
14 locked up, but I'd still be able to walk around and
15 use my other hand. Like it would hurt here, but
16 everything else would be working just fine.

17 Also, baggy clothing can get the probes hung
18 up before they make contact with the skin. And if you
19 don't have contact with the skin, there's -- the
20 current isn't completed between the two probes and
21 there's no -- there's no -- none of the involuntary
22 mesal seizure that happens.

23 And then also you can miss with one of the
24 probes or both. And you're effective at about
25 21 feet. The closer you are, the less effective it

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1 is, generally, because the bigger the probe spread,
2 the more muscle groups will get locked up and the more
3 effective it is.

4 Q Would it be effective if, for instance, one
5 of the probes didn't penetrate through clothing or for
6 instance struck a different person, something of that
7 nature, would it be effective at all?

8 A No.

9 Q Okay.

10 A Unless -- I'm not sure about this. Yeah, so
11 no. No, I don't think so.

12 Q Not -- you don't think so though?

13 A I think if the two people were touching, it
14 might -- there might -- it might -- might complete the
15 circuit and lock up muscles, but not a hundred percent
16 sure on that.

17 Q Okay. If somebody had a weapon, would it be
18 appropriate to go in with just your hands, fists?

19 A No. No.

20 Q Okay. With regard to the sponge round, are
21 those weapons designed to completely incapacitate a
22 person?

23 A No.

24 Q And -- or have there been instances in which
25 those -- it's been documented that those have been

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1 used and they, in fact, haven't incapacitated somebody
2 even when you know that the person was hit?

3 A Yes. Multiple times.

4 Q Okay. And what is sort of the variables
5 that might play into that?

6 A If someone's in -- in an agitated state and
7 their angry or their under the influence of alcohol or
8 drugs, they can fight through the pain and continue to
9 do whatever they were doing. It's a pain compliance
10 tool. It's supposed to hurt.

11 And if you're so upset that the pain doesn't
12 convince you to stop, then you just keep going and
13 doing whatever you're doing. Or if you're intoxicated
14 and you're feeling less pain, that can have an effect
15 as well.

16 Q Okay. So given -- given that none of these
17 options are going to be a perfect solution in every
18 given situation, would it be accurate to say that it's
19 possible that sometimes using less lethal force isn't
20 an option?

21 A Correct, yes.

22 Q It would also be true that in many cases,
23 using less lethal force is an option?

24 A Yes, it is.

25 Q Okay. And are officers trained specifically

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1 in making that determination?

2 A Yes.

3 Q Can you talk to me a little bit about the
4 time that it takes to switch between these tools and
5 how does that impact an officer's decision making in
6 terms whether to attempt less lethal force before
7 using lethal force.

8 A It takes time to, if you have your Taser --
9 you know, it's in our policy that you won't have your
10 Taser and your gun out at the same time, for instance.
11 So you would have to transition from your Taser to
12 your gun if you were maybe trying to use less lethal
13 and it didn't work and you had to transition to your
14 handgun to protect your life or someone else's.

15 You have to drop your Taser, unholster your
16 firearm, get up on target, get a good -- make sure you
17 have a good area to aim not, you're not putting anyone
18 else in danger and then make the decision to fire.
19 And that can take a little bit of time, 'cause you
20 have to react to someone else's behavior.

21 Also, you're probably highly stressed out,
22 based on what you're seeing and the event you're in,
23 so that can take a toll on your, like your motor
24 skills and your ability to do a perfect draw and put
25 everything away or make the right decision.

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1 Q So you -- you just mentioned that you're
2 reacting to someone else's -- someone else's behavior.
3 Does that play into the concept of action-reaction?

4 A Yes.

5 Q What is that?

6 A So action versus reaction is a concept that
7 in a contest of time, the initiator has the advantage.
8 The initiator of an action has the advantage.

9 Q What does that mean?

10 A So if I decide to do something -- like so if
11 I'm talking to somebody and they decide to punch me in
12 the face, I have to react to that.

13 They have the advantage 'cause they know
14 they're going to do it and I have to see that it's
15 happening; evaluate what's going on; and then make the
16 decision to put my hands up and -- and block, you
17 know, my face so I don't get hit. And that all takes
18 time. And so the person that moves first has the
19 advantage there.

20 Q And is that -- is that training provided to
21 officers?

22 A Yes, it is.

23 Q And how is that taught?

24 A So we'll have in a classroom, we have
25 handguns that just make noise. They aren't -- they

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1 don't fire any projectiles and they're not very loud,
2 but they function just like a real gun.

3 And we'll have an instructor and one of the
4 academy students each with one of these fake guns.
5 And they'll stand in the front of the room in front of
6 everybody in the academy.

7 And like, "Okay. We're going to demonstrate
8 this action versus reaction." So the instructor will
9 say, "I'm going to point my gun at you and shoot. As
10 soon as I become a threat to you, you can -- you can
11 shoot me."

12 And so the instructor will raise the gun up
13 and fire and the -- the student will have to react and
14 get their gun out and return fire. And they're always
15 behind.

16 And then we'll take it a step further and
17 say, "Okay. You can have your gun out and point it at
18 me and my gun's going to be done at my side and you
19 can't shoot until I'm a threat to you and we'll see
20 who wins again."

21 So the instructor will raise the gun up and
22 usually get a shot off before or at the same time as
23 the student, who's got their gun up pointed at the
24 instructor. They know they're going to do this. They
25 don't have to guess what's going to happen, 'cause

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1 they -- they were told, "I'm going to raise this gun
2 up and shoot at you."

3 And they still can't beat the instructor
4 most of the time. Then when -- when I went through,
5 the instructor turned around and faced the other way
6 and still beat me, turning around, so facing the other
7 way, turning around, shooting at me. I still lost.
8 And the action was --

9 Q Meaning the instructor was turned around?

10 A Yes.

11 Q And then --

12 A Yes.

13 Q And you were able to shoot as soon as he
14 turned and he still beat you even though he had to
15 turn his whole body and get into position?

16 A Yes.

17 Q Okay. And is that a training that all of
18 the Portland police officers go through?

19 A Yep.

20 Q How does that play into decision making as
21 it relates to what degree of force is appropriate in a
22 given situation?

23 A You have to understand that if you wait and
24 don't take action, it could be too late for whatever
25 you're dealing with.

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1 Q And does that depend in part on -- well,
2 does it depend completely on what the situation at
3 hand is?

4 A Yep.

5 Q So, for instance, what would potentially be
6 a -- a dangerous situation depending on what's going
7 on with the individual that an officer is
8 encountering, is that action versus reaction sort of
9 time advantage, could that be more or less impactful
10 in any particular case?

11 A Yes. It depends on what the person is doing
12 and the threat they pose to the officer or other
13 people.

14 Q Okay. So, hypothetically speaking, if you
15 had a person who was an active threat who had a weapon
16 or weapons within the immediate proximity of potential
17 victims who was threatening, what would the training
18 suggest?

19 A If -- it would depend on a lot of different
20 things, but your response could range from giving a
21 warning to using deadly force to using less lethal
22 force. So anything in that -- if they're an immediate
23 threat to someone else, then deadly force is within
24 training and what we'd recommend if no other options
25 were available or if other options were potentially --

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1 had the potential to put other people at risk.

2 Q And does that go back to the reasonable --
3 the reasonableness of the officer?

4 A Yes.

5 Q Okay. And with regard to commands, what is
6 the training concerning giving and receiving commands
7 related to the use of force?

8 A If you can give -- you give a warning if
9 it's safe to do so and feasible to do so. We would
10 like warnings to be given, but we recognize that
11 sometimes the circumstances dictate that you aren't
12 able to do that. And for commands, we like one person
13 giving commands, not multiple people.

14 So if you're on an incident, one person's
15 giving clear and concise commands and not multiple.
16 If multiple people are giving commands, it can be
17 confusing for the person that's on the receiving end
18 of those commands, especially if the commands are
19 different. It can lead to confusion for them and the
20 officers, so for commands, one person, yeah.

21 Q And along those lines of one person giving
22 commands, can you describe to the grand jury what is
23 an arrest team?

24 A An arrest team, custody team, as we call a
25 custody team, it's a team of officers that plan on

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1 taking someone into custody and they have different
2 tools and roles to do that.

3 Q And so can you give us some examples of the
4 different roles that officers could --

5 A Yeah. So there would be your immediate
6 lethal cover, so a person with their gun out ready to
7 respond to a immediate threat of deadly serious
8 physical injury.

9 You would have, ideally, a less lethal
10 person, either with a Taser or a 40-millimeter. And
11 you'd have a person with open hands, so they're ready
12 to get their handcuffs out and take someone into
13 custody or respond to anything else that happens where
14 a weapon isn't needed. And then someone else to give
15 commands to the person that you're trying to get into
16 custody.

17 Q And you said, "ideally." Is that setup
18 possible in every situation?

19 A No.

20 Q Why is that?

21 A Resources. You might not have enough people
22 to have every one of those roles filled. You might
23 not have time to get people there to do that.

24 Q And so in any particular circumstance,
25 again, time and resources are playing into the actions

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1 that officers would be expected to take?

2 A Yes.

3 Q Okay. Did you respond to this incident on
4 June 9th, 2019?

5 A No.

6 Q And so you're testifying here as a Training
7 Division member. Do you have any personal involvement
8 in this case?

9 A No.

10 MS. MARRERO: Grand jurors, are there any
11 questions for Officer Flippo with regard to use of
12 force tactics or Portland police policy?

13 A GRAND JUROR: I have some questions around
14 the training.

15 THE WITNESS: Sure.

16 A GRAND JUROR: And if you're not the right
17 person, that's fine. But the mental health crisis --

18 THE WITNESS: Mm-hmm.

19 A GRAND JUROR: -- what did you call those
20 officers that are especially trained in that?

21 THE WITNESS: Enhanced Crisis Intervention
22 Trained officers. ECITs.

23 A GRAND JUROR: Okay. And then, like, what
24 percentage of Portland?

25 THE WITNESS: I'm not sure on the

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1 percentage. There is a lot of them. I'm one of them.
2 And you get an additional 40 hours of crisis
3 intervention training.

4 A GRAND JUROR: 'Cause when you're talking
5 about the resources, to me, that seems like a resource
6 that --

7 THE WITNESS: Yep.

8 A GRAND JUROR: -- you guys probably -- like
9 you're probably interacting with someone in a mental
10 health crisis --

11 THE WITNESS: Yep.

12 A GRAND JUROR: -- hourly, if not daily.

13 THE WITNESS: Yep.

14 A GRAND JUROR: And so that seems like a
15 resource that I would be interested in knowing if
16 that's like one in five or like four out of five cops
17 come with that?

18 THE WITNESS: I'm not sure --

19 A GRAND JUROR: Okay.

20 THE WITNESS: -- the number. But there is
21 quite a few. And there's guidelines in our directives
22 on when they should be used on calls, so --

23 BY MS. MARRERO:

24 Q And let me ask you this with regard to that,
25 Officer Flipppo. That's the Enhanced Crisis

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1 Intervention Training. Is there a crisis intervention
2 training that all police officers go through?

3 A Yep.

4 Q And is that required to become a Portland
5 police officer?

6 A Yes.

7 Q And does that go through a lot of the same
8 sort of curriculum or information?

9 A Yes.

10 Q And so all police officers have some
11 training in that, right?

12 A Yep. In all and in the training I do, we
13 have crisis intervention scenarios for the majority of
14 our blocks of training. So, you know, for instance, I
15 was teaching traffic stops yesterday.

16 And you'd think traffic scenarios, there
17 wouldn't be a crisis intervention component to it, but
18 we -- we have one in there because it's a possibility
19 and it's just more practice for our officers on
20 dealing with someone in crisis.

21 We have that on our high-risk vehicle stop
22 curriculum and our critical incident curriculum and
23 our building search curriculum. It's -- there's
24 crisis intervention scenarios built in there as part
25 of their training.

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1 A GRAND JUROR: Cool. Okay. Thank you.

2 BY MS. MARRERO:

3 Q And, Officer, you have -- you've noted
4 critical incidents a couple of times throughout your
5 testimony.

6 A Yes.

7 Q Can you just explain to the grand jury what
8 a critical incident is.

9 A That's a major event that rapidly unfolds
10 and poses a higher risk to everyone involved.

11 Q And so would a situation that involved, for
12 instance, a hostage and somebody was who purporting to
13 have multiple weapons in a closed location, would that
14 be considered a critical incident?

15 A Yes.

16 MS. MARRERO: Are there any other questions
17 from the grand jurors?

18 A GRAND JUROR: You said that city policy is
19 more restrictive than the state law.

20 THE WITNESS: Yeah.

21 A GRAND JUROR: What does the state law say?
22 You told us about (indiscernible)?

23 THE WITNESS: It's imminent threat of death
24 or serious physical injury, so ours is an immediate
25 threat.

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1 A GRAND JUROR: Okay.

2 THE WITNESS: And the state is imminent
3 threat of deadly or serious physical injury.

4 A GRAND JUROR: What's the difference
5 between "immediate" and "imminent"?

6 THE WITNESS: So the way that it was
7 explained to me that I thought was an easy way to
8 explain is was someone's across the street from me and
9 they say, "Hey, I'm going to walk over there and punch
10 you in the face."

11 And they walk over and punch you in the
12 face. That's an immediate threat. Or sorry, an
13 imminent threat. He's across the street. He says
14 he's going to come do this. He's walking over at me
15 with his fist balled. That's imminent. It's
16 happening.

17 An immediate threat would be I'm standing
18 this -- I'm pulling my fist back and punching you. My
19 fist is coming forward. That is an -- a immediate
20 action. So does that make sense? Is that a good way
21 to explain it?

22 A GRAND JUROR: Thank you.

23 THE WITNESS: All right.

24 MS. MARRERO: And we'll discuss the law. I
25 allowed Officer Flippo to discuss his understanding of

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1 the policies compared to the state law as part of his
2 training and experience. We'll go into the law in
3 detail.

4 A GRAND JUROR: Thank you.

5 MS. MARRERO: Any further questions?

6 Okay. That'll conclude this witness. Thank
7 you.

8 (Recess taken, 2:36 p.m. - 2:39 p.m.)

9 MS. MARRERO: We are back on the record.

10 The State's next witness is Cliff Nelson.

11 Right here. Go ahead and raise your right
12 hand.

13 **CLIFFORD NELSON**

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

16 A GRAND JUROR: Thank you. Please sit down.

17 **EXAMINATION**

18 BY MS. MARRERO:

19 Q Thank you, Dr. Nelson. Can you please state
20 your spell your first and last name.

21 A Clifford Nelson, C-l-i-f-f-o-r-d,
22 N-e-l-s-o-n.

23 Q And can you please tell the grand jury now
24 you're employed.

25 A I'm a deputy state medical examiner for the

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1 State of Oregon.

2 Q And can you explain what that means? What
3 is your job responsibilities?

4 A Essentially, it's to do -- or oversee and
5 conduct death investigations. So I'll read the
6 reports filed by our investigators, talk to them about
7 the case, figure out if it's a case that we need to
8 look at or not. If we do need to look at it, what do
9 we need to do? Is it just an external examination?
10 Is it -- or is it a full autopsy.

11 And then depending on what it needs, conduct
12 an autopsy, like we did in this case. And then file a
13 report as far as describing any injuries the person
14 had, any natural diseases they had, and ultimately
15 reach a conclusion about the cause and the manner of
16 death.

17 Q Thank you, Doctor. Can you tell us about
18 your educational background and your qualifications to
19 hold your position.

20 A Sure. Went to the university of Portland,
21 graduated with a bio -- with a BS in biochemistry,
22 1984. And I went to Oregon Health Sciences University
23 School of Medicine, where I also did a pathology
24 fellowship with the Department of Pathology.

25 Finished that and medical school in 1989.

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1 Stayed on and did my residency in pathology. Finished
2 that in 1993. And I went to Atlanta, Georgia. Did my
3 fellowship in forensic pathology.

4 After that was done, I stayed in Atlanta for
5 six months as staff, then left to become the first
6 medical examiner for Clark County, Washington. After
7 a year and a half there, a new position was created in
8 the State of Oregon and I took that position and came
9 over and started working across the river. Still live
10 in Vancouver.

11 Q And with regard to this particular case, you
12 indicated that you conducted an autopsy?

13 A Correct.

14 Q And can you tell me on what date you
15 conducted that autopsy?

16 A June 10th, 19 -- or excuse me, 2019.

17 Q Thank you. And on -- on who did you perform
18 the autopsy?

19 A David W. Downs.

20 Q And can you detail for the grand jury what
21 the process is for conducting an autopsy.

22 A Every autopsy's going to be a little bit
23 different, depending on what is the apparent cause of
24 death and what we're trying to get out of the autopsy.
25 In this case, we knew that it was a -- that he had --

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1 had a gunshot wound, just one, a single gunshot wound
2 to the head.

3 So we would start by getting X-rays to make
4 sure that was the only projectile in him. So we
5 usually, even in a head-only gunshot death, we're
6 going to X-ray the head, neck and chest -- chest and
7 down into the abdomen and pelvis.

8 Next thing to do would to be bring him into
9 the autopsy suite, describe him essentially from head
10 to toe, first with his clothes on. Get an inventory
11 of his clothes, that is if he's got any on. If he's
12 gone to the hospital, they may have taken somebody's
13 clothes all off.

14 And then before we wash him down, add
15 anything else that we can see now with the clothes
16 off. Then wash him down. Describe in detail anything
17 that we couldn't see to that point.

18 And then, at that point, make a Y-shaped
19 incision, open the body cavities, look for any damage
20 or natural disease on the inside of the body. Also
21 make a incision from behind one side of -- one ear
22 across the top of the head to the other ear. Look at
23 the head, skull, brain to see what damage the gunshot
24 wound caused.

25 Q Thank you, Doctor. And so sort of backing

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1 up a little bit. You said once the X-rays are done
2 and the individual's brought into the exam room, one
3 of the things that you do is you look at the clothing
4 and you inventory any personal effects.

5 In this particular case, can you describe
6 the clothing that was worn by Mr. Downs at the time of
7 this autopsy?

8 A He had a brown, black and orange pair of
9 Denali boots covering the feet; black socks covering
10 the feet; camouflage cargo pants covering the waist,
11 hips and legs.

12 Q And were those fastened?

13 A No, they were unzipped, but buttoned. And
14 then he had a cloth belt through the loops of those,
15 which was fastened as well. He had a red
16 short-sleeved T-shirt with the logo for Pacific
17 Automation on it and a pair of charcoal gray slacks,
18 unzipped, but completely buttoned.

19 MS. MARRERO: Doctor, can you hold for just
20 one second?

21 THE WITNESS: Sure.

22 BY MS. MARRERO:

23 Q Okay. And in terms of his personal effects,
24 did he have any personal effects on him?

25 A Comb in a plastic case in the right back

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1 pants pocket. In the left back pants pocket, a
2 Lifestyles brand condom, a knife in a cloth sheath
3 attached to his belt loop by a dog chain-type clip.

4 Two carabiners and a metal chain attached to
5 his belt loops. A sheath, empty sheath for a knife
6 attached to his belt. A lightbulb and money clip in
7 the right front pants pocket. A black Velcro band
8 surrounding the left wrist. A beaded chain with a
9 turtle pendant around the neck. And that's it.

10 Q Okay. So with regard to his personal
11 effects, he had two knife sheaths, one of which had a
12 knife in it and one which was empty.

13 A Right.

14 Q Did I understand that correctly?

15 A Right.

16 Q With regard to your findings in the autopsy,
17 you indicated that there was a single bullet wound to
18 the head. Can you describe where that was and what
19 you observed?

20 A Sure. Termed it indeterminate range, which
21 means it doesn't have any soot or stippling around it.
22 And it enters the forehead.

23 Q And what would the presence of soot or
24 stippling have indicated, had there been any?

25 A Soot, you'll see when you have a muzzle to

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1 target distance of up to six inches. Out to about,
2 depending on what type of gun, 18 to 24 inches, you'll
3 see stippling, which are the little fine pinpoint-like
4 abrasions that -- and completely burned and unburned
5 powder will cause on the skin.

6 Q And so what does the indicate to you if you
7 don't see any of that?

8 A Either that it's beyond 24 inches or that
9 there was something filtering the soot out, soot and
10 stippling out, such as I guess if somebody was wearing
11 a cap of one sort of or another that was over the --
12 the area, or say they were shot through a wall or
13 through a glass window.

14 But then the problem with if it was shot
15 through something like a glass window is then the
16 entrance hole looks atypical. It's ragged and not
17 even, like a normal entrance hole is.

18 Q Was the entrance hole in this case appear --
19 did it appear to be normal?

20 A Yes.

21 Q And can you describe the course of the
22 wound?

23 A Sure. Goes from front to back, slightly
24 downward, and goes through the skull. There are
25 radiating fractures from the entrance point. It

Examination of Clifford Nelson

1 causes a lot of bleeding around the brain. Results in
2 contusions of the brain itself. Goes through the
3 brain and out through the posterior skull.

4 Q And so with regard to this injury, were you
5 able to locate a bullet?

6 A Yes.

7 Q Where did you locate that?

8 A It says in the report, a bullet was
9 retrieved just above the inion. Inion's that bump
10 that you feel on the back of your skull.

11 Q And so if you are referencing a report. Is
12 this the report of your autopsy?

13 A Yes.

14 Q And is that the formal documentation of your
15 findings and conclusions?

16 A Yes.

17 Q Thank you. Did you observe or detect any
18 other potential cause of death in the process of your
19 autopsy from some other cause?

20 A No.

21 Q What did you determine the cause of death
22 was?

23 A Listed the cause of death as a gunshot wound
24 to the head.

25 Q And what was the manner of death?

Examination of Clifford Nelson

1 A Homicide.

2 Q And can you describe for the grand jury when
3 you label a death a homicide?

4 A Right. When we use homicide, it's a -- as
5 far as our use of it, it's a medical terminology, not
6 the legal terminology. And what it means is death at
7 the hands of another.

8 Doesn't say if it's murder, if it's
9 manslaughter or anything like that. It just means
10 that one person took actions that directly involved
11 somebody else dying.

12 Q And with regard to any other marks on the
13 body, do you document marks, scars, things of that
14 nature?

15 A Yes.

16 Q And did you note a -- an abrasion on the
17 right shin?

18 A What page are you looking at?

19 Q I'm referring to Page 5 of your report,
20 Doctor.

21 A Huh?

22 Q Page 5.

23 A Okay. Yes.

24 Q And how did you describe that?

25 A One-quarter by one-half inch. Dark red

Examination of Clifford Nelson

1 black abrasion on the right shin.

2 Q Okay. And, Doctor, when these autopsies are
3 conducted, are photographs taken?

4 A Yes.

5 Q Okay. And if I can direct your attention
6 behind you. Is this the abrasion --

7 A Yes.

8 Q -- that was on the leg?

9 A Yes.

10 Q Okay. And then is this a photograph of the
11 entry wound on the head?

12 A Yes, it is.

13 Q Okay. And then is this a photograph of the
14 bullet that was recovered?

15 A Yes.

16 MS. MARRERO: Folks are there any further
17 questions for Dr. Nelson? Okay. Thank you, Doctor.
18 That concludes the testimony of this --

19 (Pause, 2:56 p.m.)

20 THE WITNESS: Toxicology?

21 MS. MARRERO: Yes. I'm sorry. We're back
22 on the record with Dr. Nelson.

23 BY MS. MARRERO:

24 Q Doctor, I neglected to ask you about
25 toxicology in this case. Part of the autopsy process

Examination of Clifford Nelson

1 is, often, are toxicology tests run?

2 A Yes.

3 Q And, in this case, was that performed?

4 A Yes.

5 Q What was the results of that?

6 A He has .93 milligrams per liter of
7 methamphetamine. Small amount of amphetamine, which
8 is just a contaminant of the methamphetamine. And
9 cannabinoids, which are not quantitated by our lab.

10 Q Okay.

11 A At least they weren't in this case.
12 Occasionally, they are, but they weren't in this case.

13 MS. MARRERO: Folks, any further questions?
14 Thank you, Doctor.

15 (Recess taken, 2:56 p.m. - 3:04 p.m.)

16 MS. MARRERO: We're back on the record. The
17 State's next witness is Officer Alexander Quinsland.

18 If you'd please go ahead and raise your
19 right hand.

20 **ALEXANDER QUINSLAND**

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

23 A GRAND JUROR: Okay. Please sit down.

24 ////

25 BY MS. MARRERO:

Examination of Alexander Quinsland

1 Q Can you please state and spell your first
2 and last name.

3 A Yeah. It's Alexander Quinsland. That's
4 spelled Q-u-i-n-s-l-a-n-d.

5 Q Thank you, Officer Quinsland. Can you
6 please tell us how you're employed.

7 A I am with the city of Portland with the
8 Portland Police Bureau.

9 Q And how long have you been in law
10 enforcement?

11 A Ten years.

12 Q Can you detail for the grand jury briefly
13 your education, background and training.

14 A Yes. So I have a degree from Pacific Unit
15 in Forest Grove, just a bachelor's degree. And then
16 I've been trained at the basic academy in Salem and
17 then our advanced academy and then continued
18 in-service training every year from then on for the
19 past ten years, there with the Police Bureau.

20 Q Thank you. Were you working on June 9th?

21 A I was.

22 Q What was your responsibility that day? What
23 was your assignment?

24 A Yes. So I was -- I'm a patrol officer, so I
25 was assigned to patrol. The district I work is 811,

Examination of Alexander Quinsland

1 so I work out of Central Precinct downtown here. And
2 that's in a northwest area of downtown.

3 Q And when you refer to working patrol, what
4 does that mean? What are your responsibilities?

5 A Yeah. So my is to respond to 9-1-1 or
6 radio -- radio calls for service.

7 Q And with regard to your daily interactions
8 with the public, are you assigned to any sort of
9 specially unit or is it just any sort of call that
10 comes out, you (indiscernible)?

11 A Any sort of call that comes up.

12 Q And on June 9th, did you respond to the
13 incident at 14th of Lovejoy?

14 A I did, yes.

15 Q And can you tell the grand jury how you
16 became attached to the call and what you knew as you
17 were entering.

18 A Sure. So Officer Cassandra Wells, she works
19 at the district adjoining mine. I heard her on the
20 radio say she needed some additional units to come to
21 her call. I was only a few blocks away, so I -- I
22 attached myself to the call.

23 I didn't quite know what she was asking for
24 at the time. I just knew that she was right there. I
25 can go. As I'm heading there, I kind of read over the

Examination of Alexander Quinsland

1 call, get a basis, kind of a quick glimpse of -- it
2 was basically the caller reported going into the
3 stairwell hearing a guy yelling, kind of making some
4 threats, saying he's got a hostage and a bomb. And so
5 that's kind of the basis, the nexus of the information
6 we have as I'm going to that call.

7 Q And as you're en route, are you in a solo
8 car? Are you in a partner car?

9 A I am in a solo car.

10 Q Okay. And walk us through what happened
11 when you arrived.

12 A Sure. So I get there. I meet up with
13 Officer Wells and her partner, Officer Flohr. And
14 then also Officer Kirby-Glatkowski and Officer Oldham.

15 And that's when the caller comes and he
16 meets us, I guess it's going to be 13th and -- what is
17 that going to be, Marshall? So kind of on the back
18 corner. And then he kind of walks us around the
19 building.

20 Q And you have the map up there if you want to
21 reference.

22 A Yeah. So here's Lovejoy. Here's 13th. So
23 yeah. So he -- we kind of all stage right on this
24 corner. He comes out the stairwell here and meets us
25 and then we kind of walk along Marshall on the back

Examination of Alexander Quinsland

1 side and he actually takes us to this stair.

2 There's a entrance to the stairwell right at
3 the corner of 14th and Lovejoy. And that's when
4 Officer Moussallem kind of meets up with us. We start
5 to make a plan in the lobby of talking myself and the
6 other officers.

7 And, at that point, we decide that we're
8 going to leave Officer Moussallem at the bottom of the
9 stairwell, 'cause we don't know where those stairs
10 kind of lead out.

11 We know that they kind of can go -- this is
12 a parking garage here and then this is Safeway with
13 the entrance to the parking garage being here on 14.
14 And I know that there's doors, access doors in and
15 out, but we don't know if those are locked or secured
16 or how those -- how those work.

17 So we kind of make that plan. The rest of
18 us go up the elevator with the caller and he takes us
19 up to the ninth floor.

20 Q And so when you say the rest of us, who --
21 who was the total group?

22 A Yep. So that's going to be myself, Officer
23 Kirby-Glatkowski, Officer Amelia Flohr, Officer
24 Cassandra Wells and Officer Jackson Oldham.

25 Q Okay.

Examination of Alexander Quinsland

1 A So we head up to the ninth floor. At that
2 point, he kind of directs us where the stairwell is.

3 Q Did the civilian come up with you to the
4 ninth floor?

5 A He did, yeah. So he had the -- he had the
6 key card to bring us up to the ninth floor. And at
7 that point -- you know what? Actually, I don't
8 actually remember if they came up to the ninth floor.
9 I remember talking to him in the lobby. I don't know
10 if he -- that was at the ninth floor or the bottom
11 lobby.

12 Q Okay.

13 A They're both kind of similar. They're both
14 access to the elevator doors. I just remember coming
15 out and there is -- it -- the ninth floor when you
16 come out, it's kind of right into the office space,
17 but there's a stairwell right maybe as soon as you
18 kind of come in going straight into -- to lead into
19 this spiral staircase going back down.

20 Q Okay.

21 A Like that.

22 Q And does that appear to -- does that look
23 consistent with what the stairwell looked like?

24 A Yeah, pretty similar. I mean, it's easier
25 to see it from a top view, 'cause you can kind of see

Examination of Alexander Quinsland

1 the landings of how the landings look.

2 But, basically, each floor, you come out and
3 there's a landing with a half flight of stairs just
4 like this. And they keep going around and spiral down
5 exactly like that.

6 Q Okay.

7 A So as we come in -- and you have -- can you
8 pull that back up?

9 Q Oh, yeah. I'm sorry.

10 A So if we're -- we come in the ninth floor.
11 This isn't the ninth floor. But as we come in the
12 doors on the ninth floor, it looks similar to this.
13 You can kind of start going downstairs immediately,
14 but there's still a landing.

15 We can hear voices coming down below us, so
16 a male kind of yelling. Within two steps going down,
17 you can keep your head just like you would be looking
18 down all the way down.

19 You can see him several flights below looking
20 at, kind of hearing, hey, there's people come. So
21 he's starting to look up to see what's going on. At
22 that point, I back out of the room really quick.

23 We pause. And I just give updates on the
24 radio, "Hey, we're going to be talking to a guy." And
25 so, at that point, I think other officers also update

Examination of Alexander Quinsland

1 on the radio, just like, "Hey, we can see this guy."

2 And I'm not sure who is in the lead at that
3 point, but I know Officer Kirby-Glatkowski I think is
4 towards the front of that and I'm at the tail end of
5 that.

6 And I'll give you a -- we kind of assigned
7 roles of what each person is going to be. And so, at
8 that point, Officer Kirby-Glatkowski, he was assigned
9 to be what would be called like an arrest team, so he
10 would be hands on, as well as myself. That was my
11 role.

12 Officer Oldham, he was the less lethal, so
13 he has a less lethal 40-millimeter that he takes with
14 him, so that was his role. And then Officer Flohr and
15 Officer Wells were going to be lethal cover if that
16 was needed.

17 So as we're kind of coming down the stairs,
18 we start giving this guy commands. Because at that
19 point, I don't remember who initially sees it, like he
20 says, "Hey, he's got a knife in his hand." And they
21 start giving him commands from several flights up.

22 "Hey, you need to drop the knife."

23 Q One of the other officers?

24 A One of the other officers, correct. Yes.

25 Q Okay. And, at that point, can you see

Examination of Alexander Quinsland

1 anybody with him?

2 A At that point, I cannot. But as we get a
3 little bit lower, Officer Kirby-Glatkowski, he notices
4 that there's a female standing beside him. At that
5 point, he just says, "She's naked."

6 And she's tucked away. I can't see her from
7 where I'm at, but he's also several steps down from
8 where I was standing.

9 Q So Officer Kirby-Glatkowski was the one who
10 said --

11 A Yes.

12 Q -- "She's naked"?

13 A Yes.

14 Q Okay. And as you're continuing to make your
15 way down the stairs, do you know what floor you're on
16 or what floor ultimately had them (indiscernible)?

17 A I don't remember what floor we end up
18 stopping at. I want to say we were in between floors,
19 'cause I want to say when we stopped, we kind of
20 stopped on a landing like this.

21 And there was a door exit like above us.
22 And then down below there was one. And so we weren't
23 on a -- we would have been stopped on the south side
24 of the building, if that makes sense, 'cause the
25 stairwell runs in a pattern.

Examination of Alexander Quinsland

1 So something like this: We were kind of
2 stopped in between, exactly like that. And we could
3 look down and see them below us through this railing.

4 Q Okay.

5 A So I don't know -- and I can't remember how
6 many floors down. He's either a half -- like a full
7 flight down, so we can see him opposite. But we
8 basically end up stopping, so we're the opposite of
9 each other. So we can see him fully from where he's
10 standing, but he's still pretty far down below, if
11 that makes sense.

12 So it's almost a full staircase that's
13 circling before we would get to the landing he's on
14 from where we're standing. So if you'd go back to
15 that picture, actually, if you could.

16 Q Mm-hmm.

17 A So we pause and if we're standing like this,
18 what happens is we -- we then kind of make a plan
19 where Officer Flohr and Wells -- and I don't know the
20 order what they are, but they kind of sink down lower
21 to get a better vantage point.

22 And then Officer Oldham, he's a little bit
23 above them, kind of in a crouched, slash, kneeling
24 position. And then I'm standing behind them kind of
25 seeing what I can see, but also I'm the one -- since

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1 I'm a hands, I'm the radio person, so I'm kind of
2 giving updates on the radio, letting people know, hey,
3 we need -- so at that point, we kind of get medical
4 coming.

5 Q Why -- why did you get medical coming?

6 A Just because at that point, we see he's got
7 a knife. He has the female within like an arm's
8 distance of him. And the best way to describe how the
9 female was, so if you're looking at this picture with
10 the P6 and where she would have been would have been
11 kind of tucked away in this corner.

12 And he was standing -- yeah. So the best
13 way it would have been described, so there would have
14 been a doorway here to get out. He is standing about
15 right in the middle here and she's kind of tucked away
16 in the corner.

17 So I can't see her, because I have this
18 blocking my view. You can just kind of see her feet
19 where she is. But the people below can get a full
20 shot of seeing her where she's tucked away. And he's
21 right here with the knife.

22 At that point, he's kind of holding it out
23 to his side. And he's just look at us, agitated.
24 He's not really responding. We'd give him commands to
25 drop the knife and he's just kind of shouting back and

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1 forth. Easiest way I could describe it, it's almost
2 like bring it on, like a kind of chest out, just
3 really agitated.

4 She's tucked far away in that corner and the
5 only way she can get to that door is by passing him or
6 going up the stairs, which she has to kind of -- so
7 she's kind of trapped in that corner at that point.

8 Q And -- and you say you can see the knife in
9 his hand?

10 A Yes.

11 Q Which hand does he have that in?

12 A At that point, he has it in his right hand.

13 Q Okay.

14 A Do you want me to continue? Okay.

15 Q Okay. So does this appear to be that view
16 that you were --

17 A Correct. Yes. So mine would have been a
18 little bit higher, but this would have been right
19 where Officer Flohr and Cassandra Wells, Officer Wells
20 would have been crouched in that position.

21 Q Okay. And so where would the female have
22 been?

23 A So she would have been right in that corner
24 tucked right there.

25 Q Okay.

Examination of Alexander Quinsland

1 A And what happens is at that point, officers
2 are asking -- so, at that point, Sergeant Hill and a
3 couple other officers are trying to get access in, but
4 we have the key card. So Officer Flohr, she's like, I
5 have the key card or maybe it's Kirby-Glatkowski, one
6 of the two. They switch.

7 And so, at that point, Officer Flohr, she
8 gets up and she leaves to go let officers come up to,
9 I think at that point and direct him to the eighth
10 floor, 'cause that was above us.

11 So I say, "Hey, come up to the eighth
12 floor." So she leaves her position and that's when
13 Officer Kirby-Glatkowski takes her spot as lethal and
14 into that crouching position.

15 So we're in this position here, we still --
16 we keep giving him commands. That's when we get
17 medical stages. And, at that point, Officer Oldham,
18 he fires and I don't know if he fires two or three,
19 but he fires two, for sure, less lethal rounds at the
20 subject and it doesn't do anything. Like to no
21 effect.

22 And so at that point, I -- I direct Officer
23 Oldham, I'm like, "Hey, I don't know if it's not
24 hitting him or it's not being effective. Maybe change
25 your angle." And so we are just figuring, like, "Hey,

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1 if this is where we shot twice and it didn't do
2 anything, let's change your angle." So he changes his
3 angle.

4 And then this is where things get pretty
5 quick. I don't know if he fires a third round there,
6 but if that's his fourth rounds. But at that point,
7 the subject then kind of with his left arm, he grabs
8 the female and then he puts her in front of him as,
9 like, a human shield, like barricade.

10 And he's holding her in front of him with
11 his left arm. I need to stand up just to demonstrate.
12 So he holds her with his left arm and his -- his
13 touch -- his body is tucked behind hers and he's got
14 the right knife out to his side for a while.

15 So the only visible is kind of his shoulder
16 and then his face. Everything else is shielded by her
17 body. And then he brings the knife at that point up
18 in front of her, so it would have been towards her
19 left side.

20 And so he's holding the knife in that
21 manner. So as he's holding that, we kind of give
22 commands. And I remember something to the nature
23 between Officer Wells and Officer Glatkowski.

24 And I remember Officer Wells is the one who
25 stated this, but she's like, "Hey, less lethal is not

Examination of Alexander Quinsland

1 working. We're going to have to use lethal force."
2 And that's where I think Officer Wells and Glatkowski
3 have some sort of conversation, 'cause I can hear them
4 talking, but I can't hear what.

5 It's so loud in there now with the shots of
6 the less lethal now, I can't hear what they say. But
7 shortly after that, Officer Glatkowski fires a round.
8 I see the subject start to move and the blood move
9 from his forehead.

10 And so, at that point, we quickly rushed
11 down the stairs. As we rush down the flights of
12 stairs, the female then kind of runs off. She starts
13 going down the stairs. So I circle down. I stop her
14 and say, "Hey, have a seat. It's okay." I get her
15 seated.

16 At that point, I transition, 'cause Officer
17 Oldham, he was following me. I transition and let him
18 go and talk with her and then I go back up to go check
19 on Officer Glatkowski and Officer Wells.

20 At that point, the subject is obviously
21 deceased. There's blood all over the stairwell. And
22 at that point, we start directing resources, like
23 letting them know, "Hey, here's the floor we're on,"
24 and things like that.

25 And, at that point, Officer Oldham, I

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1 believe, follows the female all the way down the
2 stairwell until she's contacted by medics and another
3 officer.

4 Q Okay. And so, at some point, you had seen
5 her as she was going down?

6 A Correct. Yes.

7 Q So you mentioned that when you first looked
8 down, some of the other officers could see her, but
9 you couldn't?

10 A Correct.

11 Q At that point at which you could see her,
12 can you describe how she appeared?

13 A Yeah. So she had -- she had a shirt on. I
14 can't remember what that shirt looked like, but she
15 was naked from the waist down. She didn't have
16 underwear on and she didn't have pants on.

17 Her pants were down like tucked around her
18 ankles and I don't know if they were like down at her
19 ankles as of like on her feet, or if she just had them
20 draped over her legs. I'm not sure.

21 But I remember as she moved down, she still
22 had her pants with her after going down those flights
23 of stairs. So I don't know if they were tucked around
24 one leg or both legs or how she had those, but she was
25 completely naked from the waist down.

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1 Q Okay. Any visible injuries on her?

2 A You know, I didn't get that quite a good of
3 a look at her, 'cause it was so quick moving down. I
4 do remember Officer Glatkowski saying she was
5 bleeding, but I didn't see where that was. He would
6 have had a better view of where she was injured, if
7 she was.

8 Q Okay. So when you were standing up looking
9 down, you didn't have a view of her?

10 A Not until to tell if she was -- yeah.
11 Correct.

12 Q And then as you were running down the
13 stairs, you didn't have like a conversation with her?

14 A No. Just -- just briefly to have her --
15 have a seat, have her put her pants on really quick
16 and then that's when I transitioned with
17 Officer Oldham.

18 Q Okay. When you are in that location up on
19 the stairwell, can you describe the demeanor of both
20 individuals?

21 A Yeah. So she seems -- the best way to
22 describe her is just frightened and almost to the
23 point, just frozen. She's just stuck in that corner.
24 She's not really moving.

25 She's not really talking. She's not

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1 responding to anything that's going on. Other than
2 just kind of standing there and her armed kind of
3 tucked and just stuck.

4 He, on the other hand, he's pretty vocal at
5 us. I don't remember what he's shouting at us, but
6 he's just shouting. I mean, he sees us up from the
7 ninth floor from, I think he's on six. So for three
8 floors, he's shouting at us as we're talking, you
9 know, giving him commands to drop the knife.

10 And the whole time, he's got the knife in
11 his hand, yelling back and forth at us. So he's
12 pretty agitated at us. And that's why we ended up
13 stopping further up and keep -- than going down right
14 next to him, right? So we -- we give plenty of space
15 to try to give him commands.

16 Q And what -- can you sort of expand on that a
17 little bit.

18 A Yeah. So just because of his, like,
19 demeanor, we don't want to get too close. He's got a
20 knife and he's easily, with his agitation, he could
21 have easily got up the stairs pretty quickly. And so
22 we wanted to give enough space and then a physical
23 barrier right with the -- the guard there.

24 Just having that in the way kind of slows
25 him down from reaching us, but, at that point, he

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1 grabs her so quickly between -- it goes from being
2 hey, this guy is agitated at us to then he now is
3 holding her in a hostage position, right? So it
4 changes quickly from him just being a threat to us.
5 Now it's a threat to her.

6 Q Okay. And you are -- you have a couple of
7 times now sort of demonstrated how --

8 A Yeah.

9 Q -- he was holding her. We are recording
10 this grand jury and I want to make sure that --

11 A Yes.

12 Q -- what you observed is captured audibly,
13 since it's not a video recorded grand jury. Can you
14 describe how he was holding her?

15 A Yeah. So he would have been standing
16 directly behind her with his left arm basically
17 wrapped around her front, holding her back against the
18 front of his body, shielding his -- the front of his
19 body with his right arm on the right side of her body
20 at first and then he moves that right side -- or the
21 right arm in front of her body and that's where he's
22 wielding the knife with his right hand.

23 And so he brings like the body -- how do I
24 best describe this? He's got her pinned against him
25 with her back pinned against the front of him, her

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1 facing us. So they can both see us with his right
2 hand up by her face and then eventually over towards
3 her neck area.

4 Q And his hand that's eventually over her neck
5 area, is --

6 A Has the knife.

7 Q That's the hand with the knife?

8 A Correct.

9 Q Okay. Did you see anything in his other
10 hand?

11 A I did not, no.

12 Q Okay. With regard to the commands, you've
13 mentioned commands a couple of times.

14 A Yeah.

15 Q What was being said to him, if you recall?

16 A Yes. I -- you know, most of the
17 communication was going to be between Officer Oldham
18 and Officer Wells. They were giving most of the
19 commands. And that's pretty typical of someone with
20 the less lethal usually is the one giving commands are
21 the lethal cover. So I know they give him commands to
22 drop the knife.

23 And in my brain, I just hear that over and
24 over and over. I couldn't tell you specifically what
25 other was said than that, but I know they said to

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1 drop -- I can just hear that echoing over and over and
2 over and over.

3 Q Okay. And, at any point, did he appear to
4 be complying with --

5 A No.

6 Q -- that command, at least?

7 A No.

8 Q Did you hear a force warning?

9 A I didn't. And I -- like I said, I wasn't --
10 I was solely focused mostly on his behavior than what
11 Officer Wells and Officer Oldham were talking to him
12 about, if that makes sense.

13 Q Sure. And you said that you were on the
14 radio. And can you describe what that means?

15 A Yeah. So that -- so, basically, my job was
16 to communicate with the other officers outside. So
17 between dispatch, medical and any other officers
18 coming to the scene. My job is to communicate what
19 we're seeing, what we're doing, what resources we need
20 and where those resources need to go.

21 So, at that point, I was kind of in
22 communication with most of them to come up to the
23 eighth floor, 'cause I was letting them know what
24 floor don't come onto. And I wasn't sure if they were
25 going to come up the elevator like we did or if they

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1 were going to try to come up the -- like I showed you
2 in that picture of where that driveway access is.

3 I was purposely telling them on the radio,
4 do not come up from Floor 6, 'cause if they would have
5 opened that door, they would have been right where he
6 would have been standing and that door would have
7 swung open and they would have been right there.

8 And our -- our firearms would have been
9 pointed right at those officers coming out that door.
10 So my job is to kind of give that information so they
11 know exactly where to go so they can come join up with
12 us in a safe spot.

13 Q Okay. With regard to the entire
14 interaction, once you made visual contact with him to
15 when the shot was fired, are you able to approximately
16 how long?

17 A Less than five minutes, I would say. If I'm
18 giving a ballpark, probably three minutes. I mean, it
19 was quick.

20 Q Okay. Did you have concerns for her life?

21 A Yes.

22 Q Did you perceive that commands to drop the
23 knife were effective?

24 A They were not effective.

25 Q Did you perceive or believe that the less

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1 lethal rounds were effective?

2 A They were not effective.

3 Q Did you see them have any effect on him?

4 A No.

5 Q Did you have any other less lethal option
6 that you thought would be appropriate?

7 A Not that would have been effective from the
8 range we were at.

9 Q Can you describe what you mean by that?

10 A Yeah. So the other -- the other options,
11 right, we were there -- we have pepper spray. From
12 that distance in that enclosed space, that would have
13 basically pepper sprayed every single one of us in
14 that whole stairwell, neutralizing us and everybody
15 over there.

16 And then the range, I don't know how far
17 that -- that range is, but with the Taser, it just
18 would have been too big of a range for the Taser to
19 make any kind of appropriate strike. I think -- I'm
20 guessing from how far that is, but I can tell you with
21 a Taser it spreads one foot every seven feet.

22 So, by that point, it's going to be -- one
23 would have hit his body and the other one would have
24 probably hit some sort of pole. And he's kind of
25 standing in front of this, so he has already a natural

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1 shield for where those probes would have struck. So
2 even if I would have got a perfect shot, the
3 likelihood of it hitting one of those things would
4 have been pretty high. And I don't think a probe, the
5 (indiscernible) probe --

6 Q Hitting one of those things being what?

7 A Yeah. One of these rails that's he's
8 standing behind. And even if I did, I don't think the
9 second one, because of that distance, would have hit
10 him and the Taser wouldn't have been effective, 'cause
11 you need both probes to be -- to strike in order for
12 it to be effective.

13 Q Okay. Having been there and seen this
14 entire event unfold, do you believe there was any
15 other option?

16 A No.

17 Q Can you tell the grand jury where your --
18 where each of you were positioned.

19 A Yeah. So if we're looking here, I -- I --
20 the two that I'm not sure of as how they finish was
21 Officer Wells and Officer Kirby-Glatkowski. But they
22 were in like a prone position like laying down or
23 maybe kneeling really low at the bottom of right here.

24 So they would have been right in this little
25 area looking out that way. Right behind them kind of

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1 in a standing or kneeling position was Officer Oldham
2 and then right behind him, 'cause I remember I was
3 specifically right beside him kind of getting the same
4 view he was just a little higher was me. And so that
5 was the five of us -- not five, four.

6 So officer -- and I want to say from what I
7 think I remember Officer Wells was on the left-hand
8 side and Kirby-Glatkowski was on the right-hand side.
9 And then officer Oldham was directly above
10 Officer Wells and then I was directly above Officer
11 Oldham just kind of in a stacked kind of, almost like
12 a pyramid shape.

13 Q And at the point at which the shot was
14 fired, had Officer Flohr already --

15 A She had already left, yes.

16 Q So she had gone to get additional --

17 A Correct.

18 Q -- resources or officers. Do you recall the
19 female saying anything while this was going on?

20 A No, not -- not that I remember.

21 Q Once the shot was fired and once you could
22 chase the female down, Officer Oldham ends up with
23 her. You come back up. What are the next steps?

24 A Yes.

25 Q What happens after that?

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1 A So, at that point, that's -- we're kind of
2 back in his landing right down here where the suspect,
3 he's down bleeding all over the place from his head.
4 I see blood splatter on the wall. I know that he's
5 already deceased. I can tell my the amount of blood.

6 I've seen a lot of, unfortunately, dead
7 bodies in my job. I can see that he's deceased. So
8 at that point, my job is kind of just checking in with
9 Officer Wells and Officer Glatkowski to see how
10 they're doing, make sure that they're okay, make sure
11 if they need anything.

12 So, at that point, I just go check on them
13 to see if they need anything and then direct resources
14 to where we're at. So, at that point, we open this
15 door to get resources coming in through that parking
16 garage so that they can come up and let them know,
17 hey, that resources are okay here.

18 So that's kind of my job getting the
19 sergeants up to where we're at, letting them know
20 where we ended up finishing and that shots were fired,
21 that officers are okay and things like that.

22 Q Got it. And so that door out to the parking
23 garage, was that open or closed while the incident was
24 occurring?

25 A It was closed while the incident happened,

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1 but we ended up opening it and going out on that end
2 of the parking garage out there.

3 Q Okay. And then you said that you waited or
4 called for additional resources. What do you mean by
5 that?

6 A Yeah. So just -- so, at that point, we had
7 called for the sergeant basically to come there to let
8 them know. We had medical there. We didn't call for
9 them to come up because he was deceased.

10 At the same time, we did want medical to
11 tend to the female. And that's why we left medical
12 down below, because she was continuing -- she
13 continued to go down with Officer Oldham.

14 From there, this wasn't my job, but we did
15 get the EDU or our bomb squad did come out because the
16 initial threat was this guy has stated he had a bomb.
17 So I know eventually they ended up coming out.

18 So we ended up moving out of the way and the
19 bomb squad did end up coming in and searching this
20 area just in case there was any kind of device.

21 Q And let me back you up. You testified
22 earlier that you could see the knife in one hand.

23 A Yes.

24 Q Did you know that there was a bomb threat
25 when you went into this situation?

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1 A Only from -- not from first-hand knowledge
2 from what he had told us. Only from what the initial
3 call came out as from that caller. He stated that
4 this guy said he had a bomb and that there was a
5 hostage situation.

6 Q So we were aware that that was a
7 possibility --

8 A Yes.

9 Q -- at least, going into this --

10 A Correct.

11 Q -- scenario?

12 A Yes.

13 Q Okay. Okay. So then once resources come
14 up, are you then separated?

15 A Yes, we are.

16 Q Okay. Do you believe that there was time to
17 bring additional resources up?

18 A No.

19 Q What was your concern at that point?

20 A I think because he moved so quickly from
21 being focused on us to her, I think that sped up
22 everything that we did. Every response that we had at
23 that point was -- I don't know, he -- he was so
24 focused on us for the two minutes as we were walking
25 down the stairs or however long that was, but as soon

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1 as we got close and we're here, as soon as he grabs
2 her, that's -- there was then no time for anything.

3 It was kind of one of those, let's give him
4 the command and then I think -- I mean, that was maybe
5 five seconds as soon as he grabbed her before a shot
6 was fired.

7 Q Okay. And I may have already asked, but do
8 you believe her life was in danger?

9 A I do, yes.

10 Q Officer Quinsland, are you ECIT certified?

11 A I'm not ECIT certified, no.

12 Q Are you CIT certified?

13 A I am, yes.

14 Q Okay. And CIT standing for Crisis
15 Intervention Training?

16 A Correct.

17 Q Do you know if any of the members of this
18 custody team or any of the officers who were with you,
19 do you know if any of them were ECIT trained?

20 A Yes. Officer Oldham is ECIT certified.

21 Q Okay. And Officer Oldham had the less
22 lethal?

23 A He did, correct.

24 MS. MARRERO: Okay. Are there any questions
25 from the grand jurors?

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1 A GRAND JUROR: Yeah. I'm not a firearms
2 person. I'm trying to understand how the officer made
3 that shot, the head shot from that distance while
4 there was, like, a hostage in front of the -- the
5 deceased.

6 THE WITNESS: I -- to be honest, I can't
7 fully answer the question. I don't know where his
8 firearm was. I don't know if he had it outside of
9 the -- 'cause I was up above, so I just know he's down
10 below.

11 So I don't know if he has his firearm
12 outside of the railing to give him -- to block that or
13 if he has it back here, if that makes sense. So it
14 would give him a barrier.

15 We train quite a bit. I mean, a part of our
16 qualifications we do is up to 25 yards. So that's --
17 we're used to shooting at distance. And so, you know,
18 that's going to have to be a question you ask for him,
19 to see exactly what he saw in his sights.

20 And then the communication he had with
21 Officer Wells. I know they had communication of who
22 had a better shot. I could only speculate that he
23 said, I have the better shot, which is why he took it.

24 MS. MARRERO: And so -- and I don't want you
25 to speculate. And the grand jurors shouldn't take any

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1 speculation into account from those officers when they
2 testify.

3 A GRAND JUROR: Did you hear him say
4 anything to Bethanie, Ms. Johnson?

5 THE WITNESS: Oh, the female?

6 A GRAND JUROR: Mm-hmm.

7 THE WITNESS: No, I did not. I think for
8 most of what I can remember, he was solely focused on
9 just shouting at us.

10 A GRAND JUROR: Okay.

11 A GRAND JUROR: Was there any -- so when
12 you -- you had the less lethal rifle. Does anything
13 come out of it while you're --

14 THE WITNESS: Yeah. So if you back up a
15 couple pictures, which is why it got so loud.

16 A GRAND JUROR: Right.

17 THE WITNESS: So there's -- if you see this
18 right there, that is what is -- like what's considered
19 the foam round. And that piece is what would actually
20 go out and hit the -- the suspect.

21 And this is like the canister it kind of
22 comes -- I don't know the actual word for it. But as
23 he takes it, opens it, that part will then come out.
24 So this is the piece that actually would go fire at
25 the subject. And that's where -- I don't know where

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1 those hit.

2 A GRAND JUROR: Yeah. What's it doing
3 there?

4 THE WITNESS: I don't know. So that's
5 where -- that's why I asked. 'Cause when we're --
6 when he shoots it, I just know it doesn't have any
7 effect. I don't know if it hits the rail. I don't
8 know if it hits a wall and it's --

9 A GRAND JUROR: So you can't see it when it
10 moves through the area?

11 THE WITNESS: No. It's -- and it's so quick
12 between when the first two are fired and then the
13 third thing happens, it's -- I can't tell. All I know
14 is like, hey, something -- that didn't work. Let's
15 try to change what we do.

16 And that's why I asked Officer Oldham, "Hey,
17 change your position. Maybe you're hitting this,
18 maybe you're not. Maybe it's just not hitting a
19 better part of his body. So let's move his position."

20 And so that's why I gave Officer Oldham that
21 advice, to just change his position just in case any
22 of those things are happening. So this is from where
23 we are standing here.

24 A GRAND JUROR: Mm-hmm.

25 THE WITNESS: Okay.

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1 A GRAND JUROR: And, yeah, and this --

2 THE WITNESS: There's that foam round there,
3 yeah.

4 A GRAND JUROR: And those two orange marks
5 is where you described Wells and Officer Kirby.

6 THE WITNESS: Right. They would have been
7 laying down in a prone position right by where this
8 would have been --

9 A GRAND JUROR: Yeah.

10 THE WITNESS: -- yep.

11 BY MS. MARRERO:

12 Q Was the female taller, shorter or the same
13 height as the male?

14 A I couldn't tell you, to be honest. I
15 didn't -- I want to say a little bit shorter. They
16 might have been close to the same. I can't tell that.
17 That distance, from when they were -- he was holding
18 her, I can picture it in my head, but I can't picture
19 the height.

20 A GRAND JUROR: What are the Portland police
21 guidelines on shooting (indiscernible)?

22 THE WITNESS: Right. So that's -- I mean,
23 that's always a concern, right? So one of our
24 primary, like what we call our cardinal safety rules
25 is be mindful of like your back stock and what's

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1 beyond, right? And so that's always our --

2 BY MS. MARRERO:

3 Q Can you describe what that means?

4 A Yeah. So, for us, that means, right, when
5 I'm -- we're in a -- like I'm out in the middle of the
6 city and I have a guy with a firearm pointed at me, I
7 can't just be focused on him.

8 I have to be focused on everything that's
9 going on behind him. So I'm always concerned about
10 what's beyond this. Is it a solid wall? Is it a
11 bunch of kids playing at a playground? Like what's
12 behind that?

13 And is so that's where that's training, like
14 we -- we practiced at in-service, like different kinds
15 of shots. We'll have different ones where it's, you
16 know, a guy comes up and he does have a hostage and so
17 we'll practice a shot where it's a head shot.

18 We'll practice different kinds of shots.
19 But it has more to do with what Officer Glatkowski
20 saw. Like, I can't testify for him, 'cause I can't
21 see what his sight picture was, if that makes sense.

22 I don't know, where he's looking down, like
23 he -- when he's looking up his sights, I can't see
24 what he sees from my vantage point, if that makes
25 sense.

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1 If he has a better angle -- I can't say
2 this. He would have had a better angle to take that
3 shot than I would have, just based off of where I was
4 standing versus how low he was.

5 So he has a better trajectory of seeing kind
6 of more of his face than I would have. I saw more of
7 like the top of his head and the top of his shoulders,
8 if that makes any sense. Just how we're standing.

9 Q Like, this specific situation. I just
10 didn't know if in general there were rules.

11 A Oh, sure. Yeah. It's more to do -- right.
12 It's more to do with just how we see. That's our kind
13 of like judgment. It is safety, right? Our concern's
14 always the safety of other people, right?

15 That's always going to be our -- our number
16 one concern at that point is, okay, can he take this
17 shot, right? And he might -- and I can't -- I want to
18 make this clear.

19 Q So Officer Kirby-Glatkowski will be
20 testifying tomorrow, so --

21 A That's a better question for him.

22 Q Yeah.

23 A Yeah.

24 Q So I don't want you to speculate about --

25 A Sure.

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1 Q -- his angle or his shot. He will be able
2 to answer those questions tomorrow. Are you able to
3 answer whether or not there is a bright-line rule in
4 terms of when you can and can't shoot?

5 A No. It's the officer's discretion and what
6 they feel is reasonable, if that makes sense.

7 MS. MARRERO: Any further questions from the
8 grand jurors?

9 THE WITNESS: Okay. Thank you.

10 MS. MARRERO: That'll conclude the testimony
11 of this witness.

12 * * *

13 (Conclusion of Grand Jury No. 1 proceedings,
14 8-15-19 at 3:38 p.m.)

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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.



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