

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

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

GRAND JURY A PROCEEDINGS

Case No. 63

Conducted by:

Amity Girt, Deputy District Attorney
Kelley Rhoades, Deputy District Attorney

ALSO PRESENT: Samuel C. Kauffman
Attorney at Law
- - -

Volume 2

July 6, 2021

(02:36:00)

- - -

DA Case No. 2423136

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

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

Index

1	<u>GENERAL INDEX</u>	
2	<u>VOLUME 2</u>	
3		<u>Page No.</u>
4	July 6, 2021 Proceedings	3
5	Case Called	3
6	Examination of Barbara Hilts	4
7	Examination of Derrik Brown	36
8	Examination of Richard Darryl Hilts	65
9	Examination of Andrew Hilts (via WEBEX)	85
10	Examination of Corey Lee Carter	96
11	Examination of Laura Roettger	102
12	Examination of Mark Roettger	112
13	Examination of Gregory Novozhennikov	125
14	Examination of Julie Anne Goss	133
15	Examination of Jenna Napier (via WEBEX)	163
16	Examination of Robin Keesler (via WEBEX)	169
17	Reporter's Certificate	182
18	* * *	
19		
20		
21		
22		
23		
24		
25		

1 Death Investigation, re: Officer James Doyle

2 Deceased: Israel Berry

3 Incident Date: May 31, 2020

4 DA Case No. 2423136

5 Grand Jury A, Case No. 63

6 * * *

7

8 (Volume 2, Tuesday, July 6, 2021, 8:37 a.m.)

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

10 (Whereupon, the following proceedings were
11 held before Grand Jury A:)

12 MS. GIRT: All right. So we're back on the
13 record. This is Amity Girt. We are here on July 6th
14 at 8:37 a.m. about to start back up with Case No. 63.
15 And the State will be calling its second witness,
16 Barbara Hilts. And I'm going to go grab her. We can
17 stay on the record.

18 (Pause).

19 Okay. So, Barbara, go ahead and follow me
20 on up here. This is going to be where you're going to
21 take a seat. The first thing we'll do, though, when
22 you round the corner there -- and watch your step --
23 is have you remain standing, raise your right hand and
24 we're going to get you sworn in, okay?

25 THE WITNESS: Thank you.

Examination of Barbara Hilts

1 MS. GIRT: All right.

2 BARBARA HILTS

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

5 MS. GIRT: All right. Go ahead and take a
6 seat.

7 I'm going to tell you a couple things about
8 this room before we get started. So we are on the
9 record, which means that your voice is being recorded.
10 This little microphone is picking up your voice in
11 front of you, but also is going to make you sound
12 louder, too.

13 THE WITNESS: Okay.

14 MS. GIRT: And so the little numbers on the
15 clock there tell us that we're on the record and
16 you're being recorded.

17 So, Barbara, the very first thing we're
18 going to do when we start off here is have you state
19 and spell your first and last name.

20 THE WITNESS: Barbara Hilts, B-a-r-b-a-r-a,
21 H-i-l-t-s.

22 EXAMINATION

23 BY MS. GIRT:

24 Q All right. And, Ms. Hilts, who did you come
25 here with today?

Examination of Barbara Hilts

- 1 A I'm sorry?
- 2 Q Who did you come here with today?
- 3 A My husband and Derrick.
- 4 Q Okay. And where do you and your husband
- 5 live?
- 6 A We live at 12405 Southeast Kelly.
- 7 Q Okay.
- 8 A Portland.
- 9 Q And what's your date of birth?
- 10 A 7-9-66.
- 11 Q All right. Does anyone else live with you
- 12 and your husband?
- 13 A My son.
- 14 Q Okay. And who's your son?
- 15 A Andrew.
- 16 Q All right. And how do you know Derrick?
- 17 A Through Andrew.
- 18 Q Through Andrew? Okay.
- 19 A They're friends.
- 20 Q Okay. And do you know -- or did you know
- 21 Israel Berry?
- 22 A Kind of.
- 23 Q Kind of? Okay. Tell me how you knew him.
- 24 A Well, apparently, he knew Derrick, liked
- 25 Derrick. And he, on a few occasions sporadically,

Examination of Barbara Hilts

1 dropped by the house to speak with Derrik.

2 Q Okay. How long has Derrik lived with you
3 and your husband?

4 A Oh, I don't know. 12, 13 years.

5 Q Oh, wow. Long time?

6 A Yeah.

7 Q And all that time, that connection was
8 through your son, Andrew?

9 A Yeah.

10 Q Okay. And so prior to May 31st of last year
11 when this incident happened, how many times had you
12 met or seen Mr. Berry?

13 A I don't know. Two, three, maybe four times.

14 Q Okay. And were those incidents that led him
15 to be welcome at your house or did you consider him to
16 not be welcome at your house?

17 A Well, I -- like I said, I didn't -- didn't
18 -- we didn't really know him.

19 Q Okay.

20 A And every time he came to the house, he had
21 a different name.

22 Q Ah, okay.

23 A Because I wouldn't -- it -- it would be
24 months. He would show up. He gave his name as Mark.
25 And then he showed up months later and I was, like,

Examination of Barbara Hilts

1 familiar -- you know, like, "You look familiar. Oh,
2 is your name Mark?" and he goes, "No, my name is
3 Berry." So every time he came, it was a different
4 name.

5 Q Okay. All right. And -- and every time
6 that he showed up, was he there to see Derrik?

7 A Yes.

8 Q Okay. On May 31st of 2020, were you and
9 your husband and Derrik home that night?

10 A Yes.

11 Q Was anyone else home that night?

12 A My son.

13 Q Andrew?

14 A Yeah.

15 Q Okay. Did you see Mr. Berry that night?

16 A Yeah. He knocked at the door and I
17 answered.

18 Q Okay. And although we're not going to go
19 into all the details surrounding this, would -- did
20 there end up being kind of a problem or a disturbance
21 involving Mr. Berry that evening?

22 A Huge, yes.

23 Q Okay. Did anyone in your household call the
24 police because of that?

25 A Apparently, Derrik did.

Examination of Barbara Hilts

1 Q All right.

2 A I wasn't aware of that at the time.

3 Q Okay. Do you -- when did you become aware
4 that Derrick had called the police?

5 A Not until later that night after everything
6 had happened, he mentioned that he had called 9-1-1.

7 Q Okay. Did this disturbance lead yourself
8 and your husband to be outside of your home for some
9 period of time that evening?

10 A Yes.

11 Q Okay. And was Mr. Berry also outside of
12 your home?

13 A Yes.

14 Q Was Derrick also outside at some point during
15 the evening?

16 A I think so, at some point.

17 Q Okay. All right. And so that evening, did
18 the police end up arriving on your street, on Kelly
19 Street?

20 A Yes.

21 Q Okay. Were you inside or outside when they
22 arrived?

23 A Outside.

24 Q Who else was outside with you at that time?

25 A My husband.

Examination of Barbara Hilts

1 Q Okay. And how did you realize or come to --
2 come to find out that the police were coming down
3 Kelly Street? What drew your attention to that?

4 A I heard them.

5 Q Okay. What do you remember hearing? Were
6 there -- was there just the --

7 A The sirens --

8 Q -- sound of cars?

9 A -- and -- and I went out to the edge of our
10 property or -- yeah, to the property and looked and
11 saw the cars coming down. And then they --

12 Q Okay.

13 A -- parked probably about, I don't know,
14 30 feet or so across the street and kind of back. And
15 the officers were walking towards our house.

16 Q Okay. All right. So describe to me what
17 you remember happening as soon as the police turned
18 down Kelly and came -- were they coming then towards
19 your house --

20 A Yeah.

21 Q -- on Kelly? So would --

22 A Mm-hmm.

23 Q -- that be, like, eastbound on Kelly?

24 A Mm-hmm.

25 Q Okay. What do you remember happening?

Examination of Barbara Hilts

1 A I remember when I saw it -- well, Mark or
2 Berry, whatever his name is, was at the end of the
3 street. He had gotten in his car. He was at the end
4 of the street. He was revving his engine.

5 Q Okay. So which end of the street?

6 A The dead end.

7 Q Okay.

8 A So east.

9 Q Okay. So while you're talking real quick,
10 I'm just going to pop up a little diagram. Give me
11 one second here. And that's going to show up on that
12 computer right in front of you.

13 A Mm-hmm.

14 Q All right. So this little diagram here, do
15 you see the -- your home on that diagram?

16 A Yes.

17 Q Okay. So that's 12 --

18 A Hang on, I can't --

19 Q Oh, that's okay.

20 A I need to --

21 Q If you need --

22 A -- put my glasses on.

23 Q -- your glasses, yeah, absolutely.

24 A Yeah.

25 Q All right.

Examination of Barbara Hilts

1 A Right there.

2 Q So top-right corner, 12405 --

3 A Uh-huh.

4 Q -- Southeast Kelly. And so you said that
5 the -- that Mr. Berry's car had gone off to one end of
6 Kelly. Is that the end on the right side of your
7 screen?

8 A I would -- yeah, that would --

9 Q Okay.

10 A -- be the dead end.

11 Q All right. And so is it the -- is it that
12 Southeast 182 is on -- or 122, rather, is on the left
13 side of the --

14 A On the left.

15 Q -- screen over here?

16 A Yeah, mm-hmm.

17 Q Okay. And so what do you remember happening
18 next when those police officers --

19 A So I remember --

20 Q -- had came out?

21 A -- him at the end of the street revving his
22 engine and -- and the police officers coming. And
23 when I saw them, I crossed over -- crossed the street,
24 Dave, and I was, I believe, here 'cause there's cement
25 that kind of goes in on my neighbor's yard. So I was

Examination of Barbara Hilts

1 standing, like --

2 Q Okay.

3 A -- there.

4 Q So I can see your finger from your screen.

5 Do I have my cursor kind of --

6 A Somewhere --

7 Q -- (indiscernible) --

8 A -- in that --

9 Q -- where you're talking about --

10 A -- area.

11 Q -- there? Okay.

12 A Uh-huh.

13 Q And Mr. Berry's car was down over --

14 A Over here.

15 Q -- on this end? All right.

16 A Yeah.

17 Q And did the police officers come down Kelly
18 this way?

19 A Yes.

20 Q Okay.

21 A They -- they walked a little bit and then
22 the gentleman at the end of the street floored it.

23 Q Okay. And so when the officers were coming
24 down Kelly in their vehicles, did you come out into
25 Southeast Kelly at all to greet them or notify them

Examination of Barbara Hilts

1 that, you know, you were part of the reason --

2 A Well, I --

3 Q -- they were there?

4 A -- walked across the street. I don't
5 remember if I spoke to anybody.

6 Q Okay. Okay. And then you said that Mr.
7 Berry floored his car.

8 A Uh-huh.

9 Q Where -- where was your body positioned
10 between him flooring the car and the police officers?

11 A I was just across the street in my
12 neighbor's area where his mailbox is.

13 Q Okay. And so what do you remember happening
14 next?

15 A I just remember Mr. Berry flooring it and
16 flying down the road. I don't know how fast he was
17 going, but he was going really fast. And I remember
18 the officer yelling some -- like, "Stop," or -- or
19 something many times. And Berry had no intention of
20 stopping --

21 Q Okay. So --

22 A -- (indiscernible).

23 Q -- you're -- and you're watching this?

24 A Mm-hmm.

25 Q -- with his car now, Mr. Berry's car, now

Examination of Barbara Hilts

1 having gone by you in front of you?

2 A Mm-hmm.

3 Q What gave you the impression that he had no
4 intention -- that -- that you saw --

5 A He didn't --

6 Q -- that he had no intention of stopping.

7 A He didn't slow down --

8 Q Okay.

9 A -- at all.

10 Q Did you -- do you --

11 A At all.

12 Q -- remember seeing the --

13 A When he saw the --

14 Q -- brake lights?

15 A -- officers, he's --

16 Q Okay.

17 A -- he didn't slow down at all.

18 Q Okay. Did you ever see brake lights on
19 his car?

20 A No.

21 Q Okay. All right. And your -- do you feel
22 pretty familiar with your neighborhood and some of the
23 houses that are, you know, to the west and across the
24 street from you?

25 A Mm-hmm.

Examination of Barbara Hilts

1 Q What -- on this -- using this little diagram
2 here, knowing that this house right here that I've got
3 my cursor on, who lives here at this house right next
4 -- west of you?

5 A Well, if he's right next door to me, it's --
6 his name is Randy.

7 Q Okay. And so where were you in relationship
8 to Randy's house or your house in the road when this
9 happened, if you recall?

10 A Well, I know I was across the street in
11 Jack's -- in front of Jack's house.

12 Q Okay. And do I have my cursor on Jack's
13 house or is it a different house?

14 A Without the --

15 Q House numbers?

16 A Yeah.

17 Q Yeah, that's okay.

18 A I think that's Jack's house.

19 Q Right over here? This --

20 A Yeah.

21 Q -- kind of more L-shaped one? Okay.

22 A Yeah.

23 Q Got a couple other pictures to show you real
24 quick here. Is this --

25 A That's my house.

Examination of Barbara Hilts

1 Q -- your house? Okay. Does this look like a
2 fair representation of what it appeared like the night
3 of this incident?

4 A Yeah, Berry did the trash.

5 Q Okay. So the trash can, one of them is
6 knocked over there.

7 A Mm-hmm.

8 Q And is this retaining wall -- were you --
9 when -- when Mr. Berry was outside, were the -- were
10 the rest of you kind of positioned in front of this
11 retaining wall at different points?

12 A At -- after, yes.

13 Q Okay.

14 A After he had done that.

15 Q Okay. And so you were saying that Mr. Berry
16 had floored his car. He was in front of you now, did
17 not appear to be stopping. What happened next that
18 you recall?

19 A The officer yelling for him to stop.

20 Q Okay.

21 A And he didn't.

22 Q Okay. And do you remember him using that
23 word or was it something that was -- would be similar
24 to someone yelling out to stop?

25 A Well, he yelled -- I mean, he was yelling a

Examination of Barbara Hilts

1 lot, so I don't -- I do remember hearing him say,
2 "Stop," but I don't remember, like, everything that he
3 was yelling.

4 Q Okay. And then what happened?

5 A The next thing I heard were shots.

6 Q Okay.

7 A And the glass break on the door and the car
8 come to a screeching halt.

9 Q Okay.

10 A And Berry yelling, "You shot me, mother."

11 Q Okay. Were you in the road still when that
12 happened?

13 A I was still in the neighbor's --

14 Q Okay.

15 A -- property.

16 Q All right. What about your husband? Where
17 do you remember your husband being during this
18 incident?

19 A If I remember correctly, I think he was
20 still up on the -- our property.

21 Q Okay. What about Derrik Brown? Do you
22 remember seeing him outside?

23 A What I -- I think I remember is him picking
24 up a planter and throwing it at the car. And --

25 Q Okay.

Examination of Barbara Hilts

1 A -- that's all I remember of him.

2 Q Of Mr. Brown's involvement?

3 A Yes.

4 Q Okay. All right. What is your recollection
5 for how -- what the distance would have been between
6 Mr. Berry's car that he was driving and the police
7 officer when he shot at Mr. Berry's car?

8 A I mean, he -- it -- it seemed like the car
9 was right on top of him --

10 Q Okay.

11 A -- practically, you know?

12 Q And do you recall whether the officer who
13 shot was inside the vehicle, the police vehicle, or --

14 A No, he --

15 Q -- out --

16 A -- wasn't.

17 Q Outside? Okay. Do you remember how many
18 police officers you initially saw that were outside of
19 the vehicle when that happened?

20 A No, I don't --

21 Q Okay.

22 A -- recall.

23 Q That's okay. And was there anyone in the
24 road that night, including yourself, that you had
25 concern over as far as getting possibly hit by

Examination of Barbara Hilts

1 Mr. Berry's car when he was driving it?

2 A Possibly getting hit?

3 Q Yeah.

4 A No. I mean, other than myself. He tried to
5 run me over a couple times.

6 Q Okay. Was that prior to the police --

7 A That was --

8 Q -- arrival?

9 A Mm-hmm.

10 Q Okay.

11 A Yes.

12 Q So that -- when the police arrived, what
13 would they have seen come -- I mean -- let me back
14 that up. When the police arrived, what was -- what
15 was going on with you and Mr. Berry's car that would
16 have been at the same time that they were coming down
17 Kelly, to your -- to your recollection?

18 A Well, at that immediate time, nothing
19 because he was at the end of the street.

20 Q Okay. And then as they approached closer to
21 your house, closing the distance down Kelly, would
22 they have seen any other interaction that you remember
23 between his car and yourself or --

24 A I don't think so.

25 Q Okay. Okay. And then that night, did you

Examination of Barbara Hilts

1 give a statement to police officers about what you had
2 seen?

3 A Mm-hmm.

4 Q Okay. Have you had any involvement or
5 contact regarding this investigation since then?

6 A I don't -- I don't think so.

7 Q Okay.

8 A Not until the officer or detective
9 showed up.

10 Q Okay. And then let me just forward one
11 more -- and was that in relationship to a subpoena
12 that was served on you?

13 A Mm-hmm.

14 Q Okay. All right. So this is just one more
15 photograph that I threw in here. Is this a different
16 vantage point of the front of your house, including
17 your driveway?

18 A Mm-hmm.

19 Q Okay. All right. And then what I would --
20 what I wanted to do was show you some video and see if
21 you can recognize kind of what the video depicts.
22 Were you aware that any of your neighbors have, like,
23 a Ring camera --

24 A Oh, yeah.

25 Q -- system?

Examination of Barbara Hilts

1 A Corey --

2 Q Yeah?

3 A -- across the --

4 Q Okay.

5 A -- street. Because --

6 Q Okay.

7 A -- I've had -- what do you call -- people at

8 night come into our yard and stuff and he --

9 Q Yeah.

10 A -- lets me know.

11 Q Oh, okay.

12 A So, yeah.

13 Q And who is that? Which neighbor is that?

14 A Corey.

15 Q Okay.

16 A I don't know his last name.

17 Q All right. So he -- you know that he has

18 footage --

19 A Mm-hmm.

20 Q -- surveillance footage? Okay.

21 A Mm-hmm.

22 Q I'm going to pull that up here. Okay. So

23 I'm going to pause before we go any further. And what

24 can you tell me about what's depicted or shown in this

25 frame here?

Examination of Barbara Hilts

1 A That's my house back there.

2 Q Okay. So right here?

3 A Yeah.

4 Q Okay.

5 A And then this -- this area here where the
6 yard's at is Cory's house.

7 Q Okay. And whose truck was parked here that
8 night?

9 A She would be living on one of the other
10 houses across the street.

11 Q Okay.

12 A She's an EMS.

13 Q Ah, okay. So not a car related to your
14 home?

15 A Right.

16 Q Okay.

17 A Right. Which she ended up coming out after
18 the shooting to see --

19 Q Okay.

20 A -- if there was anything she could do for
21 him.

22 Q Okay. Got it. Okay. So I'm going to go
23 ahead and play some footage. And I'll probably pause
24 it a few more times here.

25 (**TRANSCRIBER'S NOTE:** Video recording played

Examination of Barbara Hilts

1 in open court without sound, 8:55 a.m., as follows:)

2 BY MS. GIRT:

3 Q All right. So I'm going to pause.

4 Do you see yourself in this video frame
5 here?

6 A Yeah.

7 Q Okay. Is this you in sort of the lighter
8 clothing?

9 A Mm-hmm.

10 Q Did you see anyone else from your household
11 that was shown?

12 A Yeah. I think I saw Derrik up on the grass.

13 Q Okay.

14 A I don't see him anymore, but, yeah --

15 Q Okay.

16 A -- I think I saw him.

17 Q We'll keep playing.

18 A Okay. That's my -- I was wondering where he
19 was. I didn't -- I thought he was up here.

20 Q Okay.

21 A That's my --

22 Q So --

23 A -- husband.

24 Q Your husband was back over here?

25 A Uh-huh.

Examination of Barbara Hilts

1 Q Okay. And then who is this, if you can even
2 tell?

3 A I -- I think it might be Derrick because --

4 Q Okay.

5 A -- he's the only one I remember being out
6 there briefly.

7 Q All right. I'm going to keep playing.

8 Okay. The car that just went by, I know you
9 probably could barely see it, but does that jog your
10 memory at all as far as kind of what was going on out
11 front when the three of you were outside the home?

12 A Like, do I remember that car going by?

13 No --

14 Q Okay.

15 A -- I do not.

16 Q Okay. I'm going to keep playing.

17 A I see my son came out, but I don't remember
18 seeing him.

19 Q Okay. And is that Derrick over here by this,
20 light pole --

21 A Yeah.

22 Q -- or tree, whatever that is?

23 Okay. And just going to pause real quick.

24 Your husband, do I have my cursor over him right here?

25 A Yeah.

Examination of Barbara Hilts

1 Q Okay. Did -- did either one of you have a
2 flashlight out that you can tell that evening from
3 this video?

4 A I don't -- oh.

5 Q Or using something as a flashlight?

6 A Is that a flash -- I don't remember the
7 flashlight.

8 Q Okay.

9 A Is that a flashlight or was that his hand?

10 Q Okay. And do you recognize that car that
11 went by at all (indiscernible) --

12 A No.

13 Q -- anything? Okay. Did you get a chance to
14 really look at Mr. Berry's car that he was driving
15 that night?

16 A I think it was black. As for --

17 Q Okay.

18 A -- the make or anything like that, no.

19 Q No? Okay.

20 Okay. Now, we've got some people coming
21 back into frame here. Do you see yourself coming back
22 towards the house?

23 A Yeah.

24 Q Okay. And Derrick, that looks like he's
25 running towards --

Examination of Barbara Hilts

1 A Look --

2 Q -- the front door?

3 A Yeah.

4 Q Okay.

5 A Oh, I guess that is a flashlight.

6 (TRANSCRIBER'S NOTE: Video recording
7 stopped, 8:59 a.m.)

8 BY MS. GIRT:

9 Q Okay. Do you remember, after those shots
10 were fired, did you -- did you stay outside in the
11 street or did you go somewhere else or were you
12 directed to go anywhere else?

13 A I think we just went back and I think we --
14 if memory serves, I think we sat on the porch --

15 Q Okay. All right.

16 A -- waiting to see what was going to happen.

17 Q Got it. Okay. And from what you observed
18 out front when Mr. Berry came from the -- the right
19 side of your screen back down Kelly once the police
20 were on Kelly, as far as the placement of their car
21 and Mr. -- and Mr. Berry's car, did you have any
22 concerns that you formed for the safety of any of the
23 people, including the police officers down at that
24 end? Specific --

25 A The only --

Examination of Barbara Hilts

1 Q Specifically related to how he was driving
2 his car.

3 A I mean, Mr. Berry was very erratic and I
4 kind of assumed that he had some mental problems. And
5 just after the incident, like, we went -- after the
6 detectives interviewed us that night, I did make a
7 point to tell them that I believe that the officer did
8 what he had to do because somebody was going to die
9 that night, either Mr. Berry, the officer.

10 I don't believe Mr. Berry would have
11 stopped. I think he would have just flew into 122nd
12 to see if maybe somebody would hit him. He made a
13 comment earlier before he went to the end of the
14 street when he was out of his car.

15 Q And I -- I think -- you know, I'm going to
16 interrupt real quick. I do think I know what comment
17 you're referring to, but I'm just going to -- we're
18 going to kind of skip --

19 A Okay.

20 Q -- over that piece of it.

21 A Okay.

22 Q But back up -- backing up, related to the
23 driving, itself, from your vantage point, did his
24 driving put any of the police officer or police cars
25 that you saw at risk of harm?

Examination of Barbara Hilts

1 A I believe so.

2 Q Okay. All right. Let's see here. Let me
3 just go back through my notes.

4 And were you actually watching the police
5 officer who fired when they fired those shots? Did
6 you -- did you see the actual --

7 A I --

8 Q -- gunshots?

9 A Well, I heard it. When I heard it, I turned
10 to look and I saw the glass break --

11 Q Okay.

12 A -- on the window.

13 Q Okay. What were your impressions as far as
14 how pronounced or obvious or maybe not obvious it was
15 that the officers were police officers when they
16 arrived on Kelly?

17 A Very, because they had the sirens and their
18 -- you know, and their cars.

19 Q Okay. And are you sure you remember sirens
20 that night? When they arrived, I should say. There
21 -- you know, different from maybe later on in the
22 evening. Do you --

23 A Well --

24 Q -- specifically recall --

25 A -- for sure.

Examination of Barbara Hilts

1 Q -- sirens? For sure later.

2 A For sure -- for sure.

3 Q Okay. Okay.

4 A I don't know. I guess it's possible they
5 could have came in silently.

6 Q Okay.

7 A It's just that when you see officers and
8 lights --

9 Q I understand.

10 A -- you think sirens, so --

11 Q Yeah, understandable. So other than that,
12 was -- was it -- what -- you know, what was it about
13 their arrival or appearance that called out to you,
14 like, hey, these are police officers?

15 A Well, we just saw the -- the cars that said
16 Portland Police --

17 Q Okay.

18 A -- on it.

19 Q Okay. And the lighting when this happened,
20 you know, obviously, we got -- we got some Ring
21 footage that shows it being dark. But that --

22 A It's dark.

23 Q -- may not be exactly --

24 A Mm-hmm.

25 Q -- what it looked like or you -- how you

Examination of Barbara Hilts

1 remember it. Was it difficult to see down towards
2 that end of 1 -- where 122 is as far as where the
3 officers would have been pulling on from -- coming
4 down Kelly from?

5 A Yeah. I wouldn't have been able to see once
6 their cars were parked there on the edge where I was.

7 Q Okay. But you -- you remember seeing them
8 when they came down Kelly --

9 A Yeah.

10 Q -- is that right?

11 A Yeah.

12 Q Okay. All right. Do you remember seeing
13 any, like, specifics about their uniforms or their
14 clothing that also led you to believe that they were
15 police officers?

16 A It was just dark-colored clothing.

17 Q Okay. And so I think I asked you about this
18 already, but you did -- did you ever -- you remember
19 talking to the police officers the night that this
20 happened?

21 A You know, I don't -- I don't recall if I
22 specifically spoke to the police officer. I know I --
23 we spoke to the detectives --

24 Q That's what --

25 A -- after.

Examination of Barbara Hilts

1 Q That's what I meant. So not -- not
2 necessarily the officers on scene.

3 A Right.

4 Q Would it be fair to say things got a little
5 bit busy and chaotic --

6 A Yes.

7 Q -- after this shooting? Okay.

8 A Yes.

9 Q Later that night, did you -- did a
10 plainclothes detective or detective with sort of a,
11 you know, collared shirt --

12 A Two of --

13 Q -- come and --

14 A -- them.

15 Q Two of them came and --

16 A Mm-hmm.

17 Q -- talked to you? Okay. So that's what --

18 A Mm-hmm.

19 Q -- I'm -- what I'm getting at.

20 A Yeah.

21 Q And as far as the information and details
22 that you gave to those detectives that night versus
23 sitting here on the stand more than a year later,
24 which -- at which time would you have had more --
25 fresher details, do you think, in your mind about what

Examination of Barbara Hilts

1 happened?

2 A Back then.

3 Q Okay. And do you remember telling the
4 detectives at all that you had seen their uniforms?

5 A No, I don't recall.

6 Q Okay. That's all right. Okay. And
7 distance-wise from the point of the police officer's
8 car and Mr. Berry's car, how far away do you think you
9 were when you watched this incident happen?

10 A Well, I don't know, 'cause I was, like -- I
11 was, like, here and everything happened just a few
12 feet ahead.

13 Q Okay.

14 A So --

15 Q So a few feet --

16 A I'm not good with --

17 Q -- ahead --

18 A -- distance.

19 Q Yeah. You're not good -- or did you say --
20 I'm sorry, I missed that part.

21 A I just said I'm not good with distance.

22 Q Okay.

23 A I mean --

24 Q Okay. Yeah. So let's see here. Going back
25 to my -- my diagram, if you will. Just one second.

Examination of Barbara Hilts

1 Lose this. Yep.

2 A 'Cause where I was standing in the
3 neighbor's parking area, I would say that it happened,
4 like, at the next-door house kind of -- or kind of --
5 kind of in between, a little in between.

6 Q Okay.

7 A But more to the other neighbor's house.
8 Does that make sense?

9 Q It does. And I'm just wanting to get out of
10 this video so I can pull back up my -- oh, no, cancel.
11 I just want to -- escape, quit. Give me one moment
12 here. Quit. There we go. Here we go. All right.
13 I'm just going to pull back up that diagram that I
14 had.

15 Okay. So with this diagram, if you wouldn't
16 mind kind of using your finger on the screen there and
17 I'll put my cursor over where it's at so the rest of
18 the -- the jury can see where you believe you were
19 standing when the shooting happened.

20 A Because if I'm looking at this diagram
21 correctly --

22 Q Mm-hmm.

23 A -- then this would be my neighbor, Dave.
24 And then that means I would have been standing, like,
25 over -- right -- right in here.

Examination of Barbara Hilts

- 1 Q Like, right in here?
- 2 A Yeah.
- 3 Q Do I have that right?
- 4 A No, a little more. Yeah.
- 5 Q This way? No?
- 6 A A little more to the --
- 7 Q Here?
- 8 A -- left.
- 9 Q That -- left, here?
- 10 A Yeah, right in -- about right in there.
- 11 Q Got it.
- 12 A Like --
- 13 Q Okay.
- 14 A Yeah.
- 15 Q Okay. All right. Okay. And you said that
- 16 was next to his mailbox; is that right? Kind of where
- 17 his mailbox is?
- 18 A Mm-hmm.
- 19 Q Okay. Let's see here. After -- from --
- 20 from your memory of this -- this evening, after the
- 21 police arrived, do you remember seeing them -- at
- 22 least one of them actually get out of the vehicle that
- 23 they were driving?
- 24 A I saw a few of them, mm-hmm.
- 25 Q Okay. What is your -- your recollection or

Examination of Barbara Hilts

1 estimate for time that went by when they got out of
2 their car to when Mr. Berry was driving his car toward
3 them and the shooting happened? What's that time
4 period like?

5 A Oh, good grief. I don't know. Everything
6 just happened so fast.

7 MS. GIRT: Okay. That's fine. All right.
8 Let me go back through my notes real quick here.

9 (Whispered discussion, off the record,
10 9:09 a.m.)

11 MS. GIRT: All right. We're going to go
12 ahead then and have you step down.

13 We can go off the record and I'll come back
14 in with my next witness.

15 THE WITNESS: Okay.

16 MS. GIRT: Oh, I'm sorry, I didn't --

17 (*TRANSCRIBER'S NOTE:* Audio record ends
18 midsentence.)

19 (Recess taken, 9:09 a.m. - 9:10 a.m.)

20 MS. GIRT: Okay. So we're going to go ahead
21 and go have you step right over here. Watch your step
22 coming up here.

23 And go ahead and remain standing. We're
24 going to have you raise you right hand to get
25 sworn in.

Examination of Derrik Brown

1 **DERRIK BROWN**

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

4 MS. GIRT: Okay. Go ahead and take a seat
5 there.

6 And, if you could, state and spell your
7 first and last name.

8 THE WITNESS: Derrik Brown, D-e-r-r-i-k; and
9 last name, B-r-o-w-n.

10 EXAMINATION

11 BY MS. GIRT:

12 Q Okay. And then, Mr. Brown, before we get
13 started, I'm going to show you a couple things about
14 this room. First, we just -- we're on the record
15 right now, so we're recording your voice.

16 This microphone is going to help you sound a
17 little bit louder and also pick up the sound of your
18 voice. Do you have any questions about that?

19 A No.

20 Q Okay. All right. So let's start off with
21 some background information about yourself. How old
22 are you, Mr. Brown?

23 A 30.

24 Q Okay. And where are you living currently?

25 A 12405 Southeast Kelly Street.

Examination of Derrik Brown

1 Q All right. Is that with the Hilts?

2 A Yeah.

3 Q Okay. And so it's Barbara and Rick that
4 live there?

5 A Yeah.

6 Q And does Andrew also live there?

7 A Yes, correct.

8 Q Okay. And how do you know all of them?

9 A Andrew and I are partners.

10 Q Okay.

11 A We've been -- been dating for the last ten
12 years.

13 Q Okay. And then Rick and Barbara are
14 Andrew's parents?

15 A Yes, correct.

16 Q All right. How long have you lived in that
17 house?

18 A Like, eight years.

19 Q Okay. All right. And so as far as how long
20 you've known the Hilts, had -- did you know them
21 before you moved into their house with Andrew?

22 A A few months prior.

23 Q Okay. And how well do you know any of the
24 neighbors that live around there?

25 A I've known them on, like, saying hi to them,

Examination of Derrick Brown

1 just --

2 Q Okay.

3 A -- about -- that's about it.

4 Q Okay. All right. And then do you know
5 Israel Berry?

6 A Yes, I do.

7 Q Okay. How do you know Mr. Berry?

8 A From an online chat site.

9 Q Okay. And how long prior to his death last
10 May of 2020 did you know him?

11 A A couple months.

12 Q Okay. And as far as any social
13 interactions, did the two of you meet outside of the
14 chat at all?

15 A Yeah.

16 Q Okay. And was he somebody that you saw on
17 more than one occasion prior to his death?

18 A Yeah.

19 Q Okay. And did he know where you lived?

20 A Yes, he did.

21 Q Okay. And had he ever been to the Hilts'
22 house before while the two of you knew each other?

23 A Like, been over and hung out or --

24 Q Well, let's --

25 A -- just been --

Examination of Derrik Brown

1 Q -- start with that.

2 A No, he has not.

3 Q All right. So did he -- he never came and,
4 like, hung out with --

5 A No.

6 Q -- anyone there at the house? Did he stop
7 by before?

8 A Without being invited or with being invited?

9 Q Well -- well, let's go with being invited
10 first.

11 A No.

12 Q Okay. Did he ever stop by uninvited?

13 A Many times.

14 Q Okay. Were you home for those times when he
15 stopped by?

16 A Sometimes I was, sometimes I wasn't.

17 Q Okay. And then did he show up at the Hilts'
18 house on May 31st of 2020?

19 A Is that the day --

20 Q The night that he died.

21 A Yes.

22 Q Okay. And were you expecting him that
23 evening?

24 A I was not.

25 Q Okay. How did you become aware that he was

Examination of Derrik Brown

1 at the Hilts' house?

2 A He had texted me that he was coming by for a
3 phone that he had just left at my house that I was
4 using currently. And he pretty much demanded that I
5 give him the phone back right then that instant.

6 And I told him I wasn't going to give him
7 the phone back until I reset it and got all my
8 information off of it. And he just wasn't taking that
9 answer. And I had told him that I didn't want any
10 more communication with him. And that's what led into
11 him demanding the phone back.

12 Q Okay. So when he showed up at the Hilts'
13 house, did you ever see him come to their front door?

14 A Yes.

15 Q You did? Okay.

16 A Yeah.

17 Q Did you have -- you know, have a
18 conversation with him at the front door at the Hilts'
19 house when he showed up?

20 A No, I was --

21 Q Okay.

22 A -- avoiding him.

23 Q Did you see him out front of the house at
24 any --

25 A Yes.

Examination of Derrik Brown

1 Q -- point that night? Okay. Was he on foot
2 or in a car?

3 A He was in a car.

4 Q Okay. What do you remember about his car?

5 A He was parked pretty much directly out on
6 the road in front of the house. And he was pretty
7 much screaming and hollering my name.

8 Q Okay.

9 A Honking his horn for hours. He was
10 demanding I come outside.

11 Q Okay. So --

12 A And --

13 Q -- I've got a little -- I'm going to
14 interrupt for just one second --

15 A Yeah.

16 Q -- here. I've got a picture up in front of
17 you here on that screen. Do you recognize that as the
18 Hilts' house?

19 A Yes, that's it.

20 Q And was Mr. Berry in his car? Would he have
21 been parked anywhere in that screen, that image up
22 there?

23 A Right in front of the first trash can.

24 Q Okay. Did you ever come out and talk to him
25 in -- like, while he was in his car or out of his car?

Examination of Derrik Brown

1 A Before any -- any conflict, no.

2 Q Okay.

3 A I was right on the other side of the front
4 door when --

5 Q Okay.

6 A -- I first talked to the police.

7 Q Ah, okay. Did you -- let's see here. Did
8 you call 9-1-1 that night?

9 A Yes, I did, twice.

10 Q Okay. Do you remember roughly how much time
11 elapsed between the two calls that you made?

12 A 20 minutes.

13 Q Okay. And for what reasons did you call
14 9-1-1 that night?

15 A He was just being belligerent. He was
16 causing a scene, throwing our trash in our front yard.

17 Q Okay.

18 A Our trash bags in the front yard. And --

19 Q Okay.

20 A -- that's what led me to call the cops
21 'cause I was kind of starting to get concerned at that
22 time, worried, 'cause he was just -- I -- I don't
23 know. He was just becoming very confrontational.

24 Q Okay.

25 A Like, there was -- he was wanting something

Examination of Derrik Brown

1 to happen.

2 Q Okay. So the second time that you called
3 police -- well, let me -- let me back up. Where were
4 you, inside or outside, the first time that you
5 called, if you --

6 A Inside.

7 Q -- remember? Inside? Okay.

8 A Doors locked and everything.

9 Q The second time that you called, where were
10 you?

11 A So over here -- on the -- if you're looking
12 at the picture, on the right side, there's a tree.

13 Q Uh-huh. Okay.

14 A And the mailbox --

15 Q Okay.

16 A -- on 11.

17 Q Okay.

18 A I think that's where it is.

19 Q So I've got this little diagram --

20 A Oh.

21 Q -- up.

22 A 12405. So on the --

23 Q Okay.

24 A -- far -- on the other side of 11, there's a
25 mailbox in the corner.

Examination of Derrik Brown

1 Q Uh-huh.

2 A And I was right there underneath the tree
3 when I --

4 Q Okay.

5 A -- called 9-1-1 --

6 Q Okay.

7 A -- the second time.

8 Q And so I've got my cursor kind of over that
9 area. Is that roughly where you --

10 A Yes.

11 Q -- were? Okay. And the second time that
12 you called 9-1-1, do you remember where Mr. Berry was
13 with his car?

14 A Well, he was moving in his car and he was
15 speeding up and -- he was speeding down the road
16 toward -- away from --

17 Q Mm-hmm.

18 A -- 122nd.

19 Q Like, off the right side of the screen here?

20 A Yes.

21 Q Okay. And so then after you called 9-1-1
22 that second time, do you have a recollection if you
23 reported anything different than what you had
24 previously reported or was it about the same
25 information, still waiting --

Examination of Derrik Brown

1 A Oh.

2 Q -- for a response?

3 A The second time was that the police needed
4 to get there because he had already almost ran over
5 Richard Hilts and Barbara Hilts --

6 Q Okay.

7 A -- with his car. And that -- I think that
8 was the second time he almost ran them over.

9 Q Okay.

10 A Backing up into them. And that's when I was
11 like, "The police need to get here now" --

12 Q Okay.

13 A -- "or somebody's going to get hurt."

14 Q All right. Do you remember the, like,
15 specific -- specific words or terminology that you
16 used when you called the second time?

17 A I do not.

18 Q That's okay. Okay. And then after you call
19 9-1-1 the second time, what do you remember happening
20 after that?

21 A Mr. Berry was parked at the end of the road,
22 revving his engine with his --

23 Q Okay.

24 A -- lights on.

25 Q So down here on the right side of the

Examination of Derrik Brown

1 screen?

2 A Yes.

3 Q Is there -- what -- so is it 122 that's on
4 the left-hand side of my diagram screen here --

5 A Yes.

6 Q -- further down? And what's over on the
7 right-hand side? (Indiscernible) --

8 A It's a dead end.

9 Q It's a dead end? So Kelly dead -- dead ends
10 at the --

11 A Mm-hmm.

12 Q -- right? Okay. Okay. All right. And
13 that's over to the east?

14 A Yeah.

15 Q Okay. And I'm sorry, I interrupted. You
16 said he was -- had his lights on and was kind of
17 revving his engine at the --

18 A Yeah, like --

19 Q -- end of the road?

20 A -- sitting down at the end of the road.

21 Q Okay. And then what do you remember
22 happening?

23 A I remember the police coming from the
24 opposite end from 122nd and Barbara seen the police
25 and she was waving them down. And she started running

Examination of Derrik Brown

1 towards them in the middle of the road. And that's
2 when Mr. Berry revved his engine and just started
3 flooring it. And I think he was trying to hit Barb,
4 honestly.

5 Q What -- what made -- what gave you that
6 impression?

7 A He wasn't stopping. And as soon --

8 Q Okay.

9 A -- as he seen her in the road, it was like
10 he's seeing red and he was going for it.

11 Q Okay.

12 A And then as he was going, I -- I looked down
13 the -- towards 126th -- 122nd and I seen the police
14 coming. And so I see -- ran after Barb to get her out
15 of the road. And I don't know if I pushed her or I
16 yelled or something to get her out of the way.

17 I was, like, probably two feet, three feet
18 behind her. And then Mr. Berry came speeding by us
19 and that's when the police officer got out of his car.
20 Like, it was really fast. He said, "Freeze." He
21 wasn't stopping. He said, "Stop," and then that's
22 when he shot.

23 Q Okay. Shot at --

24 A Mr. Berry.

25 Q -- Mr. Berry? Okay. And was Mr. Berry in

Examination of Derrik Brown

1 his car?

2 A Yes.

3 Q Okay. And as Mr. Berry drove back towards
4 122 back by you and -- and by Barb; is that right?

5 A (No audible response.)

6 Q I'm sorry. It's a lot to -- it's a lot to
7 talk about, Derrik. Feel free to take a break and
8 have some water and use a Kleenex if you need to. I'm
9 guessing this brings back probably some -- some pretty
10 strong imagery and -- and memories; is that right?

11 Yeah. And if you want to, Derrik, we can
12 hit pause on this and have you come back in. Up to
13 you. Would you prefer to take a little break? No?
14 Okay.

15 A No.

16 Q Is it all right if I ask you a couple
17 followups from what you just ran through with us
18 there?

19 A Yeah.

20 Q Okay. Thank you. As far as the -- the
21 things that you remember the officer yelling out, was
22 that from when they were inside their vehicle or
23 outside the vehicle?

24 A He was outside his vehicle.

25 Q Okay. Do you remember specifically what he

Examination of Derrik Brown

1 said or is it that you remember that he said
2 something?

3 A He -- pretty sure he said, "Stop."

4 Q Okay.

5 A And I think he said, "Freeze."

6 Q Okay.

7 A That's -- I'm not so sure about, but,
8 "Stop," he did.

9 Q Okay. Do you remember if he was the only
10 officer that got out of that car? Was there any other
11 officers?

12 A He was the only one.

13 Q Okay.

14 A But there was officers behind him in their
15 vehicles, though.

16 Q Okay. And as far as Mr. Berry's car, were
17 you then looking at the rear of the car when this
18 happened?

19 A Yeah.

20 Q Did you ever see any brake lights that he
21 was applying, Mr. Berry --

22 A Yeah.

23 Q -- to stop?

24 A His car came to a dead stop as soon as the
25 shots were fired.

Examination of Derrik Brown

1 Q Okay. So just to make sure that I'm clear
2 about that, did you only see brake lights after the
3 officer shot at --

4 A Yes.

5 Q -- his car? Okay.

6 A After.

7 Q Okay. Prior to the officer shooting, did
8 you see any indication of stopping, like brake lights
9 or a slower speed, from him?

10 A No. 'Cause prior to that, Israel or Berry,
11 he said that he would never stop 'cause he didn't have
12 a license. And he was just going to go until he could
13 lose the cops and go home.

14 Q Okay. So that -- so I want to kind of pick
15 that apart a little bit. Is that just your impression
16 based on what you knew --

17 A He's told --

18 Q -- of him?

19 A -- me -- he told me --

20 Q Okay.

21 A -- that.

22 Q Okay. So -- all right. Were you aware that
23 Mr. Berry had also called the police from out front of
24 your house that night?

25 A About the phone maybe, yeah.

Examination of Derrik Brown

1 Q Maybe? Okay. Does that sound familiar to
2 you?

3 A Yeah.

4 Q Okay. Once you had called the -- called
5 9-1-1, rather, the second time and we -- we talked
6 about how you said it was kind of over where I've got
7 my cursor kind of right over in this area, how did you
8 become aware that the police were arriving? What --
9 what gave you that impression?

10 A I had just looked down the road right
11 after -- right when I got off the phone or right when
12 I was on the phone with them, I had seen them. And I
13 think the operator said that the -- they were very
14 close.

15 Q Okay. Got it. And so how did you know it
16 was the police that showed up?

17 A I could just see their vehicles.

18 Q Okay.

19 A There was no lights or anything.

20 Q Okay. Just the -- like, the markings on the
21 cars?

22 A Yeah.

23 Q Okay. And --

24 A They were very --

25 Q -- did --

Examination of Derrik Brown

1 A -- distinct.

2 Q Did you actually see when one of the
3 officers got out of the car --

4 A Yeah.

5 Q -- then? Could you tell that he was in
6 police attire?

7 A Yeah.

8 Q Okay. From your vantage point, kind of
9 looking at this diagram, can you give me an idea about
10 where you were, recognizing that this is the Hilts'
11 house here, when the shooting happened?

12 A I was at 12335. I was right in their
13 driveway, at the end of it on --

14 Q Okay.

15 A -- the road.

16 Q Where is their driveway?

17 A Probably in front of the first vehicle.

18 Q Like, right about here --

19 A Yeah.

20 Q -- or so? Okay.

21 A Yeah.

22 Q So you think you were out in front of their
23 driveway?

24 A Yeah.

25 Q Okay. And at the time of the shooting, then

Examination of Derrik Brown

1 all of the vehicles were to the west of you, in --

2 A Yeah.

3 Q -- front of you? Okay. And so you -- I
4 don't -- you know, some folks aren't great with
5 distances, myself being one of them. How --

6 A Yeah.

7 Q -- would you -- how -- what's the distance
8 you would give yourself from that --

9 A At the time --

10 Q -- from --

11 A -- I thought I was, like, ten feet --

12 Q Okay.

13 A -- from it. Barb was even closer.

14 Q Okay.

15 A But I think it was more like 15.

16 Q Okay. And as far as the speed that you
17 observed from Mr. Berry's car when it went by you and
18 -- and then towards the officers, do you have an
19 ability to estimate, kind of based on what you saw,
20 how fast that car was going?

21 A Yeah, he was going about, like, 50.

22 Q Okay. What was it that you saw that gave
23 you the impression that that car was going that fast?
24 Or saw or heard or observed, I --

25 A He peeled --

Examination of Derrik Brown

1 Q -- should say.

2 A He sped -- like, peeled out and --

3 Q Okay.

4 A -- just the engine was revving, like,
5 probably to the red.

6 Q Okay. Did -- so did you actually hear the
7 sounds of acceleration then?

8 A Yes.

9 Q Okay.

10 A I think --

11 Q Do you remember -- other than Barb, do you
12 remember if anyone else from your household was
13 outside when this happened?

14 A I'm think -- I think Richard was.

15 Q Okay.

16 A But he was -- I'm not sure if he was tending
17 to his injuries from what he endured from the whole --

18 Q Okay.

19 A -- situation with Mr. Berry.

20 Q Okay.

21 A And then I'm not sure if Andrew was or not.

22 Q Okay. Do you remember being asked by the
23 detectives at all, like, how many -- how many gunshots
24 you thought that you heard when --

25 A Yeah.

Examination of Derrik Brown

1 Q -- the police fired? What -- what's your
2 recollection of that?

3 A I thought I heard, like, eight.

4 Q Okay. And then from your vantage point,
5 Mr. Brown, do you have an estimate or recollection for
6 how close the car that the officers were driving once
7 they -- once they got out of their vehicle or one of
8 them got out of that vehicle, rather, from what the
9 distance would have been from Mr. Berry in his car
10 that he was driving?

11 A It was within feet.

12 Q Okay.

13 A Probably 10, 15 also.

14 Q Okay. And then do you remember seeing the
15 one officer that you described get out of his vehicle?

16 A Yes.

17 Q After that officer got out of his vehicle,
18 from your vantage point, how many -- or what was the
19 -- what was -- rather, what was the time that went by
20 before he shot at Mr. Berry's car?

21 A It feels a lot quicker in my mind --

22 Q Mm-hmm.

23 A -- 'cause of this -- you know, everything
24 that happened. But --

25 Q Yeah.

Examination of Derrik Brown

1 A -- a few seconds.

2 Q Okay. Could you tell whether the officer,
3 once they were out of their vehicle, had, you know,
4 reacted as far as physical movements at all before he
5 shot at Mr. Berry's car? Could you see any of that?

6 A Yes.

7 Q What did you see?

8 A Well, it -- he -- there wasn't a lot of time
9 because if he didn't react the way he did, the vehicle
10 would have hit either Barb or it would have hit him,
11 so he pretty much got out.

12 His door was open and then he put in between
13 the door and the car and tried to aim and told him to
14 freeze. And then he had shot.

15 Q Okay. And that -- that -- everything that
16 you just described, is that what happened, in your
17 memory, in that couple of seconds of time that
18 elapsed?

19 A Yeah.

20 Q Okay. And then do you remember talking to
21 detectives that night, being interviewed by them?

22 A Yeah.

23 Q Did you ever talk to anyone after that about
24 what you saw?

25 A No.

Examination of Derrik Brown

1 Q Okay. And then prior to a detective
2 contacting you about coming to grand jury, you know,
3 this week, had you had any other law enforcement
4 contact about this case?

5 A No, I have not.

6 Q Okay. And then were you aware that any of
7 your neighbors have, like, a Ring camera that's set up
8 outside their home?

9 A Yeah, I do.

10 Q Do you know, looking at this diagram, which
11 house has that?

12 A It's -- it's not on the diagram. It's a
13 little bit over.

14 Q Okay.

15 A On the other side of our house to the right
16 on the diagram.

17 Q Kind of, like, over here?

18 A Yeah, right there.

19 Q Okay. And then what I'm going to do is show
20 you a couple of minutes of that footage. It doesn't
21 capture the shooting on it. Have you ever --

22 A Yeah.

23 Q -- seen the video before?

24 A I have not.

25 Q Okay.

Examination of Derrik Brown

1 (**TRANSCRIBER'S NOTE:** Video recording played
2 in open court without sound, 9:29 a.m., as follows:)

3 BY MS. GIRT:

4 Q And I'll kind of pull this up and then I'll
5 just have you, you know, confirm that you can
6 recognize some of the things in here. So I'm going to
7 press pause. Do you see the Hilts' house?

8 A Yes.

9 Q Okay. And if you put -- this is the Hilts'
10 house I've got --

11 A Yeah.

12 Q -- my cursor over? Do you have any idea
13 whose vehicle this is parked in front of their house
14 that night?

15 A I do. That's one of our other neighbors up
16 the road. Right where the incident happened --

17 Q Mm-hmm.

18 A -- their house is off to the left --

19 Q Okay.

20 A -- across the street from our house.

21 Q Okay. And so I'm going to play a little bit
22 more and pause again. All right. So you see some
23 people moving in the street here and on -- on the
24 property.

25 I'm going to pause it. Do you recognize any

Examination of Derrik Brown

1 of those folks (indiscernible) from that night?

2 A Yeah, that's Barb.

3 Q Okay. Right here?

4 A Yes.

5 Q Okay. And then --

6 A That could be --

7 Q -- this person --

8 A -- Andrew.

9 Q -- closer to the house?

10 A That could be Andrew.

11 Q Okay. Let me keep playing and see if you --

12 A Oh, there's me and then --

13 Q Okay.

14 A And there's Richard.

15 Q Okay. So Richard's back here?

16 A Yeah.

17 Q Okay. And then it looks like there's

18 somebody in darker clothes by the door?

19 A That's Andrew.

20 Q And then here, is that --

21 A That's --

22 Q -- you?

23 A Yeah, it's me.

24 Q All right. Do you recognize what you're

25 doing right now?

Examination of Derrik Brown

1 A Yeah, I'm on the phone.

2 Q Okay. Okay.

3 A Oh, that's when I'm on the phone with the
4 police, I think.

5 Q Okay. So -- and we just saw a car go by.
6 Do you remember anything about --

7 A That is Israel.

8 Q That's Israel's car?

9 A Mm-hmm.

10 Q Okay. So I'm going to keep playing a little
11 bit. Had you seen his car prior to that night --

12 A Yeah.

13 Q -- before? Okay. Do you think of anyone at
14 your household -- from everyone at your household, who
15 had the best idea of what Mr. Berry's car looked like?

16 A Me, Andrew.

17 Q Okay.

18 A Actually, all of us because we'd all seen
19 his vehicle before.

20 Q You had all seen it? Okay.

21 A Yeah. That's me walking, too, underneath
22 the tree.

23 Q Okay. And from that position that you just
24 came out in the road, before you turned around, would
25 you have been able to see the other end of 122 where

Examination of Derrik Brown

1 that -- where it dead ends?

2 A I can see it -- as long as the vehicle's not
3 blocking it, I can see the whole --

4 Q Okay.

5 A -- road from anywhere. And then there's
6 Barb running into this -- 'cause I think she sees the
7 police. And I do, too. Yeah.

8 Q Okay. Is that -- I'm going to press pause
9 real quick. Is that your recollection for, like, kind
10 of how quickly the police did end -- end up arriving
11 after you made that second call?

12 A Yeah.

13 Q Okay.

14 A They were there very quick.

15 Q Okay. Is that Mr. Berry's car again?

16 A Yes.

17 Q Okay.

18 A And then he's -- he almost backs up and hits
19 Barb.

20 Q And is that you coming back up the
21 driveway --

22 A Oh --

23 Q -- now?

24 A -- okay. Yeah. Now, I know where I'm at.

25 I was confused for a moment. But --

Examination of Derrik Brown

1 Q Okay.

2 A -- that's right when the shooting happened.

3 Q Okay. And so then from this video, it looks
4 like you and Barb and Rick were out in the road then
5 when the shooting happened?

6 A Yeah.

7 Q Does that look accurate to you?

8 A Yeah.

9 Q Okay. I'm going to press pause real quick.

10 (TRANSCRIBER'S NOTE: Video recording
11 stopped, 9:32 a.m.)

12 BY MS. GIRT:

13 Q You mentioned something about him almost
14 backing into her. Was that -- did you mean that to be
15 this -- this period of time --

16 A No.

17 Q -- or a different time?

18 A No. It -- I was confused --

19 Q Okay.

20 A -- for a moment. Yeah.

21 Q Okay. Did the car -- when we saw it come,
22 you know, back down the road toward 122, did it -- was
23 it only moving in a -- in a forward trajectory,
24 meaning was it --

25 A Yeah.

Examination of Derrik Brown

1 Q -- ever backed up --

2 A Yeah, it --

3 Q -- at that --

4 A -- (indiscernible) backed up.

5 Q -- point? Okay. All right. I'm going to
6 play a little bit more here. All right. And so after
7 the shooting, what do you remember happening?

8 A Barb telling me and Rick to get out of the
9 road and let them do -- do their job.

10 Q Okay.

11 A We were all in just disbelief that that just
12 happened --

13 Q Yeah.

14 A -- 'cause after he got shot, he was --
15 pretty much, he just said, "You shot me, you son of a
16 bitch," and then --

17 Q Okay.

18 A -- that was it.

19 Q That was it?

20 A And then --

21 Q Okay.

22 A -- he came to a complete stop.

23 Q Okay.

24 A And I remember just sitting up on the front
25 porch 'cause Barb said, "Stay out here 'cause the

Examination of Derrik Brown

1 police are going to want to talk to you" --

2 Q Okay.

3 A -- "and all of us." And pretty much just
4 sat out there and -- on the front porch just waiting.

5 Q Waiting for that conversation to happen?

6 A Yeah.

7 MS. GIRT: Okay. All right. Just going
8 back through my notes here.

9 Can you guys think of any questions that you
10 have for Mr. Brown?

11 Everyone's shaking their head no.

12 Okay. All right. So going to go ahead and
13 have you then hop off the stand. We'll go off the
14 record. I'll be right back.

15 (Recess taken, 9:34 a.m. - 9:35 a.m.)

16 MS. GIRT: Over here.

17 THE WITNESS: Oh, okay. (Indiscernible).

18 MS. GIRT: Around the bench here. And
19 just --

20 THE WITNESS: Okay.

21 MS. GIRT: -- watch your step. If you don't
22 want to step up over that ramp, you can use the ramp,
23 of course, too.

24 THE WITNESS: (Indiscernible).

25 MS. GIRT: And we'll have you remain

Examination of Richard Darryl Hilts

1 standing and raise your right hand. Now, we're on the
2 record and we'll get you sworn in, okay?

3 THE WITNESS: All right.

4 **RICHARD DARRYL HILTS**

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

7 MS. GIRT: Okay. Go ahead and -- did you --
8 I'm sorry, you said, "I do"?

9 THE WITNESS: I am, whatever. I do.

10 MS. GIRT: You do? You swear? All right.
11 Thank you, sir. Could you take a seat then?

12 THE WITNESS: Oh, sure. I didn't know if I
13 was saying, "I do," if I'm getting married or what.

14 MS. GIRT: Yeah.

15 THE WITNESS: I'm already married.

16 MS. GIRT: You've taken the oath.

17 THE WITNESS: Okay.

18 MS. GIRT: All right. So we're going to go
19 ahead and have you state and spell your first and last
20 name.

21 THE WITNESS: Richard Darryl (phonetic)
22 Hilts, H-i-l-t-s.

23 **EXAMINATION**

24 BY MS. GIRT:

25 Q All right. And then, Mr. Hilts, I want to

Examination of Richard Darryl Hilts

1 let you know a couple things about this room, okay?

2 A Yeah.

3 Q First is that microphone --

4 A Yeah.

5 Q -- is going to kind of pick up the sound of
6 your voice. It's also going to record your voice.

7 A Okay.

8 Q And so your testimony is being recorded,
9 just so you --

10 A Okay.

11 Q -- know.

12 A Can I have a drink?

13 Q Absolutely.

14 A Okay.

15 Q Yeah.

16 A It's hard to understand (indiscernible) my
17 lips (indiscernible).

18 Q Yes.

19 A Yeah.

20 Q Yes. Feel free to drink as much water as
21 you need.

22 A All right. Go ahead.

23 Q Okay. So, Mr. Hilts, do you live with your
24 wife, Barbara?

25 A I do.

Examination of Richard Darryl Hilts

1 Q And you guys live on Southeast Kelly?

2 A I -- yes, we do.

3 Q All right. And then do you also live with
4 Derrik and Andrew?

5 A Yes.

6 Q Okay. And prior to this incident that we're
7 here to have you talk about, which happened more than
8 a year ago --

9 A Yeah.

10 Q -- prior to that incident, had you ever met
11 Israel Berry before?

12 A One other time.

13 Q One other time?

14 Okay. Was that a time that he came to your
15 house?

16 A Yes, it was.

17 Q Okay. The night that he was shot by the
18 police --

19 A Yeah.

20 Q -- were you home that night?

21 A Yes, I was.

22 Q Okay. And do you -- did you become aware at
23 some point that evening that Mr. Berry had come to
24 your house?

25 A I was aware that he came to my house, yes.

Examination of Richard Darryl Hilts

1 Q Okay. And did you see him outside of your
2 house?

3 A Yes. I actually met him on the -- on the
4 porch.

5 Q Okay. Was he on foot or in a vehicle?

6 A When I saw him, he was on foot; but he got
7 to our house in a vehicle.

8 Q Okay. And had he parked that car on your --
9 near your property or on -- just outside of your
10 property there?

11 A I believe it was on the street.

12 Q Okay. Do you remember what his car looked
13 like?

14 A I don't.

15 Q Okay. That's okay. And so did you become
16 aware that night while he was at your house that
17 anyone from your household had called 9-1-1 about him
18 being there?

19 A I believe someone else from our household
20 had called. I personally did not.

21 Q Okay. And so were you out -- outside or
22 inside of your house when the police actually arrived?

23 A When they arrived, I was actually down at
24 the edge of the -- my property at -- by the driveway.

25 Q Okay. How did you know it was the police

Examination of Richard Darryl Hilts

1 that arrived?

2 A I believe it was a verbal command.

3 Q Okay.

4 A The police announcing their --

5 Q Okay.

6 A -- presence.

7 Q Do you remember anything else about their
8 arrival or, you know, their -- their visual presence
9 that cued you off or tipped you off that it was the --
10 the police?

11 A You're going to have to put that -- when --

12 Q Yeah. Could you tell whether they were in a
13 police car or --

14 A What --

15 Q -- could you tell that they were in uniform?

16 A I couldn't tell that -- I believe it was
17 pretty close to the same time that I was getting up
18 after being struck by him.

19 Q Okay.

20 A So --

21 Q Okay. All right. Was there -- was there a
22 disturbance outside of your house that led to the
23 police arriving that night?

24 A Yes.

25 Q Okay. And did it involve Mr. Berry --

Examination of Richard Darryl Hilts

1 A Yes.

2 Q -- and other -- including yourself and other
3 people at the household?

4 A Right.

5 Q Okay. And so what do you remember happening
6 once you saw that police officers or -- or police had
7 arrived on your street?

8 A Okay. I -- I've got to tell you off -- off
9 the top, I have Parkinson's and --

10 Q Mm-hmm.

11 A -- a list of other malady -- maladies. And
12 my memory is -- is not good.

13 Q Okay.

14 A So I'll get flashes of things that I
15 remember about that certain night.

16 Q Understood.

17 A So --

18 Q Okay. Tell me what you do remember.

19 A Well, I remember going out, walking on the
20 edge of my driveway, which had a -- a little row for
21 some flowers. And I made my way to the end of the
22 driveway, telling him to get off my property.

23 And I was also telling him to get away from
24 my wife, leave my wife alone because he was -- I don't
25 know if he was just centering on her or what, but in a

Examination of Richard Darryl Hilts

1 few moments, it --

2 Q Okay.

3 A -- it did get --

4 Q Okay.

5 A -- a bit more worrisome for me --

6 Q All right.

7 A -- his actions toward my wife.

8 Q And this was all part of the disturbance

9 that I --

10 A Yes.

11 Q -- right? That I previously mentioned.

12 Okay. And --

13 A Yes.

14 Q -- so what I specifically want you to -- to
15 focus on, if you've got, you know, memories of this --
16 sort of this part of the incident, is what happened
17 once the police arrived on your street? What -- what
18 did you see --

19 A Okay. I was --

20 Q -- him do, if anything?

21 A I believe, at the time, I was just getting
22 up or in the process of getting up when my wife there
23 -- I remember that the police coming down the street,
24 you could tell -- not actually seeing it, but being
25 aware of -- of masses of whatever coming toward me,

Examination of Richard Darryl Hilts

1 but it was a car. And I heard some type of command.

2 I -- I don't remember what it was.

3 Q Okay. From one of the police officers?

4 A Yeah.

5 Q Okay.

6 A Yes.

7 Q And then what did you do see or -- see or
8 hear happen?

9 A Oh, I heard a pop and got up and kind of
10 went around and -- and looked and they had -- they had
11 (indiscernible) weapon keeping him from hitting my
12 wife and him. He tried to kill her two times with the
13 car.

14 Q Okay. Okay.

15 A Yeah.

16 Q Did you see the officer fire his gun?

17 A No, I did not.

18 Q Okay. Did you see Mr. Berry drive back
19 towards 122 in his car when this happened?

20 A Yes. It was on --

21 Q Okay.

22 A My understanding -- or my memory of it was
23 that he had driven toward the east end of --

24 Q Okay.

25 A -- the street.

Examination of Richard Darryl Hilts

1 Q Sure.

2 A And turned around and was -- I believe he
3 was revving his motor. And then he pretty much just
4 took off toward 122nd and he -- he made his choice.
5 And --

6 Q Okay.

7 A -- 'cause there was nothing else that the
8 officer could do.

9 Q Did you -- were you looking at the officers
10 or officer when the gun was drawn and -- and he shot
11 at Mr. Berry's --

12 A No.

13 Q -- car? Okay.

14 A No, I was not looking at him.

15 Q Could you tell whether Mr. Berry, you know,
16 had applied the -- the brakes or was slowing down
17 before that happened at all from your --

18 A It's if he was -- it appeared to me he was
19 accelerating toward --

20 Q Accelerating?

21 A -- my wife.

22 Q Okay. All right. And what do you base that
23 on? Was it what you saw or was it what you heard or
24 was it a combination?

25 A You're asking me what --

Examination of Richard Darryl Hilts

1 Q What makes you --

2 A -- I --

3 Q -- say he was accelerating?

4 A Oh, well, he was accelerating from -- I'm
5 sorry --

6 Q Oh, you're fine.

7 A -- about a block and a half before our --
8 our house.

9 Q Okay.

10 A So he -- apparently, he had gone back there,
11 revving his motor and -- and he took off.

12 Q Okay. And was that something that -- that
13 you saw? When he drove by you, did you see him?

14 A Yeah.

15 Q Okay.

16 A That was when he came toward us. I was --

17 Q Okay.

18 A -- right next to my wife, I believe.

19 Just --

20 Q Okay. All right.

21 A -- after a year, you -- you start
22 remembering things that you wonder if it's true.

23 Q I understand. Okay. Just going to kind of
24 go through my notes here. And you -- you said that
25 you don't -- you did not see them shoot. Do you know

Examination of Richard Darryl Hilts

1 where you were looking instead?

2 A Oh, I was in the midst of getting up
3 while --

4 Q Okay.

5 A Which way I was facing, I mean --

6 Q Okay. And do you remember, Mr. Hilts, if
7 you spoke to detectives that night?

8 A Actually, they didn't speak to me. I was
9 very surprised. I was the one who ended up with blood
10 on my face --

11 Q Uh-huh.

12 A -- from getting knocked down. And I don't
13 think anybody else had any contact with him, so --

14 Q Oh, you don't remember speaking to them?

15 A I don't remember.

16 Q Okay.

17 A And he didn't bother to talk to me. I was
18 surprised --

19 Q Okay.

20 A -- 'cause I was the -- the one who got
21 actually physically assaulted --

22 Q Yeah.

23 A -- and --

24 Q So I know you said at -- at the very
25 beginning of your testimony that you've had some --

Examination of Richard Darryl Hilts

1 you have some memory issues. It -- am I sort of --
2 some -- some -- some issues with memory, I should say.

3 A Yeah.

4 Q Is that --

5 A Yeah.

6 Q -- fair? If -- if I were to tell you that
7 -- that there is, like, a recorded interview with you
8 and the detectives, does that jog your memory as far
9 as them speaking to you that night?

10 A Well, I --

11 Q Do you remember doing that?

12 A I -- I don't remember them speaking to me,
13 to tell you the --

14 Q Oh, you don't? Okay.

15 A -- truth.

16 Q Okay. That's okay.

17 A Okay.

18 Q All right. All right. Let me just go back
19 through my notes here real quick.

20 A I -- I've never seen the video. Is it
21 possible to see it?

22 Q The Ring camera video?

23 A Yeah.

24 Q I -- yeah. Let me actually do that for you
25 now. Just want to let you know, this is neighbor

Examination of Richard Darryl Hilts

1 footage. Were you aware that your neighbors had a
2 video --

3 A Oh, yeah.

4 Q -- camera?

5 A Yeah.

6 Q Okay.

7 A Yeah.

8 Q And I'll pull this up. And there's just
9 really a couple minutes of --

10 A Okay.

11 Q -- video that I'll show you.

12 MS. GIRT: But before I do that, do you guys
13 have any questions?

14 MS. RHOADES: I don't, no.

15 BY MS. GIRT:

16 Q Okay. All right. So I'm going to go ahead
17 and pull up this video.

18 A Okay.

19 (**TRANSCRIBER'S NOTE:** Video recording played
20 in open court, without sound, 9:46 a.m., as follows:)

21 THE WITNESS: Wait a minute. Let me get --

22 BY MS. GIRT:

23 Q Get your bearings there.

24 A This is Dave's house. That's my house.

25 Q Yep. Or you're just pointing to -- this

Examination of Richard Darryl Hilts

- 1 house over here was --
- 2 A That's my house.
- 3 Q -- your house? Okay.
- 4 A Yeah, okay.
- 5 Q Do you see anyone you recognize?
- 6 A My wife.
- 7 Q Okay.
- 8 A I believe that is me.
- 9 Q Back here?
- 10 A I think so.
- 11 Q Okay.
- 12 A No, I take that back. That looks like the
- 13 way I walk.
- 14 Q We'll give it a -- a couple more seconds
- 15 here --
- 16 A Okay.
- 17 Q -- to see if you can get your bearings
- 18 straight here. Okay. So --
- 19 A Is that when I went down?
- 20 Q Well, do you think that's you or do you
- 21 think that's someone else?
- 22 A Actually, I think that I'm over here.
- 23 Q Okay. Do you remember (indiscernible) --
- 24 A That's Andrew, I think.
- 25 Q Ah, okay. Do you remember, Mr. Hilts, if

Examination of Richard Darryl Hilts

1 you had any type of a -- like, a light or a light up
2 on your phone or a --

3 A I think I --

4 Q -- flashlight?

5 A I might have had a flashlight in my hand.

6 Q Okay. And so is that you then walking down
7 towards 122 with Barbara following?

8 A Yes.

9 Q Okay.

10 A That appears to be Derrick.

11 Q Okay. Right here, you mean?

12 A That's --

13 Q Okay.

14 A -- my opinion of --

15 Q Okay.

16 A I wouldn't mind going back and seeing back
17 where he struck me at where I was --

18 Q Oh.

19 A -- (indiscernible) where the cops came from.

20 Q Well, I'll let you know a couple things
21 about this video, okay?

22 A Okay.

23 Q This video just shows a -- a very small
24 portion --

25 A Okay.

Examination of Richard Darryl Hilts

1 Q -- of the evening, okay?

2 A Uh-huh.

3 Q So before I go any further, did -- did you
4 recognize at all or -- or think that you saw Mr.
5 Berry's car in any of that footage?

6 A That's what I wanted to go back to --

7 Q Okay.

8 A -- if I --

9 Q Let me rewind it.

10 A I was trying to take in everything
11 (indiscernible).

12 Q Yeah, no. There's a lot to see, so I'm
13 going to go back a little ways here, okay?

14 A Yeah. Okay. That's Barb. I know that.

15 Q All right.

16 A I believe that's me. And I think I checked
17 the flashlight in my -- oh. He was -- that was him --

18 Q Okay.

19 A -- that just went down.

20 Q And headed towards the dead end or headed --

21 A Yeah, the --

22 Q -- towards --

23 A -- dead end.

24 Q That's the dead end? Okay.

25 A Yeah.

Examination of Richard Darryl Hilts

1 Q And by "him," you mean that was Mr. Berry --

2 A Yeah.

3 Q -- that drove by?

4 A Oh, he was -- no. He was throwing the
5 garbage on the yard. That's when he had --

6 Q Was that prior in the evening?

7 A Just prior, yeah.

8 Q Okay.

9 A And that's Barb down there.

10 Q Okay.

11 A Well --

12 Q Had you ever seen this video before?

13 A No, I haven't.

14 Q Okay.

15 A That's why I'm so -- you know,
16 (indiscernible) didn't want to ever think of losing my
17 wife. And this is when the police showed up. I don't
18 -- that must have been him --

19 Q Okay.

20 A -- moving by.

21 Q And so I'm going to pause it real quick.

22 A Okay.

23 Q And just ask you about a couple things. The
24 first is, you said, "That was him," or, "That must
25 have been him." Are you referring to Mr. Berry in his

Examination of Richard Darryl Hilts

1 car when you said that?

2 A Yes.

3 Q Okay. And then you also said that you --
4 this was when the police showed up. What gave you
5 that impression?

6 A I just saw the headlights coming.

7 Q Okay.

8 A It was my --

9 Q Okay.

10 A -- just assumption.

11 Q Headlights, meaning cars coming from 122?

12 A Yeah.

13 Q Okay. All right. Okay.

14 A And it could have been a car that came up to
15 it and stopped and then was off -- go off --

16 Q I see.

17 A -- camera.

18 Q Okay. And I'll just play about maybe 20
19 more seconds of this.

20 A Okay. Please do. And that's Barb right --
21 right above the white tracker.

22 Q Okay. Right there where my cursor is?

23 A Yeah, I believe --

24 Q Okay.

25 A -- that's her. Well, you know, when it

Examination of Richard Darryl Hilts

1 happened, it was happening so fast and I didn't --
2 didn't --

3 Q All right.

4 A -- realize what was going on.

5 MS. GIRT: Okay. I'll go ahead and -- and
6 press pause then.

7 (TRANSCRIBER'S NOTE: Video recording
8 stopped, 9:51 a.m.)

9 MS. GIRT: Having seen the video and
10 listening to that additional testimony, do you guys
11 have any questions for Mr. Hilts?

12 THE WITNESS: Was he --

13 A GRAND JUROR: No.

14 THE WITNESS: -- there or what?

15 (Indiscernible).

16 MS. GIRT: What's that? One more time.

17 THE WITNESS: I -- I wasn't introduced to
18 these people. Who -- who are they?

19 MS. GIRT: Oh. Great question. So this is
20 the grand jury. These are the people that are
21 listening to your testimony for today's proceeding.

22 THE WITNESS: Two people is a grand jury?

23 MS. GIRT: Well, we've got six here today.

24 And normally --

25 THE WITNESS: Oh. Oh, gee --

Examination of Richard Darryl Hilts

1 MS. GIRT: -- it's --

2 THE WITNESS: -- I'm -- I'm not being --

3 MS. GIRT: No, no, no.

4 THE WITNESS: -- obstinate.

5 MS. GIRT: That's a great --

6 A GRAND JUROR: It's okay.

7 MS. GIRT: -- question.

8 THE WITNESS: Oh, okay.

9 MS. GIRT: So do you understand now who the
10 folks are in this room?

11 THE WITNESS: Now, I do.

12 MS. GIRT: Okay.

13 THE WITNESS: Yeah.

14 MS. GIRT: And, yeah, thank you for pointing
15 that out.

16 THE WITNESS: Okay.

17 MS. GIRT: All right. All right. I don't
18 think I have any other questions.

19 Do you have any other questions?

20 MS. RHOADES: No, I do not.

21 MS. GIRT: No?

22 MR. KAUFFMAN: No, I don't have any.

23 MS. GIRT: None for Mr. Kauffman?

24 Okay. Great. So what we're going to have
25 you do, Mr. Hilts, is we're going to go off the record

Examination of Andrew Hilts

1 and have you step on down with me, okay?

2 THE WITNESS: Okay.

3 (Recess taken, 9:52 a.m. - 10:07 a.m.)

4 MS. GIRT: All right. We're on the record.
5 We've got our next witness, Andrew Hilts. He is by
6 Webex and he is going to go ahead and stand up and
7 raise his right hand and we're going to get him
8 sworn in.

9 THE WITNESS: Hey.

10 MS. GIRT: All right. Yeah. I know it's a
11 little awkward with the video. Kind of a -- a low
12 squat's fine. We'll go ahead and get you sworn in.

13 **ANDREW HILTS**

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

17 MS. GIRT: Okay. Great. So go ahead then,
18 you can lower your hand. And we'll start by having
19 you state and spell your first and last name.

20 THE WITNESS: Andrew Hilts, A-n-d-r-e-w,
21 H-i-l-t-s.

22 **EXAMINATION**

23 BY MS. GIRT:

24 Q Okay. And, Mr. Hilts, where are you video
25 -- videoing us from?

Examination of Andrew Hilts

1 A Right now, outer Southeast Portland,
2 Troutdale area.

3 Q Okay. And so -- and, Mr. Hilts, do you live
4 with your parents, Rick and Barbara?

5 A I do, but I travel a lot for work.

6 Q Okay. And does Derrick Brown also live with
7 you when you're home at the Hilts' house?

8 A From time to time. He spends time between
9 here and his mom's house up in Washington.

10 Q Okay. And so we've had you join us today to
11 talk about an incident that happened in May -- at the
12 end of May of 2020. Do you know why you're being
13 asked to testify today?

14 A Yes.

15 Q Okay. And so were you home that night your
16 parents' house?

17 A I was.

18 Q Okay. And do you know who Mr. Berry is, who
19 Israel Berry is?

20 A I do. I met him one time prior to that
21 night. And I have just heard a lot about him from
22 Derrick. And then kind of the little situations and
23 things that Derrick was dealing with, that's how I knew
24 of him prior to meeting him.

25 Q Okay. And on the night that you would have

Examination of Andrew Hilts

1 last seen him when he was shot and killed at the end
2 of May of 2020, how did you become aware that Israel
3 Berry had shown up at -- outside the Hilts' house that
4 night?

5 A Man, this would go back to, hmm, maybe
6 earlier in the day, I mean, way earlier in the day.
7 He was texting Derrik all day and he was just saying
8 that he wanted his phone back. He wanted -- he really
9 wanted to talk to Derrik for whatever reason, but the
10 excuse was to get a phone back that he was using --

11 Q Okay.

12 A -- or that Derrik was using. I'm sorry.

13 Q Okay. And I'll just --

14 A And --

15 Q I'm -- oop. I'm going to interrupt just
16 real quick here. Without going too far back and
17 talking about kind of what everyone was -- was saying
18 to each other back and --

19 A Mm-hmm.

20 Q -- forth, I guess what I want to focus on
21 is, did you end up physically seeing him outside the
22 Hilts' house that night?

23 A Oh, yeah. I saw --

24 Q Okay.

25 A -- him multiple times.

Examination of Andrew Hilts

1 Q Okay. And was he on foot or in his car?

2 A He was in his car when I first saw him.

3 Q Okay. And what -- what do you remember his
4 car looking like?

5 A I want to say it's a black Chrysler --

6 Q Okay. Had you seen it --

7 A -- I believe.

8 Q -- before that night?

9 A Yes, I -- yes.

10 Q All right. Did you see it just -- was it
11 just parked and stationary in front of the house or
12 did it move at all from the time period that he first
13 showed up?

14 A Well, when I came out outside, he was
15 outside of the car. And then as time progressed and
16 as things kind of unfolded, he got in the car and then
17 sped down to the end of the street, the dead-end part.

18 Q Okay.

19 A And --

20 Q Did you see that --

21 A And then --

22 Q -- happen?

23 A Oh, yeah.

24 Q Okay. And then were you -- did you remain
25 outside or did you end up heading back inside the home

Examination of Andrew Hilts

1 at some point?

2 A I was in the front yard and then when he
3 started heading towards 122nd at an irate rate of
4 speed, he -- the -- I heard the officer get out of the
5 car -- because I saw the officer coming from down the
6 road and I was like, okay.

7 Get out of the road. Like, so I came up on
8 my yard and as -- I heard the officer get out. I
9 heard him say something. I don't remember what was
10 said. And then I just heard shots. And that's when I
11 heard kind of the car slow down and I was like, I'm --
12 I'm going inside.

13 Q Okay. So you use -- you're using the word
14 "heard" a lot. Does that mean that you didn't
15 actually see that part of it?

16 A I didn't see him get shot personally, no.

17 Q Okay. And so what was it that you were --
18 that you remember hearing then? When you're talking
19 about, you know, hearing the officer get out of the
20 car, hearing the cars, themselves, what do you
21 remember about that?

22 A Oh, man, I just remember thinking to myself
23 that he was driving at such a fast speed that he --
24 somebody was going to die that night. It was either
25 going to be him or somebody on the road by trying to

Examination of Andrew Hilts

1 run from the police because with as fast as he was
2 going, he was going to, like, blaze through the stop
3 sign and go out onto 122nd into busy traffic.

4 And I just remember hearing his motor --
5 like, it was floored. He had to have had that -- that
6 throttle down to the floor.

7 Q Okay. So --

8 A And --

9 Q -- the -- the sound of acceleration then, is
10 that something that you recall?

11 A Yes.

12 Q Okay. Okay.

13 A And he -- I want to say he, like, flew past
14 my house 'cause it happened about two houses down --

15 Q Okay.

16 A -- towards 122nd.

17 Q Did you hear the sound of gunfire?

18 A Yes, I did.

19 Q Okay. And do you remember if you were
20 inside your house when that happened or outside?

21 A I literally -- I remember putting my foot
22 down on my first step on my porch and that's when I
23 heard it.

24 Q Okay. And do you recall hearing any other,
25 like, sounds of voices out on the road?

Examination of Andrew Hilts

1 A I remember him saying -- it was very faint
2 'cause I was inside the house at this time. I heard
3 him say, "You shot me, mother F-er," and then a woman
4 came out. I believe it was one of the neighbors
5 'cause nobody else was out there. And that was it --

6 Q Okay.

7 A -- basically.

8 Q Okay. All right. So then just so that I'm
9 -- I'm clear then, you did not see that part of the
10 interaction unfold; is that right?

11 A No, I did not.

12 MS. GIRT: Okay. All right. Just going
13 back through my notes here real quick. Okay. I think
14 that's all that I had for you.

15 Do you guys have questions for Mr. Hilts?
16 Okay. Everyone's shaking their head no?

17 A GRAND JUROR: No.

18 MS. GIRT: Kelly, do you have any questions?

19 A GRAND JUROR: I am good, thank you.

20 (Whispered discussion, off the record,
21 10:13 a.m. - 10:14 a.m.)

22 BY MS. GIRT:

23 Q Yeah. So, Mr. Hilts, just a couple
24 questions about --

25 A Mm-hmm.

Examination of Andrew Hilts

1 Q So your -- you gave a statement; is that
2 right, to law enforcement at some point?

3 A Yes, to Detective Winters. Correct.

4 Q Okay. Do you remember about when that was
5 in relation to this incident that we've been talking
6 about?

7 A I want to say it was a couple days later,
8 definitely within a first -- the week, the first week.

9 Q Okay. And then -- and then did you tell him
10 the information that you've shared with us today while
11 testifying?

12 A Oh -- oh, definitely. I told him --

13 Q Okay.

14 A -- a lot more. A lot --

15 Q Okay.

16 A -- more.

17 Q And then in addition to speaking to
18 Detective Winters, have you spoken to anyone else in
19 your household about it? So, for example, you know,
20 Derrick, your -- your mother or your father, have the
21 three -- or four of you guys discussed what happened?

22 A Afterwards, we talked about it a little bit.
23 But since then, we didn't talk about it. And then,
24 actually, the -- the press showed up at our place and
25 we were like, "We don't know anything about it."

Examination of Andrew Hilts

1 Sorry." And that was really the only other time we
2 discussed it up until we got our subpoenas.

3 Q Okay. So I want to kind of walk back
4 through that then. So right after the incident
5 happened or close in time, then did you discuss what
6 you had each seen or heard from that evening with each
7 other?

8 A It was more of, like -- from Derrick, it was
9 more like he couldn't believe that he was actually
10 gone. And my mom couldn't believe how everything
11 unfolded.

12 Q Yeah.

13 A And I was inside for -- excuse me -- the
14 first part of it. Then Derrick came inside and got me.
15 And so I was just like, "I can't believe -- I can't
16 believe, like, how that escalated so quickly" --

17 Q Yeah, okay.

18 A -- is mainly the topic of the situation.

19 Q Okay. And then you mentioned that -- that
20 the press showed up at your doorstep. Do you know --
21 do you remember when that was?

22 A Oh, that was about -- I want to say -- I'll
23 ball -- ballpark it to maybe three weeks to a month
24 ago --

25 Q Okay.

Examination of Andrew Hilts

1 A -- 'cause I remember them saying that it's
2 been a year since the situation happened, but they
3 don't know anything about it.

4 Q Yeah.

5 A And we were just like, "No, I'm sorry. We
6 can't help you. We don't know anything."

7 Q Okay. And then after getting notification
8 that you were going to be required to testify as a
9 witness at grand jury, did you and anyone else in your
10 household discuss, you know, what -- what you had
11 remembered happening more than a year ago?

12 A My mother and I talked about it very
13 briefly. She said that she requested her witness
14 statement; but never received it, so she just wanted
15 to talk about a few things to see if I remembered and
16 I -- I said, "Yes."

17 But she got COVID recently, so she -- her
18 memory isn't quite good and she didn't really
19 remember, like, everything that happened.

20 Q Okay. Okay. And did you have that -- did
21 you have a similar conversation with Derrik or with
22 Mr. -- or your dad, Mr. Hilts?

23 A No, not really. I mean, I just kept telling
24 my dad, "It's okay. Just tell them what you saw.
25 Just be honest and it'll be okay and we can move

Examination of Andrew Hilts

1 forward and hopefully put this behind us." Derrik and
2 I, we -- we kept talking and we kept saying, like, how
3 it was just so surreal that he was gone. And we've
4 talked about that for the last year still.

5 MS. GIRT: Okay. Okay.

6 Do you guys have any other --

7 MR. KAUFFMAN: No.

8 MS. GIRT: -- questions of her? Okay.

9 Okay.

10 Any other questions?

11 A GRAND JUROR: No, no.

12 MS. GIRT: They're shaking their heads no.

13 Okay. Mr. Hilts, we can go ahead and
14 disconnect then. Again, thanks for your patience.

15 I'm going to go ahead and close out, okay?

16 THE WITNESS: All right. Thank you. Have a
17 good day.

18 MS. GIRT: Okay. Bye-bye.

19 All right. So we can go off the record.

20 (Recess taken, 10:17 a.m. - 1:05 p.m.)

21 A GRAND JUROR: (Indiscernible) first or --

22 MS. GIRT: Yeah. Why don't you have him
23 come in and then -- oh, we're on -- that's fine.

24 We're on the record, so --

25 MR. KAUFFMAN: You're going to take the

Examination of Corey Lee Carter

1 witness stand right there.

2 THE WITNESS: All right.

3 A GRAND JUROR: If you could stay standing
4 and raise your right hand for me.

5 THE WITNESS: Oh, yeah.

6 COREY LEE CARTER

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

9 MR. KAUFFMAN: Good morning.

10 THE WITNESS: Morning.

11 MR. KAUFFMAN: Can you please state your
12 name and spell it for the record, please.

13 THE WITNESS: Corey Lee Carter, C-o-r-e-y,
14 C-a-r-t-e-r.

15 EXAMINATION

16 BY MR. KAUFFMAN:

17 Q Thank you. Mr. Carter, whereabouts do you
18 live?

19 A 12410 Southeast Kelly Street.

20 Q And did you live there on May 31st --

21 A Yeah.

22 Q -- of last year? I want to show you this
23 map that's on your screen. Does that look like your
24 block or resemble an over -- satellite image of your
25 block?

Examination of Corey Lee Carter

1 A Yeah.

2 Q Can you kind of point out your house?

3 A I live the one with the -- right here in
4 between the fir tree. So this is my house.

5 Q Okay.

6 MS. GIRT: Do I have my --

7 THE WITNESS: Yep.

8 MS. GIRT: All right.

9 BY MR. KAUFFMAN:

10 Q Perfect.

11 A That's it.

12 Q And were you home on the -- on the evening
13 of May 31st --

14 A I was not.

15 Q -- of last year? You were --

16 A No.

17 Q -- not? Okay.

18 A Yeah. That was my birthday, so I was gone.

19 Q Good for you. Okay. Do you have a -- any
20 kind of surveillance cameras set up --

21 A I do.

22 Q -- on your property? What -- will you
23 explain those to us?

24 A Yeah. I have several different IP cameras
25 that are on -- set on a 24/7 recording. They -- they

Examination of Corey Lee Carter

1 record all the time and they'll go back to seven days.

2 Q Okay.

3 A So --

4 Q And did you have a camera that was pointed
5 out toward Southeast Kelly Street?

6 A I do.

7 Q Did you, at some point, become aware that
8 there had been an incident that night when you were
9 gone?

10 A Yeah. When I came back at about 9:45 when
11 they had the street blocked off --

12 Q With police cars and that --

13 A Yeah.

14 Q -- kind of -- okay. Did -- did you
15 volunteer information that you may have had
16 surveillance video?

17 A No. 'Cause I didn't get back on the street
18 until 5:00 in the morning.

19 Q Uh-huh.

20 A And so there was a business card on my door.
21 And I called Cory Stenzel --

22 Q Okay.

23 A -- the detective. And then I -- I'd given
24 him the video surveillance of the --

25 Q Did they come out and get it from you?

Examination of Corey Lee Carter

- 1 A No.
- 2 Q Okay.
- 3 A I -- I sent it through a private YouTube
- 4 link.
- 5 Q Oh, okay.
- 6 A Yeah. So --
- 7 Q So did --
- 8 A -- it was, like -- yeah.
- 9 Q So you uploaded it and they downloaded --
- 10 A Yeah.
- 11 Q -- it? Okay.
- 12 A I had a private one, so when I sent it --
- 13 when I sent them the link for it, they would have
- 14 permission to go. Otherwise, nobody else can look at
- 15 it, so --
- 16 Q Got it. Okay.
- 17 A Yeah.
- 18 Q And did you end up being -- were you
- 19 interviewed by the detective or officers or anything
- 20 like that?
- 21 A (No audible response.)
- 22 Q No?
- 23 A No.
- 24 Q Okay.
- 25 (Whispered discussion, off the record,

Examination of Corey Lee Carter

1 1:08 p.m.)

2 BY MR. KAUFFMAN:

3 Q We're just going to show you a -- did you
4 view the video as well?

5 A Yeah.

6 Q Okay.

7 A 'Cause I had to go in there and basically
8 take that -- that portion 'cause it -- 'cause it
9 records everything, you know? And so --

10 Q Sure.

11 A -- I had to edit it to be, like, that
12 portion --

13 Q Right.

14 A -- from the start and stop and to send it --

15 Q Okay.

16 A -- to them.

17 Q We're just going to show you. Is that --

18 MS. GIRT: Oh --

19 MR. KAUFFMAN: Is --

20 THE WITNESS: Yeah.

21 MS. GIRT: -- we're going to pause for a
22 second.

23 MR. KAUFFMAN: Oh.

24 MS. GIRT: Hi.

25 UNIDENTIFIED SPEAKER: Hello.

Examination of Corey Lee Carter

1 MS. GIRT: Let's go ahead and step outside.

2 UNIDENTIFIED SPEAKER: Oh.

3 (Recess taken, 1:08 p.m. - 1:09 p.m.)

4 BY MR. KAUFFMAN:

5 Q All right. Mr. Carter, does this look like
6 the video that you uploaded for the --

7 A Yes.

8 Q -- Police Bureau? And that's -- that's the
9 perspective from your house?

10 A Yes.

11 Q And that looks like the video that you
12 downloaded and -- and uploaded?

13 A Yes.

14 MR. KAUFFMAN: Okay. I think that's good.
15 Anything further, you think?

16 MS. GIRT: I don't have any questions.

17 MR. KAUFFMAN: I think we're good. Thank
18 you very much.

19 THE WITNESS: All right. You're welcome.

20 MS. GIRT: Did -- did you guys have any
21 questions for --

22 MR. KAUFFMAN: Oh, I'm sorry.

23 MS. GIRT: -- Mr. -- I'm --

24 A GRAND JUROR: Huh-uh.

25 MS. GIRT: No?

Examination of Laura Roettger

1 A GRAND JUROR: No.

2 MS. GIRT: Everyone's saying no.

3 A GRAND JUROR: No.

4 MS. GIRT: No?

5 A GRAND JUROR: No.

6 MS. GIRT: All right. Great.

7 THE WITNESS: Okay.

8 MS. GIRT: Thank you.

9 THE WITNESS: You're welcome.

10 MR. KAUFFMAN: Thank you. Have a nice day.

11 MS. GIRT: We can go off the record

12 (indiscernible) be right back.

13 (Recess taken, 1:09 p.m. - 1:10 p.m.)

14 A GRAND JUROR: Could you raise your right

15 hand, please.

16 **LAURA ROETTGER**

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

19 MR. KAUFFMAN: Will you please state your
20 name and spell your last name.

21 THE WITNESS: My name's Laura Roettger,
22 R-o-e-t-t-g-e-r.

23 **EXAMINATION**

24 BY MR. KAUFFMAN:

25 Q Okay. Ms. Roettger, I'm Sam Kauffman. I'm

Examination of Laura Roettger

1 a special district attorney --

2 A Mm-hmm.

3 Q -- or assistant district attorney for this
4 case. This is the grand jury and it's kind of a weird
5 setup, but this is where we are today. So whereabouts
6 do you live?

7 A I live on Kelly Street, 12232.

8 Q Okay. And did you --

9 A So --

10 Q -- live there in May 31st last year?

11 A Yes.

12 Q Okay. Can you tell -- does this look like
13 an aerial view of your block?

14 A Yes.

15 Q Can you kind of point -- point out where
16 your house is?

17 A It is -- I think it's right here.

18 Q So where -- where the cursor is?

19 A Yeah. It's one of -- it's -- I think it's
20 this one right here maybe. I'm pretty sure it's the
21 third one in.

22 Q Third one in from the -- from 122nd?

23 A Yeah.

24 Q Okay. All right. And were you home on
25 May 31st of -- on the evening of May 31st last year?

Examination of Laura Roettger

1 A Yeah.

2 Q And can you tell us what you were doing that
3 evening?

4 A We were just hanging out at home and then a
5 car kept going up and down the street, like, honking
6 and kind of being obnoxious.

7 Q Okay. Did you see that car out the window
8 or were you outside?

9 A Yeah. I -- I looked out the window and then
10 we went outside, like, to see what's going on, like,
11 what happened.

12 Q Where did you go to -- to see that?

13 A To -- I went to the front of the fence, both
14 of us did.

15 Q I'm sorry, I didn't understand you.

16 A We went to the front of the -- by the fence,
17 so --

18 Q Okay.

19 A -- by the road.

20 Q Can you tell us what you saw.

21 A I seen him, like, do a U-turn on 122nd and
22 come back down Kelly. And then a cop car came and he
23 was in the driveway right about right here and then he
24 was backing out and the cop pulled up and they -- he
25 was -- comes running at the car and the cops started

Examination of Laura Roettger

1 telling him to stop or, you know -- and then --

2 Q Okay. Let me --

3 A -- gunshots.

4 Q Let me -- let me back up a little bit. So
5 you -- so you were out in front of your house?

6 A Mm-hmm.

7 Q Okay. And I think what you said is that you
8 saw a car --

9 A Do a --

10 Q -- come down --

11 A -- U-turn.

12 Q -- the road?

13 A Yeah.

14 Q How fast -- can you tell how fast the car
15 was going?

16 A The first few times, he wasn't going that
17 fast; but the last time before it happened, he was
18 going -- he turned around and went fast down there and
19 then turned around in the driveway right there.

20 Q All right. So when you say, "he turned
21 around and went fast down there," you're talking about
22 down Southeast --

23 A Kelly Street.

24 Q -- Kelly?

25 A Yeah.

Examination of Laura Roettger

1 Q And is there a -- like, a cul-de-sac or dead
2 end at the end --

3 A It's a --

4 Q -- right there.

5 A -- dead end.

6 Q Did you see the car go all the way down?

7 A He didn't go all the way down that last
8 time. He pulled into a driveway of a house over here.

9 Q Did you see which one?

10 A Yeah, this one right here, I think it was.

11 Q So the cursor is --

12 A This --

13 Q -- pointed --

14 A Over here, yeah. In the driveway and then
15 he backed out as the cop was pulling up.

16 Q Okay. And so then -- I'm sorry. So you --
17 you -- then what did you see?

18 A I -- I seen him get out of the car and the
19 cops were getting out of their car and they were by
20 their doors yelling at him to stop. And he was coming
21 at them aggressively and I don't know what -- if he
22 had a weapon or not. But they yelled at him and then
23 the shots went off and --

24 Q Did you actually see the shooting?

25 A Yeah.

Examination of Laura Roettger

1 Q Okay. What did you do then?

2 A I stand -- stood there for a second. Mark,
3 my husband, told me to, you know, run into the house
4 and I, like, froze for a second and then I ran off,
5 but I seen it all happen, them shoot him and it was,
6 like, three or four shots, I think.

7 Q Okay.

8 A And he fell. And then I went back out
9 there.

10 Q You went back out to see the --

11 A Yeah, to see what --

12 Q See --

13 A -- had happened.

14 Q -- what was going on?

15 A Yeah, and then all the cops came.

16 Q Okay.

17 A Oops, sorry.

18 Q That's all right. So your -- is your house
19 directly across from the --

20 A The care facility.

21 Q -- Kellyville Care Facility?

22 A Yeah.

23 Q Or the -- is it the residential care
24 facility? Okay.

25 A Yeah.

Examination of Laura Roettger

1 Q And did you see other people out on the
2 street or anything?

3 A I think there was one of the ladies that
4 used to live there, she was out there.

5 Q Okay.

6 A And sitting in her wheelchair.

7 Q Did you talk to her?

8 A I didn't talk to her.

9 Q Okay. And then did you give a statement to
10 the police after --

11 A Mm-hmm.

12 Q That same night or was it later?

13 A Yeah, it was -- they stayed there pretty
14 late investigating and everything. And then I think
15 it was, like, 1:00 a.m., they had me come out there
16 and give my statement and then my husband.

17 Q All right. And this -- this was a year
18 ago --

19 A Yeah.

20 Q -- right? And so are you pretty -- pretty
21 confident of your recollection --

22 A Oh, yeah.

23 Q -- of everything?

24 A Yeah.

25 Q Okay. Let's see.

Examination of Laura Roettger

1 (Whispered discussion, off the record,
2 1:15 p.m.)

3 MR. KAUFFMAN: Oh, okay.

4 BY MR. KAUFFMAN:

5 Q What -- do you have any memory of -- of the
6 car, itself, that was going back and forth?

7 A It was an older car, maybe silver or goldish
8 color.

9 Q Okay.

10 A And it was, like, a square-ish body style.

11 Q Do you know what kind of make or model?

12 A I'm not sure what kind of car.

13 Q An older car, like --

14 A Like, maybe 2000s, maybe early '90s. I'm
15 not sure what -- what the year was, but it was older.

16 MR. KAUFFMAN: Got it. Okay. I think
17 that's all we have.

18 THE WITNESS: Okay.

19 MR. KAUFFMAN: Thank you.

20 THE WITNESS: All right. Thank you.

21 MS. GIRT: Do you guys have any questions --

22 MR. KAUFFMAN: Oh, I'm sorry.

23 MS. GIRT: -- (indiscernible)?

24 THE WITNESS: Oh.

25 MR. KAUFFMAN: So sorry.

Examination of Laura Roettger

1 A GRAND JUROR: So you said that the driver
2 got out of his vehicle when he went towards the cops?
3 He was -- he was charging them on foot?

4 THE WITNESS: Yeah.

5 A GRAND JUROR: Okay.

6 THE WITNESS: Is that it?

7 A GRAND JUROR: Sorry.

8 THE WITNESS: Oh.

9 A GRAND JUROR: I have -- we're full of
10 questions. (Indiscernible) --

11 THE WITNESS: Okay.

12 A GRAND JUROR: -- (indiscernible). Were
13 you saying that you saw multiple cops out of their car
14 as well --

15 THE WITNESS: Well, it was --

16 A GRAND JUROR: -- or --

17 THE WITNESS: -- just the one car that
18 pulled up first. And they --

19 A GRAND JUROR: Oh, okay.

20 THE WITNESS: -- are the ones that were
21 doing it. And then after the shooting, the other cops
22 got there and were coming down the street.

23 A GRAND JUROR: And that first car, how many
24 cops did you see get out of it?

25 THE WITNESS: Two.

Examination of Laura Roettger

1 A GRAND JUROR: Two?

2 THE WITNESS: Mm-hmm.

3 A GRAND JUROR: Okay.

4 MS. GIRT: Any other questions?

5 THE WITNESS: Am I done?

6 MR. KAUFFMAN: Thank you.

7 THE WITNESS: Mm-hmm.

8 MS. GIRT: Stay on the record. That's fine.

9 (Whispered discussion, off the record,
10 1:17 p.m.)

11 A GRAND JUROR: If you could stay standing
12 and raise your right hand, please.

13 THE WITNESS: Do what?

14 A GRAND JUROR: Stand and raise your right
15 hand, please.

16 THE WITNESS: Oh, okay.

17 **MARK ROETTGER**

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

20 A GRAND JUROR: Okay. You can sit down.

21 THE WITNESS: Okay.

22 MR. KAUFFMAN: All right. Can you state
23 your name and spell your last name for the record,
24 please.

25 THE WITNESS: Mark Roettger,

Examination of Mark Roettger

1 R-o-e-t-t-g-e-r.

2 EXAMINATION

3 BY MR. KAUFFMAN:

4 Q Thank you. I'm Sam Kauffman. I'm a special
5 assistant district attorney on this case. And this is
6 the grand jury.

7 A Hello.

8 Q So, Mr. -- is it Roettger? Is that right?

9 A Roettger.

10 Q Roettger. Mr. Roettger, where did you --
11 where do you -- whereabouts do you live?

12 A On Kelly Street, 12232 Southeast Kelly
13 Street.

14 Q And did you live there on May 31st of
15 last --

16 A Yeah.

17 Q -- year?

18 A Yeah.

19 Q Okay. And do you live there with your
20 wife --

21 A Yes.

22 Q -- Laura?

23 A Yes.

24 Q Were you home that evening on May 31st?

25 A Yes.

Examination of Mark Roettger

1 Q Can you tell us what you -- what you were
2 doing?

3 A We were just kicking back --

4 Q Okay.

5 A -- watching TV pretty much. I don't know.

6 Q All right. And --

7 A I don't remember if we were having dinner at
8 that time or not. I think it was maybe just after
9 dinner or something.

10 Q Okay. Did you witness something unusual?

11 A Yeah. There was a car with a guy in it and
12 he was going slow down the road just honking the horn
13 like crazy. And so we went out there to see what was
14 going on.

15 Q Okay.

16 A Yeah.

17 Q And I apologize. Can you look at the -- at
18 the aerial map --

19 A Yeah.

20 Q -- on there and just kind of let us know
21 where your house is?

22 A It's kind of hard to see. Right here. I
23 think we're -- not that street. We're like one, two,
24 three houses down. Yeah, right by the X, I think.

25 Q Okay. And are you directly across from the

Examination of Mark Roettger

1 Kellyville --

2 A Yeah.

3 Q -- Residential Care Facility?

4 A Old folks home, yeah.

5 Q Okay. All right. And I think you said you
6 saw a car driving --

7 A Yeah, he --

8 Q -- slowly?

9 A -- came -- he came from down here. And he
10 was, like, going up kind of slow honking his horn,
11 honking his horn.

12 And then he went out on 122nd and I think as
13 he turned around, he seen some cops coming and he
14 flipped around and he sped down the road. I mean, he
15 was going fast. And then he went down here and turned
16 around and he was facing back towards 122nd when the
17 cops came down at him.

18 Q Did you see where he turned around?

19 A No, not where he turned around. I just seen
20 his car after it turned around 'cause I wasn't sure
21 what was going on and I heard the cop sirens and
22 everything and was just like, whoa.

23 Q Okay. So you heard sirens --

24 A Yeah.

25 Q -- you recall? Okay. And do you recall --

Examination of Mark Roettger

1 do you -- what did you observe about the car? Do you
2 remember anything about the car?

3 A I think it was a dark -- I don't remember
4 what kind it was, maybe a Civic or something. Oh,
5 like a --

6 Q Smaller car?

7 A -- early -- yeah.

8 Q Okay. What -- about what year do you think?
9 Was it an older one or --

10 A Yeah. 2000s or earlier, like, maybe a Honda
11 Civic or something like that. I'm not sure.

12 Q Did you say dark in color --

13 A Yeah.

14 Q -- (indiscernible)? Okay. So I think you
15 got to the point where the car turned around. And
16 then what did you see then?

17 A Well, the cops came up and they were kind of
18 like this and he was like this. And they came out of
19 the car and I think they drew their weapons. And he
20 just lunged at them.

21 Q What do you mean, "he lunged at them"?

22 A He came out of the car fast. I mean --

23 Q Okay.

24 A -- it was like he was going after them. It
25 was -- it was -- it was stupid, you know?

Examination of Mark Roettger

1 Q So you remember seeing the person get out of
2 the car and lunge toward --

3 A Yeah.

4 Q -- the officers? Okay.

5 A Yeah, 'cause we were at the fence. We were
6 right -- right here on the fence. And we were looking
7 down there to see what was going on 'cause there was a
8 lot of cops in that area. There's a lot of stuff
9 going on there all the time.

10 Q Yeah. How many cop cars -- excuse me --
11 police -- police cars did you see --

12 A Oh, sorry.

13 Q -- (indiscernible)?

14 A At first, it was just the one, the --

15 Q Okay.

16 A -- like, an SUV, Explorer or --

17 Q Uh-huh.

18 A -- Expedition, whatever they drive.

19 Q And -- and -- okay. And then you saw others
20 arrive after that?

21 A Yeah. I -- I'm -- I think they came after
22 the shooting, though, I mean, 'cause it was -- it was
23 fast. It was quick.

24 Q The whole -- the whole episode was quick?

25 A Yeah.

Examination of Mark Roettger

1 Q Okay. Did you see -- you saw the actual
2 shooting?

3 A Yeah. The first part of it because when
4 they started shooting, I -- I seen him come out of the
5 thing and I think he got hit in the chest. And I told
6 my wife, "Run," 'cause I didn't know if he was going
7 to shoot back at the cops and he was, like,
8 towards us.

9 Q Mm-hmm.

10 A You know, I just get -- you know, I don't
11 want to get shot, you know? I'm like, "Run" --

12 Q Makes sense.

13 A -- and I --

14 Q Yeah.

15 A -- ducked out of the way. And I think there
16 was, like, four shots, three or four shot. I don't
17 remember.

18 Q Okay.

19 A Yeah.

20 MR. KAUFFMAN: Okay. Anything? No?

21 Okay.

22 THE WITNESS: Yeah. But they --

23 MR. KAUFFMAN: Thank you.

24 THE WITNESS: -- were, like, yelling at him
25 to stop and everything and he just, like, lunged at

Examination of Mark Roettger

1 them.

2 BY MR. KAUFFMAN:

3 Q You recall them yelling at him to stop?

4 A Yeah, yeah. Before they --

5 Q Is that -- were those the words they used or
6 do you remember other words?

7 A God, it's been so long. I -- I remember
8 them saying, "Stop, stop," or something like that and
9 then -- then he just kept coming and they shot him.
10 And then that's when I, like, ducked out of the way.

11 Q Sure. Okay.

12 A Yeah.

13 MR. KAUFFMAN: Does anybody else have
14 questions?

15 A GRAND JUROR: Yeah. So Mr. Berry, he go
16 -- he goes to 122nd, turns around. He sees the police
17 officers. You say he goes into, like, a driveway,
18 backs up?

19 THE WITNESS: No, he went right into 122nd.
20 It was, like, he just, like, went out into 122nd,
21 turned -- I mean, just right up here.

22 A GRAND JUROR: Yeah. He went to 122nd, did
23 a U-turn, went back down Kelly towards the dead end,
24 right?

25 THE WITNESS: Yeah.

Examination of Mark Roettger

1 A GRAND JUROR: Okay. So after that, he
2 goes towards the police, you say, at -- and he was
3 driving to the police and then he gets out of his car?

4 THE WITNESS: Yeah.

5 A GRAND JUROR: And then lunges --

6 THE WITNESS: He was turned --

7 A GRAND JUROR: -- at the officer.

8 THE WITNESS: -- around. By the time they
9 got down there, he was already turned -- I didn't see
10 him turn around, but I seen his car facing us. And he
11 went this way and then next thing I know, I seen his
12 car facing us 'cause he's just a few houses down. And
13 he was facing us.

14 And they pulled in and got out of their car
15 and then they -- they got out of their car and I
16 think -- I think they had their weapons drawn at that
17 time. And then he jumped out of the car and they're
18 like, "Stop, stop." Yeah, it was pretty crazy.

19 A GRAND JUROR: That -- that first police
20 vehicle before all the rest showed up --

21 THE WITNESS: Yeah.

22 A GRAND JUROR: -- when -- did you see how
23 -- how many police officers got out of that vehicle?

24 THE WITNESS: I seen two.

25 A GRAND JUROR: Okay.

Examination of Mark Roettger

1 THE WITNESS: I think there was two of them,
2 one on each side.

3 A GRAND JUROR: Okay.

4 THE WITNESS: Yeah, yeah.

5 A GRAND JUROR: And -- and they got out of
6 their car before you heard the shots?

7 THE WITNESS: Yeah.

8 A GRAND JUROR: Okay. So they were out of
9 the vehicle and then the shots happened?

10 THE WITNESS: Yeah.

11 A GRAND JUROR: And then the rest? Okay.
12 Cool.

13 THE WITNESS: Yeah. They said, "Stop,"
14 before the shots happened --

15 A GRAND JUROR: Right.

16 THE WITNESS: -- 'cause he just jumped out
17 of his car at them. I -- I don't know -- I don't know
18 what he was thinking.

19 A GRAND JUROR: Just one more thing. You
20 were -- you were saying you were worried about if he
21 shots towards you. Did you see him have anything or
22 was it just a, they're shooting at him, he might have
23 something?

24 THE WITNESS: Yeah. That's just, they might
25 have -- he might --

Examination of Mark Roettger

1 A GRAND JUROR: Okay.

2 THE WITNESS: -- have something. I didn't
3 see anything --

4 A GRAND JUROR: Okay.

5 THE WITNESS: -- on him. I -- I -- I mean,
6 the -- the car -- the cop car was like this and he was
7 faced like this, so it was kind of blocking. But I
8 seen him get out of the car, but the lower parts, I
9 couldn't really see that well, so I just -- just
10 precaution, you know? Someone --

11 A GRAND JUROR: Yeah.

12 THE WITNESS: -- starts shooting, you duck,
13 you know?

14 A GRAND JUROR: Right. It -- it was a
15 little bit later at night, so --

16 THE WITNESS: Yeah.

17 A GRAND JUROR: -- it -- it was kind of --

18 THE WITNESS: Yeah.

19 A GRAND JUROR: -- dark, correct?

20 THE WITNESS: Yeah.

21 A GRAND JUROR: Were you seeing stuff
22 basically by the lights of the --

23 THE WITNESS: Yeah.

24 A GRAND JUROR: -- streetlamps --

25 THE WITNESS: Yeah.

Examination of Mark Roettger

1 A GRAND JUROR: -- and stuff?

2 THE WITNESS: And the --

3 A GRAND JUROR: Okay.

4 THE WITNESS: -- the cops had their lights
5 kind of towards him.

6 A GRAND JUROR: Okay.

7 THE WITNESS: Yeah. So, I mean, you -- you
8 can see him, but it was just -- it was dark out.

9 A GRAND JUROR: Right.

10 THE WITNESS: So I -- I just -- precaution,
11 to jump --

12 A GRAND JUROR: Yeah.

13 THE WITNESS: -- hide --

14 A GRAND JUROR: Of course.

15 THE WITNESS: -- you know? I'm kind of a
16 prepper, so I just, like, read a lot of weird stuff
17 and I know you don't sit there and stand and say,
18 "Hey," you know?

19 A GRAND JUROR: My -- my -- my one last
20 question.

21 THE WITNESS: Uh-huh.

22 A GRAND JUROR: Did you hear when the cops
23 arrived? Did they have sirens or --

24 THE WITNESS: We watched --

25 A GRAND JUROR: -- lights?

Examination of Mark Roettger

1 THE WITNESS: -- them.

2 A GRAND JUROR: Okay. So --

3 THE WITNESS: Yeah, we were out at the
4 fence. He was honking his horn and that drew us out.

5 A GRAND JUROR: Okay.

6 THE WITNESS: And I think that's what his
7 purpose was. I mean, I don't know what he was
8 thinking, but in my opinion, him going slow down the
9 road honking a horn was trying to get people's
10 attention to come out. And we went out and then we
11 seen him go to the end of the Kelly Street and turn
12 around right in 122nd.

13 Then he sped back and then right after he
14 got past us, a little past us, the cops turned the
15 corner and came in. And --

16 A GRAND JUROR: Okay.

17 THE WITNESS: -- by then, he was turned
18 around and they just pulled right up on him and --

19 A GRAND JUROR: Did the -- did the cops have
20 their lights on or could you just tell that they were
21 police officers --

22 THE WITNESS: Oh, they had --

23 A GRAND JUROR: -- because of --

24 THE WITNESS: -- their lights on.

25 A GRAND JUROR: They had --

Examination of Mark Roettger

1 THE WITNESS: Yeah.

2 A GRAND JUROR: -- their lights on?

3 THE WITNESS: Yeah.

4 A GRAND JUROR: Okay.

5 MS. GIRT: Any other questions?

6 MR. KAUFFMAN: All right. Thank you.

7 MS. GIRT: All right. Thanks.

8 MR. KAUFFMAN: That's it? All right. You
9 guys have a good day.

10 A GRAND JUROR: Yeah, you, too.

11 MS. GIRT: We can probably go off the record
12 for just a second to --

13 (Recess taken, 1:26 p.m. - 1:27 p.m.)

14 A GRAND JUROR: Back --

15 THE WITNESS: So --

16 A GRAND JUROR: -- on the record.

17 THE WITNESS: This -- this?

18 MR. KAUFFMAN: Right.

19 A GRAND JUROR: Right hand. Yeah.

20 **GREGORY NOVOZHENNIKOV**

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

23 A GRAND JUROR: Okay. You can sit down.

24 MR. KAUFFMAN: Would you please just state
25 your name and spell your last name for the record,

Examination of Gregory Novozhennikov

1 please.

2 THE WITNESS: Gregory Novozhennikov,
3 N-o-v-o-z-h-e-n-n-i-k-o-v.

4 EXAMINATION

5 BY MR. KAUFFMAN:

6 Q Thank you. I'm Sam Kauffman. I'm a special
7 assistant district attorney for this case. And this
8 is the grand jury.

9 A Okay.

10 Q So Novozhennikov? Is that --

11 A Novezhe. It's a -- you use a -- z-h is just
12 pronounced zhe.

13 Q Okay. Can I call you Gregory?

14 A Yeah.

15 Q Okay. Thank you.

16 A Or Greg. You can go with Greg.

17 Q Greg? Okay. Just so I don't continue
18 butchering your name, it might be easier. So, Greg,
19 the -- whereabouts do you live?

20 A Me? Right now, it's (indiscernible) --

21 Q Well, where did you live --

22 A -- 123 --

23 Q -- on May 31st --

24 A -- 21 --

25 Q -- of last year? I'm sorry.

Examination of Gregory Novozhennikov

1 A Huh?

2 Q Where did you live on May 31st of last year?

3 A It was the property I own, 12321 at Kelly
4 Street.

5 Q Okay. So we're going to show you an
6 overhead satellite image that's on your screen there.

7 A Yeah.

8 Q Does that look like your -- the block where
9 you were living then?

10 A Yeah.

11 Q It's on Southeast Kelly?

12 A Mm-hmm.

13 Q Can you kind of point out the house where
14 you were living or where you were living?

15 A I was right there, right next -- yeah, right
16 here.

17 Q So are you about two houses down from the
18 Kellyville Residential Care Facility?

19 A Yeah.

20 Q Okay.

21 A I can see from (indiscernible).

22 Q And is that the -- I want to say the north
23 side of the street?

24 A Yeah.

25 Q Okay. So were you home on May 31st of last

Examination of Gregory Novozhennikov

1 year?

2 A I think so.

3 Q Okay.

4 A That's a long time to remember.

5 Q All right. So that was -- you may recall
6 that was the night that there was a shooting on the
7 street.

8 A I think so.

9 Q Okay.

10 A Yeah.

11 Q All right. So is that -- do -- do you
12 recall talking to some police officers that night?

13 A Yeah.

14 Q Okay.

15 A But I have nothing to add.

16 Q Yeah. Can you just tell us what you saw
17 that night?

18 A On -- I saw (indiscernible) -- I was hearing
19 the car just drive by real fast a bunch of times.

20 Q A car drive by very fast?

21 A Yeah.

22 Q Okay.

23 A On the street. Before, there was some
24 screaming.

25 Q I'm sorry, I didn't understand.

Examination of Gregory Novozhennikov

1 A Before some -- two houses from me, probably,
2 like, around here, there was screaming out there.

3 Q Some screaming?

4 A Like, I looked -- looked down the -- it's
5 probably, like, over here. If -- from the window, if
6 you look at it, they're over here.

7 Q Were you -- and were you inside your house?

8 A I was in my bedroom.

9 Q In your bedroom? And you could hear the
10 yelling or --

11 A Yeah.

12 Q -- screaming from your bedroom?

13 A Yeah.

14 Q Okay. Did you go out to see what was going
15 on?

16 A I looked out the window and I saw, like, you
17 know, (indiscernible) how I -- I already
18 (indiscernible). So lady was standing in front of car
19 and he floored it.

20 He -- and then she jump out the -- went to
21 talk to him on driver's side and he floored it and
22 that -- that's all -- about -- that's what I saw.
23 That's it.

24 Q Okay. Do you remember the car?

25 A It was black.

Examination of Gregory Novozhennikov

1 Q A black car? So I -- so what I understand
2 you saying is that you looked -- you heard the
3 screaming, you looked out your window and you saw a --

4 A It was a darker-color --

5 Q Dark-colored --

6 A -- car.

7 Q -- car?

8 A Yeah.

9 Q And there was a lady in front of the car?

10 A Yeah.

11 Q And did the -- did -- and did -- did the car
12 hit her or it looked like it was -- she was --

13 A It floored it or I'm not sure if it hit it
14 or not (indiscernible), so I -- I know she -- she
15 jumped to the side.

16 Q She jumped to --

17 A And --

18 Q -- the side to get out of the way of the
19 car?

20 A Yeah.

21 Q Okay. Did you see anything else?

22 A No.

23 Q Okay.

24 A 'Cause after that, maybe a couple times
25 more, he drive by really fast.

Examination of Gregory Novozhennikov

1 Q You -- so you saw the car drive by again
2 after that?

3 A Yeah.

4 Q Did -- and you didn't see anything else
5 that night?

6 A No. The -- after -- after the police
7 came --

8 Q Okay.

9 A -- with the lights. That's when I -- yeah.
10 I was doing my homework in my room, so --

11 Q Sure.

12 A -- I -- I looked up -- like, I see the
13 flashes and I went up to front door (indiscernible) go
14 outside and I see police cars.

15 Q All right.

16 A So that's -- that's about it.

17 Q Did the police talk to you?

18 A I waited until -- I don't know. I didn't
19 want to go outside.

20 Q Sure. But they --

21 A Like, this is --

22 Q -- did they -- did they --

23 A I -- I don't want them, like, making more
24 hassle, like, asking question. Like, after everything
25 settled down, then I'd, like, you know --

Examination of Gregory Novozhennikov

1 Q Sure. So -- but, eventually, they came and
2 talked to you?

3 A I -- I walk, like, in my yard to see -- get
4 closer, what happened. And then -- so the officer
5 came to me.

6 Q Okay. And then you told him what you --
7 what you saw?

8 A Yeah.

9 Q And you -- you didn't -- just to be clear,
10 you didn't see any shooting?

11 A No.

12 MR. KAUFFMAN: Okay.

13 (Whispered discussion, off the record,
14 1:33 p.m.)

15 BY MR. KAUFFMAN:

16 Q So you told us about the -- the dark-colored
17 car or --

18 A Yeah.

19 Q -- black car flooring it at -- toward the
20 woman and the woman jumping out of the way. Can you
21 tell us where -- about where on that -- on the street
22 it was, kind of --

23 A Oh, I already --

24 Q -- using that?

25 A -- pointed to you. It was -- if we -- like,

Examination of Gregory Novozhennikov

1 my window -- my window would be, like, lower side of
2 my house in the corner. And if you look at it this
3 way, this is about, like, right here.

4 Q About where that blue X is?

5 A Yeah, somewhere around there, in general.

6 MR. KAUFFMAN: Got it.

7 (Whispered discussion, off the record,
8 1:33 p.m.)

9 BY MR. KAUFFMAN:

10 Q Do you recall what direction the car was
11 driving when it did that?

12 A Oh --

13 Q Was it driving toward --

14 A -- the west side.

15 Q Sorry?

16 A West side.

17 Q So toward 122nd?

18 A Yeah.

19 MR. KAUFFMAN: Anybody have questions?

20 A GRAND JUROR: Hmm-mm. No.

21 MR. KAUFFMAN: All right. Thank you, sir.

22 THE WITNESS: All right.

23 MS. GIRT: It looks like we can go off the
24 record.

25 (Recess taken, 1:34 p.m. - 1:36 p.m.)

Examination of Julie Anne Goss

1 Kellyville facility where that yellow or gold X is?

2 A Yes, it is.

3 Q Okay.

4 A You know, I'm having a problem with the mask
5 and the glasses because --

6 Q Okay.

7 A -- they're steaming up.

8 Q Do you need to -- I mean, if you need to
9 take the mask off, you're probably --

10 A Just --

11 Q -- okay.

12 A Well, I need to see. Yes, please.

13 Q All right.

14 A Yes, that's Kellyville RCF.

15 Q All right. And were you home on the evening
16 of May 31st of last year?

17 A I was.

18 Q Okay. What -- what were you doing?

19 A I was hosting a pizza party for a staff
20 member who was leaving us.

21 Q A staff member at the Kellyville --

22 A At Kellyville--

23 Q -- place?

24 A -- who was leaving us, yes.

25 Q Oh, okay. And did you, at some point, come

Examination of Julie Anne Goss

1 out of -- observe something when you came out of the
2 building?

3 A Yes. When the party was over, I went
4 outside. I smoke cigarettes, so I was having a
5 cigarette outside on the sidewalk. The sidewalk only
6 runs in front of our building. Yes.

7 Q All right. And -- and where were you --
8 were you in the -- where were you located in the
9 parking lot, I guess is my --

10 A I was --

11 Q -- question?

12 A -- sitting on the sidewalk, not --

13 Q On the --

14 A -- technically --

15 Q -- sidewalk?

16 A -- in the parking lot, no.

17 Q Okay.

18 A On the sidewalk.

19 Q So looking -- so looking at that diagram --

20 MR. KAUFFMAN: Can you make it --

21 MS. GIRT: (Indiscernible).

22 MR. KAUFFMAN: -- full screen? Yes.

23 THE WITNESS: Yeah. The sidewalk runs right
24 in front. I was sitting on the sidewalk between where
25 the parking lot is and then the hedges are.

Examination of Julie Anne Goss

1 MR. KAUFFMAN: Okay. No, that's fine.

2 MS. GIRT: Yeah.

3 BY MR. KAUFFMAN:

4 Q I'm sorry, I -- we -- I was trying to get
5 the technology right here. So you were -- you were
6 sitting on the side -- or you were standing on the
7 sidewalk or --

8 A In this chair.

9 Q In this chair?

10 A On the sidewalk between where the parking
11 lot is and where the hedges are on the left side.

12 Q Got it. Okay. Got it.

13 MS. GIRT: (Indiscernible).

14 MR. KAUFFMAN: Sorry?

15 (Whispered discussion, off the record,
16 1:38 p.m.)

17 BY MR. KAUFFMAN:

18 Q What -- do you recall what side you were --
19 you were at? Was it the -- I guess it would have been
20 the west side or the east side.

21 A I was on this side. The sidewalk on the
22 other side is rather short, so I remember we usually
23 always -- there's a little cut down in the sidewalk I
24 could drive my chair through --

25 Q Oh, got it.

Examination of Julie Anne Goss

1 A -- that opens to the sidewalk. So I was
2 sitting there and, you know, the driveway to the
3 facility was on the side of me.

4 Q On the side toward 122nd?

5 A No, on the opposite side.

6 Q Oh, okay. So on the --

7 A Yeah.

8 Q -- side --

9 A I was sitting facing -- it's turned
10 different for me, so I was sitting where the -- on the
11 side where the yellow X is, so the driveway would have
12 been on my left.

13 Q All right. So that yellow X is about --

14 A Correct.

15 Q -- okay -- accurate?

16 A That's pretty much exactly where I was, yes.

17 Q Perfect. And then tell us what you saw.

18 A First, I heard a very loud commotion, a
19 verbal argument going on. And I heard a woman's voice
20 in the mix, so I rode my power chair right out into
21 the middle of the street.

22 I looked down and I could see two men and a
23 woman. They were arguing loudly back and forth, like,
24 "Yes, you did, no, I didn't, yes, you did," type of
25 argument. And then I saw who I later learned to be

Examination of Julie Anne Goss

1 the victim, Israel Berry -- or Israel Berry get into
2 his car.

3 And I watched the woman walk across to her
4 driveway and grab what looked like a bat. And she
5 started hitting the side of his car with it, his
6 driver's-side door.

7 Q Okay. And how -- how far down the street
8 was -- was that?

9 A About three houses down, there's a street
10 light. And I know there's a couple kind of bumps in
11 the road. Let's see. One, two, three. His car would
12 have been parked closer to where that blue -- where I
13 see the blue, it seems like.

14 Where is the streetlight? No. That is
15 right where it's at 'cause I see the streetlight.
16 Yes. But his car was parked on the opposite side of
17 the street.

18 Q Were the --

19 A Well, what happened after the woman was
20 hitting the side of his car with the bat, he didn't
21 get out of his car. He accelerated past me very fast
22 down on -- towards 122nd. It looked like he was going
23 to turn right onto 122nd and there were two police
24 cruisers coming in.

25 So he did a fishtail turn on 122nd, came

Examination of Julie Anne Goss

1 back up, did a U-turn and parked almost exactly where
2 he had started out. His car was facing me. And then
3 immediately, the two cruisers pulled up on an angle to
4 his car. I saw four officers jump out and they
5 immediately got into a shooting stance.

6 I didn't hear any commands given to the
7 person in the car. And then gunfire opened up. I
8 heard five shots, boom, boom, boom, boom, boom. I was
9 close enough to smell the gunpowder going past.

10 Q Okay. Ms. Goss, can I -- can I go back and
11 kind of unpack that a little bit with you? So back to
12 where you saw the woman hitting the car with a bat.
13 Okay. What side of the car was she hitting?

14 A His driver's-side door.

15 Q So the car was parked. Did you hear honking
16 or shouting or --

17 A I didn't hear any honking or anything like
18 that. No. He just accelerated really fast past me --
19 excuse me.

20 Q So after --

21 A I didn't notice any honking, I would say,
22 over the sound of her beating his car.

23 Q Okay. So you saw and heard her beating his
24 car with a bat?

25 A It looked like a bat and sounded like a bat.

Examination of Julie Anne Goss

1 Q Some sort --

2 A Yes.

3 Q -- of bat-looking --

4 A Something. It was --

5 Q -- thing? Okay.

6 A Yes.

7 Q And did you say you went -- you saw her go
8 and get that from her --

9 A I did.

10 Q -- house?

11 A I saw her walk across to her driveway and
12 pick something up and come right back out to his car.

13 Q Okay. And then how long did that take place
14 where she was beating on the car?

15 A I'd say less than 30 seconds.

16 Q And do you --

17 A Just --

18 Q -- recall seeing what he was doing?

19 A He did not get out of the car. I know that.
20 No. I couldn't see what he was doing that far down
21 through his windshield, but I know he didn't get out
22 of his car or do anything to her.

23 Q All right. And then so after about
24 30 seconds, then he drove very fast, I think you said,
25 toward --

Examination of Julie Anne Goss

1 A Mm-hmm.

2 Q -- 122nd?

3 A Yes.

4 Q And then --

5 A Yeah.

6 Q -- he went directly into 120 -- did he go
7 into 122nd?

8 A He did. He was -- looked -- as I said, that
9 he was going to try to turn right and just leave, is
10 what we -- I was hoping.

11 Q Yeah.

12 A Just leave, okay? As far as I saw, nobody
13 had got hurt, so just leave. And the two police
14 cruisers came right up on the curb because the man
15 came running down screaming at him that they almost
16 hit three pedestrians on the curb with no lights and
17 sirens. So they were --

18 Q I -- I'm --

19 A -- blocking his --

20 Q -- sorry. Let me -- let me stop you there.
21 So you're -- so the police officers almost hit three
22 pedestrians?

23 A I do.

24 Q Okay. I'm just --

25 A There was --

Examination of Julie Anne Goss

1 Q -- trying to understand.

2 A -- a man that was trying to give his name to
3 the police officers on the scene and they wouldn't
4 talk to anybody because they said there's a criminal
5 investigation happening.

6 But, no, a gentleman came running up so mad
7 right as -- right before the -- right after the
8 shooting happened, rather, 'cause he was screaming
9 about them almost hitting three people. And I said,
10 "Well, they just shot somebody."

11 Q Okay. Trying to go kind of
12 chronologically --

13 A Yes.

14 Q -- so -- so you -- you -- I think where we
15 -- you were at -- we were at where the -- the car --
16 and do you remember the color of the car?

17 A It was dark.

18 Q Okay.

19 A Just a --

20 Q It's a dark --

21 A -- dark car.

22 Q -- colored car?

23 A It was not the car I usually saw him in.

24 Q Okay.

25 A I know that. It was a bigger car than I

Examination of Julie Anne Goss

1 usually saw him in.

2 Q Usually saw who?

3 A Israel Berry.

4 Q Okay. Did you know Israel Berry?

5 A I did not personally know him, but I -- I
6 lived there for two years on that block.

7 Q Uh-huh.

8 A Saw him many times at the peoples' residence
9 and saw him in his car. I know he liked music and,
10 you know, I could hear him in his car playing music.
11 But it wasn't that car, no.

12 Q So he -- you had seen him before in a
13 different car?

14 A Correct.

15 Q This dark-colored car -- let me ask --

16 A It looked more --

17 Q -- you this.

18 A -- like a sedan --

19 Q Did --

20 A -- to me than the small car that I usually
21 saw him in.

22 Q Got it. And did -- so you recognized him
23 when you first saw him in the altercation?

24 A No. I did not know -- know who he was.

25 Q Oh, okay. So just later, you realized who

Examination of Julie Anne Goss

1 it was?

2 A Yes.

3 Q All right. So the -- the dark-colored car,
4 I think you said, drives very fast into 122nd and then
5 fishtailed.

6 A He tried to --

7 Q Is that where --

8 A -- turn where the police cruisers were
9 turning onto the street.

10 Q So the --

11 A They were --

12 Q -- police were already --

13 A -- in his way --

14 Q -- coming onto the --

15 A -- so he --

16 Q -- street?

17 A -- couldn't go that way, so he did a U-turn
18 real quick and turned right up at Kelly Street and
19 stopped, did another U-turn and stopped almost exactly
20 where the whole altercation began.

21 Q Okay. So he -- he drives very fast and into
22 122nd and then he -- what you observed is he saw the
23 police vehicles coming and then --

24 A He would have --

25 Q -- turned back around?

Examination of Julie Anne Goss

1 A -- hit them if he would have kept going.

2 Q I'm sorry, would you say that --

3 A He --

4 Q -- again?

5 A He would have hit their vehicles if he would
6 have continued his direction.

7 Q Okay. And then he turned around and came
8 back toward -- away from 122nd?

9 A Correct.

10 Q All right.

11 A Right almost exactly in front of the same
12 house he was when he began.

13 Q And then what did he do then?

14 A He didn't do anything. He was shot through
15 his windshield.

16 Q Did he -- was he able -- did he turn his car
17 around or was he --

18 A No. He stopped, like -- he stopped the same
19 direction he was. He was facing me when I was in the
20 street 'cause I did go back out on the street once the
21 police cars --

22 Q Yeah.

23 A -- passed us. He was facing the same
24 direction and he didn't do anything that I could see.
25 The car didn't move. After he was shot and they

Examination of Julie Anne Goss

1 pulled his body out, the car didn't move.

2 Q Yeah.

3 A No, he didn't do a thing. I didn't see
4 anything coming out his side -- driver's-side window.
5 I didn't hear anything other than the gunshots.

6 Q Okay. I just -- I just want to clarify
7 something. So you -- you said that the car had turned
8 around and was coming back, I guess it would -- I
9 guess it would be east on Kelly, right?

10 A I don't know my directions. I meant --

11 Q So away from 100 --

12 A -- in that area. He was facing --

13 Q Away from 122nd?

14 A -- 122nd again.

15 Q So he had somehow then turned around?

16 A He did. He did a --

17 Q Okay.

18 A I said he did a U-turn again and parked
19 almost exactly where he was --

20 Q Got it.

21 A -- before.

22 Q I understand. Just trying to clarify.

23 A Yes.

24 Q So -- and then the car came to a stop
25 facing you?

Examination of Julie Anne Goss

1 A Mm-hmm.

2 Q And that's where you witnessed the -- the
3 shooting?

4 A Yes. The two police cruisers were parked --
5 like, just for instance, if his car were the black car
6 right there, the police cruisers were parked on an
7 angle. If you turn that arrow the other way, they
8 were facing him at an angle, not specifically in front
9 of his vehicle.

10 So I could see the four officers in between
11 their vehicles and his vehicle. And I never -- they
12 just jumped out and immediately got into a shooting
13 stance and I was screaming, "No, don't, don't," and
14 they did.

15 Q They did what?

16 A Shoot.

17 Q Okay. Did it appear to you that they had
18 blocked him in?

19 A No, they didn't necessarily have him blocked
20 in where they could have went bumper to bumper
21 with him.

22 Q Mm-hmm.

23 A But he didn't have much room to get around
24 their vehicles 'cause they were out in the middle of
25 the street. But, no, they weren't bumper to bumper or

Examination of Julie Anne Goss

1 the front end to the -- the side of his vehicle or
2 anything.

3 They were at an angle. If this was his car
4 and this is the rest of the street, they were on,
5 like, an angle. One was kind of like this and one was
6 kind of like that. Well, my hands aren't very good,
7 but --

8 Q Okay.

9 A -- they were on an angle to his car. Their
10 front ends were facing the side of his driver's side
11 -- the driver's side of his car.

12 Q Oh, I see. Okay. So both were on the same
13 side or were they on opposite sides?

14 A They were on the same side of the street,
15 but they were at angles to each other.

16 Q Got it. Okay.

17 A The police cruisers were at angles.

18 Q Okay.

19 A And they didn't have sirens or lights on
20 going past me.

21 Q And did you -- and you didn't observe Mr.
22 Berry get out of the car?

23 A No. Once he got in his car and the woman
24 started beating on it, he never got out of his car
25 again --

Examination of Julie Anne Goss

1 Q Okay.

2 A -- 'til he was dead.

3 Q All right. Anything else about that that
4 you want to add?

5 A I do want to add that since the -- this has
6 happened, I've learned things that I did not witness.

7 Q Okay.

8 A And I feel like my statement to the
9 Detective Winters was discounted last year because I
10 came out maybe after certain things had happened.

11 Q Okay.

12 A But I -- what I saw, Israel Berry did not --
13 I didn't see any physical confrontation with him and
14 anyone else. Once he got in his car and a woman was,
15 you know, assaulting his car, he did not get out of
16 his car again.

17 Q So -- so after that evening, at -- at some
18 point, Detective Winters came and talked to you?

19 A On the phone. He called me.

20 Q Or he called you. How long --

21 A Mm-hmm.

22 Q -- after the --

23 A Three or four days -- no, no, I take that
24 back. It was about a week after.

25 Q Okay. And -- and you told him what you saw?

Examination of Julie Anne Goss

1 A I told him what I saw and I could tell as
2 soon as he was asking me things that I did not see,
3 that I felt he totally discounted my entire statement.
4 I really felt he just -- to be blunt, he just blew me
5 off, like what I saw wasn't important.

6 Q All right.

7 A And I haven't seen him again 'til he served
8 my subpoena last week.

9 Q And did you -- did you talk to him again?

10 A No.

11 Q Okay. You didn't talk to --

12 A I didn't --

13 Q -- him at all?

14 A -- care to talk to him really, no.

15 Q Okay. And so you've -- you talked to
16 reporters and media and that kind of thing. And --

17 A I did.

18 Q -- did you tell -- give them some opinions
19 about what you thought about it?

20 A I gave some off-the-record opinions. I was
21 misquoted by Maxine Bernstein in the Oregonian about
22 how the cars were facing each other. She said they
23 were facing him head on. Everything else that I was
24 quoted, I was pretty happy. It was pretty fair --

25 Q Okay.

Examination of Julie Anne Goss

1 A -- of what I said. I don't see any
2 differences other than how she said the cars were
3 facing.

4 Q Okay. One second, please.

5 (Whispered discussion, off the record,
6 1:51 p.m.)

7 BY MR. KAUFFMAN:

8 Q And I just wanted to clarify. Is it -- is
9 it your recollection, Ms. Goss, that his -- that the
10 dark-colored vehicle was not moving at all when the
11 officers fired?

12 A No, it wasn't.

13 Q It was stopped?

14 A And this must be an -- that's after the fact
15 'cause that police car wasn't there in front of his
16 vehicle.

17 Q Okay.

18 A Hmm-mm. This is after the fact. His door's
19 open.

20 Q Actually, was it --

21 A And see the streetlight right above it?
22 That's how I could see clearly, too. That streetlight
23 was on. The police cruisers' headlights were on. And
24 there's the little bump I was talking about in the
25 road. I've actually got broken windshield glass I've

Examination of Julie Anne Goss

1 picked up from riding over it so many times.

2 Q So these -- so these vehicles do not appear
3 the same way that you --

4 A Not at all.

5 Q -- recall?

6 A That one wasn't there at all and that's not
7 in the right direction. It was -- Gresham wasn't even
8 there. There was a Gresham officer, but not a Gresham
9 cruiser.

10 So, no, the two cruisers that I saw are not
11 even -- that -- that one's not it for sure and they're
12 not in the same direction. They were -- that one
13 wouldn't even have been there. They would have been
14 parked at an angle.

15 Q Got it. Okay.

16 A That's definitely after the fact, yeah.

17 MS. GIRT: (Indiscernible).

18 BY MR. KAUFFMAN:

19 Q Yeah. So you're -- you -- you're pointing
20 at that one. Can you just -- like, the car on the
21 right or the --

22 A This one --

23 Q -- car on the --

24 A -- right here would not have -- this one
25 right here was not there. They were not front end to

Examination of Julie Anne Goss

1 front end --

2 Q Sure.

3 A -- to him. That one was not parked there.
4 They were -- it wouldn't have been able to 'cause the
5 other two cruisers were parked behind this way and
6 this way at an angle.

7 BY MS. GIRT:

8 Q Okay. So I'm going to -- with my cursor --

9 A Mm-hmm.

10 Q -- the car that I'm circling, is that the
11 car that you're talking about not being at the proper
12 angle?

13 A Correct. That's not at the proper angle.

14 Q Okay.

15 A And the other Gresham --

16 Q And this one over --

17 A -- cop --

18 Q -- to the left that my cursor's on is the
19 other one that you're talking about wasn't there?

20 A No.

21 Q Okay.

22 A Not when they shot him, no. And they didn't
23 have their headlights or flashers on either.

24 Q Okay. And then you were saying they were at
25 an angle. Can you kind of help guide my cursor to

Examination of Julie Anne Goss

1 show the angle that the --

2 A You need to turn --

3 Q -- first one was at?

4 A -- your arrow down for the first car. That
5 would be kind of good for the second one, just further
6 up. And then the other one was just at the -- you
7 know, they were like that.

8 Q So they're more -- were their fronts kind of
9 pointing into the street?

10 A Their -- I wish my hands were straight. Can
11 you give me two pencils or something?

12 MR. KAUFFMAN: Two -- let's see --

13 MS. GIRT: Do you have a pen?

14 MR. KAUFFMAN: -- what I got here. Here's
15 a --

16 MS. GIRT: Hand me another pen.

17 BY MR. KAUFFMAN:

18 Q Oh, here we go. Does this work?

19 A Yeah. Let's just do the car again like
20 that. They were like this to him. This is one front
21 end of a car and that's another front end of a car.
22 They were kind of like that to his car.

23 Q So you have them kind of pointed diagonally
24 toward him?

25 A Yeah. They weren't like this towards his

Examination of Julie Anne Goss

1 car. They were both -- they were like this at an
2 angle and --

3 Q So they were --

4 A -- his car was --

5 Q -- kind of nose to --

6 A -- right here.

7 Q -- nose. Yeah.

8 A They were at an angle. That -- that was --
9 that's not correct. That's definitely after the fact.

10 Q Okay.

11 A Yeah. It is 'cause his windshield's not
12 there anymore.

13 Q And did you say that -- that you -- you
14 remember that there weren't any Gresham officers there
15 or was it --

16 A When they drove past me as fast as they did,
17 I could have sworn they said Portland Police. I don't
18 recognize Gresham cop cars like that.

19 Q Okay.

20 A I thought it -- it was two Portland cruisers
21 that responded. I'm almost positive about that. But
22 it certainly wasn't like that before the incident.

23 MR. KAUFFMAN: One second, please.

24 (Whispered discussion, off the record,

25 1:55 p.m.)

Examination of Julie Anne Goss

1 BY MR. KAUFFMAN:

2 Q Okay. So I want to go -- just go back for a
3 second to the -- what you witnessed about -- observed
4 about the woman getting a bat and coming out and
5 hitting the car. Did you tell that to Detective
6 Winters when he --

7 A I did.

8 Q -- interviewed you --

9 A Absolutely.

10 Q -- over the phone? Okay.

11 A I told him everything I've said here and
12 probably more.

13 MR. KAUFFMAN: Okay. Does anybody else have
14 questions?

15 Sir.

16 A GRAND JUROR: I've got one. Could you
17 tell how many different officers fired when it
18 happened? Any idea or --

19 THE WITNESS: I could not tell.

20 A GRAND JUROR: All right.

21 THE WITNESS: To me, it looked as if all
22 four of them could have shot. I'm positive about how
23 many shots I heard, but I could not tell. They were
24 all in a kneeling stance with their guns out. And
25 then I just saw gunfire, heard it and smelled the

Examination of Julie Anne Goss

1 gunpowder. But I was not positive who did it 'til I
2 saw in the news.

3 MR. KAUFFMAN: Did you have a question, sir?

4 A GRAND JUROR: And just to confirm, you
5 said that the car was not in motion --

6 THE WITNESS: It was --

7 A GRAND JUROR: -- whenever they fired
8 on it?

9 THE WITNESS: It was not.

10 A GRAND JUROR: It was not --

11 THE WITNESS: I'm certain --

12 A GRAND JUROR: -- in motion?

13 THE WITNESS: -- about that.

14 A GRAND JUROR: Are you aware how long the
15 vehicle had been stopped before they fired? Do you
16 have any recollection that it had been parked there
17 for even a couple of seconds and then it --

18 THE WITNESS: It was certainly --

19 A GRAND JUROR: -- (indiscernible) they
20 came?

21 THE WITNESS: -- less than a minute, maybe
22 less than 30 seconds. As long as it --

23 A GRAND JUROR: Okay.

24 THE WITNESS: -- took for the officers to
25 get out of their vehicles, get into a stance is how

Examination of Julie Anne Goss

1 fast -- I could not believe how fast it happened.

2 A GRAND JUROR: Right.

3 THE WITNESS: As I was yelling, "No, don't,"
4 it happened.

5 BY MR. KAUFFMAN:

6 Q Okay. So the question is, you -- you said
7 that they were in a kneeling stance or they were --
8 can you describe that?

9 A Down on one knee.

10 Q Okay.

11 A With their arms resting out like that.

12 Q So like they were -- they were --

13 A They were --

14 Q -- (indiscernible) --

15 A -- getting ready to defend themselves and
16 shoot somebody, is what it --

17 Q So --

18 A -- looked like to me.

19 Q -- were they all in that -- in that posture?

20 A It happened so quick. It seemed like all
21 four of them were in that shooting stance, yes.

22 Q Okay.

23 A I could not tell which of the four did the
24 shooting.

25 A GRAND JUROR: And where were they when

Examination of Julie Anne Goss

1 they were in that stance?

2 THE WITNESS: They were actually -- I was
3 surprised -- not behind their vehicles. They were in
4 the middle of the street in front of their vehicles.
5 I was able to see all of the officers. They weren't,
6 like, behind open doors or any -- they were in front
7 of their vehicles.

8 MR. KAUFFMAN: Anybody else?

9 (Whispered discussion, off the record,
10 1:58 p.m.)

11 BY MR. KAUFFMAN:

12 Q Okay. Okay. So I wanted to ask you about
13 the statement you just made that you -- about the --
14 the officers being in that posture. And I think you
15 said they were ready to defend themselves. What do
16 you mean by that?

17 A That's the only time with my own eyes I've
18 seen police officers get into a stance like that.

19 Q All right.

20 A When maybe they were feel -- fearful of
21 something. I don't think they needed to shoot.
22 Definitely, I don't think they needed to. I don't
23 feel they really were threatened, certainly not by his
24 vehicle. And I never saw him get out of his vehicle
25 or anything like that.

Examination of Julie Anne Goss

1 It just looked to me as soon as I saw them
2 get down like that, I knew something was going to
3 happen.

4 Q Okay.

5 A I'd never witnessed anything like this. So
6 I just knew when they did that, like, they weren't
7 going up to his car to talk to him or give --

8 Q Right.

9 A -- him orders or anything. And they
10 immediately got down. It scared me and, you know, my
11 first thought was, wow, he must be doing something to
12 them and then, all of a sudden, gunfire.

13 Q Okay. Were you -- were you by yourself at
14 the --

15 A No.

16 Q -- time? Who were you with?

17 A There was a caregiver with me.

18 Q Okay. Do you know, did he talk to the
19 police as well?

20 A It was a lady.

21 Q Okay. I'm sorry.

22 A I don't believe so. She didn't want to get
23 involved. They do have her on the security footage
24 with me out in the street. But, no, I wasn't alone.
25 That's why I said, "we." I said "we" once because,

Examination of Julie Anne Goss

1 yes --

2 Q Sure.

3 A -- I wasn't alone.

4 Q Understood.

5 A She just didn't want to get involved.

6 MR. KAUFFMAN: I understand. Okay.

7 (Whispered discussion, off the record,

8 2:00 p.m.)

9 MR. KAUFFMAN: Anybody else?

10 All right. Well, thank you very much, Ms.

11 Goss.

12 THE WITNESS: Thank you all. I appreciate

13 it --

14 A GRAND JUROR: Thank you.

15 THE WITNESS: -- too.

16 (Recess taken, 2:00 p.m. - 2:02 p.m.)

17 A GRAND JUROR: All right. We are on the

18 record. (Indiscernible).

19 (Whispered discussion, off the record,

20 2:02 p.m.)

21 MR. KAUFFMAN: Hi, there. Do we have --

22 JENNA NAPIER: Hello.

23 MR. KAUFFMAN: Hi, there. Do we have

24 Ms. Napier there?

25 JENNA NAPIER: Yes, here.

Examination of Julie Anne Goss

1 MR. KAUFFMAN: (Indiscernible) there? Okay.
2 Let's see.

3 And is Ms. Keesler there as well at the same
4 time? Okay.

5 ROBIN KEESLER: Yep.

6 MR. KAUFFMAN: Okay. Okay. So I hate to do
7 this -- do -- this is me talking, by the way. Sam
8 Kauffman, hi. So I hate to do this to you, but we
9 need to make sure that we know who's testifying. And
10 so we need you to kind of separate. I mean, you don't
11 -- you can be in the same room, but --

12 ROBIN KEESLER: That's fine. I'll -- I'll
13 go in the other room.

14 MR. KAUFFMAN: Okay.

15 ROBIN KEESLER: Yeah.

16 MR. KAUFFMAN: All right. So we need you to
17 do an oath.

18 A GRAND JUROR: Could you raise your right
19 hand, please.

20 **JENNA NAPIER**

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

24 A GRAND JUROR: Okay.

25 MR. KAUFFMAN: Okay. Can you please state

Examination of Jenna Napier

1 your name and spell your last name for the record?

2 JENNA NAPIER: My name is Jenna Napier. And
3 my last name is spelled N as in Nancy, a, P as in
4 Paul, i-e-r.

5 EXAMINATION

6 BY MR. KAUFFMAN:

7 Q Thank you. I'm Sam Kauffman. I'm a special
8 assistant district attorney and you're looking out at
9 the grand jury. You can't actually see them on your
10 screen, but, trust me, they're, like, over here
11 somewhere.

12 So, Ms. Napier, as of May 31st last year,
13 whereabouts did you live?

14 A I lived in the house that I'm sitting in
15 right now.

16 Q Okay.

17 A Do you need me to list the full address?

18 Q Yes, please. Just the -- just the number
19 and the street.

20 A Okay. It's 12334 Southeast Kelly Street.

21 Q All right. And let's see.

22 MR. KAUFFMAN: We're not going to be able to
23 show her the map, are we?

24 (Whispered discussion, off the record,
25 2:04 p.m.)

Examination of Jenna Napier

1 BY MR. KAUFFMAN:

2 Q 12234. Okay. And --

3 A Sorry, 12334.

4 Q 12334. Okay. And were you home the evening
5 of May 31st of last year?

6 A Yes, I was.

7 Q And what -- what were you all doing?

8 A We were watching a movie in the living room.

9 Q Okay. And did -- tell us -- tell us what --
10 what happened.

11 A We were watching a movie in the living room
12 and we had the noise up fairly high, but we heard a
13 commotion in front of the house.

14 I have two, you know, big windows that open
15 up right to my fenced front yard. And the commotion
16 happened just in front of my fenceline. We heard a
17 yell and then we heard shots.

18 Q All right. So when you say you heard a
19 commotion, can you please describe what you heard?

20 A I didn't quite make out what was yelled out,
21 so I can't speak to exactly what was said, but there
22 was a holler followed by a number of bullets. Not --
23 not many, maybe, I want to say, like, three bullets.

24 Q Okay. When you say, "a holler," can you be
25 more specific?

Examination of Jenna Napier

1 A I -- I mean, at this point, I'm assuming
2 they maybe said something like, "Stop your vehicle,
3 stop" --

4 Q Okay.

5 A -- "or we will shoot," or something like
6 that. But we --

7 Q All right.

8 A -- didn't quite make out exactly what was
9 said.

10 Q And was that the first -- the first thing
11 you heard, was the holler or did you hear anything
12 prior to that?

13 A No. We somehow missed some of the commotion
14 that was happening just across the street from me
15 prior to hearing, you know, this other thing.

16 Q All right. And then tell us -- tell us what
17 you did.

18 A We hit the ground. We -- we -- we got low
19 to the ground because we heard shots and they
20 obviously were very close to where we were. And then
21 kind of scampered over to the window to get a look at
22 what was happening.

23 At that time, until I looked out the window,
24 I was assuming this was maybe gang violence or some
25 other kind of stuff. I didn't know it was -- it was

Examination of Jenna Napier

1 involving the police.

2 Q All right. And then what did you see when
3 you looked out the window?

4 A I saw police cars to the left of my
5 fenceline and I saw a vehicle stopped, you know,
6 directly in front of my fence. And the police were
7 all out of their vehicles and had their guns pointed
8 at the man in the vehicle.

9 Q And so --

10 A And then I saw them pull him out of the
11 vehicle.

12 Q Okay. And this was directly in front of
13 your house?

14 A Yes.

15 Q Okay. So tell us what you observed at that
16 point.

17 A As they approached his vehicle, they -- they
18 asked him to respond. I'm not sure of their exact
19 wording. I think they asked him if -- to put his
20 hands up. And he was nonresponsive, so they slowly
21 approached the vehicle, opened up the driver's-side
22 door and pulled him out to the ground.

23 At this point in time, we realized that he
24 was nonresponsive and my partner, who is going to
25 testify after me, is a paramedic with AMR and so she

Examination of Jenna Napier

1 actually put her sweater on and offered to provide
2 CPR, which they allowed.

3 Q Okay. So that's Ms. Keesler? She works for
4 AMR and so she went out and helped them with CPR?

5 A Yeah.

6 Q All right. Did they -- did you continue to
7 watch?

8 A Yes.

9 Q Okay. What happened then?

10 A I saw Robin go out and attempt CPR for a few
11 minutes. And shortly thereafter, AMR paramedics
12 arrived that were on duty. So I don't remember,
13 actually, if they took over CPR. I think it was
14 determined by the time they arrived that he was not --
15 he was not revivable.

16 Q All right. And that -- is that -- did you
17 witness anything else or did you go back into your
18 house at that point?

19 A I stayed in the house the whole time, but --

20 Q Yeah.

21 A -- that's -- I would say that's pretty much
22 all of what I witnessed.

23 Q Got it. And then did you -- were you
24 interviewed by detectives at some point?

25 A We were that night pretty -- well, I guess

Examination of Jenna Napier

1 maybe the next morning. It was pretty late. T was --
2 it was around maybe 2:00 or 3:00 that we were
3 interviewed.

4 MR. KAUFFMAN: Okay. Any questions from the
5 grand jury?

6 A GRAND JUROR: No.

7 MR. KAUFFMAN: Yeah?

8 A GRAND JUROR: I have one, sorry.

9 MR. KAUFFMAN: Yeah.

10 A GRAND JUROR: When you saw the police
11 officers, did you take note of how many of them there
12 were?

13 THE WITNESS: I didn't take note of how many
14 there were. It looked like there were two or three
15 police cars sort of barricading the street so that he
16 couldn't drive past them. And I'm not sure of exactly
17 how many police officers were out there, but I think I
18 saw about three.

19 MR. KAUFFMAN: All right. I think that's
20 it. Thank you very much.

21 THE WITNESS: Do you want me to go get Robin
22 now?

23 MR. KAUFFMAN: That would be great, thank
24 you.

25 THE WITNESS: Okay.

Examination of Robin Keesler

1 (Pause in proceedings, 2:10 p.m. -
2 2:11 p.m.)

3 MR. KAUFFMAN: All right.

4 THE WITNESS: Hello.

5 MR. KAUFFMAN: Hey. Hello. We need to give
6 you an oath, so (indiscernible).

7 A GRAND JUROR: Could you raise your right
8 hand, please?

9 MR. KAUFFMAN: Raise your right hand.

10 THE WITNESS: Raise my hand? Oh --

11 A GRAND JUROR: Yes.

12 THE WITNESS: -- sure.

13 ROBIN KEESLER

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

17 MR. KAUFFMAN: Okay. Would you -- you can
18 put your hand down. Would you please state your name
19 for the record and spell your last name.

20 THE WITNESS: Yeah, sure. Yep. My name is
21 Robin Keesler. And my last name is spelled
22 K-e-e-s-l-e-r.

23 EXAMINATION

24 BY MR. KAUFFMAN:

25 Q Okay. And where did you live on May 31st of

Examination of Robin Keesler

1 last year?

2 A I was still living here at the time.

3 Q Okay. And can you tell us what -- what --
4 what you were doing that night?

5 A Yeah. So we were just hanging out at home
6 watching a movie.

7 Q All right. Did something happen?

8 A Yeah, a guy got shot.

9 Q Okay. Well, tell --

10 A So we had -- yeah, we had been home all day.
11 We went for a walk and this is a pretty shady
12 neighborhood. And so we see weird, you know, stuff
13 all the time, but, yeah, this guy had been parked
14 outside our neighbor's house across the street all
15 day.

16 When we went for a walk, we noticed he had
17 been sitting there and hours later, he was still
18 sitting there. So it definitely seemed strange and
19 suspicious, so we were aware that he was over there.
20 But we just sort of moved on with our day and, yeah,
21 in the evening when we were watching the movie is when
22 kind of some stuff started to go down.

23 Q All right. Do you -- do you remember --
24 you've mentioned that the -- that there was a person
25 that had been sitting out in front of the neighbor's.

Examination of Robin Keesler

1 Do you remember which neighbors it -- it was or do you
2 know who it was?

3 A Yeah, yeah. It was sitting in front of the
4 house -- the white house that's not directly across
5 the street, but one down --

6 Q Okay.

7 A -- catty-corner to us. Yeah. He had just
8 been -- 'cause we can see the -- their driveway from
9 here. And so I was like, "Man, that guy's still
10 there," just assumed he was, like, doing drugs or
11 waiting for some -- I don't know. But there's
12 oftentimes people camped out out here doing strange
13 things. So, yeah --

14 Q So you --

15 A -- he had been there (indiscernible).

16 Q Okay. So you're at 12334 Southeast Kelly;
17 is that right?

18 A Mm-hmm, yeah.

19 Q And so the car was parked across from you
20 and then maybe a couple houses down? Is that what you
21 said?

22 A One house down, yeah, just catty-corner.
23 Yeah.

24 Q Okay. Do you remember the car?

25 A Oh, gosh. It's been a while. I don't know

Examination of Robin Keesler

1 how accurate this would be. If I had to take a guess
2 from my memory, I would -- I think -- I almost think
3 it maybe was the form of a four-door, like, a kind of
4 crappy white, like, four-door car. I think it was
5 white maybe, but that's --

6 Q Okay.

7 A But I don't -- I can't recall specifically.

8 Q It was a year ago.

9 A (Indiscernible).

10 Q I understand.

11 A I mean, it was a long time ago. Yeah.

12 Q All right. So the car was there most of the
13 day. You thought that was kind of -- kind of strange.
14 What happened to --

15 A Yeah, I had never seen it before.

16 Q Yeah.

17 A Huh?

18 Q What happened as you're watching the movies?
19 Did something happen while you were watching a movie?

20 A So, yeah. Then we were watching -- watching
21 a movie. We were watching a Marvel Comics -- Marvel
22 movie, so it was fairly loud. There was a lot --

23 Q Okay.

24 A -- of, like, you know, stuff going on. And
25 so -- so, yeah, we didn't -- I didn't hear, you know,

Examination of Robin Keesler

1 everything as far as, like, super-clear details
2 (indiscernible), but we were watching the movie and
3 there was, you know -- and I don't even recall if I --
4 I don't think I even was aware of -- of stuff going
5 on.

6 I don't think anything was, like,
7 necessarily super loud or recall anything beforehand,
8 but I just know we were watching the movie and we
9 heard -- all the sudden, we heard, like, yelling
10 happening. And then shortly after the yelling, we
11 heard gunfire.

12 And then we both -- and, again, in this
13 neighborhood, it's not uncommon to hear gunfire, so we
14 kind of, like, dropped to the ground and, like,
15 started to look around where it was coming from. And
16 we noticed it was coming from the street. And then,
17 again, you know, we went to the window and looked out
18 the window.

19 And it's like, holy shit. That guy that's
20 been sitting over there all day and the police are out
21 there.

22 Q Oh.

23 A So, obviously, there had been an encounter
24 with the police. And, yeah -- and I -- and so -- and
25 then I noticed the gunfire obviously was directed at

Examination of Robin Keesler

1 him. I saw there was a -- a hole in the window and --
2 and I -- when I looked out and saw the police open the
3 door to pull him out and they initiated CPR.

4 And when I was like, oh, they're doing CPR.
5 I was like, well, I'll go offer to help, so -- I'm a
6 paramedic with AMR, so I just hollered out to them. I
7 was like, "Hey, you guys, I'm a paramedic. Do you
8 want me to help?" and they said, "Yes, please."

9 So I came out and did CPR for just a couple
10 minutes until AMR arrived. And then my coworker took
11 over CPR and --

12 Q And what -- what --

13 A -- (indiscernible).

14 Q -- what was his condition when you went out
15 there?

16 A He had a bullet -- he had a bullethole wound
17 right here under his left armpit, driver's side. So
18 -- and, you know -- and I -- I mean, he was non -- I
19 noticed that they were doing CPR, the police were, so
20 I didn't really do much of an assessment beyond that,
21 but I noticed he had a bullethole wound right here.

22 Q Oh.

23 A And I figured he was probably, you know --
24 at that point, probably deceased, but I didn't check
25 for a pulse or anything. I just continued to do CPR.

Examination of Robin Keesler

1 And -- and then when my coworkers arrived, they took
2 over CPR and then they hooked him up to a cardiac
3 monitor to confirm, you know, (indiscernible) or
4 whatever. And -- and confirmed that he was, in fact,
5 passed and was not going to be resuscitated.

6 Q Okay.

7 A Mm-hmm.

8 Q When you first looked out the window after
9 hitting the deck and then going out to look out the
10 window, how many police officers did you see at that
11 time? Do you recall?

12 A Oh, I mean, not, like, a specific head
13 count, but there was a good group of them. Yeah.
14 There was, I would say -- man, right -- obviously, a
15 lot came later.

16 Q Yeah.

17 A So let's see. This bit, my memory may be --
18 you know, I think there was -- I would -- I would
19 guess that right at the time of the incident, there
20 was probably maybe around five or so. There was a
21 good -- you know, there was a good amount. I think
22 there was probably maybe even five or six.

23 It seemed like there was a small group. I
24 think there was, like, maybe two or three in front of
25 the car and then I feel like I may be -- there might

Examination of Robin Keesler

1 have been, like, one or two somewhere else, too. But,
2 I don't know, maybe three, four, five, six -- as many
3 as six, but later, there was about -- it seemed like
4 there was, like, 20 people that showed up afterwards.

5 Q Right. Right. Okay.

6 A But, yeah, a small -- I would say a
7 (indiscernible) little handful. Mm-hmm.

8 MR. KAUFFMAN: Got it.

9 (Whispered discussion, off the record,
10 2:18 p.m. - 2:19 p.m.)

11 BY MR. KAUFFMAN:

12 Q So when you first looked out the window,
13 was --

14 A Mm-hmm.

15 Q -- the person still in the car? You know,
16 they had -- had -- or did they -- do you understand my
17 question? So was he --

18 A Yeah. So, like, we heard the shouting, then
19 we heard the gunfire, got down. And then we went to
20 the window. And when we -- when I -- when I looked
21 out the window, what I saw was pretty much they --
22 they approached and then they were, like -- noticed
23 he, you know, was nonresponsive. So I noticed them
24 pretty much immediately open the door and pull him out
25 of the car.

Examination of Robin Keesler

1 Q Okay.

2 A And then start CPR. So I think it was
3 pretty quick.

4 Q So they pulled him out and then laid him on
5 the ground?

6 A Yeah.

7 Q Okay.

8 A (Indiscernible). Mm-hmm.

9 Q And so this is kind of a strange question,
10 but do you -- do you have -- are -- you're in the same
11 house where you were before. Are you able --

12 A Mm-hmm.

13 Q Do you -- do you have any ability to show
14 us, like, out the window --

15 A Yeah.

16 Q -- what you saw?

17 A Sure.

18 Q Okay.

19 A Yeah, I can do that. Let's see if I can
20 flip the screen here. Oh, you're challenging my
21 technology capacity here, sir. No, that's -- I'm just
22 trying to flip the screen. Can I not flip the screen?
23 No.

24 Q Or you can just turn the computer around or
25 something maybe.

Examination of Robin Keesler

1 A Yeah. Yeah, I can. I was just -- it's
2 easier to show. If I could flip the screen, then I --

3 Q Right.

4 A -- could actually see what I'm showing you,
5 but maybe I can't.

6 Q If it works. If it doesn't, that's fine.

7 A Yeah, no -- no worries. I -- anyway. But,
8 yeah, so this is -- this is where we were sitting
9 watching a movie. And then that's the main window.
10 Right. So you can -- so it's pretty much directly
11 behind us.

12 And so we -- yeah. So we're sitting here
13 and then we crawled up to the window here. And then
14 -- and then the door is also right here beside the
15 window, so it's all pretty close.

16 Q Were --

17 A So, yeah, we -- we came up to the window and
18 we looked out the window here, which is, again, like I
19 said, right next to the door. So we were looking out
20 this corner window.

21 And from -- I can't see what I'm showing
22 you. Is that not (indiscernible)? But -- but, yeah,
23 looking out this window, you can see we have a pretty
24 good view of everything.

25 And it's, like, I think that, you know, the

Examination of Robin Keesler

1 car was just -- everything was just right out here all
2 along this (indiscernible) street. So we could see
3 the police officers over here. And that same car had
4 been parked all -- all day, you know, was sitting
5 right out there.

6 And then when I looked out, I could see if
7 they were approaching, opened the door and pulled him
8 out. And so I was like -- and started CPR. So -- and
9 that's when I, again, just popped my head over here to
10 the door and -- and was like, "Do you guys" --

11 Q Got it.

12 A -- "want help?"

13 Q Were -- were your blinds closed or were they
14 open at that time?

15 A They were closed.

16 Q Okay.

17 A We opened them --

18 Q You opened them up?

19 A -- afterwards.

20 Q Okay.

21 A Mm-hmm.

22 MR. KAUFFMAN: Thank you very much.

23 (Whispered discussion, off the record,

24 2:21 p.m.)

25 MR. KAUFFMAN: Questions?

Examination of Robin Keesler

1 A GRAND JUROR: No.

2 MR. KAUFFMAN: Sir?

3 We have a question.

4 A GRAND JUROR: Just a minute. She's not
5 going to be able to hear me.

6 A GRAND JUROR: Do you want to come up
7 and --

8 A GRAND JUROR: Oh.

9 A GRAND JUROR: -- talk into this?

10 A GRAND JUROR: Sure.

11 (Whispered discussion, off the record,
12 2:21 p.m. - 2:22 p.m.)

13 A GRAND JUROR: Do you recall seeing
14 emergency lights on the police vehicles?

15 THE WITNESS: Hmm. Yeah. Like, were they
16 turned on?

17 A GRAND JUROR: Yes. Yeah, that's what I
18 mean.

19 THE WITNESS: You know, I think they were,
20 yeah. I feel -- I believe that they were. I mean,
21 for sure the whole rest of the night, everything was
22 lit up. So -- and I don't know why -- why they would
23 have been turned on after. Yeah. I -- I believe the
24 police cars did have their emergency lights on.

25 MR. KAUFFMAN: Anyone else?

Examination of Robin Keesler

1 THE WITNESS: At least some of them. They
2 may not have all -- like I said, I think there were --
3 I think there were at least two or three police cars
4 out there.

5 So I think there's some team, like mutual
6 aid response and stuff, so I'm not sure if that would
7 have been true for all of them, but I do recall when I
8 looked out, seeing -- because it was also pretty dark,
9 so I think it also would have been hard to see had the
10 lights not been on. It was -- so --

11 MR. KAUFFMAN: Okay.

12 THE WITNESS: Yeah.

13 MR. KAUFFMAN: Okay. Thank you very much.

14 THE WITNESS: Okay. We can hang up now?

15 MR. KAUFFMAN: Yes.

16 * * *

17 (Conclusion of Grand Jury Proceedings,

18 Volume 2, 7-6-21 at 2:23 p.m.)

19

20

21

22

23

24

25

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

--o0o--

REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112