

1
2
3
4
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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 4

July 8, 2021

(03:36:42)

- - -

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 4</u>	
3		<u>Page No.</u>
4	July 8 2021 Proceedings	3
5	Case Called	3
6	Examination of Jamin Becker	4
7	Examination of Clifford Nelson	36
8	Examination of Jeffrey Shearer	44
9	Examination of Dorothy Stout	67
10	AFTERNOON SESSION	82
11	Examination of Travis Law	82
12	Examination of James Doyle	85
13	Examination of Brendon Hayes	158
14	Reporter's Certificate	189
15	* * *	
16		
17		
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 4, Thursday, July 8, 2021, 8:36 a.m.)

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

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

12 MS. GIRT: Okay. We are on the record on
13 Thursday, July 8 and this is Amity Girt. We're back
14 in Grand Jury A. This is Case No. 63, resuming
15 witness testimony. And our first witness this morning
16 is going to be Officer Jamin Becker with the Forensic
17 Evidence Division.

18 All right. Are you ready?

19 THE WITNESS: Yeah.

20 MS. GIRT: Okay. Come on in. Okay. We'll
21 have you just remain standing while we'll get you
22 sworn in. Raise your hand for us.

23 **JAMIN BECKER**

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

Examination of Jamin Becker

1 A GRAND JUROR: Do you want him to take his
2 mask off?

3 MS. GIRT: Yeah.

4 A GRAND JUROR: You want to -- you can
5 remove your mask off.

6 THE WITNESS: Oh. That'll probably make it
7 easier for everyone to understand.

8 MS. GIRT: Okay. All right.

9 Okay. We'll go ahead and get started by
10 having you state and spell your first and last name.

11 THE WITNESS: Jamin Becker, J-a-m-i-n,
12 B-e-c-k-e-r.

13 EXAMINATION

14 BY MS. GIRT:

15 Q All right. And are you an officer with the
16 Portland Police Bureau?

17 A Yes.

18 Q And where are you assigned?

19 A I am assigned to the Forensic Evidence
20 Division out of Central Precinct.

21 Q Okay. In a nutshell, can you just tell us
22 what the Forensic Evidence Division does?

23 A We document crime scenes, collect and
24 process evidence from the scenes. That's kind of
25 the -- the broadest description of what we do.

Examination of Jamin Becker

1 Q Okay. And so how long have you've been
2 doing that work with FED?

3 A I have been there for about five-and-a-half
4 years now.

5 Q All right. And is one of the tools at your
6 disposal while documenting the crime scene work that
7 you do, is it -- do you have access to a scanner
8 that's referred to, the Leica Scanner?

9 A Yes.

10 Q Okay.

11 A The Leica Laser Scanner.

12 Q Okay. So why don't you just give us a
13 little bit of background about when the Bureau started
14 using a version of Lecia and what it can do?

15 A I believe we started back in 2012, if my
16 memory serves. The Lecia Laser Scanner was developed
17 kind of as a surveying tool. I don't know if anyone's
18 familiar with lidar or total stations, but those are
19 kind of the earlier versions of it that would allow
20 you to locate something in 3 Dimensional space and
21 take measurements.

22 The Lecia Laser Scanner takes that a step
23 farther and when placed into a given environment and a
24 scan is done, it uses a laser beam to measure every
25 surface it can see. It knows the exact distance to

Examination of Jamin Becker

1 that surface, the angle that the laser impacts it.

2 All that data is recorded in what we
3 referred to as a "point cloud." Multiple scan
4 stations can be put together into a registered point
5 cloud that then kind of you can scan from different
6 angles to catch blind spots.

7 Put that all together to create a unified
8 scene. We use that tool to document crime scenes as
9 we find them and that way forever preserve the
10 location and distances of everything in there before
11 its been disturbed.

12 Q Okay. And --

13 A Before we disturbed it.

14 Q Sure. And can it be used indoors and
15 outdoors?

16 A Indoors or outdoors, yes.

17 Q All right. And so in regard to the case
18 with the shooting that happened last May 31st of 2020,
19 what was your involvement as far as your role in
20 forensic evidence with that case?

21 A My role with that particular case was when
22 the scan data was completed and brought back to the
23 office, I downloaded the scan data. I downloaded the
24 photos that go with it, because it takes separate --
25 so photos are taken separately. And then the point

Examination of Jamin Becker

1 cloud is colorized off the photos.

2 So I downloaded all that data. And I did
3 what we referred to as "post-processing." I used a
4 program called Cyclone, which allows us to take all of
5 that data, align it, register it, validate its
6 accuracy, and produce the final point clouds that we
7 can actually show you here on the screen.

8 Q Okay. And are you -- as far as everyone at
9 forensic evidence, are there some folks that do more
10 of the Lecia work than others?

11 A Yes. There are three of us that do
12 post-processing and then most of the criminalists are
13 trained on the actual scanning itself.

14 Q Okay. And so does that require you in that
15 role to have a fairly good working knowledge of how
16 this program works?

17 A Yes. And I did a dedicated 40-hour training
18 early on in my time of forensics to learn how to use
19 the Cyclone software and the scanner together.

20 Q All right. So for this case then, are you
21 ready to pull up the data for this particular scene
22 out on Southeast?

23 A Yes.

24 Q Let's start with the -- we're only going to
25 have you talk about Southeast Kelly Street.

Examination of Jamin Becker

1 A Okay.

2 Q That location.

3 A So let me get this loading. So what you're
4 looking at here is a top-down perspective of the final
5 scene area. Each of the red dots represents where a
6 scan station was.

7 One thing that you might notice in the data
8 is some circles on the ground. That's because the
9 scanner has a 270-degree arc that it can see. It --
10 basically, it can't see its own feet.

11 So there would be thinner spots in the data
12 where the tripod was and those get filled in from
13 other ones. So if you look at that and wonder what is
14 that, that's what it's from.

15 Q Okay.

16 A So this allows us to drop into any one of
17 the scan stations. We can see the panoramic image or
18 we can view it as the point cloud, which allows us to
19 do measurements and things like that.

20 Q Okay. Let's start with the one that is
21 really smack dab in the middle of your screen there.

22 A Scan Station 1.

23 Q Okay.

24 A So this is the photographic version.

25 Q And so your -- with your cursor then

Examination of Jamin Becker

1 allowed to just do sort of -- can you go all the way
2 around and do kind of a 360 through there?

3 A Yes.

4 Q Okay.

5 A So this -- this particular view, you are
6 captured in the scanner's eye basically. We can zoom
7 in and out a little bit because of the resolution of
8 the photos, but we can't really walk around.

9 Q Okay.

10 A So that's the -- that's the blind spot I was
11 talking about.

12 Q All right. And so as you -- as you jump
13 around -- and you will do that in just a second to
14 some of those different scan stations -- if you see
15 something like, for instance, the back tire on that
16 white truck that's right there.

17 A This one here?

18 Q And if I wanted to know how far is it to the
19 front bumper of the patrol car on your right, can you
20 draw that distance and find it?

21 A Yeah. So we can use the measure tool. And
22 this is going to be using the underlying point cloud
23 data. So here I'm just going to go off the -- the
24 back mud flap, 'cause that's an easy point to get.
25 And then I'm going to go to, let's see here. We'll go

Examination of Jamin Becker

1 to the headlight here.

2 You can see how that circle starts to change
3 angles? That kind of gives me an idea of what I might
4 be grabbing onto because it's trying to show me what
5 surface it's aligned to. So this is to the headlight
6 of the car.

7 Q Okay.

8 A So that gives us 7.25 meters. Maybe I can
9 change that to something a little bit normal for us.

10 Q Please do.

11 A This thing -- it's made in Europe and so it
12 always defaults to -- there we go.

13 Q All right.

14 A 23.8 feet. That makes more sense to me.

15 Q Okay. And then, similarly, I don't know if
16 you're in -- if you're in the right scan station for
17 this, but if we were to inquire about the distance
18 from the edge of the, you know, front driver quarter
19 panel that's shown where the white meets the dark blue
20 on the patrol car.

21 A You talking about this area right here?

22 Q Yeah.

23 A Uh-huh.

24 Q Over to the same quarter panel or corner of
25 the black sedan.

Examination of Jamin Becker

1 A So --

2 Q The distance there.

3 A Yeah. Let me -- so I'm going to go -- this
4 is now point cloud data, which is why it suddenly
5 looks more pixilated because --

6 Q Okay.

7 A -- it's --

8 Q And I guess what I --

9 A It's showing the data that has now been
10 colorized.

11 Q Got it.

12 A So it's probably going to be more accurate
13 if we do a wheel-to-wheel measurement.

14 Q Okay. So you're dropping it then from
15 the --

16 A So I'll go from -- I'll try to grab the hub
17 of this wheel --

18 Q Okay.

19 A -- and then come right across here. And
20 that's going to be really close to the hub, so that's
21 10.8 feet.

22 Q All right. And so just for purposes of the
23 record, also background, are you familiar with kind of
24 the basics of what this case involved?

25 A Yes.

Examination of Jamin Becker

1 Q So that measurement that you just did for us
2 then, to make the record clear, are you measuring from
3 the front left tire of Officer Doyle's patrol car to
4 the front left or driver's side tire of Mr. Berry's
5 car?

6 A That is correct.

7 Q Okay. And so that distance of 10.85 feet
8 from tire to tire, is that a reflection based on Lecia
9 data to show how far the cars were apart when they
10 came to rest?

11 A Yes.

12 Q Okay.

13 A That is correct.

14 Q All right. Okay. So let's go to a scan
15 station that is a little further -- let me think about
16 this -- east down the road there.

17 A East. You want -- so, let's see, like, this
18 one or this one down here maybe?

19 Q Let's go to the furthest one down there.

20 A All right. Let me see if I can't do this.
21 There we go. All right. So we're back in the photos
22 now. Let's go ahead and give you a picture view.

23 Q Okay. And are you familiar that we had
24 somebody aware -- through the investigation, that we
25 had some neighbors that were witnesses that were out

Examination of Jamin Becker

1 in the street when this happened that live out of --
2 if you keep going the direction you're going -- right
3 in that white house there that's pictured.

4 A Yes. I was aware that there were some
5 people in the street.

6 Q Okay. With those trash cans right in front
7 there?

8 A Okay.

9 MS. GIRT: Okay. So if you were to come out
10 and -- we got a little bit of a glare. Can you guys
11 see that okay?

12 A GRAND JUROR: Yeah.

13 MS. GIRT: Let's maybe pull one of the
14 window shades down.

15 A GRAND JUROR: (Indiscernible).

16 MS. GIRT: Oh. There we go.

17 A GRAND JUROR: Yeah.

18 MS. GIRT: There we go.

19 A GRAND JUROR: Oh, yeah.

20 THE WITNESS: Oh, wow.

21 MS. GIRT: Let's get the theater lighting
22 set up here.

23 (Pause in proceedings, 8:46 a.m.)

24 MS. GIRT: Oh. And that's helping out.

25 THE CLERK: I'm going to move your backpack

Examination of Jamin Becker

1 in the window.

2 A GRAND JUROR: Oh, thank you.

3 MS. GIRT: All right.

4 THE WITNESS: Very fancy.

5 A GRAND JUROR: That was cool.

6 BY MS. GIRT:

7 Q So now if you were to look at that image of
8 the screen right there, there's a driveway associated
9 with that white house.

10 A Right here?

11 Q Yes.

12 A Okay.

13 Q And why don't you give the jury an idea of
14 sort of the base of that driveway out kind of maybe in
15 the middle of the street. From that location, you can
16 see that -- you can see the shadow of the scan station
17 there.

18 A Mm-hmm.

19 Q Back down towards, you know, the back of
20 Mr. Berry's car.

21 A So from here to the back of this vehicle?

22 Q Yes.

23 A All right. Let's see if I can get this all
24 in one view here, so bear with me here. I want to
25 make sure I'm at the right driveway here.

Examination of Jamin Becker

1 All right. This driveway here?

2 Q Yes.

3 A Does that look right? Okay.

4 Q And I do recognize that there is a driveway
5 belonging to the house next door that's, like,
6 immediately adjacent.

7 A Is that right here?

8 Q Yeah.

9 A It looks like -- yeah. We got the garbage
10 can right in between.

11 Okay. So if we go from the back of the car
12 here and that looks like to me that it's probably
13 about the center of the driveway.

14 Q Okay.

15 A So that gives you 79 feet.

16 Q Okay. And then some times when we talk
17 about distances, especially when cars are involved on
18 the streets, people use a reference point of a "car
19 length" or "two car lengths."

20 A Mm-hmm.

21 Q Can you give us just an idea by taking a
22 measurement of both of those cars that are parked
23 along the side of the street there, the truck and the
24 SUV behind it.

25 A Yes.

Examination of Jamin Becker

1 Q Give us an idea of what a "car length"
2 might -- might range from.

3 A Yeah. Because they definitely do vary. And
4 this is something -- this truck here, that's going to
5 be a quad-cab truck, so that's definitely going to be
6 longer than your average Toyota Corolla or something
7 like that.

8 So we will try to grab the nose of that and
9 let's see if we can't get the back fin on that one.
10 So that would be 41 feet for two cars plus a space in
11 between.

12 Q Okay. And then how about the length of
13 Mr. Berry's car?

14 A Certainly. If we get too many measurements
15 here, we'll just reload the program, so we don't have
16 to try and look at all of them.

17 Q Okay.

18 A Now, let's see. That would gives us 16.9.

19 Q Okay.

20 A I'm going to rotate down and see what we
21 actually -- right over here, I can't tell for sure
22 what we actually grabbed on to for that measurement.
23 Oh, that's pretty good. That's actually -- so that's
24 a little bit longer than -- than in reality because we
25 got an angular measurement there.

Examination of Jamin Becker

1 Q Okay.

2 A That gave us 16.9. So let me see what
3 happens if I get the side of the car here. This is
4 the one tricky thing with this particular view of the
5 point cloud data is you can't -- you don't have quite
6 the level of control over which points you're looking
7 at as you would in Cyclone itself.

8 Q Right.

9 A So that gives about 15 feet. So 15 to
10 16 feet, depending on exactly which part of the car
11 you measure. That looks like it's more of a
12 bumper-to-bumper measurement.

13 Q And that's a sedan. That's Mr. Berry's
14 sedan that you're measuring?

15 A Yes.

16 Q Okay. Okay. And then, in conjunction with
17 preparing for today's grand jury, did you have an
18 opportunity to view the body-worn camera footage from
19 Officer Doyle's camera?

20 A Yes, I did.

21 Q Okay. And for -- what purpose did you view
22 that footage -- probably more than one time I'm
23 guessing -- to kind of use it in conjunction with
24 Lecia?

25 A One of the big questions that we wanted --

Examination of Jamin Becker

1 we were hoping to answer was going to be how far away
2 was he from the patrol car at the moment acceleration
3 started.

4 Q Okay.

5 A And --

6 Q And I'll let you know, too, just -- the
7 Grand Jury has not seen the body-worn camera yet.

8 A Okay.

9 Q They will see that later, but sort of in
10 anticipation of that, can you see the acceleration on
11 camera as it begins?

12 A For me, it was more what I could hear. I
13 can hear where the -- the engine starts to rev. I'm
14 going to reload this, so we're not looking at all of
15 those measurements.

16 Q Sure.

17 A It'll make it much simpler. Yeah. So there
18 was definitely a point where you can hear the engine
19 start to rev. That was --

20 Q Okay.

21 A And usually I didn't see much.

22 Q All right. And so when you watch the
23 body-worn camera and looked and listened for that
24 point in the video where the engine starts to rev,
25 what sort of locations or locator, you know, spots on

Examination of Jamin Becker

1 the street you were able to identify as possible
2 measurement points for that?

3 A So the best thing that I could see and I
4 might actually need to look at the video again to
5 confirm which vehicle, but the headlight cone is only
6 illuminating certain things.

7 So there can be an assumption made that the
8 vehicle has to be passed certain things because the
9 headlights aren't on it anymore. To me, that was the
10 best indicator we have of location within the scene.

11 I will say there's a distinct limitation in
12 that I don't know what the cone spread of that
13 particular vehicle is. I don't know if it's, you
14 know, 90 degrees out to the side of the car or if it's
15 70 degrees or where that cone exactly is. So there's
16 a -- a -- definitely a margin of error.

17 Q Okay. And so then, to follow up on that,
18 when you start to kind of going into some of these
19 estimated distances, is there a -- sort of a range
20 that is built in within there because of his margin of
21 error?

22 A Nothing that I can give you with a true
23 scientific certainty.

24 Q Sure.

25 A I can say some -- this is -- this is in

Examination of Jamin Becker

1 darkness and this not.

2 Q Yeah.

3 A And so it would be whatever that space is in
4 there.

5 Q Okay. So --

6 A You know, it's definitely as rough
7 measurement.

8 Q Okay. And so why don't you describe -- so
9 just looking at the -- the down -- the bird's eye view
10 there that we have, I see that green trash can --

11 A Mm-hmm.

12 Q -- up there. And that was a trash can,
13 correct, that was separating those two driveways that
14 we saw?

15 A That's correct.

16 Q And then I see that gray car parked behind
17 that --

18 A This guy here?

19 Q Yep.

20 A Mm-hmm.

21 Q Parked behind that longer truck. And so how
22 did those -- kind of those two locators come into play
23 when you were trying to estimate the point of
24 acceleration?

25 A Early on in the video, you can see some

Examination of Jamin Becker

1 light on that garbage can. From my watching of the
2 video, I -- the point that I could hear the
3 acceleration, the revving of the motors start, this
4 back quarter of this vehicle is in darkness.

5 So, you know, if we assume that there's some
6 sort of a coning effect of the headlights because we
7 know lights not going to shine straight out to the
8 side, I think it's very safe to say that the front of
9 the vehicle, the suspect's vehicle, is somewhere in
10 this area. You can't see the garbage can anymore.
11 The lights off it.

12 Q Right.

13 A You can't even see the back of this. So
14 best estimate with, you know, based on the single
15 point perspective of the camera, which does distort
16 distance --

17 Q Mm-hmm.

18 A -- is that the front of the vehicle would've
19 been in this general area here.

20 Q Okay. So then also your -- your efforts to
21 compare the body worn with the sound of the
22 acceleration and using your Lecia, would you agree
23 that that's limited by, in effect, as you just said,
24 some of the distortion on a -- on the camera lens
25 angle in this instance?

Examination of Jamin Becker

1 A Right.

2 Q Okay.

3 A And not only the distortion, because thee's
4 the corrected version, but the focal length of the
5 lens --

6 Q Okay.

7 A -- causes distance to either compress or
8 extend visually.

9 Q Okay.

10 A And I don't know exactly what those numbers
11 are for every given lens.

12 Q Okay. All right. So using that sort of
13 kind of broad -- broad, sort of wider estimate of
14 being -- Mr. Berry's car was somewhere towards the
15 rear of that silver SUV?

16 A Mm-hmm.

17 Q If you were just drop a point and give us,
18 basically, to where it came to rest.

19 A So the back of the car would be about 44 or
20 45 feet.

21 Q Okay. And so, previously, you had estimated
22 that Mr. Berry's car length was around 15 feet; is
23 that right?

24 A Yeah, I think so. I have a printout here
25 that I made, so I can go back and reference those.

Examination of Jamin Becker

1 MS. GIRT: Yeah.

2 A GRAND JUROR: 14.8.

3 MS. GIRT: 14 --

4 THE WITNESS: Thank you. 'Cause I actually
5 don't have a print out of that one.

6 BY MS. GIRT:

7 Q Okay. All right. So using Mr. Berry's car
8 as a car length point of reference, his sedan, about
9 how many car lengths would be that his sedan traveled?

10 A Well, I'm going -- redo this 'cause we're
11 looking at really front-of-car to front-of-car.

12 Q Yes. Right.

13 A Which should be about 60 feet. So that's
14 roughly four car lengths.

15 Q Okay. Okay.

16 A For his car.

17 Q Okay. From where the car came to rest.

18 A Yeah.

19 Q And then what about if you were to go -- and
20 it's not quite in view in this image -- but to measure
21 it sort of in line with the driver's side, you know,
22 quarter panel of Officer Doyle's car.

23 A Let me -- there we go. Get back down here
24 then. Okay. So his -- his car --

25 Q Mm-hmm.

Examination of Jamin Becker

1 A -- to which point?

2 Q Back down towards that sort of generalized
3 area where the back of that silver sedan --

4 A Gotcha.

5 Q -- we already measured from. And not like
6 a, you know, like, sort of a diagonal line, but more
7 of a straight on line.

8 A Okay. Let's see here. That's going to
9 require some perspective changing here.

10 A All right. So we'll try that, go about
11 straight up there down to -- that should be about,
12 again, the center of his wheel.

13 Q Okay.

14 A Be about 58 feet.

15 Q Okay.

16 A Which makes sense because if you look here,
17 the front of this car is almost directly in line with
18 his front wheel well.

19 Q Okay. Okay. If we were to take -- and this
20 is going to probably -- well, perspective change
21 possibly. That white truck that I mentioned --

22 A This one right here?

23 Q Right -- yep, right at the beginning of your
24 testimony.

25 A Yes.

Examination of Jamin Becker

1 Q If we were to go from the front of that
2 white truck.

3 A We have a crash.

4 Q Okay. Too many distances. Okay.

5 A Too many. That's all right. I'll -- while
6 that reloads --

7 Q Okay.

8 A -- from the front of that truck to --

9 Q Front of the white truck, but also there is
10 a light pole that is kind of right in front of that
11 white truck. And --

12 A Let's see here. So let's look at this
13 scanner station. Or the mailbox? That what you're --

14 Q Yeah. I'm sorry. Not a light pole. The
15 mailbox there.

16 A Gotcha.

17 Q And that marks the beginning of another
18 driveway. If we were to go from -- let's take it
19 actually from the mailbox that marks the front of that
20 driveway to the front of Officer Doyle's car.

21 A Do you want to try to keep that one linear
22 of than angular right now?

23 Q Yeah.

24 A All right. I think we are making this
25 computer really work for it today.

Examination of Jamin Becker

1 Q Yeah.

2 A That's all right. All right. So roughly
3 straight down from there. So that should be right
4 about to the push bumper on the front of his car.
5 Would be 47.7. Let me check that again. Let's see
6 how that looks. Right about that point.

7 Actually, we're -- I -- no. I'm a couple
8 feet past the mailbox there. This is where
9 perspective starts to really play tricks on you.

10 Q Sure.

11 A That's 45. So when I would -- one of the
12 things that we can't do in this -- actually, I'm
13 sorry. You know, I can do it. New version of the
14 program.

15 So there's two views. You could look at a
16 perspective view, which tries to give you depth
17 perspective. And then you could look at it what's
18 called orthographic view.

19 And I forgot the new version of this has the
20 orthographic view. So you can see where the lines are
21 in different spots because from perspective, it was
22 off.

23 Q Sure.

24 A So the -- the 45.6 feet, that would be, in
25 the -- in the orthographic view, that's the more

Examination of Jamin Becker

1 accurate measurement.

2 Q Okay.

3 A 45 feet.

4 Q And then the last one that I -- distance
5 that I wanted to ask you about is on the other side of
6 the street, you see those two cars that are parked
7 right, you know, the back of the -- yep. The truck
8 and the silver car.

9 A Yep.

10 Q That -- from this standpoint of here to run
11 almost the distance of a residential street front. A
12 yard, you know, yard frontage.

13 A Yeah, they do.

14 Q And so just to get an idea of, you know,
15 with that particular yard frontage for that residence,
16 what -- what is that distance?

17 A All right. Oops. Sorry. Wrong button.

18 All right. So the front of that truck, the
19 back of the car, 42 feet.

20 MS. GIRT: Okay. All right. Okay. So that
21 was a bunch of distances that we just have you run
22 through. There may be some others that jurors or I
23 think counsel want to ask you about. Do you have any
24 other things you want to ask about?

25 MR. KAUFFMAN: No, I don't.

Examination of Jamin Becker

1 MS. GIRT: Okay. Do you guys have some
2 other things you want him to measure for you?

3 Okay. Any other questions?

4 A GRAND JUROR: Actually, could we get the
5 full length of the -- not the length, the width of the
6 road?

7 MS. GIRT: Oh, yes.

8 A GRAND JUROR: From side to side?

9 THE WITNESS: Yes. And I will tell you,
10 it's a little harder to see in this scan data. And if
11 I drop back into one of the camera views, it might be
12 able to -- I might be able to demonstrate what I was
13 noticing when I was reviewing this data.

14 Okay. This is a great example.

15 A GRAND JUROR: Mm-hmm.

16 THE WITNESS: If you look in here -- so this
17 is some grass. Then you got gravel. And then you
18 have this very indeterminate and a random road edge.

19 A GRAND JUROR: Right.

20 THE WITNESS: As is so very common,
21 especially in the eats part of Portland. So telling
22 you a road width is a slightly arbitrary decision --

23 A GRAND JUROR: Mm-hmm.

24 THE WITNESS: -- of where I'm going to draw
25 these lines, but --

Examination of Jamin Becker

1 MS. GIRT: And I -- and I have -- we can do
2 that. And I have another one sort of on top of that.
3 What if we were to go from the edge of two cars parked
4 on either side to show how --

5 THE WITNESS: Kind of like a usable road
6 width?

7 MS. GIRT: Yeah.

8 A GRAND JUROR: Mm-hmm.

9 BY MS. GIRT:

10 Q What is the usable road width?

11 A I actually have, I think, a picture I can
12 bring up to show you that.

13 Q Okay.

14 A Let me do this measurement. I -- I'm going
15 to say this looks to me like the road here and it
16 would probably extend about to there as I think where
17 the gravel starts.

18 23 point -- almost 24 feet. That's kind of
19 the number I came up with routinely was anywhere
20 between 23 and 25 feet, depending on where I was
21 measuring the road.

22 Q Okay.

23 A Let me see if I have the image that I think
24 I do. What I was able to do in Cyclone, you can
25 choose points, create an artificial line in between

Examination of Jamin Becker

1 them, and then extend that line out.

2 So as you are asking what would be the
3 usable road width at any given point, I did that very
4 thing by putting points on the edges of the tires of
5 those cars and creating an artificial curb line. So
6 let me see if I can't find that image to show you.

7 So these little -- the stars, those are
8 vertexes that I put in based on single point. And
9 then I extended those lines out to try to give kind of
10 a if you were driver, what was -- what's you're actual
11 usable road width at any point? And about 18 feet --

12 Q Okay.

13 A -- is what I came up with. You could
14 probably get a couple more feet if you were driving
15 off into the weeds here.

16 Q Uh-huh.

17 A But to stay on the -- the actual blacktop
18 and not run into cars, you got about 18 feet of usable
19 road space.

20 Q Okay.

21 A And to put that into perspective, with the
22 wing span of side mirrors, your car is between seven
23 and eight feet wide.

24 MS. GIRT: Okay.

25 ////

Examination of Jamin Becker

1 BY MR. KAUFFMAN:

2 Q I just want one measurement.

3 A Absolutely.

4 Q If you -- if you go back to the original,
5 can you -- can you measure the distance from the,
6 basically 122nd or the Kellyville facility that's on
7 the corner there -- it's not quite on the corner.

8 MS. GIRT: It's going to be 122 and Kelly.

9 THE WITNESS: That depends on whether or not
10 the data is all there.

11 BY MR. KAUFFMAN:

12 Q Okay.

13 A Because our scan is limited.

14 A GRAND JUROR: What is the distance on
15 the -- on your scan?

16 THE WITNESS: The scanner itself can, in
17 some cases, capture I want to say almost a kilometer
18 away, but that's not usable data. That would be like
19 it pinged the top of a downtown skyscraper while we're
20 scanning a scene.

21 I actually don't know what our -- like, I,
22 don't -- and I don't know if Lecia even has this
23 number published, "Where does your really good data
24 end on every given resolution?" Because there are
25 different scan resolutions as well.

Examination of Jamin Becker

1 It can reach out a long ways, but the -- the
2 farther it goes, the angle between the laser strikes
3 gets bigger and bigger and bigger and bigger and
4 bigger and bigger until it just becomes kind of random
5 dots out there.

6 And also this data was slightly cropped down
7 to make the scene a usable size. So there's -- in the
8 raw data, there's going to be more scattered stuff
9 that's way out there that's not immediately visible
10 here.

11 A GRAND JUROR: Okay.

12 THE WITNESS: And, well, actually, it looks
13 like this did import a lot of that data and didn't
14 crop it down so much. That's why you see these all of
15 these random treetops. So -- I'm sorry, we got off on
16 quite the rabbit track there.

17 MS. GIRT: Yeah.

18 THE WITNESS: Do we have the area that
19 you're asking for in this measure -- in this scan?

20 MS. GIRT: So I would say sort of complex
21 residential facility that's right on the corner of
22 122 and Kelly?

23 A GRAND JUROR: If there was one, yes.

24 THE WITNESS: Okay. So I would say we -- we
25 very likely don't have that in the scan data. Yeah.

Examination of Jamin Becker

1 Especially if you're saying if it's down here.

2 A GRAND JUROR: Yeah.

3 THE WITNESS: We wouldn't have that.

4 A GRAND JUROR: Okay.

5 MS. GIRT: Okay.

6 THE WITNESS: That would've been obscured by
7 trees, houses and things like that.

8 MS. GIRT: Okay. Okay.

9 A GRAND JUROR: Thanks.

10 THE WITNESS: We can probably Google Map it
11 for you, though.

12 A GRAND JUROR: I'm good.

13 THE WITNESS: I mean, that's -- that's
14 probably where I would go if --

15 A GRAND JUROR: Yeah.

16 THE WITNESS: -- if I needed something like
17 that on a short notice. Just, you know, Google Map
18 between two addresses.

19 BY MS. GIRT:

20 Q Can you -- before we talk about the usable
21 road being about 18 feet, can you give us the width of
22 Officer Doyle's car and the width of Mr. Berry's car?

23 A Yes. Mr. Berry's car, wheel to wheel, I
24 think it was about six feet and that was, again, using
25 those wheel hubs as a measurement point. I will -- I

Examination of Jamin Becker

1 will make an attempt to measure that for you here. It
2 got tricky because you kind of have to look at it from
3 one side and then rotate it around to the other, which
4 is easy to do in Cyclone, because I can just pick
5 points and then do the measurement.

6 But I'm afraid that this -- yeah, it won't
7 let me rotate it around. We'll see that. Well,
8 that's 5.6 feet. That's really close to where the
9 wheel is. Let me rotate around now and see what we
10 actually grabbed on to there. I think they grabbed
11 the inside of the wheel, so it would be roughly six
12 feet of the wheels.

13 Q Okay.

14 A From the outside of each wheel.

15 Q Okay.

16 A And, like I said, then with the wing span,
17 it create -- the side mirrors create, you're usually
18 looking seven and eight feet --

19 Q Okay.

20 A -- for a car like that. And then let's see
21 if we can get you a decent measurement on this one.
22 Computer struggling here. All right. That's 6.6 --

23 Q Okay.

24 A -- on the patrol car. Seems right because
25 it seems like the Explorers are a little bit wider.

Examination of Jamin Becker

1 Q Okay.

2 A So it seems like a reasonable -- again, that
3 may have grabbed data on the inside of the wheel well
4 rather than the outside. No. It's right on the
5 inside of the fender. That's a good measurement. I
6 like that one.

7 MS. GIRT: Okay. Other measurements that
8 you like Officer Becker to put on screen for us?

9 All right. They're saying no, so thank you
10 very much.

11 THE WITNESS: You're welcome.

12 MS. GIRT: We can go off the record.

13 (Recess taken, 9:10 a.m. - 9:17 a.m.)

14 MS. GIRT: All right. We're on the record,
15 so go ahead and have you raise your right hand.

16 THE WITNESS: Can't hear.

17 THE CLERK: Can you hear me now?

18 THE WITNESS: I can't hear her.

19 MS. GIRT: Okay.

20 THE WITNESS: I hear you fine. I just --
21 she's just very, very soft.

22 MS. GIRT: All right. She's going to wave
23 then.

24 THE WITNESS: I'm coming.

25 ////

Examination of Clifford Nelson

1 CLIFFORD NELSON

2 Was thereupon called as a witness on behalf of the
3 State; and, having been first duly sworn, was examined
4 and testified as follows:

5 MS. GIRT: Thank you. All right. Let's
6 start out by having you state and spell your first and
7 last name.

8 THE WITNESS: Clifford Nelson,
9 C-l-i-f-f-o-r-d, N-e-l-s-o-n.

10 DIRECT EXAMINATION

11 BY MS. GIRT:

12 Q All right. And, Dr. Nelson, are you -- were
13 you up until very recently at the Oregon Medical
14 Examiner's Office?

15 A I'm still am.

16 Q Still am.

17 A For a few months.

18 Q Okay. I'm sorry. What was the time frame
19 you just gave me?

20 A For a few more months.

21 Q Few more months. Okay. And then you're
22 going to be retiring; is that right?

23 A Yeah. I'll still be in the area, so I'll be
24 covering my old cases.

25 Q Okay. And so as a -- as a doctor at the

Examination of Clifford Nelson

1 Medical Examiner's Office, can you tell us what you do
2 on a day-to-day on basis.

3 A Sure. Primary duty is to oversee and
4 conduct death investigations. This can be anything
5 from taking a phone call or filling out a death
6 certificate on a case in which we decline
7 jurisdiction.

8 But there's no attending physician to --
9 working with the investigators who have done the scene
10 examination and doing a full autopsy with toxicology,
11 et cetera.

12 Q All right. And about how many autopsies
13 have you performed in your career?

14 A Ah, it's over 5,000. I don't know an exact
15 number.

16 Q Okay. And how long have you've been at the
17 Oregon Medical Examiner's Office?

18 A Since August 1 of 1996.

19 Q Okay. And on June 1st of 2020, did you
20 perform an autopsy on Israel Berry?

21 A I did.

22 Q Okay. And was that within about a 24-hour
23 period of his death?

24 A I believe so.

25 Q Okay. And can you just walk through the

Examination of Clifford Nelson

1 process you used to investigate Mr. Berry's cause and
2 manner of death?

3 A Sure. What we'll do is wait for
4 investigators to give us some information. They'll
5 usually have at least a preliminary report written you
6 before we start. They'll usually have made
7 arrangements after calling me to get whoever's going
8 to attend the autopsy there at whatever time when
9 designated.

10 Usually, that is a -- somebody from law
11 enforcement as far as detective. In the case like
12 this, it's going to usually be from an outside agency
13 besides of with the officer involved.

14 The district attorney for the county
15 involved, and then somebody from the Crime Lab to
16 collect evidence and take photographs. We also take
17 our own photographs, which are primarily what we like
18 to use for testimony.

19 Q Okay. And so you describe kind of who's in
20 the room, so to speak, and who would come to an
21 autopsy like this. And then why don't you walk
22 through the process of that you use to perform an
23 autopsy and -- go ahead.

24 A Okay. The next thing that we would have --
25 be have when we know when that there's a projectile

Examination of Clifford Nelson

1 involved, we would have a person X-rayed to see how
2 many and where they're at. So we have some kind of
3 guide going on when we do the autopsy.

4 Then they get a description from head to toe
5 with their clothing on, another description that's
6 added on -- you know, printed that one after we
7 removed clothing, we can clean the body and -- which
8 would also include of the description of all gunshot
9 wounds present in a case like this.

10 And then we would start what most people
11 think of as the autopsy, which is opening the person's
12 chest, abdomen, head to look and see what organs have
13 been issued -- or injured and what structures have
14 been injured.

15 Q Okay.

16 A And -- and, finally, the last thing is to --
17 is -- will be trying to recover the bullet as part of
18 the evidence, which would be turned over to Crime Lab.

19 Q Okay. And so, in this case, can you walk us
20 through your findings in sort of the -- the order in
21 which you just described?

22 A Yeah. I just lost a (indiscernible) on
23 another screen.

24 MS. GIRT: That's okay.

25 (Pause in proceedings, 9:23 a.m.)

Examination of Clifford Nelson

1 THE WITNESS: Okay. Really, the only
2 significant finding is gunshot wound to the chest. It
3 enters his chest -- well, actually, first, it enters
4 his -- the back of his left arm in the triceps goes
5 through the triceps.

6 Then re-enters the body by going into the
7 left side of the chest where it -- it goes through the
8 left fifth rib, part of the left lung, the pericardial
9 sac, goes through the heart, goes through the
10 diaphragm.

11 And results in about two liters of blood in
12 the left side of his chest. And then a large caliber
13 copper jacketed bullet was recovered from the right
14 anterior mediastinum. That's basically all the issues
15 that are around your heart.

16 Q Okay. Can you -- just because we have -- we
17 have a lot of different areas that it entered and
18 exited and entered again, can you kind of demonstrate
19 on your own body for the camera what you're --

20 A Sure.

21 Q -- describing there?

22 A It goes in here, comes out here. Then goes
23 back in the left side of his chest. Goes through the
24 fifth rib, part of the left lung, the heart, the
25 pericardial sac. Basically, go -- barely goes through

Examination of Clifford Nelson

1 the diaphragm and lodges in the tissues in that area.

2 Q Okay.

3 A Kind of underneath the heart.

4 Q Okay. And then -- so that's the -- the
5 bullet jacket itself, you said, was found kind of on
6 the opposite interior of the rib cage?

7 A No. The whole bullet was found -- it says,
8 "It's a large caliber copper jacketed bullet recovered
9 from the right anterior mediastinal tissues at the
10 level of the seventh rib and sternal junctions." So
11 that would be right in front here.

12 Q Okay. And so based on all of the organs
13 that you described that were affected and injured,
14 were you able to determine which piece of that
15 separately or maybe it was a combination of all of
16 that that actually led to his death?

17 A Well, when you get a wound like this,
18 essentially, you're going to bleed to death.

19 Q Okay. And so was it one gunshot wound that
20 you found in the course of your autopsy?

21 A Correct.

22 Q Did you find any other evidence of bullet
23 grazing or deflected bullet wounds of any kind?

24 A Let me look at the body of the report. No,
25 it's just the -- it's just the one bullet. Ah, now

Examination of Clifford Nelson

1 there's some -- there's some abrasion around the
2 entrance holes and then there's a short abrasion
3 around the exit in the triceps; but, otherwise, no.

4 Q Okay. And did you find any other evidence
5 of injury that would have explained his death on
6 his body?

7 A No.

8 Q Okay. And so, ultimately, what did you
9 conclude after your autopsy for the cause of his
10 death?

11 A I listed his cause of death as gunshot wound
12 of the chest.

13 Q Okay. And then what did you determine, if
14 any, for the manner of death?

15 A Homicide.

16 Q Okay. And what are your options that you
17 pick from for the manner of death when you're doing an
18 autopsy?

19 A You have either natural, accident, suicide,
20 homicide or undetermined. And when we say homicide,
21 it's different than a legal definition. We use the
22 medical definition, which just means death at the
23 hands of another or death caused by something that
24 somebody else did.

25 Q Okay. So a medical determination is based

Examination of Clifford Nelson

1 on the ORS 146 chapter. Is that what you're
2 referring to?

3 A Yeah.

4 MS. GIRT: Okay. All right. Let me check
5 for additional questions here. Do you have any
6 questions?

7 MR. KAUFFMAN: I don't.

8 MS. GIRT: Do you have any questions? Does
9 anyone else have questions for Dr. Nelson?

10 A GRAND JUROR: I want just to clarify
11 something you said that I missed or didn't write down.
12 The amount of blood that was in the chest, you said it
13 was two -- I don't know the unit of measure. It was
14 quarts or pint --

15 A GRAND JUROR: Liters.

16 A GRAND JUROR: -- or liters. Liters?

17 A GRAND JUROR: Liters.

18 A GRAND JUROR: Okay.

19 A GRAND JUROR: Two liters.

20 A GRAND JUROR: Did --

21 MS. GIRT: So real quick, 'cause I don't
22 know if we can hear with the microphone issue. So the
23 question was, Dr. Nelson, is just to clarify what the
24 amount of blood in the chest was as a result of the
25 organs that were injured.

Examination of Jeffrey Shearer

1 THE WITNESS: Approximately two liters.
2 That's still in the left chest.

3 MS. GIRT: Okay. Any other questions?

4 All right. I think we've covered it, so we
5 can go ahead and disconnect. Thank you.

6 THE WITNESS: Okay.

7 (Recess taken, 9:30 a.m. - 9:32 a.m.)

8 MS. GIRT: Could you raise your right hand,
9 please.

10 THE WITNESS: Yes.

11 **JEFFREY SHEARER**

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

14 MS. GIRT: All right. Go ahead and take a
15 seat then.

16 THE WITNESS: Okay.

17 MS. GIRT: And we'll start by having you
18 state and spell your first and last name.

19 THE WITNESS: Okay. It's Jeffrey Shearer,
20 J-e-f-f-r-e-y, S-h-e-a-r-e-r.

21 **EXAMINATION**

22 BY MS. GIRT:

23 Q All right. And are you an officer with the
24 Portland Police Bureau?

25 A I am.

Examination of Jeffrey Shearer

1 Q And where are you currently assigned?

2 A I'm assigned to the Forensic Evidence
3 Division as a criminalist.

4 Q Okay. How long have you been doing
5 that work?

6 A I've been there since 2001, so --

7 Q Okay.

8 A -- 20 years.

9 Q Okay.

10 A And as a criminalist, so --

11 Q As a criminalist.

12 A Yeah. So 20 years as a crime scene
13 investigator. I've been on the Bureau now, this year
14 will be 27 years.

15 Q Okay. And so you work with Officer Becker?

16 A I do.

17 Q And about how many other criminalists?

18 A Right now, I -- I want to say we have 14.
19 We're hoping to get -- to fill a hole with a
20 promotion, but we'll see.

21 Q Okay. All right. And so part of your tools
22 that you have available as a criminalist, we've heard
23 a little about this Leica scanner that the bureau has
24 more than one of, anyway, or is it just really one
25 sort of scanning (indiscernible)?

Examination of Jeffrey Shearer

1 A No. It is -- so we had one for -- since
2 2012. This summer, we actually acquired a second
3 updated one, so it's the -- the newest, greatest.

4 Q Okay. Latest and greatest?

5 A Latest and greatest.

6 Q And then have you been trained on how to
7 operate and download and compile data from the Leica
8 scanner?

9 A Yes, I have.

10 Q Okay. And in that capacity, did you get
11 involved in the forensic investigation component as it
12 related to processing Mr. Berry's vehicle?

13 A Yes.

14 Q Okay.

15 A I -- I was.

16 Q Okay. And so did that actually involve you
17 going to the scene of where the car was processed and
18 also setting up the Leica scanner to collect this
19 data?

20 A Yes. It was actually at the Rivergate
21 storage facility, which is a police impound.

22 Q Okay. So meaning that the -- Mr. Berry's
23 car, I assume that had been towed or moved to the
24 storage facility?

25 A Correct.

Examination of Jeffrey Shearer

1 Q Okay.

2 A So this was after the incident, so I
3 actually went and met with detectives and another
4 criminalist on the 7th of June --

5 Q Okay.

6 A -- in 2020 to process the car.

7 Q Okay.

8 A So I have my report --

9 Q Okay.

10 A -- going over what we did. But one of the
11 things that we did in addition to photographing it was
12 to place the scanner in various positions inside and
13 outside the car.

14 After marking it, photographing it and then
15 we put in trajectory rods to help us get an analysis
16 of which way bullets go, where they're at. With the
17 Leica data, you can then also, as you see, you can put
18 in -- mark the rod and then it'll put in a cone --

19 Q Okay.

20 A -- to give you an approximate error rate --

21 Q Okay.

22 A -- factored in.

23 Q Right.

24 A So they've done studies on trajectory and
25 when you put the rod in, of course, you've got a rod

Examination of Jeffrey Shearer

1 that's about the size of the diameter of a bullet.

2 Q Okay.

3 A And so it's very small.

4 Q Yeah.

5 A But because of gravity and the rods can sag
6 and it doesn't fit in the hole tight, because bullets
7 go through at angles and can stretch the metal or
8 other fabric, there -- there's a error rate.

9 And so scientists have studied shooting
10 incidents analysis and they've come up with a standard
11 error rate. And it's built right into the software,
12 so when I -- I mark these scans and I extend that rod
13 out and I click on it, I tell it to put a cone. And
14 so I mark the cones in various colors --

15 Q Uh-huh.

16 A -- to make it easier to see.

17 Q Great. And so that's kind of what's
18 reflected here in this --

19 A It is.

20 Q -- sort of top-down image. Okay.

21 A It is.

22 Q Well, let's start with just some overall
23 pictures and -- and really of the ones showing the
24 trajectory rods that you were able to place in this
25 car before we move into some of the data.

Examination of Jeffrey Shearer

1 A Okay. So you need the photos of the car or
2 just --

3 Q Photos, like some of the actual pictures
4 from your processing of the car that show the rods
5 themselves. Yeah, just from the --

6 A Okay.

7 Q -- there you go.

8 A All right. So I believe this is -- so this
9 is the car.

10 Q We can kind of see there, are those the rods
11 that you're talking about?

12 A And so there you can see the rods.

13 Q Okay.

14 A As -- as I zoom in. So I actually didn't
15 bring the high resolution photographs.

16 Q That's okay. Yep.

17 A This, at the -- or right after you scan, you
18 also make photographs to make a realistic-looking
19 viewpoint for the virtual examination.

20 Q Yeah.

21 A But we also did high resolution photos,
22 which are available if you want them.

23 Q Okay. No, I think that (indiscernible) are
24 fine.

25 A But -- but there -- there you can see the

Examination of Jeffrey Shearer

1 rods. And so as I went over the car, as I said, we
2 photographed it. We marked -- excuse me, we marked
3 the bullet holes that we saw. And then I inserted
4 rods in the holes that were suitable for inserting a
5 rod.

6 If you don't have a second hole, the
7 trajectory rod would be inaccurate. It would -- it
8 would not -- it would just, you know, kind of point
9 anywhere.

10 Q Okay. What do you mean, second hole --

11 A So --

12 Q -- like where it exited?

13 A Yes.

14 Q Okay.

15 A So -- or if it -- so, for example, it goes
16 through the -- the hood and then it goes into
17 something and makes a dent. You have a good place to
18 put the rod and then it comes to a rest and it doesn't
19 just flop around.

20 Q Okay.

21 A So on this one, I marked A through F, but C
22 was not suitable, so C is up here.

23 Q Okay.

24 A It didn't have a secondary point for me to
25 insert a rod, so I didn't.

Examination of Jeffrey Shearer

1 Q So how many in total, then, rods were you
2 able to place?

3 A I inserted rods in the bullet holes marked
4 with letters A, B, D, E and F.

5 Q Okay. So that's a total of five?

6 A Correct.

7 Q Okay. And then in this car also was the
8 driver's side window completely shattered?

9 A It was.

10 Q Okay.

11 A The -- the window was completely shattered.

12 Q Okay. And was there a rod that you were
13 able to place that would have matched up with a sort
14 of triceps level, upper chest entry from, like, the
15 side of the body?

16 A Yes.

17 Q Okay.

18 A So there, you can see -- actually, there's
19 several that are right there in the -- the door.

20 Q And those went through frame then and not
21 window itself?

22 A Correct.

23 Q Okay.

24 A They went through frame or the seat.

25 Q Mm-hmm.

Examination of Jeffrey Shearer

- 1 A I think I have a closer up.
- 2 Q This is from the interior of the car now?
- 3 A This is from the interior.
- 4 Q Okay.
- 5 A So as you can see, the -- the window's gone.
- 6 Q Mm-hmm.
- 7 A So, for example, we had one that went all
- 8 the way across from the driver's window and was into
- 9 the passenger door.
- 10 Q Okay. And did --
- 11 A That's -- that's --
- 12 Q That one, did it enter from car frame itself
- 13 that would have come through the broken-out window?
- 14 A Yes.
- 15 Q Okay. All right. And with the trajectory
- 16 rods, once you have them placed in the vehicle, to
- 17 what degree using Leica, are you able to sort of
- 18 estimate, like, an angle at which it entered the car?
- 19 A Okay. So the angles actually -- I have
- 20 available from images that are data with --
- 21 Q Okay.
- 22 A -- with tables with measurements --
- 23 Q Okay.
- 24 A -- of the different --
- 25 Q Okay.

Examination of Jeffrey Shearer

1 A Find the right -- okay. So -- so there you
2 can see the -- the different measurements that I
3 prepared --

4 Q Mm-hmm.

5 A -- for each rod measuring how high the
6 impact was above the ground.

7 Q Okay.

8 A The vertical angle.

9 Q Okay. What does that mean?

10 A The vertical angle means parallel to the
11 ground. Would be 90 degrees.

12 Q Okay.

13 A Or actually let me -- let me look at this.
14 On this, parallel would be zero.

15 Q Okay. Straight across, right?

16 A Because that says 14 degrees, so --

17 Q So if I see that something is directly
18 parallel to the ground, it's going to be a
19 zero-degree --

20 A Zero.

21 Q -- angle? Okay.

22 A To this measurement --

23 Q Okay.

24 A -- yes. So the -- the vertical angle is
25 whether it's -- you're shooting up or you're shooting

Examination of Jeffrey Shearer

1 down.

2 Q Okay.

3 A And then the horizontal angle, I will pull
4 that up of the car.

5 Q 'Cause as I look at the image you have up
6 right now, each of those cones seems to be at a -- you
7 know, the person that the gun -- the shot is coming
8 from higher than the car plane distance, so it is --

9 A Correct.

10 Q -- coming down. Okay.

11 A It's basically a standing person.

12 Q Mm-hmm. Okay. Yep.

13 A Yep. It's --

14 Q The fact that that (indiscernible).

15 A It's consistent, yeah.

16 Q -- (indiscernible).

17 A It's consistent with someone standing up
18 outside a car.

19 Q Okay.

20 A Yes.

21 Q All right. And then on -- are you able,
22 once you've kind of done -- oh, that's a good view
23 right there if you want to leave that up -- sort of
24 once you've placed all the rods and specifically kind
25 of look at the data with the angles, to what level

Examination of Jeffrey Shearer

1 of -- of accuracy can you determine sort of what the
2 order of the shots would have been if you know -- you
3 know, do you know if the car was stationary? Do you
4 know if it was moving or it was going frontwards,
5 backwards, that kind of thing?

6 A Well, based on what I was told --

7 Q Uh-huh.

8 A -- and from what I see, I would expect that
9 they're in order --

10 Q Okay.

11 A -- chronologically from A to F.

12 Q Front to back. Okay. And is that because
13 as part of your investigation, you were made aware
14 that the car was driving forward when the person --
15 when the officer shot at the --

16 A Correct.

17 Q -- person in the car?

18 A So I -- I did not watch the body cam.

19 Q Yep.

20 A But the detectives, they briefed me and
21 prepared me, you know, and -- and kind of explained,
22 and so it made sense that the -- the -- the order of
23 the shots fired --

24 Q Okay.

25 A -- is consistent with the way that I marked

Examination of Jeffrey Shearer

1 them from A to F.

2 Q So A up there is a red cone. And so based
3 on what you just explained, you would -- you would
4 believe that that would be the first shot that was
5 fired. Then we have B. That's --

6 A B.

7 Q -- the yellow cone.

8 A Yep.

9 Q And then the other ones are all kind of
10 right in a row, but you have them all marked in there
11 as D, E, F.

12 A D, E, F.

13 Q Okay. So which is -- which is which in
14 that --

15 A (Indiscernible).

16 Q -- (indiscernible)? C, you couldn't mark,
17 right?

18 A C is the one, it's in the frame of the
19 door --

20 Q Okay.

21 A -- right next to the window.

22 Q Okay.

23 A And it did not have a secondary point, so
24 there's C. And D, E, F. D, I believe, is the big
25 one.

Examination of Jeffrey Shearer

1 Q Okay.

2 A That's because it extends from the passenger
3 door.

4 Q Oh, (indiscernible).

5 A So it makes the cone appear bigger because I
6 had to pull the rod farther to extend it to the
7 driver's side.

8 Q So D is the one that we saw that's stuck in
9 the passenger door. Okay?

10 A Yes.

11 Q Okay.

12 A And that's why it's further down in there --

13 Q Okay.

14 A -- and a bigger --

15 Q Got it.

16 A -- cross.

17 Q And that's why E and F are smaller cones --

18 A Smaller.

19 Q -- 'cause they did not go that far?

20 A That did not go that far because they came
21 from the driver's door.

22 Q Okay. Can we go back and take a look at A
23 and B just a little bit more closer up? And maybe --

24 A Of course.

25 Q -- from the head-on angle?

Examination of Jeffrey Shearer

1 A I have head-on and I have top-down as well.

2 Q Okay. Let's do that. Let's do both.

3 A Okay. So we'll go back to the -- the
4 head-on. And I do have -- back to the top view.

5 Q Okay. So looking at the top view then, am I
6 reading that right or sort of observing that correctly
7 that A looks to be at the kind of widest angle as far
8 as it's less, like, parallel than the rest of them? I
9 don't think if I'm making sense there, but there's --

10 A Yes. It's --

11 Q -- an angle --

12 A -- more towards the --

13 Q -- on the (indiscernible).

14 A Yes. It's more towards --

15 Q Okay.

16 A -- the front of the car.

17 Q Yes. Okay.

18 A Yes.

19 Q All right.

20 A That is -- that's true. A is -- is more
21 towards the front of the car.

22 Q Okay. All right. Which again, is that
23 consistent with your analysis that the order is as
24 you've marked them, A, B, C, D and then on?

25 A Yes.

Examination of Jeffrey Shearer

1 Q Or no C, but -- okay.

2 A Correct.

3 MS. GIRT: All right. And so do you guys --
4 I mean, are there other images or questions you have
5 about the placement of the rods or any of the sort of
6 vantage points that we've looked at at this point?

7 A GRAND JUROR: I just want to confirm a few
8 things. So knowing that the angles are like that, you
9 can assume from the (indiscernible) of the cone that
10 the angle was first here and then gets closer to a
11 zero or -- sorry, do you have the little piece with
12 the measurements on the side, the horizontal and the
13 vertical measurements --

14 THE WITNESS: Uh-huh, I do.

15 A GRAND JUROR: -- on that one slide?

16 THE WITNESS: Yeah. I put the table on each
17 one of the --

18 A GRAND JUROR: Oh, sorry, (indiscernible).

19 THE WITNESS: -- images. Yep.

20 A GRAND JUROR: Okay.

21 THE WITNESS: Yes.

22 A GRAND JUROR: So by the time that it gets
23 to F, it's -- it's closer to zero, closer to directly
24 in front?

25 THE WITNESS: It's --

Examination of Jeffrey Shearer

1 A GRAND JUROR: Or horizontal
2 (indiscernible).

3 THE WITNESS: Basically, that is indicative
4 that -- that the shooter is closer to the --

5 A GRAND JUROR: Right.

6 THE WITNESS: -- car. Yes.

7 A GRAND JUROR: Right. Okay.

8 THE WITNESS: Yes. Each -- yes.

9 A GRAND JUROR: And then --

10 THE WITNESS: That -- that is also true. So
11 the further I extend the rods out and then attach the
12 cone to it, the wider the cone will appear, because
13 it's five degrees from that first point that I mark.

14 And as I extend it out, it just grows. And,
15 you know, so the -- that's exactly the truth of the --
16 that's why D appeared bigger, because it started in
17 the passenger door.

18 A GRAND JUROR: Right. Okay. And then
19 knowing that the car is accelerating, seeing A, then B
20 and then those three that are kind of cluttered in
21 towards each other, would it be fair to assume that by
22 the time those -- those are cluttered together, the
23 car was at slower acceleration or that it had slowed
24 down by the time -- so sorry, I'm not explaining this
25 well.

Examination of Jeffrey Shearer

1 THE WITNESS: No. I think I understand.

2 A GRAND JUROR: So shots are fired and
3 they're a little bit wider apart between A, B and C.
4 And then by the time you get to D, E and F, which are
5 all very close together, would I be able to assume
6 that the car had slowed?

7 THE WITNESS: I think that would be -- yes,
8 I think that's likely.

9 A GRAND JUROR: A fair assumption?

10 THE WITNESS: That's likely.

11 A GRAND JUROR: That's still an assumption.

12 THE WITNESS: And so a lot of times on
13 trajectory, what I explain to people is I'm looking to
14 confirm what we know or establish that somebody is
15 being untruthful.

16 A GRAND JUROR: Right.

17 THE WITNESS: And, you know, so if the --
18 because it -- that's the thing that I love about my
19 job. It's all very evidence-based. It's, do the
20 facts support it. And so these are a generality. The
21 person was, you know, to the front and to the driver's
22 side of the car when the shots were fired.

23 And, yes, since they're spread further
24 apart, it's -- it's likely that the shots were slow
25 and then accelerated. The thing is, of course, it's

Examination of Jeffrey Shearer

1 not a reconstruction --

2 A GRAND JUROR: Right.

3 THE WITNESS: -- because I wasn't there.

4 And so the car's moving. So the car starts fast and
5 slows down and the officer likely starts slow and
6 speeds up. So it's very dynamic. And so I -- I'm
7 always cautious about reading too much, but I think
8 those are valid thoughts.

9 A GRAND JUROR: Right. Yeah. 'Cause
10 basically in the end, it would just be that, just
11 putting those two things together to have the officer
12 shot and by the time that the car slows, he is more
13 parallel to the -- to the actual door itself other
14 than the front of the hood is what I'm trying put
15 those two things together.

16 THE WITNESS: Yes.

17 A GRAND JUROR: Okay.

18 BY MS. GIRT:

19 Q And then just building from that question,
20 this -- these models represent, if I'm correct -- and
21 please tell me if I'm wrong -- the angle at which the
22 bullet entered the car, but not necessarily the angle
23 at which the person was, you know, when they shot, if
24 that makes sense, right?

25 A Yes.

Examination of Jeffrey Shearer

1 Q So there is still, the bullet has to travel
2 through space. It comes out of the gun in a situation
3 where the car is moving; is that accurate?

4 A Yes.

5 Q Okay. So --

6 A And -- and likely, the officer is moving as
7 well. So it's -- it's dynamic on multiple levels.
8 And -- so yes, it's -- what I'm measuring is just how
9 the bullets entered the car.

10 Q Not the angle at which they were fired?

11 A Not the angle of which they were fired. But
12 the -- the angle that they impacted the car.

13 Q Right.

14 A GRAND JUROR: Right. Okay.

15 BY MS. GIRT:

16 Q And just common sense would dictate, that
17 would be different if everybody was stationary and
18 shooting, right?

19 A Correct.

20 MS. GIRT: Okay. All right.

21 A GRAND JUROR: I have a question about the
22 impacts A and B. Is A going into the hood or does
23 that hit the windshield or thereabouts?

24 THE WITNESS: A is -- yeah, A is into the
25 hood.

Examination of Jeffrey Shearer

1 A GRAND JUROR: Okay. And then B is the one
2 that struck the windshield?

3 THE WITNESS: B is the one that struck the
4 windshield. Yep. And then C struck the driver's door
5 frame. And then the rest are in the area at the back
6 of the driver's window.

7 A GRAND JUROR: Was the passenger's side
8 window also struck or did it break out? I'm trying to
9 see some (indiscernible).

10 THE WITNESS: I don't believe so.

11 A GRAND JUROR: Okay.

12 THE WITNESS: Let me see, if I go back to
13 the --

14 A GRAND JUROR: Okay.

15 THE WITNESS: Ah, it's -- it's --

16 A GRAND JUROR: It looks intact.

17 THE WITNESS: It does look intact. So
18 the --

19 A GRAND JUROR: Okay.

20 THE WITNESS: The glass is, you know, mostly
21 in the driver's seat. But I would -- you know, I
22 would want to look at --

23 A GRAND JUROR: (Indiscernible).

24 THE WITNESS: -- high resolution photos
25 to -- to verify. But I don't remember the passenger

Examination of Jeffrey Shearer

1 window being shot out.

2 A GRAND JUROR: Right.

3 A GRAND JUROR: Is -- is the windshield
4 broken there in the middle or is that just glare?

5 THE WITNESS: So the -- the windshield
6 has --

7 A GRAND JUROR: Okay.

8 THE WITNESS: Yes. It has something there,
9 like something hit the center of the windshield. The
10 impact with the trajectory rod is right here in this
11 vicinity, over in front of the steering wheel.

12 A GRAND JUROR: Were you able to determine
13 whether that impact on the windshield had anything to
14 do with this incident?

15 THE WITNESS: Incident? I -- I didn't, no.

16 A GRAND JUROR: Okay.

17 THE WITNESS: It's not part of what I was
18 asked to examine.

19 A GRAND JUROR: Sure. Sure. Okay.

20 MS. GIRT: Other questions?

21 A GRAND JUROR: No.

22 MS. GIRT: Okay. Kelly, any questions?

23 MR. KAUFFMAN: Just one quick question.

24 When you're looking at the outside of the car, similar
25 to what our grand juror was interested in where the

Examination of Jeffrey Shearer

1 bullets were kind of lumped together, would the
2 officer's proximity to the vehicle be coming closer,
3 account for some of that kind of lumping together of
4 the bullets as well, since they're in a tighter space?

5 THE WITNESS: Yes, it would, because as --
6 as you shoot, as you get closer, your -- your group,
7 what you're aiming at is closer, so it gets smaller.
8 And so as -- as he's farther away, it's -- it's going
9 to be spread out. And as you get closer, it's going
10 to --

11 MR. KAUFFMAN: So if I'm shooting at that
12 door over there, then my lump of bullets might be
13 spread out more than if I'm shooting with maybe the
14 laptop right here. It's closer.

15 THE WITNESS: Correct.

16 MR. KAUFFMAN: Okay. Thank you.

17 THE WITNESS: Yes.

18 MS. GIRT: Anyone else have questions?

19 A GRAND JUROR: No.

20 MS. GIRT: Okay. Thank you,
21 Officer Shearer. We can go ahead and go off the
22 record.

23 THE WITNESS: You're welcome. You want me
24 to shut this down?

25 MS. GIRT: Sure.

Examination of Dorothy Stout

1 (Recess taken, 9:55 a.m. - 10:07 a.m.)

2 MS. GIRT: All right. We're on the record.
3 If you want to go ahead and raise your right hand and
4 we'll get you sworn in.

5 THE WITNESS: I should probably move closer
6 to the --

7 MS. GIRT: Oh, sure. We have just some
8 audio issues. Give us one second to make sure you can
9 hear our foreperson.

10 A GRAND JUROR: Can you hear me?

11 THE WITNESS: Yes, I can.

12 A GRAND JUROR: Awesome. Can you raise your
13 right hand, please.

14 **DOROTHY STOUT**

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

18 MS. GIRT: Okay. All right. Thank you.

19 So we'll go ahead and start out by having
20 you state and spell your first and last name.

21 THE WITNESS: My name is Dorothy Stout.

22 D-o-r-o-t-h-y, S-t-o-u-t.

23 **EXAMINATION**

24 BY MS. GIRT:

25 Q Okay. And where are you joining us from

Examination of Dorothy Stout

1 today, Ms. Stout?

2 A I'm in Fredericksburg, Virginia.

3 Q All right. And is that where you live
4 and work?

5 A That is correct.

6 Q Okay. And what do you do for a living?

7 A I'm a forensic video analyst.

8 Q Okay. Tell us how long you've been doing
9 that work and then we'll get into what that work
10 actually involves.

11 A I started with the federal government for
12 the U.S. Postal Inspection Service in 1997 as a
13 forensic video analyst, I started to work for
14 Department Defense Computer Forensic Lab, which is
15 part of the military, for -- as a contractor for
16 General Dynamics and then went to work for Department
17 of Homeland Security.

18 And then finally, with Resolution Video,
19 that is my company that I started in 2004. And I've
20 been doing analysis of video evidence, multimedia
21 evidence as well as teaching investigators how to
22 analyze, collect and examine video evidence.

23 Q Okay. And is your teaching geared towards,
24 you know, people that already have some expertise or
25 specialization in the field or do you teach kind of a

Examination of Dorothy Stout

1 broad range of folks?

2 A I teach a broad range of folks. Some people
3 have never handled video evidence or collected video
4 evidence from an investigative standpoint all the way
5 up to teaching people who have had experience and are
6 trying to learn new tools and methods for examining
7 video evidence.

8 Q Okay. And when it comes to examining video
9 evidence, can you give us an idea of what some of the
10 kind of tricks and trades of your industry that you
11 are able to do to enhance it or change it or make it
12 look better or flatten it, et cetera?

13 A Sure. So most video evidence is produced by
14 systems, either from a security perspective, a
15 surveillance perspective. Even cell phone cameras, of
16 course, can produce video files.

17 Many of those files initially have issues
18 with playback. They're using proprietary file
19 systems, proprietary video streams. And so,
20 initially, we teach people not only how to collect
21 that video evidence, but also how to actually just get
22 it to play.

23 Once the video is able to be accessed and it
24 is playable, often, of course, because of the nature
25 of the investigation, what it recorded is not readily

Examination of Dorothy Stout

1 apparent.

2 And so we use specialized turnkey forensic
3 software solutions. We use commercial tools, open
4 source tools to allow us to clarify the information
5 that has been recorded by the video. Sometimes as
6 simple as doing a brightness contrast adjustments,
7 sharpening.

8 We can magnify the information within the
9 video, as well as do some interpretation. Some of the
10 systems and the way that they're actually configured
11 to record the video are not what we're used to seeing
12 as we watch regular video on TV.

13 And so there's issues with frame rate.
14 There's issues with perspective. There's also issues
15 with the way that it's recorded in that it may be
16 recording based on motion or some other external
17 trigger.

18 Q Okay. And have you testified in court
19 before regarding your analysis of video as an expert?

20 A Yes, I have.

21 Q Okay. And in the last, you know, handful of
22 years, the advent of body-worn cameras has, you know,
23 come on heavy with law enforcement. Is that something
24 that you've also taken on as projects here and there?

25 A Yes, I have.

Examination of Dorothy Stout

1 Q Okay. And can you give us some examples of
2 some of the work that you've done with body-worn
3 cameras around the nation?

4 A With body-worn cameras specifically, it's
5 the same issues as we've seen before. We also have
6 playback issues because of the proprietary nature of
7 the files.

8 In addition to that, also because of the way
9 the system is configured to record in that it involves
10 a wider-angle lens, there can be some distortions with
11 the perspective that is seen through these cameras, as
12 well as trying to make it easier to view the
13 information.

14 So some of the videos, because information
15 happens too fast, we've worked to -- work with the
16 playback rate of the video. But in some cases, it's
17 also with aligning different camera systems with the
18 body-worn camera as well.

19 Q Okay. And when you talk about a wide-angle
20 lens, what does that actually mean? What is a
21 wide-angle lens?

22 A Well, our normal viewing area, if we were to
23 equate it to camera terms, a lot of times what we see
24 visually from our peripheral is about a 50-millimeter
25 lens. And so that has to do with the degree, the

Examination of Dorothy Stout

1 length of the lens itself and how much area that it
2 can actually see.

3 A wider-angle lens, of course, includes more
4 of the visual area beyond what we typically would see
5 with our own eyes. They're often used in close
6 environments so that they can capture more area.

7 And so for our perspective when we're
8 viewing a wide-angle lens, we'll actually see more
9 area than we would see with our -- our own visual
10 system.

11 Q Okay. And how does that differ from other
12 lenses on different types of camera systems, some of
13 the types that you've mentioned?

14 A So other types of camera systems, you would
15 have a wide-angle lens. You could have a fish-angle
16 lens, which is extreme. Some of them actually give
17 you a circular view.

18 So if you've ever seen a image where it --
19 it appears like a whole globe, that would be an
20 extreme, circular spherical wide-angle lens. You
21 could have a telephoto lens, which, of course, allows
22 you to see further in, kind of like binoculars, and so
23 you could actually magnify a portion of the area using
24 a telephoto lens. And so those are the different
25 types of systems that we've come across.

Examination of Dorothy Stout

1 Q Okay. And so as far as your work with
2 different body-worn camera systems, is there some
3 consistency with the type of lens that is used among
4 manufacturers?

5 A Yes. They consistently use a fish-eye lens
6 because I believe they interpret that most of the
7 action that's going to occur, because of where the
8 body-worn camera actually is, will be closer to the
9 individual wearing it.

10 So they'll use this fish-eye-type lens
11 somewhat to increase the spherical area so that we can
12 see more of the action that's presented in front of
13 the wearer.

14 Q Okay. Is a fish-eye lens then, is that just
15 a more extreme version of a wide-angle lens?

16 A It is.

17 Q Okay. And so are you familiar, too, with
18 some of the more common manufactures of body-worn
19 cameras right now?

20 A Today, I'm only aware of a few of the
21 manufacturers. I know that in the beginning when it
22 first started, which I believe was around the 2008 to
23 2010 mark, there were a lot of vendors available.
24 Today, I believe there's only a few that are there.

25 Motorola was one -- was one provider. Axon

Examination of Dorothy Stout

1 Camera Systems. And I believe there's a couple
2 others.

3 Q Okay. All right. And were you contacted in
4 conjunction with your expertise to review some
5 body-worn camera footage related to a shooting
6 incident that happened in May of 2020?

7 A Yes. I was contacted on June 21st by
8 Aaron Turnage (phonetic) of Gresham Police Department.

9 Q Okay. And then did he put you in touch with
10 me to discuss the body-worn cameras at Gresham Police
11 Department?

12 A Yes, that is correct.

13 Q Okay. And is -- just to kind of clarify, is
14 Gresham an agency that you have worked with in
15 training purposes on, you know, prior occasions
16 throughout the years?

17 A Yes, I have.

18 Q Okay. And so once getting some contact
19 information in place, were you sent the body-worn
20 camera by the District Attorney's Office to review?

21 A Yes. I received the -- the file on
22 June 25th for review.

23 Q Okay.

24 A Yes, June 25th.

25 Q Okay. And when you -- kind of want to walk

Examination of Dorothy Stout

1 through sort of what your -- some of your initial
2 observations were as far as information that you
3 gathered regarding the -- the type of camera, the
4 manufacturer, the specs and then what you visually
5 perceived when you watched the video as far as the --
6 the angle of the lens and that sort of thing.

7 A Yes. In addition to receiving the file, I
8 also receiving the technical specifications, as
9 requested.

10 Regarding the camera, the video itself
11 seemed to be very consistent with other body-worn
12 cameras that I have seen. The lens itself was what we
13 would classify as a fish-eye lens in that its area of
14 view, as per the technical specs, I believe was
15 210 millimeters.

16 So if think about your own peripheral
17 vision, that's more than twice what we normally would
18 see. The visual itself still conformed, though, to
19 the sensor area.

20 So what you would see when you play it back
21 would be more of a rectangle rather than the, you
22 know, view of, like, a sphere. So 210 angles is
23 consistent with a fish-eye. In terms of playback
24 itself, there was video information in addition to --
25 sorry -- motion.

Examination of Dorothy Stout

1 Q No problem.

2 A Got to love environmental controls. It was
3 a video system in addition to audio, so we had both
4 audio and video. Of course, I'm more focused with the
5 video information.

6 And so the playback initially from what I
7 viewed, I could see where a correction of that angle
8 would be something that would be of advantage for the
9 viewer to understand what they were seeing in the
10 video.

11 Q Tell me more about the -- why you honed in
12 on some correction being necessary for that video
13 file.

14 A The first thing I noticed is that in the
15 video, there is a -- what appears to be a light pole
16 or maybe an electrical pole or a telephone pole. You
17 could see it in the actual vision system itself.

18 It had a curve to it. And that's natural
19 that you see in the fish-eye lenses is you get more
20 out onto the periphery, you'll see this curvature on
21 the edge.

22 Q Okay.

23 A Those curves are, of course, not natural.
24 And so they're part of the actual visual system
25 itself. That bowing around the edges can also, of

Examination of Dorothy Stout

1 course, push out or visually appear to distort the
2 perspective from the center angle as well.

3 So center on in the screen when you start
4 bowing out information, it can push information --
5 visually, it can make distances appear to be greater
6 than they actually are.

7 So the correction of the -- the pole that
8 was in the view also showed that the door to the
9 vehicle was also experiencing some of that curvature,
10 and so that could be corrected as well.

11 Q Are you talking about the door of the patrol
12 vehicle that was opened?

13 A Yes. That's correct.

14 Q By the officer who shot? Just to be clear.

15 A Yes, that's correct. The driver of the
16 vehicle. That door also had the curvature lines on it
17 and so that could be corrected, too.

18 Q Okay. Are the distortions for a fish-eye
19 lens, like this particular Motorola camera, is it
20 limited to how wide, like what width distortion or is
21 it also like a length or distance out distortion?

22 A There can be some length and distance out
23 distortion. And that's basically because of the way
24 that we perceive a three-dimensional space in a
25 two-dimensional plane.

Examination of Dorothy Stout

1 So when you have the curvature on the edges,
2 you also have the -- the perspective distortion from
3 the distance. Correcting the distance, though, is not
4 necessarily as easy as correcting the curvature on the
5 sides.

6 Q Okay. And then just to make sure that I'm
7 clear also, when you talk about the specs being a 200
8 millimeter -- I think you said angle, like width angle
9 out for peripheral vision.

10 Does that mean when you're looking at
11 something on a body-worn camera with a fish-angle lens
12 and you see something out to the very right edge, is
13 that something that the person who is videotaping with
14 the camera would have naturally seen out of their
15 periphery?

16 A No. Most people would not see that
17 naturally out of their periphery.

18 Q Okay. And was -- you said it was almost
19 double what a human eye would see from their
20 peripheral vision?

21 A Correct.

22 Q Okay. All right. And so with this
23 particular file, did you apply some corrective
24 techniques to try to, you know, so to speak, kind of
25 flatten out the image from the curvature that you

Examination of Dorothy Stout

1 talked about?

2 A I did. I used a tool called Ant 5
3 (phonetic), which is a turnkey software solution for
4 forensic video examinations.

5 It actually employs a filter that is called
6 Correct Fish-Eye, which does compensate for the
7 distortion based on not only some of the technical
8 specifications that we have, but also to correct the
9 curvature that we see on the edges.

10 That basic correction I was able to do using
11 this particular software tool. In addition to
12 correcting that perspective, in order to visualize the
13 area, one of the things that also needed to be done
14 was to enlarge what we would call the canvas area.

15 And so the visual area that's available in
16 the video itself was enlarged in order to show how the
17 correction of the curvature was -- was performed.

18 Q Okay. Does that correction get rid of that,
19 you know, more than double periphery vision issue with
20 the angle of the lens, initially?

21 A Not necessarily.

22 Q Okay. And does it correct for, you know,
23 exact distortion issues as far as distance out or
24 length away from something?

25 A No, it does not.

Examination of Dorothy Stout

1 Q Okay. So the correction then that would
2 come from the technique that you just discussed, to
3 make sure that I'm clear, would correct out some of
4 the bowing and curvature that's noted because of the
5 angle of the initial lens; is that right?

6 A That is correct. And so what you would get
7 in kind of return for that correction is that as
8 objects are closer to the camera on the edge, they
9 will not experience those distortions.

10 So the distance from the center point still
11 would need to be analyzed and corrected, but as you
12 got to the edges, you wouldn't -- you wouldn't
13 experience some of those curvatures which can make
14 things look longer than they actually are.

15 Q Is there any corrective technique that
16 you're aware of that you could apply to a lens like
17 this Motorola body-worn camera that would suddenly
18 make it appear just as the human eye observed the
19 interaction?

20 A There is some testing and some processing
21 that we could do so that you could actually, visually
22 see. The problem with doing that correction simply
23 from a software perspective is that the placement of
24 the body-worn camera versus where somebody's looking
25 at the time, unless the body-worn camera is right

Examination of Dorothy Stout

1 between their eyes, it would be very difficult to know
2 if the camera's facing this way and your head's facing
3 this way, exactly what somebody is seeing.

4 Q Okay. Sure. And so based on some of your
5 experience and work then, do you understand that most
6 officers and agencies wear body-worns at, like, chest
7 level on either side?

8 A Yes. Most of the ones I've seen are on
9 chest level. The video that I saw from this
10 particular case, when the officer was motioning with
11 his arms forward, it appeared to also cover the camera
12 in certain areas. And so what I would assume is that
13 the camera was on his chest area at this time.

14 MS. GIRT: Okay. All right. Okay. I think
15 that that is the -- the bulk of what I wanted to cover
16 with you.

17 Do you have questions for Ms. Stout? Any
18 questions? Do you guys have question for Ms. Stout?

19 No? All right. They're all shaking their
20 heads no. So I appreciate you being available to
21 testify. And we can go ahead and sign off.

22 * * *

23 (Noon Recess taken at 10:24 a.m.)

24

25

Examination of Travis Law

1 **AFTERNOON SESSION**

2 (Whereupon, the following proceedings were
3 held in open court, out of the presence of the jury,
4 1:06 p.m.):)

5 **TRAVIS LAW**

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

8 MS. GIRT: All right. And could you state
9 and spell your first and last name.

10 THE WITNESS: Travis Law, T-r-a-v-i-s,
11 L-a-w.

12 **EXAMINATION**

13 BY MS. GIRT:

14 Q All right. Are you a detective with the
15 Portland Police Bureau?

16 A I am. I'm presently assigned to the
17 Homicide Detail.

18 Q Okay. And how long have you been assigned
19 to Homicide?

20 A Since 2018.

21 Q Okay. And did you work with
22 Detective Winters and still working on this case
23 involving an officer-involved shooting from last
24 May of 2020?

25 A Yes, I did.

Examination of Travis Law

1 Q Okay. And in the course of your
2 investigation, did you, as detectives, collect
3 body-worn camera footage from the Gresham Police
4 Department?

5 A Yes. That's correct.

6 Q Was it from multiple officers?

7 A Yes, it was.

8 Q Or at least a handful of them?

9 A Correct.

10 Q Okay. And did the shooting officer,
11 Officer Doyle, did he also have body-worn camera
12 footage that was available for collection?

13 A He did, yes.

14 Q Okay. And did that make it into your
15 evidentiary vault as evidence and part of this case?

16 A It did, yes.

17 Q Okay. And have you viewed that video?

18 A I have.

19 Q Okay. So what we're going to do now just
20 for the record is we're going to play the entirety of
21 Officer Doyle's body-worn camera footage.

22 A May I move -- may I move so my head's not
23 blocking?

24 Q Yeah, that's a great idea. And then as soon
25 as it comes up on screen, before I press play, if you

Playing Audio Recording

1 just want to confirm that that's your recollection for
2 the beginning part of it?

3 A Yes.

4 Q Okay. Okay. So I've let it run about
5 five seconds. Do you recognize that as the beginning
6 part of his footage?

7 A I do, yes.

8 MS. GIRT: Okay.

9 (**TRANSCRIBER'S NOTE:** Audio recording
10 played, 1:08 p.m. to 1:23 p.m.)

11 MS. GIRT: Okay. So, for the record, that's
12 the end of Officer Doyle's body-worn camera from
13 May 31st, 2020, capturing about 15-and-a-half minutes
14 of footage. So then we'll close that out.

15 Any questions for Detective Law before we
16 move on?

17 Okay. We can go ahead and go off the
18 record. You can go ahead and step out.

19 (Recess taken, 1:23 p.m. - 1:27 p.m.)

20 **JAMES DOYLE**

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

23 MS. GIRT: All right. Go ahead and take a
24 seat.

25 THE WITNESS: Okay.

Examination of James Doyle

1 MR. KAUFFMAN: Can you state your first and
2 last name and spell those for the record, please.

3 THE WITNESS: Yeah. James Doyle. It's
4 J-a-m-e-s, D-o-y-l-e.

5 MR. KAUFFMAN: All right. So this computer
6 screen is -- no, this one here (indiscernible).

7 MS. GIRT: Is that right in your way? Is
8 that better?

9 MR. KAUFFMAN: There you go, yeah.

10 MS. GIRT: There you go. All right. Cool.

11 EXAMINATION

12 BY MR. KAUFFMAN:

13 Q So, Officer Doyle, I want to just first get
14 on the record that you're here voluntarily.

15 A Yes, sir.

16 Q You didn't get a subpoena or nobody's
17 requiring you to be here?

18 A No, sir.

19 Q So you're here because you want to testify?

20 A Yes, sir.

21 Q Maybe want is a strong word. But you're
22 here voluntarily?

23 A Yep.

24 Q So how are you feeling today?

25 A Pretty emotional.

Examination of James Doyle

1 Q Okay.

2 A This has been over a year to kind of dwell
3 on this stuff. I'm just ready to move forward, try to
4 get some closure and just, yeah, get my side of -- of
5 what happened, so --

6 Q Are you a little nervous as well?

7 A Very.

8 Q Okay. All right. Well, let's -- let's get
9 going.

10 A Okay.

11 Q If you need to take a break, let us know.
12 There's some water in front of you as well if you need
13 that. So Officer Doyle, can -- let's first talk about
14 your background, okay? Where are you -- where are you
15 currently employed?

16 A Gresham Police Department.

17 Q Okay. How long have you been with the
18 Gresham Police Department?

19 A Three-and-a-half years now.

20 Q And as of May 31st of last year, how long --
21 you'd been there for two years?

22 A Two-and-a-half.

23 Q Do you remember your start date at the --

24 A January 2nd, 2018.

25 Q Okay. Before you became a police officer,

Examination of James Doyle

1 what were you doing?

2 A I graduated high school in 2010 from central
3 California, Modesto. I entered the United States Army
4 out of high school, where I served for five years. I
5 exited the Army in December of 2015 and moved to
6 Oregon for college. I attended Western Oregon
7 University, where I studied literature and criminal
8 justice.

9 Q Okay. And then you went to the police
10 academy at that point or --

11 A I -- yeah. So I was in school full time. I
12 worked at the student affairs at the campus as kind of
13 a veteran liaison to kind of bridge the gap with
14 veterans coming to college in that transition period.
15 So I was working kind of partial for the VA while a
16 full-time student there.

17 And then my technically senior year of
18 school based on the credits I was taking, I began
19 applying to police departments around the West Coast.

20 Q Okay. And you landed in Gresham?

21 A Yes, sir.

22 Q Okay. Can you tell us about your training
23 to become a police officer?

24 A So primarily for Gresham, you have a few
25 weeks of, they call it a pre-academy where you go over

Examination of James Doyle

1 some basic policy stuff. They have a week of
2 firearms, kind of defensive tactic scenarios. And
3 then while at the police academy -- I believe it's
4 five months. It's down in Salem.

5 It's a state academy where all departments
6 go there and we cover a wide range of stuff. Case
7 law, Oregon revised statutes, which is, you know, the
8 different laws that we will be working under. Pretty
9 heavy focuses on mental health training now.

10 Also a lot of scenario-based stuff, so they
11 have agencies from all over the state that will come
12 in. They call it scenario village, where you work
13 through different scenarios. Yeah, it's kind of a
14 long five months. You can have the ability to stay
15 there. I did Monday through Friday.

16 My wife now was my fiance at the time. We
17 got married actually in the police academy. And she
18 was finishing her degree at Western Oregon, so I would
19 transition back and forth from there. But it's pretty
20 much her full-time job is there at the academy during
21 those five months.

22 Q Did you have firearms training as well?

23 A Yes, sir.

24 Q At the police academy?

25 A Yes, sir.

Examination of James Doyle

1 Q Okay. And just to go back a little bit, did
2 you also have firearms training when you were in the
3 military?

4 A Yes, sir.

5 Q Okay. So you had that base of knowledge
6 going -- going into the academy?

7 A Yep.

8 Q So in the academy, do they also teach you
9 about use of force? And -- and you said
10 scenario-based. So is there a strong component of
11 that as well?

12 A Yeah. It's a lot of hands-on stuff, just
13 trying to get people comfortable with the vast
14 majority of stuff that could happen. Obviously, that
15 can be limited within training, but it's just trying
16 to be comfortable to having to make decisions in quick
17 moments, kind of the human aspect of the job that
18 sometimes gets missed by just that.

19 A lot of times, we're getting out there not
20 always knowing what's happening on the calls, but
21 trying to give you some exposure. So it's not all
22 classroom, find how to deal with different stressors
23 and stuff like that, so --

24 Q Okay. And when you left the academy and
25 joined the Gresham force, did they have a post-academy

Examination of James Doyle

1 or training?

2 A Yes, sir. So we have some more hands-on
3 defensive stuff, like handcuffing and different
4 scenarios that they run as well. You have another
5 week of firearms where you have to then qualify with
6 the department, not just the state, at the academy.

7 And then you begin your probation period,
8 which we call PTO, where you are riding with a
9 different senior officer over a four-and-a-half month
10 period, sometimes, give or take a week, based on how
11 you do or the different stuff that you come across.

12 And that entire time, you're being
13 documented, the calls you're on, how you respond, your
14 report writing. It's kind of just going through and
15 getting approved to the point of being status on your
16 own and solo. And then you're on probation for
17 18 months with the police department.

18 Q After the -- after the other training?

19 A It's all from the date of hire.

20 Q Date of hire?

21 A But it's all (indiscernible), sir.

22 Q And can you -- and did you also have
23 firearms training as part of that post-academy
24 training?

25 A Yes, sir.

Examination of James Doyle

1 Q Okay. So there's an additional component to
2 the -- what you learned in the -- in the academy; is
3 that right?

4 A Yes, sir. As well as every year for the
5 department, we have this thing called in-service,
6 where it's just an annual training. Sometimes, like I
7 said, it's mental health stuff. Firearms is part of
8 it where you have to be certified every year to be
9 able to carry your weapon.

10 Q And so when -- during that probation period,
11 were you just on patrol? Is that -- or what kind of
12 duties did you have?

13 A Yeah. I was assigned to patrol.

14 Q And can you tell us what that means.

15 A Again, it covers wide variety. So we have
16 community-based policing in Gresham where we'll be
17 assigned to a certain district for six-month periods.
18 Those are usually bid and based off of seniority.

19 At the time of this incident, I was working
20 night 10s, so I would work Wednesday through Saturday,
21 9:00 p.m. to 7:00 a.m. Or taking calls for service,
22 that could be anywhere from welfare checks, family
23 members not hearing from other family members for
24 periods of time.

25 Low-level calls as far as like petty thefts,

Examination of James Doyle

1 identity thefts, high domestic violent disturbances.
2 I mean, it -- every night, you know, call to call,
3 you're getting something different, so --

4 Q Okay. And so after you finished the FTO
5 training where you had a trainer with you all the
6 time, did you -- when you graduate from that, I guess,
7 do you have a partner then?

8 A No. We don't have the resources at Gresham
9 to work partner cars. We're pretty limited in our
10 numbers, so you're by yourself.

11 Based on the call that you're responding to,
12 if it's within my assigned district, I'm known as the
13 primary officer. And I will have another officer, if
14 they're available, go as a cover.

15 But outside of that, you're by yourself in
16 your car. If it's a lower level priority, is how they
17 label them, you're just expected to take the call by
18 yourself.

19 Q And what time of day did you typically work?

20 A I primarily was working night shift, just
21 based on my seniority. That's usually the bottom of
22 the totem pole is what they're -- you know, they call
23 it. A lot of the more senior guys in the department
24 are older, older kids and will bid for the day shifts.
25 It's a lot easier kind of on your body than working

Examination of James Doyle

1 nights and sleeping during the day.

2 Q I don't know why you're looking at me; but,
3 yeah.

4 A But, yeah. So, at this point, I was working
5 night shift, like I said, Wednesday through Saturday,
6 so primarily the weekend, 9:00 p.m. to 7:00 a.m.

7 Q So let's talk about May 31st of 2020. Was
8 there something different about that day in terms
9 of -- of what you were doing?

10 A So my last shift that I worked was the
11 Saturday night, the night prior, which I believe was
12 the 30th. One of our sergeants came in and said that
13 Portland police was asking from neighboring agencies
14 to volunteer as resources to come and help them.

15 At this time, I believe it was the second or
16 third night of the open protests down here. And
17 within East Portland, they had, at that time, still
18 thousands of people that were doing demonstrations.
19 And Portland police was pretty limited in their
20 resources.

21 I am not really familiar with the Portland
22 area. Like I said, I started working in Gresham just
23 a couple years before that. But after the roll call,
24 I went in to the sergeant and talked to them and asked
25 if we were able to work partner cars, I would be

Examination of James Doyle

1 willing to volunteer on my night off to come in and
2 help.

3 Usually, like I said, I don't come in until
4 9:00 p.m. for my shift, so that's kind of the sleep
5 period in between then. He said that only one other
6 guy had volunteered so far, which was Officer Brendon
7 Hayes. And I asked, if we were able to work a partner
8 car, I would be willing to work. And he said he would
9 let me know.

10 I worked my full shift that night, went home
11 and was woken up around 2:00 p.m. in the afternoon
12 that they did need help. And we were being asked to
13 come back to work and just, it was kind of unknown as
14 to what we were going to be doing, but just being an
15 available resource to go into Portland as able bodies
16 and help where they needed.

17 Q Why did you want a partner?

18 A Just, again, the unfamiliarity with the area
19 and also at this time there was a lot of tension
20 within the area just based on what was going on at
21 this time in the country. Just a lot of the unknowns.

22 And if I'm going to be able to come in as a
23 resource and help, I don't want to be just by myself
24 trying to figure out where I'm going, getting lost,
25 stuff like that. And also, I primarily worked in

Examination of James Doyle

1 Gresham, not in Portland.

2 And so if I was able to have another guy
3 with me or a girl depending on who was working. At
4 this time, I was told it was Officer Hayes. That just
5 gives me a little bit more comfort of knowing I have
6 another officer with me.

7 Q So if you have a partner, two partners in
8 one vehicle, does typically one navigate and work the
9 computer and that kind of stuff?

10 A Yeah. Again, my -- the times that I have
11 worked a partner car in Gresham has been pretty
12 limited because of our numbers, but there has been
13 times that we were able to do it.

14 And usually how that goes is the person
15 driving is focused on driving and then the person in
16 the passenger seat can focus on -- we have our MDTs,
17 which is our computers that the calls come in on.

18 They can kind of focus on the call
19 information. We call it running someone, where if we
20 get information within the call of people's names,
21 birthday, where they live, looking up previous calls
22 and addresses and kind of call -- call history,
23 especially with, like, domestic violence stuff.

24 It helps us coming into the situation to
25 know that there's been other stuff that's been going

Examination of James Doyle

1 on. We can see the last time that law enforcement was
2 possibly involved with these people.

3 And so they're kind of running that system
4 while the other person's focused on driving; 'cause
5 otherwise, if I'm by myself, I'm trying to multitask
6 while also taking in active information that's coming
7 if I'm arriving on scene, trying to take in what's
8 going on, so --

9 Q So you're -- typically, you work -- or
10 always, you work in Gresham. Did you have a specific
11 range of streets that you worked on that you were
12 assigned to?

13 A Yes, sir. So at the time of this incident,
14 I've been working our west-side district, which is
15 188th and, like, Stark, down to Division. And then
16 that goes as far west as 162nd, which is our border
17 with the East Portland Precinct.

18 Q Okay. So you didn't -- you wouldn't -- in
19 your regular duties would not go as far west as 122nd.
20 Typically, you're --

21 A Oh, absolutely not. We're -- like I said,
22 our department border with Gresham is 162nd. There's
23 been times where if East officers are really tied down
24 with a high-level call and need help, we've been
25 approved to go over there and help them at times or

Examination of James Doyle

1 vice versa. They'll come over and help us. But
2 primarily, we're responsible for that district line
3 and not going over it.

4 Q All right. So the areas where you're
5 typically working, I take it you know those streets
6 very well and the directions and --

7 A Yes, sir.

8 Q -- where -- where locations are; but other
9 areas where you're not, do you know those areas
10 at all?

11 A Not of Portland.

12 Q Okay. All right. Let's talk about your
13 shift that night on May 31st. Can you tell us what
14 happened prior to that shift, how that went?

15 A Yeah. Again, I was called early afternoon
16 to come in, which is technically early for me, 'cause
17 I normally don't report until 9:00 p.m. My wife and I
18 were on opposite schedules at the time, and so she had
19 known that I'm a volunteer and was possibly going in
20 to work.

21 I sent her a text just saying, "Hey, I won't
22 be home tonight," that I was going in to help. I got
23 to work around 5:00. We had a little bit of a brief.
24 There was actually a demonstration in Gresham that
25 night that was pretty small, just a couple hundred

Examination of James Doyle

1 people. And me and Officer Hayes were asked to help
2 assist with that.

3 They started downtown and we were actually
4 kind of a security car for the protest, where we
5 allowed -- we kind of trailed from behind them to make
6 sure that they had a lane in the road to march down
7 and that other civilians weren't going to, you know,
8 pretty much mess with them as they're doing their
9 demonstration.

10 And they marched to downtown. And that's
11 where then we remain in the parking lot there. It was
12 actually pretty productive. We had some discourse
13 with them after, took pictures with some of them.

14 And then we were informed around, I believe,
15 7:00 p.m. that night that East Portland Precinct had a
16 very large number of people marching towards their
17 precinct and they were needing us to help and go take
18 their Priority 1 and 2 calls, which are the top level
19 emergency calls that we are dispatched to.

20 The sergeants that we had assigned to us was
21 Sergeant Herrera and Sergeant Estes. Asked if all of
22 us were okay with that. They told us we were going to
23 go over there for an unknown amount of time, based on
24 what's happening tonight and "We'll try to get you
25 guys relieved if we can."

Examination of James Doyle

1 And made sure that me and Officer Hayes and
2 there was two other officers, Officer Mark DeLong and
3 Officer Joel Walden of Gresham Police that were also
4 in a partner car. At that time --

5 Q So let me stop you there.

6 A Yeah.

7 Q So then the four officers that you just
8 mentioned, all of you volunteered to work this extra
9 shift to cover --

10 A Yes, sir.

11 Q -- Portland officers who were otherwise
12 occupied?

13 A Yes, sir.

14 Q Okay. Go ahead. I'm sorry.

15 A Because of the large numbers that were
16 moving towards the East Precinct and the reason that
17 we were going into Portland was to take calls, not
18 just be at the precinct, one of our sergeants,
19 Sergeant Estes, had gotten a list.

20 They call them contact offices. There are
21 places around the city that will volunteer to let us
22 use their buildings. They're usually churches or
23 small businesses that have relationships with the
24 police department where we can go to the places and
25 we'll have, like, an access code and can kind of sit

Examination of James Doyle

1 out of the way so we're not out driving around.

2 So it was established that we were going to
3 go sit at a contact office which was a church on, I
4 believe, 112th and Powell. And that was going to be
5 kind of the location that we would be. The sergeants
6 made it clear to us, "We do not want you guys out
7 driving around."

8 We were strictly going there to take
9 priority calls and just assist Portland from there.
10 They didn't want us getting stuck at the precinct and
11 then we would need to then call in more resources.
12 That kind of defeated the purpose of us going there.

13 Q Okay.

14 A So it was established that that was going to
15 be kind of the spot we met at and then we went from
16 there.

17 Q All right. So you went to the church and
18 just waited to -- waited for a call?

19 A Yes, sir.

20 Q You and Officer Hayes?

21 A Yep.

22 Q Okay. So how long did you wait?

23 A Probably under a minute. We had just pulled
24 up. Sergeant Herrera and Sergeant Estes were setting
25 up -- it was kind of like a little back conference

Examination of James Doyle

1 room. They had a TV going with a live stream of
2 downtown so we could kind of monitor what was going on
3 in the city.

4 We have the radio capabilities of switching
5 over our dispatch to the East Portland Precinct, so we
6 switched over radios. You have to sign in differently
7 on the computer, so we had to notify dispatch, we're
8 Gresham units, but we need a Portland number for the
9 night and we'll be helping with Portland calls.

10 And we were just sitting down when the call
11 was dispatched and I read the call. Sergeant Estes
12 then asked, are we okay to start helping and he gave
13 us permission at that point, too.

14 Q Tell us about the call.

15 A So from what I remember, like I said, we're
16 on 112th and Powell. And the call came in a couple
17 blocks east of us, off 122nd and Kelly. It came in as
18 a Priority 2 disturbance, which are normally anywhere
19 from domestic violence to some kind of disturbance,
20 either at a store location or at a home.

21 This one was coming in, I believe, at a home
22 location. And the call information that I remember is
23 that the suspect was making threats to 55, which is
24 kill our complainant.

25 Q All right. So what -- what did you do then?

Examination of James Doyle

1 A Again, I read the call out loud to
2 Officer Hayes and Officer -- Sergeant Herrera and
3 Sergeant Estes.

4 I could see that there was a Portland unit
5 dispatched to it. And I believe it was a recruit and
6 their coach, 'cause they were also a partner car. And
7 that they were a little bit ways off and that we were
8 closer and that they had no cover units.

9 I remember dispatch asking multiple times,
10 we need someone to cover them. And at that point, I
11 got on the radio and said that we would be coming from
12 our location as a cover unit.

13 Q All right. So can you tell us what you mean
14 by "cover unit"?

15 A Yeah. So, primarily, it was established
16 because these are Portland calls, the Portland
17 officers would be primary, just because of, like,
18 paperwork stuff. The way we file evidence and
19 paperwork is different through our departments and it
20 makes it a little bit harder for the district
21 attorneys or the DA's Office with processing
22 sometimes, evidence information.

23 So the goal or the attempt was to have
24 Portland as the primary unit, meaning they're the one
25 that will be logging the evidence, kind of taking the

Examination of James Doyle

1 report and we are there as cover for just safety
2 reasons. So --

3 Q So if they needed help or you needed to back
4 them up in some way?

5 A Yes, sir.

6 Q Okay. All right. So what next?

7 A So at this point, we then leave. I'm
8 driving the vehicle and Officer Hayes is in the
9 passenger seat. We're also trying to figure out how
10 to get there at this point, 'cause we're not normally
11 working this area.

12 Officer Hayes is point up on the map, 'cause
13 there's a little map within the MDT when the call
14 comes up, it'll show like kind of like a little star
15 indicator of where the house or the location is.

16 And you can see the -- kind of the streets
17 around it, so you can kind of plan out your way to get
18 there. We were fairly close. Like I said, a couple
19 blocks away.

20 So we -- he said if we take Powell east and
21 then we can get to 122nd and then go north on there
22 and get to the residential street, which was Kelly.
23 So that was initially what we planned on doing.

24 That night, there was heavy construction at
25 an intersection on Powell east of us, where there's a

Examination of James Doyle

1 flag crew and a long line of traffic. Initially, we
2 got stuck in that. And Hayes was still monitoring
3 kind of the computer.

4 And then I remember an update coming out
5 that the suspect was still on scene, I believe, which,
6 to me, kind of elevates the call now. With
7 disturbances or domestic violence, normally when
8 there's a pattern of someone returning to an address
9 or it's someone they know, they're usually more
10 personal.

11 And that, a lot of time, can elevate the
12 confrontation that is there. So I remember
13 verbalizing to --

14 Q Can I ask you a question?

15 A Go ahead.

16 Q So just because some of us may not know,
17 when you say you heard that it was a known suspect,
18 where are you hearing that? Is it dispatch?

19 A Over the radio.

20 Q So it is the dispatch people that are
21 telling you that?

22 A Yes, sir.

23 Q Okay.

24 A 'Cause a lot of times, they'll still be on
25 the call with somebody on their end, on 9-1-1 and can

Examination of James Doyle

1 be giving us -- we just call them updates as we're on
2 our way to our call.

3 And so I just remember that update from
4 dispatch coming in and that kind of elevated me of
5 we're now sitting here stuck in this traffic and we
6 need to -- we need to hurry up and get there.

7 Q All right. And are you also telling them,
8 we're stuck in traffic? We'll be there --

9 A No.

10 Q So you're not (indiscernible) at them.
11 They're just telling you updates.

12 A Yeah.

13 Q Okay. All right. Continue.

14 A So at that point, again, Brendon was trying
15 to look for another avenue that we can approach on. I
16 believe he said it was 119th, which is the street
17 behind us. He said, "If you pull out of traffic and
18 turn around, we can go north on that street and then
19 come out on 122nd and then make our turn down that
20 street."

21 So, at that point, I put on my rear overhead
22 lights, which is like the red and blue flashing
23 lights, to indicate to people that we were going to be
24 pulling out. I pulled out of the stack and then
25 turned down 119th. And, at that point, we were down

Examination of James Doyle

1 some of those narrow, residential streets.

2 Based on Priority 1 and 2 calls, you can run
3 Code 3, which is lights and sirens, but it's with
4 discretion. I felt that because of how narrow those
5 residential Portland streets are, if we're now running
6 lights and sirens down these side streets, it's not
7 very safe within itself.

8 And if we can't even get to the call without
9 something else happening, it kind of defeats, again,
10 the purpose. There was no traffic in front of us on
11 that side street, so I feel comfortable still driving
12 normal at that point.

13 And we were close enough that we're still
14 getting up on scene effectively and quickly enough, I
15 felt at that point, now, being out of the traffic.

16 Q So you turned off your lights?

17 A Yes, sir. I just had them on to pull out
18 where we had cars around us and then once we turned
19 down the residential street to get to -- again, I
20 believe Kelly was where the call location was. I
21 didn't have my overhead lights on at that point.

22 Q All right. What did you see as you
23 approached Kelly?

24 A Well, prior to this, Officer Hayes told me
25 once we get to that throughway, which was 122nd, the

Examination of James Doyle

1 main road, Officer Hayes, I remember him tell me that
2 it should be my second left that I'm going to be
3 turning down.

4 I made my turn, my second left, and it was
5 actually one street short. I believe the street is
6 Tibbets. And so, at this point, we're in a 2019
7 Tahoe, which is a pretty large SUV; had to do a kind
8 of multiple-point turn on that side street to get
9 turned around.

10 And once we do get back to 122nd, we
11 actually see the Portland unit pass us on that main
12 road. I remember Officer Hayes being like, "Oh,
13 there's our primary unit. Let's just follow them in."

14 As we're pulling out onto 122nd, the
15 Portland unit actually misses the turn and continues
16 down the road. And, again, at this point, you know,
17 we're feeling we're just missing valuable time at this
18 point. So Officer Hayes tells me, just turn down the
19 road. So we were actually the initial unit coming
20 down Kelly towards the house.

21 Q So you were supposed to be cover for the
22 Portland unit or the Portland -- I'm talking like
23 police officers now. Portland car, Portland officers.
24 And -- but you ended up being the primary because they
25 missed the turn. Is that what you're saying?

Examination of James Doyle

1 A Yes, sir.

2 Q Okay. So -- and then so -- so you were the
3 first car to enter -- or enter southwest --or
4 Southeast Kelly; is that right?

5 A Yes, sir.

6 Q So right as you're -- right as you're
7 entering that street, did you -- what did you see as
8 right as you entered the street?

9 A So again --

10 Q Or did you see anything?

11 A Yeah. So the next stuff I'm kind of
12 describing is all very quick, over a couple seconds.
13 As we're turning now down the street, again, now we
14 know this is the street that our call location is on,
15 one of the updates, I believe, was that our suspect
16 was affiliated with a black sedan. I think it was a
17 Chrysler, the model of the car.

18 Q I'm sorry. So that was an update that you
19 got as you were on the way?

20 A I believe so, yes, sir. I remember having
21 that information prior to arriving to the call.
22 Whether that was in the initial call or the update,
23 I'm not -- I can't remember at this point.

24 Q But it was something that you knew, the make
25 and model.

Examination of James Doyle

1 A Yes, sir.

2 Q Okay.

3 A A lot of time -- normally, it's by yourself,
4 kind of inner dialogue that you have of stuff I'm
5 going to be looking for.

6 You're kind of saying it back and forth to
7 yourself as you're coming on scene, so like clothing a
8 suspect can be wearing, stuff they're affiliated with
9 or a victim, so you know -- 'cause a lot of time when
10 you arrive on scene, the stuff dispatch sometimes
11 tells you, 'cause you have to realize, they're on the
12 phone with the 9-1-1.

13 It can be chaotic if someone is on scene
14 having an emergency, trying to get information out.
15 Sometimes the information we're getting is not always
16 necessarily what's happening, so we have to always
17 kind of have that in mind as well of I'm pulling up to
18 a scene, taking in everything that I can as quickly as
19 I can to make a decision to react as we're arriving.

20 So as we're turning down -- east on Kelly, I
21 remember Officer Hayes (indiscernible) our suspect is
22 affiliated with a black car. And as he's saying this,
23 he's like, the house is going to be up on -- up on our
24 left-hand side.

25 And as he's saying this, I'm looking forward

Examination of James Doyle

1 and I can see -- it helps, too, not to get ahead of
2 myself too much. With disturbances or domestic
3 violence calls, we never want to park directly in
4 front of the location.

5 In case it's happening inside the home, you
6 always want to park short of the location so you can
7 again, take in as much information that you're not in
8 a point of vulnerability trying to help.

9 So, at this point, he's telling me the house
10 is going to be on the left-hand side of the road, so
11 now I'm looking also for somewhere on my right-hand
12 side where I can effectively park or pull over short
13 of where this house is going to be.

14 Again, this is one of those very narrow
15 Portland residential streets where if you're kind of
16 parked on the side, there's just enough room for about
17 one vehicle to get down at a time going back and
18 forth.

19 So I'm trying to take in where I can park.
20 And as I'm trying to find somewhere to park and we're
21 seeing okay, we're short of the location, I saw a
22 mixed race -- mixed race female.

23 I remember her wearing a pink shirt,
24 frantically running down from a driveway. And, I
25 believe, holding a cell phone, 'cause there was a

Examination of James Doyle

1 little light on her phone, like trying to flag us down
2 frantically.

3 Q Let me stop you there. So is this -- did
4 you see this as you were pulling into the -- as you
5 pulled onto Southeast Kelly or was this --

6 A So it was within a couple seconds of us
7 turning down the street.

8 Q Okay.

9 A Again, he's -- it's all within a couple
10 seconds of him -- we're re-discussing this information
11 as I'm coming down. And right as we're coming up to
12 begin parking is then when all this starts happening.

13 Q Got it. Okay. Go ahead.

14 A Again, I see -- as I'm literally trying to
15 put the vehicle in park, I now have a woman running
16 down essentially a driveway towards us trying to
17 again, wave us down, frantically looking over her
18 shoulder back down the street and also, seemingly,
19 frantically trying to get our attention.

20 Q Did you see other people as well?

21 A I remember seeing one other taller, older
22 male, little bit older, like middle age, maybe 50s or
23 60s, kind of farther back behind her. But as far as
24 on the street, that's all the people I remember.

25 Q Okay. Go ahead.

Examination of James Doyle

1 A Okay. And I remember as, again, I'm putting
2 this in drive as she's coming down the driveway
3 flagging us down and me and Brendon saying --
4 Officer Hayes, that's his first name, Brendon -- and I
5 remember saying to him, "That's probably our victim."

6 And right as I'm saying this, I see a black
7 sedan approaching from behind her, his headlights
8 coming down the road towards her.

9 Q Okay. So I want to stop you there. Okay.
10 So at that point, you get out of your car?

11 A Not yet.

12 Q Okay. Well, I'll stop you when
13 (indiscernible). Go ahead.

14 A Okay. So, again, I'm doing my best to
15 articulate this to you guys, 'cause it was very
16 quickly. Again, cars trying to go in drive. Woman's
17 running down.

18 Now we're seeing the vehicle and us both
19 kind of saying there's our victim, what we believe,
20 based on the -- the call information that we have was
21 affiliated with our suspect is this black vehicle.

22 And as we're literally saying this and I'm
23 putting it in park, I remember the vehicle approaching
24 behind her, slowing down, coming almost to a stop and
25 then continuing into her and beginning to, what I'm

Examination of James Doyle

1 perceiving as striking her with the vehicle. At this
2 point now, I'm frantically jumping out of my patrol
3 vehicle.

4 Q All right. So I want to talk a little bit
5 about your memory of what happens next. Okay? So you
6 had a camera, a body-worn camera on your -- on your
7 uniform; is that right?

8 A Yes, sir.

9 Q And it -- and it took a video of what
10 happened, video footage of what happened next?

11 A Yes, sir.

12 Q Have you viewed that video since this
13 incident or since that day?

14 A Since this incident, yes.

15 Q All right. Is that -- have you viewed it
16 numerous times, would you say?

17 A A handful of times between initially with my
18 lawyer and union team, again, prior to giving a
19 statement voluntarily back in October, the DA's Office
20 and representative from the Department of Justice and
21 then also with your guys' office as well within the
22 past couple weeks.

23 Q Okay. And is that consistent with your
24 office's -- or the Gresham Police Department policy
25 that you're allowed to view the video?

Examination of James Doyle

1 A Yes.

2 Q -- that you took? That your body camera
3 took?

4 A Yes, sir.

5 Q Okay. Would you say that your memory of
6 what happens after that point has been supplemented by
7 your viewing of the video?

8 A There are things from the trauma that I
9 don't remember from the incident that -- and, again, I
10 don't know how much you want me to get into that yet
11 or address it when it comes up in my statement.

12 Q However you want to do it, yeah.

13 A There are aspects that I believe you guys
14 are going to watch the video here or if you have
15 already, part of that, like when I am firing, I'm
16 holding my flashlight.

17 I didn't know that until after I watched the
18 video, that I actually shot and defended myself
19 one-handed. After the incident, I put on my gloves
20 to -- I don't know what was going through my head --
21 to help.

22 When I got back to the department, I was
23 asked by detectives, "Were you wearing your gloves
24 when the incident happened?" And I'm looking down at
25 my hands, like, I'm wearing my gloves, so yeah.

Examination of James Doyle

1 And there's stuff that my brain has blocked
2 out and I've been kind of trying to deal with there,
3 that I know it's me, 'cause it's my video, but with
4 the trauma of what happened and how quickly, there's
5 elements to it that I don't remember; but I know it's
6 me, because it's my video.

7 Q Okay. So just as you describe what
8 happened, I wanted to make sure that you had the
9 ability to explain what -- what -- what your memory
10 has and what may have been supplemented.

11 A Okay.

12 Q So you can go ahead and tell us what
13 happened.

14 A From that point?

15 Q So you -- you testified that you saw the
16 woman being run down, I think you said, and -- and
17 started to get out of your car as quickly as you
18 could.

19 A Yeah. So, again -- and, at this point, it's
20 nighttime. I have headlights now facing towards me.
21 I remember, again, her frantically trying to flag us
22 down from the position that she was in. The movement
23 of the vehicle up behind her and what -- and, well,
24 what I was perceiving is now him beginning to strike
25 her with the vehicle.

Examination of James Doyle

1 The information we had was that our suspect
2 was threatening to kill our complainant. I believe
3 that this was our complainant based on her frantically
4 trying to flag us down. I believe this is my suspect
5 in the vehicle that was based on the affiliate
6 information that we got.

7 And from what I was perceiving, it was -- he
8 was now actively trying to assault her with his
9 vehicle. She began yelling and kind of frantically
10 reacting to being hit.

11 And this is, again, all within seconds of me
12 now jumping out and being focused on this woman and
13 this vehicle now in front of me as I'm stepping out of
14 my car.

15 Q Okay. Would it be helpful to you if we play
16 the video and you talk about what happened or do you
17 want to talk about it and then we can play the video?
18 Or do you want to play it at all or --

19 A Again, I don't just what you guys have seen.
20 I can talk through from what I remember if that's
21 helpful for you guys and then we can go through
22 again --

23 Q Sure.

24 A -- and I'll take your --

25 Q So we -- we've seen the video once.

Examination of James Doyle

1 A Okay.

2 Q Yeah. So go ahead.

3 A I mean, at this point, I remember jumping
4 out and just in that moment, yelling. I don't
5 remember exactly what I get out as I'm yelling. Now
6 what I'm saying is this guy striking this woman with a
7 vehicle.

8 I'm looking into headlights at this point.
9 I remember her body movement across the lights. I
10 don't know how she was able to do that.

11 Just because of the glare of the headlights
12 that I'm looking into, one thing I will comment on
13 that I have seen in the video is the contrast that is
14 different from my perception of what I visually saw
15 through my eyes and what the camera captured with the
16 contrast in the light difference.

17 It's a lot more clear as far as, you know --
18 if you guys had been in front of a car at night with
19 headlights coming towards you. It's a little bit more
20 overtaking than I feel like is represented in that
21 video as human eyes versus camera.

22 And, at that point, as she is moving away
23 from the front of the vehicle, the thing that is
24 burned into my memory is the noise of the acceleration
25 of the vehicle now, him punching on the gas and then

Examination of James Doyle

1 headlights coming at me.

2 Q Okay. So why don't you just continue. I
3 don't need to break up your --

4 A Excuse me. Sorry. Yeah. I just remember
5 the -- I'm doing my best to articulate that it's very
6 quick of just the feeling of, again, what I described
7 of what we know coming in, what we're seeing.

8 And then just that feeling of I'm stepping
9 out now focused in on what I'm think is happening and
10 what I'm seeing and then the noise of him flooring the
11 car, the headlights coming up on me.

12 I remember just kind of that feeling --
13 excuse my language -- of like, oh, shit, he's not
14 stopping and picking up speed. Kind of the spatial
15 awareness that I have is that my 2019 Tahoe is next to
16 me that I stepped out of to my right-hand side.

17 Again, I know possibly the perception within
18 the video, based on the lens, it looks wider than it
19 is, but it is one of those residential Portland
20 streets that's pretty narrow. And just kind of have
21 that feeling of being boxed in with how quickly he's
22 coming up on me.

23 And just, at that point, I remember
24 distinctly drawing my weapon and when he's within
25 seven to ten feet away from me, possibly like me

Examination of James Doyle

1 sitting here to you guys there, is when I remember
2 finally making that decision of he's not stopping, to
3 defend myself.

4 I know, again, just remembering that first
5 round and then consciously coming in with my last two
6 rounds of -- coming. And when I get to that point of
7 he stopped and stop and that's what I remember. So I
8 only effectively remember consciously firing three to
9 four times.

10 Q Okay. Do you remember turning on your
11 camera?

12 A I remember in the sense of -- I don't want
13 to call like muscle memory. Again, working night
14 shift, my camera is located on my vest right next to
15 my flashlight. So working night shift, essentially
16 every time I get out, one of the first things I grab
17 is my flashlight.

18 And I think now consciously, again, within
19 me firing in the video, that I'm holding my flashlight
20 and shooting one-handed and didn't know it until after
21 I watched the video.

22 So within the trauma, do I remember, like,
23 consciously turning on my camera? No, I think it was
24 the natural camera, flashlight is the first things I'm
25 doing when I'm getting on scene and that is how my

Examination of James Doyle

1 video got turned on.

2 Q Did you have awareness of that time of what
3 Officer Hayes was doing?

4 A No idea, sir. No.

5 Q You didn't know where he was?

6 A No.

7 Q Whether he was in the street? Whether he's
8 on the side?

9 A I do not.

10 Q What about the cover officers?

11 A Last thing I knew of Portland was that they
12 had missed the turn and was conducting a U-turn in the
13 main street so that they were somewhere behind us
14 within the road, coming down.

15 Q Okay. So in that short time when you get
16 out of the car and you see the black sedan coming at
17 you, did you have a concern about where other people
18 were at that time?

19 A Within just the consciousness of knowing of
20 like our cover units are behind me, how that played
21 in. But, again, I'm so focused on this vehicle and
22 this woman, I think that's just kind of primarily
23 where my focus is at with the understanding, you know,
24 I have my other officers that aren't standing right
25 here next to me with how quickly it happened.

Examination of James Doyle

1 Q Who might be there or might not be there?

2 A Yes, sir.

3 Q Okay. Do you want to play the video now and
4 would that be helpful?

5 A If you guys think it would be helpful.

6 Q Sure.

7 A If you need more for that.

8 MS. GIRT: For the record, I'll just cue
9 that up and we'll go through.

10 THE WITNESS: Do you guys want me to move
11 to -- how would that work with the --

12 MS. GIRT: Whatever you're comfortable with.
13 I do want to be able to look at it, though.

14 THE WITNESS: Yeah. I just didn't know if
15 you guys (indiscernible) talk into this recorder.

16 MS. GIRT: Oh, how about you kind of move
17 over a little bit off the desk a little and drag that
18 mike over with you guys. Can you guys see the screen
19 with him --

20 A GRAND JUROR: Yeah.

21 MS. GIRT: -- sitting up there still? Okay.

22 BY MR. KAUFFMAN:

23 Q Let me just say, Officer, do I -- I asked
24 you if it's helpful to you, because you're here on
25 your -- voluntarily, so we're not -- this is not our

Examination of James Doyle

1 examination of you. You're --

2 A Yeah. And again, I -- I -- I'm just trying
3 my best to articulate, 'cause it happened so quickly.
4 It was over, I think, 14 months ago at this point.
5 It's kind of been a long year to dwell on those few
6 seconds and knowing how to best articulate that to you
7 guys.

8 MR. KAUFFMAN: Okay. Understood.

9 MS. GIRT: Yeah.

10 THE WITNESS: If you guys have questions on
11 that, I'm more than happy to answer as well.

12 MS. GIRT: I'm going to pull up the video
13 right now just for the record and we'll watch at least
14 the first two minutes of it.

15 THE WITNESS: Okay.

16 MR. KAUFFMAN: And if you want her to stop
17 at any point --

18 (**TRANSCRIBER'S NOTE:** Audio recording played
19 in open court, 2:06 p.m.)

20 MS. GIRT: Pause it at one minute and
21 24 seconds.

22 BY MR. KAUFFMAN:

23 Q Okay. Is there anything you want to say
24 about that? I mean, that's just, you've already
25 talked about the shooting and --

Examination of James Doyle

1 A Yeah. Again, the only things that I would
2 comment on is just, again, the -- how dark or how
3 light that -- the perception there is not what I
4 remember.

5 In my memory, I remember it being darker to
6 the fact that when the woman's actually flagging us
7 down, having to do it with a phone, with the light on
8 her phone. I very distinctly remember her light and
9 then the headlights.

10 And then the fact that my Tahoe is next to
11 me right now that me and Brendon are up against. And
12 you don't necessarily see that from this until I think
13 I turn a little bit in the video and then you can see
14 the front rail of the car there.

15 Q Yeah. So the one thing that the video
16 doesn't capture is what's going on in your head at the
17 time. Can you just tell us kind of as much detail as
18 possible what you're thinking as you get out of the
19 car and this -- and these -- and you're faced with
20 these headlights. I mean, what -- what did you think
21 about your own safety, about the safety of others?

22 A Yeah. Again, like I said, we're coming in
23 with the information we have, that this suspect is
24 threatening to kill this woman, which, you know, gives
25 us a level of intent when we're coming into of this is

Examination of James Doyle

1 possibly what we're going to be coming across and
2 dealing with.

3 Again, knowing that this is, apparently
4 based on the information we're getting, this was a
5 known subject to our caller. It's the second time
6 he's been at the location.

7 And then as we're arriving, then seeing his
8 behavior towards her, and then (indiscernible) now
9 when I'm stepping out, wanting to address that, now
10 she is able to move from what I can see. Then his
11 behavior of flooring the car and now coming
12 towards me.

13 Again, just as much as I can articulate that
14 just feeling of being stuck in this funnel of this
15 road and how quickly I have to respond to that with
16 what I have possible at this, essentially, weapon is
17 the vehicle being used by the driver directed towards
18 me at this point with the unknown of other people
19 around me that he's going to seriously injure or
20 kill me.

21 I've been on pedestrian strikes many times
22 at work. Doesn't take much for a vehicle to seriously
23 injure or kill somebody. And just what's burned into
24 me is that feeling of being overwhelmed; faced with
25 the headlights and that noise of him flooring it that

Examination of James Doyle

1 you hear -- and it's captured in the video as well --
2 coming towards me and just kind of having that fight
3 or flight of I'm stuck in this funnel and having to
4 defend myself.

5 Q So didn't you have any other alternatives
6 other than firing?

7 A No, I don't believe I did.

8 MR. KAUFFMAN: Can we put up that still
9 image?

10 MS. GIRT: Yes.

11 BY MR. KAUFFMAN:

12 Q So this is just a screen shot of kind of
13 when -- when, in your body-worn camera, the vehicle
14 becomes first visible. Okay? Officer Doyle, does
15 that strike you as being distorted at all or does it
16 -- what does that tell you about kind of what the
17 body-worn camera shows?

18 A I mean, I'm not a camera expert; but, again,
19 from what I can see is that's two to three car lengths
20 away. The street, you guys can kind of see the
21 narrowness by the side of the road here, how much
22 distance is between the side of the vehicle -- and
23 that's actually the road -- of how much room we're
24 working with, because my patrol vehicle's parked right
25 here next to me.

Examination of James Doyle

1 So it looks like, you know, the -- the
2 amount of space that's there, from what I feel and
3 remember, is -- I guess I'd say different; but, you
4 know, it's a different feeling of what I'm seeing
5 there based on what I actually felt stepping out, also
6 with the adrenaline being focused on the car, what was
7 going on in front of me.

8 Q So I -- here's what I hear you saying, is
9 that at first, when you first look at it, it looks
10 like that car, there's quite a bit of distance between
11 you and the car.

12 A That's correct.

13 Q And maybe there might have been all kinds of
14 alternatives you would have had other than firing on
15 the car; but that when you look at it in terms of
16 these other two vehicles, it -- you get a sense of how
17 close it really was. Is that kind of what you're
18 saying?

19 A Yes, sir.

20 (Whispered discussion, off the record,
21 2:11 p.m.)

22 BY MR. KAUFFMAN:

23 Q Okay. So suggestions were made that maybe
24 we could take you back through the video from the
25 moment we first kind of -- it first starts. And then

Examination of James Doyle

1 you can kind of just tell us what's going on until the
2 point where you get out. So we -- we kind of
3 understand how that -- the length of time.

4 A Okay.

5 MR. KAUFFMAN: Does that make sense?

6 MS. GIRT: Yeah.

7 THE WITNESS: You mean like what's going on
8 right now as I'm in the vehicle pulling up?

9 BY MR. KAUFFMAN:

10 Q Right. And let me ask you this. When you
11 activate your body-worn camera, what actually happens?

12 A So as, like I said, as I'm putting -- you
13 guys see me pulling up and putting it actually in park
14 is when she's coming down into the street flagging us
15 down. And what causes me to get out of my vehicle so
16 quickly is that's the point is when the contact is
17 being made between the vehicle and the woman.

18 Q But with the -- I guess I was asking about
19 the body-worn camera.

20 A Okay.

21 Q So is -- so, as I understand it, it saves a
22 certain portion of time?

23 A Yeah. So it'll backtrack 30 seconds for
24 instances like this where we've had multiple officers
25 where the call happens so quickly or what happens when

Examination of James Doyle

1 they arrive on scene so quickly, they're not able to
2 actually get their camera, 'cause you have to manually
3 turn it on.

4 And so they've actually revised our policy
5 since all of this to where the second you're
6 dispatched to a call, even back at the police station,
7 you turn your camera on. So the entire time, like the
8 actual recording, but the way that the camera company
9 set it up was to then backtrack.

10 So it's constantly recording, but actually
11 what is then where we can watch it is the moment I hit
12 the button on it, it backtracks 30 seconds, which is
13 what you guys are seeing right here with no audio.

14 Q So when the audio starts, that's when you --
15 that's when you press it?

16 A That's when I -- that's when I'm
17 (indiscernible), yes, sir.

18 Q And was the -- was this a relatively new
19 thing, the body-worn cameras, for Gresham Police?

20 A I'd had this camera for about a month prior
21 to this incident.

22 Q Okay.

23 A I believe we're the only department in
24 Multnomah County that have body camera footage or body
25 cameras right now.

Examination of James Doyle

1 Q All right. So why don't you tell us what's
2 going on.

3 A Again, I believe we just turned down the
4 road, pulling up. Brendon, as we're talking back and
5 forth of the information we have, I believe he just
6 had pointed out it should be her house up here on the
7 left and this is where I start looking for a position
8 to park.

9 And then you kind of see the bump. That's
10 me pulling into the gravel that was aligned there.
11 And then right here is where she's running down. And
12 now the vehicle is making contact with --

13 Q Stop it there. So that looked like it was
14 about 10 seconds, that whole --

15 A Okay.

16 Q I mean, it was 30 seconds, I guess, since
17 the beginning of the video, but in terms of -- so just
18 a very few -- a very short period of time.

19 A Yes, sir.

20 Q Yeah.

21 (**TRANSCRIBER'S NOTE:** Audio recording
22 played, 2:14 p.m., as follows:)

23 OFFICER DOYLE: Whoa, whoa, whoa.

24 (**TRANSCRIBER'S NOTE:** Audio recording
25 stopped, 2:14 p.m.)

Examination of James Doyle

1 BY MR. KAUFFMAN:

2 Q Okay. So why don't you tell us again what's
3 going on here.

4 A What I remember is just headlights and that
5 noise that you guys heard as he's flooring it.

6 (Whispered discussion, off the record,
7 2:15 a.m.)

8 MR. KAUFFMAN: Oh, I gotcha. Okay.

9 BY MR. KAUFFMAN:

10 Q So it looks -- so I'm sorry. So the -- the
11 audio had just started on that body-worn camera,
12 right? And so you're -- you've got your gun out.

13 And so it looks like from our -- just for
14 the record, it's like about 33 seconds into the video,
15 so -- which is three seconds after you've turned on
16 your video; is that right?

17 A Yes, sir. It was very quick.

18 MR. KAUFFMAN: Okay. Go ahead.

19 (**TRANSCRIBER'S NOTE:** Audio recording played
20 in open court, 2:15 p.m., (no dialog in this portion).

21 BY MR. KAUFFMAN:

22 Q And then stop it there.

23 So that's -- looks like about six seconds
24 after you turned on your body-worn camera?

25 A I would say approximately.

Examination of James Doyle

1 Q Okay. All right. Is there anything else
2 you want to talk about in that specific piece of it?
3 I know it's been a long time you've been waiting to
4 talk about it, so --

5 A Just trying to articulate to you guys,
6 again, how quickly this happened and how -- I mean, I
7 know what I felt and what I can remember; but trying
8 to get that human aspect of that out to you guys to
9 kind of know of making that decision to defend myself.

10 And then when I consciously come in
11 (indiscernible) and stop him, where I'm at in
12 realizing that because of how quickly the vehicle is
13 moving is how that movement is playing in.

14 Q So you -- I think you said that you
15 remembered shooting four times?

16 A Three to four.

17 Q Three or four. And you have actual memory
18 of those specific shots?

19 A Consciously, that first one, trying to get
20 it through the front window in approximately where the
21 driver would be sitting. And then those --
22 consciously coming in of those last rounds where he's
23 coming at and then that's -- realizing where the
24 vehicle isn't stopping.

25 Q So do you remember making a decision to stop

Examination of James Doyle

1 shooting?

2 A Yes, sir.

3 Q Okay. Do you know how many -- how many
4 times you actually shot?

5 A I don't.

6 Q You don't know. Okay. Well, let me ask you
7 this. This may be a good time.

8 Do you -- were you -- have you talked to
9 other people who were witnesses at the -- at the scene
10 or seen any other case materials or forensics or
11 anything like that?

12 A The only person that I've spoken really is
13 Officer Hayes, my partner. We were on a no contact
14 for over 10-and-a-half months. We had both provided
15 official statements on record. And due to the mental
16 health of both of us, to allow us to talk and meet
17 with each other, that decision was made by the
18 Department.

19 Because we had official statements on record
20 already, we were allowed to talk for a couple weeks
21 and then when the grand jury was announced, it was
22 decided for us to no longer talk.

23 Q All right. Have you seen any of the
24 forensic work that's been done?

25 A No, sir.

Examination of James Doyle

1 Q Any what we call Leica footage or diagrams
2 or anything like that?

3 A The only thing that I've seen and know of is
4 this and then the few articles that came out from
5 local news stations.

6 Q Okay. So you really have been told to not
7 have any contact with any part of the investigation --

8 A Yes, sir.

9 Q -- other than what you just mentioned?

10 A All right. Do you feel like -- well, I'm
11 not going to say that.

12 Q Can you -- why don't you -- why don't you --
13 so after the shooting, it looks like -- we saw on the
14 video, it looks like Officer Hayes comes over and --
15 and puts a hand over, says, "I got this." Can you
16 talk about what happened next or what you recall?

17 A Again, I've seen the video, so I know what
18 happens. The female victim, I believe (indiscernible)
19 it's the second time this figure hit me, run me over.
20 I remember the subject had been yelling from within
21 the vehicle.

22 Q And I don't know if it was Brendon who got
23 on the radio and asked for more assistance. I
24 remember the Portland officers running up at one point
25 and a female officer kind of telling me to step aside,

Examination of James Doyle

1 which is pretty normal for officer-involved shooting
2 incidents where the shooter officer will be asked to
3 kind of step to the side, just for the integrity of
4 the investigation, so I'm not sitting there messing
5 with stuff.

6 And I think that's where then I go into my
7 patrol vehicle to put my gloves on. I don't know if I
8 was consciously thinking to start helping with CPR or
9 what was going through my head at that point.

10 And yeah, I remember Officer Walden and
11 Officer DeLong arriving shortly after and them using
12 their vehicle to box in this vehicle so they could
13 pull him out and begin aid at that point.

14 And then that's when multiple units started
15 showing up. Our sergeant showed up. I was on the
16 side of the vehicle. I remember Officer Walden coming
17 up to me at one point. Now, since I've seen the
18 video, I know that he asked me how many times I shot.

19 And I think I told him two or three or two.
20 I don't even remember talking to him other than him
21 coming up to me. I remember telling either him or
22 Sergeant Estes that I think someone asked if there was
23 anyone else outstanding and telling them, trying to
24 direct them to the woman that I had seen contact with
25 that car.

Examination of James Doyle

1 And then pretty much being pulled off scene
2 and standing over there until I was told to turn my
3 camera off. And then I was transported back to the
4 police department, where then I was documented by
5 Portland police detectives. They pretty much took all
6 my stuff.

7 Q So did -- did they do a -- I think it's
8 called a draw-down procedure?

9 A Yes, sir.

10 Q Is that what it's called? Can you tell us
11 what that is.

12 A I'm at a office at our police department
13 with my union representative. I believe Dave Hannon
14 of the Multnomah County District Attorney's Office was
15 there and then the Portland detectives.

16 Because this happened in Portland, it was a
17 Portland incident, Portland detectives were assigned
18 to this. And they showed up. They photographed me as
19 I am that night. And that's where, again, I said I
20 have my gloves on. I don't remember if I was wearing
21 them at the time or not.

22 They do a round count where they take your
23 firearm and all your rounds and they count how many
24 rounds are present. And I believe that's where they
25 figure out forensically how many times you've shot.

Examination of James Doyle

1 And then also we have the body camera footage to help
2 with that; and, I believe, forensics on scene.

3 Q And so did they not -- did they tell you at
4 the time how many rounds you shot?

5 A I don't remember. I pretty much handed my
6 stuff and then was standing off to the side as they
7 were doing their thing on the other side of the room.

8 Q Okay. And then what -- what happened then?
9 What was the procedure then?

10 A The acting chief at the time, Robin Sells,
11 came in. And that's where they do the official gag
12 order, that for within the department for integrity of
13 the investigation, that I am not able to talk to
14 Officer Hayes and anyone else, really, for that
15 matter, outside of my wife, my legal representative;
16 and then, I believe, clergy, like chaplains and
17 pastors are also included within that.

18 And that was implemented until about
19 ten-and-a-half months later. At the time, my wife was
20 nine months pregnant, so I was -- high-risk pregnancy,
21 was a little bit worried and that people were going to
22 be calling her and stressing her out. So they quickly
23 got me through my proceeding and then I was sent home
24 on administrative leave to my wife.

25 Q Okay. What else do you want to say,

Examination of James Doyle

1 anything?

2 A There's only so much I can really say to
3 this, about this; but, no.

4 Q Well, I'll turn it over to my colleagues and
5 see if they have questions.

6 MS. GIRT: Yeah. I've got a couple
7 questions to kind of run back (indiscernible) on some
8 things.

9 BY MS. GIRT:

10 Q You were put on administrative leave. Did
11 you remain on administrative leave for some period of
12 time or are you still?

13 A I'm still on critical administrative leave
14 at this time.

15 Q Okay. So that means you are still employed
16 by the Department --

17 A Yes.

18 Q -- but not actively working?

19 A Yes, ma'am.

20 Q Okay. In the roughly three seconds from the
21 time period that we see you get out of the car and
22 flip on your body-worn to when your gun is drawn, did
23 you consider any other alternative means to stopping
24 the vehicle?

25 A No. I don't believe I had any alternative,

Examination of James Doyle

1 other means to stop this vehicle.

2 Q Okay. You talked about the limited
3 information that you had, including having seen the
4 body-worn camera and then you referenced some news
5 articles. Did you, yourself, like, seek out news on
6 this case?

7 A Wasn't seeking it out. Me and my wife
8 actually canceled our cable after this incident. We
9 no longer have TV. And I had multiple people sending
10 me the articles, including people I've not talked to
11 for a couple years.

12 And I had looked through The Oregonian
13 article that I believe came out on this that had
14 street surveillance footage prior to the incident of
15 us arriving --

16 Q Okay.

17 A -- as well as a few KGW, I believe, is the
18 other news ---

19 Q Okay.

20 A -- station.

21 Q So was that the source of any other parts of
22 the investigation that you didn't previously know
23 about?

24 A Yes, ma'am.

25 Q Okay. Early in the video, right after the

Examination of James Doyle

1 shots were fired, there is a voice radioing out,
2 "Shots fired." Is that your voice?

3 A I believe so.

4 Q Do you remember doing that?

5 A No.

6 Q Is that something you're trained to do in a
7 situation like that when there's been shots fired,
8 whether by you or somebody else?

9 A Yes, ma'am.

10 Q The 30 seconds that the body-worn provides,
11 you know, backdating from the time that you flip it
12 on, when you watch it on this particular incident, do
13 you believe that all of that was on Southeast Kelly
14 Street or do you see any indication that any part of
15 that covers when you turned off of 122?

16 A I don't remember.

17 Q Can you articulate any further for us -- and
18 if you can't, that's fine. I just want to make sure
19 I've given you the opportunity to tell us why you
20 shot. What, in those three seconds, why did you make
21 a decision to pull your firearm and actually use it in
22 the direction of this driver of the vehicle?

23 A Again, I believe the moment that I actually
24 do finally fire, with how close he is to me, at that
25 point, just consciously having that feeling of this

Examination of James Doyle

1 fatal funnel that I'm stuck, and I hear the flooring
2 of the car and that he's actually picking up speed
3 coming towards me.

4 And then just again, it's the overwhelming
5 feeling of headlights overtaking me, based on the
6 behavior that I'd already seen, with the call
7 information we had of why we were there in the first
8 place of this just overwhelming feeling I'm going to
9 be seriously injured or killed, don't know where my
10 partner's at, the other officers, people in the street
11 behind me. And just, as consciously as I can, take
12 all that in to the emotion of that fight or flight.

13 Q When you get out of the car, do you have an
14 independent recollection, without watching the video
15 of whether you got out and left your door open while
16 you were getting out, reacting to this?

17 A No, ma'am.

18 Q Could you tell by watching the video whether
19 that is the case or not?

20 A No.

21 Q Did you -- do you remember having the time
22 to perceive that there was any room for you width-wise
23 on the road to move, you know, out of -- out of the
24 way, if that had been an option for you?

25 A Can you ask that again?

Examination of James Doyle

1 Q Do you remember in that couple of seconds
2 having the ability to perceive or perceiving that
3 there was any width room for you to move relative to
4 where you got out of the car, like out of the way?

5 A No, ma'am.

6 Q In your couple years as a police officer
7 with Gresham, had you received any training relative
8 to how to approach moving vehicles; how to deal with
9 moving vehicles; you know, moving vehicles as a -- as
10 a particular alternative means of it being a threat
11 itself? Any training along those lines?

12 A We have, like, our general driving train,
13 you know, with vehicle safety stuff. But not as far
14 as addressing a vehicle in this circumstances, no.

15 MS. GIRT: Okay. Okay. I think that's all
16 that I had for you. Kelly, do you have some more
17 questions?

18 (Whispered discussion, off the record,
19 2:28 p.m.)

20 MS. GIRT: Okay. So, for the record,
21 Counsel, we were just discussing backtracking this
22 video until about the 29-second marker if this mouse
23 will let us click through this just at that exact
24 moment here.

25 BY MS. GIRT:

Examination of James Doyle

1 Q Okay. So I -- we are at 29 seconds.

2 Officer Doyle, when you look at that, can
3 you tell, why -- why is your thumb kind of lit up in
4 that frame?

5 A On the body camera when it is activated,
6 there's a red light on the front so we know it's on
7 because of how close it is to our chest.

8 And it just puts out a red light, so
9 especially when we turn it on, we're -- I'm pretty
10 sure it's within the law as well, but part of our
11 policy is notifying people you're being audio and
12 video recorded and that just kind of helps play into
13 that.

14 Q Okay. Then in this frame -- thank you,
15 Kelly -- so again, we see a big giant pink blob in the
16 middle with some yellow. This appears to be some sort
17 of a light that's kind of reflecting.

18 There's also some stuff happening in that
19 kind of right-hand side about halfway up the screen.
20 Can you kind of give us an explanation what you're
21 viewing up there in the camera?

22 A I believe that is the woman that is being
23 struck by the vehicle there.

24 Q Okay.

25 A And, like I said, at this point as I'm

Examination of James Doyle

1 getting out is when I remember her body movement
2 across the -- the headlights and as she -- the word
3 I've used in my statement is clearing the vehicle or
4 however she did that is then when I remember the
5 acceleration and then him coming towards me.

6 MS. GIRT: Okay. And since we have it
7 pulled up from here, I'll just play until the shots
8 are continued. Then I think we'll probably close this
9 down unless anyone wants to see it additional times
10 with Officer Doyle in here.

11 Okay. So we'll just do that one more time
12 here. Is it going to let me do it?

13 (**TRANSCRIBER'S NOTE:** Audio recording played
14 in open court, 2:30 p.m., (no dialog in this portion).

15 MS. GIRT: Okay. Did you have more
16 questions or anything else here, Kelly?

17 Okay. So I want to give you an opportunity
18 to ask questions as well.

19 A GRAND JUROR: I have a couple. I tend to
20 have a list out of this group, as always.

21 Were you ever aware if Mr. Berry ever called
22 9-1-1? Did you ever get an update?

23 THE WITNESS: Is Mr. Berry the suspect?

24 A GRAND JUROR: The --

25 MR. KAUFFMAN: The decedent.

Examination of James Doyle

1 A GRAND JUROR: Yes.

2 THE WITNESS: Sorry, what was the question?

3 A GRAND JUROR: Sorry. Did you ever get an
4 update saying that the decedent had also called 9-1-1?
5 Was there any sort of --

6 THE WITNESS: I don't remember that
7 information, ma'am.

8 A GRAND JUROR: Okay. Do you remember
9 seeing if the decedent had a seatbelt on?

10 THE WITNESS: No.

11 A GRAND JUROR: Okay. I know it's a little
12 (indiscernible), but that's --

13 THE WITNESS: No. I'm sorry, got it.

14 A GRAND JUROR: -- (indiscernible).

15 Do you remember if his window was rolled all
16 the way up or if it was cracked?

17 THE WITNESS: I don't know. I don't
18 remember. I know what I saw, like the picture
19 there --

20 A GRAND JUROR: Right.

21 THE WITNESS: -- of what I'm seeing next to
22 where it was at prior to me firing, I don't know.

23 A GRAND JUROR: Right. So you get out of
24 your vehicle. Did the car swerve towards you or was
25 it just in a straight line and you were kind of in the

Examination of James Doyle

1 street enough that he would have hit you if he kept
2 going?

3 THE WITNESS: Again, from what I remember is
4 just the -- from what I could see, his headlights.

5 A GRAND JUROR: Okay.

6 THE WITNESS: With the acceleration. I
7 can't necessarily see the -- you know, the full
8 vehicle --

9 A GRAND JUROR: Right.

10 THE WITNESS: -- behind it, but just the
11 lights.

12 A GRAND JUROR: So lights didn't move at
13 all? It was just --

14 THE WITNESS: Within those few seconds --

15 A GRAND JUROR: -- really bright and --

16 THE WITNESS: -- not that I remember, no.

17 A GRAND JUROR: Okay. How many steps did
18 you take, if you remember -- I know that's very quick.
19 How many steps did you take outside of your vehicle?
20 When you got out of the vehicle, do you remember how
21 many steps or how much -- how much distance you
22 crossed by the time you --

23 THE WITNESS: I don't remember.

24 A GRAND JUROR: -- started firing?

25 THE WITNESS: Just the -- again, the

Examination of James Doyle

1 sensation of trying to focus on the vehicle and the
2 subconsciousness of moving with that. And then where
3 I'm at and standing when he accelerates.

4 A GRAND JUROR: Okay. We were talking with
5 Michael Brooder, an officer who did some training. Do
6 you remember being taught about safety priorities and
7 priority-based decisions?

8 THE WITNESS: Priorities of life, is that
9 what you're describing?

10 A GRAND JUROR: Yes, with imminent threats,
11 innocent people in the area and such.

12 THE WITNESS: Yes, ma'am.

13 A GRAND JUROR: Between the time that you
14 were in your car pulling up, seeing a lady trying to
15 flag you down and shots being fired, were you able in
16 that short amount of time to mark any sort of safety
17 priorities, if you were able to think of, were the
18 officers in imminent threat, the woman? Were you able
19 to sort of put priorities in place?

20 THE WITNESS: Naturally, that's -- like I
21 said, the little conversation between me and
22 Officer Hayes', who we're believing is victim, based
23 again on behavior. And that's why I think when I do
24 get out, she's not only the victim who I think is
25 calling me, but is now a victim on scene.

Examination of James Doyle

1 A GRAND JUROR: Right.

2 THE WITNESS: And that's why I think my
3 focus was so -- like you guys hear me yelling, "Whoa,
4 whoa, whoa" as we're getting out, 'cause it's not
5 natural to watch somebody now using a vehicle against
6 somebody and just being focused on there.

7 I believe I did, after I fired, that other
8 male I described, him coming up with the woman, I do
9 distinctly remember him bleeding from the left-hand
10 side of his face.

11 A GRAND JUROR: Mm-hmm.

12 THE WITNESS: But, again, with my limited
13 knowledge of the call, I don't know how that played in
14 or where that came from or what his involvement was if
15 that was from the disturbance prior to us getting
16 there. But that's the only other person that I hadn't
17 mentioned yet that I remember, an aspect of that.

18 A GRAND JUROR: Do you think that the
19 tension of the night, you being in a new area, all
20 these sort of factors that sort of put you in a -- in
21 a situation where you're now the primary officer.
22 You're in an area that you haven't been before.

23 You know that there's tension going on in
24 Portland. Do you think that put you on a higher alert
25 and that you were just a little bit more anxious? Did

Examination of James Doyle

1 it put you in a different state of mind as if you
2 would have been normally if you were in your own
3 district as a police officer?

4 THE WITNESS: I mean, there's a human aspect
5 of our call every night. And like I said, with
6 priority calls, you know, you're naturally coming in
7 with a mindset of this is a higher level call, so
8 there is the adrenaline there.

9 But, again, I think it was just the tension
10 that everyone was feeling in this area, period in that
11 area or at that time. But also all of us that were
12 there that night had volunteered to come and help.
13 And we very much were with the understanding of we're
14 coming to try to help the City of Portland and
15 Portland Police.

16 A GRAND JUROR: You becoming the primary
17 officer on the scene and now that you couldn't -- you
18 didn't know where Portland Police were. You had no --
19 you had no time to contact Portland Police, is that
20 correct, since everything happened so fast?

21 Did you -- did you never radio them? You
22 never got in contact with them at all? You never
23 spoke with either of the officers before the event
24 happened?

25 THE WITNESS: So a lot of time -- and I

Examination of James Doyle

1 don't know if it's just a perception of kind of the
2 job with, like, the radio traffic back and forth.

3 A GRAND JUROR: Mm-hmm.

4 THE WITNESS: The amount of stuff we
5 actually do on the radio is very limited or usually
6 for resources, because if I'm talking on the radio and
7 another officer within the city is trying to, only one
8 person can actively key the radio at a time.

9 So that's kind of one thing you're trained
10 on right away. So if I'm just passing another unit,
11 I'm not going to get on the radio, because we're not
12 the only ones working. There's a whole city and we're
13 on the Portland broadcast at that point who has, to
14 their understanding is the higher priorities than this
15 disturbance.

16 And so for us, it's the top priority, 'cause
17 we're the ones, you know, dispatched to it. But now
18 within that short time frame; and, again, our
19 foresight, our -- you know, our focus is on getting to
20 the call. And so that's why we're -- no, let's
21 just go.

22 So, no, we weren't able to contact them
23 within that seeing them miss the turn. And, again,
24 that was the assumption of, you know, this Portland
25 unit's in this area driving down the street.

Examination of James Doyle

1 I'm assuming it's the unit we're supposed to
2 be here with. Seeing them conducting that U-turn,
3 that's when me and Officer Hayes turned down.

4 A GRAND JUROR: And then I just want to
5 clarify one more thing.

6 THE WITNESS: Yeah.

7 A GRAND JUROR: When you are seeing the
8 woman go in front of those headlights, I don't
9 remember if you spoke of the car sort of stopping and
10 then accelerating forward. So did the car stop once
11 the woman was going in front of the headlights or do
12 you remember sort of the chain of events on that?

13 THE WITNESS: Yeah. So, again, trying to
14 articulate it as best as I can.

15 A GRAND JUROR: Yeah.

16 THE WITNESS: As we're coming down, she's
17 coming down flagging. Seeing the headlights coming
18 down the street.

19 A GRAND JUROR: Mm-hmm.

20 THE WITNESS: Almost coming to a complete
21 stop short of her, because there's someone in the
22 road.

23 A GRAND JUROR: Mm-hmm.

24 THE WITNESS: And then actively moving
25 forward and hitting her.

Examination of James Doyle

1 A GRAND JUROR: Okay.

2 THE WITNESS: Beginning to make contact, to
3 which is then is where I perceived this is directed
4 towards her.

5 A GRAND JUROR: Right.

6 THE WITNESS: Which, again, with the
7 information we have coming in, me believing this is
8 our victim. This is a suspect who's threatening to
9 kill someone on scene.

10 And then watching this behavior while we're
11 both, you know -- and you guys will hear, I believe,
12 from Officer Hayes as well on what he perceived, but
13 why we're now reacting or trying to address this.

14 A GRAND JUROR: Right. So -- so from your
15 recollection, if she had not dodged, she had not moved
16 out, you can -- this is probably speculation -- that
17 he would have tried to hit her (indiscernible). If
18 she had not dodged out of the way, would she have been
19 in the middle of the car and been hit?

20 MS. GIRT: I'll just, because -- I do think
21 that calls for a little bit of speculation, so just
22 really want to limit it to what you perceived based on
23 what you saw.

24 A GRAND JUROR: Yeah.

25 MS. GIRT: Which I think -- I think we've

Examination of James Doyle

1 covered; but I just don't want to (indiscernible).

2 A GRAND JUROR: Right. Oh, yeah. And
3 that -- that was all from me.

4 MS. GIRT: I did think of actually just two
5 more questions, but I want to let you guys ask if you
6 have anything kind of up top of mind right now.

7 A GRAND JUROR: Yes. So in the video, the
8 first shot is fired; but the later shots, it looked --
9 from the angle, it looks like you're essentially on
10 the side of the vehicle making those shots.

11 Is it really, I guess, necessary to keep
12 firing whenever you yourself is, like, no longer,
13 like -- like -- like that, like that person is no
14 longer a physical threat to you whenever you
15 essentially --

16 THE WITNESS: Right.

17 A GRAND JUROR: -- are able to kind of move
18 out of the way?

19 THE WITNESS: You want me to answer that?

20 MS. GIRT: Yeah.

21 THE WITNESS: So, yeah. And that is one
22 thing I want to talk about, too, was the spacing. So
23 from me to that vehicle is me reaching out. So that's
24 how close I am, even when I'm finishing right there.
25 And, again, the -- I don't want to say the biology of

Examination of James Doyle

1 it, but from what I remember is that conscious
2 decision to start.

3 And I think -- you know, you guys have seen
4 the video. I don't know if you guys went over the
5 time there. All of my shots come out, I believe,
6 within under two seconds, like a second-and-a-half. I
7 consciously am humanly possible of that fight or
8 flight feeling of starting.

9 And then what I consciously remember, like
10 this vehicle's next to me, like that's when my body,
11 my brain is staying stop. And that's what I do. And
12 that's why I said I -- I only remember three or four
13 rounds that I fired.

14 I know there's other rounds that are in
15 there. But the best way I can describe that is just
16 that feeling of start and stop is all within that
17 second and because of how quickly he was moving is why
18 we end up where we're at in that space. If that's
19 clear. I don't just if it's what you're asking.

20 MS. GIRT: And that was actually in line
21 with one of my questions I was going to address with
22 you. Just to the extent you're able to explain why
23 multiple shots and having, you know, seen the last
24 couple of shots are, he was kind of directly across
25 from you. But I feel like you addressed that.

Examination of James Doyle

1 You guys have any other questions about
2 that?

3 A GRAND JUROR: One last one. Do you
4 remember the decedent ever making eye contact with
5 you? Did he ever -- did he ever look at you?

6 THE WITNESS: The who?

7 A GRAND JUROR: Decedent. Sorry.

8 MR. KAUFFMAN: The person in the car that
9 was shot.

10 THE WITNESS: All I remember was him yelling
11 out, which now, after watching the video, I believe he
12 screams, "Fuck, you got me." And then as we're
13 standing there waiting for the other units to show up
14 so we can then box in the vehicle and do everything
15 that they need to do, I visualize agonal breathing
16 which is where the body starts becoming subconscious.

17 Now the brain is taking over for keeping him
18 alive. So, no, I was never -- I don't think, you
19 know, I ever at that point -- I didn't even know that
20 he was deceased until I got back to the police
21 department.

22 MR. KAUFFMAN: Is your question whether, as
23 the car's coming at him, he sees the --

24 A GRAND JUROR: Either as the car's coming
25 at him or even as he's right in the passenger side and

Examination of James Doyle

1 he's sort of -- as -- sorry, I'm talking to you in the
2 third person -- as you're there at the side, then
3 shooting, if he kind of registered that you were
4 there, that you were shooting at him.

5 THE WITNESS: Again, I don't want to
6 speculate.

7 A GRAND JUROR: Yeah.

8 THE WITNESS: More than that of what he
9 screams out, you can make your interpretation of that.

10 A GRAND JUROR: Right. Well, right. Okay.

11 THE WITNESS: But I -- no, I wasn't -- like
12 I said, I'm close enough where I'm right there --

13 A GRAND JUROR: Yeah.

14 THE WITNESS: Next to the vehicle, but at
15 that point also after I fired was such an adrenaline
16 dump that, like I said, I don't even remember putting
17 on my gloves, let alone making eye contact with him,
18 no.

19 BY MS. GIRT:

20 Q So then on that note, do you have a memory
21 or, I believe, as to how many feet off of the edge of
22 your vehicle you were towards the middle of the road
23 when you were firing?

24 A I feel like it was within that I could touch
25 it is how close -- my spatial recollection of how

Examination of James Doyle

1 close I am to my vehicle.

2 Q You could have -- you would have had to
3 reach out to touch your car, that you would have had
4 to reach out to touch his car.

5 A Yeah. That -- just that lane that I'm in.

6 Q Mm-hmm.

7 A Like I said, I know the other two vehicles
8 are there, but that space I had was just -- like I
9 can't try to retreat, 'cause he's still coming this
10 way.

11 And then if I have to go to clear my vehicle
12 forward, I have to then move now towards him even more
13 to be able to make that. And I just remember just
14 that feeling of what I'm seeing, taking it in, where
15 I'm at and then having to defend myself.

16 Q Okay. Did you ever notice whether your
17 partner, Officer Hayes, drew his gun upon getting out
18 of the car?

19 A All I just know is from when he finally was
20 up towards me afterwards, standing next to me, we're
21 both in the low ready position, which is just the
22 barrel's pointed straight down. At our police
23 department, we don't point it at somebody unless we're
24 going to be firing.

25 So that's just -- if we have the gun out,

Examination of James Doyle

1 that's the position it's in. So I remember him having
2 it out at that point and directing, I believe,
3 Officer Walden and Officer DeLong to then begin first
4 aid.

5 Q Okay. And the decision that you made to
6 fire at a vehicle that you know is moving or
7 accelerating as you heard, are you shooting at the car
8 or some part of the car or was your goal to hit the
9 operator of the vehicle?

10 A The goal was to hit the operator of the
11 vehicle. Kind of like I stated before, if you think
12 of the vehicle as the weapon being used, from what I
13 (indiscernible) he is the person that is controlling
14 this vehicle; the direction it's coming; and the
15 behavior of the vehicle, so the only way that I
16 perceive that I could stop that was addressing the
17 driver as quickly as I could in those few seconds of
18 when he's finally up on me.

19 Q Okay. So then you were -- if I understood
20 you correctly, then you were shooting to stop him as
21 the operator of the vehicle, which is the threat in
22 combination?

23 A Yes, ma'am.

24 MS. GIRT: Okay.

25 Okay. Other questions?

Examination of Brendon Hayes

1 Officer Hayes, how long have you been a
2 police officer?

3 A Five years.

4 Q Okay. And what did you -- and you've been
5 with Gresham that whole time?

6 A Yes.

7 Q What did you do before then?

8 A I was a paramedic in Los Angeles.

9 Q Okay. How long did you do that for?

10 A Almost nine years.

11 Q And what -- what about before then?

12 A Before then, I worked landscaping for my
13 stepdad. I did a little bit of drywall construction.
14 Just sort of anything that --

15 Q Okay.

16 A -- that I could when I was a college kid.

17 Q All right. So -- and in your -- I won't go
18 into all of your training and all that, but tell us a
19 little bit about your training to become a police
20 officer.

21 A I went to our DPSST academy there in Salem.
22 I went through our City of Gresham's FTO program, like
23 our field training out on the road with coaches.

24 Every year, we have a number of in-service
25 trainings that we go to, defensive tactics, firearms.

Examination of Brendon Hayes

1 There's usually other, like your CPR certification and
2 all kinds of things that they throw in there for
3 our -- all our yearly training.

4 Q All right. And in your -- in your academy
5 training, did you have use of force and firearms and
6 all that?

7 A Yes, absolutely. Yeah.

8 Q Did that also continue when -- after you
9 left the academy?

10 A Yes, it does. Yep.

11 Q And we've heard about the training that
12 Gresham provides, so we won't ask you to go into all
13 that detail. But -- and then you -- I think you said
14 you also take in-service. Can you please tell us
15 about that.

16 A Yeah. In-service, we do spring and fall.
17 And it has all those, like, the very basic ones where
18 we do our firearms qualifications. There's a
19 defensive tactics that we do either scenarios; or,
20 like, that kind of training.

21 Q Mm-hmm.

22 A We also -- we do like our -- deescalation
23 tactics training is involved in that. Sometimes
24 you're, like, Internet investigations they throw in.
25 Our training department throws in all the extra things

Examination of Brendon Hayes

1 on top of firearms, DTs.

2 Q Right, basics.

3 A Driving, EVOC driving. All those things is
4 what we do for in-service.

5 Q Okay. Are some officers in -- within the
6 Gresham Police Department qualified to use rifles
7 as well?

8 A Yes.

9 Q And are you one of those officers?

10 A Yes, I am.

11 Q What is -- what is involved in being
12 qualified to do that?

13 A There is an application process, because
14 it's a limited, like, group. You apply. You go
15 through an interview with our firearms instructors and
16 things like that.

17 They look into your use-of-force
18 qualifications, any, like, use-of-force reports that
19 you've written. They sort of fine-tooth comb and go
20 over with you, make sure you have a solid
21 understanding of our, like, use of force policies and
22 law and all of that.

23 Once you're selected, then you go through
24 another -- it's extra training. You go through a
25 week-long initial training on patrol rifle, like

Examination of Brendon Hayes

1 operating one. And then each in-service, you have an
2 extra firearms day that is solely your patrol rifle
3 day on top of all the other in-service stuff.

4 Q And, at that point, you then are qualified
5 to -- you are issued a rifle or --

6 A Yes.

7 Q -- you're qualified?

8 A Yeah, you're issued a rifle by the
9 department.

10 Q Okay.

11 A Just like your regular service weapon and
12 you carry it with you on patrol.

13 Q So when you go on duty, you have your rifle
14 and you're --

15 A Mm-hmm. It's in our armory, locked in a
16 cage. And you pick it up on your way out with all the
17 rest of your stuff and then put it in the little lock
18 thing in your car and --

19 Q Got it.

20 A -- carry it with you.

21 Q So -- so May 31st last year, 2020, you'd
22 been on the -- working for the Gresham Police
23 Department for four years at that point?

24 A Yes.

25 Q Is that right? Okay. Can you tell us about

Examination of Brendon Hayes

1 what was going on that day.

2 A I was -- I was there for -- it was an
3 overtime shift outside of my regularly scheduled shift
4 because we were asked the night before by one of our
5 sergeants to come in, staff these extra cars to come
6 and assist with covering 9-1-1 calls for East
7 Portland.

8 Q Let me stop you there.

9 A Okay.

10 Q So you -- had you already worked a shift
11 when you --

12 A I worked my Saturday shift, my Saturday
13 shift on afternoon shift, yes.

14 Q Okay.

15 A And I came back in on my day off. It was my
16 first day off is what I --

17 Q Gotcha. Sorry. Continue.

18 A Because they were dealing with moving all of
19 their units and stuff down here to help with the
20 protests that were happening, so we were coming over
21 to cover 9-1-1 calls and responses and all the normal,
22 like, day-to-day police things that happen.

23 Q Is that something you volunteered to do?

24 A Yes, I did.

25 Q So it wasn't required?

Examination of Brendon Hayes

1 A No.

2 Q They were looking for volunteers?

3 A They were looking for volunteers. They were
4 probably going to order somebody eventually; but, you
5 know, I was probably on that list anyway.

6 Q (Indiscernible), yeah.

7 A Yeah.

8 Q Okay. So -- so tell us about that, that
9 shift.

10 A It was -- we spent the first few hours of
11 our shift there in Gresham helping cover a small
12 protest that happened by our city hall.

13 Q And were you with officer -- partnered with
14 Officer Doyle?

15 A Yes. We were partnered up because we were
16 -- there are four officers doing this overtime shift
17 and we don't typically work partner cars. We work
18 solo.

19 But we were partnered up because we were
20 moving to East Portland's district, which we don't
21 usually operate in except for driving through here and
22 there on the boundary line.

23 And we were unsure about how busy the East
24 officers were going to get, so we wanted to -- our
25 sergeants wanted us to be able to cover each other

Examination of Brendon Hayes

1 immediately when we were -- you know, a two-person car
2 instead of one of us having to wait for the next
3 Gresham car to come and cover us on a call.

4 And we could cover our calls, one police
5 car, essentially. After that first couple hours, we
6 went and we moved over into East Precinct, so that we
7 could monitor their 9-1-1 calls, respond to calls for
8 their -- like we had planned on doing.

9 And it was -- we responded to a few, like,
10 calls here and there and then we were with our two
11 sergeants and our other unit sort of sitting at a
12 contact office in the church on Powell and 112th where
13 they have like a rest stop for police or whatever.

14 It's got snacks and a little room for you
15 to -- desk for you to put your computer on and stuff.
16 And we were all in there, 'cause we were trying to be
17 as centrally located as we could --

18 Q All right. How long --

19 A -- to respond out.

20 Q How long did you stay at the church?

21 A It was just an hour or so that we were
22 there --

23 Q And did you --

24 A -- eating our lunch, warming up our dinner,
25 stuff like that.

Examination of Brendon Hayes

1 Q Did you -- and then did you get a call?

2 A Yes.

3 Q Tell us about that.

4 A So we got dispatched to the call that was a
5 disturbance. And then the information that the
6 dispatcher read out to us over the air was that the
7 caller had who was potentially an ex-boyfriend or
8 something out front who they said was refusing to
9 leave, sort of causing a commotion with their car,
10 honking the horn, driving up and down the street,
11 things like that.

12 Q All right.

13 A Just -- just causing a disturbance,
14 essentially is what we had information.

15 Q And what did you do then?

16 A We acknowledged it on the radio. We walked
17 out the -- the church's front door to our car and got
18 in. And we started on our way. We went -- we left
19 the church and went right -- or directly on to Powell.

20 Q And just so --

21 A Sorry.

22 Q -- when you say "we," you're talk about
23 yourself and Officer Doyle.

24 A Me and Officer Doyle, yes. 'Cause we were
25 partnered together, so --

Examination of Brendon Hayes

1 Q Okay.

2 A He drove. I got in and I started directing
3 us to where we were trying to get to. And, naturally,
4 I took us right out onto Powell. And at that time of
5 night, it was completely shut down with construction
6 at 122nd.

7 So I looked at the map for a little bit and
8 found us an -- like, another route that we could go
9 through the neighborhood, so we weren't just stuck,
10 sitting in this construction traffic.

11 Q Are you familiar with that part of town
12 or --

13 A Not well, no. We don't range that far. I
14 mean, it's -- it's still a confusing bunch of
15 neighborhoods in there for me. So our MDT, our
16 computer, has a GPS, like a map screen where we can
17 see where we are.

18 I followed us along, gave him directions to
19 head out into the neighborhood. We so sort of circled
20 around the construction and we're coming down out of
21 the neighborhood southbound on 122nd.

22 When we -- when I said to James or
23 Officer Doyle, "This is our turn." We started down a
24 street that happened to be the wrong street. We did a
25 little U-turn, came back out and I found our -- the

Examination of Brendon Hayes

1 next street up, Kelly, was the street that we were
2 headed for.

3 Q So while you were on your little adventure
4 to get where you're going --

5 A Mm-hmm.

6 Q -- are you getting updates about this --
7 about this call?

8 A We were getting updates added in the MDT --

9 Q Okay.

10 A -- and things and they were -- they only
11 broadcast some of them over the air.

12 Q But you're able to see them on the MDT?

13 A Yeah. When you switch the screen from the
14 map to the actual call, it'll show you what updates
15 the dispatcher is, like, adding in.

16 Q And what updates do you recall seeing?

17 A I remember an update about, like, a vehicle
18 description of the person that the caller was
19 describing. But that was it. I was focused on being
20 out of our area, running the map. I was looking at
21 the map screen mostly, trying to get us where we were
22 trying to go, so --

23 Q Okay.

24 A -- that's the -- that's the update that
25 stood out in my mind was that we had a vehicle

Examination of Brendon Hayes

1 description that we were looking for, at least.

2 Q There may have been others, but you just --

3 A Yeah, yeah.

4 Q -- you can't recall?

5 A For sure.

6 Q Okay.

7 A Mm-hmm.

8 Q All right. What happens next?

9 A We turn. We got to our street on Kelly and
10 we turn down and it's -- I was -- again, I was back
11 looking at the map, trying to -- 'cause it's sort of a
12 dead end, like, residential street where houses and
13 cars are parked on the street.

14 We were driving up and I was trying to give
15 us enough of a heads-up, so that I knew where we could
16 park. I was telling Officer Doyle that from the map,
17 it looks like it's the fourth or fifth house from the
18 end of the street. It's going to be on our -- on our
19 left-hand side or whatever. We're -- so that we could
20 park and get over to where we were going.

21 Q Can I -- do you recall whether you were
22 supposed to be the primary car on that or was there a
23 Portland car that was also involved?

24 A We were dispatched as the primary unit. And
25 the Portland car -- the Portland car, I'm pretty sure,

Examination of Brendon Hayes

1 offered up to cover us once we had left, but we had
2 gotten dispatched to that call.

3 Q Okay.

4 A And a Portland unit was coming to join us,
5 basically.

6 Q Did you see the Portland car as you were
7 trying to get there?

8 A Saw them as we were going -- or where we
9 were turning onto Kelly, they had sort of gone past,
10 like they had missed the street also and made a U-turn
11 as we turned onto Kelly. So they were behind us
12 shortly thereafter. They couldn't have been -- they
13 couldn't have been that far behind us.

14 I was reading that map, giving us the
15 description of the -- like, where the house was on the
16 street. We were pulling in to park. Officer Doyle
17 had asked me, again, what the description of the
18 vehicle was that we were looking for.

19 And I described it. I think it was -- I
20 think it had read to us, like, a dark colored or a
21 black Chrysler, something like that. I had said -- I
22 had said that to him. "We're looking for dark color
23 or a black Chrysler."

24 And Officer Doyle then -- I was in the
25 computer reading that note when Officer Doyle said to

Examination of Brendon Hayes

1 me, "Like that car with its headlights on right
2 there."

3 And I -- sitting in the passenger seat
4 looking at our computer, I looked up out the
5 windshield of our Tahoe and saw what he was describing
6 was the headlights of a vehicle out in front of us in
7 the road.

8 And the -- what I saw in front of the car
9 illuminated by the headlights was a female who was in
10 the middle of the road in front of the car. I opened
11 my door -- I'm on the passenger side, so I opened my
12 door and I stepped out.

13 And I, like, shouted. I called out to what
14 was happening up there, 'cause she was in front of the
15 car; and, from where I was standing, extremely close.
16 And it looked like she was sort of stumbling away from
17 it. Not really running, but stumbling; like she
18 wasn't running quickly, she was falling.

19 And I was -- I felt like she was about to
20 get run over by this car that was in the road. When I
21 opened the door, I could hear the -- when I was
22 yelling -- I think I was yelling stop or hey or
23 something to try and get their -- everyone's
24 attention.

25 I was like -- all I could hear was the

Examination of Brendon Hayes

1 engine of the car, so the car was obviously moving and
2 the engine was revving. It was like the overwhelming
3 sound that I heard. And that sort of confirmed to me
4 that what it had looked like through the windshield
5 was that she was in position to get run over by
6 this car.

7 I stepped down and I cleared around our door
8 as I was yelling. I was just -- I felt afraid that
9 she was going to get run down. She was not moving
10 fast. She wasn't, like, steady on her feet at all.
11 So I drew my pistol.

12 And from the corner of our car, pointed it
13 out in the direction of the driver. It was -- it was
14 obvious that my shouting had not gotten through. I
15 hadn't heard like whatever was going on and I thought
16 that I needed to stop this car before the lady got run
17 over by it.

18 As I brought it up to point in and -- at
19 this car that I was -- that I planned on stopping, the
20 gal was still sort of stumbling off towards the
21 driver's side. And, like, towards -- and she was in
22 front of me, where I wasn't comfortable taking a shot
23 or anything.

24 She was just right there in front of me and
25 I saw her in my sort of peripheral. What I'm not sure

Examination of Brendon Hayes

1 is if she got hit by the car and sort of tumbled off
2 to the side or if she made it past the corner of the
3 car and tumbled away.

4 She just sort of -- I was focused in on the
5 driver at that point and she sort of disappeared out
6 of my -- fell out of my vision to the side.

7 And as I was then collecting my, like,
8 thoughts that second and trying to find her and see
9 where she went and all those things, I heard the
10 engine sound again of the car, like it was revving.
11 And I noticed that it was moving and it was coming now
12 still down the street towards where we were parked.

13 And I had moved now a little bit around the
14 front corner of our -- of our Tahoe, the my sided
15 headlight or in front of the grille. And I noticed
16 that Officer Doyle had -- was now in my, like,
17 peripheral vision, out.

18 He'd gotten out the driver's side of the car
19 and was out there in the road in the vehicle's path.
20 And I -- that same feeling that I had just felt that I
21 was going to watch that lady get run over, then I felt
22 for my partner, like I had this 100-percent fear that
23 I was going to watch him get run over by that car, the
24 way it was moving, the sounds.

25 So from where I was standing, I -- I -- I

Examination of Brendon Hayes

1 hadn't put my pistol away or anything. It was in my
2 hand. I brought it back up, thinking I was going to
3 have to do the same thing, that I was going to have to
4 stop this car from running now my partner over, like I
5 had thought it was going to do to the female.

6 And sort of the same thing. As I got up --
7 as I -- as I got my pistol up where I was going to be
8 able to see the sights and take a shot, I could see
9 the driver now out at the end and the vehicle was
10 moving.

11 I was sort of tracking it along its path.
12 And as I was tracking this car along its path, now
13 Officer Doyle was going to be, essentially, in my line
14 of fire.

15 And I didn't fire again for fear of hitting
16 my partner. Like -- like, I was afraid of hitting the
17 lady, I was afraid of hitting my partner, too, hitting
18 what I'm not intending to.

19 As I had sort of come to that decision that
20 I wasn't going to be able to have the shot, I heard
21 the gunshots ring out from Officer Doyle. And then I
22 heard -- and then I saw and heard and everything, the
23 car sort of screech to a stop.

24 At that point, I had -- I was still standing
25 sort of out right in front of our -- our police car on

Examination of Brendon Hayes

1 the side of the road. I -- I came around to where
2 Officer Doyle was now standing, backed up to the --
3 backed up to our police car, in the -- next to the
4 suspect's vehicle.

5 I, like, told him that I was there. I let
6 him know that I -- like that I was here, essentially.
7 And I started sort of going through the motions of all
8 the stuff that we had to do next. We had to get on
9 the radio and call for more help. And let -- let our
10 people know and our dispatchers know what had just
11 happened.

12 We had to start coming up with the plan of
13 how we're going to contact the driver, how we're going
14 to get him out of the car, how we were going to render
15 him the aid that we needed.

16 I had -- in that moment when we were sort of
17 getting on the radio talking to them, the two Portland
18 officers called out to me, sort of from behind us,
19 like the back corner of our -- our vehicle, our patrol
20 car and asked me about how we were going to get the
21 guy out of the car.

22 And I'd heard on our radio that our second
23 Gresham -- our two-officer car that was out there
24 doing the overtime with us was on its way. I told
25 them that I wasn't sure, like, I couldn't see in the

Examination of Brendon Hayes

1 vehicle.

2 I couldn't tell if it was in park or
3 anything like that and I didn't want us going into the
4 window or anything like that trying to do it until we
5 could, like, positively control the car with another
6 police car.

7 So that next -- that next Gresham car came
8 in. I asked them to pin the vehicle in, like we do
9 with all sorts of things. But they pinned it in by
10 contact with the front bumper with their patrol car so
11 that we knew it couldn't move anymore while we were
12 sort of calling out to the driver.

13 We were saying, "Hey, can you hear us? Can
14 you hear me?" We weren't getting any response from
15 the driver, so myself and the Portland officers, and,
16 I think, Officer Mark DeLong, the -- it was the
17 Gresham officer who came with me.

18 Now we walked up to the driver's window with
19 the intention of getting this driver out and rendering
20 the aid or doing whatever it is we needed to do.
21 The -- I remember that the door was locked, but the
22 window was broken, so I reached inside and unlocked
23 the door and pulled the door handle and got it open.

24 He was still not answering when we were
25 talking to him. His seatbelt was buckled, so I had a

Examination of Brendon Hayes

1 pair of like trauma scissors, the big scissors in my
2 vest. I cut the seatbelt off and then we lifted the
3 driver up out of the car.

4 We pulled him at least clear of the doorway
5 of his vehicle; put him on the ground on his side in,
6 like, a recovery position for a moment, so that we
7 could check and see what we could see vital
8 signs-wise, pulse and respirations and things like
9 that.

10 We -- in the sort of chaos of it, we -- I
11 checked the pulse and said I think I felt a weak
12 pulse, but there was no -- he was not breathing at all
13 that we could tell, so we rolled him onto his back.
14 One of the Portland officers starting doing
15 compressions for CPR.

16 And then myself and another officer started
17 sort of scanning to try and find where he was injured,
18 where he was wounded. I ended up cutting his shirt
19 away with those same, those EMS scissors; cutting his
20 shirt away and finding the -- the only wound that I
21 found was one that was right about in his armpit.

22 Initially, we stuck a sticky, like chest
23 seal sort of bandage on it; but I noticed that as we
24 were doing the compressions, it was sort of bleeding
25 heavily.

Examination of Brendon Hayes

1 And so I pulled that thing off and packed
2 the wound with gauze that we have in our trauma kits,
3 like we're trained to do through our CPR and our
4 casualty care. So I packed his wound with gauze and
5 then I put that bandage back.

6 It was pretty shortly after that that AMR or
7 fire, somebody had showed up and took over all of that
8 for us. And then I stepped away while they were doing
9 that.

10 And, by that time, my sergeant had gotten
11 there and I was contacting him. We were trying to
12 manage how we were going to head back to the station.
13 They were going to get enough police cars there to
14 handle everything else and essentially go from there,
15 do the rest.

16 Q Okay. A couple of questions.

17 A Okay. Sorry.

18 Q No, I mean, that's fine.

19 So you -- did you have a body-worn camera?

20 A I did.

21 Q -- on? And --

22 A Yes.

23 Q -- and at that point, was that relatively
24 new --

25 A It was. We had been --

Examination of Brendon Hayes

1 Q -- to the police department?

2 A -- issued them probably a month or so before
3 this shift.

4 Q Okay. Did you turn yours on?

5 A I did not. I didn't get mine on.

6 Q Why not?

7 A I had sort of come into the habit of -- like
8 I said, we don't work a partner car. I'd come into
9 the habit of when I drove to the calls to anything I
10 was responding to, as I was turning onto the street, I
11 would switch my body camera on, pull up, park, put my
12 car in park, get out and do the call, do whatever it
13 is we were going to do.

14 And because I was -- because I was focused
15 on having gotten us down the wrong path going down
16 Powell and then maneuvering us through the
17 neighborhood, I went straight from looking at the
18 computer and reading those updates that I was saying
19 to Officer Doyle to seeing this, like, immediate
20 threat to this lady in the windshield.

21 And I went straight out the door, straight
22 to trying to address this threat and didn't reach down
23 and switch my body camera on at all, like it was the
24 furthest from my mind at that point.

25 Q Okay. So was -- did you intentionally not

Examination of Brendon Hayes

1 turn it on or was it just an oversight?

2 A No, not at all. No, no.

3 Q So it was an oversight?

4 A It was, yes. We'd had them a short period
5 of time. To that point, we had not done any, like,
6 critical incident training while we'd had them. It
7 just was not part of my training, part of my muscle
8 memory. It wasn't what I went for is to switch this
9 camera on. I went to address this threat, like --

10 Q Okay. So you described, you know, you're on
11 the -- you're on the computer.

12 A Mm-hmm.

13 Q And then you look up and you see this woman
14 engaging with this car. And then you get out. Were
15 you -- were you aware of where the cover officers
16 were, the Portland officers? Did you have any sense
17 of where they were?

18 A No. No, I didn't have any idea. The last
19 time I saw them was when they went past the street in
20 their car.

21 Q Okay. Did you feel like they were right
22 behind you or you just had no idea?

23 A I had no idea.

24 Q Okay. And then you described that you drew
25 your gun.

Examination of Brendon Hayes

1 A Mm-hmm.

2 Q And were going to try to stop the threat to
3 the woman.

4 A Mm-hmm.

5 Q And then you saw the threat to
6 Officer Doyle. Did you feel like he was going to get
7 run down?

8 A Yes, I did. Yeah.

9 Q Okay. Did you feel like he had any
10 alternatives from his standpoint?

11 A Not -- not from where I was standing and
12 what I was looking. I -- I was -- I was afraid --
13 like I said, I was afraid that he was going to get run
14 over.

15 That was what led me to try and take this --
16 like use force on this car, again, was I was -- I was
17 -- I was afraid that he was going to get run over. I
18 didn't see any other -- any other outcome to that,
19 honestly, like --

20 Q So have you -- have you seen Officer Doyle's
21 body camera footage?

22 A I have once since the incident, yeah.

23 Q Okay. Do you feel like that supplemented
24 your memory at all of the incident?

25 A It didn't. I -- I wasn't -- I didn't notice

Examination of Brendon Hayes

1 myself on it until the end. It would have -- it
2 really made me wish that I had turned mine on so I
3 could see my own perspective in it, but I wasn't on
4 his camera until the end. It was sort of reassuring
5 to see that I -- sort of the -- where I remember
6 standing, where I remember I ended up.

7 Q Mm-hmm.

8 A You can see in the corner of his camera that
9 I am sort of out there. That was reassuring that I
10 wasn't remembering like that I had gotten way further
11 away or anything like that. But I can't say that it
12 refreshed my memory very much of like anything.

13 Q Okay. So this was obviously a traumatic
14 incident?

15 A Yes, definitely.

16 Q Yeah. Do you feel like that -- that a
17 traumatic incident like that can also affect your
18 memories of what you recall?

19 A Definitely. 100 percent, it can, yes.

20 Q So if there are particular details, is that
21 possible that you have misremembered those or --

22 A I mean, it could be -- I know that your mind
23 sort of picks and chooses in those moments what it's
24 going to commit to memory and what it's not. It's
25 sort of --

Examination of Brendon Hayes

1 Q Yeah.

2 A You know, there's science and all kinds of
3 folks with degrees that talk about it where your --
4 your brain just sort of falls into this mode and it
5 disregards everything else.

6 You get auditory exclusions where you can't
7 hear and you get the tunnel vision that comes in. So
8 I know that it's like -- there's pieces of things that
9 my mind doesn't think was relevant that --

10 Q Right.

11 A Like, I have a pretty -- I can picture these
12 things that happened pretty vividly in my mind.
13 It's -- but it's -- it's my experience. It's what --
14 when I remember it, it is what -- it's solely me, you
15 know.

16 Q Yeah.

17 A It's what I saw and what I felt and those
18 are what I can picture in there.

19 Q Okay. Have you had contact with
20 Officer Doyle since this incident?

21 A I have, yes.

22 Q Okay. And let me ask you this: So the
23 night of the incident, you both went back to the
24 police department; is that correct?

25 A Yes.

Examination of Brendon Hayes

1 Q And did -- were you issued some kind of,
2 like, no contact order?

3 A Yes. They take us back separately and we
4 sat with our own union representation separately. And
5 then the -- the chief comes and issues you a no --
6 like a no contact, like a gag order, a no-contact
7 order.

8 Q Don't talk to anybody but your --

9 A Yeah, your spouse, your attorney, your union
10 rep.

11 Q So when you --

12 A Yeah, not anybody else.

13 Q Were you able to talk to Officer Doyle after
14 that?

15 A I wasn't because of that.

16 Q Okay. And did that -- did that get lifted
17 at some point?

18 A Yes, by our command staff.

19 Q But had you already made a recorded
20 statement and interview (indiscernible)?

21 A Yeah. I think it was near -- it was close
22 to a year, 10 months or so after the incident. And I
23 had done my -- I think that was part of their deciding
24 factor. I had given a recorded statement then to
25 detectives and they had -- they had said that they

Examination of Brendon Hayes

1 would lift that gag order.

2 Q All right. Have you seen or had access to
3 any other parts of the investigation, like the
4 forensics or the --

5 A Oh, no. No, not at all.

6 Q Okay. So you -- you've not been -- had
7 access to anything like that?

8 A No, not at all.

9 Q And -- okay. Let's see. I'm going to -- is
10 there anything more you want to add before I turn it
11 over to others?

12 A I don't. No, I don't think so.

13 MR. KAUFFMAN: Okay. Thanks.

14 MS. GIRT: I just have a couple questions.

15 MR. KAUFFMAN: Okay.

16 BY MS. GIRT:

17 Q Officer Hayes, what's your recollection of
18 the -- the lighting, if there was lighting or lack
19 thereof kind of overall lightness or darkness of the
20 scene?

21 A It was -- because it was night, it was -- it
22 was definitely dimly lit. This is like -- it was not
23 a well-lit parking lot. It was a residential street
24 with minimal lighting. The majority of the lighting
25 that I remember was coming from the headlights of the

Examination of Brendon Hayes

1 vehicle that was coming at us, like --

2 Q Okay. And the recorded statement that
3 you're talking about, did you actually provide that,
4 you know, pretty close in time to the incident itself?

5 A Yes, I did. Yeah, it was shortly
6 thereafter. A couple of weeks, I think, at the most.

7 Q And would that be after the one time that
8 you viewed Officer Doyle's body-worn?

9 A Yes.

10 Q Okay. And from your positioning once you're
11 out of the car and kind of moving up the street a
12 little bit, were you able to develop a perspective of,
13 you know, looking and noticing that Officer Doyle's in
14 your way and you have your firearm drawn --

15 A Mm-hmm.

16 Q -- of what his angle was when he shot at the
17 car coming at him?

18 A I couldn't really tell. I heard the -- I
19 heard the shots, but I was still sort of in that
20 tunnel vision of my own sight picture that I was
21 trying to do, so I couldn't -- I couldn't say, no.

22 MS. GIRT: Okay. Okay. That's all I have.

23 No questions? Okay. Anyone else have
24 questions for Officer Hayes?

25 A GRAND JUROR: You said that Officer Doyle

Examination of Brendon Hayes

1 walked out into the road from his police car when you
2 got out of the car, did he walk into the road or was
3 it like up --

4 THE WITNESS: It was just to clear the --

5 A GRAND JUROR: Okay.

6 THE WITNESS: -- open door of our -- of his
7 car, like --

8 A GRAND JUROR: Okay.

9 THE WITNESS: That's where -- that's when
10 our -- his driver's door was open and when I saw him
11 was because he had cleared the door and was sort of
12 coming around that.

13 A GRAND JUROR: Okay.

14 A GRAND JUROR: So was he, once he cleared
15 the door, was he pretty much parallel with, like, the
16 nose of the police Tahoe?

17 THE WITNESS: When I saw him -- and from
18 what I remember, when I finally saw him, he was --
19 yes, he was still -- I was sort of out in -- near the
20 passenger side headlight of our Tahoe. And I was
21 looking sort of back across the hood of our car and he
22 was there sort of in that crook of the --

23 A GRAND JUROR: Kind of like by the wheel
24 well?

25 THE WITNESS: Yeah, yeah. In that crook of

Examination of Brendon Hayes

1 the open door, you know, moving like he could --

2 A GRAND JUROR: Yeah.

3 THE WITNESS: Like I said, it was in my
4 peripheral. I'm trying my best to have a vivid
5 picture of it, but it's -- he was definitely still
6 there next to our car as opposed to me sort of having
7 cleared the nose of it.

8 A GRAND JUROR: Okay.

9 MS. GIRT: Okay. Other questions?

10 All right. Everyone's saying no, so we can
11 go off the record.

12 * * *

13 (Conclusion of Grand Jury Proceedings,
14 Volume 4, 7-8-21 at 3:27 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112