

GENERAL INDEX

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

PAGE

July 28, 2022 Proceedings

Case Called 3

Examination of Joanna Buck 3

Grand Jurors' Questions 19

Examination of McKay Fenske 21

Examination of Veronica Iverson 47

Grand Jurors' Questions 69

Examination of Zachary Kenney 77

Grand Jurors' Questions 134

Examination of Reynaldo Guevara 147

Grand Jurors' Questions 176

P R O C E E D I N G S

July 28, 2022

(9:02 a.m.)

(Whereupon, the following proceedings were held
before Grand Jury No. 43)

MR. HUGHEY: We are on the record in DA Case
2445351. This is a death investigation related to the
officer-involved shooting where the involved officers are
Zachary Kenney and Reynaldo Guevara. This is DDA
Sean Hughey. It is July 28th, 2022. We're in Grand Jury A.
This is Case No. 43. And we are continuing with the witness
testimony.

Sergeant Buck, I'm going to point you real quick
at the foreperson. We'll have you raise your right hand and
-- over the video and we'll get you sworn in.

JOANNA BUCK

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

DIRECT EXAMINATION

BY MR. HUGHEY:

Q Thank you very much. Can you start by telling us
your first and last name?

A Joanna Buck.

Q Thank you. I know your Webex thing says Joanna
Ortiz Buck.

1 A Yeah.

2 Q I think another witness referred to you as
3 Sergeant Ortiz before.

4 A Yeah.

5 Q Same person?

6 A Yeah, same person. I just recently changed my
7 last name. I got married.

8 Q Got you. Let's see. Can you tell us what you do
9 for a living?

10 A I am a police sergeant and work for the city of
11 Portland.

12 Q How long have you been with Portland Police
13 Bureau?

14 A This September, it'll be 11 years.

15 Q And how long have you been a sergeant?

16 A Two years as of February 2022.

17 Q Could you give us just a quick overview of what it
18 means to be a sergeant? How is that different from when we
19 think of a police officer? What's the difference between a
20 sergeant?

21 A Yes. So as a sergeant, I'm a supervisor. So it
22 entails a bunch of administrative work. But as it relates
23 to this case, I show up to major incidents and take over as
24 an incident commander, making sure resources are there,
25 making sure the officers are being safe and gathering all

1 the Intel they need to make the decisions that are most fit
2 for the cause we'd have to take.

3 Q And so --

4 A Which -- oh, sorry.

5 Q Go ahead.

6 A Which is different from the officers that are
7 responding to the 911 calls. We kind of listen to the calls
8 and attach as we see fit and then take over as an incident
9 commander.

10 Q Got you. You may have sort of just described
11 exactly that but I was going to ask -- an incident
12 commander, is that sort of like taking charge of a situation
13 and determining who is going to do what and that sort of
14 thing?

15 A Yes, yes. I delegate all the work and assign and
16 keep track of people that are -- and what they're doing.

17 Q Did you respond to 911 Southwest Broadway Drive in
18 the evening of February 19th of this year?

19 A Yes, I did.

20 Q Was that something -- you sort of just -- you just
21 mentioned that sometimes as a sergeant you listen to the
22 radio and then attach yourself to calls. Tell us about how
23 you ended up responding to that location that night.

24 A I responded because as I was listening to the
25 call, we got multiple callers for different types of

1 incidents that were occurring and the dispatcher wasn't
2 sure if it was all in those same location correlated. And
3 once the officers arrived there, they had confirmed that
4 there had in fact been a shooting. And I believe by that
5 point, I was (indiscernible).

6 Q In route?

7 A Yeah. I was enroute driving to the location.

8 Q When you use the term listening to the call, what
9 does that mean? I think I understand what you mean. Are
10 you talking about listening to the radio transmissions?

11 A Yes. Listening to the radio transmission.

12 Q What does that sound like and where is that
13 information coming from?

14 A It's getting relayed from the officers that are on
15 scene and what they're listening to whenever they click on
16 their mic. And BOEC, our Bureau of Emergency
17 Communications, that are updating what the callers are
18 calling with -- like the 911 calls get dispatched to BOEC.
19 And then they update us based on the information they see
20 fit that we need for the call.

21 Q Did somebody like ask you to go out there or did
22 you just say, hey, this sounds like there's been a shooting.
23 I'm going to go out.

24 A I believe I got on the radio and I said I'll be
25 enroute. Typically, it's part of our job. And depending on

1 the calls we attach to the call.

2 Q Got you. And did you drive to the location?

3 A Yes, I did.

4 Q What did you see when you got there?

5 A When I got there, I saw a few people to the north
6 side of it. Like north of where the apartment was at. And
7 Acting Sergeant Kenney at the time, he was standing with a
8 group of officers. Then we had officers on the other side
9 of the apartment. And at that time, I believe Acting
10 Sergeant Kenney had been there for a little bit. So he
11 debriefed me kind of on what was going on and what they had
12 come up with. And pretty much, they had backed off from the
13 apartment because they were really close at one point. And
14 he pointed out the apartment where they believe the subject
15 who had fired the shots at the time was in, inside, based on
16 what the witnesses were saying.

17 So we just kind of safely got officers back and
18 behind cover. But we kept containment on the apartment that
19 we believe the suspect was inside and still armed with a
20 gun.

21 Q What does that mean to keep containment on the
22 apartment?

23 A Keep containment like officers in a safe position
24 but able to respond if we needed to. We had officers post
25 up in the back and keep eyes on like the back side of the

1 apartment to make sure that the person wasn't going to exit
2 the apartment. Because at this point, we believe he had
3 shot at people and we hadn't established at this point who
4 he had shot at or whether he was going to come back out and
5 shoot more. So we wanted to make sure --

6 Q Sure.

7 A -- that he was contained in that area and that he
8 wasn't going to get out and put more people in danger.

9 Q At some point, was there a determination -- well,
10 did officers figure out who the person was that had shot and
11 was there a determination of whether there was probable
12 cause to arrest him?

13 A Yes. So at some point, our officers started
14 gathering information and contacted one of the callers who
15 was Mr. Penner. And he actually was the one that provided
16 the most information about our subject inside. Because he
17 stated that it was his friend and that he was staying with
18 him. Provided us with Mr. Arevalo's name and a little bit
19 of his back story. And confirmed the fact that Mr. Arevalo
20 had shot at him in the parking lot. And that he had left
21 the scene at that time.

22 Q Was that information broadcast over the radio to
23 all the other officers that would have been around?

24 A It was. So when we gathered that information, we
25 had confirmed that we had probable cause for attempted

1 murder at that time.

2 Q For attempted murder?

3 A Um-hum.

4 Q What does that mean when you say, like, hey, we've
5 confirmed that there's probable cause? What exactly is the
6 practical effect of that?

7 A So we confirm that there was a witness and that a
8 crime had occurred and the witness was cooperative and that
9 we had probable cause to arrest the subject that had
10 committed the crime.

11 Q And so --

12 A We had the (indiscernible) and had confirmed it
13 with the person.

14 Q Got you. So was the idea then if all the officers
15 know that there's probable cause, the idea would be to try
16 to make contact with and arrest Mr. Arevalo?

17 A Yes. That was ideally the idea to safely do so.

18 Q Sure. Did you then -- as the incident command
19 there, did you then play a role in determining what the next
20 steps would be to try to safely do that?

21 A Yes, we did. So we gathered information. And at
22 one point, Mr. Penner mentioned that there was a phone that
23 he had left inside there. So we got that phone number. And
24 once our teams were in place -- teams meaning contact team
25 and custody team -- in case he came out, we had a

1 contingency plan that they were going to provide him
2 commands to safely take him into custody and make sure that
3 he didn't have the gun in his hand. And make a phone call
4 inside so that we can communicate with him and figure out
5 his mental state. Figure out what his plan was. Figure out
6 if he still had the weapon or get a better idea of what he
7 was doing inside the apartment. Because at the time, we
8 believed he was inside.

9 So once we did that, our officers started calling
10 that phone number multiple times. And at the same time, we
11 had people digging up more information on his name.
12 However, we were unable to get very much because he didn't
13 have much history here in Oregon. Most of his information
14 was from Washington which we didn't have access to at the
15 time.

16 Q When you say that Mr. Penner told you he left a
17 phone, basically, were police trying to call Penner's phone
18 that he had left in the apartment to see if Mr. Arevalo
19 would pick it up and you could talk to him?

20 A Yes, that's affirmative.

21 Q Did that succeed? Was anybody able to make
22 contact with Mr. Arevalo?

23 A Nope. No one was able to make contact.

24 Q What did you do next then? Or like what were the
25 next steps in the incident plan?

1 A The next steps was to loud hail which consisted
2 of taking a patrol car a little closer and using the
3 microphone so it could be louder so he can hear inside. And
4 our officers were calling his name, letting him know that we
5 were there and we were surrounding the place. And to come
6 out with his hands up. That we had probable cause for his
7 arrest.

8 Q And that's done over like a loudspeaker PA system?

9 A A PA. Yeah, yes. From the car.

10 Q What's the point of doing that to try to loud hail
11 and tell somebody that they're going to be under arrest and
12 to come out and that sort of thing?

13 A To make sure that they know we're there and to
14 advise them of our intent and to have them not come out with
15 his hands up -- with his gun in his hand and safely take him
16 into custody. It makes it safe for everyone. And that way,
17 everyone in the apartment is aware of what we're doing also.
18 And there's no confusion. And people aren't coming out of
19 the apartments. And we just kind of slowed down and --
20 slowed down the chaos, I guess, in the apartments. Because
21 it will still an occupied apartment complex.

22 Q Was part of the loud hailing to tell him not to
23 come out with a gun or to --

24 A Yes, yes, yes.

25 Q Are --

1 A We had no (indiscernible) there. So that was
2 another reason that we were letting him know that we were
3 there, that police was there. Because he had already come
4 out and shot at the -- at a parking lot. So our fear was
5 that he didn't know who it was and he was -- we had got --
6 received information from Penner that he was paranoid. So
7 we wanted to make sure that he knew that it wasn't just
8 people out to get him. And being (indiscernible).

9 Q Were there force warnings given as part of the
10 loud hailing process?

11 A Yes. There were.

12 Q What does that term mean when we talk about force
13 warnings?

14 A Force warning is to let a person know that if they
15 commit certain actions, certain things are going to be done.
16 For instance, if you come out with a gun and shoot at us,
17 then deadly force will be used against you. So it's a
18 warning to let the person know that if they do something
19 that we're going to respond with force depending on what
20 they're doing.

21 Q Sure. Is part of that to sort of emphasize the
22 command to not come out with a gun or something?

23 A Yes, definitely.

24 Q Was that successful? Was there any contact with
25 anybody inside the apartment from the attempts to loud hail?

1 A No. There was none.

2 Q At some point -- well, let's see, how long -- or
3 can you give us a sense of where -- do you have a sense of
4 where Officer Guevara and Acting Sergeant Kenney were at
5 this point when the loud hailing was going on?

6 A Acting Sergeant Kenney was near me at that time.
7 However, soon after, we were -- me and another sergeant were
8 coming up with doing a limited SERT call out which is when
9 we consult with our SERT personnel and see if they're able
10 to come out if the level of crime -- or depending on what we
11 have. They have better tools and stuff. So we were talking
12 about that.

13 And part of that plan was to get consent to open
14 the door if -- we were just thinking ahead and thinking if
15 they had like a robot that could kind of walk up to the
16 door, that way we have consent from Penner. So when the --
17 soon after the loud hailing was kind of wrapping up, I asked
18 sergeant -- Acting Sergeant Kenney to walk over north. They
19 were probably a few cars north of where we were at with the
20 witnesses. Guevara and, I believe, Officer Iverson were
21 there. And we asked Acting Sergeant Kenney to walk over to
22 talk to Penner so that he can get consent to access his
23 house.

24 Q Like basically to ask if it's okay for the police
25 to go in the door?

1 A Yes, yes.

2 Q A couple quick clarifying questions. You use the
3 acronym, I believe, SERT. What does that mean?

4 A Yeah.

5 Q SERT Unit.

6 A SERT is -- I don't -- I'm blanking on the
7 acronyms. But it's our tactical team that comes out and has
8 more equipment and is specialized with these types of
9 incidents where they're able to respond with more personnel
10 and equipment and that's their specialty. It's like SWAT.
11 It's like our version of SWAT.

12 Q So similar to what they call SWAT in other
13 jurisdictions?

14 A Yes, yes.

15 Q And then --

16 A Which more people are familiar with.

17 Q Sure. Then another question. We've been -- I
18 understand that you're a sergeant. And we've been referring
19 to Acting Sergeant Kenney as acting sergeant. What's the
20 difference? What does that mean exactly?

21 A So acting sergeant just means that he is in a role
22 of a sergeant but he's still classified as an officer
23 because he hasn't officially been promoted. So it's just
24 him anticipating a promotion. And getting experience to
25 being a sergeant.

1 Q Got you. Sort of an HR distinction?

2 A Yes, yes.

3 Q It sounds like you're trying to get SERT members
4 out there. Then you had asked -- and then, Officer Guevara
5 is over with witnesses and people. When you were describing
6 to the north, is that over to the -- where those other condo
7 buildings are?

8 A Yes. Like the parking lot that we were kind of in
9 but just further down the stalls.

10 Q Got you. It sounds like Mr. Penner was over
11 there, as well?

12 A Yes. Mr. Penner, another neighbor with a child,
13 and like -- I think Penner's girlfriend, I believe, was over
14 there. And our intent was just to keep them away from the
15 apartment because we believed at that time it was safer to
16 keep them north. Because at the time, we believed Arevalo
17 was in Apartment Number 9.

18 Q Sure. Was the person with the child -- was that
19 Mr. Macias, Brent Macias?

20 A I don't recall the name. Sorry.

21 Q That's okay. You asked Acting Sergeant Kenney to
22 go over -- to walk over there to talk to Mr. Penner to see
23 about consent to open the door to go into the apartment?

24 A Yes.

25 Q Tell us what happened next. Did you see him head

1 that way or what did you observe?

2 A Yeah. I kind of had my back turned towards him
3 when he started walking because my focus was on the
4 apartment complex. And a few minutes after -- and I can't
5 tell you the exact timing, I just heard shots being fired.
6 I heard like -- yeah, shots being fired in the back. And
7 that's when we tucked into the cars to take cover. Because
8 at the time, we didn't know exactly what was going on. Then
9 when I looked over, I saw Acting Sergeant Kenney and Guevara
10 standing on that end and a suspect down on the floor -- not
11 suspect. Sorry. Subject down on the floor.

12 Q Then when you say on that end, are you talking
13 about over in the driveway to the condos?

14 A Yes, yes.

15 Q What -- did one or more officers broadcast that
16 shots had been fired?

17 A Yes.

18 Q What was your role then when you realized that
19 shots had been fired and -- I'm assuming -- well, tell us
20 also when you realized that police had fired shots.

21 A My role was still an incident commander. So as I
22 was standing with Sergeant Townley, he took over the custody
23 team. And made sure -- I made sure that the officers that
24 had shot were safe and that they were kind of taken away
25 from the actual shooting scene. That way other officers

1 could take their role and take custody of the subject that
2 they had just fired upon. And that way we can render
3 medical aid for the subject that was on the ground.

4 Q Then what was -- was your focus part of like
5 organizing the custody team or doing medical aid or were you
6 working with the involved officers or --

7 A I was doing a little bit of everything. So I had
8 to make sure all that was done. So I was delegating a lot
9 of that work. I made sure that sergeants were aware of what
10 they were doing. And I -- we had (indiscernible) that were
11 with the officers that were involved so I made sure that
12 they were separated and away from the scene. And at the
13 same time, I made sure that Sergeant Townley was doing the
14 custody role. And they were essentially calling medical
15 once it was safe for them to come in. So all of the above.
16 So just kind of standing behind, making sure things were
17 getting done and accounting for it being done.

18 Q Were medical personnel able to get there pretty
19 quick once it was safe for them to come in?

20 A Yes, they were.

21 Q When you -- you use the term the involved
22 officers. That's the officers who fired. That's Acting
23 Sergeant Kenney and Officer Guevara?

24 A Yes, yes. And at the time, Officer Iverson, since
25 she was there at the time (indiscernible).

1 Q Got you. Tell us just real quick -- I know
2 we've -- obviously, that's sort of at the end of this
3 investigation. But at what point -- was there a point --
4 did you still think that there might be a subject inside
5 Apartment 9 or when did you realize that there maybe wasn't
6 a subject inside number 9?

7 A Yes. There was a little bit of confusion because
8 -- and I can't recall who said what. But Penner or the
9 witness said that that person on the ground was 100 percent
10 Penner. But the other person was saying that it was 100
11 percent not Penner. So we had some miscommunication --
12 sorry, not Penner. Arevalo.

13 Q Okay, yeah.

14 A Arevalo. The person -- the subject that had shot
15 the -- the person we had probable cause for.

16 Q Right.

17 A So there was a little bit of a standstill. And we
18 were still holding -- we were still containing the apartment
19 where we believed Arevalo was at which was number 9 until we
20 were able to 100 percent verify that the person that had
21 been shot was Arevalo. Because it was unknown whether it
22 was just a random subject that came (indiscernible) and --
23 and it took a little bit -- we ended up having to get a
24 picture from Washington and confirm that it was Arevalo who
25 was the subject that had been shot.

1 Q Then after confirming that, did people stop the
2 containment of Apartment 9 and --

3 A Yeah, yes. And that's where we contained the
4 crime scene and detectives came on.

5 MR. HUGHEY: Thank you very much. Do members of
6 the grand jury have any questions for Sergeant Buck at this
7 time?

8 GRAND JUROR: Do we know if Mr. Arevalo heard any
9 of the warnings? Because I don't know that he was even in
10 his apartment to hear them.

11 MR. HUGHEY: The question was do you know if Mr.
12 Arevalo heard any of the warnings, I guess, since we're not
13 sure that he was in the apartment. I don't know -- I mean,
14 in some ways, that's sort of hard to speculate about what
15 somebody else -- maybe another way to probably -- probably a
16 judge would make us rephrase that question. Would be can
17 you give us a sense for like how loud the loud hailing is?
18 Could you -- and a better question maybe is could you hear
19 it from down by the condos where the witness is and where
20 Guevara and Kenney were?

21 THE WITNESS: Yes. You can definitely hear it
22 from where everyone was at. And it's pretty loud. It's
23 like a loudspeaker that comes out of the car. I don't know
24 the radius of it but it's pretty loud. And we could hear
25 it. And I imagine that Officer Guevara and Acting Sergeant

1 Kenney and Iverson were able to hear it, as well.

2 MR. HUGHEY: Does that -- did that --

3 GRAND JUROR: Yeah.

4 MR. HUGHEY: -- capture your question?

5 GRAND JUROR: Thank you.

6 MR. HUGHEY: Yeah. Any other questions for
7 Sergeant Ortiz -- or I'm sorry. Sergeant Buck. Hey, thank
8 you for connecting with us remotely today. We appreciate
9 it. We can disconnect and let you go.

10 THE WITNESS: Thank you so much.

11 MR. HUGHEY: Bye.

12 GRAND JUROR: Thank you for rephrasing that.

13 MR. HUGHEY: That is -- yeah, that would be
14 objectionable as speculation but a judge would probably let
15 you talk about --

16 GRAND JUROR: And it brought up (indiscernible) --

17 MR. HUGHEY: Let a witness --

18 GRAND JUROR: -- question that I'm going to ask
19 Officer Kenney. And this would be could Mr. Arevalo -- did
20 you give the same order to Mr. Arevalo as you're confronting
21 him.

22 GRAND JUROR: Exactly.

23 GRAND JUROR: Did he acknowledge you. That kind
24 of thing.

25 MR. HUGHEY: Sure. I will call our next witness

1 who is here in person.

2 (Simultaneous comments.)

3 MCKAY FENSKE

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

6 DIRECT EXAMINATION

7 BY MR. HUGHEY:

8 Q Thank you very much. Go ahead and have a seat.
9 Then when you're ready. The first question I'll ask you is
10 just to introduce yourself and spell out your first and last
11 name when you do that.

12 A My name is McKay Fenske. First is M-c-K-a-y.
13 Last is Fenske, F-e-n-s-k-e.

14 Q Thank you. How are you employed?

15 A I am a police officer with the Portland Police
16 Bureau.

17 Q And how long have you been a Portland police
18 officer?

19 A Just over three years.

20 Q Were you working on February 9th of this year in
21 the evening? I'm sorry. Did I say 9th? I meant 19th.

22 A Yeah. I was going to say --

23 Q Yeah.

24 A Yes, I was.

25 Q Did -- what was your role that day? Were you on

1 patrol?

2 A Yes, I was patrol in District 970.

3 Q Can you give us a quick sense of what is it --

4 A I'm sorry. 870.

5 Q 870. What -- well, first of all, give us a quick
6 sense of what it means to be on patrol. What does that
7 assignment really mean?

8 A Currently, with our staffing issues, it's
9 generally just getting dispatched, radio dispatched to
10 calls. So certain priority calls get radio dispatched and
11 assigned to us. Lower priority calls we can pick up on our
12 own. We do very little practice police -- we don't do a
13 whole lot of traffic stops, subject stops. Just because we
14 don't have the staffing for it.

15 Q Just because there's so many 911 calls that --

16 A Correct.

17 Q -- you're responding to those instead --

18 A Yeah.

19 Q -- of pulling people over.

20 A Right.

21 Q And what -- you said District 870. What does a
22 district mean exactly?

23 A So the precinct -- I work out of Central Precinct.
24 And Central Precinct has districts that start with 7 and 8.
25 Seven are on the east side of the river. Eight are on the

1 west side. Then they're divided up. It's just a specific
2 area that you're responsible for. So that when calls come
3 out in that district, if you're available, you'll get
4 dispatched to them. If you're not, they'll dispatch someone
5 else. But you try to take your calls in your own district.

6 Q That evening -- so when we picture an officer
7 being on patrol, I'm picturing you're driving around in a
8 police car.

9 A Correct.

10 Q How do you learn about 911 calls that you would
11 respond to?

12 A I'm not sure I understand.

13 Q I guess, like how do you get notified? On the
14 radio? Is there a computer in the car?

15 A Yeah. So there's a computer. We have the
16 computer which will have all the calls. And it'll show
17 everybody, what their status is, if they're on a call, if
18 they're available, what calls are holding. Then as I
19 stated, like priorities 1 through 4 will get radio
20 dispatched. So dispatchers will see who is available. If
21 the district officer is available, they'll dispatch the
22 district officer to those calls. So they prioritize based
23 on what comes in on the call. They prioritize what that is.

24 Q Thank you. Did you get a call then or a dispatch
25 notification to the apartment complex at 911 Southwest

1 Broadway Drive?

2 A I did.

3 Q How did that come in? Like over the radio or on
4 the computer?

5 A So it was on the computer but I was radio
6 dispatched to that specific call. So the dispatcher said my
7 number. I responded and they said, here is the address and
8 sort of a brief synopsis of what the call is.

9 Q What was -- what were you aware of from the call
10 about what was going on that you were going to be responding
11 to?

12 A Yeah. So do you mind if I look at my notes for --

13 Q Yeah, absolutely. Is that a copy of your police
14 report there?

15 A It is.

16 Q Yeah. Go ahead and take a look.

17 A So the specific call said complainant is a mile
18 away; got call from landlord who said there's someone
19 threatening to kick the complainant's door in. Now the guy
20 texted complainant with same threats. All because
21 complainant bought a bike from him on Craigslist and is now
22 saying the complainant owes him more money.

23 Q Is that what the call notes read?

24 A Yes.

25 Q Not to get -- I know I'm kind of going back to

1 basics on a lot of these questions. But what exactly are
2 the call notes? Is that on the computer or --

3 A Yeah. So these -- that -- what I read there was
4 verbatim what was on the call. I copied and pasted that
5 into my report from the computer into my report specifically
6 that that was what was -- that's how the call came out to
7 what I was dispatched to.

8 Q At that point, you were responding to like a
9 dispute over two guys about selling a bike on Craigslist.

10 A Right. It's really -- I was looking at this as
11 being just a civil issue between people with a sale that
12 went -- that somebody was unhappy about.

13 Q Did you start heading towards 911 Southwest
14 Broadway?

15 A I did.

16 Q What happened next? Were there any updates to the
17 call?

18 A Yeah. I also -- I tried to call the complainant
19 to get more information while I'm enroute. Lots of times
20 it's helpful to call directly because sometimes what gets
21 told to dispatch and what gets put in the computer sometimes
22 can vary from what is actually happening. So while -- I
23 attempted to call and then while I was enroute -- again, is
24 it okay if I read the update --

25 Q Yeah, if --

1 A -- that came out?

2 Q Yeah, yep. I think it's -- for our purposes to
3 know what you were aware of at that point.

4 A So they said that he's Steve. White male, late
5 30s, 40s, 5'8"/5'9", 160/170, blonde hair, drives a Subaru
6 that thinks could be 57 which means our stolen. That's our
7 radio code for a stolen car. Because complainant asked
8 about it yesterday and guy said, you won't want it; it's
9 hot.

10 Q So this is an update that the guy who was maybe
11 harassing the guy that sold him the bike or whatever, or
12 that he sold the bike to -- I can't remember -- might have
13 -- might be in a Subaru that's potentially stolen.

14 A Correct. And that that subject is described as a
15 white male, blonde hair. Brief description of what the
16 person on the property looks like.

17 Q Was the caller calling from one of the apartments
18 or lived at one of the apartments at 911 Southwest Broadway
19 Drive?

20 A Yes.

21 Q What -- did you try to call that caller or the
22 complainant?

23 A I'm not -- I tried -- I believe I tried to call
24 the -- let me -- I'm just looking. I attempted to call the
25 Complainant, Lance Kerski (ph.), who had called this in

1 about what he was seeing.

2 Q Were you able to reach that person?

3 A No, I did not.

4 Q So take us -- kind of take us from there then.

5 Did you keep going to the apartment complex?

6 A Yeah. So I'm somewhat familiar. I've been to
7 this apartment complex before. It's way up on this kind of
8 hillside. And the parking lot is down below that. And then
9 Broadway Drive is even below that. So it's kind of this
10 tiered level. So the street is here, parking lot here,
11 apartments up here.

12 And it's -- there's a little kind of street -- I
13 wouldn't call it a street but kind of an access road where
14 you can go to the apartments that are on the left and
15 there's condos to the right.

16 So I pulled into the complex to -- and generally
17 kind of know -- I've been there before. And I looked on our
18 computer. I could see that my cover officer -- our computer
19 will show our positions on a map. And I could see that my
20 cover officer was just coming up the road behind me. So I
21 pulled into the parking lot. And I see a car off to the
22 right in this parking lot that's crashed into a retaining
23 wall. The passenger side door is wide open, the windshield
24 wipers are running. The car appears to be running. There's
25 no one in this car. And there's all these -- multiple

1 people up in these balconies or walkways all just kind of
2 pointing in random directions. Which what I'm seeing isn't
3 matching what I'm expecting from the call and the call
4 updates. Like this isn't make sense to me.

5 So I -- because I don't know if this car is
6 involved. It's not a Subaru that was mentioned in the call.
7 So I kind of pull my car up kind of to block it in so in
8 case this vehicle is somehow involved, it's going to have
9 difficulty getting out of the parking lot because my car is
10 going to be in the way.

11 I get out of the car and I -- the person I'm
12 looking for is named Lance. And I'm asking people -- I get
13 out and I'm like, is anybody here Lance. And everybody is
14 like, no, no, no. And everybody -- people just pointing to
15 a specific area in the apartment complex.

16 Q I'll have you -- I'll ask you to just kind of look
17 behind you there. I think we have an overhead map of the
18 apartment complex.

19 A Yes.

20 Q We've seen some pictures of a patrol vehicle, Ford
21 Explorer, that was parked behind the crash car. It sounds
22 like from what you're describing that might have been yours?

23 A That was my car.

24 Q Was that kind of up in this area where the cursor
25 is?

1 A Yes.

2 Q So you walk up there. Everyone is pointing. What
3 are people pointing at?

4 A They're just kind of pointing down. Because
5 again, that apartment complex in that -- like where the --
6 where it says Broadway Heights Apartments, right there I
7 think it's even three levels. And the walkways all the face
8 the parking lot. So there's walkways. And there's people
9 out on the walkways and everybody is kind of pointing down
10 below.

11 Q Like below to the parking lot or to the apartment?

12 A No, to the unit -- like a unit on the first floor.
13 People are on the balcony kind of going like this. Like
14 down below pointing.

15 Q Got you. And at this point, did -- had you
16 learned anything else other than just seeing this car that
17 had crashed into the wall?

18 A No. I mean, no. I hadn't.

19 Q Tell us what happened from there.

20 A So I got out of my car and as I stated, I'm kind
21 of standing in this fishbowl and this apartment complex is
22 all above me. I'm in this parking lot. I'm asking of
23 somebody -- if anybody is Lance. Who is Lance; I'm trying
24 to figure this out. And I then hear my cover officer --

25 Q Who is that, by the way?

1 A Officer Iverson. And I could see that she had
2 just pulled up on Broadway Drive. And she broadcast over
3 the radio that she copies the update in the call that there
4 were shots fired. So that was never -- our dispatch never
5 broadcast that over the air. So I had no idea until she
6 read those notes in the call that there had been shots
7 fired. And I had been -- I looked at the time stamps on the
8 call. I had been there about two minutes standing in the
9 parking lot before the notification that shots had been
10 fired.

11 Q What does it mean for somebody to be a cover
12 officer? You used that term with respect to Officer
13 Iverson.

14 A Yeah. So a cover officer -- so I was my primary.
15 This was my call in my district. I was dispatched as the
16 primary officer. Because the call involved potentially
17 escalated people, for officer safety, we send -- sometimes a
18 second officer, sometimes more. That officer's job is
19 really to maintain safety for me. So as I'm dealing with
20 the call that that officer is there, as well, to provide
21 additional safety and cover.

22 Q Then the primary officer is going to be the one
23 that's taking the lead and like talking to people, writing
24 reports --

25 A Yes.

1 Q -- deciding whether to make an arrest. That
2 kind of thing.

3 A That is correct.

4 Q Is -- a lot of times, can the cover officer just
5 sort of be standing off to the side keeping an eye on
6 things?

7 A Frequently, that does happen.

8 Q Then you said that Officer Iverson, who was going
9 to be your cover officer, broadcast that she copied -- what
10 does it mean to broadcast that you copy something?

11 A So dispatch had input notes into the call. And
12 when that happens, our computer will make a little dink kind
13 of sound on that which kind of -- which indicates -- gives
14 us an audible indication that there's an update to that
15 call. And it can be all kinds of things. It can be that
16 somebody called back and wanted to cancel the call, it can
17 be additional information. It can be adding phone numbers
18 and names, things like that, to the call.

19 But anytime that dispatch adds something to that
20 call, once it's been assigned to me, it just makes kind of a
21 very faint sound. She had heard that in her call and then
22 pulled that up. Because I wasn't in my car at this point.
23 I was out in the parking lot. And she had heard that, read
24 that, and then acknowledge that she heard that -- or read
25 that there had been shots fired. But I still, until she

1 said that, had no idea that there had been shots fired at
2 this location.

3 Q Is that what the term copy means that you received
4 it and acknowledge --

5 A Correct.

6 Q -- the information?

7 A Yeah.

8 Q And the laptop or computer that you have in the
9 car doesn't come out of the car with you. It stays in
10 there?

11 A They can come out but you wouldn't take it out on
12 a call.

13 Q Got you. So you're on your feet out in the
14 parking lot. Presumably something is going dink and
15 updating on the computer. You're not seeing it and then on
16 your radio you hear that Officer Iverson is saying, I copy
17 the shots fired update.

18 A That is correct.

19 Q And is Officer Iverson there yet or is she still
20 on the way?

21 A She is. She's -- she parked on Broadway. Do you
22 want me to point like where she parked?

23 Q Sure, yeah. That'd be great.

24 A So she parked like right here.

25 Q You're sort of pointing to the --

1 A (Indiscernible) --

2 Q -- mouth of the driveway into the apartment?

3 A Yeah. So she was just east of, I guess, Southwest
4 9th.

5 Q Perfect. Did she get out of the car or stay in
6 the car or --

7 A When she broadcast that, I immediately realized,
8 okay, so what I'm seeing isn't matching this call. I could
9 tell that that was already happening but now I'm getting a
10 better understanding of why people are out on these
11 balconies fairly animated.

12 And so, because of where I was parked and I was
13 standing, I was in a very unsafe position. So when she said
14 that, I asked her to pull her car up onto 9th so that we
15 could retreat behind that car for what we call hard cover so
16 that if shots were to be aimed and fired at us, we would
17 have the vehicle to protect us from that.

18 Q Hard cover another way of saying you want to get
19 behind something that's metal or --

20 A Something that would stop a bullet.

21 Q Did she do that then?

22 A She did.

23 Q Where -- can you point roughly to where she pulled
24 up to?

25 A She pulled up like right here. Right in there.

1 Q Then did you, at that point, go over to her car?

2 A Yes. I left my car where it was and we -- I
3 retreated to behind her vehicle.

4 Q Got you. Other than just observing all the people
5 kind of pointing at this particular apartment, had any --
6 had you had any like conversations or learned anything from
7 anybody, or was it just the radio transmission and then you
8 went over to Officer Iverson's car?

9 A No. The only thing I -- when I got out of the car
10 is I initially was asking for who Lance was because that was
11 apparently the person who was involved, who lived in that
12 apartment that I was dispatched to. So I was trying to find
13 out if he was there. If any of these people that were
14 standing outside was him. So that's all I had said at that
15 point. Then when I knew that the shots were fired, that's
16 when I asked Officer Iverson to pull her car up and then got
17 behind it.

18 Q So you and Officer Iverson are behind Officer
19 Iverson's car in that driveway that's labeled 9th Avenue on
20 the map. What happens next?

21 A We start asking for additional resources to come
22 up there. Because if there's been a shots fired, two
23 officers is not going to be enough. So we start asking for
24 more people to come. Sergeants to come to the scene so that
25 we can help figure out what's going on.

1 Q And I think we've definitely heard the term
2 resources from other people. That just means more police
3 officers and police cars.

4 A That or other specialty units potentially that may
5 need to come to the scene.

6 Q Do more police officers start to arrive?

7 A Yes.

8 Q What happens from that point? Do you -- are you
9 staying at Officer Iverson's car? Moving? What's
10 happening?

11 A So we're staying -- at that point, we're keeping
12 eyes up in the location of the apartments. But we're still
13 maintaining that cover because we don't want -- I mean, we
14 don't know where this person is who fired shots is. We
15 don't know if the person is there, if they're still armed.
16 We don't know anything about that. So we want to -- before
17 we start making any kind of moves that would put us in
18 danger, we're waiting for other people to get there.

19 Q At some point, did an adult male and a child come
20 out of the apartment complex?

21 A Yes.

22 Q Was that Mr. Brent Macias?

23 A I believe so.

24 Q What happened with that? Tell us about that.

25 A Well, we had asked everybody to sort of stay

1 inside but he came running out. He and his kid came
2 running down towards us. And we didn't want them to be in
3 danger so we got them out of the way. And then, I believe
4 that Office Guevara went with them to move them further east
5 on 9th Avenue.

6 Q Down that driveway of the condos?

7 A Yeah, by the condos there. To get them out of
8 that way to a safer position.

9 Q Was he -- was Officer Guevara tasked with sort of
10 escorting them or being the person to stay with them?

11 A Yes.

12 Q Did he do that then with Mr. Macias and his -- and
13 the child?

14 A Yes, yes. So we got them out of the way so that
15 they weren't in an area of danger.

16 Q What happened after that?

17 A I think at that point we're trying to figure out
18 what apartment is involved in this shooting. Who -- if we
19 have a victim. We're trying to figure out just sort of what
20 we have in the situation. Sometimes we have people who are
21 victims of crime but don't want to be victims. Which in
22 those cases, there's not sometimes a whole lot that we can
23 do as officers. So we're trying to track down who this
24 person -- this car is obviously involved. There's a broken
25 window. It's -- so we're trying to find out who is the

1 owner of this vehicle. What apartment is this shooter
2 associated with. Just getting more details about what's
3 occurring so we can make contact and try and figure out
4 what's happening.

5 Q Do you start to learn some more information?

6 A Yeah. So what we -- what I start to determine is
7 that the call that I was dispatched to was completely
8 unrelated to the shots call. So it was just pure
9 coincidence that while I was enroute to this location, a
10 completely separate incident of a shooting occurred.

11 Q So you're not worried about this Craigslist thing
12 anymore?

13 A Oh, at this point, nothing was ever followed up on
14 that. Ever. It was done.

15 Q Do you -- does any more information come in about
16 the circumstances surrounding the shooting that happened?

17 A Yeah. What I'm able to finally figure out is --
18 I'm just going to look at my notes here --

19 Q Sure.

20 A -- real quick. Is that okay? Okay. So what
21 happened is that Mr. Macias had described a Hispanic male
22 and had seen in the parking lot that -- and we later
23 identified that he was associated with Apartment Number 9
24 where when I was originally dispatched, I was dispatched to
25 Apartment Number 4 for the issue.

1 Q For the bike thing?

2 A Yeah, yeah. So then what we're trying to do is
3 figure out who these people are. So we got some other
4 callers who were calling in who had some additional
5 information about who the suspect might be.

6 Q Did you end up talking with Eric Kachlik, the
7 apartment manager?

8 A I did.

9 Q Tell us about that. Was he able to provide some
10 information?

11 A Yeah. So he was able to tell us who the tenant
12 was of Apartment Number 9. Was able to get some phone
13 numbers. He also sent me some still shots of video
14 surveillance of who we suspected was the suspect in the
15 shooting.

16 Q Was he there accessing that kind of while you were
17 talking to him and sending you stuff like that kind of in
18 the moment?

19 A Yes.

20 Q Let's see. I'll ask you to turn around real
21 quick. I think this is even from your email. Is this the
22 picture that you got from Mr. Kachlik?

23 A Yes. I may have received multiple pictures. I
24 don't know. I think -- honestly, the picture that I was
25 sent looks clearer than this.

1 Q Sure.

2 A But yes, that would be accurate.

3 Q Is this you forwarding it along to other officers?

4 A Yeah. So I sent it -- the R-U-F in the to subject
5 line, that's Central Precinct's email address. So I sent it
6 to the officers -- to everyone at Central Precinct.

7 Q Got you. At some point, were you able to figure
8 out the identity of the shooting suspect?

9 A Yes.

10 Q How did that come about?

11 A So we had -- one of the witnesses who said that
12 they believed his name was Yoel (ph.) or Joel. And then
13 when I was actually able to make contact with the resident
14 of Apartment Number 9, I was able to get additional
15 information about who Yoel was and why he was there.

16 Q Is that Mr. Penner that was the resident?

17 A Yeah. Christopher Penner. Yes.

18 Q Did you then make some efforts to try to reach --
19 the person who was -- was somebody pronouncing it Yoel; not
20 Joel?

21 A So he's -- it's Hispanic. It was being pronounced
22 Yoel since the J would be silent. But it's Joel.

23 Q Understood. Thank you. Then last name Arevalo?

24 A Um-hum. Correct.

25 Q Did you and other officers try to contact him on

1 the phone?

2 A Yeah. So we didn't have a specific phone number
3 for him. But Mr. Penner had told us that he had left his
4 cell phone in his apartment. So it's possible that Joel may
5 have had access to that phone.

6 Q Did you try to call it?

7 A Yes.

8 Q Was anybody picking up?

9 A No.

10 Q What was happening more broadly at the scene at
11 this point?

12 A A lot more resources had been amassed at the
13 location. So this time frame -- like once we kind of had
14 what the call was, things kind of slowed down a little bit
15 more. We -- because now we know there's a shooter. We
16 don't know where this shooter is. So we had -- everybody
17 who was available in Central Precinct was coming to the --
18 was there. I believe there may have even been a SERT
19 callout.

20 I know that our new -- at this point, it was
21 fairly new -- Focused Intervention Team officers were
22 enroute. We were developing a communications team. We had
23 resources on the front of the apartment complex, the back of
24 the apartment complex because there were windows in the
25 back. So we had officers keeping eyes on this apartment.

1 We also had long guns and things like that as resources
2 also available so that if this person came out of the
3 apartment whether in the back or the front, that he could be
4 addressed appropriately.

5 Q Were you part of the communications team?

6 A What -- I wasn't part of the loud hailing
7 communications team. We had had some notification from
8 Christopher Penner that his friend was experiencing some
9 mental health issues. I'm an Enhanced Crisis Intervention
10 trained officer which means I have some additional training
11 to deal with people in crisis. So one of the things that we
12 do is we develop a communications team, as well.

13 We have some physical tools that like we can make
14 phone calls with an earpiece and the earpiece can pick up
15 what that person is saying. And we have these speakers that
16 we can put outside the car so that everybody can hear what's
17 happening. So another officer and I were that communication
18 team trying to get him on the phone so that if we did, that
19 everybody would be able to hear this phone conversation with
20 him.

21 Q I see. But did -- were you kind of able to
22 connect with him or those were just attempts?

23 A No, no. We were in the process of attempting to
24 call him and then -- and I don't know the specific order.
25 If we loud hailed first at the apartment using speakers from

1 our cars to -- like a PA system to address the apartment
2 or if we tried that first. I don't remember the specific
3 order. But it was one and then the other.

4 Q Give us -- can you give us a sense for where you
5 were physically doing that from? As part --

6 A I'll refer back to here.

7 Q Yeah, thank you.

8 A I was probably -- I was in a patrol car right in
9 this area right here.

10 Q Kind of roughly the middle of the open uncovered
11 parking lots on the north side of the Southwest 9th Avenue
12 condo complex?

13 A Yeah. So it looks like the address there would be
14 like 595 Southwest Broadway.

15 Q Let's see. Wait. 595?

16 A I'm sorry. 859. Sorry.

17 Q Got you.

18 A Sorry. No, 859 Southwest Broadway, there's that
19 row of condos and then we were just (indiscernible).

20 Q Yeah, okay. I'm with you. Thank you.

21 A Sorry.

22 Q No, that's okay. At some point then did you hear
23 gunshots?

24 A Yes. So our car was backed into that slot so I
25 was facing south. And I heard shots to the east. And it

1 was not the direction that I expected shots to come from.
2 I would have expected it to be from the west because that's
3 where the apartment complex was.

4 Q I see. Was most of the attention focused on the
5 -- kind of the surrounding area of Apartment Number 9 at
6 that point?

7 A Yes.

8 Q Could you see what was happening where those shots
9 were coming from and what was going on over there?

10 A I heard the shots. And there was sort of a couple
11 shots and maybe a pause and some more shots. But my partner
12 -- the other officer that was in the car with me -- we both
13 looked at each other, and we just literally were like, oh,
14 shit. Because that wasn't where the call -- it wasn't where
15 the shots should come from. Sorry. It was terrifying.

16 Q Officer Fenske, we've got plenty of time. If you
17 want to just like take a sec or catch a breath or have a sip
18 of water, we can take a quick break and pause. That's
19 totally fine.

20 A Yeah. It was -- I felt like we were being
21 ambushed.

22 Q Because basically, were you thinking that by being
23 off to the east like that, you were safely away from where
24 anything like that might happen?

25 A Correct.

1 Q What -- I mean, as you just said, I mean, you
2 just explained that it was scary. What did you and Officer
3 -- you said it was Officer Iverson in the car with you?

4 A No. It was Officer Freer (ph.).

5 Q Officer Freer.

6 A One of the things they teach us in our training is
7 get out of the car. It's not a safe place to be because it
8 limits your movement. So we both exited the car and I took
9 cover by the engine block. So the front passenger side of
10 the vehicle. And at that point, there were a lot of
11 officers and people moving towards the direction of those
12 shots. So we all drew our weapons. But I realized there
13 was so many people in front of me, I put my weapon back into
14 my holster but still continued to move in that direction,
15 towards where those shots were heard.

16 Q You described like maybe a couple shots, a pause,
17 and then some more. Can you give us a sense of like how
18 long -- I mean, obviously, I understand it's not going to be
19 precise. But did it seem like they were in pretty short
20 succession or spaced out?

21 A It was very quick. Very quick succession.

22 Q How -- are we talking -- possible to estimate even
23 by seconds or --

24 A I would say less than 10. I mean, 10 seconds is
25 -- actually when you stood there and listen to it is really

1 long. So I mean, it was pretty quick. Five to ten
2 seconds maybe.

3 Q Did -- could you see anything about what had
4 happened with the shooting or did your focus shift to
5 something else?

6 A At that point in time, I couldn't see. Because
7 there were other police cars that were parked further west
8 on 9th Avenue from where we were. And there were -- as I
9 said, a lot of people ran that direction. So there was a
10 bunch of people already in front of us. But I did -- just
11 need to review here real quick. I know that I helped escort
12 -- I just don't remember who it was. Oh, yeah. So I helped
13 getting Macias and his son, Mr. Macias and his son away. So
14 at that point, they were over in that direction. They were
15 coming towards us. So I helped escort them and get them out
16 of there to a safer -- I don't want to say safe but safer
17 position.

18 Q Where did you take them to?

19 A I believe that they -- I didn't -- we moved them
20 probably down towards South Broadway Drive. Then somebody
21 else took over with them and placed them in a police car.

22 Q Sure, sure. Did -- other than -- it looks like
23 maybe you assisted with crime scene tape. Did you play an
24 active role in the subsequent investigation or was that --
25 or did that --

1 A So I helped put up the crime scene tape. And
2 then, I also was tasked with staying because we had a
3 deceased victim -- or not victim. Suspect. I was also
4 tasked with staying there to preserve the crime scene.

5 Q Then did detectives arrive and did you give them
6 updates on your involvement?

7 A Yes.

8 Q Just a quick -- this is -- this might sound like
9 sort of a random question. But to your knowledge, had there
10 been any prior contacts with Mr. Arevalo that you were aware
11 of from earlier in the day or anything like that around
12 Central Precinct?

13 A Not that I was aware of. No.

14 Q Any information about the bike thing having prior
15 contacts with either of those people?

16 A No.

17 MR. HUGHEY: Do any members of the grand jury have
18 questions for Officer Fenske? Thank you. I appreciate you
19 taking the time to sort of walk us through that with such
20 good detail.

21 THE WITNESS: Thank you.

22 (Off the record.)

23 (On the record.)

24 MR. HUGHEY: We're back on the record. And thank
25 you, Officer Iverson. You know the drill. Raise your right

1 hand and we'll get you sworn in.

2 VERONICA IVERSON

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

5 DIRECT EXAMINATION

6 BY MR. HUGHEY:

7 Q Thank you. Go ahead and you can have a seat.
8 Then when you're ready, the first thing I'll ask you is just
9 to introduce yourself by spelling out your first and last
10 name.

11 A Yes. I'm Officer Iverson. It's going to be first
12 of Veronica, V-e-r-o-n-i-c-a. Last of Iverson, I-v-e-r-s-o-
13 n.

14 Q Thank you. How are you employed?

15 A I am a police officer with the Portland Police
16 Bureau.

17 Q How long have you been a Portland police officer?

18 A Since November of 2017.

19 Q Were you working as a Portland police officer in
20 the evening of February 19th of this year?

21 A Yes, I was.

22 Q Did you respond to the apartment building at 911
23 Southwest Broadway Drive?

24 A Yes, I did.

25 Q What -- were you responding as the primary officer

1 or as a cover officer?

2 A As a cover officer.

3 Q Who was going to be the primary officer on the
4 call that you were also responding to?

5 A Officer Fenske.

6 Q Were you and she in the same police car or
7 different?

8 A No. Separate cars.

9 Q Who was -- did you guys get there at about the
10 same time or one before the other?

11 A She arrived on scene before I did.

12 Q What information -- we've heard some testimony
13 about how -- basically how a police officer that's on patrol
14 learns about stuff whether it's over the radio or over the
15 computer. Can you tell us what information you had about
16 the nature of the call that you were going to?

17 A So we were originally dispatched over the air for
18 a call about a subject who was banging on a door and
19 yelling. Not too much more information than that. I was
20 coming from the downtown area driving up to the Broadway
21 Drive address. And while driving, I had my computer notes
22 open, our CAD notes. So updates come through the CAD and
23 you can see them come through in text but they also --
24 dispatch will air updates over the air sometimes, as well.
25 But while driving, I read an update about -- something about

1 reports of shots being fired. So I clarified over the
2 air, asking dispatch if that was the correct call or where
3 those updates were coming from. And they informed us that
4 that was coming from the same address.

5 Q Where were you when you learned that information
6 and clarified that with dispatch?

7 A I was coming up the hill on Broadway Drive from
8 downtown. I was probably about a minute or two away from
9 the location when I read those updates so I pulled to the
10 side of the road and stopped to clarify.

11 Q Did you keep going up to the apartments there?

12 A After clarifying, I did continue up to the address
13 because Officer Fenske was on scene and -- from -- at that
14 point, did not think that she had gotten those updates.

15 Q I see. What did -- tell us where you went when
16 you arrived at the location and what you were able to see
17 when you got there.

18 A Yeah. So I pulled off of Broadway Drive just
19 directly onto the first street that you can turn. It's a
20 strange location, as you can see. But pulled into that
21 first drive and drive stopped there. I saw that Officer
22 Fenske was already on scene further up into the location in
23 the parking lot. And based off of that information about
24 potentially shots fired and all that information, I had
25 called her back to me, to my location, a little bit further

1 away from the apartment building.

2 Q Meaning like over the radio or just --

3 A Correct.

4 Q -- like actually yelling to come back?

5 A I think I yelled at her because she had asked me
6 on the air to come to her. So I just clarified --

7 Q Oh, I see.

8 A -- to come back down to me.

9 Q And you were like, come on back. Okay.

10 A Yeah.

11 Q When you were talking about the driveway, is that
12 this like middle driveway that's labeled on the map as
13 Southwest 9th Avenue?

14 A Correct. Yeah, I pulled pretty much behind where
15 that car is parked currently.

16 Q Oh, this like white car that we see on the map?

17 A Yeah, just like right behind there. I stopped.

18 Q Got you. So just inside the mouth of the
19 driveway.

20 A Correct.

21 Q Did Officer Fenske come back to your patrol car
22 then?

23 A Yes, she did. On foot.

24 Q What did -- was he patrol car up further in the
25 parking lot?

1 A Yes, it was.

2 Q What did you and she do then when you were both in
3 the police car there?

4 A So we didn't get back into the car or anything.
5 But we kind of had a little discussion on what information
6 we had at that point. There were multiple residents from
7 the apartment who had been calling in at that point. People
8 were trying to flag us down. And decided to ask for more
9 resources at that point and just kind of get some
10 containment on the building.

11 Q Did numerous other police officers and police
12 vehicles arrive?

13 A Yes.

14 Q What then -- what role did you sort of take up in
15 the larger, I guess, police interaction that was happening
16 here?

17 A So once more resources and supervisors and
18 specialty people started arriving, and we got containment on
19 the building, I was kind of set into the more like Intel
20 gathering role.

21 Q What does that mean? Was a sergeant telling you
22 to work on stuff?

23 A Yeah. So I was kind of based with -- at the -- we
24 call it the command post. But it's just kind of where we
25 set things up with the sergeant, whoever is the IC in the

1 situation.

2 Q Is that -- IC is short for incident commander?

3 A Yes, sorry.

4 Q No, that's okay.

5 A And I had been told by Sergeant Buck to start
6 working on Intel.

7 Q What did that mean? What did you start trying to
8 work on?

9 A So just trying to get better information on
10 suspect. Location of the shooting. How many rounds were
11 shot off. Information on the firearm. If we could get a
12 suspect description. Because at that point, we didn't
13 really have a good suspect description. So just any
14 information we could get on that.

15 Q Did you have some success with getting that kind
16 of information?

17 A Yes. We got some success. Talking to neighbors,
18 it kind of pinpointed that it was likely going to be
19 Apartment 9 was the target location. And then, through
20 different channels, got information of who the suspect was
21 potentially and kind of a vague suspect description.

22 Q Did you get some of that information from talking
23 to the tenant in Apartment Number 9?

24 A I did. I did not have the full conversation with
25 him. That was Officer Fenske. But I did speak with him

1 briefly when he arrived on scene.

2 Q Let's see. Did you -- did at some point you get
3 either a description or even a photo from a video of the
4 possible suspect?

5 A I got the photo through being sent it in the
6 bureau-wide email. But that was kind of grainy picture but
7 the best picture we had of the suspect at the time.

8 Q Sure. Was that this one that we see?

9 A Yes.

10 Q Where did you go from there? Can you give us a
11 sense for where you were in relation to these buildings and
12 roads?

13 A Yes. Kind of once we got things set up, we were
14 like set up around here just since this was the target
15 building. The command post was kind of set up right over
16 here using some patrol vehicles to make phone calls and do
17 those kind of things.

18 Q That's in the open parking area of the condos that
19 are to the east of the apartment building?

20 A Yes, correct.

21 Q Let's see. I don't -- tell me if I'm jumping
22 ahead too far and if there's more important things to talk
23 about in the interim, but at some point, did you see a guy
24 that you thought might actually be the suspect from that
25 picture?

1 A Yes. I -- Chris who was the actual tenant of
2 Apartment 9, he had arrived on scene. He spoke to somebody
3 else. Then a sergeant had tasked me to just take him back
4 to Officer Guevara who was standing by with some other
5 witnesses and residents.

6 Q Where was he Officer Guevara and the other
7 witnesses?

8 A Just kind of like right around here in one of
9 these -- close to these parking bays over here.

10 Q Towards the western end of those parking bays?

11 A Yes. Kind of just right in that beginning area.

12 Q Got you. And I understand it's not precise. But
13 so you were going to take the tenant, Chris, over there?

14 A Yes. Chris and his girlfriend had arrived on
15 scene because they were asked to come back. And they had
16 talked to somebody. Kind of made a statement. I didn't
17 speak to them personally. But then, I had been asked to
18 walk them away from the command post back to where Officer
19 Guevara was standing with some other people just to keep
20 them separate. And at that point is when I first noticed
21 the suspect.

22 Q I'm going to come right back to that but at this
23 point, what was your understanding of where the potential
24 shooter most likely was?

25 A So Intel was kind of all over the place at that

1 point. Lots of information coming in and kind of trying
2 to figure out what's good information. But we had gotten
3 some information from the apartment manager who also lives
4 in the building. And based off of security video, he had
5 seen -- he couldn't tell us for sure at that point because
6 of the night vision and grainy video.

7 But he had seen some male exit the back side of
8 the building and come to the far corner and then kind of
9 lost him off camera. And he was telling us potentially that
10 that was the suspect. But he couldn't confirm 100 percent.
11 So we were still containing the building just in case he was
12 still inside. But at that point, kind of could be anywhere.

13 Q Then tell us about -- let's see, you were walking
14 Chris Penner over to the -- over to where Officer Guevara
15 was.

16 A Um-hum.

17 Q And that's when you noticed another person.

18 A Correct.

19 Q Yeah.

20 A I was walking them back to him. And I saw the now
21 known-suspect to be standing behind him. Probably just a
22 few feet behind him. I didn't recognize who it was since it
23 wasn't a person we had talked to. And at that point, I
24 asked Officer Guevara.

25 Q You asked Officer Guevara what?

1 A I asked him who it was or who that person
2 standing there was. He said that he didn't know who it was.
3 That originally, they had walked through and just kind of
4 stood there for a little bit. They had had a very brief
5 conversation and the guy had said that he was a neighbor
6 just walking through. Officer Guevara said that he then
7 walked away for a while. So he just kind of didn't think
8 anything of it. Then short time after, suspect returned.
9 Was standing behind him just kind of watching things
10 happening.

11 Q I'm sorry to interrupt. Is this -- when you say a
12 short time after he returned and was watching, is that what
13 you observed or that's what Officer Guevara told you he had
14 been doing?

15 A That's what Officer Guevara had told me. That he
16 had just returned and at that point, that's when he was -- I
17 saw him standing there.

18 Q I see. Can you give us a sense for like who was
19 around there? It sounds like there was some witnesses.
20 Officer Guevara, you. Obviously, the person who you now
21 knew was the suspect.

22 A Yeah. Officer Guevara had been standing with a
23 resident and his son who had run out of the apartment above
24 the target unit. They had come out because they were scared
25 and just wanted to be separated from it. So we had kind of

1 stationed him with them. Just to be there. And then, at
2 that point, the only other person standing behind him was
3 the suspect. And I had just walked Chris and his girlfriend
4 over.

5 Q So it's you, Chris and his girlfriend, Officer
6 Guevara, the man and his son from the other unit. And then
7 the guy who is sort of -- is he just sort of like right in
8 there with them or staying off at a distance or --

9 A He was standing behind the whole group. Probably
10 a few feet behind them. Just kind of observing.

11 Q Did you stay there with that group or go somewhere
12 else or tell us what happened next?

13 A So at that point, when I noticed the suspect, I --
14 immediately, I noticed his shoes. For some reason, that's
15 what stuck out to me the most. It was kind of what I could
16 see clearest in that screenshot.

17 Q Is that sort of -- I guess we can -- I don't know
18 if these totally do it justice but you can see it's like
19 kind of a black and white shoe in this or --

20 GRAND JUROR: Yeah. Like two-tone.

21 A Yeah. The picture I remember being a little
22 clearer. I don't know if it's maybe just the screen but it
23 still was blurry. But the shoes -- I could tell there was
24 like a white symbol on them and they had very bright white
25 soles. And black shoes. And then, obviously, just kind of

1 general description. Hispanic male of a certain 20s, 30s
2 age. But noticed the shoes immediately. At that point, I
3 pulled Officer Guevara over a little bit further from the
4 suspect. And asked him if -- who that person was. He
5 explained that story that I had mentioned before. That he
6 had come back and had just been standing there. I mentioned
7 him that he did match the suspect description from what I
8 could see. But obviously, at that point, weren't 100
9 percent sure either way.

10 Q Sorry to interrupt.

11 A No, you're fine.

12 Q Were you saying that -- you said you pulled
13 Officer Guevara away. Did you want to be kind of discreet
14 about that conversation?

15 A Correct.

16 Q Why?

17 A I didn't want the suspect -- potential suspect to
18 hear our conversation and getting any sort of clue that we
19 were onto him or looking into who he was. Since he wasn't
20 doing anything at that point, didn't want to escalate the
21 situation.

22 Q Sure. So you mention like, hey, he looks like the
23 suspect or he might match the description.

24 A Um-hum.

25 Q How did Officer Guevara react to that?

1 A He -- from what I can remember, he was a little
2 surprised but then kind of like -- I think it hit him. Like
3 he understood. He's like, oh, yeah, he kind of does match
4 the suspect description. From there, we kind of ended the
5 conversation. And I decided to, again, kind of downplay it
6 and just kind of keep things lowkey.

7 I took Chris and I had asked him to step a little
8 bit away with me and I clearly told him, hey, I'm going to
9 ask you something. I'm going to turn you around and ask if
10 this is the person that shot at you. And he was willing to
11 do that. I asked him to turn around. We were probably
12 seven to ten feet away from the suspect at that point.

13 He turned around and immediately he -- quietly but
14 immediately he said, oh, shit, oh, shit; that's him. Or
15 something like that. Then at that same point, his
16 girlfriend turned around when she was closer to Officer
17 Guevara. And she recognized him and alerted Officer
18 Guevara.

19 Q Could you -- could you give us a sense for like
20 where you -- that doesn't help. Where you and Officer and
21 Guevara and Chris and Chris's girlfriend kind of all were?
22 It sounds like maybe you were sort of with Chris and Officer
23 Guevara is a little closer --

24 A Yeah.

25 Q -- to the girlfriend. Am I picturing that right?

1 A They were kind of in this first bay with like
2 the son and the resident. Then Officer Guevara was kind of
3 standing over here. The suspect was a little bit further
4 behind him this direction. Then Chris and his girlfriend --
5 I brought them kind of over here in this -- this is actually
6 an open area with a stairwell. So I brought them like over
7 here and they were kind of standing in this little alcove a
8 little bit. Then at the point that I pulled Chris, I pulled
9 him back a little bit over this direction to be further from
10 the suspect. That's when I turned him around. He
11 recognized him. She had come out a little bit when I took
12 Chris this way. And that's when she turned and recognized
13 him.

14 Q I see. And when you pulled Chris and kind of like
15 said, like, hey, I want to pull you over here and ask you
16 something, was that because -- kind of the same reason that
17 you wanted to be discreet about it in front of the suspect
18 or something different?

19 A Yeah. Just wanted to be discreet so that we
20 didn't kind of escalate things immediately. But just try to
21 pull him away. Wanted to try and get that confirmation of
22 yes or no; that is the person. And then, hopefully go from
23 there with challenging them.

24 Q When you -- I think you can probably have a seat.
25 But thank you. That was helpful how you pointed that out.

1 I'll come right back to that. You just used the term
2 challenging them. What does that mean the way you used it?

3 A So it's kind of like a tactical term that we use
4 for -- typically when somebody is potentially armed, has a
5 weapon, or aggressive behavior. We will give them commands,
6 give them directions so that we can hopefully make contact
7 and take them into custody. Some of it is kind of like a
8 compliance check of like, hey, put your hands up, that kind
9 of thing. Seeing if they're willing to do those things.
10 Typically, we'll -- if the person is being compliant, we'll
11 tell them -- we have a process of safely taking them into
12 custody. But --

13 Q What would that be?

14 A Obviously, every call it's a little bit different
15 depending on the situation. But giving them commands to put
16 their hands up. Keep them where we can see them. Don't
17 reach for anything. Then depending on the level of threat
18 in the call, having them turn around. Face away from us.
19 Either put your hands behind your back, hands on your head.
20 If we need to and it's a higher-risk call, have them go to
21 their knees. If it's something that we feel is necessary,
22 proning them out on the ground.

23 Q Meaning making them lay down?

24 A Yes, correct. Usually lay down, face down,
25 keeping your arms out. Anything we can just do to -- again,

1 compliance check. Then just making sure we're keeping
2 hands away from weapon areas and that kind of thing.

3 Q Thank you for explaining that. So let's jump back
4 to where kind of we were. So you've got Mr. Penner over
5 there. He's saying, oh, shit, oh, shit; that's him. Then
6 you mentioned something that the girlfriend was interacting
7 with Officer Guevara?

8 A Um-hum.

9 Q Tell us about that. What did you observe her and
10 -- interacting with.

11 A I didn't hear their -- I was a little far to hear
12 their actual conversation. But just based off of what I
13 saw, I could tell she alerted him in some way that that was
14 the suspect. From there, somehow -- I don't know exactly
15 how Sergeant Kenney had gotten into that area over there, as
16 well. But by the time that I had confirmed with Chris, they
17 were already pretty much turning on the suspect, turning
18 their bodies and facing the suspect. And began challenging
19 him.

20 Q Do you remember anything that they were saying
21 specifically or --

22 A I can't remember specifically but I just remember
23 hearing commands.

24 Q Like the types of commands that you were saying
25 would be part of challenging somebody like to put your hands

1 up or something?

2 A Yeah. I think it was put your hands up or take
3 your hands out of your pockets or -- he had both of his
4 hands in his jacket pockets at the time. But yeah, just
5 general commands.

6 Q How were you able to see how the guy, the suspect
7 that Chris had identified, was reacting to the commands of
8 Officer Guevara and Sergeant Kenney?

9 A So immediately, as they started challenging him
10 and Chris had confirmed, I started walking up to Officer
11 Guevara and Sergeant Kenney to assist them. But I was
12 coming from a little bit of a distance behind them.
13 Immediately, when they started challenging the suspect, he
14 started backing away from them at a pretty quick pace.

15 Q When you say backing away, still facing the same
16 direction and walking backwards?

17 A Yes. Still facing the same direction. Facing the
18 officers. Backing pretty quickly. Not making any effort to
19 turn and run or -- showing that he was attempting to flee at
20 that point. He maintained that full -- facing them the
21 whole time but was fully like athletically backing away from
22 them.

23 Q What -- could you see his hands or what was he
24 doing with his hands at that point?

25 A So from the start of their interaction, he had his

1 hands in his jacket pocket. As he starts to back away, I
2 could see that he was taking kind of that lower shooting
3 stance. Or just like a fighting stance.

4 Q What -- could you -- I know this might not be the
5 easiest thing to do but could you describe like physically
6 what it is that you're picturing when you describe a
7 shooting or a fighting stance?

8 A Yeah. So he kind of like lowered his body and
9 based out his legs. So widen his stance, lowered his body.
10 Typically what you'd see when you're ready to like throw a
11 punch or get into some sort of fight. And as he was
12 backing, he started lowering his body, kind of blading
13 himself.

14 Q What's blading yourself mean?

15 A Just kind of like angling your body to give you a
16 better structure and a base for shooting or fighting or that
17 kind of situation.

18 Q Tell us what you continued to observe, please.

19 A So as he was backing and taking that stance --
20 obviously, this is all happening in a very quick time frame,
21 but he's backing, lowering himself. And then, as he's
22 lowering and backing, I can see that he's trying to pull his
23 hand out of his jacket pocket. And from there, quickly
24 could see -- I thought I saw what was the handle of a gun
25 coming out of the jacket pocket. But I was behind Officer

1 Guevara and Sergeant Kenney at that point. And I was
2 still trying to approach them.

3 But as he's backing, he's backing at an angle. So
4 he's kind of moving away so I can see him. But then, at
5 that point, the shots started going off before I could fully
6 like see anything or take any action. I had drawn my weapon
7 out of the holster but at that point, the shots started
8 going off. I couldn't tell if it was suspect shooting or if
9 it was officers shooting at that point. And I could tell I
10 had no clear shot because two officers were standing between
11 me and the suspect. And it was kind of a narrow one-lane
12 area. So at that point, I turned and found the closest
13 cover I could find.

14 Q Which was what?

15 A Which was the first doorway in this apartment
16 building. So this building is actually apartments. So just
17 that first doorway. I was able to run into it. Find some
18 cover. By the time I had looked out, the suspect was down
19 on the ground. And then, I made my way across to the car
20 bay on the left -- on the north side to meet up with Officer
21 Guevara and Sergeant Kenney since they were still
22 challenging the suspect.

23 Q I got you. What happened from there?

24 A At that point, the suspect was down. He was not
25 moving. The gun was still in his hand. You could clearly

1 see it in his hand.

2 Q Could you -- yeah, I was going to ask you that.
3 You mentioned that you thought you could see the part of a
4 handle coming out of the pocket.

5 A Um-hum.

6 Q At which point the shooting started. You were
7 able to get a better view of a gun at this point?

8 A Correct.

9 Q Tell --

10 A So at this point, he was down on the ground laying
11 on his side. Clearly had the gun fully out of his pocket
12 and it was in his hand.

13 Q What --

14 A Sorry.

15 Q Oh, yeah. No, I think that's -- that was my
16 question. What happened next?

17 A From there -- so we kind of stopped into that
18 carport on the left side. Continued to challenge the
19 suspect since he was down but had the gun still in his hand.
20 It was actually still pointed in our direction. Very
21 quickly, obviously, we had numerous officers on the scene at
22 the time. We also had some on-duty SERT members. So they
23 actually had gotten over there by that point. And they took
24 over covering the suspect, dealing with that -- the custody
25 part of it. Because they wanted to clear the officers who

1 had been involved out of the area.

2 Q Did other officers clear you out of the area, as
3 well?

4 A Correct. Once a couple other officers got over
5 there and had taken over covering the suspect, they clearly
6 gave us direction to get out of there and get other people
7 out of there. So I assisted by just making sure Officer
8 Guevara was not hit and then also just getting him out of
9 the area. Physically escorting him out. And then, Chris
10 and his girlfriend, we met them partway down. And they were
11 pretty panicked. So I just physically escorted them down
12 the hill, as well.

13 Q From there, did you resume any part of the
14 investigation or sort of stand by and talk to detectives?

15 A At that point, kind of -- the suspect situation is
16 pretty much handled but still going on. So I stood by with
17 Officer Guevara. Just immediately we have to separate
18 members who are involved. So just kept him separate from
19 everybody who was coming in. And waited until we had other
20 people there to take us and separate us.

21 Q Real quick. When you said that you could observe
22 the suspect down, meaning down on the pavement there, is
23 that right?

24 A Correct.

25 Q You said that -- were you and other officers

1 continuing to challenge him? Is that right?

2 A Yes. Once I had met up with them on that left
3 side or north side in the carport, we were still challenging
4 him at gunpoint. Just based off of the fact that we didn't
5 know if he was still alive or what the situation was at that
6 point since the gun was still in his hand. Giving him
7 verbal commands. And from there, we got cleared before he
8 was taken into custody.

9 Q What types of commands if you can recall?

10 A From what I can recall, we were telling him to
11 drop the gun, put the gun down, to not move. Those kind of
12 commands. Just since if -- we don't know if -- what his
13 status was at that point.

14 Q Sure.

15 A So just trying to give him those direct commands
16 of not to pick up the gun, not to move it, let go of it,
17 move his hand away, whatever he needed to do at that point.
18 But there was no reaction from the suspect.

19 Q Then how -- if you can estimate, was it a long
20 time, short time before other officers came in and moved you
21 and Office Guevara and Sergeant Kenney back?

22 A It seemed like a very short time. We had a ton of
23 officers on scene but just kind of like in different parts
24 of the area for different roles. So other officers were
25 there quickly.

1 Q Thank you. I think -- did we cover -- anything
2 important that jumps out at you from your memories of that
3 night that we haven't talked about that you think we should
4 know or does that -- did that pretty well summarize it?

5 A No. I think that pretty well summarized it.

6 MR. HUGHEY: Do members of the grand jury have any
7 additional questions for Officer Iverson?

8 GRAND JUROR: I had one question.

9 MR. HUGHEY: Yeah, go ahead.

10 GRAND JUROR: Do you recall if Mr. Arevalo was
11 given a command or any kind of warning that deadly force
12 would be used if he didn't comply with pull his hands out
13 and put his hands up?

14 THE WITNESS: I don't think he was given that
15 specific command just based off of the time frame. Just
16 since once they started contacting him, it very quickly
17 escalated into what happened. But I don't think that
18 specific command was given. He was given or he --

19 GRAND JUROR: But in the moment, do you feel that
20 judged on his demeanor and his actions that it felt like
21 your lives were in danger?

22 THE WITNESS: Yes, absolutely.

23 MR. HUGHEY: Let me -- sorry, I was going to ask a
24 follow-up question to one of your first ones. When -- from
25 the time that Office Guevara and Sergeant Kenney started to

1 challenge him and you were describing how he sort of
2 backed up and took that stance like -- is it -- are you able
3 to give us a sense of like how long that took? Are we
4 talking a couple seconds, longer, shorter?

5 THE WITNESS: Just based off of an estimation, it
6 was an immediate reaction from the suspect when he got
7 challenged to start backing and taking that stance. I'd say
8 like the shooting began within, again, just an estimate, but
9 probably within five, ten seconds.

10 MR. HUGHEY: That was what I wanted to ask. Did
11 you have more?

12 GRAND JUROR: No. (Indiscernible).

13 GRAND JUROR: May I ask a question?

14 MR. HUGHEY: Yeah, yeah. Of course.

15 GRAND JUROR: Is it assumed that if a suspect has
16 a gun, your life is in danger, period. It's just that's the
17 assumption. They have a gun, you see the gun, you can see
18 it, therefore your life is in danger. Is that correct? Is
19 that the assumption?

20 MR. HUGHEY: Or maybe a way to rephrase that --

21 GRAND JUROR: Yes, help me, please.

22 MR. HUGHEY: -- would be like is there --

23 GRAND JUROR: Please help me.

24 MR. HUGHEY: Is -- does any of your training to be
25 a police officer or DPSST training speak to, I guess, how to

1 react if you see somebody with a gun?

2 THE WITNESS: Yeah. So obviously, a lot of
3 factors go into using deadly force. It's -- they need to be
4 an immediate threat. Obviously, having a gun is something
5 we are going to address that issue.

6 GRAND JUROR: Is that the immediate threat, then
7 having a gun?

8 THE WITNESS: I mean, there's a lot of --

9 GRAND JUROR: (Indiscernible).

10 THE WITNESS: -- other factors that need to go
11 into it. Like where is the gun, is it holstered on your
12 hip, is it in your hand. Even if it is in your hand, are
13 you not pointing it at us and not taking any actions toward
14 doing anything with it.

15 GRAND JUROR: And all of that happens within a
16 five to ten-second period of time that you have to think
17 about all those things within (indiscernible)?

18 THE WITNESS: Yes. All those factors have to be
19 thought about very, very quickly. Those are unfortunately
20 the kind of decisions -- we have to take all those factors
21 into very quickly in the line of work that we're in. But
22 it's also what kind of call are we on. That takes into
23 consideration. Have shots already been fired. Has this
24 person already committed a crime using the gun. There's all
25 different factors that fall into that. Yes, obviously,

1 having a gun is an issue that we're going to address with
2 somebody if we're contacting them. But just having a gun --
3 there's too many other factors to say that you are an
4 immediate threat if you have one.

5 MR. HUGHEY: Is -- and this may be exactly what
6 you just said. But is it fair to say that rather than just
7 saying there's a black and white or hardline rule, a gun is
8 per se an immediate threat or it per se isn't. Is
9 everything going to be fact specific depending on the
10 particular situation? Kind of like you said. Where the
11 person is holding the gun, what they're doing with the gun,
12 whether they're near or far.

13 THE WITNESS: Yeah.

14 MR. HUGHEY: Which way they're facing.

15 THE WITNESS: It's -- definitely. So many factors
16 go into that. Just trying to add in like what is this
17 person -- what's their history, why are we on this call. In
18 this situation, he had already attempted to murder somebody
19 by shooting at them. So just adding in all those factors.

20 And then just his actions as he's attempting to
21 draw the gun or take the gun out of his pocket when we had
22 obviously told him not to do that. And we're just trying to
23 contact him. Those are the reactions that we're also taking
24 into consideration. I can't fully comment on it since I
25 wasn't an officer who did shoot him at that point. But

1 yeah, lots of factors that go into that.

2 MR. HUGHEY: And --

3 GRAND JUROR: How long -- sorry.

4 MR. HUGHEY: No, go ahead.

5 GRAND JUROR: How long is a suspect typically down
6 before -- and officers continue challenging because the
7 person has a gun. They don't know if they're dead or not.
8 How long does the challenging usually go on before they're
9 like, well, this person is not responsive.

10 THE WITNESS: Again, it's so --

11 GRAND JUROR: It just varies.

12 THE WITNESS: Yeah. It's (indiscernible) and
13 suspect based and what the situation is.

14 GRAND JUROR: Got you.

15 THE WITNESS: If there's outside factors that are
16 -- like are other people in the situation a threat. Are
17 they still actively a threat or what's -- do we have the
18 personnel to have a custody team and safely take this person
19 into custody.

20 GRAND JUROR: In this situation, can you estimate
21 maybe how long it took? If you were -- if you could see.

22 THE WITNESS: Oh, I could not. I had already left
23 the area.

24 GRAND JUROR: Thank you.

25 MR. HUGHEY: When -- you mentioned that you had

1 drawn your firearm, as well. But that you didn't fire
2 because you were kind of behind Officer Guevara and Sergeant
3 Kenney. Were -- even in the seconds that it took to kind of
4 make that decision, were those factors that you were
5 mentioning -- were those things all going through your mind
6 about like the nature of what had just happened with the
7 other shooting, his body position, that kind of thing?

8 THE WITNESS: Yes. All those factors are going
9 through my mind at that point. For officers, that's
10 something that kind of -- any call you're on, it's something
11 that you are considering at that point. Like what if this
12 happens. Trying to think through different scenarios.

13 Then just based off the information that I had had
14 from Chris, as well, that -- confirming that this is the
15 correct person. The person who had shot at him. The second
16 that he started making those movements and taking those
17 actions as he got challenged, I definitely -- I drew my
18 firearm just in case depending how the situation goes.

19 Obviously, like if you draw your firearm, you
20 don't have to use it. But drew it at that point just not
21 knowing kind of how that was going to go. But very quickly
22 it turned into knowing that I had no shot. So me just
23 standing there wasn't any help.

24 MR. HUGHEY: Were there other -- did I see any
25 other hands over here? Yeah?

1 GRAND JUROR: They mentioned they called him
2 over the loudspeaker at his apartment. From the other --
3 from the condos, can you -- could you hear that like
4 loudspeaker?

5 THE WITNESS: Like from where the command post
6 was?

7 GRAND JUROR: Yeah.

8 THE WITNESS: Yes, absolutely.

9 GRAND JUROR: So you would assume if they're
10 calling to him there and he's over there, that he could know
11 that they were looking -- that he --

12 THE WITNESS: Yes.

13 GRAND JUROR: -- is a suspect.

14 THE WITNESS: Yeah.

15 BY MR. HUGHEY:

16 Q Can I ask you a question, too? And if you're able
17 to remember or tell us, when he was backing away and
18 starting to pull where you saw the handle of the gun coming
19 out of the pocket, where was Mr. Macias and his son in
20 relation to that, if you can recall?

21 A Yeah. So they were actually still in this first
22 car bay over here. They had kind of been like tucked in
23 there to get out of the cold and the wind. So they were
24 just kind of right in this corner, this first car bay.

25 Q Was he facing their direction? Mr. Arevalo facing

1 their direction or facing a different way?

2 A Yes. He was facing -- as he started to back, he
3 kind of backed at an angle like I mentioned before. And at
4 that point, he was angled toward the car bay that they were
5 in.

6 Q Could you -- would you mind showing us sort of
7 like the angle that he took and sort of his path to the
8 extent you can?

9 A Yeah. This is just an estimation. But so Officer
10 Guevara was kind of standing over here. Then they were in
11 the car bay over here. Suspect began or started kind of
12 standing over here partway in that second bay over here in
13 the street. They started challenging him right here. He
14 immediately starts backing this direction. Kind of at an
15 angle toward this apartment over here. Just backing out
16 that way.

17 Q So backing down the driveway from west to east and
18 also across the driveway from north to south?

19 A Yes, correct.

20 MR. HUGHEY: That's helpful, I think. Thank you.
21 Any other questions for Officer Iverson? I think you're all
22 set. Thank you so much for coming in.

23 THE WITNESS: Thank you.

24 MR. HUGHEY: I think we can go off the record.
25 But I will check.

1 (Off the record.)

2 (On the record.)

3 MR. HUGHEY: We're on the record in 2445351. This
4 is a death investigation related to an officer-involved
5 shooting where the involved officers are Zachary Kenney and
6 Reynaldo Guevara. This is DDA Sean Hughey. We are in Grand
7 Jury A. July 28th, 2022. And this is Grand Jury Case No.
8 43. And we are continuing with the witness testimony.

9 This is going to be your seat right here in the
10 middle. And we'll just ask you to stay standing and raise
11 your right hand before we get going.

12 ZACHARY KENNEY

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

15 DIRECT EXAMINATION

16 BY MR. HUGHEY:

17 Q Good afternoon.

18 A Hi.

19 Q Could you start by introducing yourself and
20 spelling out your first and last name when you do that? Or
21 actually, yeah.

22 A It's like super low but --

23 MR. HUGHEY: Take your time. You can get the
24 chair squared away.

25 GRAND JUROR: (Indiscernible) it's a button right

1 here (indiscernible).

2 THE WITNESS: It's (indiscernible) that's why I
3 couldn't see it. What was the question? Sorry.

4 BY MR. HUGHEY:

5 Q Simple -- just to start by introducing yourself
6 and spelling out your first and last name.

7 A Yeah. My name is Zach Kenney. It's -- or
8 Zachary Kenney. Z-a-c-h-a-r-y K-e-n-n-e-y.

9 Q Thank you. And just real quick, I want to ask a
10 couple preliminary questions. Are you here just on your
11 own, I guess, behalf to testify by your own choice?

12 A Yes.

13 Q Another way of putting that is sort of did we send
14 you a subpoena and require you to be here or did you come
15 here because you wanted to be here?

16 A No. You didn't send me -- I was not compelled to
17 be here.

18 Q Do you have an attorney related to this matter?

19 A I do.

20 Q Plenty of time to talk with them before you came
21 in here?

22 A Yes.

23 Q Can you start by telling us how you are employed?

24 A Yeah. I am a police officer with the city of
25 Portland. I am currently working as an acting sergeant. Or

1 was working as an acting sergeant when this incident
2 occurred. I've been doing that since July of 2004 so for 18
3 years.

4 Q Working as an acting sergeant or working with --

5 A I'm sorry. Working as a police officer for the
6 Portland Police Bureau since July 2004.

7 Q Thank you. Could you give us just a quick
8 overview of the training that you go through to become a
9 Portland police officer?

10 A Back in 2004, I went through basic academy. I
11 went through a field training where I rotated through a
12 variety of coaches at different precincts, different shifts.
13 So I had an in-field apprenticeship style training where
14 you're -- it's hands-on versus classroom. Then went to an
15 advanced academy that I believe at the time was right around
16 16 weeks long. Maybe 17 or 18. And I did that training.
17 Like I said, I've been working for the Portland Police
18 Bureau for 18 years.

19 For a period of time, I was in -- I receive my
20 annual in-service every year, and ongoing training. For a
21 period of time, I was in drugs and vice division as a
22 narcotics investigator. And within that, you get a bunch of
23 extra training. It's a small unit so we did quarterly
24 tactical and/or range training. In addition to what every
25 other officer in the Bureau gets. I was also assigned for

1 two years as a Drug Enforcement Agency task force officer
2 working with the feds. And I would attend their regular
3 training in addition to my regular training while I was
4 doing that.

5 Then for the last seven years or so, I've been
6 back on patrol. I'm a field training -- or was a field
7 training officer. So taught people how to be a police
8 officer. Had training in addition to that. So like a very
9 large percentage of my career, every year is spent going
10 back and refreshing my skills and training. Yes?

11 GRAND JUROR: Can I ask how many hours of trauma
12 informed police training are involved in that?

13 THE WITNESS: As far as --

14 GRAND JUROR: As far as -- I guess how many hours
15 of trauma informed police training have you had in your
16 career?

17 THE WITNESS: I would guess it would depend on
18 what you categorize that -- that's kind of a newer
19 terminology. But probably a concept that we've had for a
20 long period of time. So my initial training in advanced
21 academy included crisis intervention training which, at the
22 time, really consisted of familiarizing yourself with a
23 variety of mental illnesses and how to talk to people who
24 are in crisis. That's morphed more to understanding that
25 people who are in an emotional state whether it be from a

1 mental health issue or a drug-related issue or just a
2 traumatic event -- that they're going to react to things
3 differently. And that's been woven in for the better part
4 of the last decade. Woven into every bit of police training
5 we do. We've gotten better and better at communicating and
6 dealing with folks from an understanding of what trauma is
7 doing to them.

8 GRAND JUROR: Do you -- as an acting sergeant, do
9 you have any like additional training in that area, say, as
10 compared to a regular officer?

11 THE WITNESS: So not specifically per se because
12 I'm an acting sergeant. I would say that because I have 18
13 years of experience, because I've been a field training
14 officer, because of my day-to-day job for most of the last
15 seven years has been working Central Precinct day shift
16 where I am in the inner eastside downtown.

17 I am dealing with people in crisis almost every
18 other radio call that I go to. That is my life. That is
19 what I live and breathe and what my job is and has been for
20 quite a long time. So that real world experience coupled
21 with the initial training is what I would fall back on. And
22 I would say that's probably far and away more than the
23 average person with three or four years on the police bureau
24 that's on my shift.

25 GRAND JUROR: Thank you.

1 MR. HUGHEY: Did that sufficiently address --

2 GRAND JUROR: Yeah, absolutely.

3 GRAND JUROR: (Indiscernible)?

4 MR. HUGHEY: Sure, sure.

5 GRAND JUROR: Also with the crisis intervention
6 training, are you (indiscernible) my train of thought. Are
7 you given training about how to respond to mental health
8 crises or whatever the crisis is if the person has a weapon
9 or is it just --

10 THE WITNESS: No. So a huge portion of what we
11 deal with with mental health -- I mean, it may involve a
12 weapon. A lot of time -- I mean, that's going to definitely
13 necessitate a police response. A lot of times people call
14 the police when they're just having a crappy day. And so we
15 deal with people who are suicidal.

16 We deal with folks that just don't know who else
17 to call because they're at their wit's end and maybe their
18 life is just falling apart. Right. And we deal with people
19 who are out wandering the streets and wandering into
20 traffic. And that is our job is to deal with people in
21 crisis. Deal with people who are having mental health
22 issues like on a regular basis. Does that answer your
23 question?

24 GRAND JUROR: Good enough.

25 MR. HUGHEY: Yeah. And don't -- and folks, don't

1 hesitate if other people -- it's always okay to raise your
2 hand or jump right in.

3 BY MR. HUGHEY:

4 Q Let's go ahead and jump to the date of this
5 incident on February 19th of 2022. Were you working that
6 afternoon and evening?

7 A Yes, I was.

8 Q Can you tell us what -- and were you working as an
9 acting sergeant that afternoon?

10 A Yes, I was.

11 Q What is that -- what does that entail, I guess,
12 particularly for you even before you got called to this
13 particular incident?

14 A I took the sergeant's test this last time around
15 after 17 years or so of being a cop at that point. I
16 decided maybe it was time to start being a supervisor. That
17 I had some skills and some knowledge and information that I
18 could pass on and be more effective in that role. I took
19 the test and made the list and in that they made me an
20 acting sergeant. I believe it was in November. So I had
21 about four months of being in an acting sergeant role in
22 anticipation of eventually being promoted.

23 The job of a sergeant or an acting sergeant is you
24 are a line-level supervisor. We are out there going to
25 hotter calls, the calls that necessitate more than a two or

1 three officer response. We're there to coordinate
2 resources. We also deal with just regular management
3 personnel issues. Making sure that everybody's training is
4 done on time and documented and annual reviews are done.
5 Those kinds of things.

6 On that day, I actually just started the shift,
7 and afternoon shift, fielding a call from a concerned
8 citizen who was upset with how an officer handled a call.
9 So I spent quite a bit of time on the phone talking to them
10 about why it was handled the way it was versus the way that
11 the expectation was that it was going to be handled. That
12 was just kind of emblematic of what we do every single day
13 as a supervisor.

14 Q Could you tell us how you, I guess, first either
15 learned about or became involved in the response to 911
16 Southwest Broadway Drive?

17 A Yes. I was standing out in front of Central
18 Precinct when the call came out. And I was talking to two
19 afternoon shift officers and I heard the call come out. It
20 wasn't -- it came out as a disturbance call. It sounded
21 like it might have involved a landlord and somebody else.
22 It sounded like a very routine police call. And I kind of
23 -- it wasn't the kind of call that a supervisor would go to
24 based on what was being broadcast.

25 I did take note however of the location because

1 the geography of where it is. It was at 911 Southwest
2 Broadway Drive. So a lot of Central Precinct and what my
3 officers are used to going to is on a grid. It's concrete,
4 it's buildings. It's very -- it's Battleship. Right? And
5 you can see where one point connects to the other and how to
6 get there.

7 Q When you say Battleship, you mean the board game
8 like --

9 A The board game. It's a grid.

10 Q Like two axes?

11 A And it's just super -- yeah, it's go over three
12 and up to and you can get to where you need to go. And
13 Broadway Drive is -- has more of a rural feel to it. You
14 head up a fairly steep hill. The road gets very narrow,
15 there's no sidewalks. There's a lot of green space between
16 houses and apartment complexes. Treed areas. Again, like
17 gravel shoulders or drainage canals on the side of the road
18 rather than sidewalks and gutters.

19 And it's not a place that everybody who works in
20 Central Precinct might be super familiar with. So I just
21 kind of -- in the back of my head, like, hey, that's a place
22 where just got to kind of keep in our head that they're a
23 little ways away from the core of where our staff is. These
24 officers are going up Broadway Drive and it's an area that
25 not everybody might be familiar with.

1 Q Real quick. It's possible that people don't
2 know. You've mentioned Central Precinct a couple times.

3 A Yeah.

4 Q Is that the police station right down here on 2nd
5 Avenue?

6 A It is.

7 Q Just a couple --

8 A And so, our city is roughly divided up into
9 thirds. We have three precincts. At one time we had five.
10 But we currently have three. And Central Precinct
11 encompasses basically the entire West side of the city of
12 Portland West of the Willamette River. Then on the east
13 side of the Willamette River, everything from I-84 South to
14 Milwaukee from the river to Cesar Chavez which would be 39th
15 Avenue on the east side, roughly. There may be a little.

16 GRAND JUROR: I have a question.

17 THE WITNESS: Yes.

18 GRAND JUROR: You mentioned just -- it wasn't --
19 not the kind of call you would expect to respond to.

20 THE WITNESS: For a supervisor. Yes.

21 GRAND JUROR: Yeah. How come?

22 THE WITNESS: Our -- much like probably any
23 workplace, there's a level of expectation of certain tasks
24 that are handled absent a supervisor. There's a lot of
25 calls that are rather routine that are dispatched with one

1 or two officers. They handle it and they leave and a
2 supervisor never needs to be a part of that. It was a
3 standard disturbance call which generally is two officers
4 dispatched, sometimes three depending on how many people are
5 involved.

6 Just not the kind of call -- as it was initially
7 coming out -- that sounds like something that you need more
8 than the bare minimum or the bare essential resources that
9 we normally dispatch a call. Where a sergeant starts to
10 step in is going to be, do I need multiple officers, do I
11 need multiple skill sets, is there public concern to this,
12 is there high risk to the members or to the public, is there
13 -- things that kind of elevate it to a level that may
14 require more coordination amongst a bunch of different
15 individuals rather than two people saying, hey, what do you
16 want to do about this and let's go handle it.

17 MR. HUGHEY: Just to be clear, when you commented
18 that the initial call wasn't one that you thought a
19 supervisor would need to be involved with, that was the
20 initial call of a disturbance before any information came
21 out about a shooting?

22 THE WITNESS: Yes, correct.

23 GRAND JUROR: Yeah. That's (indiscernible).

24 MR. HUGHEY: Was that helpful to --

25 GRAND JUROR: Yeah, yeah. I thought it was

1 (indiscernible).

2 THE WITNESS: I guess I should probably clarify.
3 So as a police officer and then as a supervisor, we are
4 often listening to the radio to just kind of a situational
5 awareness of what's going on around -- as an officer, what's
6 going on around you. Is anybody going to need help, do they
7 have enough resources going to a call.

8 As a supervisor, it's really like, hey, are we
9 sending the appropriate resources to a call, or my people
10 going to be able to do this safely given who we're sending.
11 So I'm constantly filtering through that and it kind of goes
12 into a vox of yes, this is adequately resourced for the
13 information we have right now or no, this isn't and I need
14 to kind of step in and make sure more resources are sent to
15 that, or I may need to go to that to be a resource. And
16 it's just kind of a triage of determining whether we're
17 assigning the right amount of people to that.

18 BY MR. HUGHEY:

19 Q So fair to say that before any information came
20 out about a shooting, the call wasn't particularly
21 remarkable?

22 A Not initially, no.

23 Q And so, did you -- were you not going to get
24 involved, I guess, at that point?

25 A No. I was just -- noted there was a call on

1 Broadway Drive. People are going to it. It's another
2 Saturday night.

3 Q Then when did that change? Did you start to learn
4 more about the call?

5 A I heard -- I believe it was Officer Fenske arrive
6 on scene. And right about that time, fairly shortly after
7 she showed up, and she was the primary officer, there was
8 information that came out that there had been shots fired or
9 having been fired just before Officer Fenske's arrival.
10 Which really ups the risk level of what's going on there.
11 And if there's somebody shooting, you know, two officers is
12 probably not enough.

13 We want to make sure we have enough people to
14 adequately deal with the situation. And they asked for a
15 rifle. And the two officers I was talking to, Officer
16 Schoff (ph.) and Officer Petty (ph.), were dispatched
17 because one or both of them -- I can't remember -- but at
18 least one of them had a rifle and were headed to that call.
19 And I hopped in my car and I headed to the call, as well, so
20 we had some more resources. It was definitely a supervisor-
21 level call at that point. When we're talking about the risk
22 to the public with having somebody who is actively shooting
23 or has just shot rounds.

24 Q You said I heard Officer Fenske arrive. Do -- is
25 it kind of standard practice for police officers to

1 broadcast over the radio where they're going, when they
2 get there, that kind of thing?

3 A For different calls -- and I can't -- to be
4 honest, I can't remember whether she broadcast that she
5 arrived on scene or she broadcast information that made it
6 sound like she was on -- you know, obviously, there on
7 scene. But either way I, I made the connection that she was
8 there on scene dealing with the issue.

9 But yeah, depending on the call and depending on
10 the generation of police officer -- older officers such as
11 myself tend to broadcast things; voice over the radio a lot
12 more. Younger officers tend to use the computer to update
13 their status. And that's just kind of the trend of where
14 it's at.

15 Q I asked that question just to be clear that when
16 you say, I heard Officer Fenske arrive, you're sort of
17 monitoring the radio.

18 A Yes, yes.

19 Q You're obviously not anywhere near her hearing it
20 at that moment.

21 A Yeah.

22 Q So you rode with it sounds like those other
23 officers up to the scene?

24 A Well, I got in my own car and I headed up there
25 separate to them but we drove up there pretty much -- I

1 arrived at roughly the same time on the call.

2 Q Got you. Tell us where -- or what you saw when
3 you arrived and where you went next.

4 A Right about the time I arrived on scene, there was
5 an update that there was -- Officer Fenske had updated
6 something about a car having crashed into a wall right about
7 the time the shots came out. I showed up. There was a car
8 that had driven into a small retaining wall or -- in front
9 of the apartment. There was some police cars in the center
10 of what was -- I believe it was Southwest 9th Avenue. It's
11 a small drive that connects the apartment complex in
12 question to the west. So these -- I don't know if you guys
13 have gone over the maps of how all this works but --

14 Q We have looked at a map here.

15 A But there's -- yeah, Southwest 9th Avenue
16 essentially looks like part of -- like a driveway that goes
17 -- you either -- connects either to the right or the left
18 (indiscernible) which apartment complex we're talking about.
19 Where it says on the screen the Broadway Heights Apartments,
20 that is the location where the call was coming out. There
21 was -- like I said, there was a car that had hit a wall.

22 There was some police cars in the middle of 9th
23 Avenue. And I showed up. And we were getting information
24 that someone in Apartment 10 had witnessed a shooting and
25 that the shooter had retreated into an apartment below

1 Apartment Number 10. Which I believe we later determined
2 was Apartment Number 9.

3 The caller who -- from Apartment 10 was blinking a
4 front porch light to try and alert us that it the apartment
5 below that apartment. I -- when I got out of my car, I
6 grabbed my rifle because there was a limited number of
7 officers on scene. And I wasn't sure -- we still didn't
8 know whether -- how active the shots had been. Whether we
9 were dealing with a situation where somebody could start
10 firing again.

11 I assigned Officer Schoff and Officer Petty to
12 head to the south side of the apartment complex and work
13 their way across the back side of the parking lot along the
14 road to try and get eyes directly on the door to the
15 apartment. And then I worked with Officer Fenske and
16 Officer Iverson who were on scene to kind of get an idea of
17 what we had.

18 As a supervisor, I have like four main areas of
19 priorities when I show up on a call like that. I call them
20 the four C's. Or we call them the four C's. The first is
21 containment. The next is communication. The next is
22 custody. And the next is contingencies.

23 So what I wanted to do at this point was we want
24 to contain the situation. Our best information right now is
25 we have a person who is shooting who has retreated in his

1 apartment. We want to contain that apartment and
2 hopefully at a distance and in a way that allows us to deal
3 with the situation without precipitating any sort of dynamic
4 event. We want temperatures to cool. We want things to
5 like -- to isolate this form the public so that nobody is at
6 further risk. Isolate the cops from far enough back so that
7 they're not at risk and that we're keeping everything as
8 safe as possible for both the suspect and us and the public
9 as a whole.

10 As people started to arrive -- arriving, we
11 started working on setting up that containment. I assigned
12 an officer to be able to see the back side of the building.
13 There wasn't a real safe place to be on the back side of the
14 building. So they were set up on the northeast corner of
15 the apartment complex looking down the back side of the
16 building.

17 But there wasn't a place to kind of wander behind
18 there that they'd be behind cover so that if the person in
19 the back decides to start shooting out the window, they
20 would have had nowhere to go. So they were hunkered down on
21 that corner to kind of isolate that.

22 Then I directed Officer Fenske, the primary
23 officer, to try and gather some more information. Because
24 we were getting some rapidly changing information from what
25 the call came out. And like, hey, let's figure out what we

1 have. Who was involved. Is the person in the apartment
2 -- are they wounded. Is there somebody else wounded. Do we
3 have -- you know, where did everybody involved in this go.

4 And I knew that we had some more resources coming
5 but right at that point, we were really limited in what we
6 can do. So it's just triage. Like as soon as a task comes
7 up and I have people to do it, we're going to start trying
8 to assign folks to do that.

9 After I'd been there just for a few minutes, the
10 caller who had been blinking the light suddenly came running
11 out of the apartment with what I believe was a 10 or 12-
12 year-old boy. And kind of didn't stay in the apartment. I
13 believe we were trying to direct them to stay. To hunker
14 down and shelter in place. And came running toward us.

15 And I will say that the expression on the man's
16 face and on the child's face was one of just absolute fear
17 and terror. And it wasn't somebody who heard shots out
18 front and saw somebody with a gun. It was the face of
19 somebody who thought they were in mortal danger or they were
20 at major risk. And it's a different look. It's not -- and
21 I could see that right away.

22 Q Do you happen to -- did you learn that person's
23 name or do you remember it if you did?

24 A I did not learn either of those names.

25 Q What happened with -- when he and the child came

1 out?

2 A So they came out and I assigned Officer Fenske to
3 try and talk to them and see if we could kind of funnel down
4 what information. So when calls come into dispatch, they
5 talk to a call taker. The call taker puts the information
6 -- that's the person on the phone at 911. That call taker
7 puts that information into the call. And then a dispatcher
8 reads that information to us. So it's like a game of
9 telephone. And very often, when we can get that direct from
10 the source, the information is more clear. We have a better
11 picture of what's going on.

12 So while we may have gotten some of the
13 information via dispatch, I wanted to definitely make sure
14 that we had that direct source information and try and
15 figure out just -- what had happened, what we were dealing
16 with.

17 Q Through Officer Fenske doing that, did you learn
18 some more about what had happened?

19 A Yes. Through that and some other phone calls that
20 were made to, I believe, other people in the call. And
21 perhaps the initial 911 caller. I'm a little fuzzy on --
22 that was delegated out and I don't know exactly where all
23 the information came from. But I delegated -- hey, start
24 digging into this and figuring out what you've got.

25 We did learn that -- eventually, we were able to

1 establish that there was a shooting. One of the people
2 involved had run back to that target apartment. That
3 Officer Fenske was able to get a hold of a person named
4 Chris Penner who, to my understanding that evening, was the
5 renter of Apartment Number 9.

6 We learned that Mr. Penner had told Office Fenske
7 that he was shot at by an acquaintance by the name of
8 Joel Arevalo. And that Mr. Penner left the scene driven by
9 another friend or another party. We also learned that Mr.
10 Penner left his phone inside the apartment. There may have
11 been other friends or acquaintances or people who were
12 involved with the confrontation that led to the shooting.
13 That was kind of unclear. But there was a possibility that
14 there was other friends of Mr. Penner's or associates of
15 Mr. Penner's that may have been present.

16 And from the man and the child that had ran out,
17 our last best information was that the person who had been
18 shooting, Joel Arevalo, was in Apartment Number 9. That was
19 our -- that was the information that we had. The last
20 person -- last time somebody had laid eyes on him had been
21 running into that apartment.

22 Q Was there are a physical description of
23 Mr. Arevalo at that point or just sort of that --

24 A So we did develop a physical description kind of
25 over time. I will say at that point when we gathered the

1 information, what had happened, we put out -- we developed
2 enough information to believe that there was probable cause
3 to arrest Mr. Arevalo for attempted murder. And we put that
4 out over the radio. There was some additional information
5 that was later maybe -- developed at the same time and then
6 slightly later in the call when we got a hold of another
7 witness who was a manager at the apartment. But we had a
8 Hispanic male, 35 years old, with a gray or dark hoodie and
9 gray or dark pants. So very generic description that we
10 had.

11 Q Sure. Going back to -- the determination that
12 there was probable cause to arrest Mr. Arevalo for attempted
13 murder, you used the term: put that out over the radio.
14 Does that basically mean that that information is shared
15 over the radio with all the other officers?

16 A Yes. So when we get to a point where we are like,
17 hey, we have the ability to arrest somebody who is involved
18 in a situation, we know kind of who the suspect may be, we
19 need to notify other officers so that they're -- they know
20 who they're -- you know, what they're dealing with. What
21 their legal authority is. Whether they have the ability to
22 detain somebody. Whether they have the ability to arrest
23 somebody. Whether they have the ability to use force to
24 compel that arrest depending on the situation. So we will
25 broadcast to everybody on the call. Hey, this is our legal

1 standing. This is where we're at. We have probable cause
2 to arrest this person. We're trying to find out some more
3 information.

4 Q Talking about the legal authority, basically, is
5 that one way so that if, say, another officer happens to see
6 Mr. Arevalo walking down the sidewalk, if they don't have
7 that broadcast, then it might be legal for them to tell him,
8 hey, stop.

9 A Correct.

10 Q But if they know that there's probable cause, they
11 can say, hey, stop. And it is legal to say, you're under
12 arrest at that point.

13 A Correct, correct.

14 Q Where -- could you give us a sense for where you
15 are or maybe you're moving around if that's the case.

16 A So we kind of jumped a little bit here. But when
17 I first arrived, we were kind of in the middle of 9th
18 Avenue. Shortly -- not too long after I arrived and started
19 to get people assigned to jobs, Sergeant Joanna Ortiz showed
20 up. And I think she goes by Joanna Buck now. That's
21 changed since this incident.

22 But she arrived. And she assumed a role of
23 incident commander. So she -- I briefed her on what we had
24 so far and then she took over all control of the incident.
25 And I served kind of as her number two. So I was there to

1 help with communication, I was there to help find people
2 to delegate tasks to, and I was in the command post with
3 her.

4 So part of her assuming incident command was
5 moving our command post, our area where we were sitting. So
6 initially, we were sitting on 9th Avenue. We're kind of
7 hunkered down behind cars just making sure we have hardcover
8 so that if Mr. Arevalo comes out and starts shooting, we're
9 not going to get hit.

10 And we moved up 9th Avenue -- if you can see --
11 into this apartment complex to the east of the Broadway
12 Heights Apartments. It's hard to tell from the overhead
13 view but there's quite a bit of a slope so it was up the
14 hill there as we headed up. And we parked the car kind of
15 close to where that P is. And parked a couple police cars.
16 At least one that we used as a command post. We had -- so
17 we're a little bit further distant from the actual incident.
18 And we could operate a little bit more freely. So that's
19 long and short of where we were at.

20 Q Sure, yeah. Where did things go from there then?
21 What was happening next or what did you see or do next?

22 A Once we figured out the name of the suspect and
23 that we had probable cause to arrest him, I assigned Officer
24 Kotay (ph.) who was on scene with trying to get more
25 information about Arevalo. So standard practice is we want

1 to know who we're dealing with. We're trying to get to
2 the point where we have the ability to go to that second C
3 of the four C's I talked about which is communication. So
4 we're getting it contained. We're pretty much there. Then
5 we want to establish communication.

6 And it's good to go into that with a little bit of
7 background information. Is this somebody who has had dozens
8 of dealings with the police. Is this somebody who is a
9 complete unknown. Is this somebody who has a history of
10 being in crisis. Is this somebody who there's been recent
11 police calls to. We don't know. And so, I assigned
12 somebody to start trying to figure that out so that we could
13 figure out who we're talking to right before we made
14 contact.

15 We weren't finding a lot of information. There
16 was no local records and whatnot. And I tasked Officer
17 Freer and Officer Fenske, who are both what we call our
18 ECIT, our enhanced crisis intervention training officers, to
19 try and establish contact. We knew that Mr. Penner's phone
20 was in the apartment. And we were trying to use that as a
21 means to contact him.

22 Our whole effort here is like I said before, we're
23 trying to contain this incident. We're trying to establish
24 communication. And it's just turn the temperature down.
25 Slow it down. Like get this incident so that nobody gets

1 hurt at the end of it. And so that we can establish
2 communication and we can deescalate this so that whatever
3 led him to feeling like he needed to start shooting a gun,
4 that that's far enough removed; that he's calmed down enough
5 that we can figure out how to take him into custody at this
6 point without any further risk to the public.

7 So again, we're trying to do that with people who
8 have a skill set to talk to somebody in a way that's not
9 going to get them excited. Not to get them agitated. And
10 I'm making sure that those are the officers in charge of
11 establishing that line of communication.

12 Q Was there any success in establishing
13 communication?

14 A We did not have success in that. But we did get
15 the -- we were eventually able to get -- attempted to get
16 the victim, Mr. Penner, to return to the scene so that we
17 could do that first-hand debrief. Get a little bit more
18 information of exactly what we were dealing with. You can
19 get some information over the phone. But I think we all
20 know that a lot of communication is non-verbal.

21 So talking to somebody in person where you can see
22 their body language, you can see where their eyes go. You
23 can see how they carry their -- carry themselves while
24 they're explaining things. That gives you information, as
25 well. And you have somebody who is right there able to

1 answer a question immediately if you have it.

2 So at some point in doing that, Officer Fenske,
3 after failing to get a hold of the -- being able to get
4 through on Mr. Penner's phone, we were able to get a hold of
5 a manager. Some sort of manager or person associated with
6 the apartment building who has some video footage.

7 And from that, we get kind of a screenshot of --
8 it looks like a photograph of a screen of kind of a blurry
9 photo of a suspect. That gets emailed out to Central
10 Precinct. So everybody on the call.

11 Q Do you have access to that like on your phone that
12 you can look at?

13 A I did, yes. Yeah. And I took a brief glance at
14 it and then went back to kind of managing the scene. We,
15 again, had that description of 35-year-old male of Hispanic
16 descent. The gray or dark hoodie, gray or dark pants.

17 Q The information that does come out of this though
18 is that the manager believes he saw the suspect come out of
19 the back of the apartment building or back from behind the
20 apartment building. So that northeast corner of the
21 building I talked about where I positioned some people.
22 Right when police had arrived on scene, he had seen that
23 person, the suspect come out from there and then go back
24 behind the building.

25 Behind this building is quite a steep incline.

1 It's a wooded area. And it goes up a pretty steep
2 incline to another neighborhood. And so, with this
3 information, you know, asked the officers who were on that
4 corner, hey, can you see, is the door open -- the window
5 open in the back. And it was really hard for them to get an
6 angle at a safe way to be able to see that. It was getting
7 -- it was dark. If this person had been hiding in the woods
8 right there, you know, they'd be at risk. They were having
9 a real hard time getting a view of it.

10 But it did look like there was something hanging
11 out of the window. Like it had been drug through. So we
12 didn't know whether the person had escaped the back of the
13 apartment or whether they had like come out, saw us, and
14 ducked back in. Or if they're hiding in the woods. So we
15 just put the information out that, hey, this person may have
16 gotten out of the apartment. We're still operating under
17 the last time they were -- the last best information we have
18 is in the apartment. So we're going to operate off that.
19 But be aware. This person may be out.

20 And we had another car come to the scene right
21 around that time and we tasked that person with
22 (indiscernible) the neighborhood up to the north of it to
23 see, hey, you know, do you see this person coming out of the
24 brambles, hopping a fence, that kind of thing.

25 So at that point, we'd been on the scene for -- I

1 would estimate -- I'd have to look at the exact times.
2 But I think probably about an hour-and-a-half at that point.
3 So quite a long time.

4 Q Were you still over in that 9th Avenue driveway
5 area where the condo buildings are?

6 A Yes, yes.

7 Q What happened next?

8 A I do need to rewind just a little bit. At some
9 point when Officer Fenske, after initially talking with the
10 man and the child that ran out of the building, she got
11 assigned to another job. And Officer Reynaldo Guevara was
12 assigned to sit with that man and that child. And that was
13 fairly early on, I believe.

14 And I'd moved them away from where the command
15 post was to this building here that's just east of these
16 parking spots. And there's carports that run underneath
17 this building. And they were sitting in that first spot.
18 The westernmost carport on that north side of that drive.
19 And that's going to --

20 Q And were --

21 A -- come into play later.

22 Q Sure. And were you down there, as well, or were
23 you still sort of more towards the middle of the --

24 A I'm in the middle of the command post. And at the
25 time, putting Mr. Guevara with those -- or Officer Guevara

1 with those two people, I thought that that was the safest
2 place. It was the furthest away from the scene. And there
3 was a concrete wall there that would provide cover if
4 somebody did start shooting. There was a lot of officers
5 between that apartment and where those folks were. So in my
6 mind, it was a safe place for those folks to sit. It was
7 away from the problem. And that was long before we had
8 information that somebody might have gotten out of the
9 perimeter or out of our containment.

10 Q Sure. So you're in the kind of command post area.
11 Officer Guevara is over with the man and the child in that
12 first carport.

13 A Yeah.

14 Q What happens from there?

15 A Mr. Penner and a woman return to the scene. I
16 think I -- I don't know if I had specific knowledge or if I
17 just assumed that it was his girlfriend. But returned with
18 a woman to the scene. And rather than keep them at the
19 command post, I assigned Officer Iverson to go over to where
20 Officer Guevara was where it was safe kind of back, again,
21 in hard cover, and debrief him and see what information she
22 could get from him. We had --

23 Q Is debrief another way to just say like ask
24 questions and --

25 A Just ask questions.

1 Q -- sort of interview somebody?

2 A And flush out like how credible the story is. Are
3 they withholding information. Are we getting all the
4 information. What information do they have. Does he -- is
5 there -- we knew there was some sort of acquaintance or
6 friendship or something, relationship between these folks.
7 Like how forthright is he being and then gauge that. And
8 just kind of the whole process of figuring out what this
9 person knows about the person we're dealing with. And if
10 it's any of it's useful to help us take him into custody
11 safely.

12 GRAND JUROR: May I ask a question?

13 THE WITNESS: Yeah.

14 MR. HUGHEY: Go ahead.

15 GRAND JUROR: How much time lapsed between when
16 you received the email with a screenshot so you could see
17 that he had like the (indiscernible) and the clothes and all
18 of that and then when everyone actually IDed that it was him
19 on the scene?

20 THE WITNESS: So you know, I don't -- I would have
21 to look. So that email was sent -- I don't know that I
22 looked at the email itself. I believe I saw like on Officer
23 Fenske's phone like, hey, this is what sent -- sent me. You
24 know, we were -- again, I'm sitting in the command post. So
25 my job really isn't to take anybody into custody. It's not

1 to be hands-on.

2 My job is to assist the incident commander with
3 tasking out jobs. So it was like, okay, you got a photo.
4 Get that sent out. You got -- you know, like -- and that
5 was more -- so I know I saw it. But I don't -- I think it
6 was on her phone. I don't know -- I apologize. It's been
7 five months. And while we'll get to it, a few seconds of
8 this are like very indelibly marked in my memory. A lot of
9 the stuff leading up to it is another day at work for the
10 Portland police.

11 We do this a lot. We have people are behaving
12 dangerously and we isolate them and contain them. And we
13 establish communication and we do this like -- I've done
14 this for 18 years now. And we do it all the time. So I
15 don't quite remember. I do know that when we got the
16 picture of him, that was quite a ways -- it was quite a bit
17 later into the call. I mean, that was -- we had been there
18 probably over an hour at that point.

19 GRAND JUROR: Okay. That's (indiscernible) --

20 THE WITNESS: Would be my best -- yeah.

21 BY MR. HUGHEY:

22 Q And that's -- we don't want you to like assume
23 things or guess things and if it's not totally clear and you
24 don't totally remember, it's okay to say that.

25 A Yeah. We could look at the CAD and we can check

1 in my email. But it had been quite a while. We were --
2 we had been there for quite a long time by the time --

3 Q So yeah, pick up -- let's see. Officer -- you
4 said Officer Iverson is going over to try to talk to
5 Mr. Penner and get some more information.

6 A Yes.

7 Q Yeah, pick up there. What's happening next?

8 A Right about that time, so members of our Focused
9 Intervention Team, our FIT team, which is our new team
10 that's designed to kind of tackle gun crime in the city,
11 showed up on scene. It was well appreciated in that we were
12 stretched thin. We had officers for every job. But we
13 didn't have a lot of extra officers available for stuff. So
14 it gave us some extra manpower to deal with the issue at
15 hand.

16 In addition, a lot of our members of the FIT team,
17 they're -- one, they're experienced highly-competent
18 officers. Several of them have been in training division
19 for a number of years, teaching people tactics, teaching
20 people how to deal with an incident like this. They kind of
21 wrote the script of what we're all executing out there. And
22 have taught it for a long time.

23 And then, several of them are on SERT which is our
24 SWAT team. So they come with a lot of tactical expertise
25 and so it's nice to be able to send them -- we sent them to

1 kind of supplement some positions so that we had an extra
2 person with a lot of experience to each position, key
3 position that was out there. Then Sergeant Townley, who is
4 the sergeant with the FIT team that night, came to the
5 command post to offer assistance and see what resources he
6 could give us.

7 It was decided that we were going to operate under
8 the assumption, again, that our last best information that
9 he's in the apartment, we're going to try and make contact
10 there. So we begin to loud hail the apartment. By loud
11 hail, I mean we use our loudspeaker out of one of our police
12 cars at a super high volume. And we address the person in
13 the apartment.

14 Q Was the loud hailing -- obviously, it's intended
15 to be heard from Apartment Number 9. Was it easy to hear
16 that from where you are in the command post in the parking
17 lot?

18 A Where I was in the command post, it was loud, it
19 was super clear. I would estimate that anybody who is not
20 in any building could probably hear it for 2 to 300 yards
21 clearly. Like clearly hear it for 2 to 300 yards. If you
22 were in a building, obviously, we were directing the sound
23 straight at. So where the apartment was, they'd have
24 probably a clear ability to hear it. But if you're in a
25 building behind where we were broadcasting or whatever, it

1 may not have been as clear. But anybody who was out on
2 foot in that area would have clearly heard what was being
3 said.

4 Q Any success with the loud hailing?

5 A While that was going on, they were giving clear
6 force warnings saying, hey, we believe that there's -- and
7 I'm paraphrasing here. But there's -- you know, you've been
8 involved in a shooting. You may be armed. We need you to
9 listen to exactly what we're saying and do -- follow our
10 instructions otherwise force could be used against you up to
11 and including less lethal and lethal force. Very clear
12 that, you know, if you're not following the rules, that
13 we're going to -- that we may use that force on you.

14 Q Can I ask you a question about the loud hailing,
15 as well?

16 A Yeah.

17 Q And this kind of goes back to the communication
18 component that you were talking about. At this point, it
19 sounds like you had developed what his name was, that it was
20 Joel Arevalo.

21 A Yes.

22 Q Was that -- is the use of his name part of the
23 loud hailing or is it more generic than that?

24 A It would have been or should have been but I don't
25 recall specifically what was said. Again, that was one of

1 those things that (indiscernible) get it out and it's
2 like, make sure there's a force warning, make contact. And
3 very quickly, I was distracted because I had kind of the
4 next thing happen. And I -- back up. When we talk about
5 the four C's, the next C there is custody. We had a custody
6 team ready so that if he came out, we had the ability to
7 take him into custody safely without anybody getting hurt.

8 And contingencies, that was the -- the plans we're
9 doing on that are, we have a less lethal, we have a rifle.
10 We have these folks with different skill sets at different
11 position. We have the communicators there that -- like
12 whatever it is we need to do, we have some tool that we can
13 throw, a resource we can throw at that problem. And we kind
14 of thought ahead a little bit so that we're not reacting on
15 that.

16 So the next thing that kind of happens is that
17 Officer Iverson comes up to me at the command post and says,
18 hey, there's a guy over here. Do you know who this person
19 is or this guy is. And she tried to point him out but due
20 to the slope where we're at and then stuff that's in the
21 way, I couldn't see who she was pointing at. And I remember
22 I asked, you know, is that the -- are you talking about the
23 guy that ran out with the kid. And she's like, no, no, no.
24 And I said, well, do you know if the guy that you're talking
25 to knows this guy. Thinking that maybe it's one of the

1 people who are associated with Arevalo and Penner that,
2 you know, has returned.

3 And I don't recall if she said, you know, I don't
4 know, or whatever the response was. But I pretty quickly
5 volunteered to go. I said, hey, I'll just come with you.
6 There was her, there was Guevara up there. There was four
7 witnesses. The woman and Penner and then the man and his
8 child. And Sergeant Townley is in the command post and
9 Sergeant Ortiz -- like we're kind of -- it's not a static
10 situation but we're loud hailing. Like everybody has got --
11 there's not new things that need to be done. So I said,
12 hey, I'll go with you and I'll go help you out.

13 I was thinking at the time, like, hey, Mr. Penner
14 can probably identify if this is somebody who is a friend of
15 his or a neighbor or whatever. So I walked up to -- toward
16 where they were at. There's a carport. Like I said, there
17 was the carport. And I believe there's two parking spaces,
18 a well, two parking spaces, a wall. And that's -- there's -
19 - I think a total of eight parking spaces.

20 Q In the carports you mean?

21 A In the carport. Yeah.

22 Q Like double carport, wall, double carport, wall?

23 A Yeah. It's a double carport, wall, double
24 carport, wall. And everybody -- to the best of my
25 recollection, everybody was sitting inside that first

1 parking spot. And as I get closer, I see that there's a
2 guy standing at kind of the second wall. So two parking
3 spaces away. And he's kind of looking off toward the scene.
4 So he's a heavy-set male. He's got on a black puffer coat.
5 He's got his hands in his pockets but it's cold out. He's
6 just kind of casually standing there looking at what's
7 happening.

8 Q When -- sorry to interrupt. When you noted that
9 he's got his hands in his pockets but it was cold out, is
10 that -- are you noting that on the one hand, hands in
11 pockets might be something you'd take note of but then it's
12 less noteworthy because of the temperature?

13 A Yeah. In the initial police training when you
14 first become an officer, they really focus on teaching you
15 to watch the hands. To look at what people's hands are
16 doing. Because most things that people are going to do to
17 hurt you in this job are done with their hands. They are
18 going to reach for a weapon, they're going to punch you,
19 they're going to grab you. That's all going to be done with
20 hands.

21 And if you can track where the two hands are, you
22 have a pretty good idea of what is coming next from a threat
23 perspective. That said, we encounter a lot of people who
24 don't mean us harm. A lot of people who are not criminals.
25 A lot of people who are just everyday folks doing what they

1 always do, which when it's called outside, people put
2 their hands in their pockets. And every time we deal with
3 somebody it is kind of (indiscernible) make that assessment.
4 Is like is this the time that I say, hey, can you get your
5 hands out of your pockets, or is this the time that I kind
6 of figure out who I'm dealing with and then figure out how
7 the best way to handle it is.

8 It's really all about -- from my perspective, I
9 try to (indiscernible) as much stuff as I can. I try to be
10 as approachable and friendly. There's already a line that
11 kind of gets drawn between the public and the police when
12 you put on a uniform.

13 So the more casually I come up and I start a
14 conversation rather than giving a directive or -- even if my
15 goal is to get him to get his hands out of his pockets, that
16 may not be the first thing that comes out of my mouth.
17 Sometimes that's appropriate. Sometimes I see somebody who
18 I'm like, yep, that's a crook, that's like that who I'm
19 dealing with; they need to get their hands where I can see
20 them. And I'm going to tell them right away you need to do
21 that.

22 At this point, I don't know -- is this a guy a
23 neighbor who is just curious and he's just standing there
24 staring at what's going on. Is this person a friend of
25 Mr. Penner's. Is this -- I don't know who he is or what

1 he's doing.

2 He's a heavy-set male. He's wearing a black
3 puffer coat. Like I said, he's got his hands in his
4 pockets. So I approach him as low-key and as casually as I
5 possibly can. And I just kind of stand between him and the
6 four witnesses that we have.

7 Q Why did you choose to stand in that position
8 between him and the witnesses?

9 A I think it was just -- my goal is to get him kind
10 of removed from the scene. He's not -- if he's just there
11 to be a looky-loo, I'm there to kind of like keep him from
12 bothering the witnesses. He's going to be removed from the
13 situation. He doesn't need to be -- he doesn't need to see
14 what they're doing nor hear what they're talking about. I
15 think psychologically, that's kind of where I placed myself.

16 Q And looky-loo -- I think that's a pretty common
17 term but somebody that just like sees all the police --

18 A Yeah.

19 Q -- activities and wants to like check it out?

20 A We -- you get -- I mean, it's --

21 GRAND JUROR: Rubber-necker.

22 THE WITNESS: It's interesting. You've got -- at
23 this point, I don't know. Probably close to 15 or 20 police
24 officers in your neighborhood. People are curious. It's
25 not normal. It's not something people are used to seeing.

1 So we get a lot -- very often you just get somebody who
2 is curious at what's going. Like, hey, you know, what are
3 you doing in my apartment complex. What are you doing on my
4 street. And so, that's -- I thought there was a high
5 probability that that could be what we're dealing with.

6 Sorry. And again, he's standing very casually.
7 Like very unconcerned. Just kind of looking at what's going
8 on. There's no body language that shows that he's like
9 invested in anything. He's just kind of kicking it.

10 So the next part of this -- and I apologize. I
11 keep going to my notes because, again, this happened five
12 months ago and it's -- there's a lot of detail and I want to
13 make sure I'm not missing anything. So I'm kind of -- I've
14 just kind of outlined to make sure I hit all the topics so
15 that you guys get every bit of information that you need on
16 this.

17 But the next part of this, it happened really
18 rapidly. And so, some of these things kind of happen
19 sequentially and some of them kind of happen simultaneously.
20 This is in a very, very short period of time that I would
21 estimate, from when I walked up and started to speak to when
22 this ended was no more than 10- or 15-seconds total. And so
23 I'm going to try and break it down to the best of my
24 recollection here.

25 BY MR. HUGHEY:

1 Q Thank you.

2 A So I said, hey -- something to the effect of: hey,
3 are you involved in this, do you know what's going on here.
4 And I just said it in a very conversational tone. Just
5 like, hey, how are you doing kind of thing. And he didn't
6 really answer my question or really acknowledge that I was
7 there. He kind of -- I can't remember if he said no or
8 grunted or just kind of uh and then just kind of kept
9 staring past me toward the scene. But he's not looking at
10 me.

11 And he's not really looking over to where I think
12 the witnesses are. He's just kind of looking beyond that is
13 what it feels like to me. I don't know exactly where
14 they're at because I'm facing away from them. And so I
15 said, hey, what's your name. And again, he doesn't respond
16 at all. So I was like, well, I now kind of just need to be
17 a little more directive because he's not going to cooperate
18 with the casual stuff.

19 So I said, hey, I need you to back so do you mind
20 taking a few steps back for me. And if you're not involved
21 in this, I just need you to take a few steps back. And
22 again, trying to keep it casual, trying to keep it as
23 friendly as possible.

24 And the man takes two steps back or so. And
25 suddenly, his whole body language changes. His demeanor

1 changes. His facial expression changes. He goes from
2 staring past me and not really being concerned of what I'm
3 doing or who I am to looking super angry and super upset
4 like a light switch just goes.

5 And he yells or shouts, says forcefully, why do I
6 need to leave. And right as he's saying this, he's taking
7 the two steps back. His body is stiffer. And I hear
8 Officer Guevara and I kind of perceive him coming up out of
9 my peripheral vision. And he says 61, 61, which is the code
10 that the police use when we're going to go hands-on and take
11 somebody into custody and arrest him.

12 Q Why -- if one police officer has made a
13 determination that a person needs to be arrested, why would
14 they use a code to tell another police officer?

15 A So it gives us maybe a half second advantage of
16 being able to go grab somebody and put hands on them if we
17 think they might resist so that we can get a firm grip on
18 them before that person realizes what's going on. It's a
19 common code that we use. Yes.

20 GRAND JUROR: Sorry. And it was Guevara who said
21 61.

22 THE WITNESS: Officer Guevara who said 61, 61.
23 And it was a little incongruent with what I was seeing. So
24 normally, we don't go hands-on with somebody who we think
25 might pose a threat. And I'm starting to see some threat

1 indicators. And so there's part of me that's going, hey,
2 I need to go hands-on with this guy because that's what
3 Guevara is saying. But there's also part of me that is
4 going, like, I don't want to go hands-on with this guy
5 because I'm starting to perceive a threat here. And like
6 big threat indicators.

7 His body language, like I said, is changing. He's
8 starting to drop his weight lower. I can see his body
9 sinking down a little bit. So he's getting a more stable
10 platform. He's starting to turn his body and blade away
11 from me so his right side is turning away from me. I -- I'm
12 seeing it -- he starts digging in his right pocket. Like
13 his hand that's in his right pocket. And it looks to me
14 like he's trying to pull something out of his pocket and
15 it's getting hung up. Like he's not able to get his hand
16 out. And this is all kind of simultaneous. Yes.

17 GRAND JUROR: So he has pulled his hand out of his
18 pocket at some point. Because earlier, you had said that he
19 was just standing around with his hands in his pockets
20 because it was cold and just kind of wandering around so at
21 some point he must have --

22 THE WITNESS: So I don't recall whether his hand
23 came fully out of his pocket or if I can just see the motion
24 of his hand going back and forth.

25 GRAND JUROR: Oh, okay.

1 THE WITNESS: On that -- you know, whether -- I
2 don't know whether I'm seeing like a little bit more hand or
3 if it actually fully escaped from the thing. But what it
4 is, is he's blading away and that hand is moving around in
5 that pocket quite a bit if that makes sense.

6 GRAND JUROR: And his other hand is out?

7 THE WITNESS: You know, I do not recall. I was
8 very focused on the hand in the pocket. That it's got
9 something weighty and that he's trying to -- he's turning
10 that side away from me which is getting me really concerned
11 about that.

12 GRAND JUROR: So you were never able to see like
13 the outline of a gun or like it looked like there's
14 something heavy in his pocket or anything?

15 THE WITNESS: Well, we'll get to that.

16 BY MR. HUGHEY:

17 Q Let me -- and I know we're about to keep moving in
18 this progression. But I am -- I just wanted to ask you, the
19 bladed posture and the stable platform that you were
20 describing, and particularly the blading, the pocket that he
21 was reaching for away from you, why were those things that
22 were so noteworthy and concerning to you?

23 A We train, obviously, to look for threat
24 indicators. We talk about things, textbook-wise, of what
25 you would look for. And blading your body away is a natural

1 thing that human beings do before they're read to fight.
2 People tend to turn their body at an angle. So they present
3 a smaller target. That's just kind of psychological. When
4 they're about ready to combat another human being. They --
5 we tend to drop our weight and get more of an athletic
6 stance because it gives us better balance. It gives us
7 stability to move from side to side.

8 Those are just things human beings do. I've been
9 a cop for 18 years. I've been assaulted on this job. I've
10 been kicked, I've been punched, I've been spit at. I have
11 watched people assault other people on this job. I know
12 what it looks like when an attack is imminent. I've been on
13 the receiving end and like I said, I've witnessed it happen
14 if not dozens of times, maybe even hundreds of times in my
15 career. And it's something I'm very familiar with. So
16 those -- his body language changed. He's going from being
17 really casually unconcerned with me to very focused on
18 making himself ready for combat.

19 GRAND JUROR: As opposed to like turning
20 (indiscernible) running away?

21 THE WITNESS: Correct, correct.

22 GRAND JUROR: Or just walk away.

23 THE WITNESS: Yeah. And it's a very different
24 thing. Then like that angry tone.

25 GRAND JUROR: Can you show us actually?

1 THE WITNESS: Huh?

2 MR. HUGHEY: Yeah, would --

3 GRAND JUROR: Could you show us? Stand up and
4 (indiscernible).

5 THE WITNESS: So he's -- from what I'm seeing is
6 he's here, his hands in his pocket. And he's like blading
7 down, dropping his weight, crouching, and his hand is moving
8 back and forth in his -- and it looked to me like he was
9 trying to pull something out of there, out of that pocket.

10 MR. HUGHEY: That was helpful for us to understand
11 what --

12 GRAND JUROR: Yeah (indiscernible).

13 MR. HUGHEY: -- you were describing. Yeah. Thank
14 you.

15 THE WITNESS: And it's not -- running away looks
16 very different. It's not that same movement. I -- so at
17 that point, I heard Officer Guevara give some sort of
18 command. I don't recall exactly what it is. But it was
19 something like, let me see your hands or show me your hands.
20 Something to that -- something about his hands. Something
21 that is very directive, very clear command.

22 We train that only one person should be giving
23 commands at a time. So as he's giving commands, I'm not
24 going to join in.

25 MR. HUGHEY: Why is that? Why would you not want

1 two people --

2 THE WITNESS: It gets confusing. One, you can't
3 understand what somebody is saying if two people are talking
4 over each other. And even if you could, who do you follow?
5 What if I say show me your hands and the other person says
6 put your hands up. It gets -- it's confusing.

7 So we don't -- we want people to be able to easily
8 comply with our directions. We try and keep our commands
9 simple when we have to give them. And we try to give them
10 in a manner where it's easily understood or as easily
11 understood as possible given the situation.

12 GRAND JUROR: So the command was about his hands
13 though and (indiscernible).

14 THE WITNESS: Something about his hands. Let me
15 see your hands, show me your hands.

16 GRAND JUROR: And did he comply?

17 THE WITNESS: No.

18 GRAND JUROR: No.

19 BY MR. HUGHEY:

20 Q It sound like you can probably just tell us what
21 happened next. I don't mean to cut off your question but --

22 A So I mean, at this point, everything is clicking.
23 And I'm like, okay, this is our suspect. I believe this is
24 our suspect. I believe he's trying to pull out a gun. We
25 already have reports that this person has fired this gun. I

1 think that what he's trying to retrieve out of his pocket
2 is a gun.

3 My hand had gone to my pistol. I had my rifle
4 still swung around my neck. Well, at that time 17 and 1/2
5 years of experience of when there's a threat going to my
6 hip. And I hadn't been using the rifle for over an hour. I
7 went to my hip and I pulled my -- grabbed my -- reached for
8 my pistol. And I had drawn my pistol a lot in my career.
9 And I've never fired in -- outside of training until this
10 happened. And we see a threat, and we are trained to go to
11 that pistol and to remove it from the holster and get it
12 ready to engage the suspect if need to, the threat.

13 So I was going through that part of what was going
14 on. I can see Guevara out of my peripheral vision take a
15 step or two forward. And I can see -- as his -- the
16 suspect's weight is dropping down and I'm perceiving there's
17 a threat imminent, an imminent attack, I began to move
18 laterally to my right, which on here, we're basically --
19 Guevara and I are kind of in a line, both facing eastbound.
20 And I move to the south away.

21 And that does two things. One, when you have two
22 police officers to focus on, it's divided attention. People
23 have to make the decision who they're going to focus on.
24 We're not there right next to each other. The other reason
25 I was moving laterally is it's just -- it's harder to -- if

1 it is a gun coming out, which I believe it is at this
2 point, it's harder to hit a moving target. And especially
3 if you're moving laterally across there, that's something
4 that we train to do.

5 And so, start splitting up. And before I can get
6 my gun up on target, I heard Officer Guevara fire one, maybe
7 two rounds. I'm not sure the timing of that.

8 GRAND JUROR: Is that from -- is that the less
9 lethal or is it an actual --

10 THE WITNESS: He -- it's a pistol round. I mean,
11 I can tell it's a pistol round. And I'm expecting to see a
12 gun coming up at this point. And then I do.

13 BY MR. HUGHEY:

14 Q You mean from Mr. Arevalo or --

15 A Mr. Arevalo. I am expecting to see a pistol come
16 up with his hand there. And because he's bladed, he's
17 dropped back to his right, I have a better view of his left
18 shoulder and his back-ish. (Indiscernible) I'm kind of like
19 perpendicular to him. And Officer Guevara where the gun --
20 the pocket that the gun would be coming out of, he's got
21 more of a clean light of sight. I've got kind of his body
22 blocking that view a little bit.

23 And I -- as I'm getting my gun up on target and
24 getting ready to fire if I need to -- and I believe that
25 this is a gun coming up. I can see his hand coming across

1 and there's a gun in it. And it's a black pistol. And
2 it's pointed at or going to point at Officer Guevara. And
3 it's coming across to sweep over to point at me in my
4 direction. And I begin firing. I -- at that moment, I knew
5 -- I believed that one of my officers, Officer Guevara, was
6 about ready to be shot.

7 And I also believed that the backstop that
8 Mr. Arevalo had behind him was -- behind Officer Guevara was
9 a 10 or 12-year-old kid, his dad, Mr. Penner, his who I
10 thought was his girlfriend, and all the officers who were
11 facing the other direction and are looking at this apartment
12 expecting this suspect to come out. And I believe that if I
13 didn't take action to address that immediate threat that
14 either Officer Guevara was going to end up killed, one of
15 those people was going to end up killed, or I was going to
16 end up dead. And I'm sorry --

17 MR. HUGHEY: Do you -- we can take a quick break
18 if you want. We are doing just fine on time.

19 GRAND JUROR: Please take your time.

20 MR. HUGHEY: Yeah.

21 THE WITNESS: That threat was immediate and it
22 needed to be handled. And I believed he was trying to kill
23 me or kill somebody else. So I fired my weapon. And I
24 fired multiple shots and stopped firing when I -- he was
25 down on the ground and it didn't feel like he was trying to

1 point the gun at me. I think I stopped firing about the
2 same time that Guevara did. And at that point, when we
3 finished, we were, I don't know, 15 or 20 feet apart. We
4 were basically on either side of this drive. And Officer
5 Guevara ran up to a wall in that carport and -- kind of to
6 use as cover. And I transitioned to my rifle. Kind of
7 remembered I had it at that point. And holstered my pistol
8 and went over and joined him.

9 And very shortly after we had fired and we'd
10 gotten our guns pointed at him, several officers came
11 running up. And I felt -- first I relieved Guevara and
12 asked him -- I said, hey, I got a rifle, why don't you stand
13 behind me. I've got -- I got the rifle on him. And very
14 shortly after that, Tom Smitely (ph.) who is one of our
15 SERT, our SWAT team people, who is also in the Focused
16 Intervention Team, came up and tapped me on the shoulder and
17 just kind of calmly said, hey, I got this, you can back off.

18 And I withdrew from the immediate scene. And then
19 all the post-care that was (indiscernible) medical care and
20 all the things that were done, I was removed from. I didn't
21 have -- I didn't participate in that. Because there was so
22 many officers on scene and they took over from there.

23 BY MR. HUGHEY:

24 Q Could I ask you some follow-up questions and just
25 kind of --

1 A Absolutely.

2 Q -- break that down in detail. Yeah. I think it
3 was probably easy for us to see because you were kind of
4 mimicking it as you talked about seeing the gun comes
5 towards Officer Guevara and then sweep across towards you.
6 Was that -- would that have been moving from Mr. Arevalo's
7 sort of right side to left side?

8 A Correct.

9 Q At any -- and bear with me with these questions.
10 At any point, did you consider whether a lower level of
11 force could be appropriate like a Taser or a less-lethal
12 option or anything like that?

13 A None of those options would have been appropriate
14 for the situation. Our whole job on this so far had been to
15 try and deescalate the situation. It had been to try and
16 isolate this person. We thought he was in the apartment.
17 Deescalate this. Get him into custody safely.

18 Even my approach when I went to go talk to him was
19 trying to like deescalate that situation and not get anybody
20 upset, not -- and try and deal with this in as low-key of a
21 manner as possible. And make sure everybody got home safe.
22 And in the split second I had once he started to present a
23 threat, I had no other choice than to address that lethal
24 threat with lethal force because I needed to -- or deadly
25 force because I needed to end it as quick as possible.

1 Anything else, there's a very strong
2 possibility he'd be able to get off multiple shots. It
3 wasn't going to stop the threat quickly enough and then it
4 was going to end up a bad situation where I'm dealing with
5 multiple wounded people or perhaps dead people. That I
6 needed something that worked for -- that was appropriate for
7 that threat.

8 Q You -- I think you talked about this a little bit.
9 Could you kind of fill us in on the decision-making process
10 of when to stop shooting and why?

11 A So I can just safely say this. I was more scared
12 in those couple moments than I have ever been at any time in
13 my 45 years. I thought for sure that I was going to either
14 get shot or one of my officers was going to get shot. Or
15 like again, one of those citizens was going to be shot. I
16 was absolutely frightened that that was going to occur. I'm
17 sorry. I lost my train of thought. What was the question?

18 Q Oh, just about like the decision -- you've told us
19 plenty about --

20 A Oh, yeah. To stop firing.

21 Q -- why to shoot but why stop and when stop
22 shooting?

23 A I fired until I didn't think that he presented a
24 threat to me or somebody else. Up until -- after each
25 round, you kind of assess is this person still making

1 movements with the gun in a way that is -- that I feel is
2 a threat to me or is a threat to somebody else. And by the
3 time I had fired my last round -- and I believe I fired
4 three rounds total -- by the time I had fired my last round
5 when I assessed what I was seeing on the other end of that
6 gun barrel, I wasn't seeing somebody who was moving toward
7 me.

8 I wasn't seeing somebody who was moving their gun
9 toward me. He was on the ground. And he's not -- no longer
10 an immediate threat. He's no longer attacking me. And that
11 was my whole goal in that moment was to stop that attack.
12 And that was it. It was just to keep him from hurting me or
13 somebody else.

14 Q I think -- and I think that sort of segues into
15 when you were talking about stopping that threat into
16 another question I wanted to ask you. What does your
17 training dictate or -- and what are you trying to do when
18 you shoot somebody? And what I mean by that is where do you
19 aim and would you ever aim for like the foot or something
20 like that to try to injure somebody to stop a threat?

21 A We train to shoot to the center mass of a target.
22 It's largely based on the fact that like it's -- a pistol is
23 an incredibly difficult weapon to be accurate with. It's
24 just the -- kind of the physics of it. It's like a six-inch
25 -- roughly six-inch long barrel that -- imagine trying to --

1 this is maybe a little bit shorter, this grease pencil, a
2 little bit shorter than the actual barrel length of my
3 firearm.

4 And trying to perfectly line that up so that a
5 trajectory 15, or 20, or 30 feet away -- that that is going
6 to -- that bullet is going to go exactly where it's going to
7 go while I'm moving, the while the suspect is moving --
8 that's incredibly difficult. So we aim toward the center of
9 whatever mass is presented to us so that we have the highest
10 probability of getting shots on target. Of getting those
11 rounds where they need to go to stop the threat.

12 What I was aiming at is there's like a human shape
13 and depending on how he was bending at the moment, I'm --
14 what I can approximate is the center of that is where I'm
15 firing toward each time. Getting a shot to a hand or a foot
16 with two different bodies in motion and that small barrel is
17 really just not realistic and not -- does not have a high
18 probability of success.

19 Q And you mentioned also sort of assessing the level
20 of threat even after each shot as to whether you felt like
21 there was still a threat posed. Even in the -- I'm assuming
22 this was very fast. Just seconds or even split seconds when
23 this was happening. Is that right?

24 A Yes.

25 Q Were you making that assessment even in those

1 split seconds in your head as to whether that --

2 A I think it's kind of --

3 Q -- threat was still there?

4 A -- a continuous assessment. You know, as soon as
5 I'm registering that he's not a threat anymore, then the
6 rounds stop. And I don't -- it's probably not fire, look
7 over the top of my gun. It is a constant just like am I
8 still seeing the same thing I was seeing. Am I still seeing
9 the same thing. Am I still seeing him trying to come after
10 me.

11 It's very difficult and something that happened
12 probably in the span of a second to exactly say how that
13 breaks down. But I know that it was a continual assessment.
14 And I only fired three rounds. It wasn't -- I fairly
15 quickly made the assessment that he was no longer presenting
16 a threat.

17 Q You mentioned your concern about what the
18 suspect's backstop would be if he would be able to fire that
19 gun towards Officer Guevara, towards you, towards, the guy
20 from the apartment and his child, and the other people that
21 were there. Is assessing your backstop a part of your
22 training of --

23 A It is.

24 Q -- when you use a firearm as a level of force?

25 A Yes.

1 Q How does that -- how do you weight that
2 against, like the threat that you were seeing in this
3 situation?

4 A So as I was moving laterally, had he remained
5 still, what I would have ended up doing is creating an angle
6 -- a motion in which my backstop would become those empty
7 carports. And that's part of why I was moving laterally is
8 I'm trying to get that better backstop. I also have the
9 immediacy of just trying not to die. And trying not to have
10 him kill me or somebody else.

11 I don't have people behind me. I do have some
12 buildings behind me. And I -- you know, trying my best to
13 make the best decision I can in that split second of
14 balancing everything. So I know that I'm a better shot than
15 the general public probably on that. And it's -- that --
16 I'm doing the best I can when looking at --

17 Q Sure.

18 A -- backstop and I -- had there been people right
19 behind me or there hadn't -- had been something other than a
20 building, yeah, I may have had to postpone responding to
21 that threat had there been a person there or whatever. But
22 yeah. It was definitely part of the consideration
23 instinctually.

24 MR. HUGHEY: Thank you. Let me turn back to other
25 members of the grand jury. I know people have been doing a

1 good job of just asking questions along the way. But do
2 people have any questions at this stage.

3 GRAND JUROR: I just want to come back to at the
4 beginning when the shots started. We heard testimony
5 previously that there were the first couple of shots and
6 then a pause and then more shots. And I just wanted to
7 clarify that that first couple of shots would have been
8 Officer Guevara and then the subsequent shots were when you
9 started to fire.

10 MR. HUGHEY: And I would just say --

11 THE WITNESS: I don't know. I don't have that
12 information. I mean, I've told you how I perceived it.

13 GRAND JUROR: Yeah, yeah, okay.

14 MR. HUGHEY: That's kind of what I was going to
15 say. Like --

16 GRAND JUROR: Just -- yeah. Just the --

17 MR. HUGHEY: The best we can ask for you is to
18 tell us how you perceive it. Not to try to --

19 GRAND JUROR: Yeah.

20 MR. HUGHEY: -- characterize another person's
21 testimony that you might not have heard or anything.

22 THE WITNESS: Yeah, I don't --

23 MR. HUGHEY: Let me -- or sorry, did you have a
24 follow-up question?

25 GRAND JUROR: No.

1 MR. HUGHEY: Let me ask a follow-up question
2 kind of along those lines. How -- if you can estimate from
3 the start of the shots to the end of the shots, how long are
4 we talking about here understanding that it's an estimation
5 when you're --

6 THE WITNESS: I think it's super difficult to
7 estimate time in that -- with the adrenaline pumping and
8 everything like that. I know that for me to get off three
9 shots in rapid succession takes probably a second or less.
10 Maybe a second-and-a-half depending on how long it takes me
11 to get target acquisition again.

12 GRAND JUROR: I think you did mention that the
13 whole thing from the first interaction to last shot was
14 about 10, 15 seconds. Right?

15 THE WITNESS: Yeah, it was -- as long as I -- I
16 mean, it took as long as it took me to get those couple of
17 words out, to not get a response, to ask the next question
18 kind of thing. It wasn't -- it was very quick. And then
19 the shots being fired, again, you know, I believe I fired
20 those rounds quite quickly in quick succession. At least
21 that's how I remember it. And so, you know, that's kind of
22 what I'm basing that time estimate on. Is just that I know
23 from experience that I can probably get close to three shots
24 off in a second to a second-and-a-half. And --

25 MR. HUGHEY: Sure.

1 GRAND JUROR: Yeah.

2 MR. HUGHEY: Along those lines then, did the other
3 shots that you were hearing, did it seem like they were
4 extending well beyond when you were firing or were they
5 pretty close to the time you were firing, as well?

6 THE WITNESS: I remember the first shot or two
7 from Guevara because I know that this happened before I felt
8 like I got a round off. I don't know whether he continued
9 to fire. What -- I don't know what happened with that. At
10 that point, you know, I'm not a psychiatrist. I'm not a
11 physician. I don't -- but from what I've kind of like --
12 layman's understanding of physiologist is that your body
13 when you're under extreme stress, threat, adrenaline
14 situation, you start kind of discarding information that's
15 not relevant in the moment.

16 So yeah, he's firing but that really doesn't
17 concern me because I'm dealing with the gun. And sometimes
18 that happens with people with auditory exclusion where they
19 stop hearing stops or they don't hear -- the gunshots sound
20 muffled. Happens. People will get tunnel vision. And this
21 happens if like somebody gets in a car wreck. This happens
22 whenever your body gets like a massive adrenaline jolt.

23 But you get tunnel vision where you're just hyper
24 focused on a very narrow set of things because your body
25 goes, yeah, none of this other stuff is important right now.

1 We're not focused on that. We're triaging to the task at
2 hand. And so, I can say that most definitely, in that
3 moment, there was probably a lot of stimulus that was just
4 not getting registered by my brain because I was focused on
5 the gun.

6 MR. HUGHEY: Sure, yeah. And -- okay, yeah. Any
7 other questions for -- yeah, go ahead.

8 GRAND JUROR: This has just been -- how was
9 Christopher Penner contacted? You say his phone was in his
10 apartment. You might not know. You might not know.

11 THE WITNESS: I don't.

12 GRAND JUROR: (Indiscernible) I don't know how
13 they contacted him.

14 THE WITNESS: I don't know. I don't know if -- I
15 kind of vaguely have a recollection but I don't want to
16 testify to something I'm not 100 percent sure. But I want
17 to say that it may have been like from his application for
18 the apartment complex that there was a number on there and
19 called that and he happened to be with that person or -- I
20 don't know exactly. It had been delegated out. But we
21 were --

22 GRAND JUROR: Probably should ask --

23 THE WITNESS: When we're --

24 GRAND JUROR: -- (indiscernible) actually.

25 THE WITNESS: Yeah. When we're in a situation

1 like this, a lot of what we're doing is just like
2 throwing stuff at the wall, see if it sticks. This wasn't a
3 shooting where we showed up and there's five people standing
4 on the sidewalk. Be like, saw him that go way; I'll tell
5 you everything about what happened.

6 What we had was a situation where we're -- we know
7 shots were fired and it's kind of a mystery. And we're --
8 we kind of like -- okay, we got a guy that ran in here that
9 fired shots. But we don't really know why. We don't know
10 who the other people were. And we got to start putting this
11 like pieces of the puzzle together while also being
12 concerned with what we believe is a threat inside this
13 apartment.

14 So part of being a supervisor is delegating. I
15 delegated out or the command post delegated out. I did a
16 lot of the -- when I say I, a lot of the decisions were made
17 by Sergeant Ortiz but like me executing that for -- like,
18 hey, I'll go get somebody for you. But delegating out, hey,
19 you know, see if you can dig up whatever information you can
20 find.

21 GRAND JUROR: And from the time that
22 Christopher Penner showed up until -- there was like, that's
23 the guy -- how -- I mean, you -- I know that you're doing a
24 lot of stuff. How long would you say that was?

25 THE WITNESS: I think it was a few minutes. I

1 don't know whether it was three or four or if it was
2 ten --

3 GRAND JUROR: So you would say it was a pretty
4 short amount of time?

5 THE WITNESS: Yeah. It might have been as much as
6 15 or 20 minutes. But it wasn't a ton of time. I think the
7 big thing for me was when Officer Iverson came up to me and
8 like -- in my head, it's like, well, if the guy is standing
9 right next to the guy that was just shot at, like there's no
10 way that he doesn't --

11 GRAND JUROR: (Indiscernible) --

12 THE WITNESS: -- see this guy and go, oh, my God,
13 that's the suspect. Right. In my head, that's the hurdle
14 that I'm --

15 GRAND JUROR: Yeah.

16 GRAND JUROR: But honestly, I think everyone's
17 focus was like hyper focused on the apartment. That's why
18 maybe he was able to kind of slip in. And he wasn't right
19 behind (indiscernible).

20 THE WITNESS: And a lot of these things are things
21 I can guess. I can surmise. But I only know the part
22 that --

23 MR. HUGHEY: Sure, sure.

24 GRAND JUROR: (Indiscernible).

25 MR. HUGHEY: Any other questions?

1 GRAND JUROR: Yeah.

2 MR. HUGHEY: Yeah, go ahead.

3 GRAND JUROR: So I just wanted to clarify. You
4 said that you didn't see when the less lethal -- the rubber
5 bullet was shot at him to warrant -- to get a response.
6 That's what other testimony has claimed.

7 THE WITNESS: No.

8 GRAND JUROR: That there was -- that happened.

9 THE WITNESS: I'm sure that -- okay, so I will say
10 this. I've been -- I mean, I've been a cop for a long time.
11 And I know and I've trained -- and I mean, I know one of our
12 procedures that we do when -- before we approach somebody
13 who is near or holding a gun after they've tried to use it
14 or whatever -- in this case, when he went down, I could
15 clearly see a gun in his hand.

16 Is that we generally will fire a less lethal round
17 to try and see like, is this somebody kind of playing
18 opossum or is it somebody who is incapacitated to the point
19 where we can approach safely. Do we need to get other tools
20 in place to be able to safely approach this person.

21 So without speaking to this particular incident
22 because I wasn't part of that, I can say that that is part
23 of what we train for. Is like you -- if they're -- if we
24 can't -- if they're not responding to our commands, they
25 have a weapon in their hand, the last thing we want to do is

1 have more officers approach and precipitate yet another
2 shooting when we could safely maybe -- okay, all right,
3 you're faking here; let's talk. You need to toss that gun
4 away. We need to -- because we don't -- our job isn't to --
5 we're still trying to -- even after this, you know, had we
6 not had so many resources on scene, my next steps are trying
7 to figure out how can we save this dude's life. That's my
8 job.

9 My job every day is to try to make sure everybody
10 in Portland goes home safe and that nothing happens to
11 anybody. And even him. Right. That's my job. Is to try
12 and get him home safe whether he wants to go home safe or
13 not. And I wasn't able to do it this time. And if it's the
14 first time in 18 years I wasn't able to fucking do it. And
15 I'm sorry, but that's what I'm trying to do. And that's
16 what they were trying to do is to take this person into
17 custody.

18 GRAND JUROR: So in your experience, what's the
19 rate of success when you do that, when the less lethal is
20 used? People -- do they usually drop the gun; do they
21 usually do what you were saying?

22 THE WITNESS: So I don't -- I believe -- I
23 couldn't comment because I haven't actually been a
24 participant in doing that. So I don't know. I know that we
25 train for it. I know that it gets done a lot. Very often

1 -- if they can respond, they're responding and they're
2 being cooperate. But we just don't -- you don't know until
3 you know.

4 GRAND JUROR: I was just curious if that was a
5 factor into why you decided to shoot. But it sounds like
6 you didn't see it so --

7 THE WITNESS: No, I didn't see it. So like in a
8 standard -- had this been a shooting where this wasn't an
9 hour-and-a-half into a large incident, I think we would --
10 it would -- had this happened 30 seconds after I arrived on
11 scene, I would have been part of that because there would
12 have been nobody else to step up and take that role. But
13 because I just --

14 GRAND JUROR: You were like second in command
15 (indiscernible).

16 THE WITNESS: So somebody who uses deadly force,
17 adrenaline just spikes. Right. And you don't necessarily
18 want to put that person in a critical decision-making point,
19 in a position, unless you have to because there's no other
20 person there immediately following a shooting. Right.

21 So ideally, you try and get that person back away
22 from the situation as quick as possible and get somebody
23 else who is coming in sterile to the situation to be able to
24 deal with that so they're not -- they don't have that
25 adrenaline spike. They don't have that change in their

1 physiology. In an ideal situation.

2 And this situation, from that perspective, was
3 ideal in the sense that we had a ready group of folks that
4 could come up that weren't directly involved with that part
5 of the incident who could take over and not have that
6 adrenaline spike and those other -- the physiological
7 changes and stuff.

8 GRAND JUROR: To go along with that, what kind of
9 aftercare are officers receiving so that they can not have a
10 trauma history slowly building up? Because I see what
11 you're saying, however, over a period of time
12 (indiscernible) years, that's a big trauma history that you
13 are bringing with you into all incidents. So whether or not
14 you can remain objective in that moment, is it really
15 objectivity? I'm not sure.

16 THE WITNESS: Well, I mean, I know that we have
17 definitely put a much big emphasis, in the latter part of my
18 career, on recognizing -- I think there's always room for
19 improvement on that. But wellness has been definitely a
20 focus especially the last several years. Officer wellness.
21 I personally have made sure that I've sought out help and
22 come up with ways to cope and deal with that.

23 This is a job where you do see a lot of trauma. I
24 mean, much like being in an ER or working for child
25 protective services or any other jobs, a number of other

1 jobs. We -- I work in a profession where I am a -- I got
2 a front seat to the worst days of people's lives all the
3 time. And it's -- yeah, so it does -- it is something that
4 we have to be aware of and conscious of and --

5 GRAND JUROR: And that's like part of your role as
6 being a sergeant also, I'm assuming, is to be aware of your
7 team and to notice those signs (indiscernible).

8 THE WITNESS: Yes. And to -- and it's not, hey, I
9 saw you were at a bad incident, like, you don't okay. Fine,
10 great, move on. No, it is -- it's pushing the issue a
11 little bit. And it's like, hey, sharing I've -- I remember
12 when I was there and this happened to me that it really
13 bothered me. And let's have a talk about it.

14 And this is not a career that is survivable for 25
15 or 30 years if you don't deal with that stuff. And much
16 like people can work in an ER for 30 years and be okay but
17 you have to have coping mechanisms and you got to figure out
18 positive ways to deal with stuff. And like I said, I think
19 we do -- we're doing a pretty job.

20 And I think Portland has always been probably
21 better at it in my -- during my time here than maybe
22 nationally with the -- you know, we've been on the above-
23 average part of the mean. We're bringing up the score a
24 little bit on how we deal with that. But I think there is
25 definitely always room for improvement because yeah. No,

1 it's hard.

2 GRAND JUROR: When you say it's getting better, do
3 you mean that they're adding to training or they're just
4 providing more resources?

5 THE WITNESS: They've always added -- I mean, it's
6 always been a part of training. It's always been a topic.
7 But I think culturally, as society -- I'm getting on a
8 soapbox here. But we are a lot more comfortable talking
9 about mental health issues and trauma and things as like
10 Americans or as Multnomah County citizens or Portlanders
11 than we were maybe 20, or 30, or 40 years ago.

12 GRAND JUROR: Yes.

13 THE WITNESS: So it's getting better for everybody
14 and that includes the police because we come from the
15 public. We are the same -- I coached little league. I got
16 neighbors that I pick up the mail for when they're out of
17 town. I'm just another person that lives in this community.
18 And I see everybody getting better about being a little bit
19 more open about what's affecting them, what's bothering
20 them.

21 And as a reflection of that, the Police Bureau, I
22 think, has done a better job of meeting it head on, making
23 it acceptable socially to talk to people, pull them aside
24 and say, hey, are you struggling with this. What are you --
25 where are you doing and how are you doing with that?

1 GRAND JUROR: After a big -- this whole thing
2 -- this is a big deal, do you all like come together and
3 discuss what could have gone better, what went well, what
4 didn't so that you can make recommendations?

5 THE WITNESS: Yeah. So there is a training
6 debrief that occurs.

7 GRAND JUROR: Oh, great.

8 THE WITNESS: That will occur depending on how you
9 guys vote. Will occur potentially as early as next week
10 depending on how this goes. And we will sit down. And the
11 key people who were involved in the incident -- we'll talk
12 through it. And there will be kind of -- there will be a
13 training analysis that's done. I don't know exactly how
14 those diverge. I don't work in that world. But that will
15 kind of look to -- are there things we can do.

16 And a lot of the training I have is based on other
17 incidents that have happened before and looking at it and
18 going, okay, what could we do better. How could we have
19 done this differently. And I would expect -- I don't know
20 that my -- depending on what the criticism is or isn't of my
21 situation, it may or may not be reflected in training later
22 on.

23 But there's definitely training I have received.
24 Scenarios I've done that are entirely based on incidents
25 that either have happened in Portland or happened and were

1 high profile or that we've learned about and said, hey,
2 you know, we actually do it this way and -- creating a
3 possibility for something to go bad, let's address that in
4 training rather than out in the field.

5 GRAND JUROR: If you could go back, would you do
6 anything different?

7 THE WITNESS: No.

8 GRAND JUROR: Thank you.

9 MR. HUGHEY: Any other questions? Why don't we
10 pause and we can take our afternoon break. I could use a
11 quick break.

12 (Off the record.)

13 (On the record.)

14 MR. HUGHEY: We are back on the record and calling
15 our next witness. This will be your seat right here in the
16 middle. Then the first thing we'll just ask you to do is
17 stay standing and raise your right hand and we'll get you
18 sworn in.

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

22 DIRECT EXAMINATION

23 BY MR. HUGHEY:

24 Q Perfect. Go ahead and have a seat. And whenever
25 you're comfortable, I'll just ask you to start by telling us

1 your first and last name, please.

2 A My name is Reynaldo Guevara.

3 Q And could you -- let's see. Could you spell your
4 first and last, as well, for the record?

5 A Yes. R-e-y-n-a-l-d-o G-u-e-v-a-r-a.

6 Q Thank you. Just real quick as a preliminary
7 matter, is it correct that you are not compelled to be here.
8 We didn't send you a subpoena to be here and testify?

9 A Correct.

10 Q Accurate to say that you elected to be here by
11 your own choice?

12 A Yes.

13 Q Do you have an attorney related to this incident?

14 A Yes, I do.

15 Q Did you have time to consult with them about
16 whether you wanted to testify and make that decision?

17 A Yes.

18 Q Can you tell us please how you are employed?

19 A Yeah. I'm employed through Central Precinct. I
20 was hired in January 6th, 2020.

21 Q With Portland Police Bureau?

22 A Correct.

23 Q You answered my next question. Thank you. Sounds
24 like you've been with Portland since -- for about two years
25 now or almost three.

1 A Yeah, a little over two years.

2 Q Any law enforcement training prior to that or all
3 with Portland?

4 A All with Portland.

5 Q And were you a patrol officer in February of 2022?

6 A Yes.

7 Q And We've heard some testimony about what it means
8 to be on patrol so I won't have you describe that for us.

9 A Okay.

10 Q But that was your role at that time?

11 A Correct.

12 Q Did you respond on the evening of February 19th of
13 2022 to the apartment complex at 911 Southwest Broadway
14 Court?

15 A I did, yes.

16 Q What were you aware of from the call when you
17 learned about that call and decided to respond there?

18 A Do you want me to start from the beginning when I
19 placed myself on the call or just in general?

20 Q Sure. I guess just in general from what you were
21 aware of when you started heading that way.

22 A I knew officers were being dispatched to 911
23 Southwest Broadway Drive. When I decided to attach myself
24 to the call, I was informed that shots had been fired at a
25 vehicle and a PT Cruiser was seen leaving the scene.

1 Q So even before you got there, you knew it had
2 been a shots fired call?

3 A That is correct. Yes.

4 Q When you attached yourself, were you just in the
5 area and elected that you could go there to assist?

6 A I was in the area in this sense that I was free.
7 I was unavailable officer when they requested for additional
8 units there.

9 Q Did you arrive at the apartment complex location?

10 A I did, yes.

11 Q What did you see when you got there?

12 A Upon my arrival, I noticed there were already
13 multiple units there so I assisted in being part of the
14 containment team.

15 Q What did that mean when you were part of the
16 containment team there? What did you do and where did you
17 go?

18 A Yeah. So I was part of the containment team. We
19 were just trying to establish certain strategic spots in the
20 event that the shooter or suspect that we were looking for,
21 that we had certain areas already blocked off and we could
22 use that as far as an advantage for us.

23 Q What was your assignment to do?

24 A My assignment was to block westbound traffic to
25 prevent any civilians traveling up the road while we were

1 kind of conducting police business.

2 Q So would that be Southwest Broadway Drive? And I
3 pulled up the map behind you there.

4 A Correct, yes.

5 Q And at some point, did your role change from
6 blocking traffic to waiting with witnesses?

7 A Correct, it did. Yes.

8 Q Tell us about that. When did that happen and what
9 did you change from -- to do?

10 A Yeah. So shortly after I had blocked traffic,
11 westbound traffic, Sergeant Ortiz requested for an
12 additional officer to assist with the communications team.
13 I volunteered and went that way and assisted with that.

14 Q What did that mean? Where did you go physically?
15 Where did you move to?

16 A Yes. Do you mind if I turn around?

17 Q Oh, yeah. That would be helpful. Thanks.

18 A So roughly, where this white truck is at is where
19 I blocked traffic. When I returned back, I had set up --
20 part of the containment team was somewhere around here.
21 Sergeant Ortiz then requested for additional units to assist
22 with the communication team that was kind of established in
23 between Southwest 9th Avenue here in this little parking lot
24 area.

25 Q Did you go up to that area?

1 A Correct.

2 Q What were you going to be doing? When you say
3 assist with the communication team, what were you actually
4 going to be doing?

5 A So as part of communications team, there are
6 several roles. My role was to relay any information from
7 the officer who was on the phone with, I believe, in our
8 case, the person in Unit 13.

9 Q At some point, did you end up sort of -- not
10 taking custody of him in the sense of arresting but like
11 escorting or keeping track of a couple witnesses that had
12 come out?

13 A Correct. While I was assisting and relaying
14 information about our suspect, another section of the
15 communications team had already finished talking to the
16 witnesses that witnessed the event. I was kind of tasked to
17 move them to a safer location.

18 Q Do you remember who those people were?

19 A I don't remember them by name. I just remember
20 them by father and son.

21 Q It was a father and a son?

22 A Correct.

23 Q Where did you move them to?

24 A I moved them over -- I guess it would be just east
25 of the communications team, in between -- it would be like

1 trash and a bunch of carports.

2 Q Is that right up here on the map kind of where my
3 cursor is?

4 A Correct.

5 Q Real quick. So at this point, you've talked about
6 blocking traffic, being part of the communications team.
7 Then did somebody ask you to sort of keep track of the
8 father and son and keep them out of the way or did you do
9 that on your own?

10 A Yeah. I believe it was Sergeant Kenney who kind
11 of instructed me to kind of stay with them throughout the
12 remainder of the incident.

13 Q What were you aware of was going on? Can you
14 summarize like what you knew about the incident more broadly
15 at that point?

16 A Yeah. Before I had moved the father and son, I
17 had learned through the communications team that the suspect
18 who was in Unit Number 9 was a Hispanic male. I wrote down
19 6'4" in my notes. Then after I had moved them, I had
20 learned -- there was an updated description which was a
21 Hispanic male 5'9" heavy-set.

22 Q What -- I guess what were you aware of that he was
23 a suspect of?

24 A Oh, I was made aware that there was probable cause
25 for attempted murder. We learned -- I learned that he had

1 shot at one of the victims. His roommates.

2 Q Was it the prevailing belief that he was most
3 likely still inside the apartment at that time?

4 A Yes.

5 Q Was that part of the reason why you wanted to keep
6 the father and son sort of off to the east there towards
7 that carport?

8 A Yes.

9 Q How -- give us a sense for how long you were on
10 scene at the time that you sort of took on the role of
11 accompanying the father and son.

12 A I was on scene for a really long time. I actually
13 thought it was way later than it actually was. I think I
14 was there until I want to say around 12:00. I don't
15 remember.

16 Q All told?

17 A Yeah. I was throughout the majority of the
18 incident. Correct.

19 Q And I won't -- I guess I won't ask you to like pin
20 down exactly when you changed to keeping track of the father
21 and son. At some point when you were with the father and
22 son in that kind of carport area, did other witnesses and
23 officers make their way over to where you were?

24 A Yeah. I had several residents come out and
25 attempt to walk towards Southwest 9th towards where our

1 communications team was but I stopped them and kind of
2 advised them that they weren't allowed because it wasn't
3 safe.

4 Q Let's -- if we can -- obviously, we had ultimately
5 like to kind of home right in on the shooting incident. Can
6 you tell us -- the person that was ultimately involved in
7 that incident, can you tell us when you first laid eyes on
8 that person by your recollection?

9 A Yeah. Originally, at first, we couldn't ID him.
10 We just knew that he wasn't a Hispanic male. Throughout the
11 incident, I did learn that his name was Joel. First time I
12 interacted with him was just shortly after I had moved the
13 father and son over to where the trash can and carport is
14 at. That's when he came in from somewhere from the east.

15 I did engage in some small conversation with him.
16 I did ask for his name which at the time we didn't know what
17 his name was. He wasn't very forthcoming and didn't want to
18 provide us with that information which, of course, isn't
19 unusual given the police interaction with people.

20 Q Let me. Sorry. If it's okay. I want to just cut
21 in there. So it sounds like you interacted with him in that
22 area and you had asked him for his name.

23 A Correct.

24 Q And you said that he pretty much didn't want to
25 give you his name.

1 A Correct.

2 Q After that, you testified that that's not that
3 unusual -- I guess, do you routinely encounter people that
4 are uncomfortable with police and are uncomfortable being
5 totally cooperative?

6 A Yeah. Routinely, when we talk to people sometimes
7 they just don't want to give us their names or information.
8 Yes.

9 Q For this particular person, did you press the
10 issue any further or kind of just say, well, okay --

11 A I didn't press the issue because I had no
12 indication that he was the suspect at the time.

13 Q Other than that relatively generic physical
14 description you gave us earlier and the name -- or did you
15 have the name at that point or you did not?

16 A I did not have the name at that point. No.

17 Q Did that guy -- did that person stick around then
18 or go somewhere else?

19 A So he stuck around for a good amount of time. I
20 do remember while other people were attempting to leave the
21 apartment complex, I did recognize that he was gone for a
22 short amount of time. I don't remember how long he was gone
23 for or where he had gone. But he did return at some point.

24 Q How long would you estimate he was kind of
25 lingering around there before he left for a period?

1 A We were there probably for a good few minutes.
2 Definitely less than 30 minutes.

3 Q When you say we, you mean you and --

4 A Everybody. By we, I mean myself, father and son,
5 and Joel.

6 Q Then he went somewhere and wasn't there for a
7 while.

8 A Correct.

9 Q Did you see where he went or when he left or just
10 noticed that he was gone at some point?

11 A I noticed he was gone after I had talked to
12 another resident that was making their way to throw away the
13 trash.

14 Q And at that point when you realized he was gone,
15 other than the kind of short interaction you just described
16 about asking him his name and him not wanting to tell you,
17 had you and he exchanged any other verbal communication or
18 was that pretty much it?

19 A That was pretty much it. No other exchange of
20 conversation.

21 Q Just kind of asking the name?

22 A Correct. Name and if -- I did ask if he had lived
23 in the apartment complex in question and he told me no.

24 Q Did that -- I guess, in some ways, did that lead
25 you to think that he may not have been involved because he

1 said he didn't live in the complex?

2 A Yes. And also just given the limited information
3 I had in terms of suspect description. It kind of wasn't
4 really matching up to what I was seeing just besides that he
5 was a Hispanic male. There's nothing else I could have gone
6 off of.

7 Q Sure, sure. In the period of time that he was
8 gone, are you just continuing to spend time with the father
9 and son basically?

10 A Yes. I was mainly talking to the father and son
11 simply because the little boy was really -- he was crying.
12 I was trying to calm him down. Just kind of given the
13 situation that he had experienced.

14 Q Meaning like -- meaning the shooting that had
15 happened over there.

16 A Right. Yeah, the witness -- I guess Joel shooting
17 at another person.

18 Q At some point -- and please correct me if I'm like
19 skipping over important things but at some point, did the
20 person -- I think that you later knew as Joel -- come back
21 into where you could see him?

22 A Yes.

23 Q Tell us about that.

24 A Yeah. So after I had finished talking to the
25 couple who was going to go throw away the trash, I remember

1 hearing a vehicle turning on and making its way at the
2 driveway. At that point, I walked over to that vehicle.
3 Joel wasn't there at that time. I went up to the vehicle
4 and told them, hey, I'm sorry, the road is closed
5 (indiscernible) alternative way -- unless there's an
6 alternative way, I can't have you go westbound on 9th.

7 Q Meaning like they couldn't pull out of the condo
8 driveway?

9 A Correct. They couldn't leave the apartment
10 complex.

11 Q Got you.

12 A In doing so, he decides to park his car and go
13 back to his residence. I go back and walk back to where
14 Joel -- excuse me -- the father and son had been at.

15 Q Where was that? Can you -- on the map --

16 A That would be the first carport. It was just
17 underneath it. So I guess where it says --

18 Q This part up here?

19 A Yeah, right there.

20 Q Okay.

21 A But when the other vehicle was pulling out, the
22 vehicle where it says 847 --

23 Q Uh-huh. Okay.

24 A -- is roughly where the vehicle was leaving. So I
25 ended up walking from here to here roughly and back.

1 Q Because you saw the car pulling out and --

2 A Correct.

3 Q -- you had to go tell them, hey, I'm sorry, this
4 is closed.

5 A Yes.

6 Q Got you. So then you go back to the first carport
7 with the father and son.

8 A Yes.

9 Q What happens from there?

10 A That's when I realize that Joel has made his way
11 back.

12 Q Where is he in relation to you guys?

13 A He is roughly around where the second carport is.
14 He just stands there and lingers. Doesn't say anything.

15 Q Did you attempt -- well, I guess, at that time,
16 did you recognize him as the same guy that you tried to talk
17 to before?

18 A Correct, yes.

19 Q Did you make any further attempts to strike up a
20 conversation or ask his name or anything?

21 A I did not. No.

22 Q You said he was just sort of lingering around?

23 A Yes.

24 Q Were you concerned about him at that point or not
25 paying so much attention to him?

1 A Not so much attention. It's not unusual for
2 people to leave and come back and kind of see what's been
3 going on. He was standing with us for a while. And I
4 figured he got bored and then had left. People do that all
5 the time.

6 Q Take us from there then. What happened? Did he
7 continue to linger around or did he do something different
8 or did you learn something different?

9 A Yeah. At that time, I heard learned that our
10 victim was making his way back to the scene to give us more
11 information about suspect description. I also had learned
12 that the communications had attempted multiple times to
13 communicate with Joel and that it was unsuccessful. I
14 learned that once -- so once I learned that it was
15 unsuccessful, I learned that they were going to do a loud
16 hail. I know that Officer Skanow (ph.) was going to be the
17 officer addressing the suspect who we still believed was in
18 Unit Number 9.

19 Q Were you still over by those carports when they
20 were doing the loud hail?

21 A Correct. I was still by the father and son.

22 Q Could you hear the loud hail from other there?

23 A Just based on me still engaging with the father
24 and son, I don't remember much of it was said. But I know
25 there was a loud hail being made.

1 Q Because you could hear it or just because you
2 knew that was the plan?

3 A Both. I knew that was the plan and I do remember
4 hearing it because I remember Officer Skanow's voice. I
5 just don't remember what he said.

6 Q Got you. What happens from there?

7 A From -- below they did the loud hail, I remember
8 talking to father and son. Letting them know, while Joel
9 was still in proximity, of earshot between us, that -- I
10 kind of wanted to give them a heads-up because I didn't like
11 the fact that -- police interacting with somebody
12 potentially. So I remember instructing the father and son
13 in the event that our suspect would come out of the units,
14 that I would like them to go further into the carport where
15 it would be a lot safer. And I told them that I would be
16 there with them the whole time.

17 Q In case something happened after the loud hailing?

18 A Correct. In the event that something happened.
19 Correct. At which point -- by that time, the victim and the
20 victim's girlfriend had already arrived on scene. And they
21 met up with the communications team. I also learned that
22 Officer Fenske, by that time, had gotten some surveillance
23 picture of the suspect and that she was going to send it via
24 our work emails. I remember checking my work phone and the
25 email had gotten through yet. After they were talking --

1 after they were done talking to the victim and victim's
2 girlfriend, Officer Veronica informed me over the radio that
3 she was going to make her ways towards me.

4 Q Is that Veronica Iverson?

5 A Oh, sorry. Yes, Iverson.

6 Q No, that's okay. I just want to make sure we're
7 talking about the same person.

8 A Yeah. Officer Iverson.

9 Q When the victim that returned back to the
10 apartment with his girlfriend was talking to the
11 communications team, did you ever see him -- he and her in
12 close proximity to the individual, Joel?

13 A Yeah. So that -- so when the victim and the
14 girlfriend come over to where I'm at, they're still kind of
15 standing in the corner between where the trash is where the
16 first carport begins. Joel is still roughly around where
17 the second carport is. That is when Officer Iverson pulls
18 me aside and tells me if I had a chance to look at the
19 suspect picture. At which point, that is when I kind of --
20 we -- I inform her that this guy looks like the guy who --
21 our suspect looks like the guy who has been lingering around
22 this whole time.

23 Q Because at that point, did you actually -- you
24 said the first time you pulled out your phone, the email
25 hadn't gone through.

1 A Correct.

2 Q When she asked you if you'd had a chance to look
3 at it, did you pull out your phone again or look at hers?

4 A No. She showed me the picture.

5 Q Oh, I see. On her phone.

6 A Yeah. So she pulled it up on her phone and showed
7 me the picture.

8 Q At that point, it sounds like you thought that the
9 guy that was lingering around might --

10 A Correct. We still weren't 100 percent sure he was
11 our suspect. The picture was of poor quality. So really --
12 what you could really make out was like a dark coat, blue
13 jeans, and black and white Nike shoes. In the picture it
14 did show that the suspect was wearing some type of white cap
15 or hat on which was obviously not what we were seeing. We
16 had her suspicion that more likely than not that's probably
17 our suspect and we decided to get another officer there for
18 officer safety. Be able to address our suspect at that
19 time.

20 Q How did you go about doing that? Like just asking
21 somebody to come over or --

22 A Yeah. So Officer Iverson told me that she was
23 going to go get Sergeant Kenney who wasn't that far away
24 from us. I don't know what conversation they had prior to
25 them making their way back towards us. I remember Sergeant

1 Kenney confronting the suspect and kind of saying, hey,
2 what's your name. I remember Joel -- who didn't provide his
3 name -- I remember him being not very forthcoming. I
4 remember Sergeant Kenney asking him, hey, if you're not
5 involved, then I need you to leave.

6 Again, he doesn't respond and doesn't leave.
7 About that point, the victim's girlfriend asked if she could
8 stand by me and I'm kind of positioned myself between I
9 guess my sergeant and the father and son. That's when I
10 learned -- that is when we have a positive ID. The
11 girlfriend kind of says, hey, that's him, that's him.

12 Q Who does she say that to? To you?

13 A Yeah, she says that to me.

14 Q How did that come about? Did she -- had just like
15 sort of come into view of him or just have the opportunity
16 to take a look or do you know? I mean, just from --

17 A I believe that is the first time she took a look
18 of who we're talking to. And when she looked over that
19 Sergeant Kenney was talking to somebody else, that's when
20 she positively IDed our suspect.

21 Q I see. Like the conversation or attempted
22 conversation by Sergeant Kenney --

23 A Correct.

24 Q -- might have directed her attention to that
25 person?

1 A Yes.

2 Q What did she say to you, if you remember? Like
3 what words did she say?

4 A I remember her starting to cry. And I remember
5 her saying, hey, that's him, that's him.

6 Q At that point, did you know, I guess, whether she
7 would be able to recognize the suspect or where would she
8 have known him from?

9 A The only information I knew prior was that she was
10 the boyfriend -- she was the girlfriend of the boyfriend who
11 had happened to be the victim. And both of them were
12 roommates. So I figured just based on that relationship
13 that she would have an idea that --

14 Q That both of who were roommates?

15 A The victim and Joel are roommates. And I assume
16 because of that relationship that they would at least have
17 met at some point.

18 Q That somebody's girlfriend would know who their --

19 A Right.

20 Q -- boyfriend's roommate is. Got you. She kind of
21 observes that Sergeant Kenney is talking to her -- or to her
22 -- to the guy. She gets emotional and tells you, that's
23 him, that's him.

24 A Correct.

25 Q Take us from there. What happens from there?

1 What do you do?

2 A At that point, I walk back towards Sergeant Kenney
3 and I tap him on his shoulder and I say 61, 61, which is our
4 code for either we can go hands-on with somebody and arrest
5 him and handcuff him or that this person is under arrest.

6 By that point, I'm still walking towards Joel with
7 my hands roughly around where my chest are. I pass Sergeant
8 Kenney. And I can see that Joel has both hands in his
9 pockets. I remember saying something to the effect of:
10 showing me your hands or take your hands out of your
11 pockets.

12 Q Did he do that?

13 A I remember seeing his left hand completely out and
14 free. And as I was approaching him, he was struggling to
15 take out a gun out of his right pocket.

16 Q What -- when you say that he was struggling to
17 take out a gun, were you able to see at that point that it
18 was a gun or is that something you saw later?

19 A That is something I saw later. But I was still
20 under the assumption that Joel, our suspect, was still
21 armed.

22 Q So what was it that you were physically seeing?
23 I'm talking about just in this moment that you thought might
24 be a gun coming out?

25 A Since I remember seeing his left hand come out

1 freely with no obstruction and he's still struggling with
2 his right arm, he's vigorously struggling with his right
3 arm, by that point, the only thing I can think of was that's
4 a gun. Because I do remember prior to the event seeing him
5 on his phone and putting his phone in his left pocket.

6 At that point is when I reached for my firearm.
7 And at the same time as he pulls out his gun, I pull out my
8 firearm.

9 Q When -- I'm sorry to interrupt but I am curious.
10 When -- I know you just described seeing him struggle with
11 his arm in the pocket. When did you see for the first time
12 that he -- that it actually was a gun? Like when did that
13 come into view?

14 A It happened -- everything happened very quickly
15 and very fast. So as soon as I see him struggling with his
16 right hand, I reach for my firearm. As I release the
17 tension and anything holding my firearm from being free, I
18 bring it basically up to chest level and at that point is
19 when I see Joel bring out a black handgun.

20 Q What -- how was he holding it and could you see
21 where he was pointing it or what he was doing with it?

22 A Yes. I can see -- I remember seeing Joel looking
23 at me directly. I remember when he pulled out a firearm, he
24 -- since he's slightly elevated to where he kind of was a
25 little bit, he had a belated stance. And just given the

1 motion on where he was firing, he already had the firearm
2 roughly chest level. With one hand is when he punches out.
3 And that's when I fired.

4 Q And you were sort of gesturing when you said
5 punches out with your left hand -- was it in his left hand
6 or his right?

7 A Oh, sorry. That's -- it's his right hand.

8 Q Are you left-handed?

9 A I'm right-handed. Yeah.

10 Q It was just a punch.

11 A Correct.

12 Q Actually, what are you describing when you use the
13 term punches out with respect to a gun hand?

14 A Correct. So the way we're taught is to belay our
15 stance. We reach for our firearm, bring it up chest level,
16 and by punching out, I mean extend our arms extending the
17 firearm leveled and facing forward.

18 Q So basically, when you say you saw him punching
19 out with the gun -- well, actually, would you mind mimicking
20 that --

21 A Yeah.

22 Q -- just yourself?

23 A By what I --

24 Q You can stand up if it -- yeah.

25 A So what I mean by I saw him punching out is he has

1 his belated stance. He's struggling vigorously with his
2 right hand. This hand is completely free. He's canted a
3 little bit. When he manages to get the gun out of his
4 pocket, he levels it and then punches out like this.

5 Q And what direction was it pointed as he punched it
6 out?

7 A Towards me.

8 Q And tell us where you were in relation to the
9 father and son, the victim and the girlfriend, and Sergeant
10 Kenney at that time.

11 A Can I show you --

12 Q Yeah, that would be great.

13 A -- on the picture?

14 Q Thank you.

15 A Father and son are still sitting and laying down
16 first carport here. By that point, I believe Joel is
17 somewhere in the middle between the two carports. I'm the
18 closest to, I guess it would be the starting point of the
19 second carport. And Sergeant Kenney is just slightly behind
20 me.

21 Q And as the gun is pointed at you, are the father
22 and son directly behind you or are they off to the side? Or
23 do you know? I mean, I guess --

24 A I don't know.

25 Q Yeah. And you said you had your gun out at this

1 point.

2 A Yes.

3 Q Is that -- that's when you decided to fire?

4 A As soon as he pointed the gun, I took the gun out.
5 Yes.

6 Q What happened next?

7 A So everything happened super fast and super fluid.
8 I fired my shots and noticed that Joel falls to the ground.
9 That's when I stopped firing. I see -- I remember Joel's
10 body facing flat down and his right hand still extended
11 forward with the muzzle of firearm still facing us.

12 At that point, I retreat and get concealment and
13 kind of stage by the second carport and at that point, I'm
14 yelling commands. I'm letting everybody around me know that
15 suspect is down. Firearm is still facing us. The firearm
16 is still in his right hand. I remember yelling at Joel and
17 saying, move away from the gun or roll away from the gun. I
18 didn't see any movement. At that time, Sergeant Kenney
19 stacks up behind me with his rifle and says, I have a rifle,
20 I have a rifle. Get out of the way.

21 It takes me a few seconds to kind of register that
22 part. At which point, I kind of come back to reality so to
23 speak. Because I started getting tunnel vision and
24 realizing hey, they -- my suspect is still a potential
25 threat. I move away. And I can hear other officers saying,

1 check yourself, check yourself. At which point I check
2 myself for any injuries. And I realized I wasn't injured.

3 At the same time, I remember hearing broadcasts
4 said over the radio that shots had been fired. I remember
5 Sergeant Ortiz saying get everybody out, get everybody out.
6 So I got everybody who had taken shelters behind the
7 vehicles and taken shelter further into the first carport.

8 I remember escorting the victim, victim's
9 girlfriend, father and son out of there and moving them to a
10 safer location.

11 Q Where did you move them to, if you remember?

12 A I just assisted in terms of getting them out. I
13 didn't physically move them or place them into a different
14 location. That was done by other officers who were arriving
15 (indiscernible).

16 Q Like you sort of handed them off to --

17 A Correct, yeah.

18 Q You just described experiencing tunnel vision.
19 Could you describe what it was -- I guess what that was that
20 you were experiencing or what that felt like?

21 A Before or the entire --

22 Q At any point that you were experiencing tunnel
23 vision. I guess, What did you mean by that and what did it
24 feel like from your -- the perspective of your experience?

25 A So Firing the firearm was a very violent event.

1 As soon as I fired my first shot, everything slows down.
2 Everything appeared a lot closer than it really was. I
3 remember seeing I remember seeing Joel's face. I remember
4 my first couple of shots as I'm firing off. I remember it
5 hitting Joel in the chest. I remember seeing him fall to
6 the ground.

7 And then at that point, is when I move over and
8 I'm still looking at Joel. I remember seeing and
9 recognizing his face down with his face still turned towards
10 me and everybody behind me. I remember seeing vividly the
11 firearm and vividly seeing the barrel still facing us. And
12 then, I just remember just Joel laying there and not moving
13 and not responding.

14 Q Can I ask you, is part of your training with
15 respect to firearms to consider what your backstop might be
16 whenever you fire?

17 A Yes. We take that into account every single time
18 we get into a dangerous situation. Ideally, we would prefer
19 to be able to control our backstop. But just kind of given
20 the situation and where events had transpired,
21 unfortunately, homes are not a very good form of a backdrop
22 but it's what we had to work with.

23 Q Do you -- I guess, do you have to balance how good
24 or bad a backstop might be against the imminence of the risk
25 that's being posed to you?

1 A It is certainly something we do have to take
2 into consideration when we use deadly force. It is our last
3 option that we have in terms of making that decision.

4 Q Did you feel like you had any choice of whether
5 you could not fire right at that moment or move to a
6 different place or anything?

7 A Since everything happened so fast, by the point
8 that he was kind of -- we determined that he was our
9 suspect, he pulled the gun out. As the most reasonable use
10 of force that I thought was appropriate at that time.

11 Q What were you worried about happening if you
12 didn't use the level of force of shooting your gun at him?

13 A If I didn't shoot, I reasonably believed that he
14 was going to shoot me and kill me. And if he didn't do
15 that, then shots would be going down range potentially
16 hurting officers or our victims.

17 Q And I know this is probably hard to do. I know
18 you kind of just explained experiencing tunnel vision but do
19 you have a sense of how long the actual shooting lasted in
20 terms of seconds or is that too tough to ask you to
21 remember?

22 A I think the aspect of time is no longer really
23 there. I know it happens very quickly but while you're --
24 while it was during the incident, it definitely felt really,
25 really slow.

1 Q What was it -- I guess what was it that led you
2 to make the decision that you could stop shooting? Does
3 that make sense?

4 A Yeah. Our ultimate goal when we use deadly force
5 is to stop the other person's behavior. It wasn't until he,
6 Joel, had fallen to the ground is when I stopped shooting.

7 Q Did it seem like the level of the threat had
8 changed at that point?

9 A Yes.

10 Q After you moved the witnesses are sort of got them
11 out of that carport and handed them off to the other
12 officers, where did you go next? Were you separated at that
13 point or did you continue to do other things in the
14 immediate aftermath?

15 A Yeah. So at that point, I was separated. I
16 remember a sergeant -- I don't -- I think it was Sergeant
17 Ortiz was wondering where I was. I remember broadcasting
18 that I was on the corner of, I guess, 9th and Broadway
19 Drive. At that point, that's when I was escorted into
20 another vehicle. And then kind of was no longer a part of
21 what happens next.

22 Q Were there a number of other officers in the area
23 that sort of took over the immediate scene of taking custody
24 of the person that you knew as Joel at that time?

25 A Correct.

1 MR. HUGHEY: Let me turn to the members of the
2 grand jury. Do members of the grand jury have questions for
3 Officer Guevara at this point?

4 GRAND JUROR: Do you recall how many shots you
5 fired?

6 THE WITNESS: I do not recall. No.

7 GRAND JUROR: So if we know that information, can
8 I state that?

9 MR. HUGHEY: Well, we want -- anything that -- I
10 mean, it has to be a question. Right. It needs to --
11 anything we ask Officer Guevara has to be a question that he
12 can answer from his --

13 GRAND JUROR: (Indiscernible).

14 MR. HUGHEY: I mean, yeah, go -- if you think
15 there's a question that he would answer from his own
16 knowledge and observation, go for it. And I'll interject if
17 I think it should be different.

18 GRAND JUROR: So we heard testimony from the lead
19 detective that you had fired six shots and the other officer
20 who fired shots had fired three and my question is why six?
21 I'm just -- I'm not -- like it just seemed, for lack of a
22 better term, it just feels a little trigger happy to me.
23 I'm just a bit confused about that part. But you said you
24 had tunnel vision. I just wanted to hear from you why.

25 MR. HUGHEY: Or maybe I can rephrase that a little

1 bit like --

2 GRAND JUROR: Yes, please. Please.

3 MR. HUGHEY: From -- I guess from the time that
4 you made the decision to begin to shoot to the time that you
5 were just describing as to when you made the decision to
6 stop that; you saw that he was not a threat anymore, can you
7 tell us about like what was going -- what you were observing
8 that was leading you to continue to shoot in between the
9 time you started and stopped? Is that --

10 GRAND JUROR: Yeah.

11 MR. HUGHEY: Does that capture it? Okay.

12 THE WITNESS: At the moment I decided to shoot,
13 like I stated before, all this is a super fast and fluid
14 time. The only time I stopped was until we change behavior.
15 When he changed his behavior was when he fell to the ground
16 that's when I stopped.

17 BY MR. HUGHEY:

18 Q So maybe as a follow-up to that. At the times --
19 and setting aside the actual number because I know you said
20 that you couldn't recall that yourself, but at the time that
21 you were continuing to fire subsequent shots, was -- could
22 you observe whether the gun was still pointed at you? And
23 I'm talking about the guy, Joel Arevalo's gun?

24 A Yeah. So as I'm firing, I'm firing rapid, so to
25 speak, in (indiscernible). There's no stop in the time

1 frame that I'm shooting. During that time Joel was still
2 with his hand extended, firearm still pointing at me. Like
3 I said, the only time I stopped is when he had fallen down
4 to the ground. Because at that point, I noticed that he is
5 no longer responding or moving so to speak.

6 Q So I think you might have just said this. But at
7 the time that you fired, it sounds like all your shots, was
8 he still extending that gun towards you?

9 A Yes. At that point, he was still a threat to me
10 and to everybody else behind me.

11 MR. HUGHEY: Feel free to follow up if that
12 didn't --

13 GRAND JUROR: Did you see the less lethal rubber
14 bullets deployed? We were told also -- the testimony of the
15 lead detective said that a rubber bullet was shot at Joel to
16 see if there was going to be a response and he was
17 insinuating that that is another indicator that you all
18 could use to decide whether or not it's right to fire.

19 THE WITNESS: So I believe I don't have
20 information for that part because after I had escorted the
21 victims out of the carport, I was no longer part of what
22 happened next in terms of addressing him again from the
23 second time.

24 GRAND JUROR: And you walked away I think you
25 said.

1 THE WITNESS: Yeah. Correct. So I wasn't
2 there. If they did use a less lethal, I don't know.

3 MR. HUGHEY: And maybe a follow-up questions to
4 that is was -- at the time that you were firing, was there
5 somebody there with a less lethal option or to your
6 knowledge, was it just you and Sergeant Kenney?

7 THE WITNESS: So there's, I guess, in total there
8 was -- within proximity, there was three of us. Just based
9 on him pulling out a firearm, it would be appropriate for us
10 to use deadly force. Reaching for a less lethal wouldn't
11 have been appropriate at that time. The only times that we
12 were equipped -- the three officers that were
13 (indiscernible) possible less lethal would be like a Taser,
14 an asp, or pepper spray.

15 MR. HUGHEY: As the things -- those are the things
16 that officers routinely would have on their belt?

17 THE WITNESS: Correct.

18 MR. HUGHEY: Yeah, go ahead.

19 GRAND JUROR: Do you recall after Mr. Arevalo hit
20 the ground, after he was down, do you recall what position
21 he fell in? I know you just --

22 THE WITNESS: Yeah. I guess it would be like face
23 down, so to speak. Laid down where his legs were fully
24 extended and his -- I remember his face. I guess it would
25 be resting on his side with his right hand still on the gun

1 extended forward.

2 GRAND JUROR: Have you ever been involved in any
3 other officer-involved shooting?

4 THE WITNESS: No.

5 GRAND JUROR: And have you ever been disciplined
6 for using excessive force?

7 THE WITNESS: No.

8 MR. HUGHEY: Any other questions for Officer
9 Guevara?

10 GRAND JUROR: Would you do the same thing over
11 again?

12 THE WITNESS: I would hope there would be a
13 different outcome in terms of us having to use deadly force.

14 BY MR. HUGHEY:

15 Q What do you mean by that if you can -- could you
16 explain that a little bit? What kind of different --

17 A I mean, I -- by that I mean, like I don't want to
18 get into another deadly force situation. If it's avoidable,
19 then I would've hoped that we take that option first.

20 Q And obviously, with the benefit of hindsight and
21 everything, I think -- correct me if I'm wrong but I sort of
22 interpreted the thrust of that question as like, even
23 thinking back on it, would you still have done the same
24 thing recognizing that he was punching out that gun in the
25 same way.

1 A Just given what his actions were, I believe at
2 that point deadly force was necessary and appropriate.
3 Also, kind of like -- do you mind if I add onto that?

4 Q Yeah, yeah. Sure.

5 A Kind of considering the tools that we had on in
6 terms of like a Taser, it wouldn't have been appropriate
7 just given the coat that he was kind of wearing. The probes
8 would have had a difficult time. And if there was a
9 likelihood that it would be effective.

10 Q And even if -- I guess, even if somebody didn't
11 have a coat on or you thought a Taser could be effective,
12 would it be consistent with your training to meet a threat
13 with a firearm with a less lethal option like a Taser?

14 A No. We do everything we can, again, in terms of
15 trying to avoid using deadly force. The appropriate tool
16 when it comes to a firearm would be a firearm, as well.

17 Q To sort of match that level of force that's --

18 A Correct.

19 MR. HUGHEY: Any other questions for Officer
20 Guevara?

21 GRAND JUROR: And do you think it was helpful to
22 have the victim and his girlfriend there for the positive ID
23 of Joel? Do you -- I mean --

24 THE WITNESS: Yeah. I think it was extremely
25 helpful. Like I said, I don't know if you guys had a chance

1 to look at the picture, surveillance picture, but it
2 wasn't very clear. Having another person say, that's him,
3 that's our victim [sic] for sure gives us more of a higher
4 probable cause to do what we need to do.

5 BY MR. HUGHEY:

6 Q Did -- I guess did the way that that
7 identification happened almost right in his presence sort of
8 contribute to this being a really abrupt, I guess, change in
9 the whole dynamic of how this happened?

10 A I believe since we were still under the assumption
11 that Joel, our suspect, was still in the apartment, and then
12 once we got the positive ID that he was no longer there, it
13 definitely did change the dynamics. We had -- we were still
14 under the assumption that he was there so we had set up a
15 containment team, different custody teams in the event that
16 he would come out. The only (indiscernible) we really had
17 was myself, Officer Iverson, and Sergeant Kenney to address
18 the threat.

19 Q I guess -- I think that was kind of what I meant.
20 Like when you were -- all the other resources and custody
21 team, they're all focused on Apartment 9 way over to the
22 west. Is that right?

23 A Correct.

24 Q And then, is it fair to say that when you're over
25 at that carport, you think you're basically just kind of

1 hanging out with this father and son, making sure they're
2 safe, trying to help the -- help the child not be so scared.
3 And then, out of the blue, the suspect is identified in an
4 area that no one really expected the subject to be? Is that
5 a fair way of characterizing it, I guess?

6 A Yeah.

7 MR. HUGHEY: Yeah, go ahead.

8 GRAND JUROR: What kind of support have you
9 received from the department to process this incident so
10 that you can go back to work healthy?

11 THE WITNESS: The Bureau does very good in terms
12 of -- so when I was pulled aside, I was assigned to an EAP
13 personnel.

14 MR. HUGHEY: What is that acronym EAP?

15 THE WITNESS: I'm going to be honest with you, I
16 don't know what the acronym stands for.

17 GRAND JUROR: Employee assistance.

18 GRAND JUROR: Yeah.

19 MR. HUGHEY: Yeah.

20 GRAND JUROR: (Indiscernible).

21 THE WITNESS: But throughout the whole incident, I
22 check up on with her and see how I'm doing. We don't talk
23 about the details of the case. But she kind of just says,
24 how are you doing type of thing. The Bureau does provide
25 sessions to me for the psychiatrist which I have taken

1 advantage of. And I have also had meetings with
2 chaplain. Kind of gone that route, as well.

3 MR. HUGHEY: Other questions? Thank you very
4 much. Appreciate your testimony. We can go off the record
5 for now. And I'll come back right back in.

6 GRAND JUROR: Thank you.

7 GRAND JUROR: Thank you so much.

8 GRAND JUROR: Yeah.

9 (Whereupon, the proceedings ended at 4:17 p.m. on
10 July 28, 2022.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

I hereby certify that the proceedings set forth in the above-entitled matter were reported by audio recording; that thereafter I caused the said audio recorded notes to be transcribed into the foregoing transcript and the foregoing 185 pages constitute a full, true and accurate transcript of the proceedings as noted herein.

August 24, 2022



KATIE LEACH
Official Transcriber

Within this transcript of proceedings, some of the names and/or technical terms are spelled phonetically, inasmuch as exhibits, files and support documentation were not made available to us for reference.